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APPLICANT INFORMATION

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Natural Resource Consultant:	Shotts & Associates Ecologists and Wetland Specialist PO Box 589, Aurora, OR, 97002 Contact: Kim Cartwright, Wetland Ecologist and GIS Analyst
Project Arborist:	Todd Prager Associates, LLC 601 Atwater Road Lake Oswego, OR 97034 Contact: Todd Prager, Principal
Architect:	Milbrandt Architects 25 Central Way, Suite 210 Kirkland, WA 98033 Contact: Rae Hauff, Project Architect Anna Thompson, Managing Principal
Landscape Architect	Shapiro Didway 1204 SE Water Ave Suite 21 Portland, OR, 97214 Contact: Jessel Champoux, Senior Associate Blair Didway, Managing Principal
Lighting Consultant	R&W Engineering Inc. 9615 SW Allen Boulevard Suite 107 Beaverton, OR, 97005 Contact: Dennis D. Hall, Electrical Designer

I. PROJECT INFORMATION

Site Address:	17979 Stafford Road Lake Oswego, OR, 97034
Gross Site Area:	6.01-acres
Clackamas County Tax Lot	Tax lot 21E16D 01000
Zoning Classifications:	R-15 Low Density Residential
Adjacent Zoning:	R-15 Residential to the North Park and Natural Area (PNA) to the south and east Public Function (PF) to the west
Neighborhood Association:	Palisades
Neighborhood Meeting Date:	April 9 th , 2025
Land Use Application Requests:	Minor Development Application for: <ol style="list-style-type: none">1. Planned Development - Subdivision2. Environmental Review of Sensitive Lands per 50.05.010.63. Modification of Development Review Application LU 05-0076 to modify Shared Parking Permit on-site for Stafford Retirement Home4. Modification of Development Review Application LU 21-0078 to relocate Fire Access Road for Rassekh Park5. Type II Tree Removal Permit required per 55.02.035

II. PROJECT BRIEF & SITE DESCRIPTION

The applicant is requesting approval for an 11-parent lot subdivision with a Planned Development (PD) Overlay on the subject property at 17979 SW Stafford Street in Lake Oswego. This Minor Development application seeks preliminary approval for the parent lots which is intended to support a future Middle Housing Land Division, to create 53 fee simple child lots. The preliminary plat for the proposed parent lots is shown on the Preliminary Plat, Sheet 4.0 in Exhibit C.

The subject site is located west of Hazelia Field and Luscher Farm properties, East of Lakeridge High School, north of Rassekh Park, and south of the Stafford Retirement Community along Stafford Road and has a gross development area of 6.01 acres. The site was annexed into the city's Urban Service Boundary (USB) in 2005 (Annexation Case File AN 05-0008). The Comprehensive Plan designation of Low Density Residential (R-15) was applied through land use application LU 03-0047. The subject property is within the Palisades Neighborhood Association boundary.

The applicant is requesting modifications to the previously approved Development Review application LU 05-0076 to modify shared parking easement on-site concurrently with this PD application. This amendment would modify the conditional use approval for 25 shared on-site parking spaces allocated to the Stafford Retirement Community in the north.

To better connect the site with the surrounding parks and neighborhood amenities the applicant is proposing to modify the gravel maintenance and fire access on the Rassekh park site to create a landscaped berm adjacent to the skate park. The landscape berm will provide a landscaped buffer between a stormwater facility on-site and the skatepark on the Rassekh Park property. The fire access will be routed through the subject site for access to Rassekh Park. The applicant is therefore requesting a development review modification for LU 21-0078 concurrently with this application.

The following tables identify surrounding land use, existing rights-of-way, water and sanitary lines around the site.

Table 1. Surrounding Land Use

DIRECTION	ESTABLISHMENT	ZONING DESIGNATION
North	Stafford Retirement Community	R- 15 Residential Low-Density Zone
South	Rassekh Park	PNA Parks and Natural Area Zone
East	Hazelia Fields / Luscher Farms across Stafford Rd.	PNA Parks and Natural Area Zone
West	Lakeridge High School - Ball Fields	PF Public Functions Zone

Table 2. Existing Right-of-Way Adjacent to the site

STREET	JURISDICTION & CLASSIFICATION	RIGHT-OF-WAY WIDTH
Stafford Road	Clackamas County - Minor Arterial	Approximately 60'

Table 3. Existing and Proposed Utilities

UTILITY & LOCATION	SIZE	SERVICE PROVIDER
WATERLINES		
Stafford Road	12-inch	Lake Oswego Water Service Area
Located in the NW section of the site	6-8- inch stubbed connection	Lake Oswego Water Service Area
SANITARY SEWER LINES		
Located in the NW section of the site	8-inch Gravity Main in the north	City of Lake Oswego
STORMWATER CONNECTION		
Stafford Road	18-21-inch HDPE	City of Lake Oswego

III. PROJECT DETAILS & PLANNED DEVELOPMENT REQUEST

The applicant is requesting approval for an 11-parent lot subdivision with a Planned Development (PD) Overlay for the subject site to subsequently facilitate Middle Housing Land Division for the creation of 53 fee simple child lots to be developed with triplex, quadplex and cottages on-site.

The applicant aims to provide a diverse range of attached and detached residential units on-site which will provide quality housing options for the residents of Lake Oswego while meeting the housing needs of the city.

Table 4. Type and Number of Residential Units

Parent Lot Types	Total Lots
Triplex & Quadplex	7
Cottage Cluster	4
Total Parent Lots	11

Key Project Elements:

- **Diversity of Housing:** The subdivision will introduce a range of housing types that contribute to Lake Oswego's goal of increasing housing diversity and affordability. This mix will support a broader demographic, offering options for families, individuals, and aging-in-place residents.
- **Generous Open Space Provision:** The development will provide more open space than required under current zoning standards. These areas will serve as community assets, offering green relief, and ecological value to the site.

- **Design and Landscaping:** Central to the proposal are well-designed and landscaped courtyards that promote neighbor interaction and provide tranquil, aesthetically pleasing open spaces. These courtyards are intended to be both functional and visually integrated into the neighborhood fabric.
- **Pedestrian Accessibility:** The site layout will include improved pedestrian access throughout the subdivision and enhanced pedestrian connections to Rassekh Park, enabling residents and the public to enjoy safe and convenient access to recreational amenities.
- **Architectural Style:** All proposed homes will reflect Lake Oswego's traditional and contemporary architectural styles, with an emphasis on quality materials, detail, and design coherence that respects the surrounding context.
- **Neighborhood Integration:** The plan incorporates enhanced linkages with adjacent neighborhoods, ensuring continuity of streetscape, pedestrian pathways, and overall visual and spatial harmony with the community fabric.

Planned Development and Dimensional Adjustment Request:

To facilitate this innovative and community-oriented design, the following dimensional adjustments are requested under the PD overlay:

- **Lot Size Adjustments:** Reduction in minimum lot size to allow for variety of housing types while preserving open space and landscape features.
- **Setback Modifications:** Reduced yard setbacks to accommodate common open spaces and pedestrian-friendly frontages.
- **Lot Coverage and Floor Area Limitations Applied:** The project meets the allowable aggregate floor area and lot coverage for the planned development to allow for design flexibility without exceeding the allowable limits.

The proposed development is designed to conform to the base zone standards applicable to the site, except for the requested adjustments through the planned development overlay. A comparison of the required standards to the proposed dimensions is provided in Table 5 below. Adjustments requested to the lot size and minimum setback standards are identified in **bold/ underlined**.

Table 5. Yard Setback Adjustments Requested with the Planned Development Application

Category	Subcategory	R-15 Standard		Adjustment Requested through PD Overlay
Min. Lot Size (sf.)	Triplex, Quadplex, Cottage Cluster, Projects	15,000		<u>7,900</u>
Primary Structure Setback (ft.) Triplex/Quadplex	Front	25		<u>18</u>
	Side Adj. to Arterial/Collector Street	20		<u>10</u>
	Side Adj. to Local Street	15		<u>8</u>
	Interior Side	10		<u>8</u>
	Rear	30		<u>10</u>
Accessory Structure Setback (ft.) For Community Center & Detached Garages	Front [ft.]	25		25
	Side Adj. to Arterial/Collector Street	20		20
	Side Adj. to Local Street	15		NA
	Height > 18 ft. - Side	5		5
	Height > 18 ft. - Rear	15		15
Cottage Cluster Setback (ft.)	Front	10		10
	Interior Side/Side Adj. to Street	10		10
	Rear	10		10
Cottage Separation Distance	Per LOC 50.04.001.a.e.vii	10		<u>8</u>

Aggregate floor area and allowable lot coverage for the planned development application based on the net developable area is illustrated in the tables below. The development meets the applicable floor area and lot coverage for the site. Floor area and lot coverage for individual parent lots for plexes are detailed under LOC 50.04.001 later in this report. Note: Cottage clusters are exempt from lot coverage standard and only floor area standard applies.

Table 6: Aggregate Floor Area for the Planned Development Site

Lot Type	Allowed Max. Floor Area	Proposed Floor Area
Plexes	45,054	43,740
Cottage Cluster	4,800 (average per cluster)	4,124 (average per cluster)
PD Aggregate	49,854	47,864

Table 7: Allowable Lot Coverage calculation for the Planned Development Site

Parent Lot Type	Plexes (lots 5-11)	Cottage Cluster (lots 1-4)
Total Parent Lot Size (sf)	60,777	NA
Total Footprint Area for coverage	20,302	NA
Total area for Open space (Includes Tracts A-D)	20,651	NA
Total Net Developable Area (for Plexes Parent Lots only)	81,428	NA
Lot Coverage (with garages) for PD	25%	NA

Note: Allowable lot coverage for the PD is 25% based on the 33.33' proposed height of the plexes

The next section of this report and the attached exhibits demonstrate compliance with the applicable sections of the City of Lake Oswego Development Codes pertinent to this planned development request.

IV. COMPLIANCE WITH CHAPTER 50 - COMMUNITY DEVELOPMENT CODE

LOC 50.02 Base Zoning District

50.02.001 Residential Districts.

1. Residential-Low Density Zones.

- a. Districts. The residential-low density zone districts are R-15, R-10, and R-7.5.
- b. Purpose. To provide lands for single-family residential development with densities ranging from two to five dwelling units per gross acre, and to provide lands for middle housing development.

Response: The applicant is proposing a residential subdivision in the low-density R-15 zone. This application specifically requests approval for 11-parent lot subdivision with a Planned Development overlay. The approval of the proposed parent lot subdivision will subsequently allow creation of fee simple child lots through a middle housing land division on-site.

LOC 50.03 Use Regulations and Conditions

50.03.002 Use Table.

2. Residential Use Table.

TABLE 50.03.002-1: RESIDENTIAL DISTRICTS USE TABLE			
P = Permitted Use Blank = Not Permitted C = Conditional Use A = Accessory Use			
[x] Table notes located at the end of the table			
Use Category	Use Type	R-15	Use-Specific Standards
RESIDENTIAL USES			
Household Living	Dwelling, single-family detached dwelling (one per lot)	P	
	Dwelling, duplex (one per lot)	P	
	Townhouse project	P	§ 50.03.003.1.e
	Cottage cluster (one per lot)	P	§ 50.03.003.1.d
	Dwelling, multi-family		
	Dwelling, quadplex	P	
	Dwelling, triplex	P	
	Manufactured home (one per lot)	P	§ 50.03.003.1.b
	Manufactured home park or subdivision		§ 50.03.003.1.c

Response: The proposed residential development in the R-15 zone will create 11 parent lots for triplex/quadplex and cottage units. These uses are allowed by right in the base zone. The proposed uses will be subject to the use-specific standards specified in table 50.03.002-1 above. Compliance with the use-specific standards is demonstrated later in this narrative.

50.03.003 Use Specific Standards

1. Residential - Permitted Uses

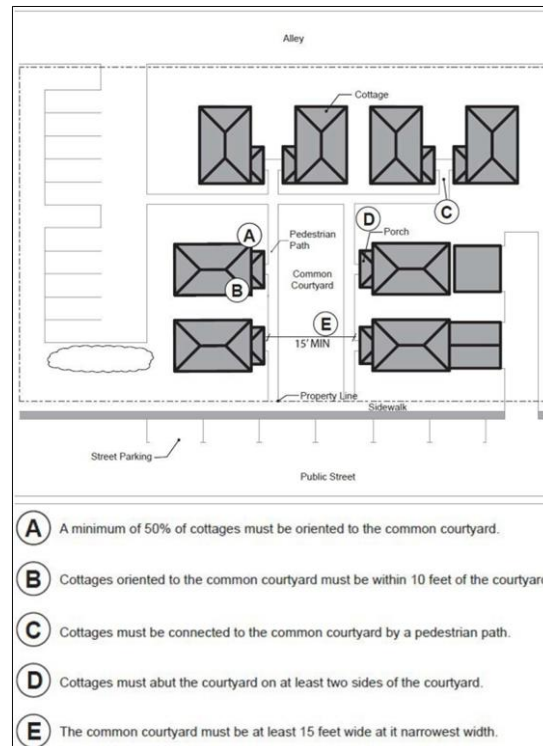
d. Cottage Clusters. In addition to the standards above, the following design standards shall be applied to cottage cluster developments:

i. Individual cottage cluster dwellings must have a footprint of no more than 900 sq. ft. each.

Response: The applicant will develop cottages with footprints not exceeding 900 sf. on the cottage cluster lots 1 through 4. Individual cottage footprints for cottage type C-1, C-2, C-3 and C-4 are shown in Preliminary Architecture Sheets (U1-4; E1-4) in Exhibit D.

ii. Common Courtyard Design Standards.

Figure 50.03.003-D: Cottage Cluster Orientation and Common Courtyard Standards



(1) Each cottage cluster shall include no more than one common courtyard per lot that meets the following standards:

- (a) The common courtyard must be a single, contiguous piece on one lot;
- (b) Cottages must abut the common courtyard on at least two sides of the common courtyard;
- (c) The common courtyard must contain a minimum of 150 sq. ft. per cottage within the associated cluster;
- (d) The common courtyard must be a minimum of 15 ft. wide at its narrowest dimension;
- (e) The common courtyard shall be developed with a mix of landscaping, lawn area, pedestrian paths, or paved area, and may also include recreational amenities. Impervious elements shall not exceed 75% of the total common courtyard area;
- (f) Pedestrian paths must be included in a common courtyard;
- (g) Paths that abut a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

(2) A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as pedestrian paths, lawn, ground cover, trees, shrubs, patios, benches, or gazebos.

Response: Each cottage cluster lot within the proposed site includes one common courtyard as a single contiguous piece on one lot and contains more than 150 sf per cottage. The courtyards are at least 15 ft. wide at their narrowest dimension and surrounded by cottages on at least two sides. The courtyards will be designed with a mix of landscaping, lawn area and paved pedestrian paths. Preliminary Landscape Sheets in Exhibit E illustrate conceptual courtyard design proposed for the project.

iii. Cottage Orientation.

- (1) Each cottage within a cluster must either abut a common courtyard or must be connected to it by a pedestrian path.
- (2) A minimum of 50% of cottages within a cluster must be oriented to the common courtyard by:
 - (a) Having a primary entrance into the living area of the cottage facing the common courtyard;
 - (b) Being within ten ft. from the common courtyard, measured from the wall or front porch of the cottage to the nearest edge of the common courtyard; and
 - (c) Being connected to the common courtyard by a pedestrian path.

Response: Most of the cottages within the cluster abut the common courtyard. Cottages that do not directly abut the courtyard are connected to it by a pedestrian path. More than 50% of the cottages are oriented towards the courtyard as required by this subsection. The Conceptual Site Plan, Sheet 3.0 in Exhibit C, demonstrates cottage orientation and their connectivity with the courtyard.

- (3) Cottages within 20 feet of a property line abutting a public street must have a primary entrance into the living area of the cottage facing the street, unless:

- (a) The street is an unimproved or unopened right-of-way; or
 - (b) The cottage is required to face the courtyard to comply with subsection 1.d.iii(2) of this section.

- (4) Cottages not facing the common courtyard or the street must have their primary entrance into the living area of the cottage facing a pedestrian path that is connected to the common courtyard.

See Figure 50.03.003-D: Cottage Cluster Orientation and Common Courtyard Standards

Response: All the cottages that are within 20 feet of the parent lot line abutting a public/local street have a primary entrance into the living area facing the street. All the other cottages facing a courtyard or a pedestrian pathway have their primary entrance into the living area of the cottages. See Conceptual Site Plan, Sheet 3.0 in Exhibit C, and Preliminary Architecture Cottage Plans in Exhibit D (U1-4; E1-4) for review.

iv. Community Buildings.

- (1) Cottage cluster developments may include community buildings for the shared use of residents that provide space for accessory amenities such as community meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:

- (a) Each cottage cluster is permitted one community building, which shall count towards the maximum average floor area, pursuant to LOC § 50.04.001.1.d.iv, 2.d.iv, and 3.c.iii; and
 - (b) A community building that meets this Code's definition of a dwelling unit must meet the maximum 900 sq. ft. footprint limitation that applies to cottages, unless a covenant is recorded against the property stating that the structure is not a dwelling unit and will not be used as a primary dwelling.

Response: The project proposes a community building for the shared use of all cottages, triplex and quadplex units. The 400-sf. community building will include facilities such as community seating and gathering areas, outdoor seating and other such amenities.

v. Pedestrian Access.

- (1) A pedestrian circulation plan is required that provides accessible paths connecting the main entrance of each cottage to the following:
 - (a) The common courtyard;
 - (b) Shared parking area(s);
 - (c) Community building(s); and

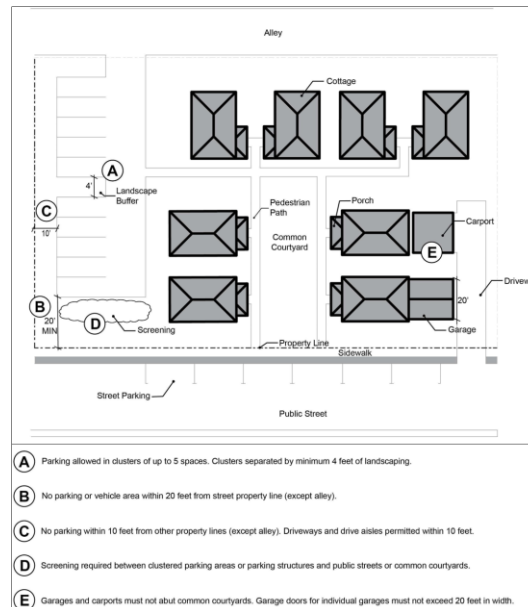
(d) Sidewalks or public pathways in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.

(2) The pedestrian path must be hard-surfaced and a minimum of four ft. wide.

Response: The development will provide robust pedestrian circulation throughout the site including connections from the main entrance of the cottages to the common courtyards, shared parking areas, community building, public sidewalks and nearby Rassekh park. The pedestrian pathways will be hard surfaced and minimum 4-foot wide. See Conceptual Site Plan, Sheet 3.0 in Exhibit C for review.

vi. Parking Design.

Figure 50.03.003-E: Cottage Cluster Parking Design Standards



(1) **Clustered Parking.** Off-street parking shall be arranged in clusters, subject to the following standards:

(a) Cottage cluster developments are permitted parking clusters of not more than five abutting spaces.

(b) Parking clusters must be separated from other parking spaces by at least four feet of landscaping.

(c) Clustered parking areas may be covered.

Response: Clustered parking within the cottage cluster lots are provided in a group of fewer than 5 abutting spaces with 4-feet of landscaping separation between each 5 parking spaces. Clustered parking details are included in the Concept Parking Plan in Exhibit R. Landscape buffering between parking spaces is included in Landscape Sheets in Exhibit E for review (Sheet L1.3).

(2) **Parking Location and Access.**

(a) Off-street parking spaces and vehicle maneuvering areas shall not be located within 20 ft. of any front or side street lot line, except for lot lines abutting alleys.

(b) Off-street parking spaces and vehicle turnaround areas shall not be located between a front or side street lot line and the front facade of cottages located closest to the front or side street lot line.

(c) Off-street parking spaces shall not be located within ten ft. of any other lot line, except for lot lines abutting alleys. Driveways and drive aisles are permitted within ten ft. of other property lines.

Response: Off street parking spaces for cottage clusters are located within the alleys and meet the requirements of this section. Parking details are provided on Concept Parking Plan in Exhibit R that show compliance with the requirements of this subsection.

(3) Screening. Landscaping screening that consists of a minimum of 50% evergreen shrubs or trees that can obtain a minimum height of three ft. within two years of planting, fencing, or walls at least three ft. tall shall separate clustered parking areas and detached garages from common courtyards and public streets.

Response: Appropriate landscape screening with 50% evergreen shrubs is provided to create separation between clustered parking and detached garages from common courtyard and public street as required. Preliminary Landscape Sheets in Exhibit E illustrate landscape screening details for the proposed site (Sheet L1.3).

(4) Garages.

- (a) Garages (whether shared or individual) shall not abut common courtyards.
- (b) Individual detached garages must not exceed 400 sq. ft. in floor area.
- (c) Garage doors for attached and detached individual garages must not exceed 20 ft. in width.
- (d) Garages with opening(s) that face the street must comply with LOC § 50.06.001.4, Garage Appearance and Location.

Response: None of the detached garages abut common courtyards within the associated cluster and individual detached garages are at least 200 sf. in floor area. Garage doors are less than 20-feet wide and all the detached garages are located within the alleys. Garages that face the street comply with LOC 50.06.001.4, Garage Appearance and Location. Conceptual Site Plan, Sheet 3.0 in Exhibit C, illustrates the location of detached garages on-site. Details for the attached garages are included in the Architectural Plan Sheets in Exhibit D.

vii. Accessory Structures. Accessory structures shall not exceed 400 sq. ft. in gross floor area.

Response: Detached garages and a community building are proposed on cottage cluster lots; these structures do not exceed 400-sf. in gross floor area.

viii. Existing Structures. On a lot or parcel to be used for a cottage cluster development, an existing detached single-family dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster development area under the following standards:

[.....].

Response: There are no existing structures that will be retained within any proposed cottage cluster lots in the development. This subsection does not apply.

ix. Shared Facilities. All shared garbage and storage facilities and mechanical equipment shall be screened from view so that garbage containers and equipment are not visible from the street.

Response: All shared garbage and storage facilities will be screened from view and not visible from the public street. Final trash enclosure details will be provided with building permit application. Preliminary trash and garbage facility screening is depicted in Preliminary Landscape Plans in Exhibit E (Sheet 1.3).

LOC 50.04 Dimensional Standards

50.04.001 Dimensional Table

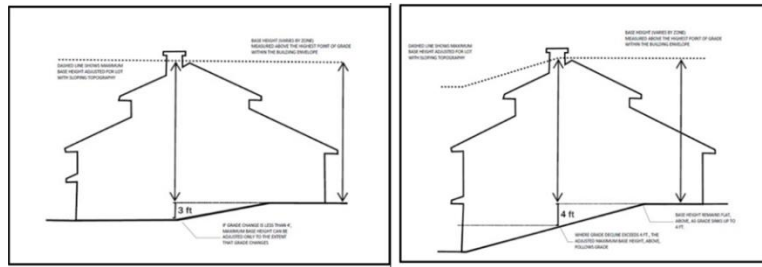
1. Residential Low-Density Zones.

a. Dimensional Standards. Development in the R-7.5, R-10, and R-15 zones shall conform to the dimensional standards in Table 50.04.001-1 except as modified below.

Table 50.04.001-1: Residential Low Density Zoned Dimension

	R-7.5	R-10	R-15	Comments/ Additional Standards	Notes:
DENSITY				§ 50.04.001.1.b	
Minimum [1]	80% of max	80% of max	80% of max		[1] When subdivisions are proposed, the number of lots required shall be determined by dividing the net developable area by the minimum lot size per unit required in the underlying zone, and multiplying this number by 0.8. The result shall be rounded up for any product with a fraction of 0.5 or greater and rounded down for any product with a fraction of less than 0.5. The requirements of this section are subject to the exceptions contained in LOC § 50.04.003.10, Exceptions to the Minimum Density Requirement for All Zones.
Maximum (units/acre)	[2]	[2]	[2]		
MIN. LOT DIMENSIONS [4]				§ 50.04.001.1.c	
Single-Family, Duplex, Triplex, Quadplex, and Cottage Cluster Developments, Townhouse Projects					[2] Net developable area divided by the minimum lot area per unit and rounded down to the nearest whole number. The actual density allowed on a site will be determined at the time of development review. Maximum density will be allowed to the extent that facts presented to the hearing body show that development at that density can occur within requirements set forth in the Development Standards. Duplexes, triplexes, quadplexes, and cottage cluster developments are exempt from maximum density standards. For townhouse projects, the maximum density is four dwelling units per equivalent minimum lot area required per single-family dwelling in that zone.
Area (sq. ft.)	7,500	10,000	15,000	Except PD [3]	
Width (ft.)	50	65	80		[3] Up to a 25% reduction in minimum required lot area for each dwelling unit shall be allowed to permit the relocation of a designated historic landmark, when relocation has been approved by the designated hearing body.
Depth (ft.)	—	—	—		
Townhouses (one per lot)					[4] Base building height of single-family and middle housing dwellings may be increased by one ft. for every five additional ft. in yard setback on all sides.
Area (sq. ft.)	1,500	1,500	1,500		
Width (ft.)	15	15	15		[5] Maximum base height across the site shall be established by a flat plane measured at 28 ft. (R-7.5 zone) or 30 ft. (R-10 zone) above the highest point of the natural ground surface within the building envelope, unless the natural ground surface is lowered, in which case the height is measured from the lowered ground surface per the definition of "height of building" in LOC § 50.10.003.2. In no case shall the base height exceed 32 ft. (R-7.5 zone) or 34 ft. (R-10 zone). See Figure 50.04.001-A: Height Adjustment for Sloping Topography.
Depth (ft.)	—	—	—		
MAX. FLOOR AREA [7][8]				§ 50.04.001.1.d	
Base Calculation: 3,000 sq. ft. + [(actual lot size - 5,800 sq. ft.) x 0.19]	Additional floor area allowance per primary residential unit providing a garage (sq. ft.)				[6] Building height exceptions shall not exceed the building height of the primary structure.
	600	750	850		
YARD SETBACKS				§ 50.04.001.1.e	
Primary Structure					[7] Cottage cluster developments are exempt from maximum floor area standards, but maximum average floor area standards shall be applied to individual cottage cluster dwellings. See LOC § 50.04.001.1.d.iv, Maximum Average Floor Area of Units in a Cottage Cluster, and LOC § 50.03.003.1.d, use-specific standards for cottage clusters.
Front (ft.)	25	25	25		
Side Adjacent to Street (ft.)					[8] Maximum floor area standards for townhouses shall be applied to a townhouse project, and not to individual townhouse lots or dwellings. See also LOC § 50.04.001.1.d.v, Maximum Floor Area of Townhouses.
Arterial/Collector	20	20	20		
Local	15	15	15		
Interior Side (ft.)	Total 15, 5 min.	10	10		
Rear (ft.)	30	30	30		
Accessory Structure					
Front (ft.)	25	25	25		
Side Adjacent to Street (ft.)					
Arterial/Collector	20	20	20		
Local	15	15	15		
Height ≤ 18 ft.	Side	5	10	10	
	Rear	10	15	15	
Height > 18 ft.	Side	5	10	10	
	Rear	15	15	15	
Cottage Clusters					
Front (ft.)	10	10	10		
Interior Side/Adjacent to Street (ft.)	10	10	10		
Rear (ft.)	10	10	10		
MAX. LOT COVERAGE				§ 50.04.001.1.f	
MAX. BASE HEIGHT (FT.)					
Primary Structure	[4]	[4]	[4]	§ 50.04.001.1.g	
Flat Lot	28	30	35		
Lot with Sloping Topography	28 - 32 [5]	30 - 34 [5]	35		
Footprint, Sloped	35	35	35		
Accessory Structure	Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	Lesser of 24 ft. or height of roof form of primary structure	§ 50.04.001.1.g [6]	
Additional Standards and Modifications	§ 50.04.001.1.b - g				

Figure 50.04.001-A Height Adjustment for Sloping Topography



b. Density - Additional Standards. There are no additional standards for density in this section.

c. Lot Dimensions - Additional Standards. There are no additional standards for lot dimensions in this section.

Response: The proposed minimum yard setback dimensions for the project are listed in Table 5 above. The applicant is requesting a Planned Development (PD) application for the subject property and adjustments to the dimensional standards including yard setbacks, floor area requirement and lot coverage for the PD site are listed under Tables 5, 6 and 7 above. The project meets the R-15 minimum density requirement by providing 11 parent lots on-site. Parent lot dimensions are proposed as per the PD requirement of LOC 50.07.007.04. The Preliminary Plat, Sheet 4.0 in Exhibit C, and Density Plan in Exhibit R demonstrate lot dimensions and density for review, respectively.

d. Floor Area - Additional Standards.

i. Floor Area of Garages and Accessory Structures.

(1) **Garage and Accessory Structures Included in Calculation.** For purposes of calculating maximum floor area for dwellings in the R-7.5, R-10, and R-15 zones, the floor area of garages and accessory structures shall be included in the total that is subject to the maximum floor area standard of this section.

(2) **Exceptions.** Habitable areas of detached accessory structures that would normally be counted as floor area shall be exempt from floor area calculations:

- (a) For lots less than or equal to 10,000 sq. ft. in area - up to 200 sq. ft.
- (b) For lots greater than 10,000 sq. ft. in area - up to 400 sq. ft.

Response: Proposed floor areas for triplex and quadplex parent lots include floor area of garages for each unit. Floor area for plexes lots 5 -11 are provided in Table 8 for review. Since this is a PD application, the floor area calculation needs to meet the aggregate floor area for the entire planned development site. The aggregate floor area for the PD meets the maximum allowed floor area as listed in Table 6 above.

Table 8: Floor area calculations for individual Plexes parent lots

Lot #	Type	Proposed Lot Size (sf)	Allowed Max. Floor Area	Proposed Floor Area
Lot 5	Triplex	9,046	6,154	5,562
Lot 6	Triplex	7,936	5,947	5,562
Lot 7	Triplex	8,205	5,996	5,562
Lot 8	Quadplex	9,119	6,977	7,164
Lot 9	Quadplex	9,070	6,972	7,164

Lot 10	Quadplex	9,516	7,108	7,164
Lot 11	Triplex	7,891	5,900	5,562
Total			45,054	43,740

ii. **Maximum Floor Area of Accessory Structures.** An accessory structure A 18 ft. in height shall not exceed a total 800 sq. ft. in size, or the square footage of the footprint of the primary structure, whichever is less. An accessory structure > 18 ft. in height shall not exceed a total 600 sq. ft. in size or the square footage of the footprint of the primary structure, whichever is less.

Response: Six (6) detached garages and a community building are proposed within the development as shown in Conceptual Site Plan, Sheet 3.0 in Exhibit C. The detached garages are proposed at 200 sf per garage and the community building is proposed to be 400 sf. in area.

iii. **Maximum Floor Area of Nonresidential Structures.** Maximum floor area for uses other than residential structures and their accessory structures shall be as follows:

- (1) Conditional uses: Established as part of the conditional use process.
- (2) Other nonresidential uses: No greater than 1:1.

Response: No non-residential structures are proposed within the development. This subsection does not apply.

iv. **Maximum Average Floor Area of Units in a Cottage Cluster.** Maximum average floor area for dwelling units within a cottage cluster development shall be as follows:

- (1) R-7.5: 1,000 sq. ft.
- (2) R-10 and R-15: 1,200 sq. ft.

Response: Maximum average floor area for dwelling units within a cottage cluster parent lot does not exceed 1200 sf. per lot as listed in Table 9 below. The floor area for cottages will be reviewed on the basis of the planned development application. The table below includes proposed average floor area for cottage cluster lots 1 through 4. Table 6 above demonstrates the floor area for the entire PD site including plexes and cottage cluster lots.

Table 9: Floor area calculations for individual Cottage Cluster Parent lots

Cottage Cluster Floor Area	Lot 1	Lot 2	Lot 3	Lot 4	Total
C1 - (1,320 sf)	3	2	3	1	9
C2 - (1,191 sf)	4	3	2	5	14
C3 - (1,288 sf)	0	2	0	0	2
C4 - (841 sf)	1	1	1	1	4
Community Bldg (400 sf) excluded per 50.04.001.1.d	0	0	0	0	0
Detached Garages (200 sf)	0	5	0	1	6
Total Structures per Parent Lot	8	13	6	8	36
Total Floor Area	9,565	9,630	7,183	8,116	34,894
Avg Proposed Floor Area	1,196	740	1,197	1,015	4,148
Allowed Avg. Max. Floor Area per cluster	1,200	1,200	1,200	1,200	4,800

v. **Maximum Floor Area of Townhouses.** Maximum floor area standards for townhouses shall be applied to a townhouse project, and not to individual townhouse lots or dwellings.

Response: The project does not propose any townhouses; therefore, this subsection does not apply.

e. Yard Setback - Additional Standards.

- i. **Zero Lot Line Units.** Two lots that have zero lot line units are considered a unified site for the purposes of meeting all required setbacks.
- ii. **Planned Development.** Setbacks for a planned development will be determined at the time of review. The maximum setback that can be required is 35 ft.
- iii. **Special Setbacks for Steeply Sloped Lots.** On steeply sloped lots the minimum required front yard setback for detached dwellings and middle housing shall be 18 ft.
- iv. **Corner Lots.** Front lot lines on corner lots may face either street. The City Manager shall determine the front lot line after taking into consideration the orientation of structures on the site and nearby lots, the ability to meet setbacks without variances, and physical site or solar access limitations. Street access should be to local streets.
- v. **Measurement of Side Yard Setback.** For purposes of this section, the width of the side yard setback shall be measured from that portion of the side property line that is nearest to any portion of the structure to that portion of the structure.
- vi. **Common Party Walls Prohibited - Accessory Structures.** Except for boathouses within the Oswego Lake setback, accessory structures on abutting lots may not be built with common party walls.
- vii. **Cottage Cluster Building Separation.** Cottages shall be separated from each other by a minimum distance of ten ft.

Response: The applicant is requesting a planned development application and the proposed yard setbacks for parent lots are listed in Table 5 above. Building separation between cottages are proposed at minimum 8-feet to comply with the Oregon Building Codes requirement. Concept Parent Lot / Preliminary Plat, Sheet 4.0 in Exhibit C, illustrates the proposed setbacks for the development.

f. Lot Coverage - Standards.

- i. **Maximum Lot Coverage.** Maximum lot coverage for the R-7.5, R-10, and R-15 districts shall be based on the "height of building" as defined in LOC § 50.10.003.2, as follows:

TABLE 50.04.001-2: RESIDENTIAL LOW DENSITY LOT COVERAGES			
Height (ft.) of primary structure	Maximum Lot Coverage (%)		
	R-7.5	R-10	R-15
22 or less	35	35	35
>22 to 23	33	34	34
>23 to 24	30	32	33
>24 to 25	28	30	32
>25 to 26	25	28	30
>26 to 27	25	27	29
>27 to 28	25	25	28
>28 to 29	25	25	27
>29 to 30	25	25	25
>30 to 31	25	25	25
>31 to 32	25	25	25
>32 to 33	25	25	25
>33 to 34	25	25	25
>34	25	25	25

- (1) Cottage clusters are exempt from maximum lot coverage standards.
- (2) Maximum lot coverage standards shall be applied to a townhouse project, and not to individual townhouse lots or dwellings.

Response: The maximum lot coverage for triplex and quadplex parent lots based on the proposed 33.33-foot height of the structure is 25%. This is a PD application therefore lot coverage will be calculated as an aggregate of the net developable area for the plexes as per the requirement of LOC 50.07.007.4 As listed in Table 7 above the project proposes 25% lot coverage for triplex and quadplex lots. Table 10 below details lot coverage for each triplex and quadplex parent lot for the review of this application. Cottage parent lots are exempt from lot coverage calculation therefore not included in the PD aggregate calculation.

Table 10: Lot Coverage calculation for Plexes Parent Lots

Lot Type	Proposed Parent Lot Size (sf)	Total Plex Footprint Area for Coverage Including Garages
Lot 5 (Triplex)	9,046	2,641
Lot 6 (Triplex)	7,936	2,641
Lot 7 (Triplex)	8,205	2,641
Lot 8 (Quadplex)	9,070	3,246
Lot 9 (Quadplex)	9,119	3,246
Lot 10 (Quadplex)	9,516	3,246
Lot 11 (Triplex)	7,891	2,641
Total	60,783	20,302

Note: Cottage Clusters are exempt from maximum lot coverage calculation.

ii. Special Requirements for Schools.

[.....]

Response: This is a residential project, therefore special requirements for schools are not applicable to this application.

iii. Garage Footprint Exemption. The garage footprint, including any area directly above or below the garage, shall be exempt from lot coverage as provided below:

- (1) Up to a cumulative maximum of 200 sq. ft. shall be exempt for garages that are:
 - (a) Rear- or side-loading, or
 - (b) Located 20 ft. or more back from the closest point of the dwelling to the front lot line, or
 - (c) In the case of corner lots, 20 ft. or more back from the closest point of the dwelling to the front and street side lot lines.
- (2) Up to a cumulative maximum of 400 sq. ft. shall be exempt for a detached garage that meets subsection 1.f.iii(1) of this section, and the lot is greater than 10,000 sq. ft. in area.

Response: Any required garage footprint exemption will be requested at the time of Middle Housing Land Division/ building permit review application.

g. Height - Additional Standards. A greater height than otherwise permitted is allowed for:

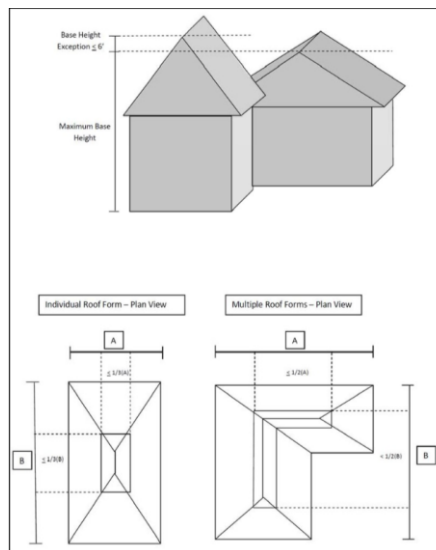
- i. Single-Family Dwellings and Middle Housing. Base building height may be increased by one ft. for every five additional ft. in yard setback on all sides, beyond the minimum code standards provided in Table 50.04.001-1 above.

Response: The development does not propose increased yard setbacks, so the additional height standard does not apply to this project.

ii. Any Structure. Roof forms or architectural features (such as cupolas or dormers) of any structure provided that these roof forms or features:

- (1) Do not extend more than six ft. above the maximum specified base height;
 - (2) Do not, in total, exceed one-third of the width of the building or buildings as measured on any elevation drawing for an individual roof form or projection or do not exceed one-half of the width of the building for two or more separate roof forms or projections; and
 - (3) Do not, in total, cover more than 20% of the roof area on which they are located as viewed from directly above for an individual roof form or projection or 30% for multiple roof forms or projections.
- Examples of permitted exceptions are illustrated in Figure 50.04.001-B: Height Exceptions.

Figure 50.04.001-B: Height Exceptions



Response: The development does not propose increased yard setbacks, so the additional height standards do not apply.

50.04.002 Special Street Setbacks

1. Purpose.

To assure an adequate front yard setback is available in the event of possible future street improvements, such as additional lanes, pedestrian and bicycle facilities, transit facilities, drainage management improvements, lighting, and street landscaping.

2. Establishment of Special Street Setback Reference Line.

The City Engineer establishes the centerline from which the special street setback reference line is measured, pursuant to LOC § 50.04.002.3.

3. Method of Measurement.

The special street setback (SSS) shall be measured from the SSS reference line (as established pursuant to LOC § 42.03.135), the prescribed special setback distance in LOC § 50.04.002.5. On these streets, the front yard begins at either the front lot line or the SSS, whichever is furthest from the reference line.

4. Priority of Other Plans.

Special street setbacks are minimums. If a greater amount of additional right-of-way is warranted by improvements identified in a traffic impact study, corridor study, or transportation system plan, then the greater amount shall prevail.

5. Special Street Setback List.

The special street setbacks set forth in Table 50.04.002-1 shall not be reduced, except as provided in the table.

TABLE 50.04.002-1: SPECIAL STREET SETBACKS			
Affected Streets	From	To	Special Setback
Stafford Rd.			40 ft.

Response: The project will provide 40-foot special street setback along the site frontage measured from the centerline of Stafford Road. Special Street Setback for the proposed planned development is demonstrated in the Preliminary Plat, Sheet 4.0 in Exhibit C, for review.

50.04.004 Solar Adjustments

1. Exemptions From Solar Design Standard.

A development is exempt from the requirements of LOC § 50.06.007.1.c, Solar Design Standard, if the reviewing authority finds the applicant has shown that one or more of the following conditions apply to the site. A development is partially exempt from LOC § 50.06.007.1.c to the extent the reviewing authority finds the applicant has shown that one or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with the solar access requirements.

a. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped 20% or more in a direction greater than 45° east or west of true south, based on a topographic survey by a licensed professional land surveyor.

b. Off-Site Shade. The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as but not limited to structures, topography, or solar-unfriendly vegetation, which will remain after development occurs on the site from which the shade is originating.

i. Shade from an existing or approved off-site dwelling in a residential zone and from topographic features is assumed to remain after development of the site.

ii. Shade from an off-site structure in a zone other than a residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.

iii. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space; or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to a development permit issued pursuant to this Code.

iv. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable development permits have been approved on the date a complete application for the development is filed.

c. On-Site Shade. The site, or a portion of the site for which the exemption is requested, is:

- i. Within the shadow pattern of on-site features such as, but not limited to, structures and topography which will remain after the development occurs; or
- ii. Contains solar-unfriendly trees at least 30 ft. tall and more than six in. in diameter measured four ft. above the ground which have a crown cover over at least 80% of the site or relevant portion. The applicant can show such crown cover exists using a scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least 50% of the trees that cause the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a party of any covenant or restriction created to enforce any provision of this section. The covenant or restriction shall not be amended without written City approval.

Response: The applicant is not requesting any exemptions to the solar design standards for the proposed development. Therefore, the provisions of this subsection do not apply. Compliance with Solar Design Standards is demonstrated under LOC 50.06.007 later in the report.

2. Adjustments to Solar Design Standard. The reviewing authority shall reduce the percentage of lots that must comply with LOC § 50.06.007.1.c, Solar Design Standard, to the minimum extent necessary if it finds the applicant has shown one or more of the following site characteristics apply:

a. **Density and Cost.** If the solar design standard in LOC § 50.06.007.1.c is applied, either the resulting density is less than that proposed, or on-site development costs (e.g. grading, water, storm drainage and sanitary systems and roads) and solar related off-site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with LOC § 50.06.007.1.c would reduce density or increase per lot costs in this matter. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development.

- i. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10% or more and is oriented greater than 45° east or west of true south based on a topographic survey of the site by a professional land surveyor.
- ii. There is a significant natural feature on the site, identified as such in the Comprehensive Plan or development standard, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.
- iii. Existing road patterns must be continued through the site or must terminate on site to comply with applicable road standards, future street plans, or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.
- iv. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

b. **Development Amenities.** If the solar design standard in LOC § 50.06.007.1.c applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with the solar access requirement is relevant to whether a significant development amenity is lost or impaired.

c. **Existing Shade.** Solar-unfriendly trees at least 30 ft. tall and more than six in. in diameter measured four ft. above the ground have a crown cover over at least 80% of the lot and at least 50% of the crown cover will remain after development of the lot. The applicant can show such crown cover exists using a scaled survey of solar-unfriendly trees on the site or using an aerial photograph.

- i. Shade from solar-unfriendly trees is assumed to remain if: the trees are situated in a required setback; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they

are part of landscaping required pursuant to LOC § 50.06.004, Site Design; and they do not need to be removed for a driveway or other development.

ii. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files in the office of the County Recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

Response: The applicant is not requesting any adjustment to solar design standards. Therefore, the provisions of this subsection do not apply.

LOC 50.05 Overlay and Design Districts

50.05.010 Sensitive Lands Overlay Districts

1. Overview

a. Purpose. LOC § 50.05.010 creates the Resource Protection (RP), Resource Conservation (RC), and Habitat Benefit Areas (HBA) overlay districts to:

- i. Protect and conserve wildlife habitat;
- ii. Protect and improve water quality;
- iii. Control and prevent water pollution for the protection of public health and safety;
- iv. Comply with federal laws including the Clean Water Act and the Endangered Species Act;
- v. Comply with State Land Use Goal 5; and
- vi. Comply with Metro's Urban Growth Management Functional Plan.

b. Comprehensive Plan Map and Zoning Map. The overlay districts shall be designated on the Comprehensive Plan Map and Zoning Map. The use of aerial photography or field inspection may be necessary to confirm the presence or location of the overlay districts on individual properties.

2. Applicability.

This section applies to all lands designated RP or RC on the Sensitive Lands Map, and lands designated HBA where an HBA protection area is established pursuant to LOC § 50.05.010.7.

a. Sensitive Lands Development Review Required.

- i. Except as provided by subsections 2.b through 2.d of this section, development within:
 - (1) The RP district, as defined in LOC § 50.05.010.6.b;
 - (2) The RC district;
 - (3) The HBA protection area; or
 - (4) The construction setbacks established in LOC § 50.05.010.6.c.ii(1)(e) shall be subject to the standards and criteria identified in LOC § 50.07.004.8.c, Environmental Review
- ii. Development permits, mitigation proposals, and adjustments of a district boundary shall be subject to the standards and criteria identified in LOC § 50.07.004.8.c, Environmental Review.
- iii. To the degree that any requirement of this section conflicts with a requirement of the underlying zone, this section shall prevail.

Response: The project site contains approximately 0.09 ac. of resource protection area including a 10-foot buffer area at the southwest corner of the site; therefore, provisions of this section will apply.

b. Exceptions - General. The provisions in this section shall not apply to:

- i. A resource located within the boundaries of a development permit approved prior to August 21, 1997, if:
 - (1) The resource was identified and protected pursuant to regulations in effect at the time of approval; and

(2) The proposed development is in compliance with the conditions protecting the resource imposed at the time of approval. Any modification of the prior approved development permit that would impact or modify any protection measures imposed at the time of original approval shall be subject to the standards and criteria of this section.

ii. Resource mitigation required as a result of violation of this section or pursuant to settlement of a potential enforcement action by the City Manager, subject to City Manager approval of the restoration plan and procedures and the requirements of subsection 2.f of this section.

iii. Routine maintenance and repair of existing legal development, including nonconforming structures and landscaping. (See also specific exception for normal or emergency replacement of utility, below.)

Response: The project site contains approximately 0.09 ac. sf resource protection area including the buffer area at the southwest corner of the site; and a notice of development restriction within the resource protection area is recorded with the county attached as Exhibit G with this application package. A sensitive lands development review is requested with this application to enhance and preserve the resource protection area and comply with the provisions of sensitive lands on-site. The preserved and enhanced resource protection area identified as 'Hazelia Heritage Reserve' on-site will provide environmental benefits to the community. Concept preservation plans for the Resource protection area is included in the Landscape Sheets in Exhibit E (Sheet L5.1).

c. Exceptions - Specific. The provisions of this section, except for the construction standards in subsection 4.d of this section, shall not apply to:

i. Replacement or vertical expansion of an existing structure within the footprint of that structure.

ii. Normal or emergency replacement of a utility that is not closer to a protected water feature than the pre-existing utility. Normal replacement of a utility for purposes of this subsection means the replacement is within the same general location or alignment as the pre-existing utility. Replacement of utilities that are within the stream channel or wetland must consider alternative locations; where no practicable alternative location exists, replacement shall occur as described above, subject to the mitigation requirements of subsections 4.e through 4.g of this section. Temporarily disturbed areas must be restored to their original grades and soil permeability, and revegetated with plants identified on the Plant List, pursuant to subsection 4.g of this section.

iii. Alteration, expansion, or replacement of an existing primary dwelling unit where the cumulative total increase in footprint of intrusion since August 21, 1997, is not more than 700 sq. ft.

iv. Development that meets all of the following criteria:

(1) Is not located within a wetland or below the top of the bank or stream;

(2) Does not require a grading permit; and

(3) The cumulative total of all development since August 21, 1997, does not exceed 200 sq. ft.

v. Fences that are not located within a wetland or flood hazard area, or below top of bank of a stream.

vi. Other development that does not remove any native vegetation or create new permanent structures.

Response: This is residential development application, and the site contains 0.09 ac. of resource protection area including the buffer area at the southwest corner. The provisions of sensitive lands overlay district applies and compliance with the construction standards of the overlay zone is demonstrated later in this report.

d. Exceptions for Wetlands, Stream Corridors and Tree Groves Outside of RP or RC District. Wetlands, stream corridors, and tree groves that are not contained within an RP or RC district, or an HBA protection area established pursuant to LOC § 50.05.010.7 shall not be subject to the regulations of this section. However, an application for development that impacts a stream corridor or wetland may still be subject to state or federal wetland or stream regulations. Notice of such applications will be sent to the Department of State Lands (DSL) or the Army Corps of Engineers.

e. Notification to Department of State Lands and Army Corps of Engineers. In addition to the notification required for the particular development by LOC Article 50.07, Review and Approval Procedures, the City shall notify the Oregon Department of State Lands and the Army Corps of Engineers upon receipt of a complete application for development, change or intensification of use within an RP district that impacts a wetland or stream corridor.

f. Mitigation Required for Violation. If development occurs in violation of this section, the violator shall not only be subject to any and all enforcement and penalties that can be brought or imposed for violation of this Code, they shall be responsible for mitigating any damage caused by the violation to a protected resource pursuant to LOC § 50.05.010.4.e through g.

Response: No impacts to the existing RP area on-site are proposed with this development, therefore mitigation for impacts or damage is not required. Notification to DSL and USACE is not required as the development does not propose any change or intensification of use within the RP district.

3. Development Review.

The development review procedures for sensitive lands overlay districts are found in LOC § 50.07.004.8.

Response: Development review procedure for RP district is discussed under LOC 50.07.004.8 later in the report.

4. Generally Applicable Standards for Lands With RP Districts, RC Districts, and HBA Protection Areas.

a. Rebuilding Nonconforming Single-Family or Duplex Dwelling Located in RP District or RP Construction Setback. Excluding single-family or duplex dwellings subject to the flood management area, if a portion of a nonconforming single-family or duplex dwelling is damaged or destroyed by causes not under the control of the owner (including but not limited to fire, earthquake, flood, landslide, and wind or tree damage, but not including destruction due to lack of structural maintenance by the owner, remodeling, or new construction), and the dwelling was nonconforming due to its location within a resource district or construction setback, the rebuilding or reconstruction of the nonconforming dwelling shall be exempt from the development standards of this section and LOC § 50.01.006, Nonconforming Uses, Structures, Lots and Site Features; and to the other requirements of the Code not within this section, to the extent that the damaged or destroyed portions of the dwelling failed to conform to the referenced sections, above, and to other requirements of this Code not within this section. In order to utilize the rights granted by this subsection a building permit for the reconstruction must be submitted within one year of the date of the damage and construction completed within two years of such date.

Response: No development or construction of any structure is proposed within the RP district or its 10-foot construction setback area.

b. Modifications to Dimensional Standards, Setbacks, and Floor Area of the Underlying Zone.

i. Except as provided in subsections 4.b.iii and iv of this section, an applicant for development subject to environmental review may vary from the lot dimensional standards (building setbacks, lot size, lot width, and lot depth) otherwise applicable without a variance pursuant to LOC Article 50.08, Variances, if the applicant demonstrates that:

- (1) Varying from the applicable dimensional standard or standards does not increase the transfer of allowable density from an RP district, or HBA protection area, to non RP or HBA protection area;
- (2) The proposed development with the dimensional modification does not have a greater negative impact on natural resources than would occur without the dimensional modification; and
- (3) In the case of a planned development, the criteria of LOC § 50.07.007.4.d, Authorization, have been met.

[.....]

Response: The applicant is requesting a residential Planned Development subdivision for the proposed development and compliance with the criteria of LOC 50.07.004.d is demonstrated later in

this report. Adjustments to dimensional standards are requested through the provisions of a planned development. No variance or modifications to the dimensional standards, density or floor area transfer are requested through environmental review application for the RP district.

c. **Density Transfer.** Lot density transfer shall be permitted for land divisions on residentially zoned lands subject to an RP district pursuant to this section, and on lands with an HBA protection area pursuant to this section and LOC § 50.05.010.7.

[.....]

Response: The applicant is not requesting any density or floor area transfer from RP district area to non-RP area on-site, therefore this subsection does not apply.

d. **Construction Standards.** An owner shall submit a construction plan and narrative to the City Manager prior to any grading, clearing, or construction on a development site which contains an RP or RC district, or where the owner received development review approval under subsection 7 of this section, Habitat Benefit Areas (HBA) Incentives. The construction plan and narrative shall demonstrate that the following standards will be met:

i. RC protection areas or RC districts where no protection areas have been approved, RP districts, and protection areas within an approved HBA development shall be protected during construction with either:

(1) A minimum four-ft. tall chain link fencing secured with a minimum of four-ft. tall steel posts. The fencing shall be in place and maintained for the duration of construction. In addition, temporary signage shall be placed on the fencing which shall clearly identify the resource district and shall state the penalty for violations of this section; or

(2) Such alternative method to subsection 4.d.i(1) of this section that is approved by the City Manager to demarcate and protect the RCPA or RC/RP district from the adverse effects of construction activity upon the resources.

ii. RC protection boundaries and RP district boundaries, as applicable, shall be located and staked by a qualified professional prior to placement of fencing and other protective measures.

iii. Hazardous Materials. The site shall be inventoried for hazardous materials, debris and noxious materials, and these materials shall be removed prior to the development of the site.

iv. No construction, demolition, grading, or site clearing shall begin until after protective measures, signs, and erosion control measures are in place and have been inspected and approved by the City Manager and all applicable permits have been issued. Fencing and other protective measures shall not be removed, even temporarily, without the permission of the City Manager.

v. No stockpiling of fill materials, or parking or storage of construction equipment shall be allowed within a resource district.

vi. When transportation facilities, pathways, utilities, or structures are approved within a delineated RP district, they shall be constructed in such a way that a minimum of excavation is required and so that no permanent draining or filling of a stream corridor or wetland will occur.

vii. Surface runoff and other water sources supplying hydrology to an RP district shall be designed and maintained so as not to adversely impact the functions and values of the resource.

viii. Any additional construction requirements imposed as conditions of approval or which may be required by the Development Standards, the Lake Oswego Building Code (LOC Chapter 45) or the Erosion Control Code (LOC Chapter 52).

Response: The applicant will submit a construction plan and narrative to the City Manager prior to any grading, clearing, or construction on the subject site to meet the requirements of this subsection.

e. **Mitigation; Purpose.** Mitigation is a way of repairing or compensating for adverse impacts to the functions and values of a natural resource caused by a development. Mitigation may consist of resource area creation, restoration, or enhancement. Some examples of mitigation actions are construction of new wetlands to replace an existing wetland that has been filled, replanting trees, and restoring stream side vegetation where it is disturbed.

This subsection 4.e through LOC § 50.05.010.4.g recognize that true replacement of mature or complex natural resource systems is difficult and can take many years. Mitigation is discouraged by first requiring that avoidance of development siting within the resource be explored. Then, if that is not possible, actions should be taken to minimize damage to the resource. Mitigation ratios are established according to the type of mitigation proposed and the value of the resource. Maintenance and monitoring of the mitigation measures are also required.

f. **Progressive Mitigation Steps Required.** The approving authority shall permit development allowable within an RC protection area or RP district only if it finds that the following progressive steps have been met:

i. **Step #1 Avoidance.** The applicant shall endeavor to avoid detrimental impacts on the resource altogether by providing alternative site plans along with the development proposal demonstrating that alternative designs have been explored. If disturbance of a resource district resource is proposed, the applicant shall first demonstrate that intrusion into the resource district cannot be avoided by a reduction in the size or configuration of the proposed development or by changes in the design that would avoid adverse effects on the resource while still allowing development of the property.

ii. **Step #2 Minimization.** If the applicant has endeavored to avoid detrimental impacts on the resource according to subsection 4.f.i of this section, and the reviewing authority finds that detrimental impacts cannot be avoided, then the applicant shall minimize impacts by demonstrating that:

(1) Alternative and significantly different site plans and development locations on the subject site have been considered, and that the alternative chosen is the least environmentally damaging; and

(2) When mitigation is proposed, there will be no net loss of resource area, functions, or values as a result of development actions pursuant to LOC § 50.05.010.4.g.v, Stream Corridors and Tree Groves, or LOC § 50.05.010.4.g.vi, Wetlands, whichever is applicable.

Response: The applicant is not proposing any construction in the RP district and its 10-foot construction setback area, therefore not required to compensate for any adverse impacts to the natural resources on-site. However, the applicant proposes to enhance and preserve the on-site RP district by removing invasive species and planting native vegetation within the resource area for environmental and community benefit. Conceptual details for the enhancement of the on-site RP district are illustrated in the Preliminary Landscape Sheets in Exhibit E (Sheet L5.1) for review. Environmental Review of Sensitive Land is requested with this application.

g. **Mitigation Requirements.**

i. **Mitigation Plan.**

Response: The applicant is not proposing any adverse impacts to the RP district therefore mitigation requirements are not applicable.

6. Standards Applicable to RP Districts.

a. **Resource Protection (RP) District Environmental Review Standards; Applicability and Purpose.** In addition to compliance with LOC 50.07.004.8.c and 50.07.004.8.d and LOC §§ 50.05.010.4.b and 50.05.010.4.c, applicants for development that is subject to environmental review on property containing an RP district shall comply with the standards contained in LOC §§ 50.05.010.6.b through 50.05.010.6.d, in order to:

i. Prohibit new development within an RP district following delineation of the resource or resources, except as provided in this section. In the event that development is allowed within an RP district, the applicant shall mitigate for the loss of or damage to the RP resource pursuant to LOC §§ 50.05.010.4.e through 50.05.010.4.g;

ii. Ensure that new development and alterations are compatible with and maintain the total land area and the functions and values of resources designated as RP;

iii. Allow for development opportunities for at least one single-family home or duplex, pursuant to LOC § 50.05.010.6.d and the applicable mitigation criteria of LOC §§ 50.05.010.4.e through 50.05.010.4.g.

Response: No development or construction of any structure is proposed within the 0.09 ac. RP district area including its 10-foot construction setback on-site. The development meets the requirement of this subsection. A recorded notice of development restriction is attached as Exhibit G for reference and review of this application.

b. RP District and Construction Setback Requirements.

i. The RP district shall include the delineated stream or wetland and a protected riparian area.

(1) The protected riparian area contributes to the functions and values of the stream or wetland, including: shelter, food, travel, and nesting needs of wildlife; aesthetics; surface water quality; slope stability; and flood storage.

(2) The entire RP district including the stream or wetland and its protected riparian area shall be shown on the delineation map.

(3) The City Manager may use existing aerial photography, remote sensing, and topographic data, subject to field verification, to approve an RP district delineation without requiring a separate survey of the resource.

ii. The following areas established pursuant to LOC § 50.07.004.8.d and detailed in Table 50.07.004-A are protected riparian areas. They are measured outward from the edge of a delineated stream corridor or wetland and included in the RP district. The minimum dimension below (25 or 30 ft.) is the RP district standard, except where the Sensitive Lands Map identifies a wider protection area the 50-ft. standards applies:

(1) Class I Wetlands and Class II Wetlands abutting Class I Stream Corridors - 30 ft. or 50 ft.

(2) Other Class II Wetlands - 25 ft. or 50 ft.

(3) Class I Stream Corridors - 30 ft. or 50 ft.

(4) Class II Stream Corridors - 25 ft. or 50 ft.

iii. Reduction of RP District. The reviewing authority may allow the protected riparian area to be reduced when the applicant shows that:

(1) The proposed development complies with subsection 4.f of this section, Progressive Mitigation Steps Required; and

(2) The reduction in protected riparian area is not solely for the purpose of maximizing development of the site; and

(3) Development abuts a Class I or II resource. The reviewing authority may allow portions of the protected riparian area to be reduced to a minimum of 15 ft. abutting a Class I resource, or ten ft. abutting a Class II resource, if:

(a) A qualified professional demonstrates that such an adjustment will not reduce the functions and values of the resource as a whole; and

(b) The width is increased in other areas to maintain a 25-ft., 30-ft., or 50-ft. average width, whichever is applicable; and

(4) The reviewing authority may permit a protected riparian area that is less than the average minimums required in the subsections above, when a qualified professional shows that such an adjustment will not damage the system as a whole, and one of the following conditions exists:

(a) The presence of an existing topographic feature or human-made development physically precludes establishment of the minimum protected riparian area required; or

(b) The size or configuration of the subject parcel is insufficient to provide the minimum protected riparian area required.

iv. Construction Setbacks. A construction setback is required from the RP district by LOC § 50.05.010.6.c, only for the following:

(1) New structures, parking areas, active use recreation facilities, streets and driveways - ten ft.

(2) Accessory structures, decks, and similar outdoor facilities meeting the criteria of LOC § 50.03.004.2.b.i(1) through (3), setback reduction for accessory structures, and LOC § 50.04.003.8.b, Patios and Decks - three ft.

Response: The subject site contains 0.09 ac. of RP district at the southwest corner of the site and a 10-foot construction setback is provided adjacent to the RP district. No development or construction of any structure is proposed within the RP district and its 10-foot construction setback. The development meets the requirement of this subsection. No reduction to the RP district is proposed with this application.

c. RP District Development Standards.

i. In addition to compliance with any other applicable regulations, and subject to the requirement for compliance with subsection 6.c.iii of this section, the following development, use or activity on properties containing an RP district are permitted within the RP district, subject to the standards set forth in subsection 6.c.ii of this section:

- (1) Landscaping;
- (2) Tree removal;
- (3) Utilities;
- (4) Streets, driveways, lake trams and public transportation facilities;
- (5) Resource enhancement projects;
- (6) Structures;
- (7) Parking areas;
- (8) Active use recreation facilities;
- (9) Hard surfaced pathways; and
- (10) Limited hazardous materials storage.

Response: The applicant proposes to enhance and preserve the on-site RP district by removing invasive species and planting native vegetation within the resource area for environmental and community benefit. Conceptual details for the enhancement of the on-site RP district are illustrated in the Landscape Sheets in Exhibit E (Sheet L5.1).

ii. Except as provided in subsection 6.d of this section, Exceptions Where the RP District Prohibits All Reasonable Development Opportunities, all development listed in subsection 6.c.i of this section is subject to environmental review and shall comply with the following standards:

(1) Specific Development Standards.

(a) Landscaping. The delineated RP district shall maintain the natural function and character of the resource area, which provides food and shelter for native wildlife. Landscaping within these areas shall therefore comply with the following criteria:

(i) Plants: Plants used for landscaping within the RP district shall:

- (A) Be well-suited to local soils and growing conditions; and
- (B) Not be dependent on long-term irrigation, which can increase erosion and sedimentation (irrigation necessary for initial establishment of the plants is not considered long-term irrigation).

(ii) The City shall maintain a Plant List listing species that comply with the criteria in this section. If a plant is listed on the Plant List as appropriate for resource landscaping, it shall be presumed to comply with this section. The Plant List is not intended to be an exclusive listing of allowable landscaping materials, but shall be used as a guideline and may be updated by the City Manager from time to time as new plants in compliance with this section are discovered or become available. An applicant may utilize a plant not on the Plant List as long as it complies with the criteria in this section.

(iii) Removal of vegetation identified on the Plant List as appropriate for resource landscaping is not permitted from an RP district except as otherwise allowed in this section.

(iv) New landscaping within the RP district shall not include any invasive plants on the City's Plant List.

(v) Existing Landscaping: Nonconforming formal landscaped areas including ornamental gardens and lawns located within an RP district and in existence at the time of the adoption of these standards may be maintained, altered or modified pursuant to LOC § 50.01.006.2, Continuation and

Maintenance of Nonconformities. However, a nonconforming landscaped area may not be expanded pursuant to LOC § 50.01.006.3.c.

Response: The delineated RP district will be preserved and improved as per the requirements of this subsection to maintain the natural function and character of the resource area. An environmental review is requested with this application and the applicant proposes to enhance and preserve the on-site RP district by removing invasive species and planting native vegetation within the resource area for environmental and community benefit. Conceptual details for the enhancement of the on-site RP district are illustrated in the Landscape Sheets in Exhibit E (Sheet L5.1).

(b) Tree Removal. Tree removal within an RP district shall be subject to the following criteria:

- (i) Type I and Type II tree removal permits, in accordance with LOC § 55.02.042, Permit Classifications and Review Procedures, for development purposes, for those limited development activities allowed and approved by this section.
- (ii) Type II tree removal permit, in accordance with LOC § 55.02.042 for landscaping purposes, in conjunction and consistent with a resource enhancement project.
- (iii) Hazard tree removal permit, in accordance with LOC § 55.02.042.4, except any portion of the tree that is not likely to be hazardous to persons or property shall be retained for wildlife habitat and natural resources.
- (iv) Emergency tree removal permit, in accordance with LOC § 55.02.042.5, Emergency Permit.
- (v) Verification permit, in accordance with LOC § 55.02.042.7.
- (vi) Invasive tree removal permit, in accordance with LOC § 55.02.042.6, except that mitigation shall be required as described in LOC § 55.02.084.

Response: The project does not propose any tree removal in the RP district area. The provisions of this subsection do not apply.

(c) Utilities. Public or private utilities shall not be placed or expanded within an RP district unless tunneling under a resource will not cause any adverse effect upon the resource and the functions and values of a resource will be maintained, or there is no other practicable alternative. If a public or private utility is allowed within an RP district, mitigation shall be required pursuant to subsections 4.e through 4.g of this section. When applying the mitigation process to this section:

- (i) Step #1 Avoidance. Sanitary sewer, water, power, gas, cable, telecommunications and storm drain lines shall be maintained in public rights-of-way and routed around significant resources rather than through a resource wherever possible, except that tunneling under a resource shall be permitted where tunneling will not cause any adverse effect upon the resource or tree roots, and the functions and values of a resource will be maintained.
- (ii) Step #2 Minimization. Sanitary sewer, water, storm drain line and other subsurface crossings shall be made within 30° of perpendicular to the stream where practicable or feasible.

Response: No public or private utilities will be placed or expanded within the RP district area on-site.

(d) Streets, Driveways, Lake Trams and Public Transportation Facilities.

- (i) Private streets shall not be placed through an RP district unless there is no other practicable method of access to buildable parcels.
- (ii) Driveways shall not be placed through an RP district unless there is no other practicable method of access to the buildable areas of property served by the driveway. The amount of disturbance for driveways in the protection area shall be minimized through use of shared access for abutting lots and access through easements for adjacent lots.
- (iii) Trams to access Oswego Lake shall not be placed through an RP district unless there is no other practicable method of access to Oswego Lake.
- (iv) Public streets and public transportation facilities shall not be placed in or through an RP district unless:

[.....]

Response: No public or private street, driveways or alleys will be placed within the RP district area on-site. A soft surface trail is proposed within the RP area for community access and as per the provisions of 50.05.010.6.e passive use recreation facilities, such as soft surface trails may be located within the RP district. Any disturbed land area will be restored with plants as described on the Plant List.

(e) Structures, Parking Areas, Pathways, and Driveways.

(i) Construction Setbacks

(A) Except as provided in subsection 6.c.ii(1)(d) of this section, structures, parking areas, active use recreation facilities, hard surfaced pathways, streets and driveways shall be set back at least ten ft. from an RP district to prevent construction impacts to the RP district.

(B) In addition to complying with other applicable standards, accessory structures, patios, decks, and similar outdoor facilities shall be set back three ft. from an RP district.

(C) Passive use recreation facilities, such as soft surface trails and pedestrian bridges, may be located within the RP district. Any disturbed land area shall be restored with plants as described on the Plant List.

Response: The development project will preserve the construction setback area of the RP district as required in this subsection. Conceptual Site Plan (Sheet 3.0) and Open Space Plan (Sheet 6.0) in Exhibit C illustrate on-site RP district and its construction setback for review.

(f) Resource Enhancement Projects. Resource enhancement projects such as bank stabilization, restoration plantings, in channel habitat improvements, and similar projects which propose to improve or maintain the quality of a natural resource within RP districts shall be approved if the applicant demonstrates that all of the following criteria are met:

(i) The project will cause no permanent degradation, or loss of natural features in the RP district; and

(ii) There will be improvement in the quality of at least one function or value of the resource; and

(iii) Only vegetation described in the Plant List as appropriate for resource landscaping shall be planted. For the purpose of this subsection, "resource enhancement project" does not include required mitigation pursuant to LOC §§ 50.05.010.4.e through 50.05.010.4.g.

Response: The applicant proposes to enhance and preserve the on-site RP district by removing invasive species and planting native vegetation within the resource area for environmental and community benefit. Conceptual details for the enhancement of the on-site RP district are illustrated in the Landscape Sheets in Exhibit E. Proposed improvement to the RP area will comply with the requirements of LOC 50.05.010.4.

(g) Limited Hazardous Materials Storage. Hazardous material, as defined by the Department of Environment Quality, or development providing for the storage or processing of materials that are buoyant, flammable, explosive, toxic, or that could be injurious to human, animal, or plant life are prohibited in the RP district.

[.....]

Response: No hazardous materials will be stored in the RP district or its setback area within this development.

(2) General Development Standards. In carrying out the permitted development activity, the applicant shall also comply with the following general development standards, if applicable to the proposed development, and the construction standards set forth in LOC § 50.05.010.4.d:

(a) Resource Alterations.

(i) Streams shall not be impounded or diverted from their natural channels unless the applicant demonstrates:

(A) The diversion or impoundment will cause minimum degradation or loss of natural features in the stream corridor, and

(B) The diversion will not cause erosion or otherwise cause damage downstream of the development site, and at least one of the following criteria are met:

[1] A diversion would return a previously altered stream to its original location,

[2] A stream channel occupies all or most of a legally created lot, or

[3] An impoundment is designed to reduce flooding or improve water quality.

(ii) A wetland shall not be impounded or the hydrology of the wetland modified through such activities as draining the resource or enlargement of the resource to create a pond, unless it can be demonstrated that the criteria for allowing resource enhancement in subsection 6.c.ii(1)(f) of this section have been met.

Response: The project does not propose construction of any structure within the on-site RP district therefore no alternation to the resource will occur with this development.

iii. Land Divisions and Lot Line Adjustments. The following standards apply to properties containing an RP district for applications for land divisions including partitions and subdivisions and to lot line adjustments:

(1) Except where the creation of a lot is permitted under LOC § 50.05.010.6.d, new lots proposed on lands that include an RP district shall have designated sites for buildings that are located outside of the RP district. A land division or lot line adjustment shall not create a lot that would necessitate an exception to LOC § 50.05.010.6.d in order to site a dwelling upon the proposed lot.

(2) Exception: This standard shall not apply to lots established as open space tracts, for transfer to a public agency or private trustee to manage as a natural area, or where the entire lot is included in a conservation easement that prohibits development on the site.

(3) Permanent signage is required in planned developments and subdivisions to identify the RP district where any common open space protects an inventoried natural resource through conditions of approval. The signage shall be installed before any occupancy permit is issued. Such signage shall be reviewed as part of the development review process, and shall meet the standards of LOC Chapter 47.

Response: The development proposes lots that will be sited outside the RP district area. The on-site RP district is set aside in Tract A as shown in the Preliminary Plat, Sheet 4.0 in Exhibit C for preservation. A recorded Notice of Development Restriction for the RP district is attached as Exhibit G for reference and complete review of this application. A permanent signage to identify on-site RP district will be installed with the development. The signage will meet the standards of LOC chapter 47 and details for the signage will be provided at the time of building permit review.

d. Exceptions Where the RP District Prohibits All Reasonable Development Opportunities.

i. When a delineated RP district occupies most or all of a lot in any residential district, the property owner shall be permitted development on the parcel of a single-family dwelling, duplex, or the equivalent; "equivalent" shall be one or more dwellings which in total do not exceed the maximum lot coverage and floor area allowed for one single-family or duplex dwelling based on the minimum lot area of the underlying zone. In approving more than one dwelling the reviewing body shall find that the avoid, minimize, mitigate requirements of this section are met, and the development will have no greater impact to water quality, slope stability, erosion, or wildlife habitat than would occur with one dwelling constructed with the maximum allowed floor area based on the minimum lot area of the underlying zone. All other applicable City codes and development standards shall be complied with, and the mitigation criteria of LOC §§ 50.05.010.4.e through 50.05.010.4.g shall also be applicable.

ii. A lot from which density has been or may be transferred to another area in contiguous ownership shall not be eligible for this exception.

Response: The subject site does not meet the threshold for an exception to development in the RP district. The development is not requesting any exception to the development pertaining to the RP district therefore this subsection does not apply.

LOC 50.06 - Development Standards

50.06.001 Building Design

Response: While the Pre-Application staff report, provided in Exhibit T, indicates compliance with Building Design standards is not required for the Minor Development application, preliminary architectural elevations and floorplans are provided in Exhibit D to facilitate review of the future Middle Housing Land Division (MHL) application.

1. Applicability.

This section is applicable as follows:

TABLE 50.06.001-1: BUILDING DESIGN STANDARDS APPLICABILITY						
Base District	[A] = Applicable /blank/ = Not Applicable					Additional Standards
	R-15	R-10	R-7.5	R-6	R-5	
Structure Design – Residential Zones	A	A	A	A	A [1]	§ 50.06.006, Old Town Neighborhood Design
Garage Appearance and Location 50.06.001.4	A	A	A	A	A	§ 50.06.004, Old Town Neighborhood Design
Zone Additional Standards 50.06.001.3 (R-6)				A		
Commercial, Industrial, and Multi-Family Not Located in FMU Zone Standards for Approval 50.06.001.5						A [2][3]
Development Located in FMU Zone Standards for Approval 50.06.001.6						A [4]
Notes:						
[1] Structure design standards only apply to detached single-family dwellings and middle housing, and structures that are accessory to these development types (see LOC § 50.06.001.2.a).						
[2] Ministerial development: development involving mechanical equipment, limited to LOC § 50.06.001.5.b.viii (mechanical equipment screening).						
[3] Minor and major development: development involving a structure for commercial, industrial, institutional, public use (including major public facilities and minor public facilities), multi-family residential, townhouses (three or more units), and to all minor development within the R-DD zone. This standard is also applicable to exterior modifications of a structure which does not qualify as a ministerial development.						
[4] Development involving either mechanical equipment, or development involving structures, or both, including new development and exterior modifications, in the FMU zone.						

2. Structure Design - Residential Zones.

a. Applicability.

i. In the R-0, R-2, R-3, and R-5 zones, this subsection applies only to the following types of development:

- (1) Detached single-family dwellings;
- (2) Middle housing; and
- (3) Structures that are accessory to these development types listed above.

ii. This subsection is applicable to all structures in any other base residential districts, except R-W and R-DD.

iii. Conversions of single-family dwellings that result in the creation of middle housing and are not classified as an expansion or addition are exempted from the standards of this subsection; provided, that the conversion does not increase nonconformance with applicable standards.

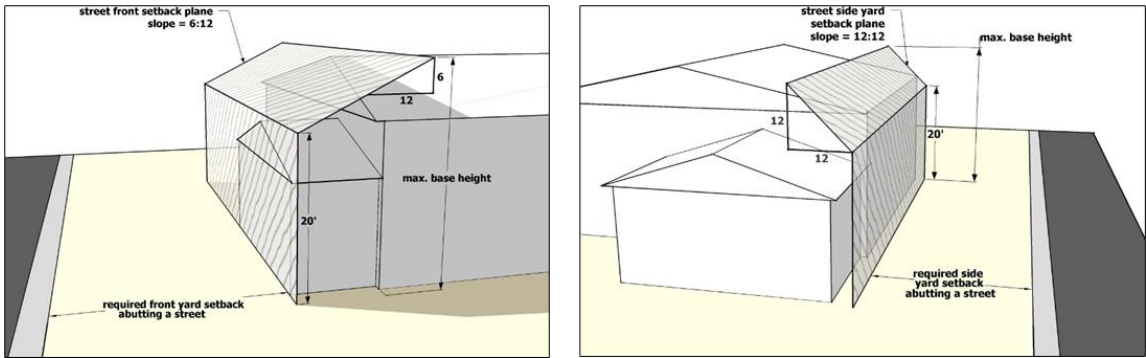
iv. For additions to single-family dwellings that result in the creation of middle housing, this subsection 2.a shall apply only to the newly added and any replaced portion(s) of the structure. Existing nonconforming portions of the structure to remain in place are exempted from the standards of this subsection.

Response: The subject site is in the R-15 residential zone therefore structure design standards and garage appearance and location standards will apply.

b. Street Front Setback Plane. Except as set forth in LOC § 50.06.001.2.d and for flag lots, the profile of a structure that fronts on a street shall fit behind a plane that starts at the setback line (front yard or side yard abutting a street) and extends upward to 20 ft. in height, then slopes toward the center of the lot up to the maximum base height of the zone, as illustrated below in Figure 50.06.001-A: Street Front and

Street Side Setback Plane. Except as identified in LOC § 50.06.001.2.d, the finished grade at the foundation shall be used as the grade elevation at the setback line for purposes of measuring the setback plane.

Figure 50.06.001-A: Street Front and Street Side Setback Plane



The slope of the street front setback plane is dependent upon whether it applies to a front yard or side yard abutting a street, as follows:

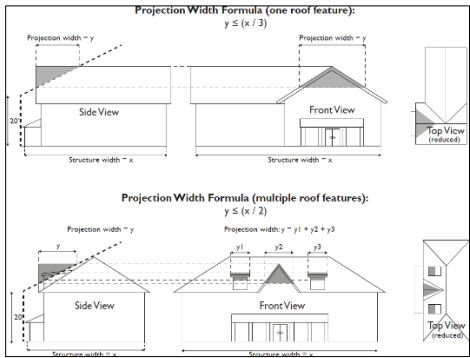
- i. Front yard - 6:12 slope, or
- ii. Side yard abutting a street - 12:12 slope.

Response: Proposed triplex and quadplex units within the development will meet the street front setback plane requirement as required in this section. Most cottage units within the development will meet the street front setback plane. However, some cottage units will not meet this criterion, the applicant will request Residential Infill Design variance at the time of Middle Housing Land Division and building permit application when applicable. See Preliminary Architectural Plans and Elevations in Exhibit D for reference.

c. Street Front Setback Plane Exceptions.

- i. Roof Form. Any individual roof form, such as a dormer or gable end, may penetrate the street front setback plane if it is less than one-third of the structure width, as illustrated in Figure 50.06.001-B: Exceptions to Street Front Setback Plane. Two or more separate and distinct roof forms may penetrate the street front setback plane if they are less than one-half of the structure width. For the purposes of this standard, a projecting dormer(s) must be enclosed in the roof form on at least two sides. All portions of a compliant dormer may project.

Figure 50.06.001-B: Exceptions to Street Front Setback Plane

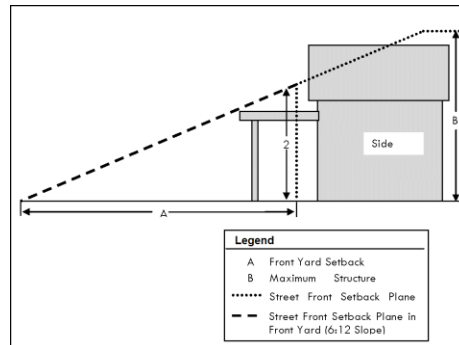


Response: Proposed triplex and quadplex units within the development will meet the street front setback plane requirement as required in this section. Most cottage units within the development will meet the street front setback plane. However, some cottage units will not meet this criterion, the

applicant will request Residential Infill Design variance at the time of Middle Housing Land Division and building permit application when applicable. See Preliminary Architectural Plans and Elevations in Exhibit D for reference.

ii. **Plane Extension Limitations.** Any eaves, bay windows, chimneys and other decorative features, front porch, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other architectural features, canopies, sunshades, chimneys, and flues that are allowed to project into the front yard setback shall fit below the extension of the street front setback plane, as illustrated in Figure 50.06.001-C.

Figure 50.06.001-C: Extension of Street Front Setback Plane

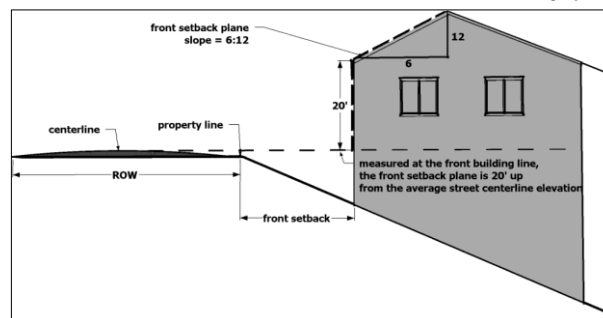


Response: Proposed triplex and quadplex units within the development will meet the street front setback plane requirement as required in this section. Most cottage units within the development will meet the street setback plane requirement. However, some cottage units will not meet this criterion, the applicant will request Residential Infill Design variance at the time of Middle Housing Land Division and building permit application when applicable. See Preliminary Architectural Plans and Elevations in Exhibit D for proposed preliminary building design.

d. Street Front Setback Plane on Steeply Sloped Lots.

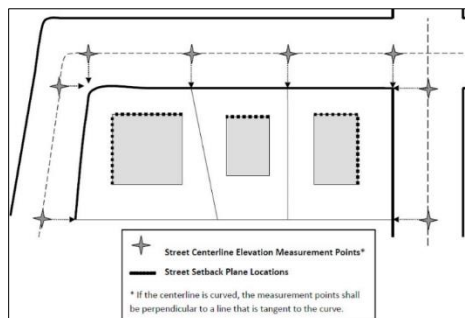
i. **Down Slope.** On steeply sloped lots where the average elevation of the ground surface at the setback line fronting a street is below the average elevation of the centerline of the street, the elevation at which the street front setback plane height is measured shall be the average elevation of the centerline of the street, as illustrated in Figure 50.06.001-D: Street Front Setback Plane on Steeply Sloped Down Slope Lot, below.

Figure 50.06.001-D: Street Front Setback Plane on Steeply Sloped Down Slope Lot



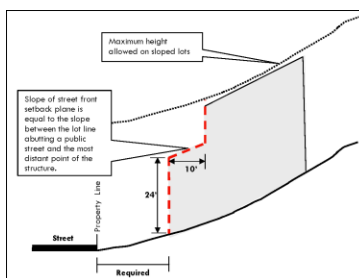
For this measurement, the average elevation of the street centerline shall be measured at points along the street centerline where a perpendicular line extended from the centerline would intersect the abutting property corners, as illustrated in Figure 50.06.001-E: Measurement Locations, below.

Figure 50.06.001-E: Measurement Locations



ii. Upslope. The front profile of a structure shall fit behind a plane that starts at the setback line fronting a street and extends upward, to 24 ft. in height, then slopes toward the center of the lot at a slope equal to the slope measured from the lot line abutting a street to the most distant point of the structure for a horizontal distance of ten ft., at which point the structure may rise to the maximum allowed height for the zone. The standard is illustrated in Figure 50.06.001-F: Front Setback Plane on Upslope Lots, below.

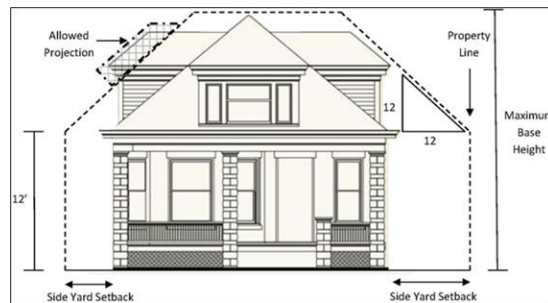
Figure 50.06.001-F: Front Setback Plane on Upslope Lots



Response: The site does not contain steep slopes therefore provisions of this subsection do not apply.

e. Side Yard Setback Plane - Interior Yards. Except as set forth in subsection 2.e.ii of this section, the side profile of a structure shall fit behind a plane that starts at the side property line and extends upward to 12 feet and slopes toward the center of the lot at a slope of 12:12 up to the maximum allowed height at the peak as illustrated in Figure 50.06.001-G: Side Yard Setback Plane, below. The finished grade at the foundation shall be used as the grade elevation at the property line for purposes of measuring the setback plane.

Figure 50.06.001-G: Side Yard Setback Plane



i. Roof forms may penetrate into the side yard setback plane required under subsection 2.e of this section, as follows:

(1) Any individual roof form, such as a dormer or gable end, may penetrate the side setback plane if it is less than one-third of the structure length at 12 ft. in height. Two or more separate and distinct roof forms may penetrate the side setback plane if they are less than one-half of the structure length at 12 ft. in height. For the purposes of this standard, a projecting dormer(s) must be enclosed in the roof form on at least two sides. All portions of a compliant dormer may project.

(2) Building projections allowed under LOC § 50.04.003.8, General Exceptions for Building Projections, Decks, and Walkways and Pathways to Setbacks, may project up to two ft. into the side yard setback plane. Chimneys are exempt from the setback plane requirement.

ii. On steeply sloped lots, no side yard plane is required.

Response: Proposed triplex and quadplex units within the development will meet the street front setback plane requirement as required in this section. Most cottage units within the development will meet the street setback plane requirement. However, some cottage units will not meet this criterion, the applicant will request Residential Infill Design variance at the time of Middle Housing Land Division and building permit application when applicable. See Preliminary Architectural Plans and Elevations in Exhibit D for proposed preliminary building design.

f. **Side Yard Appearance and Screening.** At least one of the following design treatments shall be applied along side yards or side elevations. This section is applicable to both interior side yards and side yards that abut streets.

i. **Treatment 1 - Maximum Side Yard Plane.**

(1) When the side elevation of a primary structure is more than 500 sq. ft. in area in an R-0, R-2, R-3, R-5, or R-6 zone ("Group 1") or more than 750 sq. ft. in area in an R-7.5, R-10, or R-15 zone ("Group 2"), the elevation must be divided into distinct planes of 500 sq. ft. or less for Group 1 or 750 sq. ft. or less for Group 2. For the purpose of this standard, areas of side yard wall planes that are entirely separated from other wall planes are those that result in a change in plane, such as a recessed or projecting section of the structure that projects or recedes at least two ft. from the adjacent plane, for a length of at least six ft.

(2) Except in the R-0, R-2, R-3, and R-5 zones, the maximum side yard plane may be increased by 10% on a side for every additional five ft. of side yard setback provided beyond the minimum required by the zone, on the side property line.

ii. **Treatment 2 - Side Yard Features.**

(1) The side elevation of a structure shall consist of two or more planes that are offset by a minimum of 16 in. The wall planes shall be a minimum of four ft. in width, and shall result in a change in a wall plane for one full story.

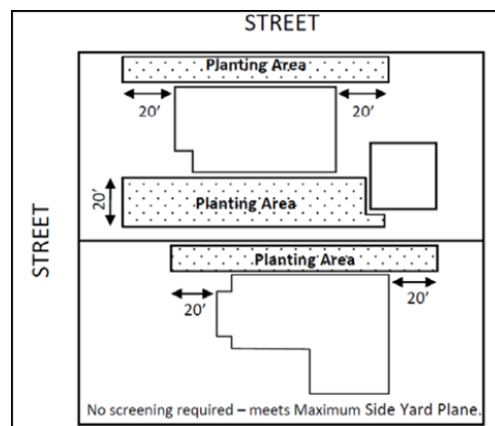
Exception: Window bays may be utilized to satisfy the requirement for offsets. Such windows shall extend a minimum of 12 in. outward from the main wall of a building and shall form a functional bay or alcove in an interior room. Bay windows used to meet this requirement shall not be exempt from setback requirements.

(2) Walls shall include a roof eave overhang of 16 in. or greater, and

(3) Windows and/or doors shall occupy a minimum of 15% of the side elevation facing the street, and all windows shall have a window trim that is a minimum of four in. in width.

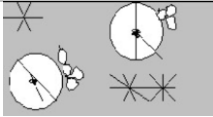
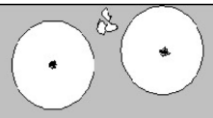
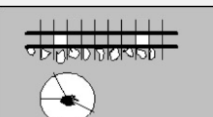
iii. Treatment 3 - Screening. The applicant shall provide screening and buffering of the wall plane with a minimum of one standard plant unit for every 50 linear ft. of side building elevation or fraction thereof. Planting shall occur within an area that is defined by the length of the side elevation plus 20 ft. beyond the width of the building at either end, and outward 20 ft. from the side elevation of the building, towards the side lot line, as shown in Figure 50.06.001-H: Screening and Buffering.

Figure 50.06.001-H: Screening and Buffering



Standard Plant Units are defined in Table 50.06.001-2. All landscape plants shall be grouped and clustered within the side yard to visually break up wall planes into smaller segments.

Standard Plant Unit Alternative	Quantity - Minimum Size and Type of Plants Required	Illustration
Standard Unit A	1 - 3" caliper canopy tree 2 - 1-1/2" caliper under story tree 13 - 3' high shrubs	
Standard Unit B*	1 - 3" caliper canopy tree 1 - 1-1/2" caliper under story tree 1 - 6' high evergreen tree 11 - 3' high shrubs	

Standard Unit C*	2 - 1-1/2" caliper under story tree 3 - 6' high evergreen trees 7 - 3' high shrubs	
Standard Unit D**	2 - 3" caliper canopy tree 3 - 3' high shrubs	
Standard Unit E*	Minimum 10' long trellis, arbor, or pergola (minimum 6' tall) 1 - 1-1/2" caliper under story tree 10 - climbing plants (native)	

Notes:

*Preferred for year around screen.

**May be required where vision clearance is required for safe automobile operation.

Existing landscaping may be used to meet the screening requirement provided the landscaping meets the minimum size requirements set forth above or if multiple plants exist, the caliper, dimensions, and sizes of plants cumulatively meet the cumulative minimum sizes required.

(1) To use the screening option, the following standards must exist or be provided:

- (a) A minimum distance of 15 ft. between dwellings,
- (b) Columnar tree species shall be used when the setback is less than ten ft., and
- (c) Root barrier techniques shall be used to avoid root growth damage to foundations.

Response: The project will meet the side yard appearance and screening details as required. Details for side yard screening will be addressed with Middle Housing Land Division and building permit application. See Preliminary Architectural Plans and Elevations in Exhibit D for proposed preliminary building design.

g. Corner Lots - Side Yards That Abut Streets. As an alternative to the treatments set forth in this subsection 2.f, Side Yard Appearance and Screening, on a corner lot, either of the following treatments can be used for the side elevation that abuts a street:

- i. Corner Treatment 1 - Covered Side Porch. The side yard elevation shall include a covered porch. The porch shall be a minimum of 80 sq. ft. in area, a minimum of five ft. deep, and shall extend along a minimum of 25% of the side elevation that faces the street. The porch must meet setbacks.
- ii. Corner Treatment 2 - Balcony. The side yard elevation shall include a second floor balcony. The balcony shall be a minimum 30 sq. ft. in area, and a minimum of three ft. deep. The balcony may encroach four ft. into the setback.

Response: The project will meet the corner lot treatment as required. Details for side yard screening will be addressed with Middle Housing Land Division and building permit application. See Preliminary Architectural Plans and Elevations in Exhibit D for proposed preliminary building design.

h. Long Wall Planes. To break up building mass and provide greater privacy on narrow lots, on a lot that has greater than 2.5:1 ratio of lot depth to the average of the lengths of the front and rear setback lines, no portion of a residential structure shall exceed 18 ft. high for a cumulative length greater than 60 ft., unless the excess portion of the residential structure more than 18 ft. high beyond the 60 ft. cumulative length is set back not less than 20 ft. from the side lot lines. This is illustrated in Figure 50.06.001-I: Changes to Wall Planes, below.

Figure 50.06.001-I: Changes to Wall Planes

Response: The proposed subdivision does not propose narrow lots with depth to average width ratio of 2.5:1. This subsection does not apply.

i. **Rooftop Decks.** Rooftop decks are prohibited on the pitched portion of any roof exceeding 2% slope. Decks on flat roofs shall not extend above the coping of the roof.

Response: No rooftop decks are proposed on any pitched roofs exceeding 2% slope.

4. Garage Appearance and Location.

a. R-0, R-2, R-3, R-5, R-7.5, R-10, and R-15 Residential Zones. The following standards for garage appearance and location shall be applicable:

i. Applicability Limited to Dwelling Type in the R-0, R-2, R-3 and R-5 Zones. The garage appearance and location standards of this section shall apply to the following types of development:

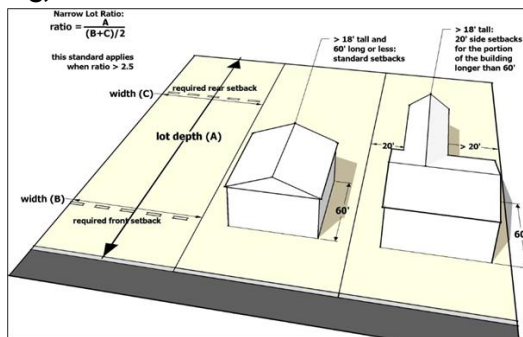
- (1) Detached single-family dwellings; and
- (2) Middle housing.

ii. **Garage Wall Facing Street.** When a garage has wall(s) other than the wall containing the garage opening facing a street, these wall(s) shall have more than one plane or shall include fenestration equal to at least ten percent of the garage wall.

Response: Both triplex/quadplex and cottage units with garage walls facing the proposed local street will have more than one plane or include fenestration at least 10% of the garage wall. See Preliminary Architecture Plan and Elevations in Exhibit D for details.

iii. **Garage Design Requirements Due to Location.** The standards in subsection 4.a.iv of this section shall not apply in any one of the following circumstances:

- (1) The garage is 20 ft. or more back from:
 - (a) The point of the dwelling closest to the front lot line, and
 - (b) If applicable, the point of the dwelling closest to the street side yard line;
- (2) The garage is side-loading;
- (3) The garage is rear-loading;



- (4) The lot is a steeply sloped lot; or

(5) The garage is proposed to be set back at least 60 ft. from the public right-of-way.

Figure 50.06.001-L: Garage Design Requirements



Response: Garage design requirements of subsection 4.a.iv of this section will apply to front loaded triplex/ quadplex and cottage cluster units.

iv. **Garage Location and Appearance.** The garage shall comply with subsections 4.a.iv(1) through (3) of this section:

(1) **Maximum Garage Width.**

- (a) For lots with a width of 50 ft. or more, garage openings shall not occupy more than 60% of the width of the combined facade of the dwelling and garage.
- (b) For lots with a width of less than 50 ft., garage openings may occupy up to 75% of the width of the front facade of the dwelling and garage when the following criteria are satisfied:
 - (i) The total combined width of all garage openings does not exceed 36 ft.;
 - (ii) Living area is provided above the garage. The front facade of the living area must have fenestration that is not less than 20% of the facade; and
 - (iii) The garage location and appearance standards in Table 50.06.001-3, below.

TABLE 50.06.001-3: GARAGE LOCATION AND APPEARANCE STANDARDS		
Width of Garage as Percent of Front Facade	Minimum Garage Setback § 50.06.001.4.a.iv(2)	Minimum Number of Garage Appearance Standards § 50.06.001.4.a.iv(3)
Less than 30%	None	2
30% to 60%	2 ft.	3
60% to 75%	4 ft.	4

Response: The maximum garage width for triplex and quadplex parent lots exceeding 50-foot wide and garages walls facing the streets meet the standards of this section. The garage openings for plexes will not exceed more than 60% of the combined façade of the structure. Each unit in the triplex and quadplex have an 8-foot wide garage door opening that will account for approximately 35% of the width of the combined facade of the dwelling and garage. For cottage cluster units, only cottage types C-1 and C-2 have attached garages that do not occupy more than 60% of the width of the façade of individual cottage units. Refer Preliminary Architecture Design Sheets attached as Exhibit D for review.

(2) Minimum Garage Offset from Dwelling.

(a) If the width of the garage is less than 30% of the width of the front facade of the dwelling, then the garage shall not be located closer to the street than the dwelling. For the purpose of meeting this subsection, the exterior wall of at least one room of habitable space, other than any habitable space above the garage, shall be located closer to the street than the garage door. Habitable space above a garage shall be considered an acceptable method of meeting this standard for remodeling projects involving homes built prior to August 2004 in the R-5, R-7.5, R-10, and R-15 zones, and July 1, 2010, in the R-0, R-2, and R-3 zones.

(b) If the width of the garage exceeds 30% of the width of the front facade of the building, then the garage must set back further from the front lot line than the dwelling. The minimum additional garage setback is provided in Table 50.06.001-3.

(c) If the garages for the units are adjacent to one another, the horizontal planes of the garage doors shall be offset no less than two ft.

Response: The width of the garages in the units exceeds 30% and all the proposed garages in the triplex/quadplex and cottage units are setback at least 2 feet from the front dwelling face as shown in the Preliminary Architecture Design Sheets attached as Exhibit D.

(3) Garage Appearance Standards. Garages shall comply with a minimum number of the following appearance standards intended to minimize the appearance of the garage. The minimum number of appearance standards that must be met is provided in Table 50.06.001-3.

(a) Provide individual garage doors, not to exceed 75 sq. ft. each, for each parking stall.

(b) Provide separate garage openings offset from one another by at least two ft. horizontally.

(c) Provide windows on each garage door that make up a minimum of 15% of the area of the door.

(d) Provide a decorative trellis, pergola, or other feature that will provide a shadow line giving the perception that the garage opening is recessed. The feature shall be provided across the top and along the width of the garage door(s) and shall be at least 12 in. deep and six ft. tall.

(e) Provide a covered porch that occupies at least 25% of the combined facade of the dwelling and garage.

(f) Provide a patio with a surrounding screening wall at a height of four ft. located between the front of the house, the garage, and the public right-of-way. The enclosure shall consist of wood, wrought iron, brick, stucco, stone, or other masonry fencing (excluding concrete block) and include an operable entryway gate as shown in Figure 50.06.001-L: Garage Design Requirements.

Response: The proposed garage design in the units complies with at least 3 appearance standards as shown in the Preliminary Architecture Sheets attached as Exhibit D for review. Individual garage doors are approximately 56 sf. in area with a minimum of 15% of the garage door provided with a window. A shadow line in the form of an upper-level overhang or a trellis will be provided over the garage openings that will provide a recessed garage door opening for the units.

v. Multiple Garage Opening Setbacks. In any instance where a garage or a set of adjacent garages is designed to park three or more vehicles, only the garage openings for the first two vehicles may occupy the same building plane. Each additional building plane with a garage opening shall be offset by a minimum of two feet from the previous garage building plane.

Exceptions:

(1) The lot is a steeply sloped lot;

(2) The width of a parcel is less than 50 feet; or

(3) The garage is proposed to be set back at least 60 feet from the public right-of-way.

Response: All the units are proposed with single garage units and the garages that are on the same horizontal plane are not adjacent to each other, they are broken up with entry doors so only 2 garage doors in some triplex units are immediately adjacent to one another on the same plane. No three garages are directly adjacent to each other on the same horizontal plane. Refer Preliminary Architecture Sheets in Exhibit D for review.

7. Clear and Objective Housing Standards for Approval

a. Purpose. The following standards are intended to promote well-designed structures that include housing. By compliance with the clear and objective standards of this article, the following purposes will be met:

- i. The structures will be constructed with high quality, durable materials, and have visually interesting and attractive building facades that respond to the individual identity and character of Lake Oswego's commercial centers, employment districts, and neighborhoods.
- ii. The building, site, and landscape elements will create a cohesive design that is contextually appropriate, maintains compatibility between land uses (including visual, sound, and other considerations), and is reasonably accessible to bicyclists, pedestrians, and users of other transportation modes.

b. Clear and Objective Track 2 Alternative Applicability.

- i. Development that complies with subsection 7.b.ii of this section may comply with this article in lieu of compliance with LOC §§ 50.06.001.1 through 50.06.001.6.
- ii. This article is applicable in all zones except the FMU zone to development that creates new dwelling units involving a residential mixed use, multi-family, or attached single-family (three or more units) residential structure.

Response: This is a proposal for a residential subdivision which will be subsequently developed with middle housing units. Both triplex/quadplex and cottage units will be constructed of high-quality durable materials. The building façades are designed to break monotony and create visual interest in the neighborhood. The treatment, design and materials for the buildings will respond to the individual identity of Lake Oswego. See Preliminary Architecture Sheets in Exhibit D for plan and elevation details of the proposed structures for review.

c. Design Standards. New buildings shall meet the following massing and compositional standards. The standards achieve the above purpose by requiring buildings to be articulated, avoiding large uninterrupted wall planes; have detailing that creates visual interest with appropriate proportions, rhythm, and scale; utilize attractive, high quality materials that are durable; and employ architectural styles that are contextually appropriate.

i. Standards for Multi-Family and Residential Mixed Use Structures.

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Response: This development does not propose multi-family or mixed-use structures therefore requirements of the subsection do not apply

ii. Standards for Townhouse/Rowhouse Structures.

Response: This development does not propose any townhouse structures therefore requirements of the subsection do not apply

d. Buildings shall be designed and constructed with roof angles, overhangs, flashings, and gutters to direct water away from the structure.

Response: All the structures within the development will be designed to direct water away from the structures. Structural details of the buildings will be provided at the time of construction permit.

f. Building orientation shall be designed to encourage pedestrian access from public streets and make the street pedestrian friendly.

i. Applicability. This subsection shall apply to:

(1) New construction, including removal of existing buildings and construction of new buildings within existing footprint; and

(2) Modifications of existing buildings that are not removed and reconstructed, and that expand the building footprint by more than 50% as measured cumulatively from the footprint existing on December 6, 2005.

ii. Building orientation shall include:

(1) Locating buildings within 30 ft. of a public street except where prevented by topographic constraints, existing natural resources, or where, in multi-building complexes, the configuration of the lot prevents locating all buildings within 30 ft. of a public street.

(2) Buildings located on sites with multiple frontages on public and/or transit streets shall provide at least one public entrance within 30 ft. of the transit street.

(3) Buildings located on sites adjacent to a transit street shall have at least one public entrance within 30 ft. of the transit street.

(4) Buildings that are within 30 ft. of a public street shall have a public entrance directly from the street.

Response: All the structures in the proposed development will be oriented towards a public street and will be located within 30-feet of the public/local street. Refer to the Conceptual Site Plan, Sheet 3 in Exhibit C for review. Further details for building orientation and location will be provided with the Middle Housing Land Division application for this project.

g. Rooftop Decks. Rooftop decks are prohibited on the pitched portion of any roof exceeding 2% slope. Decks on flat roofs shall not extend above the coping of the roof.

Response: No rooftop decks are proposed on any pitched roof section of the units.

50.06.002 Parking

1. Applicability. The provisions of this section shall apply to all development that provides parking. This shall include the construction of new structures, the remodeling of existing structures, and a change of use that modifies on-site parking, that modifies the loading requirements, or changes access requirements.

Response: The proposed project will provide a combination of on-street, off-street and clustered alley parking for its residents and visitors. Additionally, this minor development application will modify Development Review Permit application LU 05-0076 to modify shared parking permit for the Stafford Retirement Center located north of the subject site. The provisions of this section will apply.

2. Standards for Approval.

a. Vehicle Parking.

i. Maximum Number of Parking Spaces.

(1) Numerical Method. Refer to Table 50.06.002-1 and 50.06.002-2 to determine the maximum number of parking spaces allowed.

TABLE 50.06.002-1: METHOD OF DETERMINING MAXIMUM SURFACE PARKING SPACES ALLOWED
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Determine:	Method of Determining:	
Gross Floor Area Amount	From Table 50.06.002-2, determine if gross floor area is used to calculate the maximum number of parking spaces allowed for the use(s). (Gross Floor Area per Parking Space)	
Number of Seats or "Students and Staff"	Determine number of seats or number of students and staff, depending on how maximum number of spaces is calculated based on use, if other than based on gross floor area, in Table 50.06.002-2 to calculate the number of parking spaces allowed. (Seats/Students and Staff Per Space amount)	
Initial Maximum Parking Per Use	1.	Multiply the Gross Floor Area Amount by the Floor Area per Parking Space.
	2.	Multiply the Number of Seats/Students and Staff by the number of Spaces per Seats/Students and Staff.
	3.	Add the results of (1) and (2) above together.
Mixed Uses	The total maximum parking allowed for mixed uses on a site shall be the sum for the various uses computed separately.	
Rounding	Any fractional space amount determined following the application of Mixed Uses above shall be rounded down to the next lowest whole space.	
Maximum Parking Allowed	The maximum parking allowed is the "rounded" number above.	

(2) The maximum number of surface parking spaces shall not exceed the number of parking spaces required under Table 50.06.002-2. For land uses with more than 65,000 square feet of floor area, surface parking may not consist of more area than the floor area of the building. Non-surface parking, such as tuck-under parking, underground and subsurface parking, and parking structures may be exempted from the calculations in this section. Additionally, the following types of parking are exempted from the calculations in this section: parking for fleet vehicles; vehicle parking for sale, lease, or rent; employee carpool or vanpool parking; automobiles for sale or rent; and parking provided under the Americans with Disabilities Act.

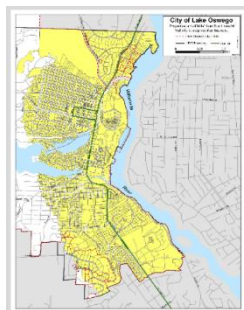
(3) Maximum Number of Parking Spaces.

TABLE 50.06.002-2: MAXIMUM ON-SITE SURFACE PARKING REGULATIONS		
Type of Use	Area A: Downtown Redevelopment Design District [1], Lake Grove Village Center Overlay District [2], Transit Corridor [3]	Area B: Remaining areas
Residential	Permitted spaces per unit	
Single-family dwelling, accessory dwelling unit, and middle housing	No Max	No Max
Multifamily - studio/efficiency	1.2	No Max
Multifamily - 1 or more bedrooms	2	No Max
Commercial	Permitted spaces per 1,000 sq. ft of gross floor area	
Office, Business and Professional	3.4	4.1
Medical and dental offices	4.9	5.9
Tennis or racquetball court	1.3	1.5
Commercial Recreational Facility, Fitness and Exercise Facility, Arcade Gaming, and Theater	5.4	6.5
Exception: Movie Theater	.4/seat	.5/seat
Restaurant or Bakery with drive-up window	12.4	14.9
Restaurant, Bakery, and Bar	19.1	23
All Other Commercial Uses	5	6.2
Industrial	Permitted spaces per 1,000 sq. ft of gross floor area	
Warehouse (150,000 gsf or greater)	0.4	0.5

Boat Sales and Repair; Truck and Trailer Rental and Sales	5	6.2
All Other Industrial/Manufacturing Uses	No Max	No Max
Institutional	Permitted spaces	
College/university and high school	0.3 spaces/# of students + staff	0.3 spaces/# of students + staff
Place of worship	0.6 spaces/seat	0.8 spaces/seat
All other Public, Institutional, and Civic Use	No Max	No Max
Uses not specifically mentioned		
If a use is not listed in this table, there is no maximum parking limitation for that use.		

Notes:

1. Downtown Redevelopment Design District: See Figure 50.05.004-A
2. Lake Grove Village Center Overlay District: See 50.05.007-A.
3. Transit Corridor is defined as the area within one-half mile of TriMet Bus Line #35, based on straight distance and not considering topography, as depicted in the map below:



- (4) Handicapped parking and ramps shall be provided in accordance with the Uniform Building Code.

Response: This is a residential subdivision application in the R-15 zone. The proposed middle housing on the subject lot does not have any parking maximum as per the table above.

ii. On-Site Location of Parking Spaces.

- (1) Any parking provided on-site may not be located in a required yard or special street setback except where there are specific yard setback requirements or exceptions for parking established by the zone or use.

Response: On-site parking within the project site is not provided in the required yard or special street setback. Refer Parking Plan, Sheet 8.0 in Exhibit C, and Concept Parking Plan for Middle Housing in Exhibit R for review.

iii. On-Site Parking Options.

- (1) Off-Site Parking: Within commercial, public use, industrial and campus institutional zones parking may be provided on remote lots within said zones which are within 500 ft. of the property line of the use to be served. Within the EC (East End General Commercial) zone only, unless otherwise prohibited, employee parking may be allowed within 1,000 ft. of the property line of the use to be served. Within the LGVCO only, unless otherwise prohibited, parking may be provided on remote lots within the District which are within 750 ft. (customer parking) and 1,000 ft. (employee parking) from the property line of the use to be served.
- (2) Shared Parking: Shared parking is allowed.

Response: The project will provide shared on-site parking spaces for the residents and their visitors. 8 shared parking spaces will be provided for Stafford Retirement home in the north. Refer Concept Parking Plan in Exhibit R for details.

iv. Requirements for New On-Site Surface Parking Exceeding One-Half Acre. Applicable to any new development that includes more than one-half acre of new on-site surface parking on a lot. [Exception: Not applicable to public agency development that is required to comply with OAR 330-135-0020.] The new surface parking area shall be measured based on the perimeter of all on-site parking spaces, maneuvering lanes, and maneuvering areas, including driveways and drive aisles, but excluding individual landscape islands separating parking spaces into bays.

[.....]

Response: This development does not include surface parking exceeding one-half acre on a lot. This subsection does not apply.

v. Parking Dimensions.

- (1) Refer to Figure 50.06.002-A: Off-Street Parking Matrix to determine the minimum dimension and layout of parking spaces. All parking areas, except stacked or tandem parking areas, shall be designed so that a vehicle may enter or exit without having to move another vehicle. All parking areas must be designed to allow vehicles to enter and exit the street in a forward motion.
- (2) The minimum dimension to meet single-family and middle housing residential parking space requirements shall be eight ft. six in. wide and 18 ft. six in. long for each space.
- (3) Except within the LGVCO, up to 50% of the total parking requirement may be provided in compact car spaces. All parking spaces designated for compact vehicles shall be signed or labeled by painting on the parking space.

Figure 50.06.002-A-General: Off-Street Parking Matrix (General)

OFF-STREET PARKING MATRIX, REQUIRED SPACE AND AISLE DIMENSIONS IN FEET										
Angle (A)	Compact Size Vehicles					Standard Size Vehicles				
	Stall Width (B)	Stall Depth (C)	Aisle Width (D)	Module Width (E)	Bumper Overhang (F)	Stall Width (B)	Stall Depth (C)	Aisle Width (D)	Module Width (E)	Bumper Overhang (F)
0°	8.0	20.0	N/A	N/A	N/A	8	24	N/A	N/A	N/A
45°	8.0	15.5	11.0	42.0	2.0	8.5	17.5	13.0	48.0	2.0
						9.0	17.0	12.0	47.0	2.0
60°	8.0	17.0	14.0	48.0	2.5	8.5	19.0	18.0	56.0	2.5
						9.0	19.0	16.0	54.0	2.5
75°	8.0	17.5	21.0	56.0	2.5	8.5	19.5	25.5	64.5	2.5
						9.0	19.5	23.0	62.0	2.5
90°	8.0	16.0	20.0	52.0	1.5	8.5	18.5	26.0	63.0	2.5
						9.0	18.5	24.0	61.0	2.5

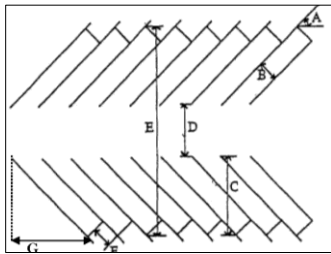
Figure 50.06.002-A-FMU and LGVC Overlay District: Off-Street Parking Matrix for FMU Zone and LGVC Overlay District

FMU ZONE AND LGVC OVERLAY DISTRICT OFF-STREET PARKING MATRIX, REQUIRED SPACE AND AISLE DIMENSIONS IN FEET					
Angle (A)	Stall Width (B)	Stall Depth (C)	One-Way Aisle Width (D)	Two-Way Aisle Width (D)	Curb Length
Structured Parking					
0°	8.0	8.0	12	20	22.5
30°	8.5	15.0	12	20	17
45°	8.5	17.0	12	20	12

60°	8.5	17.5	16	20	9.75
90°	8.5	16.0	20	20	8.5
Surface Parking					
0°	8.0	8.0	14	20	22.5
30°	8.5	15.0	14	20	17
45°	8.5	17.0	14.0	22	12
60°	8.5	17.5	18.0	22	9.75
90°	8.5	18.0	20.0	22	8.5

Notes:

A = Parking Angle



LU--Image-149.tif

B = Stall Width

C = Stall Depth (no bumper overhang)

D = Aisle Width between Stall Lines, except for fire lanes, which are regulated by LOC Chapter 15, Fire Protection

E = Module Width (no bumper overhang)

F = Bumper Overhang

G = Curb Length

Response: Shared parking spaces on-site will meet the parking dimensional requirement of this subsection. Refer Parking Plan, Sheet 8.0 in Exhibit C for proposed parking dimension.

vi. Loading. Loading berths in sufficient numbers and size to adequately handle the needs of the development shall be required.

Exception - FMU Zone: Loading berths are not required.

Loading berths shall not be used for storage or parking of vehicles.

The off-street parking areas to fulfill the requirements of this standard shall not be used for loading and unloading or the storage of vehicles or materials or parking of trucks used in conducting business or use.

vii. Employee Carpool and Vanpool Parking. Development in commercial and industrial zones, in the Public Function zone, and nonresidential development in mixed use zones that provides a total of 50 or more parking spaces shall designate at least 5% of the number of parking spaces as employee carpool or vanpool parking. The carpool/vanpool spaces shall be full sized parking spaces. The spaces shall be clearly marked "Reserved-Carpool/Vanpool Only" with hours of use. Except for designated handicapped parking spaces, employee carpool and vanpool parking spaces shall be located as follows:

[.....]

Response: This is a residential development, and no loading, carpool or vanpool parking is provided for any commercial use. These subsections do not apply.

b. Bicycle Parking.

i. Applicability.

(1) Bicycle parking shall be provided for all new multi-family residential developments (four units or more) and commercial, industrial, public facilities and institutional uses, except seasonal uses, such as fireworks stands and Christmas tree sales; drive-in theaters; and self-storage facilities are exempted.

(2) Modifications which increase the size of existing commercial, industrial, public function structures or institutional buildings by more than 10% or a change of use shall provide bicycle parking spaces to meet the requirements of Table 50.06.002-6 for the entire development. For the purposes of this section, an "existing building" is a building as it exists on February 19, 1998.

ii. The minimum number of required bicycle parking spaces is listed in Table 50.06.002-6; provided, however, that the owners of institutional categories under Table 50.06.002-6 may defer installation of a portion of the required bicycle parking facilities if:

(1) At least 30% of the required bicycle parking facilities are installed prior to issuance of the certificate for occupancy;

(2) The owner executes and records with the County Clerk of the county in which the property is located a covenant to undertake bicycle parking studies, and install a percentage of required bicycle parking facilities, as follows:

TABLE 50.06.002-6: MINIMUM REQUIRED BICYCLE PARKING SPACES		
Use Categories	Specific Uses	Number of Required Spaces
FMU ZONE:		
All Residential Uses		1 space per dwelling unit
Nonresidential Uses	Retail and restaurant uses	2, or 1 per 2,500 sq. ft. G.F.A.
	All other nonresidential uses	2, or 1 per 10,000 sq. ft. G.F.A.
ALL OTHER ZONES		
RESIDENTIAL CATEGORIES		
Household Living	Multi-family	1 per 4 units
Group Living		2, or 1 per 20 residents
	Dormitory	1 per 8 residents
Notes:		
1.	Wherever this table indicates two numerical standards, such as 2, or 1 per 3,000 sq. ft. of gross floor area, the larger number applies.	
2.	FMU Zone: Of the required number of bicycle parking spaces, 10% shall be located in a location visible from and in close proximity to the main entrance, for visitor use, either outside or inside of the building on the ground floor. All other bicycle parking spaces may be provided within a building.	
	All Other Zones: These bicycle parking spaces may be provided within a building.	
3.	Fractional space requirements shall be counted as the next highest whole space.	
4.	G.F.A. (Gross Floor Area): The area included within the surrounding exterior walls of a building or portion thereof excluding allowable projections, decks, patios, uncovered exit stairways or uncovered above-grade driveways.	

Response: Since this is a middle housing/ single family residential development bicycle parking space is included within the structures.

iii. (Reserved)

iv. Bicycle parking shall be separated from car parking and vehicular traffic by a physical barrier or sufficient distance to protect parked bicycles from damage by vehicles.

v. Bicycle parking for multiple uses may be clustered in one or several locations meeting all other requirements specified in this section for bicycle parking.

vi. Fifty percent of all required bicycle parking spaces shall be covered, unless it can be demonstrated that compliance is not practicable. These required bicycle parking spaces may be provided within a building. Cover for bicycle parking may be accommodated by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings or freestanding shelters.

vii. Not less than 25% of the required bicycle parking spaces inside a building shall be provided in a well illuminated, secure location within 50 ft. of a building entrance. The balance of the number of required bicycle parking spaces shall be provided either inside each individual dwelling unit or inside each individual dwelling unit's designated storage area within the building.

viii. Outdoor bicycle parking spaces shall be clearly visible and shall be located within 50 ft. of any entrance to the building unless clustered pursuant to subsection 3.b.v of this section in which case the parking spaces shall be no more than 100 ft. from a public entrance.

ix. If the required bicycle parking spaces cannot be provided on site within the EC (East End General Commercial) zone, bicycle parking racks may be provided on the sidewalk adjacent to the property's frontage providing a minimum five ft. unobstructed sidewalk width is maintained.

x. Bicycle parking spaces shall be a minimum of six ft. long and two ft. wide, and provide a minimum five ft. access aisle. For covered spaces the overhead clearance shall be at least seven ft.

Response: Since this is a middle housing/ single family residential development bicycle parking space is included within the structures.

3. Standards for Construction.

a. Surface Materials - General. The surface of the parking and maneuvering area shall be constructed as a durable surface. The use of gravel in low use areas, such as church parking lots, recreational vehicle storage in a residential zone or outside equipment storage or fleet vehicles in industrial zones, may be approved, so long as the gravel is contained, the parking area is clearly defined, and where grade permits. Refer to LOC § 50.06.003.2.c.vi, Standards for Construction, for additional paving surface specifications.

Response: The surface of the parking and maneuvering area will be constructed of a durable material. Material details will be provided with the construction drawings.

b. Parking Standards in R-6 Zone.

[.....]

Response: The subject site is not located in the R-6 zone therefore this subsection does not apply.

c. Bicycle Parking.

i. Areas set aside for required bicycle parking shall be clearly marked and reserved for bicycle parking only. If the bicycle parking is not visible from the street or main building entrance, a sign shall be posted indicating the location of the parking facilities.

ii. Rack types and dimensions:

(1) Bicycle racks shall hold bicycles securely by the frame and be anchored.

(2) Bicycle racks shall accommodate both:

(a) Locking the frame and one wheel to the rack with a high-security U-shaped shackle lock; and

(b) Locking the frame and both wheels to the rack with a chain or cable not longer than six ft.

d. Parking Plan. Applicant shall provide scaled parking plan with dimensions and number of spaces accurately depicted.

Response: Since this is a middle housing/ single family residential development bicycle parking space is included within the structures.

50.06.003 Circulation and Connectivity

1. Access/Access Lanes (Flag Lots).

a. Definition of Access. For the purposes of this section, access shall be defined as: "area within public right-of-way directly affected by the traffic generated by the particular development and necessary to provide safe and efficient ingress and egress to the property."

b. Applicability. This section is applicable to all major developments and to the following minor developments:

- i. Construction or alteration of multi-family dwelling;
- ii. Construction or alteration of major public facilities;
- iii. Construction or alteration of commercial development;
- iv. Construction or alteration of institutional development;
- v. Construction or alteration of industrial development; and
- vi. Land divisions (partitions and subdivisions).

c. Standards for Approval.

i. Every residentially zoned lot shall abut a street for the following minimum length:

TABLE 50.06.003-1: MINIMUM STREET FRONTAGE	
Residentially Zoned Lot	Minimum Street Frontage
Townhouse	15 ft.
Flag Lot	LOC § 50.07.007.2.c
All Other	25 ft.

Response: The proposed development will be a residential subdivision fronting SW Stafford Street. The site has a street frontage of approximately 415 ft. which meets the minimum street frontage standard required in table 50.06.003. See Existing Conditions Survey Sheet in Exhibit B for street frontage details.

ii. Access design shall be based on the following five criteria:

- (1) Topography;
- (2) Traffic volume to be generated by the development;
- (3) Classification of the public street from which the access is taken (local, collector or arterial);
- (4) Traffic volume presently carried by such street; and
- (5) Projected traffic volumes.

iii. Direct permanent access from a development to an arterial street is prohibited where an alternate access is either available or is expected to be available. A temporary access may be allowed only where approved by the City Engineer under LOC Chapter 42.

iv. Direct access from a development or a structure to a local street is required unless such access is not available.

v. The City may require shared access with a neighboring site or an extension of residential streets across adjacent properties to provide access to the development if necessary to prevent adverse impacts on traffic flow.

vi. If no satisfactory access from a public street to a development is available, the City shall require postponement of the development until such time as a satisfactory access becomes available.

Response: The residential subdivision will provide local street within the site for access to residential units. The proposed local street within the development will connect to County arterial fronting the site for ingress and egress to the proposed subdivision. The site access and local street

connectivity within the site is designed based on the traffic volume generated by the development while keeping the traffic safety as a priority for development. Concept Street Plan, Sheet 7.0 in Exhibit C, illustrates the proposed transportation and access for the site. A Traffic Impact Analysis (TIA) memo is attached as Exhibit J to demonstrate the existing and projected traffic volume at full built out for the site.

d. Standards for Access Lanes. Access lanes shall meet the following minimum standards:

- i. Twenty-ft.-wide easement.
- ii. Access to two to three lots - 12 ft. of pavement with a four-ft. shoulder on each side.
- iii. Access lanes shall only serve lots improved with detached single-family or duplex dwellings.
- iv. Access lanes shall align with existing and/or planned streets or access lanes where practicable.
- v. All new or modified driveways shall follow access spacing as shown in Table 50.06.003-2, Access Spacing, where practicable, and, as determined by the City Engineer, shall not create a traffic operational or safety conflict.

TABLE 50.06.003-2: ACCESS SPACING	
Functional Classification	Minimum Spacing (ft.)
Major Arterial	300
Minor Arterial	200
Major Collector	150
Neighborhood Collector	100
Local Residential Street	50
Local Commercial/Industrial Street	50

e. **Traffic Study.** Determination of the location and configuration of an access shall be based on a traffic study, unless otherwise approved by the City Manager.

f. **Expenses Borne by Developer.** The expense related to modification of an existing street to accommodate proposed access including all traffic control devices and lighting shall be paid for by the developer.

g. **Distance between Access and Nearest Intersection.** Except for partitions, access from a development to a collector or an arterial shall be not less than 100 ft. from the nearest intersection of street centerlines.

Response: Access lanes within the proposed development are provided to be minimum 20-foot wide to access residential units within the subdivision. Access spacing between the site entrance and the nearest intersection at Overlook and Stafford Road is 650 ft. centerline to centerline thereby meeting the access spacing requirement of this section. The Street Plan, Sheet 7.0 in Exhibit C, illustrates the proposed local street, fire access lane, alley and entry street design details for review.

2. On-Site Circulation - Driveways and Fire Access Roads.

a. **Applicability.** This section is applicable to all development proposing a new use or an increased use on a site when the development will result in the construction of or the increased use of private streets, driveways, or parking lot aisles. Increased use shall be defined as an increase in trip generation or parking requirement.

Response: The development is proposing driveways and fire access roads within the subdivision. This section applies.

b. Standards for Approval.

- i. **Driveway Approaches - Locational Limitations and Restrictions.**

(1) On corner lots where the adjacent streets are fully improved to their anticipated ultimate width, the nearest edge of a proposed driveway to the intersection shall be no closer than 30 ft. when measured from the projected curb of the street that is the most parallel to the alignment of the proposed driveway.

(2) On corner lots where the adjacent streets are not fully improved to their anticipated ultimate width, the nearest edge of a proposed driveway to the intersection shall be no closer than 30 ft. when measured from the lot corner, or if the corner is a radius, from the point of intersection of the tangents. If right-of-way dedication is required as a condition of approval, the lot lines after dedication shall be used as the basis for determining compliance with this standard.

(3) On lots with less than 75 ft. of continuous frontage on a single public street, only one driveway shall be permitted along that frontage.

(4) All driveway approaches shall be located and designed so that the driver entering or exiting the driveway can see approaching traffic for a sufficient distance to make a safe entrance and exit. American Association of State Highway and Transportation Officials (AASHTO) standards shall be used in determining compliance with this standard.

(5) The maximum width of a driveway approach, measured where the edges of the driveway meet the right-of-way, shall be governed as follows:

(a) Single-family residential or middle housing dwelling with garage door(s) facing the street: 12 ft. per garage or carport stall, or surface parking space, but not to exceed 30 ft.

(b) Single-family residential or middle housing dwelling with side-loading garage: 24 ft.

(c) All other uses: 24 ft. unless otherwise justified by the recommendations of a traffic study.

(6) The driveway approach shall be within the right-of-way bounded by the extension of the lot's side or street side lot lines.

ii. Driveway Widths. Driveways shall conform to the minimum width requirements of LOC § 15.06.610 (Oregon Fire Code Adopted) and LOC § 50.06.002, Parking. For lots less than 50 ft. wide, driveways on the lot may be no wider than the garage opening accessed from the driveway.

Response: Driveways within the subdivision will be designed as per the requirements of this section. The proposed driveway widths within the subdivision will be designed as per the requirements of LOC 15.06.610 (Oregon Fire Code Adopted) and LOC 50.06.002, Parking. Refer to the Concept Site Plan, Sheet 3 in Exhibit C, and Concept Parking Plan in Exhibit R for driveway approach location. Garage door widths for proposed middle housing Refer Architecture Sheets in Exhibit D for details on garage door widths for review.

iii. Driveway Grades.

(1) The maximum grade of a driveway shall comply with LOC § 15.06.610 (Oregon Fire Code Adopted).

(2) For all uses except single-family or middle housing dwellings, there shall be a landing area where a driveway used by multiple drivers meets the public street. The landing area shall be a minimum of 25 ft. long and shall have a maximum grade of five percent. The length and grade of the landing area described in this subsection presupposes that the abutting street has been fully improved to its ultimate anticipated width. If a driveway is proposed on a street that is not fully improved, and the development proposal is anticipated to proceed prior to the improvement of the street, the City Engineer shall determine the location and grade of the future street improvement and the applicant shall design the driveway and site grading so that this standard will not be compromised when the street is improved in the future.

(3) Along the traveled way, grade breaks shall not exceed an algebraic difference of 9% unless accomplished by the construction of a vertical curve complying with the City's Standard Details.

(4) The maximum cross-slope of a driveway shall be 5%, except for that portion of a driveway which must blend with an adjacent street grade that exceeds 5%. When blending is necessary, the length of the blended section shall be limited to 30 ft.

Response: The proposed driveway grades will be designed as per the requirements of LOC § 15.06.610 (Oregon Fire Code Adopted).

iv. Fire Access Lanes.

(1) All developments shall comply with the minimum requirements for fire access roads as stipulated by the Fire Code and LOC Chapter 15.

(2) The paved improvement of fire lanes, their associated turnarounds and right-of-way dimensions shall comply with the City's Standard Details.

(3) When a fire access road is required to be used as a primary or alternate access route for the provision of emergency services to or through an abutting property, the fire lane shall be declared as such on a legal instrument to be recorded against the title of the affected property(ies). A declaration on a plat or on a recorded development plan may also be used to satisfy this standard.

Response: Fire Access lanes will be designed as per the requirements of Fire Code and LOC Chapter 15. All fire access lanes will be declared on the final plat or on a recorded development plan as required. Details for proposed fire access lanes are illustrated on Street Plan, Sheet 7.0 in Exhibit C.

v. Turnarounds.

(1) If a dead-end driveway exceeds 150 ft. in length, it shall provide a fire department turnaround in compliance with the City's Standard Details. Exception: The Fire Marshal may approve driveways greater than 150 ft. in length if the structures greater than 150 ft. from the public road are provided with alternative methods of fire suppression, i.e., sprinklering.

(2) Except where a continuous forward exit can be made out of the site, all developments with on-site loading and delivery areas shall provide a turnaround for delivery vehicles in compliance with the City's Standard Details.

(3) Required turnarounds shall not overlap any parking spaces.

vi. Schools - Special Provisions. Schools and similar institutional or instructional uses with a total enrollment of 25 or more students on any given day shall provide an on-site driveway that allows a continuous forward flow of vehicles through the site for the loading and unloading of children.

Response: All the dead-end driveways exceeding 150 ft in length will provide either a fire turnaround or a sprinkled fire suppression system as required by this section. No parking space overlap will be provided within these turnarounds. See Conceptual Site Plan and Preliminary Plat, Sheets 3.0 and 4.0 in Exhibit C for review.

vii. Easements Required.

(1) Driveways and their associated parking areas and turnarounds shall be located on the site or, if located off site, in an easement.

(2) A copy of the easement shall be submitted to the City as part of the development application. If the easement has not yet been obtained at the time of application, the applicant shall supply a letter of commitment from the party who has the authority to grant the easement indicating that the easement will be granted contingent upon the development's approval by the City.

(3) Easements shall state the purpose of the easement, identify the benefiting and burdened properties, state the duration of the easement rights granted, and stipulate the maintenance responsibilities of the parties.

Response: All the driveways and their associated parking areas and turnarounds are located on-site. Parking area details are provided in Parking Plan, Sheet 8.0 in Exhibit C.

c. Standards for Construction.

- i. All driveways that serve as fire lanes or fire access roads shall be paved, unless modified below, and shall be designed to support fire fighting vehicle loads. The City may require an engineered pavement section and a soil test to ensure compliance with this standard.
- ii. Driveway approaches in the right-of-way shall be constructed according to the City's Standard Details.
- iii. In locations where there is a slope adjacent to a driveway edge, there shall be a minimum two ft. shoulder or other means of protecting the driveway and the adjacent land from the adverse effects of erosion.
- iv. Stormwater running off a driveway shall be managed and disposed of in compliance with LOC Art. 38.25 or the Oregon Plumbing Code based on the impervious area created by the development or redevelopment.
- v. Where a driveway approach needs to cross a roadside ditch, a culvert of ten in. minimum diameter shall be used. The City may require a larger culvert if warranted by the hydrology of the upstream drainage basin.
- vi. All driveways shall be paved with a material that does not generate dust. Hard pavement is required except in the following circumstances:
 - (1) Low-use driveways, such as one serving a parking area for recreational vehicles, boat trailers, or access to a storage building or storage area.
 - (2) Where a driveway grade changes less than 10% from the street to the parking area serving a single-family residence or duplex.
 - (3) Existing unpaved driveways, when there is an existing use on the site that is rated at ten or less average daily trips per weekday pursuant to the applicable ITE (Institute of Transportation Engineers) category, and the rating will not be increased with the proposed development.
 - (4) When the requirement for a paved driveway is waived, a paved approach shall be constructed to prevent the tracking of loose gravel onto the public street.
 - (5) Temporary construction access driveways.
 - (6) Combustible materials, erodable materials, or floatable materials shall not be approved as acceptable driveway surfaces (i.e., wood chips, bark dust, shredded tire rubber).

Response: All the driveways will be constructed as per the requirement of this section. Detailed driveway construction drawings will be submitted at the time of construction approval permit.

3. On-Site Circulation - Bikeways, Walkways, and Accessways.

- a. Applicability. This section is applicable to all subdivisions and to all minor and major development involving the construction of a new structure other than a detached single-family dwelling, middle housing dwelling, or accessory structures. This section is also applicable to modifications which increase the square footage of commercial, industrial, public use or institutional buildings by more than ten percent. For the purposes of this section, an "existing building" is a building as it exists on February 19, 1998.
- b. Standards for Approval. FMU Standards Note: If the below provisions address the same subject as provided in the Foothills Building and Site Design Standards, LOC § 50.11.007, Appendix G, those standards shall supersede the below provisions.
 - i. Commercial, industrial, public use, and institutional developments of one acre or more shall provide a pedestrian circulation plan for the site.
 - (1) Pedestrian connections between the proposed development and existing development on adjacent properties other than connections via the street system shall be identified and implemented, where feasible.

ii. Walkways shall connect at least one public entrance of each building accessible to the public to the nearest public walkway or other walkway leading to a public walkway. Walkways shall also connect to other areas of the site, such as parking lots and outdoor activity areas, to other building entrances, to adjacent streets and nearby transit stops.

iii. Walkways shall meet accessibility standards of the Americans with Disabilities Act (ADA) and standards as found in the Oregon State Structural Specialty Code, Section 1103, if applicable. Walkways within the site, connections to the public sidewalk, and external connections off site shall provide convenient, accessible, and the most practical direct, barrier-free route design.

iv. Portions of walkways shorter than 30 ft. across driveways, parking lots or walkways crossing surfaces shared by fork lift or heavy truck traffic may use a painted crossing zone. Otherwise, walkways crossing driveways, parking areas, and loading areas shall be clearly identifiable through the use of a different paving material, raised elevation, or other similar method.

(1) Where walkways are adjacent to vehicle travel areas, they shall be separated by a raised curb, bollards, buttons, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps.

v. Accessways for use by pedestrians and bicyclists shall be required when necessary to provide direct routes not otherwise provided by the existing right-of-way. Developments shall not be required to provide right-of-way for accessways off site to meet this requirement. If right-of-way is otherwise available off site, the developer may be required to improve an accessway off site to the nearest transit route.

c. Standards for Construction. FMU Standards Note: If the below provisions address the same subject as provided in the Foothills Building and Site Design Standards, LOC § 50.11.007, Appendix G, those standards shall supersede the below provisions.

i. The surfacing of walkways, bikeways and accessways shall consist of either two in. of asphaltic concrete over a minimum of four in. of compacted crushed rock, or of four in. of concrete, as determined by the City Manager. Other materials must be specifically approved by the City Manager.

ii. Walkway surfacing shall be five ft. in unobstructed width, unless specifically otherwise approved by the City Manager, and never less than four ft. in unobstructed width.

iii. Walkways without stairs shall have a maximum cross slope of 2% and a maximum slope of 8%. If the existing grade exceeds an 8% slope and the walkway construction requires an erosion control permit pursuant to LOC § 52.02.040.1, and construction of stairs is impracticable, then the pathway may follow the existing grade.

iv. Ramps for handicapped use are required on all walkways used by the public at all points where a path intersects a curb.

v. Walkways, bikeways and accessways must be constructed in such a way as to allow the surface drainage to sheet flow across them, and not flow along them longitudinally.

vi. An accessway shall include at least a 15-ft. wide right-of-way or easement and an eight-ft. wide hard surface. For safety, accessways shall be as straight as practicable. Bollards, buttons, or landscaping shall be used to block motor vehicular access.

vii. A residential accessway shall include at least a 15-ft. wide right-of-way or easement and a minimum six-ft. wide travel surface. Accessways may meander around major trees or vegetation, but shall be as straight as practicable, considering the circumstances related to the property.

viii. The surfacing of residential accessways shall consist of either two in. of asphaltic concrete over a minimum of four in. of compacted crushed rock, or four in. of concrete, as determined by the City Manager. Depending on location, topography or presence of sensitive lands, other materials may be specifically approved by the City Manager. Residential accessway surfacing for purposes of meeting this standard shall be a minimum of six ft. in width.

- ix. Bollards, buttons or landscaping shall be used to block motor vehicle access at locations where accessways abut streets.
- x. Accessways shall be constructed in such a way as to allow surface drainage to sheet flow across them, and not flow along them longitudinally.

Response: Walkways are provided within the subdivision to connect main entrances of the dwelling units to the nearest common and/or public walkways. Walkways are also provided to connect other areas of the site such as parking lots and shared open spaces. Conceptual Site Plan, Sheet 3.0 in Exhibit C, illustrates proposed pedestrian walkways on-site. Landscape sheets in Exhibit E demonstrate pedestrian walkway details for review.

4. Street Connectivity.

a. Applicability. This section is applicable to:

- i. Any development that results in the construction of a street; or
- ii. A land division that:
 - (1) Is located on a parcel or parcels of vacant or redevelopable land of 1.75 acres or more, or
 - (2) Abuts a parcel upon which there is a street that has been "stubbed" to the proposed development site.
- iii. Construction of a detached single-family dwelling, middle housing dwelling, multi-family dwelling, commercial, industrial, institutional, or public function structure that:
 - (1) Is located on a parcel or parcels of vacant or redevelopable land of 1.75 acres or more, or
 - (2) Abuts a parcel upon which there is a street that has been "stubbed" to the proposed development site.

Response: This is a subdivision proposal for a residential development, therefore this section applies.

b. Purpose and Intent. The purpose of the connectivity standard is to ensure that:

- i. The layout of the street system does not create excessive travel lengths or limit route choices. This will be accomplished through an interconnected street system to reduce travel distance, promote the use of alternative modes of travel, provide for efficient provision of utility and emergency services, provide for more even dispersal of traffic, and reduce air pollution and energy consumption;
- ii. Streets, alleys and residential accessways shall be designed to meet the needs of pedestrians and cyclists and encourage walking, bicycling and transit as transportation modes;
- iii. Street and pedestrian and bicycle accessway design is responsive to topography and other natural features and avoids or minimizes impacts to LOC § 50.05.010, Sensitive Lands Overlay Districts; LOC § 50.05.011, Flood Management Area; and steep slopes pursuant to LOC § 50.06.006.2, Hillside Protection;
- iv. Circulation systems and land development patterns do not detract from the efficiency of the adjacent collector or arterial streets;
- v. The street and accessway circulation pattern contributes to connectivity to and from activity centers, such as schools, commercial areas, parks, employment centers and other major trip generators;
- vi. Metro Regional Transportation Function Plan, Title 1, street connectivity requirements are met;
- vii. Proposed development will be designed in a manner which will not preclude properties within the vicinity that meet the definition of further developable, from meeting the requirements of this standard; and
- viii. Transportation connections improve access to schools, transit, shopping, and employment areas.

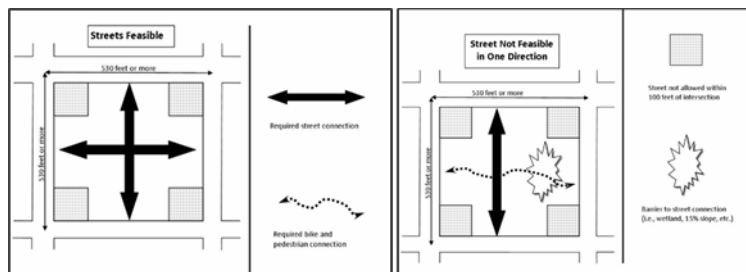
Response: Street connectivity within the proposed development will be designed to ensure the interconnected street system meets the needs of the pedestrians, cyclists and encourage walking

within and beyond the development. Street system is designed in response to the topography and other natural features on-site avoiding impacts to on-site resources and existing landscape easement in the north. Proposed street connectivity is illustrated in the Concept Street Plan, Sheet 3.0 in Exhibit C for review.

c. Standards for Approval of Development Which Requires the Construction of a Street.

- i. Local and neighborhood collector streets, access lanes, and residential accessways shall be designed to connect to the existing transportation system to meet the requirements of this standard as determined by the reviewing authority.
- ii. Local and neighborhood collector street design shall provide for full street connections between through streets with spacing of no more than 530 ft., measured between the center of the intersection of two through streets that provide for vehicle traffic movement in generally the same direction ("through street pairs") with the cross street. This requirement shall be applied to all through street pairs which surround the site. If the nearest boundary of the site (or boundaries extended to the street) is more than 100 ft. from the intersection of a through street nearest to the site and the cross street, the provisions of this standard shall be met, except when the provisions of subsection 4.c.vi of this section are met. See Figure 50.06.003-A: Street Connectivity.

Figure 50.06.003-A: Street Connectivity



- iii. Streets shall be designed to connect to all existing or approved stub streets which abut the development site.
- iv. Cul-de-sacs and permanent closed-end streets shall be prohibited except where (a) the requirements of this standard for street and residential accessway spacing are met and (b) construction of a through street is found to be impracticable. When cul-de-sacs or closed-end streets are allowed under subsection 4.c.vi of this section, they shall be limited to 200 ft. and shall serve no more than 25 dwellings, except where the reviewing authority has determined that this standard is impracticable due to the criteria listed in subsection 4.c.vi of this section.
- v. Access lanes may be used to serve up to three lots.
- vi. The reviewing authority may allow an exception to the review standards of subsections 4.c.i through 4.c.v of this section based on findings that the modification is the minimum necessary to address the constraint and the application of the standards is impracticable due to the following:

- (1) Extreme topography (over 15% slope) in the longitudinal direction of a projected automobile route;
- (2) The presence of Sensitive Lands as described in LOC § 50.05.010, or LOC § 50.05.011, Flood Management Area, or other lands protected by City ordinances, where regulations discourage construction of or prescribe different standards for street facilities, unless the nearest through street pairs (see Figure 50.06.003-A: Street Connectivity) surrounding the subject site are more than one-quarter mile apart. The reviewing authority may determine that connectivity is not required under this circumstance, if a benefit/cost analysis shows that the traffic impacts from development are low and do not provide reasonable justification for the estimated costs of a full or limited access street connection;

- (3) The presence of freeways, existing development patterns on abutting property which preclude the logical connection of streets or arterial access restrictions;
- (4) Where requiring a particular location of a road would result in violation of other City standards, or state or county laws or standards, or a traffic safety issue that cannot be resolved;
- (5) Where requiring streets (full or limited access) or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude required street or accessway connections; or
- (6) Where there is minimal public benefit of improved vehicular access and circulation, a limited access street connection (in lieu of a full street connection) may be approved provided it does not preclude development of adjacent property and is consistent with the purpose and intent in LOC § 50.06.003.4.b. For determining public benefit, the travel needs of existing, proposed and potential future development and emergency vehicle access needs shall be considered. Limited access streets shall conform to the spacing standards in subsection 4.c.vii of this section.

vii. If the reviewing authority allows an exception to subsection 4.c.ii of this section for full street connections, it shall require residential accessway connections on public easements or rights-of-way so that spacing between bicycle and pedestrian connections shall be no more than 330 ft. measured from the centerline of the nearest bicycle and pedestrian connection intersection with the cross street.

viii. The reviewing authority may allow a reduction in the number of residential accessway connections required by subsection 4.c.vii of this section based on findings that demonstrate:

- (1) That reducing the number or location of connections would not significantly add to travel time or distance from the proposed development to bus lines or activity centers in the area, such as schools, shopping, or parks; or
- (2) That existing development patterns on abutting properties preclude logical connection of residential accessways; or
- (3) That the traffic impacts from development, redevelopment or both are low and do not provide reasonable justification for the estimated costs of such accessway.

Response: The development will provide efficient street connectivity as required under this section; streets will be designed to connect the existing street pattern. Access lanes are provided in-lieu of full street connections to serve up to two parent lots and no more than 25 dwelling units. Appropriate street spacing is provided for efficient bicycle and pedestrian connectivity. Proposed street connectivity is illustrated in the Street Plan, Sheet 7.0 in Exhibit C.

d. Standards for Approval for a Land Division or Development that does not require construction of a Street. The review authority shall require:

- i. A future connectivity plan to be filed with the City and recorded in the applicable County Clerk records. The future connectivity plan shall show how the location of future streets, access lanes, and accessways will provide for full development of the subject parcel as well as any abutting properties in order to meet the standards of LOC § 50.06.003.4.c.ii through viii; and
- ii. Placement of structures in a manner that allows for the future street(s), access lanes, or accessways to be constructed, as well as an area sufficient to meet the required zone setbacks from the future streets.

Response: This development requires construction of new streets therefore the above subsection is not applicable.

e. Standards for Construction.

- i. Standards for construction of full street and limited access street connections shall be those included in LOC Chapter 42. Where emergency vehicle access is required on limited access streets, the limited access street shall be 16 ft. in width, contain removable bollards where it adjoins other streets, and

consist of a driving surface that accommodates emergency vehicle apparatus as approved by the City Engineer.

ii. Standards for construction of access lanes shall be those included in LOC § 50.06.003.1.d, Standards for Access Lanes.

iii. Standards for construction of residential accessways shall be those included in LOC § 50.06.003.3.c.

iv. Where a temporary street-end is created, it shall be stubbed to the property line with posted notification identifying it as temporary and planned for future extension.

Response: The proposed street construction within the site will comply with the requirements of this subsection to create efficient street connectivity within the site. Construction standards for proposed streets and alleys are discussed under LOC Chapter 42 later in this report. Proposed street connectivity is illustrated in the Street Plan, Sheet 7.0 in Exhibit C.

5. Transit System.

a. Applicability. This standard is applicable to all new subdivisions, planned developments, multi-family residential developments, and new commercial, institutional and industrial developments, and major public facility structures located on a transit street or within one-quarter mile of a transit street.

b. Standards for Approval. All applicable development as defined above shall be required to provide transit facilities and transit-oriented features.

[.....]

Response: The project site is not located on a transit street or within one-quarter mile of a transit street. Therefore, this subsection is not applicable.

50.06.004 Site Design

1. Landscaping, Screening, and Buffering.

a. Applicability.

i. Except as provided in subsection 1.a.ii of this section, this section is applicable to:

- (1) All major development;
- (2) Multi-family dwelling;
- (3) Major public facilities;
- (4) Commercial development;
- (5) Institutional development;
- (6) Private recreational development;
- (7) Industrial development;
- (8) Subdivisions;
- (9) Partitions; and
- (10) An increase in the number of parking spaces provided on site by more than 25%.

Response: This section is applicable to the proposed subdivision application.

b. Standards for Approval.

i. Commercial, institutional, and industrial development, other than in the Office Campus zone, shall provide a minimum of 15% of the net developable area in landscaping and/or open space visible from off site, including courtyards, planters, raised beds, espaliers, etc. Developments involving office campus and major public facilities shall provide a minimum of 20%.

Exception: the area of public park land, if transfer of the land from the development site is accepted by the governmental agency, may be deducted from the landscaping area requirement.

ii. Multi-family and manufactured home park development must provide 20% of the net developable area in landscaping in addition to the park and open space requirements.

Exception: the area of public park land, if transfer of the land from the development site is accepted by the governmental agency, may be deducted from the landscaping area requirement.

iii. Public and semi-public use must meet subsection 1.b.i or 1.b.ii of this section, depending on use.

iv. All development abutting streets shall provide street trees at the proper spacing for the species.

v. Parking lot plantings shall be designed to allow surveillance of the lot from the street at several points.

vi. For commercial, institutional, industrial, multi-family dwelling, manufactured home parks, office campus, and major public facilities:

(1) Screening and buffering shall be required:

(a) To mitigate noise, lighting or other impacts from dissimilar uses.

(b) To screen public or private utility and storage areas and parking lots.

(c) As a separation between dissimilar uses.

(2) Landscaping visible from the street or other public right-of-way shall be complementary to the landscaping in the surrounding area.

vii. Rare and endangered species as identified below shall be preserved:

(1) Marsh or Sessile Trillium: "Trillium chloropetalum."

(2) Fawn Lily: "Erythronium oregonum."

(3) White Larkspur: "Delphinium leucophaeum."

viii. Landscaping that is required to be provided under LOC Article 38.25 Stormwater Management Code is counted towards meeting the landscaping required under this article/section.^[1]

Response: Landscaping, screening and buffering for the proposed development will meet the standards of this section. No landscaping or fencing structure will be proposed within utility easements. Landscaping plans and details for the site are illustrated on Landscaping Sheets in Exhibit E for review.

c. Standards for Installation and Construction.

i. All plant materials shall conform in size and quality grade to the American Standard for Nursery Stock, current edition.

ii. All plant material shall be installed according to Sunset Western Garden Book, current edition.

iii. Except for single-family dwellings and middle housing developments that require street trees, all planting shall have an irrigation system installed to meet standards of Turf Irrigation Manual, current edition, unless the applicant can demonstrate to the satisfaction of the reviewing authority that such system is not necessary.

iv. Existing vegetation may be used in a landscaping plan. Construction shall not be allowed within the drip lines of trees which are to remain. Finish grade shall be at the original grade or a well or planter constructed equal in size or greater than the drip line.

v. Topsoil removed during construction shall be replaced with topsoil.

vi. Plant materials for use in parking lots and streets shall have a mature height of less than 25 ft. in areas where overhead utilities are present.

vii. Plant materials listed as "Prohibited Street Trees" in the Lake Oswego Master Plant List, LOC § 50.11.004, Appendix D, shall be prohibited as street trees, except those cultivars that do not have the characteristics identified by its species.

viii. Plant materials listed as nuisance or invasive in LOC § 50.11.004, Appendix D, and the Invasive Tree Species List on file at the Planning Department shall be prohibited as required landscaping.

ix. When a tree is located within a sidewalk, the tree base shall be protected from damage by pedestrians and other causes in a manner that complies with the City Engineer's specifications and applicable federal and state law, i.e., Americans with Disabilities Act.

x. Plant material used for screening and buffering shall:

(1) Be of a size to provide an effective screen within two to five years of the planting date.

(2) Be planted in a single row on centers equal to one-half mature width of the plant material or in staggered multiple rows.

(3) Be a minimum of six ft. high at maturity; or as determined by the City Manager to buffer or screen a specific situation except as prohibited by LOC § 42.03.130, Sight Distance at Roadway Intersections, Private Streets and Driveways.

Response: All plant materials will meet the requirements of this section. Plants will be properly installed and irrigated. Existing vegetation will be protected, topsoil replaced, and plantings will be placed to avoid conflicts with utilities. Prohibited plant species will be avoided. Tree bases along the sidewalks will be ADA-compliant, and screening will be effective within 2-5 years, properly spaced, and will meet height requirements. Proposed landscape plans and details for the site are illustrated in Landscaping Sheets in Exhibit E for review

2. Fences.

a. Applicability. No person shall construct a fence, wall, or retaining wall in violation of this section.

b. Location and Height. FMU Standards Note: If the below provisions address the same subject as provided in the Foothills Building and Site Design Standards, LOC § 50.11.007, Appendix G, those standards shall supersede the provisions below.

i. In residential zones, fences and walls, or a fence/wall/retaining wall combination, shall not exceed six ft. in height unless otherwise provided below:

(1) Four ft. in height when located within ten ft. of a property line abutting a public street or an access easement that serves more than two lots. This restriction shall not apply to properties that abut an access easement but do not have a legal right to use the easement. For purposes of determining fence height under this subsection, alleys are not considered as public streets.

Exception 1: Fences or a fence/wall/retaining wall combination that is greater than four ft. but not more than six ft. in height may be located within ten ft. of a property line abutting a public street when the following criteria are met:

(a) The fence or fence/wall/retaining wall combination is located within ten ft. of a property line abutting Bryant Road, Carman Drive, Country Club Road, Lakeview Boulevard, McVey Avenue, South Shore Boulevard, Stafford Road, and Westlake Drive; and

(b) The top of the fence or fence/wall/retaining wall combination is not less than 25% open for a height of at least one ft.; and

(c) The bottom of the fence shall be screened by shrubs planted from three gallon (minimum) containers and spaced no more than three ft. apart at the time of planting.

Exception 2: Fences or a fence/wall/retaining wall combination that is greater than four ft. but not more than six ft. in height may be located within ten ft. of a property line abutting a public street when the following criteria are met:

(a) The fence or fence/wall/retaining wall combination is located within ten ft. of a property line abutting Bryant Road, Carman Drive, Country Club Road, Lakeview Boulevard, McVey Avenue, South Shore Boulevard, Stafford Road, and Westlake Drive; and

(b) The fence segments are staggered by at least 32 inches for every length over 20 ft., or 16 inches for every length over ten ft.; and

(c) The bottom of the fence shall be screened by shrubs planted from three gallon (minimum) containers and spaced no more than three ft. apart at the time of planting.

(2) Four ft. in height when located within the front yard setback of the Old Town Neighborhood.

ii. Gates in a fence or wall located within ten ft. of a property line abutting a public street or an access easement shall not exceed six ft. in height.

iii. Portals located within ten ft. of a property line abutting a public street or an access easement shall not exceed eight ft. in height.

iv. Fences, walls, and retaining walls in nonresidential zones shall not exceed eight ft. in height. Mixed use commercial/residential zones shall be considered a residential zone for purposes of this section. A fence, wall, or retaining wall over six ft. in height shall be screened by an evergreen hedge which shall be of a size and spacing so as to provide a six-ft. high, dense screen within three years of the date of planting. Any fence over seven ft. in height requires a building permit.

v. Fences, walls, retaining walls, gates, and portals shall comply with the provisions of LOC § 42.03.130, Sight Distance at Roadway Intersections, Private Streets and Driveways.

vi. Every body of water, as defined in LOC § 50.10.003.2, shall have a barrier as required by the State of Oregon One and Two Family Dwelling Specialty Code.

vii. Retaining Walls within Residential Zones.

(1) A retaining wall four ft. or less in height may be located in the required setback; provided, that if there are multiple retaining walls within the setback, each retaining wall shall be located no closer than five ft. to another retaining wall, as measured from the back of one retaining wall to the front of the other retaining wall.

Exception: Retaining walls greater than four ft. in height are permitted if the retaining wall forms a window well that complies with the depth and length requirements for an exception to "Height of a Building," in LOC § 50.10.003.3.

(2) Retaining walls greater than four ft. in height shall be required to meet all setback requirements, except as otherwise exempted.

(3) Retaining walls shall not be permitted in any rights-of-way, except with prior approval of an encroachment permit.

viii. Fence Located on Top of or Near Retaining Walls.

(1) The combined height of a retaining wall and fence, where the fence is located either on top of or within five ft. of the face of the retaining wall on the upslope side, shall be less than eight ft., as measured from the lower side of the retaining wall.

(2) No fence shall be located either on top of or within five ft. of the face of the retaining wall on the upslope side when either the retaining wall or the fence is located within ten ft. of a public or private street or an access easement which serves more than two lots.

(3) When a fence is located on the top of a retaining wall, the fence shall be of a different class of material than the retaining wall, i.e., if the retaining wall is masonry, the fence must be wood or metal.

ix. Berms, when used in conjunction with fences or walls, shall be included in height determinations.

x. Exceptions from Height Limitations. The height limitations of this section do not apply to:

(1) Fences which either provide security or are accessory or incidental to the use of a major public facility, minor public facility, or public transportation facilities; or

(2) An open (80% open) fence which is not located in the front yard (forward of the primary structure to the front lot line) and which encloses part or all of a tennis court, swimming pool, playing field, park, commercial recreational facility, public or semi-public utility structure, or courtyards or play areas for day care and educational institutions. The evergreen hedge screening requirement in LOC § 50.06.004.2.b.iv does not apply to these fences; or

(3) A noise fence permitted by the Oregon Department of Transportation abutting the right-of-way of Highway 43, but only to such height limits approved by ODOT; or

(4) Retaining walls used to directly support a driveway, access lane, or car parking area for a single-family residence or middle housing; or

(5) Retaining walls used to support right-of-way embankments subject to approval by the City Manager or designee.

Such fence height exempted under the above subsections shall not exceed ten ft. except a noise fence under subsection 2.c.x(3) of this section.

Response: Proposed fencing design will comply with all applicable standards, including height limits and placement restrictions as outlined. Specifically, all fences and retaining wall combinations will meet the maximum height requirements based on their location, and any installations within ten feet of a public street will adhere to the necessary conditions and exceptions. Where applicable, screening, materials, and spacing will conform to the prescribed regulations, and sight distance, safety, and setback provisions will be fully observed. No fences or retaining walls are proposed within public utility easements. Trash enclosures proposed within the project will be fenced as per the requirements of this section. Fencing details for the development are provided in the Landscape Sheet in Exhibit E for review.

c. Materials - Standards for Construction.

- i. The unfinished or structural side of a fence or retaining wall shall face the owner's property.
- ii. Fences shall not be constructed of, or contain, any material which will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous material, except as follows:
 - (1) Barbed wire or electrified fences enclosing permitted livestock are permitted provided the barbed wire and electrified fences shall be posted and flagged at not less than 15-ft. intervals with clearly visible warnings of hazard.
 - (2) Barbed wire or upturned barbed salvage is permitted more than six ft. above grade in GC and Industrial zones; provided, that barbed wire shall not extend over a public or private street, alley, fire lane, or the property boundary of a property zoned residential. When used along a public or private street, the fence shall be screened from the street by an evergreen hedge which shall be of a size and spacing so as to provide a six-ft. high, dense screen within three years of the planting date.
- iii. The enclosure surrounding a body of water as defined in LOC § 50.10.003.2 shall be of a material type and constructed such that no openings, holes or gaps exist which are larger than four in. in any dimension except for doors or gates.
 - (1) All gates or door openings shall be equipped with an automatic closing and automatic latching device combined with a lock which must be locked when the facility is not in use. Doors of any occupied dwelling forming part of the enclosure need not be provided with the automatic locking and latching devices.

Response: The structural or unfinished side of all fences and retaining walls will face inward toward the owner's property. No barbed wire, or electrified fences will be used for fencing purposes. Where fencing is required around a body of water, it will be constructed to prevent openings larger than four inches and it will include self-closing, self-latching gates with locks as required to ensure safety and code compliance. Fencing details for the development are provided in the Landscape Sheet in Exhibit E for review.

3. Lighting Standards.

a. Applicability. This section is applicable to:

- i. Minor or major development that results in: the increased use of public streets, public pathways and accessways; or the construction or expansion of existing open air parking lots;
 - ii. Addition, removal, alteration, or expansion of light fixtures or poles in open air parking lots or public pathways or accessways; or
 - iii. Addition, removal, alteration, or expansion of outdoor lighting on lots in PF and PNA zones.
- Exception: Temporary lighting for theatrical, television, and performance areas, and lights associated with special events are not subject to this section if no development occurs.

Response: This is a proposed minor development application for a residential subdivision therefore lighting standards are applicable.

b. Standards for Approval.

- i. **Public Pathways and Accessways.** Low level lighting of less than 0.3 average foot-candles and with a maximum uniformity of illuminating ratio not to exceed 20:1 shall be required in all zones, except the PF and PNA zones, unless the applicant can show that no night use of such facilities is planned.

Response: Low level lighting will be provided on public pathways and accessways throughout the development for accessibility and safety purposes. Lighting plans are included in Exhibit K for review.

- ii. **Open Air Parking Lots.** The following standards shall apply to open air parking lots in all zones, except the PF and PNA zones:

(1) General Provisions.

- (a) For multi-level parking facilities, the roof level shall be considered an open air parking lot.
- (b) Open air parking lot lighting shall be designed to provide uniform lighting throughout the facility, but shall accomplish uniform lighting with the minimum lighting necessary for safety, security, and identification of necessary features.
- (c) Open air parking lot lighting shall not produce light trespass by the direct illumination of adjacent and nearby properties or streets.
- (d) Open air parking lot lighting shall not produce annoying or disabling glare at normal viewing angles.
- (e) Where an open air parking lot is not anticipated to have a nighttime use, or where lighting would be out of character with the immediate environment, the reviewing authority may waive the illumination requirement.

(2) Equipment and Installation Standards.

- (a) Open air parking lot lighting shall employ the use of full cut-off fixtures as defined by the Illuminating Engineering Society of North America (IESNA), except in special design districts where a particular "period" or architectural style has been adopted, or as specifically allowed by the reviewing authority.
- (b) Open air parking lot lighting shall use lamps whose emission is perceived as the warm (yellow/orange) end of the color spectrum, except under the circumstances permitted in this section.
- (c) The maximum height of a pole mounted luminaire shall be 22 ft., or the height of the associated building, if less than 22 ft. in height.
- (d) Fixtures shall be positioned or shielded so as to prevent light trespass onto adjacent properties, and glare from normal viewing angles.
- (e) Luminaires and poles shall be coated with a decorative protective finish as approved by the reviewing authority or shall be manufactured of a colored composite material (such as fiberglass). Unpainted galvanized steel, stainless steel, or other "raw" metals are not acceptable.
- (f) Luminaires and poles shall be architecturally compatible with the associated use.
- (g) The use of wood poles shall be limited to parking lots in nature parks or similar natural areas.

(3) Lighting Standards.

- (a) Minimum level of illumination - 0.15 foot-candles on the pavement.
- (b) Maximum level of illumination - 4.0 foot-candles on the pavement.
- (c) Uniformity ratio 4:1.
- (d) The reviewing authority may grant an exception to the lighting standards upon finding that a particular use warrants a higher level of illumination to protect the public safety and welfare. The

discouragement of property damage crime is not a sufficient factor in and of itself to warrant an exception to the lighting standards.

(4) Prohibitions.

- (a) Mercury vapor lamp fixtures and lamps.
- (b) Metal halide fixtures and lamps, unless the use thereof is warranted by exceptional security demands or the need for accurate color rendering, as determined by the reviewing authority. When approved, metal halide lamps shall be filtered.
- (c) Laser source lights.
- (d) Bare bulbs and strings of lights, except for traditional holiday lights during the respective holiday period.
- (e) Flickering lights.
- (f) Search lights.
- (g) Overhead spans of wire.

(5) Curfew. The reviewing authority may impose a curfew on all, or part of, an open air parking lot's lighting system, and may further impose the regulated system to be controlled by an automatic timer.

(6) Nonconforming Lights.

- (a) Open air parking lot light fixtures that are in service and which were lawfully installed prior to July 11, 2003, are exempt from the requirements of this section, except that the replacement of damaged or obsolete nonconforming light fixtures shall conform to the requirements of this section.
- (b) Nonconforming lighting shall be replaced with a system that complies with this section when the remodeling of any use associated with an open air parking lot exceeds 50% of the value of that use, or the removal and renewal or expansion of an open air parking lot exceeds 50% of the area occupied by the pre-existing parking lot.

Response: The proposed lighting for clustered parking spaces will meet the requirements of this section. Fixtures will be positioned to prevent light trespass onto adjacent properties. Lighting Plans for proposed parking lots are included in Exhibit K for review.

(7) Lighting Plan Required - Content. Proposals to illuminate an open air parking lot shall include a lighting plan. Lighting plans shall be prepared by a qualified professional specializing in illumination, and shall illustrate iso-illuminance circles expressed in foot-candles. Lighting plans shall be accompanied with all pertinent technical data for the proposed luminaires. The reviewing authority may require lighting plans to account for the influence of adjacent off-site lighting, reflection off vertical surfaces, window spill, shadow causing objects, and any other factors deemed relevant in evaluating the perceived level of illumination.

(8) Method of Measurement.

- (a) Field measurements of illumination levels shall be measured with an instrument having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination.
- (b) The height of a luminaire is the vertical distance between the surface of the ground and the lowest part of the luminaire.

Response: A complete lighting plan has been provided in accordance with the requirements of this section. The plan has been prepared by a qualified illumination professional and includes iso-illuminance diagrams expressed in foot-candles, along with all relevant technical specifications for the proposed luminaires. Detailed Lighting Plans for the site are included in Exhibit K for review.

iii. Outdoor Lighting in PF and PNA Zones. The following standards shall apply to outdoor lighting in the Public Functions (PF) and Parks and Natural Area (PNA) zones, except the luminaires and lighting systems listed below, or when used to light the following, are exempt from the requirements of this section:

- (1) Illuminated signs.
- (2) Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- (3) Building Code required exit signs.
- (4) Lighting specifically for stairs and ramps.
- (5) Temporary and seasonal lighting; provided, that individual lamps are ten watts or less.
- (6) Lighting required and regulated by the Federal Aviation Administration, U.S. Coast Guard, or other federal or state agency.
- (7) Flagpole, provided the lighting is a maximum of 150 watts per flagpole and is mounted within three ft. of the centerline of the base of the pole and aimed upwards.

(a) All outdoor lighting shall comply with either the prescriptive option or the performance option, below. The applicant may be required to pay for the services of a qualified professional civil or electrical engineer to review such submittals and the cost thereof shall be an additional fee charged to the applicant.

(i) Prescriptive Option. If the lighting is to comply with this prescriptive option, the installed lighting shall meet all of the following requirements:

(A) The maximum luminaire lamp wattage and shielding shall comply with Table 50.06.004-1.

TABLE 50.06.004-1: MAXIMUM WATTAGE AND REQUIRED SHIELDING				
Zone	Fully Shielded	Shielded	Partly Shielded	Unshielded
PNA (Natural Area)	55	None permitted	None permitted	None permitted.
PNA (Developed Park Area)	70	20	13	Low voltage landscape lighting 50 watts or less.
PF (Nonpark Use)	150	70	39	Low voltage landscape lighting 50 watts or less.
Special Exception LOC § 50.06.004.3.b.iv	450	150	150	Landscape and facade lighting 100 watts or less; ornamental lights on private streets and lanterns 40 watts or less.

(B) The total lighting power for the site shall be less than or equal to the allowed lighting power. The allowed lighting power shall be determined according to Table 50.06.004-2.

TABLE 50.06.004-2: ALLOWED LIGHTING POWER DENSITY (watts per sq. ft. (w/ft ²) unless otherwise noted)
Determine the allowed lighting power for each application by multiplying the area in plan by the allowed lighting power density for the application. Only one lighting power allowance can be claimed for any area. The actual lighting power must be equal to or less than the sum of the allowed lighting power for all applications.

Lighting Application	Allowed Area	PNA (Natural Area)	PNA (Developed Park Area)	PF (Nonpark Use)	Special Exception LOC § 50.06.004.3.b.iv
Hardscape	Paved area plus 5 ft. of the perimeter of adjacent unpaved land. Includes planters and landscaped areas less than 10 ft. wide that are enclosed by hardscape on at least 3 sides.	0.03	0.05	0.07	0.20
Building Entrances	Per door (stated values are watts, not watts per sq. ft.).	13	18	26	70
Building Entry and General Use Canopies	Canopy footprint	Not allowed	0.10	0.20	0.70
Vehicle Service Station Canopy	Canopy footprint	Not allowed	0.30	0.60	2.40
Ornamental Lighting	Entire site	Not allowed	Not allowed	0.010	0.04
Landscape Lighting	Landscaped area	Not allowed	Exempt	Exempt	Exempt
Building Facade Lighting	Nonresidential use	Not allowed	Not allowed	Not allowed	Exempt

(C) The maximum pole or mounting height shall not exceed the values listed in Table 50.06.004-3.

TABLE 50.06.004-3: MAXIMUM LIGHTING MOUNTING HEIGHT IN FEET			
Zone	Lighting for Private Roads, Driveways, Parking, Bus Stops and Other Transit Facilities	Lighting for Walkways, Bikeways, Plazas and Other Pedestrian Areas	All Other Lighting
PNA (Natural Area)	20	8	4
PNA (Developed Park Area)	20	12	4
PF (Nonpark Use)	25	18	8
Special Exception LOC § 50.06.004.3.b.iv	Height limit to be determined by special exception		
Lighting mounted on buildings or other structures shall not exceed a mounting height greater than 4 ft. higher than the tallest part of the building or structure at the place where the lighting is installed, nor			

higher than 33.33% of the horizontal distance of the light from the nearest property line, whichever is less.

(D) Each luminaire shall be set back from all property lines at least three times the mounting height of the luminaire.

[1] Exception 1: If the luminaire is used for the purpose of street, parking lot or public utility easement illumination purposes and is located less than three mounting heights from the property line, the luminaire shall employ a house side shield (opposite the direction of any public right-of-way nearest the luminaire).

[2] Exception 2: If the subject property includes an exterior column, wall or abutment within 25 ft. of the property line, luminaire(s) partially shielded or better and not exceeding the lighting power allowed under Table 50.06.004-2: Allowed Lighting Power Density (but in no event exceeding 60 lamp watts) may be mounted onto the building facade or under or within an overhang or canopy attached thereto.

(ii) Performance Option. If the lighting is to comply with this performance option, the proposed lighting plan demonstrating compliance with the following standards shall be submitted by the applicant for review and approval by the City Engineer, and the City Engineer's decision shall be the final decision of the City:

(A) The maximum percentage of direct uplight lumens shall be no greater than the amount allowed per Table 50.06.004-4: Performance Method.

TABLE 50.06.004-4: PERFORMANCE METHOD			
Zone	Maximum Percentage of Direct Uplight Lumens (%)	Maximum Light Level at Property Line	
		Horizontal Plane at Grade (foot-candles - fc)	Vertical Plane Facing the Subject Site, from Grade to Mounting Height of Highest Mounted Luminaire (foot-candles - fc)
PNA (Natural Area)	0	0.01	0.02
PNA (Developed Park Area)	1	0.05	0.1
PF (Nonpark Use)	5	0.2	0.4
Special Exception LOC § 50.06.004.3.b.iv	20	0.4	0.8

(B) The maximum light level at any property line shall be no greater than the values in Table 50.06.004-4: Performance Method, as evidenced by a complete photometric analysis including horizontal illuminance of site and vertical illuminance on the plane facing the site up to the mounting height of the luminaire mounted highest above grade. The City Engineer may accept a photometric analysis report, demonstration or sample, or other satisfactory confirmation that the luminaire meets the shielding requirements of Table 50.06.004-1: Maximum Wattage and Required Shielding. Luminaires shall not be mounted so as to permit aiming or use in any way other than the manner maintaining the shielding classification required herein.

Exception 1: If the property line abuts a public right-of-way, the analysis may be performed at the property boundary across the public right-of-way from the site.

Exception 2: If unique site characteristics (topography, differences in grade between the subject property and the abutting parcel) make compliance impractical with the maximum light level requirements, an exception to this subsection may be granted by the City Engineer. The City Engineer may impose conditions of approval to mitigate any negative impacts resulting to the abutting parcel, based on best lighting practices and available lighting technology.

(b) Curfew. All prescriptive or performance based exterior lighting systems shall be controlled by automatic device(s) or system(s) that initiate operation at dusk and either extinguish lighting at the curfew times according to Table 50.06.004-5: Curfew Time, or reduce lighting density at the curfew time to not more than 50% of the requirements set forth in Table 50.06.004-2: Allowed Lighting Power Density.

TABLE 50.06.004-5: CURFEW TIME	
Zone	Curfew Time
PNA (Natural Area)	8:00 PM (2000 hours) - 5:00 AM (0500 hours)
PNA (Developed Park Area)	
PF (Nonpark Use)	10:00 PM (2200 hours) - 5:00 AM (0500 hours)
Special Exception LOC § 50.06.004.3.b.iv	Midnight (2400 hours) - 5:00 AM (0500 hours)

(i) Exception: Automatic lighting control systems or devices are not required for the following:

- (A) When there is only one (conforming) luminaire for the site.
- (B) Building Code required lighting.
- (C) Lighting for ramps, steps and stairs.
- (D) Uses that operate continuously or periodically after curfew.

Response: No lighting plans are proposed for the adjacent Rassekh Park site with the proposed development.

iv. Special Exception for Lighting Fixtures and Systems Exceeding Subsection iii, Outdoor Lighting in PF and PNA Zones, Requirements.

(1) The reviewing authority may allow site lighting systems to be installed, modified, or replaced that do not comply with subsection 3.b.iii of this section. Such lighting may include sports lighting systems (including but not limited to sport fields and stadiums, such as baseball field and football field lighting, tennis court lighting, and swimming pool area lighting), other very intense lighting defined as having a light source exceeding 200,000 lumens or an intensity in any direction of more than 2,000,000 candelas, construction lighting for public infrastructure and similar projects, emergency construction projects that require construction at night, bridges, building facade lighting to light portions of buildings over two stories high, and public monuments.

(a) Applicants shall demonstrate that the proposed lighting installation:

- (i) Is within the PF or PNA zone.
- (ii) Has no practicable alternative.
- (iii) Has received every reasonable effort to mitigate glare, light trespass, and artificial sky glow, by application of best lighting practices or available technology, and supported by a signed statement from a registered civil or electrical engineer describing the mitigation measures. Such statement shall include calculations indicating the light trespass levels (horizontal and vertical at ground level) at the property line(s).

(b) The reviewing authority may impose conditions of approval to mitigate any negative impacts resulting to the abutting parcel(s), based on best lighting practices and available lighting technology.

Response: No lighting plans are proposed for the adjacent Rassekh Park site with the proposed development.

v. Street Lighting.

(1) Street lighting installations shall achieve criterion values listed in Table 50.06.004-6.

TABLE 50.06.004-6: CITY STANDARD CRITERIA FOR STREET AND ROADWAY LIGHTING (FOOT-CANDLES - FC)					
	PNA (Natural Area) Zone	R-3, R-5, R-7.5, R-6, R-10, and R-15, R-DD, PNA (Developed Park Area), PF and R-W Zones	R-0, R-2, WLGR-2.5, I, IP, and CR&D Zones	GC, NC, MC, EC, HC, OC, WLGR-OC, WLGRMU and CI Zones	Special Exception LOC § 50.06.004.3.b.iv
LOCAL STREETS	Not permitted	Light levels at intersections only*	Light levels	Light levels	Light levels
Avg: Light Level	N/A	0.3 fc	0.3 fc	0.4 fc	0.4 fc
Avg: Min. Uniformity	N/A	6:01	6:01	6:01	6:01
Max: Min. Uniformity	N/A	40:01:00	40:01:00	40:01:00	40:01:00
NEIGHBORHOOD COLLECTORS	Not permitted	Light levels at intersections only*	Light levels	Light levels	Light levels
Avg: Light Level	N/A	0.3 fc	0.4 fc	0.6 fc	0.6 fc
Avg: Min. Uniformity	N/A	4:01	4:01	4:01	4:01
Max: Min. Uniformity	N/A	20:01	20:01	20:01	20:01
MAJOR COLLECTOR/MINOR ARTERIAL	Not permitted	Light levels	Light levels	Light levels	Light levels
Avg: Light Level	N/A	0.3 fc	0.4 fc	0.6 fc	1.0 fc
Avg: Min. Uniformity	N/A	4:01	4:01	4:01	4:01
Max: Min. Uniformity	N/A	20:01	20:01	20:01	20:01
MAJOR ARTERIALS	Street lighting standards for major arterials shall be determined by the City Engineer, who may require an independent engineering study to determine the appropriate lighting system.				

Notes: * Luminaires only within 150 ft. of the center point of an intersection.

(a) Exception: Federal or state requirements that require a higher illumination value than required by this Code.

(2) Street lighting systems shall be designed using the IES "Classical" horizontal foot-candle method per IES/ANSI RP-8-01, and as follows:

(a) The applicant shall demonstrate compliance with Table 50.06.004-6 by submitting to the City Engineer point-by-point calculations assuming 65% light loss factor for metal halide and 80% for LED, high pressure sodium, tungsten, fluorescent and induction lamp sources. Submitted street lighting plans shall indicate luminaire types and locations and provide isocandle plots including statistical summaries of roadway lighting.

(b) Luminaires shall be fully shielded.

(i) Exception: Historic or architectural street lights located in a designated design district.

(c) The City Engineer may require street lighting that deviates from Table 50.06.004-6: City Standard Criteria for Street and Roadway Lighting upon finding that a particular street, or portion thereof, warrants a higher level of illumination to protect the public safety and welfare. The City Engineer's decision shall be the final decision of the City. The discouragement of property damage crime is not a sufficient factor in and of itself to warrant the deviation from Table 50.06.004-6.

Response: Street lighting is proposed as per the requirements of this section. Proposed street lighting placement and details prepared by certified illumination professional are shown in Exhibit K.

50.06.005 Park and Open Space Contribution

1. Applicability.

a. Except as provided in LOC § 50.06.005.1.b, this section is applicable to all major development, and to the following minor developments:

- i. Construction or alteration of multi-family dwelling;
- ii. Construction or alteration of major public facilities;
- iii. Construction or alteration of commercial development;
- iv. Construction or alteration of institutional development;
- v. Construction or alteration of private recreational development;
- vi. Construction or alteration of industrial development; and
- vii. Major partitions and subdivisions.

Response: This is a proposed minor development for a residential subdivision, therefore this section applies.

2. Development Review.

The review procedures for park and open space contributions are located in LOC § 50.07.004.7, Park and Open Space Contribution.

Response: Park and open space contribution details are included under section 50.07.004.7. later in this report.

3. Standards for Approval.

a. Amount of Open Space Required.

- i. All developments, except as otherwise provided by this section, shall provide open space land approved by the City in an aggregate amount equal to at least 20% of the net developable area of the development.
- ii. Commercial (except commercial development in OC zone), institutional, and industrial development shall provide open space approved by the City in an aggregate amount equal to at least 15% of the net developable area of the development.
- iii. Land divisions listed in LOC § 50.06.005.1.a.vii on sites of greater than 75,000 sq. ft. in size shall provide open space approved by the City in an aggregate amount equal to at least 20% of the net developable area of the development.

iv. Subdivisions and major partitions of 75,000 sq. ft. or less shall provide open space for the following areas of the site, in order of priority:

(1) Areas identified as RP (Resource Protection) on the Sensitive Lands Map.

(2) If a pathway identified on the Transportation System Plan already exists on or abutting the site, or is to be dedicated or improved as part of the subdivision or major partition, a five-ft. buffer shall be provided along each side of the pathway, to a maximum of 20% of the gross site area. If the buffer area would exceed 20% of the gross site area, the buffer area shall be uniformly reduced along the pathway so that the buffer area is 20% of the gross site area.

Exception: The buffer width may be reduced to a lesser amount, up to zero, as designated by an adopted plan for the mapped pathway.

(3) The area of the site contains resources identified as Class I or II Riparian Corridors/Wild-life Habitat that are not designated RP; provided, however, the maximum required area is 20% of the gross site area.

[Cross-Reference: Class I or II Riparian Corridors/Wildlife Habitat are identified on the Metro map of Regionally Significant Fish and Wildlife Habitat Inventory Map. See MetroMap at https://gis.oregonmetro.gov/metromap/?_ga=1.107051716.739631480.1447199768, and select "Riparian Habitat" for interactive map that can zoom in to the specific area.]

(4) The area of the site contains resources meeting the criteria for Habitat Benefit Areas (HBA) and the applicant elects to use the code incentives in LOC § 50.05.010.7.

Response: The residential subdivision is proposed on a site greater than 75,000 sf in size, the development will provide open space measuring approximately 33% of the net developable area. Areas identified as RP (Resource Protection) on-site are preserved and included in the open space contribution. Open space area and details within the development are provided in the Open Space Plan, Sheet 6.0 in Exhibit C for review.

b. Required Open Space - How Provided.

i. Open space land in commercial, institutional, public use, industrial and office campus development may be provided as a combination of reserved land and landscaping.

ii. Where no RP or RC district resources are located on the site, the open space requirement can be met by protecting designated Habitat Benefit Area (HBA) area pursuant to LOC § 50.05.010.7, by protecting non designated natural resource areas, and/or providing landscaping which meets the requirements of the landscaping standard.

iii. Public park land, if transfer of the land from the development site is accepted by the governmental agency.

Response: Open space within the residential development is provided in a combination of preserved resource protection area, common courtyards, landscape easement in the north and open space tracts for the common use of the residents. Open space area and details within the development are provided in the Open Space Plan, Sheet 6.0 in Exhibit C for review.

4. Standards for Construction.

a. Maintenance.

i. Natural Areas. Natural areas shall remain in natural condition existing at the time of their designation, except as follows:

(1) Removal of invasive plants (i.e., see the Lake Oswego Master Plant List).

(2) Removal of litter.

(3) Installation and maintenance of any soft surface trails (note: see LOC §§ 50.05.010.5.c.iii(5) and 50.05.010.6.c.ii(1)(e)(i)(C)).

- (4) Irrigation and maintenance of trees and vegetation as necessary for their survival.
- (5) Planting of trees and vegetation necessary to maintain the functions and values of the natural resource, but primarily not for decorative landscaping purposes.
- (6) Repair of any natural waterway or wetland which is necessary to maintain the functions and values of any waterway or wetland resource within the natural area.
- (7) Installation of any signage that identifies or protects the natural resource, natural vegetation, and passive recreation facilities.
- (8) Removal of any hazardous trees, pursuant to LOC Article 55.02 (note: condition of approval may require tree to be converted to a wildlife tree).
- (9) Installation and maintenance of fencing that complies with the following:
 - (a) No taller than three ft.;
 - (b) Non-sight-obscuring; and
 - (c) No wire mesh or cyclone fence. Such fencing shall be compliant with the provisions of LOC § 50.06.004.2 regarding standards for construction and standards for maintenance of fences, and, if applicable, LOC §§ 50.05.010.5 or 50.05.010.6.
- (10) Removal of invasive, hazardous or emergency trees, notwithstanding any recorded restriction limiting removal of vegetation; and removal of dead trees, except as otherwise restricted by LOC § 50.05.010, Sensitive Lands Overlay.

Response: The development will maintain and enhance the on-site natural area designated as resource protection area. Removal of invasive species and planting native vegetation along with installation of irrigation system for the maintenance of trees and vegetation as necessary will be undertaken as per the code requirement. Planting and landscape details are provided in Landscape Sheets in Exhibit E for review.

ii. Parks. Parks shall be maintained by undertaking the following:

- (1) Any activities permitted in natural areas above.
- (2) Repair of any natural waterway or wetland which is necessary to maintain the functions and values of any waterway or wetland resource within the park.
- (3) Installation of any signage that identifies or protects the park facilities or vegetation.
- (4) Installation and maintenance of recreation facilities.

Response: Common courtyards, landscape easement and common open space tracts will be maintained as per the requirements of this code. Resource protection area on-site will be identified as natural area to maintain the functions and values of this resource. Open space area within the development is provided in the Open Space Plan, Sheet 6.0 in Exhibit C. Planting and landscape details are provided in Landscape Sheets in Exhibit E for review.

b. Responsibility and Enforcement. Maintenance of private open space shall be the common responsibility of the lot owners, which may be exercised through a homeowners association. If not maintained in accordance with this section, the City of Lake Oswego may enforce the maintenance obligations against the association and lot owners as provided in the covenants.

Response: Private open space will be maintained as per the homeowner's association requirement which will be established at the time of final plat approval.

5. Density Transfer.

a. Density Transfer Allowed. Open space may be included in the net site area when determining the maximum allowable density. Structures that otherwise might have been located on open space may be

transferred to other portions of the site, and lot areas may be reduced to offset for land reserved as open space, as long as the overall density remains within the maximum permitted by the zone.

Response: Density calculation for the proposed development is calculated on the basis of net developable area which includes proposed open space within the residential subdivision. Density calculation and net developable area is illustrated in Density Plan Sheet in Exhibit R.

50.06.006 Geologic Hazards and Stormwater Management

1. Weak Foundation Soils.

- a. **Applicability.** This section applies in all areas identified as "Potential Weak Foundation Soils" to all:
 - i. Minor and major development which will involve proposed structures, or
 - ii. Ministerial construction of structures where the requirements of this article have not been previously applied to the development site.
- b. **Weak Foundation Soils Maps.**
 - i. Weak foundation soils are identified in the "Engineering Geology" report supplement and accompanying map of the Lake Oswego Physical Resources Inventory, March 1976.
 - ii. These soils are also identified and described in the report entitled "Soil Survey Interpretations for Land Use Planning and Community Development, Lake Oswego Area, Oregon," USDA Soil Conservation Service, December 1975.
The SCS map units which correspond to the Engineering Geology units above are listed in Table II: Characteristics and Limitations of Earth Materials, in the Engineering Geology Report of L.O.P.R.I.
- c. **Development Review.** The review procedures for a determination of weak foundation soils are located in LOC § 50.07.004.10, Weak Foundation Soils Determination Procedures.
- d. **Standards for Approval.** The actual presence of weak foundation soil is not a cause for denying development, but may cause structural modifications to be required, or structures to be relocated.

Response: The site has a very minimal portion of weak foundation soil at its southwestern edge, which is identified as a Resource Protection area in the attached recorded Notice of Development Restriction Exhibit G and identified in the City's Weak Foundation Soils Map. No structure is proposed within the resource protection area. A geotechnical report prepared by a registered soils engineer is included with this application that identifies subsurface conditions, infiltration testing results, liquefaction details and geologic settings for the site. The Geotech report in Exhibit H does not identify weak foundation soils on any other section of the site.

3. Stormwater Management Standards.

- a. **Applicability.** See LOC Article 38.25.120 Project Classification.
- b. **Standards for Approval.** The applicant must demonstrate that, based upon LOC Article 38.25, Stormwater Management Code, the capacity, type, location, feasibility and land area required of the proposed stormwater management system and stormwater disposal facilities as well as any connection to off-site facilities can be provided.

Stormwater management measures and requirements are detailed in LOC §§ 38.25.001 through 38.25.190 and in the current version of the Lake Oswego Stormwater Management Manual.

Response: Proposed stormwater details for the site are discussed under Section VI Chapter 38 Stormwater Management later in this report to show compliance with the Stormwater management codes of Lake Oswego.

50.06.007 Solar Access

1. Solar Access for New Development.

a. Purpose. The purposes of the solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

b. Applicability. The solar design standard in LOC § 50.06.007.1.c shall apply to subdivision applications (except Middle Housing Land Divisions (ORS 92.031)), that create lots intended for single-family detached or middle housing dwellings in any zone, except to the extent the reviewing authority finds that the applicant has shown one or more of the conditions listed in LOC § 50.04.004.1, Exemptions from Solar Design Standard, and LOC § 50.04.004.2, Adjustments to Solar Design Standard, exist and exemptions or adjustments provided for therein are warranted.

c. Solar Design Standard. At least 80% of the lots in a development subject to this section shall comply with one or more of the options in this section. In order to be included in the 80% requirement, a lot must also comply with LOC § 50.06.007.1.d.

i. Basic Requirement. A lot complies with this section if it:

- (1) Has a north-south dimension of 90 ft. or more; and
- (2) Has a front lot line that is oriented within 30° of a true east-west axis.

ii. Protected Solar Building Line Option. In the alternative, a lot complies with this section if a solar building line is used to protect solar access as follows:

- (1) A protected solar building line for the lot is designated on the plat, or documents recorded with the plat; and
- (2) The protected solar building line for the lot is oriented within 30° of a true east-west axis; and
- (3) There is at least 70 ft. between the protected solar building line on the lot to the north and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
- (4) There is at least 45 ft. between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least 80% of their south-facing wall will not be shaded by structures or solar-unfriendly vegetation.

iii. Performance Option. In the alternative, a lot complies with this section if:

- (1) Habitable structures built on the lot will have their long axis oriented within 30° of a true east-west axis and at least 80% of their ground floor south wall protected from shade by structures and solar-unfriendly trees; or
- (2) Habitable structures built on the lot will have at least 32% of their glazing and 500 sq. ft. of their roof area which faces within 30° of south and is protected from shade by structures and solar-unfriendly trees.

d. Protection from Future Shade. Structures and solar-unfriendly vegetation must comply with the Solar Balance Point provisions, LOC § 50.06.007.2, for existing lots if located on a lot that is subject to the solar design standard in LOC § 50.06.007.1.c, or if located on a lot south of and adjoining a lot that complies with the solar design standard.

Response: 90% of the subdivision lots in the residential development meet the solar design standards of this section. Lots 1 and 3 meet the Protected Solar Building Line option; lots 4, 5, 6, 7, 10, and 11 meet the Basic Design Option with a front lot line within 30-degrees of a true east/west axis and a minimum 90-foot lot depth. The Solar Access Plan, Sheet 5.0 in Exhibit C, illustrates solar access for parent lots.

2. Solar Balance Point.

a. Purpose. The purposes of this section are to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of

structures by trees. Decisions related to these provisions are intended to be ministerial and not subject to a public hearing and are to be processed as a part of the consideration of the minor development permit for the affected structures.

b. Applicability. This section applies to an application for a building permit for all structures in the R-7.5, R-10 and R-15 zones and all single-family detached structures in any zone, except to the extent the City Manager finds the applicant has shown that one or more of the conditions listed in LOC § 50.04.004.3, Exemption from the Maximum Shade Point Height Standard, and LOC § 50.04.004.4, Adjustments to the Maximum Shade Point Height Standards, exists, and exemptions or adjustments provided for therein are warranted. In addition, solar-unfriendly vegetation planted on lots subject to the provisions of LOC § 50.06.007.1.d, Protection from Future Shade, shall comply with the maximum shade point height standard. Solar plan procedures are located in LOC § 50.07.004.9.1^[1]

c. Maximum Shade Point Height Standard. The height of the shade point shall comply with either subsection 2.c.i or ii of this section.

i. Basic Requirement. The height of the shade point shall be less than or equal to the height specified in Table 50.06.007-1 or computed using the following formula. If necessary, interpolate between the five-ft. dimensions listed in Table 50.06.007-1.

TABLE 50.06.007-1: CALCULATION OF HEIGHT OF SHADE POINT	
H =	$\frac{(2 \times \text{SRL}) - N + 150}{5}$
Where:	
H = The maximum allowed height of the shade point.	
SRL = Shade reduction line (the distance between the shade point and the northern lot line); and	
N = The north-south lot dimension; provided, that a north-south lot dimension more than 90 ft. shall use a value of 90 ft. for this section.	

Provided, the maximum allowed height of the shade point may be increased one ft. above the amount calculated using the formula or Table 50.06.007-2 for each ft. that the average grade at the rear property line exceeds the average grade at the front property line.

TABLE 50.06.007-2: MAXIMUM PERMITTED SHADE POINT HEIGHT													
Distance to Shade Reduction Line from Northern Lot Line (in ft.)	North-South Lot Dimension (in ft.)												
	100+	95	90	85	80	75	70	65	60	55	50	45	40
70	40	40	40	41	42	43	44						
65	38	38	38	39	40	41	42	43					
60	36	36	36	37	38	39	40	41	42				
55	34	34	34	35	36	37	38	39	40	41			
50	32	32	32	33	34	35	36	37	38	39	40	41	42
45	30	30	30	31	32	33	34	35	36	37	38	39	40
40	28	28	28	29	30	31	32	33	34	35	36	37	38
35	26	26	26	27	28	29	30	31	32	33	34	35	36
30	24	24	24	25	26	27	28	29	30	31	32	33	34
25	22	22	22	23	24	25	26	27	28	29	30	31	32
20	20	20	20	21	22	23	24	25	26	27	28	29	30
15	18	18	18	19	20	21	22	23	24	25	26	27	28
10	16	16	16	17	18	19	20	21	22	23	24	25	26
5	14	14	14	15	16	17	18	19	20	21	22	23	24

ii. Performance Option. The proposed structure, or applicable solar-unfriendly vegetation, will shade not more than 20% of the south-facing glazing of existing habitable structure(s), or, where applicable,

the proposed structure or solar-unfriendly vegetation complies with LOC § 50.06.007.1.c.ii or iii. If the protected solar building line is used, solar-unfriendly trees and the shade point of structures shall be set back from the protected solar building line two and one-half ft. for every one ft. of height of the structure or of the mature height of solar-unfriendly vegetation over two ft.

d. Analysis of Allowed Shade on Solar Feature.

i. The applicant is exempt from this section if the lot(s) south of and adjoining the applicant's property is exempt from LOC § 50.06.007.2.c, Maximum Shade Point Height Standard.

ii. Applicants shall be encouraged to design and site a proposed habitable structure so that the lowest height of the solar feature(s) will not be shaded by buildings or solar-unfriendly trees on lot(s) to the south. The applicant shall complete the following calculation procedure to determine if the solar feature(s) of the proposed structure will be shaded. To start, the applicant shall choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:

- (1) Existing structure(s) or solar-unfriendly trees; or
- (2) The maximum shade that can be cast from future buildings or solar-unfriendly trees, based on Table 50.06.007-3. If the lot(s) to the south can be further divided, then the north-south dimension shall be assumed to be the minimum lot width required for a new lot in that zone.

TABLE 50.06.007-3: ADJACENT SHADE CALCULATION													
North-south lot dimension of adjacent lot(s) to the south (in ft.)	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed shade height (SH) at the north property line of adjacent lot(s) to the south (in ft.)	12	12	12	13	14	15	16	17	18	19	20	21	22

iii. The height of the lowest point of any solar feature of the proposed structure shall be calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.

iv. The applicant shall determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subsection 2.d.ii of this section by using the following formula or Table 50.06.007-4.

SFSH = SH - (SGL/2.5)											
Where:											
SFSH = The allowed shadow height on the solar feature.											
SH = The height of the shade at the northern lot line of lot(s) to the south as determined in LOC § 50.06.007.2.											
SGL = The solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south).											
Table 50.06.007-3 may be used to determine (SH) in the above formula.											
TABLE 50.06.007-4: MAXIMUM PERMITTED HEIGHT OF SHADOW AT SOLAR FEATURE											
Distance from Solar Gain Line to Lot Line (in ft.)	Allowed Shade Height (SH) at Northern Lot Line of Adjacent Lot(s) to the South (in ft.)										
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	1					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	
25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

v. If the allowed shade height on the solar feature calculated in subsection 2.d.iv of this section is higher than the lowest height of the solar feature calculated in subsection 2.d.iii of this section, the applicant shall be encouraged to consider any changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

e. Solar Balance Point. If a structure does not comply with the maximum shade point height standard in LOC § 50.06.007.2.c and the allowed shade on a solar feature standard in LOC § 50.06.007.2.d, then the solar balance point of the lot shall be calculated. The solar balance point is the point on the lot where a structure would be the same from complying with both of these standards.

f. Yard Setback Adjustment. A yard setback may be adjusted for solar access according to the provisions of LOC § 50.04.003.3.d, Solar Access Yard Setback Adjustment.

Response: The project is not proposing any lots to comply with solar balance point; hence this subsection is not applicable for this subdivision application.

50.06.008 Utilities, Street, sidewalks, and Other Public Infrastructure

1. Applicability.

All development that:

- a. For residential and nonresidential development: Requires connection to utilities or connection to utilities is elected; or
- b. For residential development: Increases residential density by additional dwelling units or creates lots by land division or lot line adjustment, or street/sidewalk (pathway) or other public infrastructure is required or elected.

Exception: Residential density not applicable when the additional density is limited to either one detached dwelling unit on a vacant lot, an accessory dwelling unit or a duplex on an existing lot, or middle housing created through the addition to, or conversion of, an existing detached single-family dwelling. "Conversion" means a remodel of an existing single-family dwelling that creates middle housing but does not involve "demolition" as defined in LOC § 45.12.100.

Response: This is a residential subdivision proposal and provisions of this section will apply.

2. Development Review.

The review procedures are located in LOC § 50.07.004.11, Utilities; Streets/Sidewalks (Pathways) and Other Public Infrastructure.

3. Standards for Approval.

a. Dedication Required. Dedication of easements or right-of-way for utilities, streets/sidewalks (pathways) and other public infrastructure, and associated and related facilities, shall be provided by the property owner. See subsection 3.d.ii of this section for additional dedication requirements relating to streets/sidewalks (pathways) and other public infrastructure.

b. Designs and Specifications Required.

i. Source of Design and Specifications. All designs and construction specifications shall be prepared by a registered engineer, unless waived by the City Engineer or Public Works Director, in which case the applicant shall comply with the City's design plans, specifications and details. The City's design plans and specifications on file with the Engineering Department and Public Works Department include:

- (1) Design standards within Transportation System Plan and Comprehensive Plan.
- (2) LOC Chapters 42 and 50 and Article 38.25.
- (3) Engineering design standards, or other Engineering and Public Works Departments plans, specifications (including technical specifications and standard details) and policies.
- (4) Rules and regulations of the Public Utility Commissioner of the state relating to the installation and safety of underground lines, plant, system, equipment and apparatus.

(5) Other applicable standards.

Response: Utilities, streets, sidewalks and other required public infrastructure will be designed according to the specifications of LOC chapter 42, 50 and 38.25. Street and sidewalk connectivity will also comply with the Circulation and Connectivity standards of LOC 50.06.003 as discussed earlier in this report. See Preliminary Sewer, Storm Drainage and Water Plans, Sheets 11.0 through 13.0 in Exhibit C, for the review of this application.

ii. Sanitary Sewer.

(1) Design shall take into account the capacity and grade to allow for future extension beyond the development and, where required by the City Manager, shall be extended to the upstream property line to allow for such future extension unless waived by the City Manager upon a finding that future extension is not likely to occur because of topography, existing development patterns, sensitive lands, or other barriers to extension.

(2) Sanitary sewers shall be designed to serve the development and to connect the development to existing mains.

(3) Upsize inadequate sewer lines when needed for adequate sewage flow from the development per accepted engineering standards.

(4) All sanitary sewer designs shall include appurtenant structures, such as:

- (a) Pipe size and materials;
- (b) Manholes;
- (c) Cleanouts;
- (d) Backfill requirements;
- (e) Service laterals.

Response: The proposed sanitary sewer system will be designed in compliance with all applicable standards. It will be constructed to accommodate the capacity and grade necessary for future extension beyond the development if applicable. The system will connect to existing mains and will be designed to serve the entire development efficiently. Where necessary, existing sewer lines will be upsized to ensure adequate flow in accordance with accepted engineering practices. See Preliminary Sewer Plan, Sheet 11.0 in Exhibit C, for the review of this application.

iii. Water System.

(1) Design shall provide for extension beyond the development to adequately grid or loop the City system unless waived by the City Manager upon a finding that gridding or looping is not feasible because of topography, existing development patterns, sensitive lands, or other barriers.

(2) Design shall include materials, size and location of water mains, service lines, valves and hydrants. Hydrants shall be located as required by the Oregon Fire Code.

(3) Upsize inadequate water lines when needed for adequate water flow to the development per accepted engineering standards.

Response: The proposed water system will be designed to meet all applicable standards. It will include provisions for extension beyond the development to ensure proper gridding or looping of the City's water system if applicable. The design specifies necessary components, including locations for water mains, service lines, valves, and hydrants, with hydrant placement in accordance with the Oregon Fire Code. Where existing water lines are inadequate, they will be upsized to ensure sufficient water flow for the development. See Preliminary Water Plan, Sheet 13.0 in Exhibit C for the review of this application.

iv. Streets, Sidewalks (Pathways) and Other Street Public Infrastructure. Design streets, sidewalks (pathways) and other street public infrastructure in accordance with subsection 3.b.i of this section:

- (1) Any special pedestrian ways and bicycle paths;
- (2) Street name signs;
- (3) Traffic control signs and devices;
- (4) Street lights, which shall be served from a source of power; and
- (5) Streets, sidewalks (pathways), curb and gutters or other street improvements.

Where sidewalks (pathways), and curbs and gutters or other street improvements (e.g., gravel shoulders, drainage swales) are required, they shall be designed to be on the site's frontage that abuts the street(s), or across the street from the site if City Public Facility Master Plans direct that they be across the street from the development.

v. **Additional Public Infrastructure.** Additional or alternative public infrastructure shall be designed in accordance with applicable plans and specifications referenced in subsection 3.b.i. of this section.

Response: Proposed local street, sidewalks and pathways will be designed in accordance with Chapter 42 Street Design Standards. Compliance with the street design standard is detailed under Section VIII Chapter 42 later in this report.

c. **Utilities Required.** The following utilities, whether on or off site, are required when this standard is applicable per subsection 1.a of this section:

i. **Sanitary Sewer Systems.** Sanitary sewers shall be installed to serve the development and to connect the development to existing mains.

ii. **Water Distribution Systems.**

(1) All development shall be served by service lines, main water lines, valves and fire hydrants which are connected to City mains or the water mains of water districts which provide service within the City.

(2) One water service line shall be provided to each lot in a development. Each structure with plumbing shall connect to the water system. The system shall be designed to supply fire flow requirements of LOC Chapter 45.

iii. **Underground Utility and Service Facilities, as Required.** Utility easement widths shall be to the satisfaction of the franchise utility companies. For City utilities, the utility easements shall be a minimum of 15 ft. (seven and one-half ft. on each side) in width on easements not adjacent to a street right-of-way per LOC § 42.18.1030(1)(c), unless otherwise approved by the City Engineer. A greater width is required when necessary to facilitate utility installation and maintenance, as determined by the City Manager.

Response: The residential development will be served by existing, upgraded and improved water and sewer system as required by the City of Lake Oswego codes. Utilities will be undergrounded as applicable. See Preliminary Water Plan, Sheet 13.0 in Exhibit C, for the review of this application.

d. **Streets, Sidewalks (Pathways) and Other Street Public Infrastructure; Additional Public Infrastructure.**

i. The following streets, sidewalks (pathways), other street public infrastructure, and additional public infrastructure shall be installed, when required by City codes or plans referenced in subsection 3.b.i of this section, whether on or off site, or when this standard is applicable per either subsection 1.b or 1.c of this section:

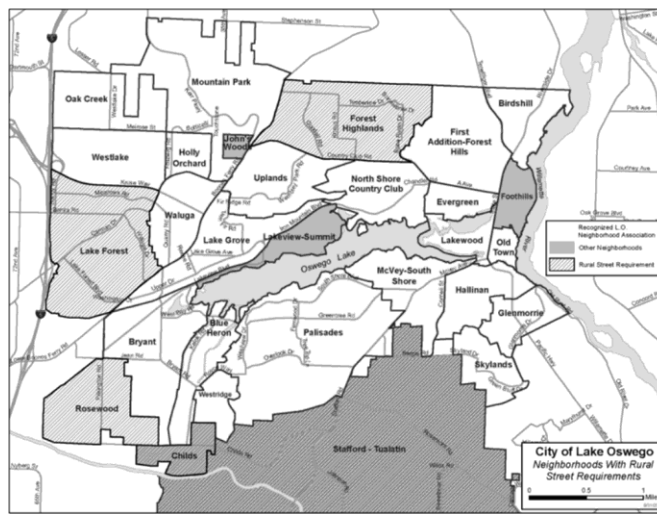
- (1) Any special pedestrian ways and bicycle paths;
- (2) Street name signs;
- (3) Traffic control signs and devices;
- (4) Street lights, which shall be served from a source of power; and
- (5) Streets, sidewalks (pathways), curb and gutters or other street improvements (e.g., gravel shoulders, drainage swales).
- (6) Additional public infrastructure.

ii. **Additional Street Right-of-Way Dedication Requirements.** If existing rights-of-way for streets contiguous to the property are not adequate in width to meet the referenced standards in subsection

3.b.i of this section, the applicant shall dedicate right-of-way sufficient to allow streets that are adequate in width and that connect to existing public streets and sidewalks/pathways and related public infrastructure.

Dedication of the minimum right-of-way is that required for the minimum width necessary as provided in the referenced plans and specifications in subsection 3.b.i of this section for streets where the City is the road authority. For streets where another governmental entity is responsible for the design and construction standards of a street, e.g., road authority per ORS 810.010 or county authority over county roads per ORS 368.016, then dedication to the minimum width is that required by the applicable governmental standards.

Urbanizing Rural Fringe and Transition Neighborhoods [1]



iii. **Street Paving.** Streets shall be designed and pavement installed from the continuation of the roadway centerline out to the applicable stated distance as provided in the relevant plans and specifications.

Response: The proposed development will provide improved public right of way for access within and beyond the development.

Special street setback along Stafford Road as required under 50.04.002 will be dedicated with the proposed development. The applicant will coordinate with Clackamas County for the design and improvement of Stafford Road along the site frontage as applicable. Streets will be designed and paved from the continuation of the roadway centerline out to the applicable stated distance as provided in the Street Plan, Sheet 7.0 in Exhibit C. Streetlights are proposed within the subdivision as shown in the Lighting Sheets attached as Exhibit K.

e. City Engineer Reduction or Elimination. The City Engineer may reduce or eliminate the specific utilities, streets/sidewalks or other public infrastructure requirements of this subsection 3 upon a finding that:

- i. Existing infrastructure meets the standard;
- ii. It is not the appropriate time to connect the required utilities, streets/sidewalks or other public infrastructure with other nearby utilities, streets/sidewalks or other public infrastructure. In that event, the owner shall execute and record a covenant that the owner shall construct the specific utilities, streets/sidewalks or other public infrastructure upon notice by the City Manager, or if permitted by the City Manager, in lieu of a covenant, the owner shall execute a waiver of remonstrance for the formation of a local improvement district for said utilities, streets/sidewalks or other public infrastructure; or
- iii. The required utilities, streets/sidewalks (pathways) and other public infrastructure must be reduced because the requirement would exceed the rough proportionality legally permissible, considering the factors listed in subsection 7.b of this section, to the extent stated in subsection 7.c of this section.

Response: The applicant will adhere to the utility, street and sidewalk improvement requirements as specified by the city engineer at the time of construction permit.

4. Standards for Construction.

- a. Utility construction within easements shall minimize disturbance to existing conditions, especially trees and other vegetation.
- b. Any disturbed areas within easements shall be restored to a condition similar to the condition prior to construction, including the replacement of plants of similar species as those removed or damaged. Replacement trees shall be of similar species and be a minimum of one and one-half in. caliper.
- c. Utilities to the development and existing utilities along the development's street frontage shall be installed underground unless exempted by the City Manager for any of the following reasons:
 - i. Developments which need multiphase voltages or high kilo volt amperes (kVA) demands may develop with pad transformers where underground transformers are not feasible. Padmounted transformers shall be buffered from sight by landscaping or other suitable methods.
 - ii. Pad-mounted transformers are allowed in subdivisions, but shall be buffered from sight by landscaping or other suitable methods.
 - iii. Above ground telephone and cable television junction boxes are allowed.
 - iv. Accessory Dwelling Units (ADUs). No undergrounding of existing or new utilities along street frontages is required. Undergrounding of new on-site utilities is required for ADUs that add floor area.
 - v. Remodel of Structures. No undergrounding of existing or new utilities along street frontages is required. Undergrounding of new on-site utilities is required for building additions that add floor area.
 - vi. Land Division in Residential Zone. If the parcel of land that is the subject of a land division ("parent parcel") is less than four times the minimum lot area for the residential zone (regardless of the actual number of lots created by the land division), existing utilities along the street frontage are exempt, but new utilities to development within the area of the parent parcel shall be installed underground.
 - vii. Deferred Undergrounding. Any requirement to underground existing utilities along the street frontage ("street frontage" applies to both sides of a street) of a development may be deferred by the City Manager upon finding that undergrounding of utilities is not practicable at the time. In lieu of then undergrounding, the owner shall execute a covenant, approved by the City Attorney, and recorded in the official records of the county where the real property is located, binding upon the lots created by the land division of the parent parcel in any zone, and any later land divisions of those lots:
 - (1) Waiving the right to remonstrate regarding the formation of a local improvement district to underground utilities; and
 - (2) Obligating the owner(s) to underground existing utilities along the frontage of the parent parcel when the City Manager determines that it is practicable to underground the frontage utilities. The covenant shall provide that the cost of undergrounding is a joint and several obligation of the owner(s), and shall provide for the right of any owner to perform the undergrounding and to lien the other properties for the cost. If the owner(s) fail to perform the undergrounding as required, the City shall have the right to undertake the undergrounding and to lien all properties jointly and severally for the cost of the undergrounding, including an additional 20% for administrative cost.
- d. Sanitary Sewers. Capacity, grade and materials shall be as approved by the City Manager. Minimum size shall be eight in. diameter with six in. diameter allowed at the terminus of a sewer line.
- e. Service Laterals. One service lateral shall be provided to each lot.
- f. All facilities described in this section shall be constructed in compliance with the rules and regulations of the City Manager.

Response: The applicant will underground the utilities where applicable and required. Utility construction within easements will be avoided to minimize disturbance to existing conditions when applicable. Street frontage improvement will be in compliance with the requirements of this codes as applicable.

6. Cost of Improvements.

The cost of all utility, street/sidewalks (pathway) and other public infrastructure improvements shall be borne by the developer.

Response: The applicant/developer will provide all the utility improvements and upgrades for the proposed subdivision.

7. Limitation to Requirement to Design and Install Required Utilities; Streets/Sidewalks (Pathways) and Other Public Infrastructure.

a. Application for Limitation. If the applicant asserts that the required utilities, streets/sidewalks (pathways) and other public infrastructure cannot legally be required, as a requirement or condition of structural permit or development review approval, to provide dedications or improvements at the level otherwise required by this section, then the applicant shall file a minor development application to seek a limitation on the requirement for installation of utilities, streets/sidewalks (pathways) and other public infrastructure;

Response: The applicant will adhere to the utility requirements of this section as applicable to the development.

b. Rough Proportionality Report. In addition to the requirements for a minor development application per LOC § 50.07.003.1 and .14, the structural permit or development review application shall include a rough proportionality report, prepared by a qualified civil or traffic engineer, as appropriate, showing:

- i. The estimated extent, on a quantitative basis, to which the improvements will be used by persons served by the building or development, whether the use is for safety or for convenience;
- ii. The estimated level, on a quantitative basis, of improvements needed to meet the estimated extent of use by persons served by the building or development;
- iii. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the improvements will be a part;
- iv. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system; and

Response: A Traffic Impact Analysis (TIA) report prepared by a certified engineer is included with this application as Exhibit J. The TIA identifies existing transportation infrastructure around the site, trip generation for the proposed development, capacity analysis and impact on level of services at nearby intersections and recommended mitigation measures that will determine the improvements needed for the proposed development.

c. Amount of Limitation. If the reviewing authority concludes that the required utilities, streets/sidewalks (pathways) and other public infrastructure must be limited because the requirement would exceed the rough proportionality legally permissible, the applicant shall, instead, be required to provide dedications and improvements on site or off site that are roughly proportional to what is needed to mitigate the impacts of the building, structure or development upon the public infrastructure system, and for the convenience of persons served by the building, structure, or development.

Response: The applicant will provide utility improvements as required under this section.

50.06.010 Maintenance and Operation.

1. Applicability.

This section identifies how various property and improvement requirements need to be maintained and/or operated following construction.

2. Landscape Materials Standards for Maintenance.

All landscape materials shall be guaranteed by the owner for a period of one 12-month growing season from the date of installation. Security in the amount of 5% of the total landscaping cost shall be provided to ensure

necessary replacement. A schedule of continuing maintenance of plantings shall be submitted and approved for industrial, multi-family, major public facilities, and commercial developments.

3. Fences and Walls Standards for Maintenance.

Fences, exterior side of walls, and retaining walls shall be maintained in sound condition and good repair at all times.

4. Stormwater Detention and Retention Areas Standards for Maintenance.

All stormwater detention or retention areas shall be maintained and operated per LOC Art. 38.25.

5. Driveways That Serve as Fire Lanes Standards for Maintenance.

Driveways that serve as fire lanes shall be maintained in a state of good repair and free of obstruction for their entire length and width. They shall also be kept free of overhead obstructions for a vertical clearance of 13-1/2 ft.

6. Walkways, Bikeways, and Accessways Standards for Maintenance.

Maintenance of walkways, bikeways or accessways shall be the responsibility of the owner or owners of the land abutting or through which the way passes. If the maintenance is proposed to be by an association or other entity, the maintenance agreement or bylaws, as the case may be, shall be subject to the review and approval by the City.

Response: All the proposed utilities, landscape improvements, fences, stormwater facility, driveways serving as fire lanes, pedestrian and bicycle paths, will be maintained as per the requirement of this section and operational following the construction of these improvements.

LOC 50.07 Review and Approval Procedure

50.07.003 Review Procedures.

1. Application.

a. Application for Development.

i. Forms and Information. An application for a ministerial, minor, or major development shall be made on such forms and contain such information as the City Manager may require. If a railroad-highway crossing provides or will provide the only access to land that is the subject of the application, the applicant shall indicate that fact in the application.

ii. Unified Site Plan. All development in the R-0, R-2, R-3, R-W, CI and any PF or commercial zones and attached development in the R-5 zones will be developed under a unified site plan. The site plan will identify circulation patterns and access points, parking, method of provision of public services and general placement of lots and structures, and general area and type of uses. Proposals with multiple ownerships shall include a written agreement of all owners that development of the site will occur pursuant to the site plan approved.

iii. Traffic Impact Study (TIS) Required.

(1) The purpose of a traffic impact study is to:

(a) Ensure that the existing and proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic expected to be generated by the proposed development;

(b) Protect future operations and safety of transportation facilities and major transit corridors, and implement the Comprehensive Plan and Transportation System Plan.

(2) The City Engineer shall require a traffic impact study when any of the following conditions are met:

- (a) The proposed development or site modification will generate at least 25 trips in the roadway peak hour traffic period or at least 250 daily trips, prior to applying trip reduction factors; or
- (b) The site is subject to a Zoning Map or text amendment or Comprehensive Plan or Map amendment that increases the intensity (potential vehicle trip generation) of allowed uses; or
- (c) The daily use of the property increases by ten or more vehicles with a gross vehicle weight rating of 26,000 pounds or greater; or
- (d) The traffic generated by a proposed development will result in a traffic volume increase that could potentially change the functional classification of an existing or planned transportation facility (e.g., traffic volume exceeds local street classification; or
- (e) The City Engineer finds:

- (i) The City or other roadway authority has documented traffic safety or operations concerns within the study area, such as frequent crashes, poor roadway alignment, limited sight distance; or
- (ii) Existing level of service of a nearby intersection is at or below LOS "D"; or
- (iii) A proposed development is expected to alter traffic patterns on a local street or neighborhood collector within one-half mile of the subject lot such that access to individual properties or traffic safety is adversely impacted; or
- (iv) The site lies within one-quarter mile of the ramp terminal of an interstate freeway, as traveled along roadways.

(3) The traffic impact study shall be conducted by a registered Oregon civil or traffic engineer with special training and experience in transportation analysis and planning, and shall either follow the TIS guidelines, approved by the City Engineer, or provide justification from a registered traffic engineer as to why the TIS guidelines should not be followed in that instance. The City Engineer shall issue TIS guidelines, which at a minimum shall address:

- (a) Identification of the study area;
- (b) Analysis of existing transportation conditions, including, as applicable, level of service and safety deficiencies, if any, on transportation facilities within the study area;
- (c) Future conditions (trip generation and trip distribution) for the proposed development;
- (d) Projected levels of service on intersections within the study area;
- (e) Analysis of impacts from projected traffic on applicable surface modes of travel (vehicular, freight, bicycle, pedestrian, and transit), including as applicable level of service, safety, and capacity for streets within the study area;
- (f) A recommendation of necessary transportation improvements or other measures to mitigate deficiencies identified by the TIS and ensure a Level of Service "E" or better at peak hour traffic period for intersections within the study area, after the future traffic impacts generated by the development are considered.

The applicant's engineer shall certify the TIS by providing a signature and engineer stamp or seal.

Response: This is minor development application for a residential subdivision. A signed land use application attached as Exhibit A is included in this application package. A Traffic Impact Analysis (TIA) report prepared by a certified engineer is included for review as Exhibit J. The TIA provides analysis of existing and future traffic conditions, level of service evaluations, and recommendations for necessary transportation improvements to maintain or improve traffic flow and safety in the study area. The applicant is committed to full compliance with the City's development review process and will coordinate with City staff as needed to ensure all application requirements are satisfied.

b. Burden of Proof. The applicant for a development permit shall bear the burden of proof that their application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval.

c. Method of Application/Authority to Reject Applications.

- i. An application for a development permit shall be filed with the City Manager. The City Manager may charge an application fee to process a development permit application.
- ii. The City Manager may decline to accept an application that, on its face, has not completed any one or more of the procedural requirements:

- (1) Pre-application conference, when required by this Code or as required by the City Manager, pursuant to LOC § 50.07.003.1.e;
- (2) Neighborhood contact and notice, when required by LOC § 50.07.003.1.f;
- (3) Payment of the filing fee, as required by this section.
- (4) Failure of the applicant to sign the application, or when the applicant is not the owner of the subject property, failure of the owner of the subject property to either sign the application or for the applicant to include the owner's signed authorization for the applicant to file the application.

d. Signature on Application. The applicant shall sign the application. If the applicant is not the owner of the property subject to the development application, the property owner shall authorize the application in writing before the City Manager may accept the application for review. For the purposes of this section, "owner" includes a public body or public agency with authority to exercise the power of eminent domain.

Response: The applicant acknowledges their responsibility to demonstrate compliance with all applicable review criteria and will provide supporting documentation accordingly. A signed application form is included as Exhibit A. Three pre-application meetings under application number PA 24-0054 with the city have been completed for the proposed project. Planning staff comments received at these pre-application meetings are included as Exhibit T for reference. A formal neighborhood meeting was scheduled on April 9, 2025, at the project site which was well attended by the neighboring community members. Neighborhood meeting materials are attached as Exhibit F.

e. Pre-Application Conference.

- i. A pre-application conference with the City Manager is required for:

- (1) Minor and major development permit applications; and
- (2) Ministerial permit applications:

(a) For any type of accessory dwelling unit (ADU) that is not a conversion of existing floor area (including the garage floor area) in a primary structure. An ADU created by an addition to a primary structure is not a conversion. An ADU that is located in an accessory structure is not a conversion; and

(b) Resource enhancement projects that involve work within a stream or wetland other than removal of invasive species and planting of vegetation.

Exception: Exterior paint color review on non historic buildings; modifications to an approved development permit where there is no increase in the intensity of the use and no new building permit would result; City projects to construct a non habitable structure not abutting a residential property; and minor variance to the fence standards when proposed to resolve a code enforcement citation.

Pre-application conferences must be scheduled by the applicant prior to submitting an application for development or prior to submitting for a building permit for an ADU that is not a conversion

- ii. A pre-application conference is not required for ministerial applications except for accessory dwelling units as required in subsection 1.e.i of this section, but may be scheduled at the request of the applicant or when required by the City Manager.

- iii. The purpose of the pre-application conference is to discuss the proposal, the applicable criteria and the requirements for completing an application. A copy of an adopted neighborhood plan shall also be provided to the applicant, regardless whether its provisions constitute criteria for the proposed development or not. An applicant may request one or more additional pre-application conferences in order to discuss any changes in the applicable criteria and application requirements that may occur

between the date of the pre-application conference and the filing of the development permit application.

iv. The development permit application must be filed within one year from the date of the preapplication conference; if the development permit application is not filed within one year, a new pre-application conference is required unless the applicant requests and the City Manager approves a waiver of the additional pre-application conference.

Response: Three pre-application meetings under application number PA 24-0054 with the city have been completed for the proposed project. Planning staff comments received at these pre-application meetings are included as Exhibit T for reference.

f. **Neighborhood Contact and Notice Required for Certain Applications.** Following a pre-application conference, and prior to submittal of an application, the applicant shall contact and discuss the proposed development with any affected neighborhood for the following development applications:

- A partition, subdivision, or a major development, or
- Any other development permit if the City Manager deems neighborhood contact to be beneficial.

i. **Purpose.** The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. This contact is intended to result in a better application and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.

The City recognizes that potential impacts of development, such as stormwater runoff, traffic, noise or impacts on natural resources, may affect not only the area immediately surrounding the site of the proposed development, but the neighborhood in which the site is located, and adjacent neighborhoods.

ii. **Selecting Date, Time, and Location of Neighborhood Meeting.** In establishing the date, time and location of the meeting with the neighbors and with the neighborhoods.

(1) **Procedure.** The applicant shall follow the applicable procedures in subsections 1.f.ii(1)(a)(i) and (ii) of this section.

(a) **Required Organizations.**

(i) **Recognized Neighborhood Association.** Where the proposed development is within the boundaries of a recognized neighborhood association, the applicant shall provide the chair of the neighborhood association in which the site proposed for development is predominantly located three alternative meeting options (on three different days, with at least seven days between the first and the last date proposed).

(ii) **County Community Planning Organizations (CPOs).** Where the proposed development is within the boundaries of a County-recognized CPO, or equivalent, the applicant shall provide the chair of the County CPO in which the site proposed for development is predominantly located three alternative meeting options (on three different days, with at least seven days between the first and the last date proposed).

(iii) **Homeowners Association.** Where the proposed development is not within the boundaries of a recognized neighborhood association or County CPO, but is within the boundaries of a homeowners association registered with the Oregon Secretary of State, Corporation Division, the applicant shall provide the chair, president or registered agent of the homeowners association (according to the records of the Oregon Secretary of State) three alternative meeting options (on three different days, with at least seven days between the first and the last date proposed).

(iv) **Other.** Where the proposed development is not within the boundaries of a recognized neighborhood association, County CPO, or registered homeowners association, the applicant shall provide the neighborhood chair of the recognized neighborhood association closest to the site proposed for development with the three alternative dates (on three different days, with at least seven days between the first and the last date proposed).

The chair of the recognized neighborhood association or County CPO, or chair, president, or registered agent of the homeowners association, as provided above in subsections 1.f.ii(i), (ii) and (iii) of this section, shall choose from the three alternatives within seven days of either the date the applicant mailed the request to establish the date and time of the neighborhood contact meeting or upon personal receipt of the written or oral request, whichever is earlier. If the chair, president, or registered agent, as applicable, fails to select the date and time of the meeting within the seven-day period, the applicant may establish the date and time of the meeting from one of the proposed alternatives

(b) Date, Time, and Location. Unless approved by the chair of a recognized neighborhood association:

- (i) The meeting shall not be held on a legal holiday or the day before, as defined in ORS 187.010 (Sundays and listed holidays are "legal holidays").
- (ii) The meeting shall be scheduled to commence during the evening between 6:00 and 8:00 p.m. not less than 20 days from the date of mailing of the notice.
- (iii) The meeting shall be held at a location open to the public within the boundaries of the association, County CPO, or homeowners association, as applicable under subsection 1.f.ii(1)(a)(i) and (ii) of this section, in which the proposed development is predominately located or at a public facility within the City of Lake Oswego.
- (iv) If the meeting is held at a private residence or business, it shall be posted at the time of the meeting at the meeting place and shall note that the meeting is open to the public and all interested persons may attend, or if approved by the chair of the recognized neighborhood association, may be held via an online meeting platform.

Response: The applicant conducted a neighborhood meeting for the proposed development on April 9th, 2025, following all the procedural standards of the neighborhood meeting required under this section. A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

iii. Notice to Neighborhoods, Property Owners and Residents of Neighborhood Meeting.

(1) The applicant shall contact by letter:

- (a) All recognized neighborhood associations whose boundaries contain all or part of the site of the proposed development;
- (b) All recognized neighborhood associations that are adjacent to those neighborhood(s) described in subsection 1.f.iii(1)(a) of this section; and
- (c) All property owners within 300 ft. of the site; provided, however, if there are less than 50 properties (excluding City-owned properties) within 300 ft. of the boundaries of the site, the notice area pursuant to this subsection shall be expanded, by ten-ft. increments outward from the 300-ft. boundary, until at least 50 properties (excluding City-owned properties) are included in the notice area.

(2) The letter shall briefly describe the nature and location of the proposed development, and invite the associations and interested persons to a meeting to discuss the proposal in more detail.

(3) On the same date the letters described above are mailed, the applicant shall provide and post notice on the property subject to the proposed application. The notice shall be posted at a location visible from the public right-of-way. The notice shall state that the site may be subject to a proposed development (e.g., partition, subdivision, major development, or as otherwise required by the City Manager) and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the meeting.

Response: The applicant notified all the neighborhood association members; property owners and residents by first class mail about the scheduled neighborhood meeting. A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

iv. Manner of Providing Letter Notice of Neighborhood Meeting.

(1) Mailed Notice. The letters required by subsection 1.f.iii(1) of this section shall be sent as follows:

(a) For recognized neighborhood associations:

(i) By first class mail, and electronic mail if provided, to the chairs of the neighborhood associations, County CPO, or homeowners association; and

(ii) By first class mail to the other officers of the recognized neighborhood associations; and

(b) For property owners, by first class mail. The names and mailing addresses of the property owners shall be as shown by the most recent property tax assessment roll.

Response: The applicant notified all the neighborhood association members; property owners and residents by first class mail about the scheduled neighborhood meeting. A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

v. Recording the Neighborhood Meeting. The neighborhood associations, the applicant, and any interested person shall have the option of audiotaping the meeting. However, it is not a requirement that the meeting be audiotaped.

Response: Detailed neighborhood meeting minutes were recorded by the applicant that were later shared with the neighborhood association chairs through email and mail. A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

vi. Applicant's Presentation at Neighborhood Meeting. The applicant shall provide details in the neighborhood meeting that convey the appearance (materials and colors), site design, density, natural resources protection areas, arrangement of uses, access and other relevant visual information that would be included in a complete application for the type of development proposed.

Response: The applicant shared the project proposal with the neighborhood members at the meeting through a PowerPoint presentation and printed copies of the proposal. A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

vii. Meeting Minutes/Neighborhood Association Concerns.

(1) The applicant shall prepare minutes of the neighborhood meeting. The minutes shall contain a record of any verbal comments made at the meeting.

(2) The applicant shall send a copy of the written minutes of the neighborhood meeting to the respective neighborhood association chairs that received notice of the meeting pursuant to subsections 1.f.iii(1)(a) and (b) of this section, and, if applicable, pursuant to subsections 1.f.ii(1)(a)(ii)

and (iii) of this section, the chair of the County CPO, or chair, president, or registered agent of the homeowners association, within 14 days following the meeting.

(3) Each neighborhood association chair, chair of the County CPO, or chair, president, or registered agent of the homeowners association, as applicable, or representative thereof, shall submit a list of the respective neighborhood's concerns, if any, to the City and the applicant within 14 days following the mailing of the minutes by the applicant to the neighborhood association chair or the chair's designated representative.

(4) The neighborhood association chairs, chair of the County CPO, or chair, president, or registered agent of the homeowners association, as applicable, shall be allowed to supplement the record with any additional comments regarding the content of the meeting, as long as such comments are filed before the record is closed.

Response: Detailed neighborhood meeting minutes were recorded by the applicant that was later shared with the neighborhood association chairs through email and mail. Response received from the neighborhood association chair member is included in the neighborhood meeting package for reference. The applicant also provided detailed feedback on this response to the chair member. A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

viii. Applicant's Documents Filed with Application. An application shall not be accepted for filing unless and until the applicant demonstrates compliance with this section by including with the application:

- (1) A copy of the letter to the chairs of the recognized neighborhood associations, County CPO, or homeowners association;
- (2) A copy of the letter to officers of the associations and to property owners and residents pursuant to subsection 1.f.iv of this section, including an affidavit of mailing and a copy of the mailing list containing the names and addresses of such owners and residents;
- (3) A copy of the required posted notice, along with an affidavit of posting;
- (4) A copy of the minutes of the meetings, and copies of any written comments from property owners, residents, and neighborhood association members; and
- (5) A copy of the materials that were presented at the neighborhood association meeting.

Response: A complete neighborhood meeting package is attached as Exhibit F for reference that includes all the meeting materials that are required to satisfy the requirement of a neighborhood contact for the proposed minor development application.

g. Determination of Completeness.

i. The purpose of this subsection and subsections 1.g.ii and iii of this section is to codify the statutory maximum review period in the applicable ORS 197.311 (Final Action on Application for Certain Residential Developments Required Within 100 Days) or 227.178 (Final Action on Certain Applications Required Within 120 Days) (referred to herein as the "Maximum Review Period Rule"). In the event of a difference in procedure for determining when an application is complete, the provisions of then ORS 197.311 or 227.178 shall supersede any inconsistent provisions of this subsection and subsections 1.g.ii and iii of this section. This subsection and subsections 1.g.ii and iii of this section are applicable only to those minor and major development applications that are subject to the requirements of the Maximum Review Period Rules under state law. The City Manager shall review the application and determine whether it is complete. The City Manager shall mail a written notice of such determination within 30 days of the date of filing of the application. If the City Manager determines that the application is incomplete, the City Manager shall inform the applicant in the written notice of the additional information necessary to make the application complete. The application shall be complete at such time as:

- (1) All of the missing information is submitted;
- (2) Some of the missing information is submitted and written notice from the applicant that no other information will be provided; or
- (3) Written notice from the applicant is submitted that none of the missing information will be provided. The applicant shall have 180 days to complete the application. If the City Manager fails to mail notice of the determination within 30 days from the date of filing of an application, the application shall be deemed complete on the 31st day following filing of the application for the purposes of the applicable Maximum Review Period Rules.

ii. When the City Manager determines the application is complete, the City Manager shall inform the applicant of the completeness by mail. A copy of the completeness letter shall also be mailed to the affected neighborhood associations identified in LOC § 50.07.003.1.f.iii(1)(a) and (b). Within ten days of the mailing of the notice of completeness to the respective neighborhood associations, the chair, or the chair's representative, of any of the noticed neighborhood associations may request a meeting with the City Manager to discuss the application. The purpose of this meeting is to identify issues. No evidence or argument presented at this meeting shall be deemed to be made part of the record; any evidence or argument shall be submitted in the manner required by LOC § 50.07.003.3, Public Notice/ Opportunity for Public Comment, or LOC § 50.07.003.15.b.i, and LOC § 50.07.003.4.a, Conduct of the Hearing. If a meeting is requested, the applicant shall be notified of the meeting and invited to attend the meeting.

iii. A final decision on an application, including resolution of all appeals, shall be rendered within the applicable Maximum Review Period Rules after the application is deemed complete pursuant to ORS 197.311 or 227.178.

iv. Nothing in this section shall be deemed to be a limitation on the City's ability to render a final decision on a land use application after the expiration of the applicable Maximum Review Period Rule.

Response: The applicant acknowledges and agrees to the City's completeness review process in accordance with ORS 197.311 and 227.178 (the Maximum Review Period Rules). The applicant will respond promptly to any City Manager request for additional information and understands that the application will be deemed complete upon submission of all required materials. The applicant is committed to timely and cooperative participation throughout the review process.

h. Extensions or Continuances.

i. Extension to File Completed Application. No extension or continuance is available to file a completed application, per ORS 227.178(3, 4).

ii. Extension to Complete Review and Decision on Application. The applicant for a major or minor development may request in writing a specified period of time for a continuance of review of a complete application. A request for an extension or continuance shall be deemed a waiver of the applicable Maximum Review Period Rule deadline contained in ORS 227.178 for the period of the extension or continuance, and for any additional time required for rescheduling or renoticing review proceedings. The total of all extensions for review of a complete application may not exceed 245 days.

i. Withdrawing an Application. An applicant may withdraw an application at any time prior to adoption of a final City decision on the application. Proceedings on the application shall terminate as of the date of withdrawal. The City Manager may refund all or part of the application fee, depending on how much staff work had been completed at the time of withdrawal.

j. Modification of Pending Application.

i. Modifications of a pending application shall be considered under the standards in effect at the time the application was filed, if the modification:

- (1) Does not increase the amount of required parking, square footage, or the number of dwelling units; or
- (2) Does not change the form of a structure.

- ii. Any modification that does not comply with subsection 1.j.i of this section shall be considered a new application.

Response: The applicant agrees to the extension period for the application if needed. Withdrawing or modification of this application will be according to the provisions of this section.

2. Fees and Deposits.

- a. The City may charge fees and deposits for applications, plan reviews, inspections, interpretations, appeals, or any other action pursuant to this Code. Such fees shall be established by resolution of the City Council. The City Manager shall review application fees annually and shall recommend proposed fees and fee changes to the Council.
- b. The filing fee requirement shall not apply to appeals filed by the Oregon State Department of Land Conservation and Development or to appeals filed by recognized neighborhood associations entitled to receive notice of a pre-application neighborhood meeting.

Response: The applicant will pay the applicable fee for the review of the proposed Minor Development application at the time of submittal.

3. Public Notice/Opportunity for Public Comment.

- a. Written and Posted Notice for Minor Development. Prior to making a final decision on a minor development permit application, notice of the opportunity to comment upon an application and, if applicable, the date of a public hearing upon the application shall be given as follows:
 - i. Notice to Property Owners. The City Manager shall provide written notice to property owners within 300 ft. of the entire contiguous site for which the application is made. Except for residential infill design review (RID) applications, if there are fewer than 50 properties (excluding City-owned properties) within 300 ft. of the site, the notice area shall be expanded by ten-ft. increments outward from the 300-ft. boundary until at least 50 properties (excluding City-owned properties) are included in the notice area. The list shall be compiled from the most recent property tax assessment roll.

Response: The applicant agrees to the notice requirement for this application. The city will provide written notice for a public hearing as required under this section.

- ii. Notice to Neighborhood Associations. Written notice shall also be sent to:

- (1) Any recognized neighborhood association(s) whose boundaries either contain part or all of the site; and
- (2) All adjacent recognized neighborhood associations (adjacent recognized neighborhood associations are those associations which share boundaries with the neighborhood(s) identified in subsection 3.a.ii(1) of this section, and include recognized neighborhood associations that are separated from the neighborhood association(s) identified above by a street or stream).

Response: The applicant agrees to the notification requirement for this application. The city will notify the Palisades neighborhood association in which the subject site is located and other adjacent neighborhood association as applicable.

- iii. Notice to Other Jurisdictions and Affected Roadway and Railroad Authorities. Written notice shall be provided to:

- (1) Oregon Department of Transportation and the affected railroad company if the application indicates that a railroad-highway crossing provides or will provide the only access to land that is the subject of the application; and
- (2) A city or county or state where that jurisdiction's boundary or transportation facility is within one-half mile of the boundary of the development site. The City Manager may give additional notice of application to other governmental entities as deemed appropriate, e.g., TriMet.

Response: The site has a frontage along Stafford Road which is a county arterial. The applicant and city will coordinate and notify Clackamas County about this minor development application.

iv. Notice for Development within the Greenway Management Overlay District. In addition to the notification required above, the City shall notify the Oregon State Department of Transportation by first class mail (or electronic mail if consented to) immediately upon receipt of a complete application for development, change or intensification of use in the Greenway Compatibility Review Boundary area and shall notify the Department of final actions taken on the applications.

Response: The site does not include any Greenway Management Overlay District. This subsection does not apply.

v. Contents of Notice. The notice required by this section, above, shall:

- (1) Provide a 14-day period for submission of comments prior to the decision;
- (2) State the place, date and time that comments are due;
- (3) State that issues which may provide the basis for an appeal to the Land Use Board of Appeals shall be raised with sufficient specificity to enable the City to respond to the issue;
- (4) List, by commonly used citation, the applicable criteria for a decision;
- (5) Set forth the street address or other easily understood geographical reference to the subject property;
- (6) If the application concerns a specific location, include a map identifying the subject site in relation to the nearby neighborhood and streets;
- (7) State that copies of all evidence relied on by the applicant are available for review, and that copies can be obtained at cost;
- (8) Include the name and phone number of the City Manager or such other City staff person as may be assigned by the City Manager to review the application; and
- (9) For a similar use analysis, a description of the proposed use.

Response: The section is procedural and applicable to the city notification requirement.

vi. Posted Notice. Within three business days after the mailing date of the notices in LOC § 50.07.003.3.a.i through iv, the City shall post notice on the property subject to the proposed application. The notice shall be posted at a location visible from the public right-of-way. The notice shall state:

- (1) That the site is the subject of a proposed development application,
- (2) The name of the applicant,
- (3) The name and telephone number of the staff coordinator for the application,
- (4) The deadline for submission of written comments,
- (5) The date of the public hearing, if applicable,
- (6) That a copy of the mailed notice (which includes a listing of the criteria for the decision) can be obtained from the planning coordinator.

The site shall remain posted until the conclusion of the date for submission of comments and, if applicable, the date set for the first evidentiary public hearing upon the application. The City Manager shall certify that such notice was given.

Response: This section is procedural and applicable to the city posting requirement.

c. Notice for Initial Public Hearing for Minor and Major Development.

i. Notice of a public hearing before a hearing body containing the information required below shall be mailed at least 20 days before the initial public hearing as follows:

- (1) To the applicant;
- (2) To property owners in the same manner as provided in LOC § 50.07.003.3.a.i;
- (3) To neighborhood associations in the same manner as provided in LOC § 50.07.003.3.a.i;

(4) To a:

- (a) City and county when the lot is within one-half mile of the City's or county's boundary;
- (b) City, county, and ODOT when the lot is within one-half mile of the City's, county's or state's transportation facility; and
- (c) Railroad company when the railroad-highway crossing provides or will provide the only access to land that is the subject of the application.

(5) Persons filing comments within any comment period: If the hearing regards an appeal of a City Manager decision on a minor development application, to any person not otherwise required to be notified by this section who submitted comments during the 14-day comment period.

ii. Nothing in subsection 3.c.i of this section shall preclude the City Manager from providing additional public notice as the City Manager deems appropriate.

iii. Except as otherwise provided in subsection 3.c.iv of this section, the notice shall:

- (1) Explain the nature of the application and the use or uses which could be authorized;
- (2) List the applicable criteria from the ordinance and plan that apply to the application at issue;
- (3) Set forth the street address or other easily understood geographical reference to the subject property;
- (4) If the application concerns a specific location, include a map identifying the subject site in relation to the nearby neighborhood and streets;
- (5) State the date, time and location of the hearing, or if the hearing is to be held by telephonic or electronic means, date, time and the method to telephonically or electronically access the hearing;
- (6) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the hearing body an opportunity to respond to the issue precludes appeal to the City Council and the Oregon State Land Use Board of Appeals on that issue;
- (7) Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
- (8) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;
- (9) State that a copy of the staff report will be available for inspection at no cost at least ten days prior to the hearing and will be provided at reasonable cost; and
- (10) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

iv. In addition to the mailed notice above, notice shall be given by posting upon the subject property in the same manner as required by LOC § 50.07.003.3.a.vi.

Response: Public notice for the proposed minor development application will be provided as per the requirements of this subsection.

d. Notice for Legislative Hearing. Notice of a hearing on a legislative decision shall be published at least once in a newspaper of general circulation in the City of Lake Oswego at least ten days in advance of the hearing. Notice shall also be mailed at least ten days in advance to the Committee for Citizen Involvement and to all recognized neighborhood associations. The notice shall include:

[.....]

Response: This is not a legislative application therefore this subsection does not apply.

4. Hearings.

a. Conduct of the Hearing. The Chair of the hearing body shall conduct the initial evidentiary hearing on a major development application or an appeal of a decision on a minor development as follows:

[.....]

Response: This section is procedural and applicable to the hearing proceedings of the city.

b. Time Limits on Testimony.

i. The purpose of time limits on testimony is to provide all interested persons with an adequate opportunity to present and respond to testimony while at the same time ensuring that the hearing can be conducted in an efficient and expeditious manner. The following time limits on testimony shall be observed during a hearing conducted by a hearing body, subject to the right of the Chair, with hearing body consent, to amend or waive the time limits:

[.....]

Response: This section is procedural and applicable to the hearing proceedings of the city.

c. Testimony, Exhibits, and Other Evidence.

[.....]

Response: This section is procedural and applicable to the hearing proceedings of the city.

d. Objections. The purpose of the hearing procedures set forth in this Code is to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide a full and impartial hearing on the application or appeal before the hearing body.

[.....]

Response: This section is procedural and applicable to the hearing proceedings of the city.

e. Preservation of Order. The Chair shall preserve order and decorum, discourage personal attacks, and confine debate to the material issues.

[.....]

Response: This section is procedural and applicable to the hearing proceedings of the city.

f. Continuances.

i. The hearing body shall continue a public hearing or leave the record open when required to do so, pursuant to LOC § 50.07.003.4.a.xi.

[.....]

Response: This section is procedural and applicable to the hearing proceedings of the city.

g. Decision of the Hearing Body.

i. At the conclusion of deliberations, the hearing body shall make a preliminary oral decision to approve, approve with conditions pursuant to LOC § 50.07.003.5, or deny an application based upon the applicable standards and criteria and the evidence and testimony in the record. The preliminary oral decision is not a final decision. At any time prior to the adoption of the final order pursuant to subsection 4.g.ii of this section, the hearing body may modify or change its decision or choose to reopen the hearing.

ii. The hearing body shall adopt a final written order either immediately after making its preliminary oral decision or at a public meeting within a reasonable time after making the preliminary oral decision. The final written order shall consist of a brief statement that explains the criteria and standards considered relevant, states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria, standards and facts set forth. The order shall also contain or incorporate by reference any conditions of approval deemed necessary or appropriate by the hearing body. A proposed order may be prepared by the City Manager or may be prepared by the prevailing party subject to review and approval of the City Manager. The hearing body shall amend the proposed order

if it finds that the proposed order does not accurately articulate the hearing body's decision. Except as provided in subsection 4.g.iii of this section, the written order is the final decision on the application and the date of the order for purposes of appeal is the date on which it is adopted by the hearing body.

iii. In the case of a major development which requires an amendment of the Comprehensive Plan, or the text or map of this Code, the hearing body's order adopted pursuant to subsection 4.g.ii of this section shall be considered a recommendation to Council and not a final decision. The notice of the hearing body's decision provided pursuant to LOC § 50.07.003.4.h shall be modified to note that the decision is a recommendation which will be forwarded to the Council for public hearing and final decision. The Council shall review the recommendation pursuant to LOC § 50.07.003.7.f through o, Appeals, and LOC § 50.07.003.4.e, Preservation of Order, except that, for purposes of the appeal hearing in LOC § 50.07.003.7.i, Conduct of the Appeal Hearing, the applicant shall proceed with testimony, followed by persons in favor of the application, opponents, and rebuttal by the applicant.

iv. Motions for reconsideration of either a preliminary decision or final order filed by a party shall not be allowed. The City Manager may recommend reconsideration prior to adoption of the final order if the City Manager, in consultation with the City Attorney, believes reconsideration is necessary to correct a procedural error that prejudiced a party's substantial rights.

Response: This section is procedural and applicable to the hearing proceedings of the city. The applicant will adhere to the conditions of approval for the approved development application.

h. Notice of Decision. Notice of the decision shall be sent to the applicant and to all persons who testified either orally or in writing before the hearing body. The notice of decision shall:

[.....]

i. Record of Proceedings. The City Manager shall maintain a record of all proceedings on requests processed pursuant to this Code. The record of proceedings leading to approval of a request shall be maintained for a period of time to be determined by the City Manager, which shall not be less than two years from the date of the approval.

Response: This section is procedural and applicable to the city.

5. Conditions on Development.

a. The reviewing authority may impose conditions of approval on a major or minor development permit in one or more of the following circumstances:

- i. The condition is necessary to bring the application into compliance with applicable approval criteria.
- ii. The condition is required as a condition of approval, construction or implementation by the development standards, the Lake Oswego Code or state statute.
- iii. The condition is reasonably related to alleviation of a need for public services or facilities created or contributed to by the proposed development. As used in this section, "public services or facilities" includes sewer, water, surface water management, parks, open space, streets, sidewalks, and pathways.
- iv. The condition is reasonably related to eliminating or mitigating a negative impact on natural features or processes or on the built environment of the neighborhood which is created or contributed to by the proposed development. As used in this section, "natural features or processes" includes tree groves, stream corridors and natural drainage ways, significant tree(s), wetlands, and other natural areas.
- v. The proposed variance or exception to a code requirement is based on the preservation of tree(s), and the condition of approval is reasonably related to preserving the tree(s) that is the basis for the variance or exception.

Response: The applicant will adhere to the conditions of approval as required following the approval of this minor development application.

b. Conditions of approval contemplated by LOC § 50.07.003.5.a include, but are not limited to:

- i. Imposition of a development schedule.
- ii. Requiring reservation or protection of land for open space or to protect significant natural features.
- iii. Requiring dedication of property, rights-of-way, easements or conservation easements for public facilities such as streets, utilities, pathways, sidewalks, surface water management and street trees, or for protection of tree groves, wetlands, stream corridors or other natural features. Dedications of property or property rights pursuant to this subsection must be based upon findings pursuant to LOC § 50.07.003.5.a.iii or iv.
- iv. Requiring on-site and off-site construction of or improvements to public facilities where necessary to ensure adequate capacity and where service demand will be created or increased by the proposed development. The costs of off-site improvements may be prorated between the applicant and the City in proportion to the increased service demand which will be created by the project when compared to the demand existing if the project were not constructed.
- v. Requiring construction and maintenance guarantees to ensure that required public facilities are constructed to and will comply with City standards, regulations or conditions.
- vi. Requiring modifications in the design or intensity of a proposed development or to require or prohibit certain construction methods.
- vii. Requiring approval, inspection, or evaluation by another agency, jurisdiction, public utility or consultant.
- viii. Limiting the number, location or design of street accesses to a proposed development to maintain street capacity, improve safety, or otherwise comply with an approval criterion.
- ix. Requiring covenants, conditions or restrictions to be recorded against the property.

Response: The applicant will adhere to the conditions of approval as required following the approval of this minor development application.

50.07.004 Additional Submission Requirements.

1. Stormwater Management Standards.

The applicant shall submit information as required by the City Manager pursuant to LOC § 38.25 and the Stormwater Management Documents (see LOC § 38.25.110).

Response: Compliance with stormwater management requirements is illustrated under Chapter 38 - Section VIII later in this report.

7. Park and Open Space Contribution.

- a. Application. Development applications shall include a scaled plan which identifies the site's proposed open space.
- b. Identification on Plat or Development Plan. Open space land shall be clearly and accurately depicted on the final plat map or development plan and documented in the development permit record. If not dedicated by plat and the land is to be in public control, the conveyance shall be by document acceptable in form to the City Attorney.
- c. Priority Open Space Areas. Lands shall be selected by the City for reservation as open space areas in accordance with the following priorities:
 - i. Delineated RP resources;
 - ii. RC district protection areas;
 - iii. Proposed public open space including intra-city bike/pedestrian pathways;
 - iv. Woodlands, tree groves, including HBA protection areas;
 - v. Specimen trees;
 - vi. Natural meadows;
 - vii. Topographic variations, such as rock outcrops, cliffs, extreme slopes, riverbanks;
 - viii. Conveniently located areas where recreation opportunities can be created. Examples include trails, nature study sites, picnic areas, or view points;
 - ix. Scenic views and vistas; or

x. Others.

d. Review and Decision.

i. The decision on whether land is acceptable by the public for control and maintenance for open space purposes is to be made by the City Manager at the City Manager's discretion. Formal acceptance of open space lands shall be by City Council resolution. Lands may be approved by the City to be counted toward meeting the open space requirement that are not acceptable to the City for public control and maintenance.

ii. Final approval of open space boundaries shall be made by the hearing body at the time of the public hearing on the development proposal.

e. Granting of Partial Rights to Open Space Lands. Up to 100% of the open space requirements may be met by the granting of partial rights or reservations, such as:

i. Scenic or view easements or cross easements, or

ii. Imposition of deed restrictions such as tree cutting restrictions in yards or special setback requirements.

Response: The proposed subdivision will provide approximately 33% of the net site developable area as open space. The open space will be provided in a combination of resource protection area, cottage courtyard areas, linear greens and proposed stormwater facility for the development. A Open Space Plan is provided on Sheet 6.0 in Exhibit C for the review of this minor development application.

8. Sensitive Lands Designations, Map Corrections and Delineations.

a. Criteria for Designating Property within an Overlay District.

[.....]

Response: The applicant is not requesting designation of any property or on-site area as a sensitive overlay land. The subject property has approximately 0.09 ac. of Resource protection (RP) area on-site illustrated as Tract A in the Open Space Plan, Sheet 6.0 in Exhibit C. A Notice of Development Restriction (NODR) for the RP area is also attached as Exhibit G for reference. The development proposes to enhance and preserve the RP area, and a sensitive lands review is requested concurrently with this minor development application to permit the allowable activity on the resource. The development will remove any invasive species from the resource and plant them with native species to enhance the area for environmental and community benefit.

b. Map Corrections. A map correction may be initiated by the City Manager or the owner of any lot containing an RC or RP district.

[.....]

Response: The applicant is not requesting any map correction with the proposed subdivision. This subsection does not apply.

c. Environmental Review. An applicant for a development subject to LOC § 50.05.010.2 shall comply with:

i. For exempt development under LOC § 50.07.003.12 occurring within an RC or RP district or its associated construction setback, or within an HBA protection area, the applicant shall:

(1) Comply with the applicable development standards for RP and RC districts, and HBA protection areas (LOC §§ 50.05.010.5.c or 50.05.010.6.c), as applicable;

(2) Comply with the construction standards (LOC § 50.05.010.4.d) to the satisfaction of the City Manager;

(3) Meet the steps of avoidance and minimization as stated in LOC § 50.05.010.4.f; and

(4) File a mitigation plan that complies with the standards of LOC § 50.05.010.4.g for the review and approval of the City Manager.

ii. For development other than subsection 8.c.i of this section, the environmental review requirements in LOC §§ 50.07.004.8.d, 50.05.010.4.b and 50.05.010.4.c, 50.05.010.5.b and 50.05.010.5.c (for RC districts and HBA protection areas), 50.05.010.6.b through 50.05.010.6.d (for RP zones) or 50.05.010.6.e (Special Standards for the Oswego Canal), whichever sections are applicable.

Response: The development is proposing to enhance the on-site RP area to facilitate environmental and community benefits of the resource area. Resource enhancement project is an allowable activity under LOC 50.06.010.6.c. The resource area will be enhanced with the removal of invasive species and planted with native species to ensure the essential functions of the resources are preserved adequately. Conceptual details for the enhancement of the on-site RP district are illustrated in Landscape Sheets in Exhibit E.

d. Delineation of Streams, Wetlands, and Tree Groves.

i. Preparation/Criteria. Except as provided in subsection 8.d.iv of this section, an applicant for a development subject to environmental review shall first delineate the stream, wetland, or tree grove. A delineation is a more precise, site specific determination of the location of the tree grove or water resource prepared by a qualified professional. The delineation shall include a map showing the delineated boundary to plus or minus two ft. The delineation map shall also show the protected riparian area if required for the particular resource. Resource boundaries shall be delineated as follows:

(1) Tree Groves. The RC district or HBA district, as applicable, shall be delineated as follows:

The boundary of a tree grove shall be measured at the outer edge of a contiguous tree canopy based on aerial photos and/or visual field observations but shall not include any tree canopy that is within a wetland or below the top bank of a stream. Tree canopy from invasive tree species and nonnative tree species, per the City's Plant List, shall not be included in the measurement of contiguous tree canopy, and the delineated boundary shall not increase the size of the RC district by more than 15% from what is designated on the Sensitive Lands Map.

(2) Wetlands. A wetland boundary shall be delineated in accordance with the 1987 Federal Manual for Identifying and Delineating Jurisdictional Wetlands, except that:

(a) The methodology must include soils testing, and

(b) When a delineated wetland boundary is abutting a steep slope, the protected riparian area shall be applied from the top of the slope rather than from the delineated boundary. The top of the slope shall be determined according to the same criteria as the top of the bank, pursuant to Table 50.07.004-A and Figure 50.07.004-A: Wetland and Stream Corridor Measurement.

(3) Stream Corridors. A stream corridor boundary shall be measured or delineated based on topographic maps, hydrology maps, and/or field observations, pursuant to Table 50.07.004-A and Figure 50.07.004-A: Wetland and Stream Corridor Measurement; provided, that the protected riparian area shall not extend more than 200 ft. from the edge of the ordinary high water line of the stream corridor. The ordinary high water line is defined according to Oregon Administrative Rule (OAR) 141-085-0510.

(4) Stream and Wetland Riparian Areas Measurement. The following areas are protected riparian areas. They are measured outward from the edge of a delineated stream corridor or wetland boundary and are included in the RP district:

NOTE: REFER TABLE 50.07.004-A: STREAM AND WETLAND RIPARIAN AREA MEASUREMENT UNDER LOC CODES UNDER SECTION 50.07.004.

ii. Review of Delineation. The reviewing authority shall compare the applicant's delineation maps with the 1994/1995 ESEE Study and the Sensitive Lands Map, and shall inspect staked, delineated resource boundaries. The reviewing authority shall approve the delineation if the delineated boundary more accurately reflects the locations of stream, wetland, and/or tree grove resources than the boundary as shown in the Sensitive Lands Map. If the reviewing authority finds that the evidence is contradictory or does not support the proposed delineations, the application shall be denied. In the alternative, review of the application may be continued for additional information if:

- (1) The applicant agrees to conduct a new delineation by an expert selected by the City Manager at the applicant's expense; and
- (2) The applicant waives the applicable statutory deadline for completing a local decision on the application for the period of time necessary to conduct the new delineation.

iii. Adjustment of Overlay District Boundaries to Reflect Approved Delineation. An approved delineated boundary shall replace the boundary in the Sensitive Lands Map for the purposes of review of the development proposal for compliance with this section. If and when the proposed development receives final approval, including resolution of any appeals, the boundary of the RP or RC district as shown in the Sensitive Lands Map shall be modified as necessary to be consistent with the delineated boundary.

iv. Delineation Not Required; Exceptions. An applicant for a development subject to this section shall not be required to delineate the resource pursuant to this section if:

(1) The resource has been previously delineated pursuant to an earlier development application subject to this section. Exception: The City Manager may require a new delineation if:

(a) The applicant desires to demonstrate that the previously delineated boundary is no longer accurate;

(b) There is evidence of a substantial change in circumstances on the property that has affected the location of the resource as previously delineated; or

(c) The City Council has adopted new delineation standards or requirements since the previous delineation; or

(2) The proposed development consists solely of landscaping and/or tree removal or qualifies as a resource enhancement project, and complies with LOC § 50.05.010.6.c.ii(1)(a), Landscaping; LOC § 50.05.010.6.c.ii(1)(b), Tree Removal; or either LOC § 50.05.010.5.c.iii(6), Utilities, or LOC § 50.05.010.6.c.ii(1)(f), Resource Enhancement Projects; or

(3) The entire subject property is designated RP or RC, and the applicant agrees that a delineation would not reduce the area covered by the RP or RC district; or

(4) The City Manager finds based on the 1994/1995 ESEE Study, the Sensitive Lands Map, existing aerial photography or remote sensing that the proposed development disturbance area is clearly located outside the subject RP or RC district including required protection areas and construction setbacks.

v. Delineation in the Absence of a Development Application. An applicant may apply to delineate a resource in absence of an application for a specific development.

Response: This application package includes a recorded NODR attached as Exhibit G which includes map of the delineated resource protection area and its 10-foot construction setback on-site. The NODR illustrates that no development except that allowed under LOC 50.06.010.6.c is allowed in the RP area. The project does not propose any construction within the RP except enhancements to the resource area as stated earlier.

10. Weak Foundation Soils Determination Procedures.

a. Report Required.

i. If a development is located in an area of Potential Weak Foundation Soils, the applicant shall provide the City Manager a report prepared by a registered professional soils engineer or engineering geologist. This report shall describe the nature, distribution, and strength of the soils, including findings regarding the adequacy of the soils to support the proposed use and structure(s).

Exception: At the discretion of the Building Official for small projects, e.g., small addition, hot tubs/spas, the registered professional soils engineer or engineering geologist may submit a letter, based on observation of the soil condition, that the soils are adequate for the proposed use and structure.

ii. If soils characteristics are determined by the applicant's registered professional soils engineer or engineering geologist not to be adequate for the proposed use or structure(s) without compensating for the effect of the soils, the engineering report shall include conclusions and recommendations for design criteria for corrective measures which are appropriate to the soils and types of proposed structures.

iii. If the site has been previously evaluated under this standard, the construction of a structure shall be deemed to comply with this standard if either:

(1) The soils engineer or engineering geologist concluded that the soil is adequate for the proposed use and structure(s); or

(2) The building plans for the structure comply with the corrective measures recommended under subsection 10.a.ii of this section.

The application materials shall include description of the design or engineering features which will compensate for the soils in accordance with the recommendations of the engineering report. The proposed design shall be certified by a registered professional engineer

b. City Manager Review.

i. If soils characteristics are determined by the applicant's registered geotechnical engineer or engineering geologist to be adequate for the proposed use and structure(s), no further consideration of compensating design shall be necessary.

ii. Pursuant to the building code:

(1) The Building Official shall specifically review design or engineering features in the development application which are intended to compensate for weak foundation soils.

(2) The Building Official may require modifications in the proposed design or engineering where necessary to assure adequate structural support.

Response: A preliminary geotechnical report for the site prepared by registered soils engineer is included with this application package as Exhibit H. The report indicates that the site does not include any weak foundation soil on-site except for a miniscule section of the site at the southwest corner which is in the resource protection (RP) area as seen in the City's soils map. No structure or development is proposed in this RP area.

11. Utilities; Streets/Sidewalks (Pathways) and Other Public Infrastructure.

For all applicable development or construction, the applicant shall submit:

a. A scaled utility plan of existing and proposed utilities shall be furnished to the City as part of any development plan application.

b. A scaled site plan showing the existing and proposed nature, size, and location of:

i. Street right-of-way and of street and sidewalk (pathways) paving or other suitable surface, curbs, gutters, or drainage swales, as required by LOC § 50.06.008.

ii. Other public infrastructure as required by LOC § 50.06.008.

c. Easements and dedications shall be recorded in the final plat or plan or by separate instrument to serve the development.

Response: Preliminary utility plans for sewer, water and storm drainage for the proposed subdivision application are provided on Sheets 11.0 through 13.0 in Exhibit C for the complete review of this development. Utility easements and dedication wherever applicable will be recorded with the final plat approval.

50.07.007 Land Divisions

4. Planned Development Overlay.

a. Purpose. The purpose of the Planned Development (PD) Overlay is to provide, for parcels of sufficient size, greater flexibility in development of land as compared to a standard subdivision, encourage variety in the development pattern of the community, encourage developers to use a creative approach in land development, conserve natural land features, facilitate a desirable aesthetic and efficient use of open space, create public and private common open spaces, and provide for flexibility and variety in the location of improvements on lots. If these public purposes are accomplished, exceptions to certain zoning standards may be granted as provided by LOC § 50.07.007.4.d, Authorization.

Response: The proposed subdivision meets the purpose and intent of the Planned Development (PD) Overlay by embracing a creative and flexible approach to land development that reflects the goals set forth in LOC § 50.07.007.4.d. The plan thoughtfully integrates a mix of attached and detached residential units on a range of lot sizes, promoting variety and visual interest within the community. Approximately 33% of the net developable area on-site is dedicated to open space, including a combination of semi-public and public areas designed to encourage community gathering and interaction.

A central feature of the development is a well-designed community center that will serve residents, enhancing both the social and functional aspects of the neighborhood. The subdivision also establishes strong pedestrian connectivity with the adjacent Rassekh Park, promoting walkability and integration with the surrounding area. Landscaped areas throughout the site are thoughtfully planned to enhance the aesthetic character, integrating Resource Protection area, and conserve natural elements where possible. This approach not only supports the efficient use of land but also fosters a sense of place and community. In doing so, the proposed subdivision fulfills the public purposes of the PD Overlay and qualifies for consideration of exceptions to certain zoning standards as outlined under this section.

b. **Applicability.** Use of the PD overlay is allowed in any zone for subdivision proposals, except when the property is located in the R-7.5, R-10, or R-15 zone, at least one of the following circumstances must exist:

- i. The property is greater than 75,000 sq. ft. in size;
- ii. An RP district or HBA overlay is located on the property; or
- iii. A tree grove greater than 15,000 sq. ft. in size exists on the property.

Response: The subject site is in the R-15 zone and 6.01 ac in size. The site is overlaid by a Resource Protection area at its southwest corner; therefore, the site qualifies for a PD subdivision proposal as requested.

c. **Procedures.**

i. **Multi-Phase PD Overlay Approval.** The establishment of a PD overlay for projects containing more than one phase shall occur in conjunction with the approval by the reviewing authority of an Overall Development Plan and Schedule (ODPS) pursuant to the provisions of LOC § 50.07.006. The ODPS shall contain a section which identifies the zone requirements and uses to be applied in the PD overlay. These requirements may be adopted by referring in the final order to existing provisions of this section or by creating special zoning standards pursuant to this section.

ii. **Single-Phase PD Overlay Approval.** A request for a PD overlay for a project that will contain only one phase may be considered by the reviewing authority. No ODPS shall be required, but the requirements of subsection 4.c.i of this section for the adoption of zone requirements in the final order shall be complied with.

iii. **Following Approval of a PD Overlay:**

(1) A subsequent request for modification from the underlying zone requirements for any lots within the planned development shall be processed in the following manner:

(a) **PD Modified at Least One Lot Requirement in Subdivision.** If any modifications were made to the above zone requirements, then any subsequent request for modification to these zone requirements shall be processed either as:

(i) A planned development modification, pursuant to LOC § 50.07.003.11; no variance (LOC §§ 50.08.002 or 50.08.004) is permitted); or

(ii) A residential infill design review (RID), pursuant to LOC § 50.08.003.2.e; to the extent RID permits exceptions to certain zone standards, no planned development permit modification is required.

(b) PD Modified None of the Lot Requirements in Subdivision. If no modifications were made from the zone requirements, then any subsequent request for modification to the zone requirements shall be processed as:

(i) A variance pursuant to LOC §§ 50.08.002 or 50.08.004; or

(ii) For qualified residential developments, processed according to the provisions of LOC § 50.08.003.2.e, RID.

(2) PD Applications Filed Prior to August 14, 2003. For PD applications filed prior to August 14, 2003, the following standards do not apply:

(a) The maximum floor area standards of LOC § 50.04.001.1, Residential Low Density Zones;

(b) The maximum floor area standards of LOC § 50.04.001.2, Residential Medium Density Zones - R-5 only;

(c) The height exception, front setback plane, side yard setback plane, and garage appearance and location standards for all residential districts.

(3) Maximum Structure Height in PD. The maximum height of structure permitted in the zone at the time of approval of the PD overlay, and the methodology for determining the maximum height, shall be applied to structures within the PD overlay.

Response: The applicant is requesting a single-phase PD approval for the proposed subdivision. Adjustments to the dimensional standards of the zone are requested with this application as detailed in Table 5, 6 and 7 of this narrative. Any further modifications to approved PD application will be requested either through a planned modification request or a residential infill design review as and when applicable.

d. Authorization.

i. Underlying Zone.

(1) In considering an application for a PD overlay, the reviewing authority shall apply the requirements of the underlying zone. The maximum floor area and lot coverage requirements may be applied with reference to the total area.

(2) If the proposed PD is part of an approved ODPS as described in LOC § 50.07.006, requirements of the ODPS approval regarding arrangement of uses, open space and resource conservation and provision of public services will be considered when reviewing the considerations in subsection 4.d.i(1) of this section for the PD.

Response: Proposed maximum floor area and lot coverage requirements for the PD application have been applied with reference to the total net developable area of the site as demonstrated in Tables 6 and 7 of this narrative. Floor areas and lot coverage for individual parent lots are also listed under Tables 8 and 9. As stated earlier, the PD project meets the aggregate Floor Area and lot coverage requirement for the site.

ii. Dimensional Exceptions.

(1) The reviewing authority may grant exceptions to zone requirements (except for the zone requirements and limitations listed below) if the applicant demonstrates that the proposed PD provides the same or a better sense of privacy, appropriate scale and open space as a PD designed in compliance with the standard or standards to which an exception is sought. The reviewing authority shall consider the factors listed in subsection 4.d.ii(2) of this section in determining whether to approve the exceptions.

(a) No exceptions shall be approved for the following zone requirements:

- (i) The special setback requirements for steeply sloped lots in the R-5 zone [LOC § 50.04.001.2.e.i(2)] and R-0, R-2, and R-3 zones [LOC § 50.04.001.3.e.iv];
- (ii) Height of building;
- (iii) Use;
- (iv) Open space; and
- (v) Density.

Response: The applicant is not requesting any exceptions to the above listed zone requirements for this residential subdivision PD application.

(b) Lot Coverage and Floor Area Limitations.

- (i) The aggregate lot coverage for all of the lots shall not exceed the maximum lot coverage based on the net developable area of the project;
- (ii) The total floor area of all lots shall not exceed the aggregate of the floor areas as determined based upon the respective lot area and the floor area methodology required by the zone.

Response: Proposed maximum floor area and lot coverage requirements for the PD application have been applied with reference to the total net developable area of the site as demonstrated in Tables 6 and 7 of this narrative. As stated earlier, the PD project meets the aggregate Floor Area and lot coverage requirement for the site.

(2) In making the determination under subsection 4.d.ii(1) of this section, the reviewing authority may consider:

- (a) Whether the applicant has reserved or dedicated more than the minimum amount of open space required by park and open space contributions [LOC § 50.06.005];
- (b) Whether the requested exception allows the lots to be designed in a manner that provides better access to common open space areas from within and/or outside the PD, better protects views, allows better solar access, maintains or improves relationships between structures, maintains or improves privacy and/or improves pedestrian or bicycle access to surrounding neighborhoods;
- (c) Whether the requested exception will allow a more attractive streetscape through use of meandering streets, access through alleys or shared driveways, provision of median plantings, or other pedestrian amenities;
- (d) Whether the requested exception will enhance or better protect a significant natural feature on the site, such as a wetland, a tree or tree grove, or a stream corridor;
- (e) Whether the requested exception will provide better linkage with adjacent neighborhoods, open space areas, pathways, and natural features; or
- (f) Whether the requested exception will allow the development to be designed more compatibly with the topography and/or physical limitations of the site.

Response: The proposed development supports the intent of LOC 50.07.007.4.d.ii by exceeding the minimum open space requirements and incorporating design features that enhance community access, connectivity, and natural resource protection. Specifically, the development will dedicate approximately 33% of the net developable area of the site as open space, significantly more than the minimum required under LOC 50.06.005. This open space includes both semi-public areas for gathering and interaction and a preserved Resource Protection (RP) area that will be enhanced and integrated as a key amenity for the neighborhood. A Open Space Plan is provided on Sheet 6.0 in Exhibit C for review.

The layout of the site will provide alley access to detached cottage homes, which reduces driveway interruptions along local street and contributes to a more attractive and pedestrian-friendly streetscape. A meandering pedestrian pathway through the central portion of the site connects residents to open spaces and supports an inviting, walkable environment. In addition, the development

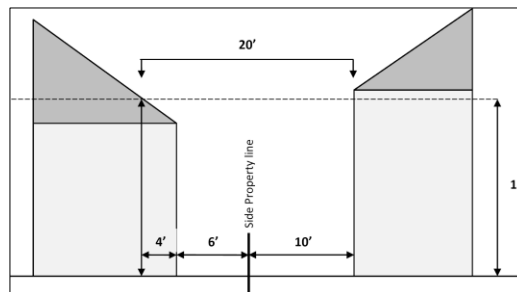
includes pedestrian connectivity to the adjacent Rassekh Park, further strengthening linkages with surrounding neighborhoods and regional open space networks.

By orienting lots to take advantage of open space views, enhancing solar access, and preserving privacy through thoughtful placement of homes and pathways, the development also improves spatial relationships within the PD. Overall, the requested exceptions support a more compatible and context-sensitive design that respects the site's natural features, while promoting community interaction, connectivity, and a high-quality living environment. Refer to the Conceptual Site Plan, Sheet 3.0 in Exhibit C, to review the proposed site design.

(3) Side Yard Setback Exceptions. The reviewing authority may grant exceptions to the minimum side yard setbacks of the underlying zone, without the necessity of meeting the requirements of LOC Article 50.08, Variances, if the requirements of subsection 4.d.ii of this section are met, and:

- (a) Proposed lot sizes are less than the minimum size required by the underlying zone; or
- (b) Lesser setbacks are necessary to provide additional tree preservation or protection of abutting natural areas;
- (c) Side yard setbacks shall not be reduced to less than eight ft. except under the following circumstances:
 - (i) Structures on abutting lots within the development are separated by no less than 16 ft. when all portions of the structure within the standard setback are no greater than 18 ft. in height.
 - (ii) Structures on abutting lots within the development are separated by no less than 20 ft. when any portion of the structure exceeds 18 ft. in height within the standard setback area. This limitation does not affect the underlying base zone yard setbacks when those setbacks are less than eight ft. See Figure 50.07.007-C: Side Yard Setbacks.

Figure 50.07.007-C: Side Yard Setbacks



Response: The applicant is requesting adjustments to the yard setbacks as a part of this PD application. Proposed yard setbacks are listed in Table 5 earlier in this narrative for the review of this application. Side yard setbacks are not reduced to less than 8-feet as shown in Table 5.

(4) In the R-7.5, R-10, and R-15 zones, where the parcel being developed is less than 75,000 square ft. in size, the following additional provisions apply:

(a) Rear Yard Setback Exceptions.

- (i) For lots where the rear yard setback abuts open space land, the rear yard setback may be reduced by up to 50% of the base zone requirement.
- (ii) For lots where the rear yard setback does not abut open space, the rear yard setback may be reduced by the percentage of the gross site area that is designated as open space, but in no case greater than 20% of the base zone requirement.

(b) Lot Size Exceptions. Lot sizes may be reduced by the percentage of the gross site area that is designated as open space, but in no case greater than 20% of the base zone requirement.

Response: The parcel is located in the R-15 zone and measures more than 75,000 sf in size therefore the provisions of rear yard setback exceptions do not apply.

iii. PD Standards.

(1) Lots which are located on the perimeter of a development located in an R-0, R-2, WLG R-2.5, R-3, R-5, R-6, R-7.5, R-10 or R-15 zone, and which are adjacent to lots in an R-7.5, R-10 or R-15 City zone upon which are constructed single-family dwellings, may be not less than:

(a) Development in R-0, R-2, WLG R-2.5, R-3, R-5, R-6 zones: 75% of the minimum lot area per unit of the adjacent zone or the minimum lot size of the zone in which the development is located, whichever is less.

(b) Development in R-7.5, R-10, and R-15 zones: 80% of the minimum lot area per unit of the adjacent zone or the minimum lot size of the zone in which the development is located, whichever is less.

(c) Housing types located on the perimeter lots described in subsection 4.d.iii(1) of this section shall be single-family, zero lot line or duplex dwellings, except three attached dwelling units may be placed on three lots which abut at a common point with the middle lot being a corner lot.

(d) In a PD located in an R-0, R-2, WLG R-2.5, R-3, R-5, or R-6 zone which abuts an R-7.5, R-10 or R-15 zone and which does not contain separate lots for the dwelling units, the building setbacks shall meet the requirements of the zone in which the development is located.

Response: The site is in the R-15 zone and the site is surrounded by R-15, PNA and PF zones as detailed in table 1 earlier in this narrative. The R-15 zoned site, north of the subject site, does not include any single-family dwellings and all the other sites are parks, natural area and public functions zone. Therefore, the PD lot size requirement of this section is not applicable to the site.

e. Maintenance of Facilities and Open Space. If common private open space or common buildings are included in the plan, a homeowner's association or similar organization must be established to provide for maintenance of the facilities or open space. The articles of incorporation or other evidence of incorporation of such organization shall be included in the application.

Response: A homeowner's association (HOA) will be established for the maintenance of community facilities and open space within the site. The articles of incorporation for an HOA will be provided with the final plat approval of this development

f. Expiration, Revocation. If 15% of the structural construction of the planned development has not occurred within three years of the date of the order granting approval for the PD overlay or if development has occurred in violation of the approval granted, the reviewing authority may initiate a review of the PD overlay to determine whether or not its continuation in whole or in part is in the public interest. The reviewing authority may decide that the PD overlay is to be removed and the plan or plat be resubmitted and made to conform to the requirements of the underlying zone, that the approval be retained, or that the approval be modified in any manner consistent with laws in effect at that time.

Response: The applicant will adhere to the requirements of this subsection if and when applicable.

V. COMPLIANCE FOR DEVELOPMENT PERMIT MODIFICATION OF LU 05-0076 FOR MODIFYING SHARED PARKING CONDITIONAL USE ON-SITE

50.07.003 Review Procedures

11. Modification of Development Permits.

a. Modification of Approved Permit. For ministerial or minor development permits, modifications to a development permit are classified as the same type of development as the original permit and shall be reviewed under the applicable review criteria for that classification of development, except that the review criteria shall be limited to those criteria that are affected by the requested modification.

Response: The subject site is encumbered by a shared parking conditional use easement authorized by LU 03-0027 as a condition of approval and approved by conditional use permit application LU 05-0076. The shared parking easement is an agreement between subject tax lot 21E16D 01000 and Stafford Retirement home on tax lot 21E16D 00800 located immediately north of the site. The parking easement authorizes the use of 25 parking spaces on the subject property for the adjacent retirement home community. The shared parking space was imposed as condition of approval for the approved Retirement Home LU application to alleviate neighborhood concerns for traffic on Overlook Drive. The retirement facility has 103 parking spaces on-site for its 105 units. At the time of the retirement facility land use approval, the City's code required 0.5 parking space per unit and 1 parking space for every 3 employees on-site for congregational use facility. The 103-parking space on-site satisfied this requirement.

Adoption of Climate Friendly and Equitable Community (CFEC) rules by the City of Lake Oswego results in no minimum parking mandates citywide; therefore, the parking easement required for the Stafford Retirement Home, approved on Conditional Use Permit LU 05-0076 associated with development application LU 03-0027 is no longer required. With this Minor Development application, the applicant proposes to modify the existing shared parking easement. An authorization letter signed by the owner of Stafford Retirement Home is included as Exhibit P with this application which supports the modification of the parking easement on-site. Without the modification of the shared parking easement on-site the applicant cannot efficiently develop a residential subdivision which meets the requirement of the R-15 zone for residential development. A Modification of Development Review Application Development Review modification to LU 03-0027 is therefore requested concurrently with this minor development application. All the relevant information is included with the accompanying land use form signed by the applicant/owner, this narrative and the authorization letter attached as Exhibit P. Additionally, the applicant is proposing a 8 parking spaces in a cluster at the northwest corner of the site for the benefit of the Stafford Retirement Home as shown in Concept Parking Plan in Exhibit R for the proposed development. A Concept Site Plan and Parking Plan with details for parking are provided on Sheets 3.0 and 8.0 in Exhibit C for review.

VI. COMPLIANCE FOR DEVELOPMENT REVIEW MODIFICATION OF LU 21-0078 FOR THE RELOCATION OF FIRE ACCESS ROUTE TO RASSEKH PARK

50.07.003 Review Procedures

11. Modification of Development Permits.

a. **Modification of Approved Permit.** For ministerial or minor development permits, modifications to a development permit are classified as the same type of development as the original permit and shall be reviewed under the applicable review criteria for that classification of development, except that the review criteria shall be limited to those criteria that are affected by the requested modification.

Response: The applicant is requesting modification of LU 21-0078 to relocate a gravel maintenance/ fire access road located at the north edge of Rassekh Park as shown in the approved Rassekh Park Site Plan in Exhibit S. The applicant proposes to develop a landscape berm at this location adjacent to the existing skatepark on-site. The berm will add a landscaped amenity and a low height visual screening between the proposed residential development and the skatepark. An authorization letter signed by the Lake Oswego Parks & Recreational Department is included as Exhibit Q with this

application which supports the proposed landscape berm on Rassekh Park and the proposed modification to LU 21-0078 application pertaining to the relocation of the fire access route.

An alternate fire access route is proposed through the subject site as shown in the concept site plan which will allow fire access to the park through its southern section. The fire access route is proposed with the same dimensional standard as the existing fire route to the park. The route will be constructed of durable material and accessible at all times. See Conceptual Site Plan and Street Plan, Sheets 3.0 and 7.0 in Exhibit C for review.

VII. COMPLIANCE WITH CHAPTER 38 - STORMWATER MANAGEMENT

SUBARTICLE 1 - INTRODUCTION

38.25.005 Purpose, Applicability Other Codes and Laws

1. Purpose and Objectives.

a. Purpose.

- i. Establish minimum stormwater management requirements to protect the water quality of receiving waters within the jurisdiction of the City of Lake Oswego;
- ii. Require a level of stormwater management to protect the City's Surface Water Management System from the effect of changes to stormwater velocity or quantity due to development or redevelopment;
- iii. Protect the public health and environment from spills and discharges of pollutants into the Surface Water Management System;
- iv. Protect the water quality of the City's Surface Water Management System; and
- v. Implement the requirements of the City's NPDES MS4 Phase I permit regarding industrial and commercial discharges.

b. Objectives. The purpose is accomplished by meeting the following objectives:

- i. Protect the health, safety, and welfare of the public residing in the City from pollution and flooding by controlling the velocity, quality and volume of stormwater originating from development and redevelopment to the extent practicable;
- ii. Implement the federal and state regulations and requirements related to water-quality;
- iii. Facilitate compliance by responsible parties in order to meet state and federal water-quality permits within the City.
- iv. Manage stormwater through methods, and practices set forth in the Lake Oswego Stormwater Management Manual, Engineering Design Standards, and Standard Detail Drawings in compliance with State water-quality programs by:
 - A. Prioritizing onsite retention of stormwater and pollutant removal;
 - B. Providing long-term responsibility for, and maintenance of, stormwater facilities.
 - C. Implementing Comprehensive Plan policies and other programs and policies of the City regarding stormwater management and pollution control.
- v. Prohibit illicit discharges into the City's Surface Water Management Utility as required by the City's NPDES-MS4 permit; and
- vi. Establish the legal authority to ensure compliance with this Code.

Response: The proposed development will adhere to the stormwater management requirements of the city to ensure public safety and environmental benefits.

2. Applicability.

This Code shall apply to:

- a. Development and redevelopment activities that meet the impervious area thresholds in LOC § 38.25.120.

- b. Earthwork, flatwork, and hardscaping, regardless of whether a City permit is required.
- c. Ground-disturbing activities that cause, permit, or allow fill, excavation, stripping and topographic contouring, regardless of whether a City permit is required.
- d. Activities causing, permitting or allowing direct or indirect discharges to the City's surface water management system, including discharges that initially occur outside the City but where the discharge drains into the City.
- e. All properties classified with a commercial, mixed-use, or industrial zone and which have a stormwater discharge by a point source or sheet flow into the City's Surface Water Management System.

Response: The project qualifies as a large project as described under LOC 38.25.120, therefore this section applies.

3. Interpretation; Relationship to Other City Codes and Standards.

- a. The provisions of this Article shall be interpreted to be consistent with applicable federal and state law, and shall be interpreted, to the extent possible, to cover only matters not preempted by federal or state law
- b. Where a provision of this Code conflicts with the restrictions by other provisions of the Lake Oswego Code or ordinance, or the provisions of State or Federal law, the provision that is more protective of water quality applies.

4. Exclusion of Liability.

- a. The owner's use of the Stormwater Management Documents, and approval by the City of Stormwater Report or Operations and Maintenance (O&M) Plan for private stormwater facilities does not result in liability upon the City for the owner's design, installation, and operation and maintenance of private stormwater facilities.
- b. This Code shall not:
 - i. Create or form the basis for any claim, action, or liability against officers, employees or agents of the City for any:
 - A. Injury or damage resulting from the failure of third parties to comply with the provisions of this Code,
 - B. Consequence of any inspection, notice, order, certificate, permission, or approval authorized or issued or done in connection with the implementation or enforcement of this Code, or
 - C. City action or inaction related in any manner to the enforcement of this Code by its officers, employees or agents.
 - ii. Create any liability on the City or any of its officers or employees for cleanup or any harm relating to sites containing hazardous materials, wastes, or contaminated soil;
 - iii. Convey property rights of any sort, or any exclusive privilege;
 - iv. Authorize any injury to persons or property;
 - v. Authorize intrusion of any other private rights, except as permitted by law; or
 - vi. Authorize any violation of federal, state, or local laws or regulations.

Response: The project will provide a stormwater facility for the treatment of stormwater runoff from the proposed development. This will be a private facility designed as per the requirements of this code. The Preliminary Stormwater Plan, Sheet 11.0 in Exhibit C, demonstrates the location of the proposed stormwater facility on-site. Additionally, the applicant has included a stormwater report as Exhibit L with this application package for the complete review of this proposal.

SUBARTICLE 2 - CITY INSPECTION OF PROPERTY FOR PROPER DISCHARGE

Response: This section is only applicable to commercial, mixed use and industrial zone therefore not applicable to this residential development.

SUBARTICLE 3 - DEVELOPMENT ACTIVITIES

38.25.105 Development Applications

An application shall be made on such forms and contain such information as the City Manager may require. If a railroad-highway crossing provides or will provide the only access to land that is the subject of the application, the applicant shall indicate that fact in the application.

38.25.110 Stormwater Management Documents.

1. The City Manager shall administer this Code and may furnish additional policy, criteria and information including specifications and procedures for the proper implementation of the requirements of this Code. The documents containing stormwater requirements include the Lake Oswego Stormwater Management Manual (SWMM), the Engineering Design Standards, and the Standard Detail Drawings. In the event of a discrepancy between the documents, the requirement that is most protective of water quality will apply.

2. The City Manager is delegated authority to adopt, revise, and update the Stormwater Management Documents as necessary based on:

- a. The latest federal and state stormwater or water-quality requirements; or
- b. Improvements in current industry practices.

Response: Proposed stormwater facility will be designed as per the requirements of the city's Engineering Design Standards. Detailed drawings for the stormwater facility will be provided at the time of construction permit of the project. A stormwater report is provided as Exhibit L for the preliminary review of this proposal.

38.25.120 Project Classification.

1. For purposes of determining project class, all projects on a parcel or contiguous parcels under common ownership conducted within a three-year period shall be considered cumulatively.

2. Small Projects are those projects that create new impervious area that is greater than or equal to 1,000 square feet but less than 3,000 square feet.

3. Large Projects are those projects that either create new, redevelop (replace), or both create and redevelop, impervious area that is equal to or greater than 3,000 square feet.

4. Repair or maintenance activities on structures or facilities with greater than or equal to 3,000 square feet of existing impervious surface are subject to the requirements for large projects in subsection (3), above.

5. Projects that are renovations or replacements of existing stormwater facilities shall be classified according to the amount of existing impervious area on the property that is not currently receiving treatment.

Response: The proposed subdivision is classified as a large project as per the threshold requirement of this section.

38.25.125 Minimum Stormwater Requirements.

1. All projects shall use, to the maximum extent practicable, site planning and design technique(s) that reduce post-development runoff rates, volumes, and pollutant loads to match pre-development conditions. Such techniques include, but are not limited to, minimization of impervious surface, use of on-site retention to reduce the volume and rate of runoff entering the stormwater management system, development design that reduces the rate and volume of runoff from impervious surfaces, and distributed stormwater management practices that intercept and treat runoff from developed areas.

2. Stormwater shall be managed in as close proximity to the development site as practicable and avoid a negative impact on nearby streams, wetlands, groundwater, and other waterways.

3. All projects shall use onsite retention of stormwater to the extent allowed by the site's infiltration capacity, as determined by an infiltration test, and within setbacks designated by the SWMM.

4. To the maximum extent practicable, stormwater facilities shall be designed to infiltrate the stormwater runoff created by impervious area at the site during the 10-year, 24-hour storm event. A technical analysis using a site's topography, the results of an infiltration test, and other information required by the City Engineer, shall be submitted to the City Engineer for review if the project cannot infiltrate 100% of the runoff created by the impervious area on the site.

5. Off-site discharges shall be to a location approved either:

- a. Under a development permit issued under LOC Chapter 50; or
- b. For projects not requiring a development permit, as a part of the City Engineer's construction plan review.

6. All local, state, and federal permit requirements related to implementation of stormwater management facilities must be met prior to approval of the City's final inspection of the stormwater facility.

7. Underground Injection Control (UIC) facilities must be reviewed and approved by DEQ unless rule-authorized pursuant to OAR 340-044-0018. Stormwater shall not be discharged to a UIC that does not meet DEQ requirements.

Response: The proposed subdivision will provide an on-site retention facility to reduce the volume and rate of runoff entering the stormwater management system. Stormwater will be managed in the close proximity to the development site. Preliminary Stormwater Plan, Sheet 11.0 in Exhibit C, demonstrates the location of proposed on-site stormwater facility. A stormwater report is also provided as Exhibit L for the complete review of the stormwater system for this proposal.

8. Stormwater System Design.

- a. Applicants shall submit a stormwater report that quantifies and describes all impervious areas on the site and the treatment methods used to meet the requirements of the SWMM.
- b. The applicant's designer shall be responsible for all stormwater system design, Stormwater Report, and Operations and Maintenance Plan.
- c. Stormwater reports must address all criteria required by the Stormwater Management Documents. Incomplete reports will be returned to the applicant.
- d. Any modification of a stormwater report or the construction of a City-approved stormwater system, public or private, shall be submitted to the City Manager for review and approval.
- e. Operations and Maintenance (O&M) Plan.
 - i. The Operations and Maintenance Plan shall list the responsible party(s) of the stormwater facility.
 - ii. An O&M Plan must be prepared for private and public stormwater facilities, submitted to the City Manager for review and approval, and recorded in the county in which the property/facility is located.
 - iii. The O&M Plan shall contain any agreements regarding operations and maintenance of stormwater facilities that are required as a condition of approval.

Response: A stormwater report is provided as Exhibit L for the review of this proposal. The report describes the proposed stormwater details with treatment method that meet the criteria required by the Stormwater Management Documents for this proposal.

38.25.130 Public Stormwater Facilities.

1. The applicant shall

Obtain a Public Improvement Permit for public stormwater infrastructure.

2. Notices.

- a. Prior to project mobilization, the applicant or applicant's agent shall schedule and attend a pre-construction meeting with the City Engineer.

b. The applicant or applicant's agent shall notify the City Engineer and the applicant's design engineer 48 hours prior to starting construction work on the public. The City shall either provide written authorization to proceed or provide an Engineering Construction Inspector to monitor the construction. The applicant's design engineer or designee must be present during the construction of stormwater facilities and photo-document the process.

3. Certificate of Acceptance.

- a. A Certificate of Acceptance will be issued after construction is complete and the warranty period has been successfully completed.
- b. The City Engineer shall periodically inspect public stormwater facilities that have not been issued a Certificate of Acceptance. Inspections shall document required maintenance and note any discrepancies from the O&M Plan and the City-approved stormwater design.
- c. A final inspection and approval by the Engineering Dept. is required before a Certificate of Acceptance is issued and the construction security required under LOC § 50.07.003.9.a is released for the project.

Response: The applicant will apply for public improvement permit at the time of construction for the proposed stormwater facility.

38.25.140 Stormwater Facility Maintenance

1. The responsible party shall:

- a. Inspect and repair stormwater facilities to maintain their design capacity and treatment capability;
- b. Clean conveyance structures and catch basins as necessary to maintain their design capacity.
- c. Maintain access lanes and pathways to stormwater facilities.

2. Repairs and Maintenance.

- a. All repairs and maintenance shall be in accordance with the SWMM and, if issued, the Operations and Maintenance Plan (O&M Plan). If an O&M Plan was not issued, the maintenance of the stormwater facility shall comply with current industry practices.
- b. The City may require the applicant to conduct more frequent inspections and/or maintenance when necessary for its proper function at the design capacity.
- c. Failing or Failed Stormwater Facilities.

- i. Stormwater facility renovations, restoration, or replacements shall be submitted to the Engineering Department for review and approval. Submittals shall include all information required by the current Lake Oswego Stormwater Management Manual.
- ii. Stormwater facility restorations must bring the failing stormwater facility into compliance with the original approved plans or land use requirements. The land use requirements will prevail if a conflict exists between the approved plans and the land use requirements.
- iii. Stormwater facility renovations must bring the failing or failed stormwater facility into compliance with the requirements of the current Lake Oswego Stormwater Management Manual.
- iv. Stormwater replacements must conform with the requirements of the current Lake Oswego Stormwater Management Manual.

d. City Inspections.

- i. All public and private stormwater facilities shall be reasonably accessible for City inspections. The responsible party shall ensure inspection access for public facilities through an easement to the City. (See LOC § 38.25.160(1) for easement requirements.)
- ii. The City Engineer shall establish inspection programs to evaluate and enforce compliance with the requirements of this article, which may include but are not limited to, routine inspections, random inspections, inspections based upon complaints or other notice of possible violations, or joint inspections with other agencies inspecting under environmental or safety laws.

e. The responsible party shall:

- i. Document all records of maintenance activities and facility repair as described in the Operations and Maintenance Plan.

- ii. Retain the maintenance records for a minimum of ten years.
- iii. Transfer the records to the successor responsible party of the stormwater facility.
- iv. Provide duplicate copies of the retained records to the City Engineer upon request and at reasonable times. The records may be retained by electronic methods.

f. The applicant and successor Responsible Parties shall inform purchasers and other successors and assignees of the property of the existence of private stormwater facilities on the site and the requirements for inspection and maintenance.

3. In the event

The City Manager has reason to believe that a stormwater facility has not been maintained in a manner that retains its design capacity or treatment capability or that it has become a threat to public safety, health and welfare, or to water-quality requirements issued by DEQ to the City:

- a. The City Manager shall notify the responsible party by certified mail at the address shown on the most recent tax assessment roll. If the responsible party is an entity, notice may also be given to an officer of the entity or to its registered agent as shown by the records of the Secretary of State.
- b. The notice shall specify the failed or failing components of the stormwater facility and the measures needed to comply with the design.
 - i. The notice shall specify a correction period.
 - ii. For structural repairs, the responsible party must submit a proposed plan within the correction period to the City Engineer for review and approval. The proposed plan must include a schedule for completing the required repairs.
- c. If corrective measures are not completed within the correction period or the correction plan's timeline, then the City Manager may pursue enforcement procedures pursuant to this Article, or otherwise allowed under the Lake Oswego Code.

Response: The applicant will maintain and repair the stormwater facility as applicable to ensure it remains functioning at all times.

38.25.145 Exemptions and Variances.

1. Exemptions.

- a. Projects undertaken during an emergency, such as where there is immediate danger of landslide, damage to public or private property, or failure of a public facility.
- b. Re-development in response to a natural disaster or fire when the re-development does not expand beyond areas that were managed previously in conformance with LOC § 38.25.125.
- c. Utilities.
 - i. Maintenance, repair, or installation of utility facilities, e.g. pipes, conduits, and vaults, that include replacing the ground surface with in-kind material or materials with similar impervious characteristics.
 - ii. Utility work where only trenching is done and where the new surface has the same impervious characteristics as the original surface.
- d. Pavement Maintenance.
 - i. Pothole repair, crack sealing, and square cut patching.
 - ii. Pavement overlays that do not expand the area of coverage.
 - iii. Slurry seal.
 - iv. Pavement maintenance that does not extend below the top of the road base.

Response: The development will create new stormwater facility for the site; hence it is not exempt from the requirements of stormwater development activities as specified in this section.

2. Variances.

- a. Variance Application Requirements.

- i. An application for a variance must be submitted in writing to the City Engineer and must:
 - A. Describe the project including the location and purpose;
 - B. Identify the specific requirement in the Code or Stormwater Management Documents for which the applicant is applying for a variance;
 - C. Submit a stamped engineering analysis demonstrating that the criteria of subsection (b) is met; and
 - D. Propose mitigation measures to compensate for the variance, including a stamped engineering analysis and modeling showing how the project will not reduce water quality or cause hydromodification.
- ii. The applicant shall submit complete and accurate information; incomplete or inaccurate submittals will be returned to the applicant for re-submittal.
- iii. Additional material supporting the need for a variance may be required by the City Engineer.
- iv. The applicant shall include a fee with the application as set by resolution of the Council from time to time.

b. Approvals.

- i. The City Engineer may approve a variance:
 - A. When the variance, as mitigated, will not increase risks to public health, safety, and welfare, or to water quality or quantity, or to public and private property as determined in a Downstream Analysis (see SWMM for details); or
 - B. Where the requirement:
 - (1) Will cause harm or a significant threat of harm to public health, safety, and welfare, including water quality or quantity, or harm public and private property; or
 - (2) Is not technically feasible.
 - C. Only to the extent necessary to alleviate the condition;
- ii. Approval is limited to the specific variance granted for the specific project.
- iii. The City Engineer shall provide a written decision that approves or denies the application, and summarizes the findings regarding the criteria. The City Engineer may impose conditions of approval if needed to meet the criteria. The City Engineer's decision is the final decision of the City.
- c. The variance submittal and documents approving or denying the variance will be retained with the Engineering Department's project documents.

Response: Proposed stormwater facility will be designed as per the requirements of the Stormwater Management Document or SWMM. The applicant is not requesting any variance to the stormwater design with this application.

SUBARTICLE 4 GENERAL PROVISIONS

38.25.150 Illicit Discharges

1. Prohibited Discharges.

It is unlawful for any responsible party to cause or allow or permit a discharge, directly or indirectly, of any pollutant into the surface water management system, private storm drainage system connected to the surface water management system, or receiving water within City limits. This includes discharges as a result of an unintentional spill or deliberate dumping.

A discharge is prohibited, either singly or in combination with other substances, when the discharge is:

- a. Causing or contributing to a violation of the City's NPDES-MS4 permit (a copy of the permit is available upon request of the City Engineer or at the City's surface water website: <http://www.ci.oswego.or.us/publicworks/surface-water>); or

- b. Causing or contributing to a violation of a TMDL allocation issued to the City by the DEQ (a copy of the TMDL is available upon request of the City Engineer or at the City's surface water website: <http://www.ci.oswego.or.us/publicworks/surface-water>);
- c. Causing or contributing to a violation of a city, state, or federal law or regulations;
- d. Causing or contributing to the endangerment of public health, safety or welfare; or
- e. Causing or contributing to the degradation of water quality or causing hydromodification.

2. Conditionally Exempt Discharges.

- a. Unless the non-stormwater discharges outlined as allowable discharges in the City's current NPDES-MS4 permit are identified by the City as a significant source of pollutants to waters of the state, they are not considered illicit discharges and are authorized by the City's NPDES-MS4 permit.
- b. If any of the discharges allowed in the City's current NPDES-MS4 permit are determined to be causing, or contributing to a violation of the City's water-quality permits or TMDL allocations, the City Engineer can require the owner to employ methods and techniques to minimize the discharge to the maximum extent possible.
- c. Acceptance of Emergency Discharges. During the period of an emergency operation, such as firefighting or a water line break, discharges are not required to comply with the regulations of this section. Any repairs made after the period of emergency has ceased shall comply with this section. If an emergency discharge occurs and the discharge was an intentional act, the City may recoup its costs of the emergency response and repair from the responsible party, including time and materials.

3. Testing Discharges.

When the City Manager has reasonable cause to believe that a discharge is a prohibited discharge, the City Manager may obtain samples of the discharge and analyze the discharge. If the discharge is prohibited, the applicant shall be liable to the City for its reasonable costs of obtaining the samples and analyzing the discharge.

- a. The City Manager may assess the reasonable costs of obtaining the samples and analyzing the discharge, which shall be a personal liability of the person discharging the pollutant or the prohibited discharge. In addition, the City Manager may file a lien in the Municipal Lien Docket on any real property owned by the person within the City of Lake Oswego for the sampling and analyzing costs. Upon recording a lien, the City Manager shall give notice to the person in the manner provided in LOC § 38.25.140(4)(a) of the assessment of costs and filing of the lien. The City Manager may thereafter undertake collection against the applicant, and may also undertake foreclosure of the lien in the manner provided by Oregon law for foreclosure of mortgages.
- b. When the prohibited discharge is on a recurring basis, the City may conduct, or may require the responsible party to conduct, ongoing monitoring at its expense.

Response: There will be no illicit discharges into the stormwater facility with this development application.

SUBARTICLE 5 LEGAL INSTRUMENTS AND INTERPRETATION

1. Inspection and/or Operation and Maintenance Access Easement.

When a public stormwater easement to the City is required by LOC § 38.25.140(3)(c) and (d):

- a. Easement Width and Location. The easement width and location shall be as specified in the Stormwater Management Documents.
- b. Scope of Easement. The rights of the easement shall be described either in the easement instrument itself or by separate recorded memorandum of easement, i.e., when an easement is shown on a plat but a description of the rights of the easement does not appear on the plat.
- c. Approval and Acceptance of Easement before Recording or Filing. The easement or memorandum of easement shall be in a form as specified in Engineering Division documents and approved and accepted by the City Engineer before it is recorded or filed.

- d. Dedication of Easement on Subdivision or Partition Plat. For subdivisions and partition applications, the easement shall be dedicated to the City on the subdivision or partition plat. A separate memorandum of easement describing the scope of easement shall be recorded with the county recording officer for the county where the site is located.
- e. Dedication of Easement by Instrument. When the easement is required at a time other than at the creation of a subdivision or partition, the owner of the property shall dedicate the easement to the City by easement instrument. The owner shall record it with the county recording officer for the county where the site is located.
- f. Evidence of Recording; Priority. The City Engineer may require the applicant or owner of the property to provide evidence that the easement was validly recorded and is not inferior to any prior interest or encumbrance on the property.

Response: The project proposes a private stormwater facility which will be maintained by an HOA. The stormwater facility will not require a public stormwater easement from the City. This section is not applicable.

38.25.170 Financial Securities and Fees.

1. Financial Security Obligations for Public Stormwater Facilities.

- a. Construction. Public stormwater facilities are subject to the public improvement construction financial security conditions in the Community Development Code (LOC § 50.07.003.9.i).

The security deposit posted shall be released in full only upon submission of "as built plans" and issuance of the City's Certificate of Acceptance. The City will make a final inspection of the facility to ensure that it complies with the approved plan and the provisions of this Code before the Certificate of Acceptance will be issued and security deposit released. Provisions for a partial pro rata release of the construction security based on the completion of various development stages and issuance of a partial Certificate of Acceptance is at the discretion of the City Manager.

- b. Maintenance. A maintenance security shall be posted by the applicant upon completion of public facility construction, in order to ensure that the facility is maintained in accordance with the Operations and Maintenance Plan, pursuant to LOC § 50.07.003.9.ii. The City will make a one-year public infrastructure inspection to ensure that it complies with the Operations and Maintenance Plan before releasing the maintenance security.

Response: The applicant agrees to pay any financial securities and fees as applicable for the proposed stormwater facility.

2. Fees.

The City may require a fee for development plan review and inspection, to be allocated to the Engineering Division. If required, each applicant seeking approval of a Stormwater Report shall pay a fee upon submittal of the application, and shall pay a fee for each inspection (see the City's current Master Fees and Charges).

Response: The applicant will pay a development plan review fee with this minor development review application. The applicant will pay stormwater inspection fee when required.

VIII. COMPLIANCE WITH CHAPTER 42 - STREETS, SIDEWALKS, PUBLIC RIGHT OF WAY & PUBLIC EASEMENT

ARTICLE 42.03 STREET DESIGN STANDARDS

42.03.015 Application

All roadway improvements within the jurisdiction of the City of Lake Oswego shall be governed by the provisions of this article and the provisions of LOC Chapter 50.

42.03.025 Standards Generally, Criteria

1. The following factors shall be considered

In arriving at the design of a particular roadway through application of the standards set forth in this Chapter:

- a. Site design.
- b. Topography.
- c. Soil characteristics, particularly permeability and susceptibility to erosion.
- d. Site conditions, including existing structures, improvements, watercourses and vegetation.
- e. Comprehensive Plan land use designation and roadway functional classification.
- f. Traffic volume based on Transportation System Plan criteria or traffic study.
- g. Traffic safety (bicycle, pedestrian and vehicular).
- h. Parking requirements.
- i. Compatibility with abutting roadway characteristics.
- j. Presence of Sensitive Lands overlay districts.
- k. Natural hazards.
- l. Presence of or connectivity of bicycle and pedestrian facilities.
- m. Provision of existing or planned transit opportunities.
- n. Placement of utilities, street trees, and street lighting.
- o. Stormwater collection and treatment.
- p. Connection to new or existing transportation infrastructure.
- q. AASHTO sight distance.
- r. Zones, overlay districts, and other Community Development Code requirements.
- s. Traffic impact analysis.

Response: The proposed street design considers criteria, including site design, soil characteristics, existing easements, resource protection area and proposed stormwater system on-site. A Traffic Impact Analysis (TIA) is included as Exhibit J to support compliance with traffic safety and volume considerations. The Street Plan, Sheet 7.0 in Exhibit C, demonstrates preliminary street plan and proposed right of way details for the development. Parking details are provided on the Parking Plan, Sheet 8.0 in Exhibit C.

2. To permit evaluation of proposed roadway designs

The City Engineer may require developers to furnish information on soil conditions, topography, soil permeability, characteristics of natural drainage courses, property ownerships, location and characteristics of adjoining roadways, grading plans, and landscaping plans.

Response: This application package includes all requested supporting documents, including Geotech (soil) report as Exhibit H, Title Report with ownership details as Exhibit B for review. The Street Plan, Sheet 7.0 in Exhibit C, illustrates the proposed right of way. The Preliminary Grading Plan, Sheet 10.0 in Exhibit C, and Landscape Plans in Exhibit E are included for review.

3. Drainage.

- a. Drainage is not an assumed function of the roadway, but is an additional function to be imposed upon a roadway only after it has been demonstrated that alternative management methods for surface waters per LOC § 38.25.125 are not feasible.
- b. In determining the necessity of using the roadway for drainage of surface waters, a storm of 10-year frequency shall be utilized to calculate the stormwater runoff to be dealt with by the drainage system.

c. All public improvements required as a condition of development shall be located in the public right-of-way or in an adequate easement per the provisions of the Stormwater Management Documents (See LOC § 38.25.110).

Response: All public improvements will be located in the public right of way or will be placed in an easement as required under this subsection.

42.03.050 Local Streets, General Standards

1. Local streets shall be designed and constructed with a minimum of paved roadway width and other structural elements necessary to provide proper functioning of the street as a transportation element. The City Council determines that it is in the public interest to depart from the existing street patterns and that new local streets should not be required to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property. Such circumstances shall be considered in the design of local streets so as to permit an orderly transition from previous standards to the standards set forth in this article.
2. Local streets shall be designed to provide a minimum of disruption to neighborhood livability while providing adequate and safe circulation from residential lands to collector and arterial streets.
3. The width of any local street, both as to right-of-way and paved roadway, shall be determined by the City Engineer.
4. Pedestrian facilities shall be provided on at least one side of all streets, unless deferred or waived pursuant to LOC § 42.08.400.
5. Portions of existing streets contiguous to, but not included in, any new development shall, as part of the development and at the discretion of the City Engineer, be improved to any appropriate standards of this article.
6. The starting point for the right-of-way and design of local streets shall be two vehicular travel lanes and comply with the current Fire Code.
7. A design maximum speed of 25 miles per hour shall be utilized in computing vertical and horizontal curvatures of the paved surface per AASHTO guidelines.

Response: The proposed development will develop local street for the safe and efficient circulation from residential lots to connecting arterial street. The development will provide 44' - 47' wide right of way for local streets which will provide proper functioning of the street as a transportation element. Proposed local street sections are provided in the Street Plan, Sheet 7.0 in Exhibit C.

42.03.060 Grades

The maximum grade normally allowable for a particular street designation in the direction of travel shall be as follows:

1. Arterial Street: 6%.
2. Collector: 10%.
3. Local Street: 15%.

Response: Proposed local street will not exceed the 15% maximum grade. See the Street Plan and Preliminary Grading Plan, Sheets 10.0 and 7.0 in Exhibit C for review.

42.03.085 Cul-de-Sacs and Dead End Streets

1. Cul-de-sacs shall not be permitted where they would preclude current or future through roadway connections. If all connections required by a neighborhood circulation plan are made, or if natural constraints restrict connection, cul-de-sacs may be permitted with appropriate accessways required for pedestrian and bicycle circulation dedicated as public right-of-way.
2. Cul-de-sacs shall generally be designed with a circular closed end with sufficient radius and right of-way to allow for utilities, street lights, pedestrian facilities, etc. Use of a "fish tail" or "hammerhead"

configuration must be approved by the City Engineer. Pedestrian facilities shall be provided on at least one side of all closed end streets with five or more lots.

3. A cul-de-sac or dead end street shall be no longer than 200 feet in length and shall serve no more than 25 dwellings, except where extreme topography, the presence of Sensitive Lands Overlay District lands as described in LOC §§ 50.05.010 and 50.07.004.8, floodplains as described in LOC § 50.10.003.2, freeways, existing development patterns on abutting property or arterial access restrictions, preclude the logical connection of streets. A cul-de-sac shall provide a turnaround without the use of a driveway per the Fire Code.

4. Dead end roadways that are created after December 31, 2015, and that are planned for future extension through LOC § 50.06.003.4.c.iv shall be permanently posted until extension occurs.

5. In determining the length of a cul-de-sac or closed-end roadway for compliance with subsection (3) of this section, the starting point for the measurement shall be at the intersection of the centerline of the proposed closed-end roadway or cul-de-sac with the projected edge of the right-of-way of the nearest intersecting through roadway, measured along the centerline of the cul-de-sac or closed-end roadway to the nearest point of curvature of the cul-de-sac bulb or the nearest angle of a hammerhead turn around. See Table 42-1:

TABLE 42-1 METHOD OF DETERMINING CUL-DE-SAC LENGTH



The length of a cul-de-sac or hammerhead does not include the area devoted to the turnaround, and shall be measured along the centerline according to the methods illustrated in Table 42-1. A future street plan that shows a roadway will be extended from a proposed closed-end roadway, to form a through roadway, will not be subject to the 200-foot limitation and will be considered a temporary closed-end roadway. In such cases, a temporary provision for turning around without using a driveway shall be required.

Response: No cul-de-sacs or dead-end streets are proposed within the development. 22-foot-wide alley access easements are proposed for access to future child lots for cottage cluster units. Planned alley location and local street sections are illustrated on the Street Plan, Sheet 7.0 in Exhibit C for review.

42.03.095 Modifications to Roadway Design Standards

When physical circumstances on site or in the vicinity of the site make strict compliance with the standards of this article impracticable when applied to a specific application or roadway project, the City Engineer may allow modifications to such standards. Such modifications shall be minimized to the degree practical in order to address the special site or vicinity condition. The process for requesting a variance in the City's Engineering Design Standards must be followed when requesting a modification to these design standards.

Response: No modifications to Roadway Design Standards are proposed for this development.

42.03.130 Access Spacing and Sight Distance for Roadway Intersections, Driveway Approaches and Accesses

4. Standards.

a. All new or modified roadway intersections, driveway approaches, and accesses shall follow access spacing as shown in Table 42.03.130-1, Access Spacing. Where not practicable (as term is defined in LOC § 50.10.003.2), the City Engineer may authorize a lesser minimum spacing when a lesser spacing does not create a traffic operational or safety conflict.

Table 42.03.130-1: Access spacing	
Functional Classification	Minimum Spacing (feet)
Major arterial	300
Minor arterial	200
Major collector	150
Neighborhood collector	100
Local residential street	50
Local commercial/industrial street	50
Alley	30

b. Sight distance requirements shall apply at all roadway intersections, driveway approaches, and accesses with the following:

i. Intersection sight distance (ISD) per AASHTO shall be provided at all intersections. If ISD cannot feasibly be achieved, lesser sight distance may be acceptable upon review and approval of the City Engineer, as long as Subsection (4)(a)(ii) of this section is achieved.

ii. Stopping sight distance (SSD), based on the design speed or 85th percentile speed of the roadway, shall be provided along all public roadways.

iii. New construction of an intersection (roadway(s), driveway approaches, and accesses) or a modification to an existing intersection must comply with street opening permit requirements.

iv. A written report submitted by a licensed engineer for sight distance certification shall accompany the application.

v. Driveways that serve one residence along alleys shall maintain at least 80 feet of visibility when viewing down the alley from 10 feet behind the nearest edge of the traveled way at a height of 42 inches above the surface. This area shall remain clear of any items prohibited by Subsection 4(c) below.

c. Prohibited items in clear sight triangle. Within the clear sight triangle, it shall be unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of, any sign, fence, hedge, shrubbery, natural growth or other obstruction to the view, higher than 30 inches above the level of the centerline of the adjacent pavement.

d. Exceptions. The requirements of Subsection (4) of this section do not apply to:

i. Utility poles and guy anchors;

ii. Fire hydrants;

iii. Individual tree trimmed (to the trunk) from the ground to a line at least eight feet above the level of the traveled way with a maximum DBH of 36 inches;

iv. Roadway warning signs, sign supports or signal equipment owned and maintained by the City of Lake Oswego or other road authority jurisdiction;

v. Signs mounted nine feet or more above the ground and supported by a single support with a maximum cross-section of 12 inches;

vi. Earth-formed obstructions, including retaining walls, at intersections that were existing on January 1, 2009;

vii. Vehicles parked compliant with LOC Article 32.06;

viii. Mailbox supports with a maximum cross-section of 12 inches in any horizontal dimension;

ix. Open-style pedestrian handrails or fences approved by the City Engineer; and

x. Items authorized within clear sight triangle by an encroachment permit pursuant to LOC Article 42.18 when the item is within a public right-of-way, or by written approval of the City Engineer when the item is on private property.

e. There shall be a landing area where a driveway meets the public street. The landing area shall be a minimum of 25 ft. long and shall have a maximum grade of five percent. The length and grade of the landing area described in this subsection presupposes that the abutting street has been fully improved to its ultimate anticipated width. If a driveway is proposed on a street that is not fully improved, and a development proposal is anticipated to proceed prior to the improvement of the street, the City Engineer shall determine the location and grade of the future street improvement and the applicant shall design the driveway and site grading so that this standard will not be compromised when the street is improved in the future.

Response: Access spacing between proposed site entrance on Stafford Road and the nearest intersection at Stafford Road and Overlook Drive is 650-foot center line to center line. Intersection sight distance (ISD) per AASHTO will be provided at all intersections. New construction of an intersection will comply with street opening permit requirements. See Street Plan, Sheet 7.0 in Exhibit C for proposed transportation improvement. Preliminary Sight Distance Exhibits are provided in Exhibit O for review.

42.03.131 Clear Sight Triangles to be Kept in Repair and Clean By Owner

It shall be the duty of owners of property abutting or lying adjacent to an intersection of roadway(s), driveway approaches, and accesses to keep such areas in good repair and free from obstruction or matter which may impede or render hazardous the use of the intersection.

Response: Clear sight triangles will be kept free from obstruction such as any landscape element which may impede or render hazardous the use of the intersection.

42.03.135 Method of Establishing Special Street Setback Reference Line

1. Establishment of Special Street Setback Reference Line.

a. The "special street setback reference line" shall be established for streets listed in LOC § 50.04.002.3 by the City Engineer, pursuant to the procedures in subsection (1)(b) or (c) of this section, and the criteria in subsection (2) of this section.

b. Initiated by Property Owner, Including Development Permit Application.

i. A property owner may request the City Engineer's establishment of the special street setback reference line for a listed street that has not previously had a special street setback reference line established for the portion of the street fronting the owner's property, by submitting:

A. A written request to the City Engineer; or

B. A development permit application under LOC Chapter 50.

ii. Notice to Affected Property Owners. Written notice of the request shall be given to property owner(s), including the requestor, of property fronting on the affected portion of the street in the manner provided by LOC § 50.07.003.3.a.i(1). The notice may be included within the notice of the development permit application.

iii. Any person affected by the establishment of the special street setback reference line may submit written comments addressing the criteria in subsection (2) of this section for the City Engineer's consideration within 10 days after the notice is issued.

c. Initiated by City Engineer.

i. The City Engineer may initiate the establishment (or revision) of the special street setback reference line to a street, or any portion, listed in LOC § 50.04.002.5.

ii. Written notice of the intended establishment of the special street setback reference line shall be given to property owners on either side of the proposed special street setback reference line in the same manner as provided in subsection (1)(b)(ii) of this section.

iii. Written comments may be submitted to the City Engineer in the time and manner provided in subsection (1)(b)(iii) of this section.

d. The City Engineer shall consider comments timely submitted and shall establish the special street setback reference line. The City Engineer's decision shall be final.

2. Method of Measurement.

a. The special street setback reference line shall be the line equidistant between the boundary lines of the right-of-way, except as provided in subsection (2)(b) of this section.

b. An exception to the method in subsection (2)(a) of this section may be used at the discretion of the City Engineer based on site-specific factors when an alternative method is reasonable for the continuous alignment of the centerline of the existing or anticipated future traveled surface of a street. Examples of such factors are, but are not limited to:

i. Anomalies in right-of-way lines that are inconsistent with the location of anticipated improvements or anomalies within the right-of-way;

ii. Existing improvements that are offset (not centered) in a right-of-way and future street expansion is anticipated to continue an offset alignment; or

iii. Extreme topographic or natural resource constraints where strict adherence to subsection (2)(a) of this section would have an unreasonable adverse impact on natural resources.

Response: The project provides a 40-foot Stafford Road Special Street Setback along the site frontage as required under 50.04.002. The special street setback is measured from the Stafford Road centerline as required under the provisions of this code. Special Street Setback is demonstrated in the Preliminary Plat, Sheet 4.0 in Exhibit C for review.

IX. COMPLIANCE WITH CHAPTER 55 - TREE REEMOVAL & MITIGATION

55.02.035 Tree Removal in Conjunction with Major or Minor Development Permit

1. If a major or minor development permit applied for pursuant to LOC §§ 50.07.003.15 or 50.07.003.14, respectively, would require or result in tree removal and/or a tree cutting permit as defined in this chapter, compliance with LOC § 55.02.080 shall be a criterion of approval of such development permit. Tree removals in conjunction with a major or minor development permit shall be considered in conjunction with such permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed major or minor development. The required notice for major or minor developments that would require or result in tree removals shall include a site plan indicating the location of any trees proposed for removal on the subject site. The proposed trees shall also be flagged with yellow flagging tape on site. Such flagging shall be maintained until a final decision on the proposal is rendered. The remaining notice, hearing and appeal procedures in LOC Chapter 55 shall not apply to tree removals considered in conjunction with a major or minor development request. Subsequent tree removals that have not been reviewed through either major or minor development procedures shall be reviewed as provided in this chapter.

2. Once a final decision has been rendered on the major or minor development permit, trees that have been approved for removal as part of that decision shall be subject to the verification permit process. Applications for verifications shall be made on the application forms as prescribed by the City Manager and be accompanied by an application fee as established by resolution of the City Council. The purpose of the verification process is to ensure that the trees approved for removal are properly identified for removal in the field and that the trees that were not approved for removal are not inadvertently removed. Removal of trees in violation of such land use approval will be considered a violation of this chapter. The criteria contained in LOC § 55.02.080 shall not apply to verification applications for tree cutting permits.

3. If a tree proposed to be removed has been specifically required to be preserved or protected as a condition of approval of a land use action pursuant to the Lake Oswego Community Development Code, the tree removal application shall be processed as a modification to that land use action and shall be reviewed subject to the criteria of LOC § 55.02.080 by the body responsible for reviewing such land use actions. Such modification procedure shall not be required in cases of an emergency as provided in LOC § 55.02.042(5), or when the tree is dead as provided in LOC § 55.02.080(1) or is a hazard as provided in LOC § 55.02.080(2).

Response: The application requests a Type II Tree Removal Permit in conjunction with this subdivision PD application to facilitate construction of proposed improvements on site. The project proposes to remove 49 non-significant trees and 1 significant tree from site. The applicant will provide 51 mitigation trees on-site that includes 3 native trees. The required street trees will not count towards mitigation trees. A site plan identifying the trees that will be removed and retained on-site is included in the Arborist Report in Exhibit I for review.

55.02.045 Permit Classifications and Review Procedures.

An applicant that desires to remove a tree shall first apply for and receive one of the following tree cutting permits before tree removal occurs:

1. Type 1 Permit is required for:

- a. A property that is located in a residential zone and is occupied by a single-family dwelling;
- b. Removal of up to two trees, 15 in. DBH or less per tree within a calendar year, and removal of any number of fruit trees regardless of size; and
- c. A tree that is not:
 - i. Protected by a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code;
 - ii. Located within an area or parcel that has been placed on the Historic Landmark Designation List pursuant to LOC § 50.06.009;
 - iii. A heritage tree per LOC Article 55.06;
 - iv. Located within an RC or RP district or an HBA protection area;
 - v. Located within the Willamette River Greenway (WRG) overlay district;
 - vi. Located within the 25-foot Oswego Lake Special Setback;
 - vii. Located on property owned by the City of Lake Oswego or dedicated to the public, including parks, open space and public rights-of-way.

Type I permits shall be issued without further review upon application and demonstration by the applicant that the request qualifies as a Type I permit pursuant to this subsection.

Response: The project requires a Type II tree removal permit. This subsection does not apply.

2. Type II Permit:

- a. A Type II permit is required prior to any tree removal application that does not qualify for issuance of a Type I permit, dead tree removal permit, hazard tree removal permit, emergency permit, verification permit, topping permit, invasive tree species removal permit, or forest management permit as described in this section.
- b. Type II permits shall be reviewed and approved by the City Manager pursuant to LOC § 55.02.080 (approval criteria) and 55.02.082 (notice requirements).

Response: The applicant is requesting a Type II removal permit in conjunction with this application to facilitate the removal of 52 trees on-site. Tree removal details are included in the Arborist Report in Exhibit I. Tree Mitigation details are included in Landscape Sheets in Exhibit E for review.

3. Dead Tree Removal Permit:

- a. The City shall issue a tree cutting permit for a dead tree, except as provided by subsection 3.b of this section, if the applicant demonstrates that a tree is dead or is in progressive and irreversible decline and warrants removal, or for ash (*Fraxinus* spp.), white fringetree (*Chionanthus virginicus*) and cultivated olive (*Olea europaea*) tree species known to be infested with emerald ash borer (*Agrilus planipennis*). The City may require the applicant to submit a report from an arborist substantiating that the tree is dead or in progressive and irreversible decline or infested with emerald ash borer.
- b. In order to provide for wildlife habitat and natural processes, the City Manager may require the retention of a dead tree. Dead trees shall not be removed if located in wetlands, RC protection areas (LOC § 50.05.010.5.b), HBA protection areas, stream corridors, parks or open space areas required to be preserved as a condition of development approval unless the tree presents a potential hazard to persons or property or is known to be infested with emerald ash borer.

Response: As per the Arborist report the project site has 18 dead/dying trees and 15 of them are proposed to be removed. A dead tree removal permit will be requested at the time of cutting the dead trees. See attached Arborist Report in Exhibit I for tree removal details.

4. Hazard Tree Removal Permit:

The City shall issue a tree cutting permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.

- a. A hazard tree is a tree that is likely to fall and injure persons or property as evidenced by cracking, splitting, leaning or physical damage. A hazard tree may also include a tree that is causing damage to existing public or private services or public facilities and such facilities or services cannot reasonably be relocated or repaired. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning or moving the service or facility.
- b. The City may require the applicant to submit a report from a Tree Risk Assessor Qualified Arborist confirming the hazard potential of the tree, indicated by a high or extreme hazard rating in the International Society of Arboriculture qualitative tree risk assessment, along with an analysis of alternative methods to alleviate the hazard without removal, and submit a completed hazard evaluation form as provided by the City.

Response: There are no hazardous trees on the site; therefore, a hazard tree removal permit is not requested with this application.

5. Emergency Permit:

- a. If the condition of a tree presents an immediate danger of collapse, and represents a clear and present hazard to persons or property, an emergency tree cutting permit may be issued. For the purposes of this subsection, "immediate danger of collapse" means that the tree is already leaning, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the nonemergency process. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment.
- b. An emergency permit shall be issued if a tree is leaning such that it rests either:
 - i. On a structure; or
 - ii. On another tree and there is a significant likelihood that the tree will topple or otherwise fail.
- c. If a utility service has been interrupted such that the applicant can demonstrate that repairs cannot be completed without the removal of a tree, an emergency permit shall be issued. If the tree is a significant tree or a heritage tree, the applicant must also demonstrate that the utility cannot practicably be relocated.
- d. Emergency tree cutting permits must be approved by the City Manager. If an emergency situation arises at a time when the City Manager is unavailable, and such emergency creates a significant likelihood that

the tree will topple or otherwise fail before such official becomes available, the owner of the tree shall photograph the tree showing emergency conditions and then may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days of such removal, the owner of the tree shall apply for a retroactive emergency tree cutting permit and shall submit with the application evidence to demonstrate the emergency nature of the tree.

e. The City may require the applicant to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse. The person or entity performing the removal shall not be eligible to provide this review. If the evidence shows that the tree did not satisfy the emergency tree removal standards set forth in this chapter, the application shall be denied and the owner of the tree shall be subject to penalties pursuant to LOC § 55.02.130 and the mitigation requirements of LOC § 55.02.084.

Response: This application does not request an Emergency tree removal permit.

6. Invasive Tree Species Removal Permit:

The City may issue a tree cutting permit for a tree that is on the Invasive Tree Species List upon the applicant's compliance with the requirements of LOC § 55.02.050(1)(a).

Response: The applicant is requesting approval of an invasive tree removal permit. Compliance with Section LOC 55.02.050 is demonstrated in the following section of this narrative.

7. Verification Permit:

a. If a site has received development approval through a major or minor development process or for a ministerial resource enhancement project pursuant to LOC §§ 50.05.010.5.c.iii(7) or 50.05.010.6.c.ii(1)(f), then a verification permit shall be issued for those trees approved for removal through that process. To obtain a verification permit, an applicant must clearly identify in the field the trees to be removed by tying yellow tagging tape around each tree and submitting a site plan indicating the location of the requested trees. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application. The City Manager will then verify that the requested trees match the site plan approved through the major or minor development process or resource enhancement project. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC § 55.02.084. Such mitigation requirements shall be a condition of approval of the original development permit.

b. Any tree not approved for removal through the original major or minor development review process or resource enhancement project shall not be approved as part of the verification permit process, unless the subject tree is located within an approved building footprint, public/private utility or improvement area, and no feasible alternative exists to preserve the tree. In such cases, the City may allow the tree to be removed without a Type II tree cutting permit process; however, the mitigation requirements of LOC § 55.02.084 shall still apply.

c. Verification permits shall be issued upon application and demonstration by the applicant that the request complies with this section. Verification permits shall not be issued prior to the issuance of a building permit for the subject property without prior authorization by the City Manager.

Response: A Type II tree removal permit is requested with this Minor Development Application to request removal of 52 type II on-site trees. An Arborist Report attached as Exhibit I is included for the review of Type II tree removal permit. A site plan identifying the tree proposed to be removed is included in the report for reference.

8. Topping Permit:

a. A topping permit may be issued only if the following apply:

- i. A utility, public agency, or other person who routinely tops trees in furtherance of public safety may apply for a topping permit pursuant to this section based upon an arborist or forester report establishing a methodology for topping in compliance with this subsection.
- ii. Trees under utility wires may be topped only where other pruning practices are impractical.

- b. The City, in granting approval for tree removal in an open space or undeveloped area, may allow a tree to be topped to a designated height in order to maintain a "snag" for wildlife habitat.
- c. A tree cutting permit obtained for tree removal shall not authorize topping unless said tree cutting permit specifically authorizes such action.

Response: The applicant is not requesting approval of a topping permit.

9. Forest Management Permit, Minor or Major:

The City shall issue a permit for tree cutting on a large forested tract upon the applicant's compliance with the requirements of LOC § 55.02.072.

Response: The subject property does not include large, forested tract; therefore, no forest management permit is requested with this application.

55.02.050 Application for Permits.

1. An application for a tree cutting permit shall be made upon forms prescribed by the City.
 - a. Invasive Tree Species Removal Permit. An application for an invasive tree species removal permit shall contain:
 - i. Photograph(s) that positively identify the tree species;
 - ii. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property. For large, forested tracts, the City Manager may accept an estimate of the number of invasive trees to be removed with a site plan indicating the estimated number, location, DBH, and species;
 - iii. Information as to whether the tree is located in a public right-of-way, is within a Resource Conservation or Resource Protection overlay district, or a required protection area for a Habitat Benefit Area, or is part of an approved landscape or mitigation plan; and
 - iv. Any other information reasonably required by the City.
 - b. Other Tree Removal Permits. An application for a tree cutting permit that is not for an invasive tree species removal permit shall contain:
 - i. The number, DBH, species and location of the trees proposed to be cut on a site plan of the property, except as provided for a major forest management permit application under LOC § 55.02.072(4);
 - ii. A forest management plan, where an application is for a major forest management permit under LOC § 55.02.072(4). The application shall provide an estimate of current and proposed stocking levels (number and basal area) of trees six in. or greater DBH by general categories of trees (e.g., evergreen-conifer, evergreen-broad leaf, deciduous, etc.), and identify the names of the predominate tree species representing each category;
 - iii. A statement of the reason(s) for removal;
 - iv. A landscape plan for Type II tree removal if the purpose is to carry out the plan; and
 - v. Any other information reasonably required by the City.
2. The applicant shall have the burden of proving that the application complies with the criteria for approval of the applicable class of permit.
3. Misrepresentation of any fact necessary for the City's determination for granting a tree cutting permit shall invalidate the permit. The City may at any time, including after a removal has occurred, independently verify facts related to a tree removal request and, if found to be false or misleading, may invalidate the permit and process the removal as a violation. Such misrepresentation may relate to matters including, without limitation, tree size, location, health or hazard condition, and owner's authorized signature.

Response: A Type II tree removal permit is requested with this application to request removal of 52 on-site trees, including removal of invasive tree species. An Arborist Report attached as Exhibit I is included for the review of Type II tree removal permit. A site plan identifying the trees proposed to be removed and a table detailing the species, condition, size, and proposed treatment is included in the report for reference. The Arborist Report, this narrative, and other development plan exhibits

identify the need for the proposed tree removal and demonstrates compliance with the approval criteria of this section.

55.02.060 Fees.

An application for a tree cutting permit shall be accompanied by a filing fee as established by resolution of the City Council.

Response: The applicant will pay the tree cutting permit fee as applicable.

55.02.080 Criteria for Issuance of Type II Tree Cutting Permit.

An applicant for a Type II tree cutting permit shall demonstrate that the following criteria are satisfied. The City Manager may require an arborist's report to address the criteria for a permit.

1. The tree is proposed for removal because it has outgrown its landscape area or the removal is part of a landscape plan, or in order to construct development approved or allowed pursuant to the Lake Oswego Code or other applicable development regulations. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application;

a. For the purposes of this section, a tree that has outgrown its landscape area may include, but is not limited to, a tree that has grown such that damage to a structure or facility cannot be avoided by pruning or other maintenance, a tree that has grown too large within a constrained space such as a deck or other built feature that was constructed around the tree, or thinning to improve the health of other trees.

b. For purposes of this section, a "landscape plan" shall consist of plantings but may also include walkways, patios and other landscape features; the plan must include more than removing the tree for which the Type II permit is requested and planting required mitigation trees;

2. Removal of the tree, considering proposed mitigation measures, will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;

3. Removal of the tree will not have a significant negative impact on the character or aesthetics of the neighborhood. This standard is met when removal of the tree(s) does not involve:

a. A significant tree;

b. Alterations to the distinctive features or continuity of the neighborhood skyline, as viewed from all public streets and properties within 300 ft. of the property;

c. A tree that serves as a visual screen between a residential zone and an abutting nonresidential zone, or between a low density residential zone and a medium or high density residential zone, or between a medium and high density residential zone;

d. A street tree; or

e. Greater than 50% of a stand of trees.

Exceptions: This subsection 3. is not applicable when:

a. A tree is likely to or will continue to cause damage to a permanent, viable existing structure, or to infrastructure, such as utilities or paved landscape features, that cannot be remedied through reasonable tree maintenance or pruning; or

b. Alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. In making this determination, the City may consider alternative site plans or placement of structures (development purpose) or alternate landscaping designs (outgrown landscape area; landscape plan) that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Lake Oswego Code;

4. Removal of the tree is not for the sole purpose of providing or enhancing views;

5. Removal of the tree is not contrary to another section of the Lake Oswego Code; and

6. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC § 55.02.084. Such mitigation requirements shall be a condition of approval of the permit.

Response: The criteria for Type II tree cutting permit are addressed in detail in the attached Arborist Report in Exhibit I. The project proposes removal of 52 Type II trees that are within or directly adjacent to the footprints of the proposed construction of residential structures, roads, parking areas, driveways, pedestrian pathways, utilities, and their associated grading. The proposed development amenities are allowed uses in the zone.

55.02.082 Staff Decision and Notice Requirements for Type II Permits and Major Forest Management Permits; Issuance of Permit.

An applicant for a Type II tree cutting permit or a major forest management permit shall:

- a. Complete a public notice form. City staff shall distribute the notice to the neighborhood association whose boundaries include the proposed tree removal site;
- b. Complete a certification that the property will be posted and the trees will be marked pursuant to this section;
- c. Within 24 hours of applying for a tree cutting permit, post a public notice sign of a pending tree cutting permit as provided by the City on the subject property or associated access easement in a location that is clearly visible and readable to vehicles traveling on a public street and to pedestrians walking or biking by the property. The public notice sign shall state that a tree cutting permit is pending for trees on the property marked by yellow plastic tagging tape (or other means approved by the City, in the case of forest management permits), and shall include:
 - i. The date of posting and the pending permit number as assigned by the City Manager, and state that City staff will consider any comments on the pending permit that are received within 14 days of the date of posting. For pending forest management permits, the notice shall include a brief summary of the proposed tree removal and forest management activities;
 - ii. The following dates regarding the application:
 - A. Last date to submit written comments;
 - B. Expected date for issuance of tentative decision;
 - iii. Telephone number, City website address, and Planning Department location and hours to obtain information about the application, submit comments, obtain the tentative decision, and determine the last date to request a hearing.
- d. Mark each tree proposed to be removed by tying or attaching a yellow plastic tagging tape to the tree at 4.5 ft. above mean ground level at the base of the trunk, on or prior to the same day that the property is posted; and
 - i. Exception: For tree removal under a forest management permit, trees may be identified with tree marking paint, flagging, or other methods recommended by a forest management professional and identified in the permit;
- e. Maintain the tree marking until the final decision is issued.

2. After the close of the 14-day comment period:

- a. If the tree cutting permit application is associated with development that is the subject of a building permit application, review of the tree cutting permit application shall be suspended until the associated building permit application is reviewed and the development is found to be in conformance with the Community Development Code standards. City staff shall then promptly make a tentative decision approving the permit, approving the permit with conditions, or denying the permit. (If the development in the associated building permit is materially different than the development as described in the tree cutting permit application, the applicant shall modify the tree cutting permit application so that the proposed development is materially consistent with the development in the associated building permit; the tree cutting permit application shall then be renoticed for a new comment period.)

- b. If the tree removal permit application is not associated with development that is the subject of a building permit, City staff shall promptly make a tentative decision approving the permit, approving the permit with conditions, or denying the permit.
 - c. The tentative decision shall be posted on a Planning Department internet case file webpage, referencing the address stated in the posted notice. A notice of tentative decision shall state the deadline to file a request for hearing.
 - d. The notice of tentative decision shall be given to the applicant, neighborhood association, and persons that submitted written comments. The notice of tentative decision shall be provided by email to the person's/association's submitted email address, or if no email address is provided by a person but a mailing address is provided, then by first class mail.
3. If no request for a hearing is received within seven days after the tentative decision is issued and notice of tentative decision is given to the applicant, neighborhood association, and to persons that submitted written comments pursuant to LOC § 55.02.085, the tentative decision shall be the final decision.
4. If a request for hearing is timely filed, City staff shall immediately post a red sign on the subject property in the same manner as the posted notice under subsection 1.c of this section, stating a tentative decision on an application for tree removal was issued, a timely request for hearing was filed, and the location, time and date of the hearing. The applicant shall maintain the posting of this sign and the tree marking, until the date of the hearing.
5. Failure to install or maintain the required notice and marking may result in denial or delay in issuance of the permit or revocation of an approved permit.
6. The tree cutting permit shall be issued promptly after the decision approving the tree cutting removal application is final, except if the tree cutting permit application is associated with a building permit application, the tree cutting permit shall be issued concurrently with the building permit.

Response: The applicant will adhere to the requirements of the Type II tree removal permit as required under this section.

55.02.084 Mitigation Required.

1. An applicant shall provide mitigation for any tree permitted for removal, with the exception of the following:
- a. Dead trees;
 - b. Hazard trees;
 - c. Emergency trees;
 - d. Trees that are removed under a Type I permit;
 - e. Invasive tree species, except as provided in subsection (2) of this section;
 - f. Tree removal under an approved minor forest management permit pursuant to LOC § 55.02.072; restocking may be required for a major forest management permit under LOC § 55.02.072(4);
 - g. When part of a resource enhancement project, the species, number, and size of mitigation trees shall follow the resource enhancement plan approved under LOC §§ 50.05.010(5)(c)(iii)(7) or 50.05.010(6)(c)(ii)(1)(f).
2. Mitigation for the removal of trees with known emerald ash borer infestation under a dead tree removal permit or for invasive tree species removal is required when:
- a. The removal is from a public right-of-way and replanting is recommended by the Public Works Director;
 - b. The removal is from an RP or RC district, or HBA protection area, except as approved as part of a resource enhancement project; or
 - c. The tree was planted as part of a previously approved mitigation plan or landscaping.
3. Mitigation shall be required for any tree removal in violation of the Tree Code, excluding trees removed without permit by topping.

4. The mitigation requirement shall be satisfied as listed below. Except where subsection 4.c of this section applies, a mitigation plan shall be submitted showing the location, size, and species of mitigation trees, or in the case of large forested tracts, restocking of any new trees to replace the trees to be removed.

a. Replanting on Site. The applicant shall plant, for each tree removed:

i. Invasive Tree Species Removal Permit. Removal from a public right-of-way or from an approved landscape plan, either a minimum one-and-one-half-in. caliper deciduous tree (measured six in. above the root ball) or a minimum six-ft.-tall evergreen tree for each tree removed. Removal from a Resource Conservation or Resource Protection overlay district, or Habitat Benefit Protection Area, either a minimum one-half in. caliper deciduous tree or a minimum two-ft.-tall evergreen tree.

ii. Type II Permit. Either a minimum one-and-one-half-in. caliper deciduous tree or a six-ft.-tall evergreen tree for each tree removed. Mitigation for the removal of a native tree on the City's Master Plant List shall be with a species from the Native Mitigation Tree List [Appendix 55.02-1].

A. Exception: Removal of a tree identified as a significant tree for development purposes shall require two minimum one-and-one-half-in. caliper deciduous trees (measured six in. above the root ball) or a minimum of two six-ft.-tall evergreen trees for each tree removed.

B. Exception: If tree removal is for the landscaping purpose of thinning to improve the health of other trees, mitigation shall be reduced to the extent there is insufficient space to replant elsewhere on the site and maintain tree health.

iii. Other Tree Cutting Permits. Either a minimum one-and-one-half-in. caliper deciduous tree or a six-ft.-tall evergreen tree for each tree removed. Mitigation for the removal of a native tree shall be with a native species.

The tree shall be planted according to the specifications in the City Tree Planting and Maintenance Guidelines as approved by the City Council.

b. Replanting off Site. If in the City's determination there is insufficient available space on the subject property, the replanting required in this section may occur on other property in the applicant's ownership or control within the City, or in an open space tract that is part of the same subdivision, upon approval of the property owner. The City may specify the species and size of the tree.

c. Payment in Lieu of Planting. If in the City's determination no feasible alternative exists to plant the required mitigation, the applicant shall pay into the tree fund an amount as established by resolution of the City Council.

5. Trees identified as invasive on the Invasive Tree Species List are prohibited as mitigation trees.

Response: The project proposes to remove 49 non-significant trees and 1 significant tree from site. The applicant will provide 51 mitigation trees on-site, including 3 native trees. The required street trees will not count towards mitigation trees. A site plan identifying the trees that will be removed and retained on-site is included in the Arborist Report in Exhibit I for review. Concept Mitigation Tree plan is included in the landscape sheets attached as Exhibit E for review.

55.02.085 Request for Public Hearing on a Type II Tree Cutting Permit.

1. The applicant, neighborhood association, or any person who submitted written comments may request a hearing on a Type II tree cutting permit following issuance of the tentative decision by filing a written request for hearing, along with the applicable hearing fee as established by resolution of the City Council, with the City Recorder, within seven days of the date the notice of tentative decision was given pursuant to LOC § 55.02.082. Failure to file within the seven-day period shall preclude such a request.

2. Requests for hearing shall be heard by the Development Review Commission (DRC), which shall hold a public hearing on the request. The City shall send notice of the hearing to the applicant, the recognized neighborhood association for the area in which the subject property is located, and to any person who submitted written comments. The notice shall be sent at least ten days in advance of the hearing.

3. The DRC hearing procedures shall be as follows:

- a. The DRC shall hear testimony from the applicant, followed by those in favor of the application, those opposed to the application (beginning with the person who requested the hearing if different from the applicant), and concluding with rebuttal by the applicant;
- b. Any person may testify before the DRC; and
- c. Except as provided in subsection 3.a of this section, the hearing shall be conducted in the same manner as provided in LOC § 50.07.003.4.a.i through x, and 4.b through e.

Following the close of the public testimony, the DRC shall determine, based upon the evidence and testimony in the record, whether or not the application complies with the criteria contained in LOC § 55.02.080. The findings, conclusions, and order shall contain the DRC's reasons for approving, approving with conditions, or denying the permit.

4. A decision of the DRC shall not become final for ten days from the date of adoption of written findings. Any person who appeared before the DRC either orally or in writing may appeal the decision of the DRC to the City Council by filing a written notice of intent to appeal, along with an appeal fee as established by resolution of the Council, with the City Recorder within ten days of the date of adoption of the DRC's written findings, conclusions and order. The findings, conclusions, and order and minutes of the DRC's meeting, along with any written staff reports or testimony, shall be forwarded to the City Council. Written notice of the appeal hearing shall be sent at least ten days in advance of the Council hearing to those persons who appeared before the DRC. The hearing before the City Council shall be on the record established before the DRC and only persons who appeared before the DRC orally or in writing may testify. The Council's hearing shall follow the same procedures set forth in LOC § 50.07.003(7)(d) through (f) (except the minimum time the staff report must be available for review prior to the appeal hearing is three days), (7)(h) through (l), (7)(m) (except any land use review deadline is not applicable), (7)(n), and (7)(o)(i) through (iv). The decision of the Council shall be final.

Response: The applicant is requesting a Type II tree removal permit in conjunction with this PD subdivision application. Review and hearing of the tree removal permit will occur simultaneously with the PD application.

55.02.092 Expiration of Tree Cutting Permits.

1. Dead and invasive tree species removal permits shall have no expiration date.
- 2.A properly issued tree cutting permit, other than a dead or invasive tree species removal permit and forest management permit, shall remain valid:
 - a. For tree cutting permits issued in conjunction with a development permit or building permit, for the duration of the development permit or building permit; or
 - b. For other than subsection 2.a of this section, for no more than 60 days from the date of issuance or date of final decision by a hearing body, if applicable. A 60-day extension shall be automatically granted by the City Manager if requested in writing before the expiration of the permit. No additional extensions beyond the first extension shall be granted.

Permits that have lapsed are deemed void. Trees removed after a tree cutting permit has expired shall be considered a violation of this chapter
3. A minor forest management permit shall remain valid for no more than 180 days from the date of issuance.
4. A major forest management permit shall remain valid for the period specified by the approved forest management plan, except as required under subsection (5) of this section.
5. Minor and major forest management permits automatically expire upon approval of an application for a land division or development on the tract subject to forest management activities such that the tract would no longer meet the criteria for a large forested tract.

Response: This applicant acknowledges that the tree permit will be valid until the duration of the development or building permit.

55.02.094 Conditions of Approval for Tree Cutting Permits.

1. The reviewing authority may impose conditions of approval on any tree cutting permit if the condition is reasonably related to preventing, eliminating or mitigating a negative impact or potential impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal.
2. Conditions of approval may include, but are not limited to:
 - a. Cutting a tree or stump flush with the grade instead of grinding or fully removing a stump;
 - b. Requiring modifications in the location, design or intensity of a development or activities on a site or to require or prohibit certain construction methods;
 - c. Requiring vegetation not requiring a tree removal permit to remain in place or be planted;
 - d. Requiring the removal of injurious vegetation (e.g., English Ivy) from other trees on the property.
 - e. Avoiding removal of ash (*Fraxinus* spp.), white fringe tree (*Chionanthus virginicus*) and cultivated olive (*Olea europaea*) tree species unless necessary during the emerald ash borer (EAB) active period of April 1-September 30 to prevent the spread of live insects.
 - f. Disposing of ash, fringe tree and olive wood in accordance with guidelines established by the Oregon Department of Agriculture.

Response: The applicant will adhere to the conditions of approval for the tree cutting permit.

55.02.125 Evidence of Violation.

1. If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is eight caliper in. or more in diameter shall be considered prima facie evidence of a violation of this chapter.
2. Removal of the stump of a tree removed without a tree cutting permit prior to the determination provided in subsection (1) of this section is a violation of this chapter.
3. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.
4. Tree removal caused by natural weather conditions shall not be deemed a violation of this chapter and shall be exempt from all penalties set forth in LOC § 55.02.130.

Response: No trees on site will be removed prior to approval of a tree cutting permit.

55.02.130 Violations.

1. Civil Violation.

A violation of any provision of this chapter, or the breach of any condition of a permit granted under this chapter by the applicant or successor holder of an interest in the real property that is the subject of the application and permit shall be a civil violation as defined by LOC § 34.04.105, enforceable pursuant to LOC Article 34.04. The unlawful removal of each individual tree shall be a separate offense hereunder. Failure to comply with the provisions of this chapter or a condition of approval shall be a separate offense each day the failure to comply continues. The violation shall be punishable by a fine set forth by the municipal court and the enforcement fee and restoration requirements as set forth in subsections (3) and (4) of this section.

2. Nuisance Abatement.

The removal of a tree in violation of this chapter is hereby declared to be a public nuisance and may be abated by appropriate proceedings pursuant to LOC Article 34.08.

3. Enforcement Fee.

A person, including an applicant or successor holder of an interest in the real property, that removes a tree without first obtaining a tree cutting permit from the City pursuant to this chapter, removes a tree in violation of an approved tree cutting permit, or violates a condition of an approved tree cutting permit shall pay an enforcement fee to the City in an amount as established by resolution of the City Council.

4. Restoration.

- a. A person, including an applicant or successor holder of an interest in the real property, that removes a tree without first obtaining a required tree cutting permit from the City pursuant to this chapter, removes a tree in violation of an approved tree cutting permit, or violates a condition of such a permit shall pay into the City's tree fund a standard fee per caliper inch for the total number of caliper inches of the tree removed in violation of this chapter in an amount as established by resolution of the City Council.
- b. The City may require the person to pay into the City's tree fund an increased fee per caliper inch for the total number of caliper inches of the tree removed in violation of this chapter in an amount as established by resolution of the City Council or the value of the tree as determined by an arborist in accordance with the methods set forth in the "Guide for Plant Appraisal," an official publication of the International Society of Arboriculture, whichever is greater, if any of the following apply:
 - i. The person has committed a previous violation of a provision of this chapter, or
 - ii. Tree protection measures as required by LOC Article 55.08 were not installed or maintained, or
 - iii. The tree removed was any of the following:
 - A. Thirty-six in. (caliper) in diameter or greater,
 - B. A heritage tree, per LOC Article 55.06,
 - C. Expressly protected or required to be preserved as a condition of approval of any permit pursuant to the Lake Oswego Community Development Code, or this Tree Code,
 - D. Located within the Willamette River Greenway per LOC § 50.05.009,
 - E. Part of an RP or RC district, or HBA protection area, per LOC § 50.05.010,
 - F. Located on public right-of-way, City-owned or dedicated property, a public or private open space area or conservation easement.

5. Injunction.

Upon request of the City Manager or direction from Council, the City Attorney may institute appropriate action in any court to enjoin the removal of trees in violation of this chapter.

6. Loss of City Privileges.

- a. A person hired to perform tree removal within the City, upon request, shall provide evidence to the City Manager of a valid license to conduct business in Lake Oswego. The person is subject to business license revocation pursuant to LOC § 20.02.085 if the person violates any provision of this chapter.
- b. Any arborist, builder, landscaper, contractor, or tree service that has performed any tree removal in violation of this chapter or submitted a falsified report for the criteria required in this chapter, shall not be considered a responsible bidder for any City contracts for a period of two years from the date of violation or report.

7. Arborist Report and Required Treatment.

Upon request by the City, a person who violates any provision of this chapter shall submit a report prepared by an arborist or qualified forest management professional, as applicable, to evaluate the damage to a tree and/or make recommendations to remedy the violation. The City upon evaluating these recommendations may, at the City's discretion, require that the recommended measures be implemented.

8. Cumulative Remedies.

The rights, remedies, and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

Response: The applicant will adhere to the requirements of the Type II Tree Cutting Permit. The attached Arborist Report in Exhibit I details species, size, condition, and proposed treatment of the existing trees on site. A site plan identifying trees to be removed and retained on-site is also included in the report for the complete review of this application. The Tree Preservation and Removal Plan, Sheet 9.0 in Exhibit C, illustrates the need for tree removal for the development of the site.

X. CONCLUSION

This narrative and the attached exhibits demonstrate compliance with the applicable provisions of the City of Lake Oswego Community Development Code; therefore, the Applicant respectfully requests approval of the proposed Planned Development and its associated applications.