Land Use Application

For a Seven Lot Subdivision

Sagert

Project

AT

9440 SW Sagert Street

Tax lot 4500 of Tax Map 2S126AB

Submitted to:

**City of Tualatin**

**Public Works**

### September, 2016

**Applicants:**

LandMarq Consulting Group

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**Project Information**

**Applicant: Landmarq Consulting**

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**Property Owner: Sagert 45 LLC**

 **Brian Lynott (Member)**

14870 NW Pioneer Road

 Beaverton, OR 97006

**Site Developer** **Better World Homes**

14870 NW Pioneer Road

Beaverton, OR 97006

**Project Surveyor: NW Surveying, Inc.**

**Clint Stubbs**

 1815 NW 169th Place, Suite 2090

Beaverton, OR 97006

Phone: (503) 848-2127

**Project Arborist: Multnomah Tree Experts**

PO Box 80098

Portland, OR 97280

Phone: (503) 452-8160

Site Address: 9440 SW Sagert Street

Tax Map: 2S126AB 4500

Lot Area: 1.54 Acres

Zoning District: RL

Neighborhood Meeting: August 15th, 2016

**Project DESCRIPtion**

***Existing Site Description***

The project site is currently a single family residence on an under-developed parcel in the RL zoning district. The parcel is adjacent to the public right-of-way of 95th Avenue along the west property line and SW Sagert Street which borders the northern property boundary. The property has a total area of 1.54 acres, which equals 67,038 square feet. The adjacent lots are also in the RL Zoning district. The property has a minimal slope from… There are a number of existing trees already on-site. The proposed development will seek to maintain as many of these as possible.

The street classification for both, SW Sagert Street and SW 95th avenue is Minor Collector. The frontage improvements along the public right-of-way of SW Sagert Street currently consist of a fully developed street section which includes, curb and gutter, a planter strip and concrete sidewalk. The frontage improvements along SW 95th Avenue include a fully developed street section with a bike lane and curb and gutter. These improvements are consistent along the entire length of SW 95th Avenue, from SW Sagert Street to the next intersection to the south at SW Avery Street.

***Proposed Development Action***

The proposed development is for a seven (7) lot subdivision. The existing house will remain along the frontage of SW Sagert Street and six new lots will be created to the south of the existing house. A new public street will be constructed that will have direct access to the public right-of-way of SW Sagert Street and terminate in a cul-de-sac to provide lot frontage for the six new lots. Two of the new lots will have double frontage, with one lot line also adjacent to the public right-of-way of SW 95th Avenue. The proposed grading for the project site will be consistent with the natural grading patterns. Public utilities will be extended from SW Sagert Street to serve the new lots. Proposed Storm Water management will consist of either an on-site facility or upgrades to an existing facility across the street from the site, on the north side of the public right-of-way for SW Sagert Street.

***TUALATIN DEVELOPMENT CODE***

**CHAPTER 34: SPECIAL REGULATIONS**

**TEMPORARY USES**

**Section 34.010 General Provision.**

The following temporary uses may be permitted in the designated planning districts and on conditions stated in the permit issued in accordance with the following provisions.

**Section 34.014 Temporary Sales Office.**

(1)  The City Engineer may upon request, and with the consent of the property owner, permit the use of any real property within a subdivision or partition as, and for, a temporary sales office, whether in a trailer or in a residential structure, for the purpose of facilitating the sale of lots or parcels within such subdivision or partition, but for no other purpose.

(2) The subdivision or partition where the temporary sales office is proposed to be located shall have a recorded plat prior to the City Engineer granting approval.

(3) The permission granted shall not exceed three years from the date of the City Engineer's approval, or such shorter period as the City Engineer shall determine and order.

(4) The office shall be located within the boundaries of the subdivision or partition where the lots or parcels to be sold are situated.

(5) The property to be used for a temporary sales office shall not be permanently improved for such purpose; providing, however, that a structure designed primarily for other residential purposes or a portion thereof may be used temporarily as a sales office.

(6) The applicant shall pay the standard water and sewer hook-up fees if connection to these facilities is required for the temporary sales office.

(7) The applicant shall obtain Plumbing Permits to connect to the water and sewer utilities if connection to these facilities is required for the temporary sales office.

(8) Parking for the sales office shall only be allowed in the public street adjacent to the sales office and in any driveway constructed for the temporary sales office.

(9) Any signs placed on the lot where the temporary sales office is located shall meet the requirements of the Sign Code.

(10) The granting of permission to use real property for a temporary sales office shall not be construed as granting a temporary change of planning districts, and the City Engineer may impose such terms and conditions upon such activities as deemed advisable.

***Response:*** *It is unlikely that the proposed development will include a temporary sales office.*

**Section 34.020 Application Fee for Temporary Uses.**

Application for Temporary Outdoor Sales and other temporary uses under [TDC 34.010](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.010) - [34.013](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.013) shall be on forms provided by the Community Development Director. The application shall be filed with the office of the Community Development Director and be accompanied by a fee as established by City Council resolution. The fee shall not apply to non-profit or charitable organizations.

***Response:*** *It is unlikely that the proposed development will include any temporary uses.*

**HOME OCCUPATIONS**

**Section 34.031 Definitions.**

For purposes of TDC sections 34.031 through 34.055 the following terms have the following meanings:

Employee. All persons, excluding the owner-operator, working on the premises in the home occupation.

Equipment. Physical assets of the home occupation, excluding motor vehicles.

Motor Vehicle. A self-propelled mechanical device moving or movable over the highways, roads and streets of the City, excepting devices that move exclusively on stationary rails.

Owner-operator. A person undertaking a home occupation; the proprietor of a home occupation.

Party Format. The presentation and sale of goods or services to a social gathering of invited guests.

***Response:*** *The applicant acknowledges the definitions put forth in this code section.*

**Section 34.032 Intent and General Provisions.**

(1) The intent of this Home Occupation Code, TDC 34.031 - 34.055, is:

(a) To allow residents an opportunity to use their residences to engage in small-scale business activities;

(b) To allow for small-scale business activities in a residence as a means to reduce commutes and traffic;

(c) To establish standards by which home occupations operate; and

(d) To ensure that home occupations are conducted subordinate to the residential use of the property, in a manner neither detrimental nor disruptive, in terms of appearance or operation, to neighboring properties and residents.

(e) It is not the intent of TDC 34.031-34.055 to prohibit telecommuting.

(2) General Provisions

(a) No person shall operate a home occupation or allow a home occupation to occur on property he or she owns or controls in violation of TDC 34.031 through 34.055.

(b) TDC 34.031 to 34.055 apply to all home occupations in the City, including those in operation on the effective date of these regulations. Nothing in these sections shall be construed as imposing restrictions on the residential, non-home occupational, lawful use of the property.

***Response:*** *The applicant acknowledges the intent of this code section.*

**Section 34.045 Allowed Home Occupations.**

The following occupations are permitted as home occupations so long as the home occupation operates within the standards set forth in [TDC 34.055](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.055).

(1) Professional occupations including, but not limited to:  accounting, architecture, computer consulting, counseling, clergy, drafting, editing, engineering, financial advising, graphic design, immediate disposition company, landscape design, law, psychology, publishing, realty and writing.

(2) Personal services including, but not limited to: haircutting, manicures and licensed massage therapy.

(3) Instructional services including, but not limited to:  arts, crafts, language, music and scholastic teaching.

(4) Home craft businesses including, but not limited to:  arts, catering, dressmaking, jewelry making, millinery, music, photography, pottery, sculpture, tailoring and weaving.

(5) Trades, repair and service people who work off-site but maintain an office at home.

(6) Repair services including, but not limited to: hand-held instruments, watch and clock repair.

(7) Other home occupations may be al-lowed as determined by a code interpretation pursuant to [TDC 31.070](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *It is unknown by the applicant whether or not home occupations will be taken up by future residents of the new homes.*

**Section 34.055 Standards.**

The following standards apply to home occupations in the City of Tualatin:

(1)  A residence that houses a home occupation may have only one sign that must comply with TDC [38.110(11)](http://www.tualatinoregon.gov/developmentcode/tdc-38-sign-regulations).

(2)  A person operating a home occupation must obtain a business license from the City of Tualatin. This person must also maintain all other permits required by other agencies for the home occupation.

(3) Home occupations may include the retailing of goods not produced by the home occupation but directly related to the home occupation if:

(a) The retailing is secondary and ancillary to the home occupation; or

(b) The retailing occurs in a party format no more than six times in a calendar year at the home occupation location.

(4) All materials and equipment shall be stored inside built structures on the premises. Interior storage of materials and equipment shall be secondary to the residential use of the dwelling. Storage shall not be used as a material or equipment staging area. Equipment may be stored on the home occupation vehicle.

(5) Noise, smoke and odors may not exceed those created by normal residential use.

(6) The home occupation must be owned and operated by a resident at the home occupation site. The home occupation may employ one other on-site employee who is not a resident of the building. Off-site employees are permitted.

(7) The home occupation shall not be used as a headquarters or meeting location for the assembly of employees or subcontractors for any reason, including staging or dispatch of employees or subcontractors to other locations, except as specified under [TDC 34.055(14)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.055). Off-site employees and subcontractors may not keep their motor vehicles at the home occupation during a work day.

(8) The residence shall not be altered in a manner that will change its primary residential appearance or use. A home occupation shall not change the dwelling unit classification as a dwelling unit in the Uniform Building Code.

(9) Only one motor vehicle not exceeding 15,000 pounds GVW may be permitted for use in the home occupation at the home occupation location. No other motor vehicle storage is permitted for the home occupation. No commercial motor vehicle as defined in [ORS](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors801.html) [801.208](http://www.oregonlaws.org/ors/chapter/801) may be allowed as part of a home occupation.

(10) On-street parking may not prevent access to mailboxes, driveways, fire hydrants, garbage or recycling receptacle pick-up.

(11) The home occupation may generate no more than ten one-way client and subcontractor vehicular trips per day. For home occupations relating to instructional services, no more than 20 one-way client and subcontractor vehicular trips may be permitted per day. Trips attributable to the residential use shall not be attributed to the home occupation in determining compliance with this section.

(12) No employee, client, subcontractor or delivery trips to the home occupation may be made between 10:00 pm and 7:30 am.

(13) A person may not work on three or more motor vehicles per week at a residence. If a person is, the City will presume that the person is operating an unauthorized home occupation. This presumption may be rebutted by demonstrating that no money, goods or services are exchanged between the vehicle owner and the vehicle repairer.

(14) A board or staff meeting of the home occupation may be held quarterly at the site of the home occupation.

***Response:*** *The proposed development does not include any provisions for home occupations by future residents of the new homes.*

**Section 34.200 Tree Removal on Private Property without Architectural Review, Subdivision or Partition Approval, or Tree Removal Permit Prohibited.**

(1) Except as provided in TDC 34.200(3), no person shall remove a tree within the City limits except as follows:

(a) For a tree on private property, the person must first obtain a Tree Removal Permit from the City or obtain approval through Architectural Review, Subdivision Review, or Partition Review. A request for a Tree Removal Permit is subject to a Neighborhood/Developer Meeting pursuant to [TDC 31.063](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). Submittal of a permit request shall include a list of mailing recipients pursuant to [TDC 31.064(1)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). The applicant shall post a sign pursuant to [TDC 31.064(2](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions)).

(b) For a street tree or tree within a public right-of-way, the person must obtain approval in accordance with [TDC 74.705](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-74-public-improvement-requirements). Incentives for tree retention are found in [TDC Chapter 73,](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) Community Design Standards.  A property owner who removes, or causes to be removed, one or more trees in violation of applicable TDC provisions, shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in [TDC 34.220(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.220), in addition to civil penalties in [TDC 31.111](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(2) As used in this ordinance, “park” means a City-owned parcel, lot or tract of land, designated and used by the public for active and passive recreation.

(3) The following exemptions apply to tree removal:

(a) General Exemption. Four or fewer trees may be removed within a single calendar year from a single parcel of property or contiguous parcels of property under the same ownership without a permit, except when the tree to be removed:

(i) Is located in the Natural Resource Protection Overlay District (NRPO);

(ii) Is located in the Wetlands Protection Area (WPA) of the Wetlands Protection District (WPD);

(iii) Is a Heritage Tree;

(iv) Was previously required to be retained under an approved Architectural Review decision.

(b) Parks and golf courses are exempt if both the following are met:

(i) The property’s owner or owner’s agent has submitted a tree management plan to the Community Development Director and has received approval from the Director. The tree management plan shall be approved for a five year period, after which the property owner or owner’s agent must submit a new tree management plan for approval or comply with requirements set out in the applicable Architectural Review decision.

(ii) This exemption supersedes the Architectural Review requirements with regard to tree removal except as provided in subsection (i) of this section.

(c) Forest Harvesting Exemption. The harvesting of forest tree species for the commercial value of the timber is permitted subject to the following:

(i) The property from which the forest species are to be harvested must be in a property tax deferred status based on agricultural or forest use under any or some combination of the following:

- Farm Deferral according to state law.

- Forest Land Deferral according to state law.

- Small Woodlands Deferral according to state law.

(ii) The property from which the forest species are to be harvested must have been in property tax deferred status on the effective date of this ordinance or at the time of annexation of the property by the City, whichever occurs later.

(iii) Revocation of the Forest Harvesting Exemption. Property, or portion of the property exempted under TDC, 34.200(3)(c) shall cease to be exempted from the provisions of this ordinance immediately upon the filing of an application for any of the following land use actions:

- Subdivision or Partition review;

- Conditional Use;

- Architectural Review.

(iv) Reinstatement of the Forest Harvesting Exemption. Property or portions of the property previously exempted under TDC 34.200(3)(c) and revoked in accordance with TDC 34.200(3)(c)(iii) will be considered reinstated if the property remains tax deferred in accordance with TDC 34.200(3)(c)(i) and 34.200(3)(c)(ii), and one or more of the following criteria are met:

- The land use action that affected the revocation was denied and the appeals period has expired; or

- The land use action that affected the revocation was approved, and the pro-posed development that affected the filing of the land use action did not occur; and the approval, which was granted, including extensions has expired.

(v) The Community Development Director shall prepare a listing of properties exempted under this section up-on the effective date of this ordinance and update the list annually.

(d) Orchards. Tree removal is permit-ted in orchards of commercial agricultural production.

(e) Public Right-of-Way. Trees within public right-of-way shall be governed by [TDC Chapter 74](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-74-public-improvement-requirements), Public Improvement Requirements.

(f) Federal, state, county, or City road, water, sanitary sewer, or storm sewer improvements and maintenance of City owned property are exempt from this ordinance.

(4) As provided under [TDC 31.030](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions), no single-family dwelling building permit application shall be submitted to the City until all required land use approvals, including any required Tree Removal Permit, have been obtained by the property owner.

***Response:*** *All trees that will be deemed as necessary to be removed from the site in order to complete the proposed development will be included with the subdivision approval.*

**Section 34.210  Application for Architectural Review, Sub-division or Partition Review, or Tree Removal Permit.**

(1)  Architectural Review, Subdivision, or Partition.  When a property owner wishes to remove trees, other than the exemptions  permitted under [TDC 34.200(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.200), to develop property, and the development is subject to Architectural Review, Subdivision Review, or Partition Review approval, the property owner shall apply for approval to remove trees as part of the Architectural Review, Subdivision Review, or Partition Review application process.

(a) The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; existing and proposed property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas; and illustration of all trees on-site that are eight inches or more in diameter (including size, species, and tag i.d. number).  All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a “sensitive area” or “vegetated corridor” on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in [TDC 34.230](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.230); and arborist’s signature and contact information.  The tree assessment report shall have been prepared and dated no more than one calendar year proceeding the date the development application is deemed complete by the City.  Where [TDC 34.210(1)(a)(i)(A) through (D)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees on-site shall be physically identified and numbered in the field with an arborist-approved tagging system.  The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan.  Where [TDC 34.210(1)(a)(i)(A) through (D)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210) are applicable, trees located in the CWS-required easement need not be tagged.

(b) The application for tree removal shall be approved or denied based on the criteria in [TDC 34.230](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.230).

(c) The approval or denial of an application to remove trees shall be a part of the Architectural Review, Subdivision Review, or Partition Review decision.

***Response:*** *All trees that will be deemed as necessary to be removed from the site in order to complete the proposed development will be included with the subdivision approval. Included in the development application is an arborist report and a Tree Preservation Site Plan.*

 (2) Existing Single-Family Dwelling.  When a property owner wishes to remove trees, other than the exemptions permitted under [TDC 34.200(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.200), in order to remodel, add to, or replace, an existing single-family dwelling, or in order to remodel, add to, replace or newly construct, an accessory structure on property developed with an existing single-family dwelling, the property owner shall apply for a Tree Removal Permit as follows:

(a) An application for a Tree Removal Permit shall be filed with the Community Development Director.  Application shall be made upon forms furnished by the City, and shall be accompanied by a nonrefundable fee as established by City Council resolution.  The application for tree removal shall include:

(i)  A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas.  All trees eight inches or more in diameter that are proposed for removal or that are located within 15 feet of the development envelope shall be indicated on the site plan (including size, species, and tag i.d. number), except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a “sensitive area” or “vegetated corridor” on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in [TDC 34.230](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.230); and arborist’s signature and contact information.  The tree assessment report shall have been prepared and dated no more than one calendar year preceding the date the Tree Removal Permit application is deemed complete by the City.  Where [TDC 34.210(2)(a)(i)(A) through (D)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees eight inches or more in diameter that are proposed for removal or that are located within 15 feet of the development envelope shall be physically identified and numbered in the field with an arborist-approved tagging system.  The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan.  Where [TDC 34.210(2)(a)(i)(A) through (D)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210) are applicable, trees located in the CWS-required easement need not be tagged.

(iv) The application shall include a mailing list of recipients pursuant to [TDC 31.064(1](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions)).

(v) The applicant shall post a sign pursuant to [TDC 31.064(2)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(b) The application for a Tree Removal Permit shall be approved or denied based on the criteria in [TDC 34.230](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.230).

(c) The approval or denial of a Tree Removal Permit application is a land use decision.

***Response:*** *All trees that will be deemed as necessary to be removed from the site in order to complete the proposed development will be included with the subdivision approval.*

 (3) Other. When a property owner wishes to remove trees, other than the exemptions permitted under [TDC 34.200(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.200), for reasons other than those identified in [TDC 34.210(1) and (2)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210), the property owner shall apply for a Tree Removal Permit as follows:

(a) An application for a Tree Removal Permit shall be filed with the Community Development Director.  Application shall be made upon forms furnished by the City, and shall be accompanied by a nonrefundable fee as established by City Council resolution.  The application for tree removal shall include:

(i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information: a north arrow; property lines; existing and proposed topographical contour lines; existing and proposed structures, impervious surfaces, wells, septic systems, and stormwater retention/detention facilities; existing and proposed utility and access locations/easements; illustration of vision clearance areas; and illustration of all trees on-site that are eight inches or more in diameter (including size, species, and tag i.d. number).  All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:

(A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and

(B) Where CWS has approved delineation of a “sensitive area” or “vegetated corridor” on the subject property, and

(C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then

(D) All trees located within the CWS-required easement need not be individually identified on the Tree Preservation Site Plan if the CWS-required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.

(ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in [TDC 34.230](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.230); and arborist’s signature and contact information.  The tree assessment report shall have been prepared and dated no more than one calendar year preceding the date the Tree Removal Permit application is deemed complete by the City.  Where [TDC 34.210(3)(a)(i)(A) through (D)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210) are applicable, trees located within the CWS-required easement need not be included in the tree assessment report.

(iii) All trees on-site shall be physically identified and numbered in the field with an arborist-approved tagging system.  The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan.  Where [TDC 34.210(3)(a)(i)(A) through (D)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.210) are applicable, trees located in the CWS-required easement need not be tagged.

(iv) The application shall include a mailing list of recipients pursuant to [TDC 31.064(1)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(b) The application for a Tree Removal Permit shall be approved or denied based on the criteria in [TDC 34.230](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.230).

(c) The approval or denial of a Tree Removal Permit application is a land use decision.

***Response:*** *All trees that will be deemed as necessary to be removed from the site in order to complete the proposed development will be included with the subdivision approval.*

**Section 34.220 Fees.**

(1) Architectural Review, Subdivision or Partition Review. In accordance with the Architectural Review process, [TDC Chapter 73](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards), Subdivision or Partition Review process, [TDC Chapter 36](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments).

(2) Permit. The application shall be accompanied by a filing fee established by Council resolution. The filing fee is not refundable, regardless of whether a permit is granted. All permits shall be valid for one year from the date of issue.

(3) Tree removal in violation of Planning District Standards.  In addition to any applicable civil violation penalties, any property owner who removes, or causes to be removed, one or more trees in violation of applicable TDC provisions, shall pay an enforcement fee and a restoration fee to the City of Tualatin, as follows:

(a) Enforcement Fee: $837.00 per incident, plus $10 per each tree removed.  The City Manager may administratively reduce or waive this fee, based upon a demonstration of hardship or other good cause.

(b) Restoration Fee: $2,000 per tree removed in violation of Planning District Standards.  The City Manager may administratively reduce or waive this fee, based upon a demonstration of hardship or other good cause.

***Response:*** *The applicant will pay the required fees for the subdivision review.*

**Section 34.230 Criteria.**

The Community Development Director shall consider the following criteria when approving, approving with conditions, or denying a request to cut trees.

(1) An applicant must satisfactorily demonstrate that any of the following criteria are met:

(a) The tree is diseased, and

(i) The disease threatens the structural integrity of the tree; or

(ii) The disease permanently and severely diminishes the esthetic value of the tree; or

(iii) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.

(b) The tree represents a hazard which may include but not be limited to:

(i) The tree is in danger of falling;

(ii) Substantial portions of the tree are in danger of falling.

(c) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or approval of a Subdivision or Partition Review.

***Response:*** *The arborist report will include an evaluation of each tree and a recommendation from the arborist.*

 (2) If none of the conditions in [TDC 34.240(1)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.240) are met, the Community Development Director shall evaluate the condition of each tree based on the following criteria. A tree given a rating of one on a factor will not be required to be retained.

|  |  |  |
| --- | --- | --- |
| **FACTOR** | **VARIATION OF CONDITION FACTOR** | **AWARDED** |
| Trunk Condition | Sound and solid (5) Sections of bark missing (3) Extensive decay and hollow (1) | \_\_\_ |
| Crown Development | Full and balanced (5) Full but unbalanced (3) Unbalanced and lacking a full crown (1) | \_\_\_ |
| Structure | Sound (5) One major or several minor limbs dead (3) Two or more limbs dead (1) | \_\_\_ |

\*For deciduous trees only

***Response:*** *The applicant acknowledges the rating scale called out herein this code section and expects that the arborist report should be adequate to cover the condition of each tree.*

**Section 34.240 Emergencies.**

If emergency conditions occur requiring the immediate cutting or removal of trees to avoid danger or hazard to persons or property, an emergency permit shall be issued by the Community Development Director without payment of a fee and without formal application. If the Community Development Director is unavailable the property owner may proceed to cut the tree or trees without a permit to the extent necessary to avoid the immediate danger or hazard. If a tree is cut under this section without filing of an application with the Community Development Director, the person doing so shall report the action to the Community Development Director within two working days, without payment of fee, and shall provide such information and evidence as may be reasonably required by the Community Development Director to explain and justify the action taken. Where no emergency is found to exist, the cutting or removal of a tree or trees is prohibited.

***Response:*** *The applicant acknowledges the provisions of potential emergency situations and agrees to follow the requirements of this code section.*

**Section 34.250 Notice of Decision.**

(1) Architectural Review, Subdivision or Partition Review. Notice of decision shall be in accordance with the Architectural Review, Subdivision Review or Partition Review Process in [Chapters 31](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions) and [36](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments) respectively. If approval is granted to remove a Heritage Tree, a copy of the decision shall be sent to the chairman of the Tualatin Park Advisory Committee.

(2) Tree Removal Permit. The decision shall be  in  writing  and  shall be sent  in  accordance with  [TDC 31.074](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).  If  the  application  for  tree removal pertains to a Heritage Tree, the decision shall also be sent to the chairman of the Tualatin Park Advisory Committee.

***Response:*** *All trees that will be deemed as necessary to be removed from the site in order to complete the proposed development will be included with the subdivision approval. The applicant will proceed as required if Heritage Trees are identified on-site.*

**Section 34.260 Request for Review.**

(1)  Architectural Review, Subdivision or Partition Review. Requests for review shall be in accordance with the Architectural Review, Subdivision or Partition review process of [TDC 31.076](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions), [36.161, and 36.250](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments), respectively.

(2)  Permit. The decision shall become final 14 calendar days after the date the notice of the decision is given, unless request for review of the decision is sought in accordance with [TDC 31.076](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions), [36.161, or 36.250](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments). The request for review shall be submitted on the City form provided for that purpose. The request for review shall be heard by City Council in accordance with [TDC 31.076](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions) and [31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). The written decision of the City Council shall be final.

***Response:*** *The applicant acknowledges the provisions of this code section as they relate to the review process for Subdivision review and the permit that shall be issued.*

**Section 34.270 Tree Protection During Construction.**

(1)  Any tree required to be retained either through Architectural Review, Subdivision or Partition Review, or permit process that will be impacted by nearby construction activities must be protected in accordance with the [TDC 73.250(2)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

***Response:*** *All trees that are to remain on-site after site development will be protected as required during all phases of on-site construction activity. Tree protection will include fencing off the tree and root protection zone to ensure the tree is not damaged.*

**Section 34.300 Accessory Dwelling Units.**

The purpose of accessory dwelling units is to:

(1) Provide needed space for elderly family members or returning adult children;

(2) Encourage affordable housing units;

(3) Allow small households to retain large houses as residences;

(4) Permit young households to achieve home ownership; and

(5) Encourage living areas that minimally affect the quality or character of existing neighborhoods.

***Response:*** *The proposed development application does not include any Accessory Dwelling Units.*

**Section 34.310 Standards.**

(1) An accessory dwelling unit shall be within a detached single-family dwelling or be in, or partly in, an addition to a detached single-family dwelling in the RL Planning District or in the RML Planning District in a Small Lot Subdivision.

(2) There shall be no more than one accessory dwelling unit per lot.

(3) An accessory dwelling unit shall not exceed 50% of the gross floor area (house and garage) of the existing detached single-family dwelling up to a maximum of 800 square feet.

(4) Neither a garage or a former garage shall be converted to an accessory dwelling unit.

(5) In addition to the parking spaces required in [TDC 73.370](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) for the detached single-family dwelling, one paved on-site parking space shall be provided for the accessory dwelling unit and the space shall not be within five feet of a side or rear property line.

(6) The accessory dwelling unit’ s front door shall not be located on the same street frontage as the detached single family dwelling’ s front door unless the door for the accessory dwelling unit already exists.

(7) The accessory dwelling unit shall not be sold separate from the single family dwelling or as a condominium.

(8) The accessory dwelling unit shall be served by the same water meter as the single family dwelling.

(9) The accessory dwelling unit shall be served by the same electric meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it.

(10) The accessory dwelling unit shall be served by the same natural gas meter as the single family dwelling, unless other applicable requirements, such as building codes, prohibit it.

(11) The accessory dwelling unit shall be connected to the single family dwelling by an internal doorway.

(12) If the gross floor area of the existing single family dwelling is to be enlarged when an accessory dwelling unit is created, the proposed enlargement shall not increase the gross floor area of the single family dwelling more than 10% and it shall be of the same or similar architectural design, exterior materials, color and roof slope as the single family dwelling. The enlargement shall be reviewed through the Architectural Review process to ensure compliance with Subsections 1-6 and 8-12 of this section.

(13) When the accessory dwelling unit is proposed to be created and if no enlargement of the existing single family dwelling is proposed, the owner of the single family dwelling within which the accessory dwelling unit is to be located shall notify the Community Development Director by letter that an accessory dwelling unit is proposed. The letter shall state the owners name and mailing address, address of the accessory dwelling unit, the gross square footage of the single family dwelling and the gross square footage of the accessory dwelling unit.

***Response:*** *The proposed development application does not include any Accessory Dwelling Units.*

**Section 34.320 Purpose.**

The purpose of fence standards in the RL and RML Planning Districts for access-restricted lot lines and property lines that abut collector, arterial, and expressway streets, and interstate highways (I-5 or I-205) is to implement the community design objectives of [TDC 10.020.](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-10-community-design)

***Response:*** *The applicant acknowledges the purpose of the fence standards. The proposed development is directly adjacent to two collector streets.*

**Section 34.330 Fence Standards.**

The following standards are minimum requirements for fences in a RL (Low Density Residential) or a RML (Medium Low Density Residential) Planning District, where an access-restricted lot line or property line abuts a public street classified as a major arterial, minor arterial, major collector, minor collector, or expressway by the Tualatin Functional Classification Plan, or abuts a state-owned interstate highway (I-5 or I-205).

1. Subdivision or Partition of Property in a RL or RML Planning District.

Where property is the subject of a subdivision or partition application, and has an access-restricted property line(s) or lot line(s) that abuts a major arterial, minor arterial, major collector, minor collector, or expressway right-of-way or an interstate highway property line for a distance greater than 60 feet, a masonry fence shall be installed along the arterial/ collector/expressway/interstate highway frontage, in conformance with design standards set forth in [TDC 34.340](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340) and the fence standards set forth below:

(a) Required fencing shall be in-stalled along the entire length of the access-restricted property line(s) or lot line(s) abutting the arterial/collector/expressway right-of-way or interstate highway property line, except as provided in [TDC 34.330(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.330), prior to issuance of any building permit on any parcel or lot created by the partition or subdivision.

(b) Except as provided in [TDC 34.330(3),](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.330) required fencing shall be located entirely outside of the public right-of-way or state-owned interstate highway property, and as close as physically possible to, approximately parallel with, either the property line or lot line abutting the arterial/collector/expressway right-of-way or interstate highway property line, or in the case of an arterial/collector/expressway street the ultimate right-of-way line, which-ever is located furthest from the centerline of the street right-of-way.

(i) For public streets classified as an arterial/collector/expressway, as approved by the Community Development Director or their designee, the location of the ultimate right-of-way line shall be one-half of the right-of-way width specified in TDC Chapters 11 and Chapter 74 of the Tualatin Development Code for the appropriate classification of street, measured at right angles from the centerline of the actual street improvement, or measured at right angles from the centerline of the right-of-way, whichever method is determined most appropriate by the Community Development Director or their designee.

(ii) For public streets classified as an arterial/collector/expressway, if an owner is granted a variance from [TDC 34.330(1)(b)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.330) standards, which results in a fence being located within the ultimate right-of-way area, the property owner shall execute a removal agreement, subject to City Council approval.  The removal agreement shall provide that, after notice by the City, the property owner shall remove any structure, or portion thereof, that extends into the ultimate right-of-way, at no expense to the City.  In case of default in that obligation, the City may cause such removal at the expense of the owner with all costs incurred to become a lien against such land or premises.  The agreement shall also provide that the owner of the affected premises shall not be entitled to any damages or compensation in consequence of the City’s exercise of its rights under the agreement.  This provision shall not be construed as denying the owner of such property the right to just compensation for the unimproved value of any land taken for the widening of any street.

(c) Required fencing shall be installed such that stormwater drainage pat-terns and flow rates are not altered in a manner detrimental to property or persons.

***Response:*** *The proposed development is for a subdivision in the RL Planning district. The applicant acknowledges that a masonry fence is required along a collector street. Constructing a masonry fence along SW 95th Avenue would require removing a significant number of healthy mature trees that are adjacent to the public right-of-way, which the applicant will do if required to construct the masonry fence.*

 (2) Replacement of Existing Fence, or Construction of New Fence in a RL or RML Planning District.

Where property is not the subject of a subdivision or partition application, and is developed with a single-family dwelling, and has an access-restricted property line or lot line that abuts a major arterial, minor arterial, major collector, minor collector, or expressway right-of-way, or interstate high-way property line, the following fence standards apply:

1. Replacement of An Existing Fence That Does Not Meet the Masonry Fence Standard.

Where an existing fence that does not meet the masonry fence standard set forth in [TDC 34.340](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340) is located approximately parallel with, and within ten feet of, an access-restricted property line or lot line that abuts an arterial/collector/ expressway right-of-way or interstate highway property line, AND more than 50 percent of fences that are constructed approximately parallel with, and within ten feet of, access-restricted property lines or lot lines that abut the same arterial/collector/expressway right-of-way line or interstate highway property line, in the interval between the nearest intersecting streets, or hypothetical extensions thereof in the case of interstate highways, located on both sides of the subject property (See [Figure 34-1](https://www.tualatinoregon.gov/sites/default/files/fileattachments/developmentcode/3461/figure34-1.pdf) for illustration), meet the masonry fence standard, then at the time that 60 percent or more of the length of the fence is removed, the entire length of the fence located along the arterial/collector/expressway/interstate highway frontage shall  be removed and replaced with a fence that meets the masonry fence design standards set forth in [TDC 34.340](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340).

1. Installation of required replacement fencing shall be complete within six months from the date that 60 percent or more of the length of the fence is removed;

(ii) Required fencing shall be located entirely outside of the public right-of-way or state-owned interstate highway property, and as close as physically possible to, approximately parallel with, the property line or lot line abutting the arterial/collector/expressway right-of-way or interstate highway property line, except as provided in [TDC 34.330(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.330);

1. Required fencing shall be installed such that stormwater drainage patterns and flow rates are not altered in a manner detrimental to property or persons.

***Response:*** *The proposed development does not include replacing any existing fences to meet the masonry fence standard.*

1. Replacement or Repair of An Existing Fence That Meets the Masonry Fence Standard.

Where an existing fence that meets the masonry fence standard set forth in [TDC 34.340](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340) is located approximately parallel with, and within ten feet of, an arterial/collector/expressway right-of-way or interstate highway property line, then at the time that any portion of the access-restricted property line or lot line that abuts a fence is removed, the fence shall be re-paired or replaced in conformance with the masonry design standards set forth in [TDC 34.340](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340).

1. Repair or replacement shall be complete within six months from the date that any portion of the fence is removed;

(ii) Required fencing shall be located entirely outside of the public right-of-way or state-owned interstate highway property, and as close as physically possible to, approximately parallel with, the property line or lot line abutting the arterial/collector/expressway right-of-way or interstate highway property line, except as provided in [TDC 34.330(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.330);

(iii) Required fencing shall be installed such that stormwater drainage pat-terns and flow rates are not altered in a manner detrimental to property or persons.

***Response:*** *The proposed development does not include replacing or repairing any existing fences along the public right-of-way that is subject to the masonry fence standard.*

1. Construction of New Fence.

Where no existing fence is located approximately parallel with, and within ten feet of, an access-restricted property line or lot line that abuts an arterial/collector/expressway right-of-way or interstate highway property line, AND more than 50 percent of fences that are constructed approximately parallel with, and within ten feet of, access-restricted property lines or lot lines that abut the same arterial/collector/expressway right-of-way line or interstate highway property line, in the interval between the nearest intersecting streets, or hypothetical extensions thereof in the case of interstate highways, located on both sides of the subject property (See [Figure 34-1](https://www.tualatinoregon.gov/sites/default/files/fileattachments/developmentcode/3461/figure34-1.pdf) for illustration), meet the masonry fence standard, then any new fence that is constructed approximately parallel with, and within ten feet of, the access-restricted property line or lot line abutting the arterial/collector/expressway right-of-way or interstate highway property line, shall be in conformance with the required design standards set forth in [TDC 34.340](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340).

1. Required fencing shall be located entirely outside of the public right-of-way or state-owned interstate highway property, and as close as physically possible to, approximately parallel with, the property line abutting the arterial/collector/expressway right-of-way or interstate highway property line, except as provided in [TDC 34.330(3)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.330);

(ii) Required fencing shall be in-stalled such that stormwater drainage patterns and flow rates are not altered in a manner detrimental to property or persons.

***Response:*** *The proposed development is adjacent to a collector street (SW 95th Avenue) which is required to meet the masonry fence standards put forth in this chapter. Per the requirements of this code section, the are no fences constructed (zero percent) parallel with or within 10 feet of the subject property that meet the current masonry fence standard. All fences constructed adjacent, near to or parallel with the subject property are constructed with wood.*

 (3) Exceptions to Fence Location or Configuration:

(a) For public streets classified as an arterial/collector/expressway, where the City Engineer determines that vehicular access is to be provided from the arterial/collector/expressway to a parcel or lot abutting the arterial/collector/expressway, the fence shall not be required along the arterial/collector/expressway frontage of that particular parcel or lot.

(b) For public streets classified as an arterial/collector/expressway, where the City Engineer determines that an opening or passage through the fence must be pro-vided, the fence shall include such required opening. The same shall be provided in fences along state-owned interstate highways when required by the state or Tualatin Valley Fire & Rescue or the City Engineer.

(c) All vision clearance requirements set forth in [TDC 73.400(16)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) shall be met.

(d) The City Engineer, in the case of public streets classified as an arterial/collector/expressway, or the state in the case of state-owned interstate highways, may require an alternate location or configuration of the fence alignment to accommodate stormwater facilities, easements, or other requirements, such as, but not limited to, bicycle paths, multi-use paths, or for maintenance purposes.

(e) For state-owned interstate highways, where an area of vegetation at least 200 linear feet in width runs parallel to the interstate highway and forms a visual, esthetic or acoustic barrier, or land in a Natural Resource Protection Overlay (NRPO) district or other protected area as defined in [TDC Chapter 72](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-72-natural-resource-protection-overlay-district-nrpo) runs parallel to the inter-state highway, AND such land is located between the interstate highway property line and the developable area of a property being developed in the RL or RML Planning District, no fence shall be required. Where the area of vegetation is less than 200 linear feet in width, the required fence shall be located entirely outside the vegetated, NRPO or other protected area and as close as physically possible to, approximately parallel with, the edge of said vegetated, NRPO or other protected area on the developable portion of the property being developed.

***Response:*** *The proposed development is part of a subdivision application in the RL zoning district that does abut a minor collector (SW 95th Avenue) along the western property boundary. The proposed development will not have any vehicular access or public pedestrian access to said public right-of-way so no breaks in the fence should be needed.*

**Section 34.340 Fence Design.**

(1) Masonry Fence Design. (See [Figure 34-2](https://www.tualatinoregon.gov/sites/default/files/fileattachments/developmentcode/3461/figure34-2.pdf) for illustration)

(a) Material and Color.  All components of fence visible from the public vantage point shall be constructed of stone, brick, stone-look or brick-look cast masonry or stone-look or brick-look cast vinyl or composite material.  The color of the fence shall be that of natural stones, red clay brick, neutral brown-tones, or gray earth-tones.

(b) Finished Face.  Fence shall be constructed such that the finished side of the fence faces the public right-of-way or state-owned interstate highway, and any structural components (metal brackets, etc.) are not visible from the public or highway vantage point.

(c) Slopes.  Fences constructed on slopes shall be installed using a stair-step method, whereby each fence panel steps up or down the slope and remains level (zero-slope) rather than parallel to the grade of the underlying terrain.

(d) Height.  For public streets classified as an arterial/collector/expressway, height of fence panels shall be six feet, and for interstate highways (I-5 or I-205) height of fence panels shall be a minimum of eight feet, measured from the underlying ground surface directly beneath the fence panels to the top edge of the cornice cap. (Any fence over six feet in height requires a building permit and engineered drawings.)

(i) For fences constructed on slopes, the height of fence measured at the up-slope end of each fence panel shall be six feet for public streets classified as an arterial/collector/express-way and a minimum of eight feet for interstate highways. (Any fence over six feet in height requires a building permit and engineered drawings.)

(ii) Pilasters, excluding pilaster caps, shall be no shorter than the shorter of the attached fence panels, including the cornice cap, and shall not extend more than six inches higher than the highest attached fence panel, including the cornice cap.

(iii) Height of pilaster caps shall be no greater than six inches, measured from the top of the underlying pilaster to the highest point on the cap.

(e) Ground Clearance.  There shall be no ground clearance or gap visible be-tween the bottom of the fence panels and the underlying ground surface.  Where a pre-cast panel system is used, any gaps that result beneath panels shall be filled in with earth, rock, evergreen vegetation, or similar material. This provision does not prohibit the use of stormwater drainage holes.

(f) Pilasters. The horizontal run of fence must be broken up by pilasters, which shall be set at approximately regular intervals, no more than twenty feet apart on center.  Pilasters shall be installed perpendicular to a zero-slope plane.

(g) Panels. Panels shall be 100 percent solid and opaque. The finished face shall have the appearance of a stacked or mortared stone wall or brick wall.

(h) Cornice. A cornice cap shall be installed on top of each of the fence panels. Cornice caps shall be masonry or brick in appearance, and shall match or closely compliment the colors and materials used to construct the fence panels and pilasters.

(i) Pilaster Caps. Decorative caps shall be installed on top of all pilasters such that the cap completely covers the surface area of the pilaster end.  Caps shall be masonry or brick in appearance, and shall match or closely compliment the colors and materials used to construct the fence panels and pilasters.  Illuminated pilaster caps are allowed, provided the lighting element is an integral internal component of the cap (i.e., no exposed light bulb) and the light is low-voltage or solar powered.  Caps shall be no taller than six inches, measured from the surface of the pilaster end to the highest point on the pilaster cap.

(2) Variance Prohibited.

(a) Development unable to meet one or more of the design standards set forth in [TDC 34.340(1)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-34-special-regulations#34.340) may alternatively submit application for Architectural Review.

(b) Application for Architectural Re-view shall be made pursuant to application procedures set forth in [TDC 31.071](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).  Approval or denial shall be based upon the criteria set forth in [TDC 73.050](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards), including objectives and standards set forth in [TDC 73.221 and 73.222](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

***Response:*** *The fence along the public right-of-way that abuts the minor collector will be designed and constructed as required, by the review authority.*

**CHAPTER 36: SUBDIVIDING, PARTITIONING AND PROPERTY LINE ADJUSTMENTS**

**Section 36.010 Title.**

This Chapter may be cited as the "Land Division Chapter" of the Tualatin Development Code.

**Section 36.020 Authority and Purpose.**

(1) This Chapter is adopted pursuant to the authority delegated to the City of Tualatin under the Oregon Constitution Article XI, Section 2; [ORS Chapters 92](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors092.html) and [197;](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors197.html) and the [City of Tualatin Charter of 1967, as amended](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/municipalcode/12773/appendix1.pdf).

(2) The purpose of this chapter is to protect the public health, safety and general welfare while allowing for efficient development of property and to implement the requirements of the Tualatin Development Code, City Ordinances and other applicable regulations.

(3) The provisions in this Chapter shall be administered to ensure orderly growth and development and shall implement and facilitate the provisions in the Tualatin Community Plan, Tualatin Community Map and capital improvement plans.

***Response:*** *The applicant acknowledges the Authority and Purpose of this Code chapter.*

**Section 36.030 Jurisdiction.**

(1) The provisions in this Chapter shall be applicable throughout the City.

(2) Except as otherwise provided in this section, subdivision and partition applications which have received approval from the City, and subdivision and partition applications submitted prior to the effective date of this Chapter, for which a complete application together with applicable fees has been received, shall not be subject to the requirements of this Chapter, but shall comply with the requirements of the Subdivision Ordinance, Ordinance Number 176-70, as amended.  All applications submitted on or after the date this Chapter becomes effective shall be subject to the provisions of this Chapter. Requests for extensions, replats and modifications of the subdivision or partition plan approval, or property line adjustment applications, which are received by the City after the effective date of this Chapter shall be subject to the requirements of this Chapter.

(3) Unless otherwise specified the requirements of this Chapter shall apply to subdivisions, partitions and property line adjustments.

***Response:*** *The applicant acknowledges the jurisdiction of this Code chapter.*

**Section 36.040 Enforcement and Penalties.**

(1) The City Engineer shall be responsible for enforcement of the provisions of this Chapter.

(2) A violation of any of the provisions of this Chapter, or offering to sell, contracting to sell or selling land or an interest in land, contrary to the provisions of this Chapter, or contrary to the subdivision or partition plat, or the survey map of the property line adjustment, is unlawful and a civil infraction.

***Response:*** *The applicant acknowledges the enforcement and penalties applicable to this Code chapter.*

**Section 36.050 Interpretation, Conflict and Rules of Construction.**

(1) The provisions of this Chapter shall be interpreted and applied as the minimum requirements.  Requests for interpretations of the provisions of this Chapter shall be as set forth in [TDC 31.070](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(2) Where the conditions imposed by or under any provisions of this Chapter appear to conflict with conditions imposed by any other provisions of this Chapter or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the method or condition which imposes the more restrictive or higher standard or requirement shall be construed as governing.

(3) Unless this Chapter indicates otherwise the principles of statutory construction contained in [https://www.oregonlegislature.gov/bills\_laws/lawsstatutes/2011ors174.htmlORS 174.040](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors174.html) (severability), [174.100](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors174.html) (definitions), [174.110](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors174.html) (singular or plural number, masculine, feminine or neuter gender), and [174.120](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors174.html) (computation of time) are adopted and incorporated by this reference.

***Response:*** *The applicant acknowledges how this chapter shall be interpreted and how contradictions should be dealt with.*

**Section 36.060 Variances, Minor Variances and Exceptions.**

(1) When necessary, variances and minor variances to the requirements set forth in this Chapter shall be in accordance with [TDC Chapter 33.](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-33-variances)

(2) For subdivisions and partitions, the variance or minor variance shall be considered as part of the subdivision or partition approval process. Variances in conjunction with a subdivision or partition shall be decided by the City Council. Minor variances in conjunction with a subdivision or partition shall be decided by the City Engineer.

(3) For property line adjustments the variance shall be considered and decided at any time prior to the decision being issued and the minor variance shall be considered and decided as part of the City Engineer’ s decision for the property line adjustment.

***Response:*** *The proposed development is part of a subdivision application.*

**Section 36.070 Land Divisions and Property Line Adjustments.**

(1) All land divisions shall be created by a subdivision or partition plat and must comply with [ORS Chapter 92](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors092.html) and this Chapter.

(2) All property line adjustments shall be executed by deed and must comply with [ORS Chapter 92](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors092.html) and this Chapter.

(3) No subsequent land division or property line adjustment shall be approved on the same lot or parcel until the previously approved land division or property line adjustment has been filed and recorded in accordance with the provisions of this Chapter, or the previous approval is withdrawn, modified or otherwise invalidated.

***Response:*** *The proposed development is part of a subdivision application.*

**Section 36.080 Approval of Streets and Ways.**

(1) The subdivision or partition plat shall provide for the dedication of all public rights-of-way, reserve strips, easements, tracts and accessways, together with public improvements therein approved and accepted for public use.

(a) The applicant shall comply with the requirements of [TDC Chapter 74](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-74-public-improvement-requirements), Public Improvement Requirements.

(b) The applicant shall comply with the design and construction standards set forth in the Public Works Construction Code.

(c) The applicant shall provide evidence to the City that property intended to be dedicated to the public is free of all liens, encumbrances, claims and encroachments.

(2) The subdivision or partition plat shall indicate the ownership and location of private easements and tracts, and the owner-ship and location of private improvements within public rights-of-way and easements.

(3)  Approval of the subdivision or partition plat by the City shall constitute acceptance of all public rights-of-way, reserve strips, easements, tracts and accessways shown thereon, as well as public facilities located therein.

***Response:*** *The proposed development will include a new public street that terminates in a cul-de-sac which will be dedicated as public right-of-way. The improvements within the public right-of-way will all be designed and constructed to meet all applicable design standards. The applicant shall provide whatever documentation is necessary to demonstrate that the property is available to be dedicated and the final plat will include all of the required information at the time of plat recording.*

**Section 36.090 Issuance of Building Permits.**

(1) Except as provided in subsection (5) of this section no building permit or permits to connect to City utility services shall be issued for lots within a subdivision or partition plat until the City Engineer has determined that the corresponding public improvements are substantially complete to assure that the health and safety of the citizens will not be endangered from inadequate public facilities.

***Response:*** *The public improvements will be completed to whatever level is deemed adequate by the review authority before seeking building permits*

 (2) Subject to submittal and approval of, and compliance with, the subdivision plan, as well as sufficient security to assure completion of the public portions of the subdivision, the applicant or individual lot owners within the subdivision may receive a building permit or utility service for not more than 50 percent of the platted lots within the subdivision prior to:

(a) the completion of all required public improvements in accordance with the Public Works Construction Code; and

(b) the acceptance of the public improvements by resolution of the City Council.

***Response:*** *The applicant will comply with the requirements of this code section before seeking building permits for any lots that are to be created with the subdivision application.*

 (3) No building permits shall be issued or utility service approved for any lot which together with previously approved lots would exceed 50 percent of the platted lots within the subdivision until:

(a) all required public improvements have been completed in accordance with the Public Works Construction Code; and

(b) the public improvements have been accepted by resolution of the City Council.

***Response:*** *The applicant will comply with the requirements of this code section before seeking building permits for any lots that are to be created with the subdivision application.*

 (4) City approval for use of a public improvement prior to the final approval and acceptance by the City of the subdivision plat shall not be construed as a release or waiver of any security which has been filed to assure compliance with the subdivision plan approval or any related agreements.

***Response:*** *The applicant will not request release of any securities put forth prior to final acceptance of the public improvements by the review authority.*

 (5) For a subdivision or partition in commercial, institutional, or manufacturing planning districts or multi-family residential developments which require Architectural Review approval, the City Engineer may authorize building permits to be issued prior to the public improvements being substantially complete provided the following conditions are satisfied:

(a) A Public Works Permit for the public improvements has been issued;

(b) An Architectural Review for the development has been approved;

(c) The subdivision or partition plat is recorded;

(d) All easements and dedications required of any development approval have been recorded; and

(e) Such building permits are conditioned to deny occupancy until the public improvements in the subdivision are complete and are accepted by resolution of the City Council.

***Response:*** *The proposed development is in a residential zoning district.*

**PROCEDURE FOR SUBDIVIDING**

**Section 36.110 Approval Required.**

(1) No land may be subdivided or re-platted except in accordance with this Chapter and if a variance or minor variance is requested to the dimensional standards of the lots, or the minimum lot size, in accordance with the approval criteria in [TDC Chapter 33](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-33-variances).

(2) The procedure for review and action on subdivision applications, and requested variances and minor variances, is intended to provide orderly and expeditious processing of such applications and to require conditions of development approval to protect the health and safety of the citizens.

***Response:*** *The applicant acknowledges the provisions for approval of the proposed subdivision application and the intent for the procedure of the application review.*

**Section 36.120 Applications and Filing Fee.**

(1) A request for a Subdivision shall be subject to a Neighborhood/Developer Meeting pursuant to [TDC 31.063](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *A neighborhood meeting was scheduled and hosted by the applicant and/or their assigns per the requirements of the specified code section.*

 (2) The applicant shall discuss the preliminary plans with the City Engineer in a pre-application conference prior to submitting an application. An applicant for a subdivision shall conduct a Neighborhood/Developer Meeting subject to [TDC 31.063](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall prepare and submit a City of Tualatin development application, available from the City Engineer.

***Response:*** *The applicant has attended a project scoping meeting and a pre-application conference with city staff to discuss the proposed development.*

 (3) The application shall contain:

(a) the proposed plat name, approved by the County Surveyor;

(b) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;

(c) the signatures of the property owners and applicants; and

(d) the site location by address and current County Tax Assessor's map and tax lot numbers.

(e) A description of the manner in which the proposed division complies with each of the expedited criterion for an Expedited Subdivision Application.

(f) If a variance or minor variance is requested to the dimensional standards of the lots, or the minimum lot size, adequate information to show compliance with the approval criteria in [TDC Chapter 33](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-33-variances).

(g) A "Service Provider Letter" from Clean Water Services indicating that a "Stormwater Connection Permit" will likely be issued.

(h) The information on the Neighborhood/Developer Meeting specified in [TDC 31.063(10)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(i) If a railroad-highway grade crossing provides or will provide the only access to the subject property, the applicant must indicate that fact in the application, and the City must notify the ODOT Rail Division and the railroad company that the application has been received.

***Response:*** *The application includes all of the required information.*

 (4) The subdivision application shall be submitted to the City Engineer, along with:

(a) the subdivision plan;

(b) preliminary utility plans for streets, water, sanitary sewer and storm drainage;

(c) a black and white 8 1/2" x 11" site plan suitable for reproduction;

(d) a completed City fact sheet;

(e) a Clean Water Services Service Provider letter; and

(f) other supplementary material as may be required, such as:

(i) deed restrictions; or

(ii) for all non-buildable areas or tracts to be dedicated or reserved for public use, a statement of ownership, use, covenants, conditions, limitations and responsibility for maintenance.

***Response:*** *The application includes all of the required information.*

 (5) The following general information shall be shown on the subdivision plan:

(a) appropriate identification clearly stating the map is a subdivision plan;

(b) proposed plat name, approved by the County Surveyor;

(c) the names, addresses and telephone numbers of the property owners and applicants, and when applicable, the name and address of the design engineer or surveyor;

(d) the date the plan was prepared;

(e) north arrow;

(f) scale of drawing;

(g) location of the subdivision by 1/4 Section, Township and Range;

(h) existing streets (public and private), including location, name, centerline, right-of-way and pavement width on and abutting the site, and the location of existing and proposed access points;

(i) proposed streets (public and private), including location, centerline, right-of-way and pavement width, approximate radius of curves and approximate grades of proposed streets on the subject property and within three hundred feet of the site;

(j) an outline plan demonstrating that the adjacent property can be divided in the future in a manner that is consistent with the subdivision plan, and illustrating the connections to transit routes, pedestrian and bike facilities, and accessways to adjacent properties;

(k) easements, including location, width and purpose of all recorded and pro-posed easements in or abutting the site;

(l) public utilities, including the approximate location, size and grade of all existing and proposed sanitary sewers, the approximate location, size and grade of on-site and off-site storm drainage lines, and the approximate location and size of water lines;

(m) flood areas, including the location of any flood plain, drainage hazard areas and other areas subject to flooding or ponding;

(n) natural resources, including the location of natural features, such as rock outcroppings, wetlands, water courses, creeks, wooded areas and trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level, proposed to be removed and to be retained on site;

(o) approximate lot dimensions, including all existing property lines and their lengths and the approximate location and dimensions of all proposed lots;

(p) approximate area of each lot;

(q) proposed lot numbers;

(r) existing structures, including the location and present use of all structures, wells and septic tanks on the site and an indication of which structures, wells and septic tanks are to remain after platting; indicate all City-designated historic landmarks;

(s) all lots and tracts of land intended to be dedicated or reserved for public use;

(t) a vicinity map showing a minimum one- mile radius;

(u) contour lines with intervals at a minimum of two feet for slopes up to five percent and five feet for slopes over five percent; and

(v) other information required by the City Engineer.

***Response:*** *The preliminary plans includes all of the required information.*

 (6) The subdivision application shall be accompanied by a nonrefundable fee as established by City Council resolution. The subdivision application shall not be accepted until the fee has been paid to the City. This fee does not apply towards any building permit or other fees that may later be required.

***Response:*** *The application includes the required fee.*

 (7) The applicant shall submit, along with the subdivision application:

(a) A list of mailing recipients pursuant to [TDC .31.064(1)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(b) Proof of sign posting pursuant to [TDC 31.064(2)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *The application includes all of the required information.*

 (8) Unless otherwise specified in the subdivision application, or approval, or in express direction from the City Engineer, any material submitted by the applicant with a subdivision application which exceeds the TDC requirements shall be considered a part of the subdivision plan approval.

***Response:*** *The applicant acknowledges that all of the information included with the subdivision application shall be considered.*

 (9) The applicant has the burden of demonstrating compliance with the applicable development regulations.

***Response:*** *The application acknowledges the burden of compliance.*

 (10) The applicable time period for action on the subdivision application shall not commence until the City Engineer has determined that the application is complete.

(a) If the City Engineer fails to make such determination of completeness within 30 days of the date of its submission, or re-submission, the subdivision application shall be deemed complete upon the expiration of the 30-day period for purposes of commencing the applicable time period, unless:

(i) the application lacks information required to be submitted; or

(ii) the required fees have not been submitted; or

(iii) the City Engineer has notified the applicant in writing of the deficiencies in the application within 30 days of submission of the subdivision application.

(b) The City Engineer may subsequently require correction of any information found to be in error or submission of additional information not specified in this Chapter, as the City Engineer deems necessary to make an informed decision.

***Response:*** *The applicant acknowledges that completeness is required prior to the application being reviewed.*

 (11) The City Engineer shall prepare the standard form of Development Application for subdivision plans, including provisions which will best accomplish the intent of this section.

***Response:*** *The applicant acknowledges the responsibility of the city engineer.*

**Section 36.130 Phasing.**

(1) Subject to the approval by the City pursuant to this section, an applicant may create a subdivision plat or construct the public improvements for a subdivision plat in phases. If the applicant intends to utilize this phasing option the applicant shall submit a phasing plan to the City Engineer for approval with the subdivision application and plan. The City Engineer shall determine the timing of the completion of the public improvements and the conditions of development.

(2) The applicant shall construct all public improvements in each phase.

(a) Prior to issuance of building permits in a particular phase, the public improvements necessary to provide adequate public facilities for the particular phase shall be substantially complete.

(b) When the City Engineer has determined the public improvements in the particular phase are substantially complete and prior to acceptance of the improvements by the City, the City may is-sue 50 percent of the building permits prior to acceptance of the improvements by the City as set forth in [TDC 36.174](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.174).

(c) The public improvements shall first be accepted by resolution of the City Council before building permits exceeding 50 percent may be issued in a particular phase.

(d) Public improvements may be submitted for City acceptance by phase.

(3) The subdivision plan approval for the first phase shall expire 24 months from the date of subdivision plan approval by the City Engineer. Future phases shall expire 24 months after the date of recording of the subdivision plat of the immediately preceding phase.

***Response:*** *The proposed development will be completed at one time and will not include phases.*

**Section 36.140 Review Process.**

(1) Review of subdivision applications shall be a limited land use decision process. Before approval may be granted on a subdivision application, the City Engineer shall first establish that the subdivision proposal conforms to the Tualatin Development Code and applicable City ordinances and regulations, and requested variances or minor variances to the dimensional standards of lots or the minimum lot size, conform with the approval criteria in the [TDC Chapter 33](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-33-variances). Failure of the proposal to conform is sufficient reason to deny the application.

(2) After the subdivision application is deemed complete, the City Engineer shall provide written notice of the application to and invite comments from:

(a) potentially affected governmental agencies such as the school district in which the subdivision is located, the fire district, the Oregon Department of Transportation, Tri-Met, Clean Water Services and Washington or Clackamas County;

(b) utility companies;

(c) City departments; and

(d) recipients pursuant to [TDC 31.064(1)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(3) The notice sent in [TDC 36.140(2)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.140) shall:

(a) state that written comments shall be submitted within 14 calendar days of the mailing date of the notice in order to be considered as a basis for a request for review;

(b) state that issues which may provide the basis for a request for review to the City Council and Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period.  Issues shall be raised with sufficient clarity and detail to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;

(c) list the applicable criteria by code section for the decision;

(d) include the street address or other easily understood geographical reference to the subject property;

(e) state the place, date and time that comments are due, and that comments are due no later than 5:00 pm on the fourteenth calendar day after notice was sent;

(f) state that copies of all evidence relied upon by the applicant are available for review, and can be obtained at cost;

(g) state of the local government contact person and telephone number; and

(h) briefly summarize the local decision-making process for the limited land use decision being made.

(4) Failure of a person or agency to receive the notice required in [TDC 36.140(2)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.140) shall not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(5) Comments must be received by the City Engineer within 14 calendar days of the date the notice was mailed.  Signed comments shall be in writing.  Comments must raise issues with sufficient detail and clarity to enable the decision-maker to respond to the issue.  Requests for review may be made only by parties who submitted written comments and may be adversely affected by the decision within the 14 calendar-day period.

(6) Prior to making a decision, the City Engineer may conduct one or more review meetings with the applicant, governmental agencies, utility companies and any other interested parties.

(7) The approval of a subdivision application shall not automatically grant other approvals that may be required by the Development Code or City ordinances. However, a decision on a requested minor variance to the dimensional standards of lots or the minimum lot size, shall be included in the subdivision decision.

(8) Approval or denial of a subdivision shall be based upon and accompanied by a brief statement that

(a) explains the criteria and standards considered relevant to the decision;

(b) states the facts relied upon in making the decision; and

(c) explains the justification for the decision based on the criteria, standards and facts set forth.

(9) Notice of the decision shall be provided to the applicant, property owner, and any person who submitted written comments within the 14 calendar-day comment period.  Notice of the decision shall include a description of rights to request a review of the decision.

(10) When the City Engineer determines that a complete application for a proposed development raises a substantial question over Code requirements, size, location or complexity and is likely to raise concern from a substantial portion of nearby property owners or residents, the City Engineer may request that the City Council review the subdivision without first reaching a decision.  The City Council shall hold a hearing in accordance with [TDC 31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).  This applies to all subdivisions except for expedited subdivisions which shall not be the subject of a public hearing.  The City Engineer shall prepare a report for presentation to the City Council, which may include recommendations on the subdivision application and requested minor variances.

***Response:*** *The applicant acknowledges the timing, requirements and provisions of the subdivision application review process.*

**Section 36.160 Subdivision Plan Approval.**

(1) A subdivision or expedited subdivision application shall not be approved unless the City Engineer first finds that adequate public improvements are, or will be, made available to serve the proposed subdivision.

(2) The City Engineer may approve, approve with conditions, or deny the application based upon demonstrated compliance with applicable City regulations.  The City Engineer's decision shall be supported by written findings and reasons for the decision.  Findings and reasons may consist of references to the applicable Tualatin Development Code (TDC) or Tualatin Municipal Code (TMC), provisions or special studies. The decision shall also include an explanation of the rights of each party to request a review of the decision.

(3) One copy of the subdivision plan and decision shall be filed with both the City Recorder and the City Engineer.

(4) The decision of the City Engineer on a subdivision shall become final 14 calendar days after the date the notice of the decision is given, unless the applicant submits a written request for review.

(5) The approval for the subdivision shall expire 2 years from the date the decision is issued unless the applicant requests an extension and the City Engineer approves it pursuant to Subsection (6).

(6) Before approving an extension of a subdivision approval, the City Engineer shall find the request meets these criteria:

(a) There have been no significant changes in any conditions, ordinances, regulations, or other standards of the City or applicable agencies that affect the previously approved subdivision so as to warrant its resubmittal; and

(b) If the applicant neglected site maintenance and allowed the site to become blighted, the City Engineer shall facto this into the decision; and

(c) The City Engineer shall grant no more than a single one-year extension.

(7) A subdivision plan approval may include restrictions and conditions.  These restrictions and conditions shall be reasonably conceived to:

(a) protect the public from the potentially deleterious effects of the proposal;

(b) fulfill the need for public facilities and services created by the proposal, or increased or in part attributable to the impacts of the proposal; or

(c) further the implementation of the requirements of the TDC.

***Response:*** *The application acknowledges the stipulations that pertain to the approval of the subdivision application. The applicant will ensure that all conditions of approval are met to the satisfaction of the review authority and expects to complete the subdivision within two years after the application has been approved.*

**Section 36.161 Requests for Review of Subdivision and Partition Decision.**

(1) A request for review shall be on a City form. The completed form at a minimum shall consist of the following:

(a) the description of the subject property or the proposed name of the project;

(b) the date on which the request for review is received by the City Engineer;

(c) a statement that the form shall be signed and submitted in writing;

(d) a statement of the issues on which the request for review is based;

(e) a statement that the City Engineer may request additional information for administrative purposes; and

(f) a place to indicate how a person is adversely affected by the decision and how the decision is allegedly not in conformance with applicable code requirements.

(2) Upon receipt of a request for review, the City Engineer shall indicate the date of receipt, schedule a City Council hearing and give notice of the hearing in accordance with [TDC 31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). A request for review shall be accompanied by a fee as established by City Council resolution.  The request shall be received in writing at the City offices by 5:00 pm on the fourteenth calendar day after the notice of decision was sent.

(3) The Council shall conduct a de novo hearing in accordance with the quasi-judicial evidentiary hearing procedures set forth in [TDC 31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). The review conducted by the Council shall be limited to the issues raised during the 14 calendar-day comment period.  Notice of the final decision of the City Council may be provided to any person, but shall be mailed by first class mail to:

(a) the applicant and owner of the subject property;

(b) the appellant;

(c) all other persons who submitted comments on the application and who may be adversely affected by the decision

***Response:*** *The applicant acknowledges the provisions set forth regarding requests for review of subdivision applications.*

**Section 36.162 Modifications to Subdivision Plan Approval.**

(1) After the City Engineer has approved, or conditionally approved, the subdivision or expedited subdivision plan, but before the subdivision plat has been approved, any proposed modifications to the subdivision plan shall be submitted to the City Engineer for approval.  The City Engineer shall determine if the proposed modifications are material or immaterial in nature.

(2) Immaterial modifications to a subdivision plan approval are changes which do not result in noncompliance with subdivision approval criteria, and include:

(a) lot dimension changes;

(b) street location changes;

(c) lot pattern changes.

(3) Immaterial modifications shall meet the following standards:

(a) Accessways to adjacent streets or properties shall not be relocated more than 25 feet from the location approved on the subdivision plan. In addition, accessways shall not be relocated to a different adjacent property.

(i) Stub streets shall not be changed to non-through streets.

(ii) Cul-de-sacs shall not be changed to stub streets.

(iii) Density decreases shall not exceed a 20 percent reduction in the total number of approved lots or dwelling units. For an Expedited Subdivision Application, the density shall not be decreased to a density that would violate the density criterion for the Expedited Subdivision Application process.

(iv) The proposed modification shall not result in a change or deletion of a condition of approval of the subdivision plan approval.  Changes to the conditions of approval shall be processed as set forth in [TDC 36.162(4) and (5).](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.162)

(4) If the proposed modifications are found to be immaterial and the subdivision plan as modified meets the conditions of the earlier subdivision plan approval, the requirements of the TDC and other applicable regulations, the City Engineer shall approve in writing the proposed modifications with or without conditions.

(5) A proposed material modification, or a modification which results in a subdivision plan that no longer meets the conditions of the subdivision plan approval or the requirements of the TDC and other applicable regulations, shall require a new application in accordance with [TDC 36.120](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.120). The application shall follow the limited land use process as described in [TDC 36.140](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.140). An Expedited Subdivision Application shall be submitted to the City Engineer for a decision.

(6) The nonrefundable fee for modification of the subdivision plan approval, as established by resolution of the City Council, shall be submitted with the request for modification.

***Response:*** *The applicant acknowledges the provisions set forth regarding modifications to subdivision approvals.*

**Section 36.170 Subdivision Plat.**

(1) Except where the City Engineer decision or Council decision in a request for review on the subdivision or expedited subdivision plan specifically provides otherwise, within 24 months after approval of the subdivision plan, the applicant shall cause the subdivision, or an approved phase thereof, to be surveyed and a subdivision plat prepared in conformance with the approved subdivision plan.

(2) Within 24 months after approval of the subdivision plan, the applicant shall submit the subdivision plat, financial assurances, where applicable, and all supplemental information to the City Engineer and receive the approval of the City.

(3) If the applicant has not submitted the subdivision plat, financial assurances, where applicable, and all supplemental information to the City Engineer not less than 30 days before such 24-month period expires, the subdivision plan approval shall expire at the end of the 24 months.

***Response:*** *The plat for the proposed subdivision will be submitted as required, within the time frame that is specified in this code section.*

**Section 36.172 Information on Subdivision Plat.**

(1) In addition to information otherwise specified by [ORS Chapter 92](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors092.html), the following information shall be submitted on the subdivision plat:

(a) plat name, date, north arrow, scale of drawing, and legend;

(b) the location, width and centerline of all streets, recorded easements and accessways intercepting the boundary of the site;

(c) all existing and proposed easements shall be shown and shall be clearly identified as to intended purpose; easement width, length and bearing shall be shown; and sufficient ties to locate the easement with respect to the plat shall be shown;

(d) the width of the portion of any street being created; the width of any existing right-of-way; new and existing streets shall be identified by the approved street names;

(e) identification of land to be dedicated or reserved for any purpose, public or private, to distinguish it from lots intended for conveyance and building purposes;

(f) a declaration as required by [ORS 92.075](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors092.html); and

(g) plat restrictions required in the subdivision plan approval.

(2) Supplemental information with the subdivision plat shall include:

(a) any deed restrictions;

(b) dedication deeds requiring separate documents;

(c) copies of instruments conveying or dedicating property or interests to the County, the State of Oregon or other public agency, if not conveyed by the plat;

(d) when required, written certification by the applicant's engineer that private streets have been constructed in accordance with the subdivision plan approval and City standards; and

(e) provisions for access to and maintenance of drainage facilities not located within public streets, if any.

***Response:*** *The plat for the proposed subdivision will be prepared by a licensed surveyor and shall include all information required to be approved.*

**Section 36.174 Agreement for Public Improvements.**

(1) Where the applicant wishes to submit the subdivision plat for City acceptance prior to installing all required public improvements pursuant to the subdivision plan approval and subdivision regulations, the applicant shall submit a Compliance Agreement and written assurances, as set forth in this section, to the City Engineer.

(2) The applicant shall submit for City approval, a Compliance Agreement between the owner and the City whereby the owner promises to complete the required public improvements relating to the subdivision in accordance with City regulations within a specified time period in exchange for which the City approves the subdivision plat in advance of completion of all required public improvements.

(3) In addition to the Compliance Agreement, the applicant shall submit one of the following types of assurance:

(a) a Corporate Surety Bond issued by a surety company authorized to transact business in the State of Oregon;

(b) a cash deposit; or

(c) cash in escrow.

(4) Such assurance of full and faithful performance of said Compliance Agreement shall be for a sum approved by the City Engineer as sufficient to cover 100 percent of the cost of completing the required public improvements by the City in the event the applicant fails to construct such improvements in accordance with the Compliance Agreement and City regulations.  The costs of City completion of public improvements include, but are not limited to:

(a) related engineering;

(b) right-of-way acquisition;

(c) easement acquisition and public contracting costs;

(d) labor and materials; and

(e) incidental expenses.

(5) In the event the applicant fails to perform all provisions of the Compliance Agreement, the City is authorized, but not required, to complete unfinished or improperly constructed portions of the required public improvements and to use the assurance for reimbursement to cover the City's costs, including bringing any necessary action to collect such funds.

(a) If the amount of the bond or cash deposit exceeds the cost and expense incurred by the City to satisfy the provisions of the Compliance Agreement upon the applicant's failure to do so, the City shall release the balance.

(b) If the amount of the bond, cash deposit, or cash in escrow is less than the costs so incurred by the City, the applicant shall be liable to the City for such additional costs.  The City shall have a lien on the subdivision still owned by the owner in an amount which represents the difference between the City costs and the amount received by the City pursuant to the applicant's assurance.

(6) If the applicant fails to perform under the provisions of the Compliance Agreement the City may, as an additional but not exclusive remedy, refuse to issue additional building permits for properties within the subdivision.

(7) The City Engineer shall prepare standard forms of Compliance Agreement and Escrow Agreement, including provisions which will best accomplish the intent of this Section.  Use of such forms by the applicant in accordance with this section are presumed to be satisfactory to the City.

***Response:*** *The applicant will provide the required agreements and sureties to meet the requirements put forth in this code section.*

**Section 36.176 Approval of the Subdivision Plat by the City.**

(1) Upon receipt by the City Engineer, the subdivision plat and related materials shall be reviewed for compliance with the subdivision plan approval and applicable regulations.

(2) The City Engineer shall determine whether the applicant has complied with one of the following alternatives:

(a) all public improvements have been installed in accordance with City regulations and accepted by the City Council; or

(b) a Compliance Agreement has been entered into by the applicant and acceptable assurance has been submitted and accepted by the City as set forth in [TDC 36.174](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments#36.174).

(3) If the City Engineer determines that the subdivision plat conforms with the subdivision plan approval and other requirements, disregarding immaterial changes, the Mayor and City Recorder shall be so advised.  The Mayor may then approve the subdivision plat by signing it without further action by the City Council.

(4) If the subdivision plat is not in full conformance with the approved subdivision plan and applicable regulations, it shall be returned to the applicant for revision and resubmittal.

***Response:*** *The applicant acknowledges the approval process for the plat by the city.*

**Section 36.178 Recording of Subdivision Plat.**

(1) After approval by the Mayor, the City Engineer shall return the subdivision plat and other related materials to the applicant, who shall transmit them to the County Surveyor.

(2) After the County Surveyor determines the final subdivision plat and related materials fully conform with State and County requirements, and receives payment of the required fees for such service, the County Surveyor will approve the plat and deliver it to the County Recorder's Office.

(3) No building permits shall be issued until the applicant obtains and delivers to the City Engineer a mylar copy of the subdivision plat showing that it has been officially approved by the County Surveyor and recorded.

***Response:*** *The applicant acknowledges the plat shall be recorded by the county with sufficient proof prior to the issuance of building permits.*

**LOT REQUIREMENTS**

**Section 36.410 Double Frontage and Reverse Frontage.**

(1) Double frontage and reversed front-age lots should be avoided except where essential to provide separation of residential development from railroad tracks or crossings, traffic arterials or collectors, adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

***Response:*** *The proposed development will likely create some lots that will have double frontage because the existing project site is a corner lot with frontage on SW 95th Avenue and SW Sagert street and there will be a new public street created to access all of the new lots. Because of this new public street, approximately half of the lots will have double frontage with the new public street and SW 95th avenue. No access will be allowed to SW 95th Avenue.*

 (2) Residences on double frontage lots shall be oriented towards the lower classification street adjacent to the lot:

(a) local street instead of collector or arterial; and

(b) collector street instead of arterial.

***Response:*** *The lots that have frontage on both SW 95th Avenue (a minor collector) and the new public street (a local street) shall take their access from the new public street.*

 (3) If two local streets are adjacent to a series of adjacent double frontage lots, then residences on all such lots shall be oriented towards the same local street.

***Response:*** *All of the lots created in the proposed development will have access to the new internal public street.*

**Section 36.420 Existing Structures and Appurtenances.**

(1) Any existing structures proposed to be demolished shall be removed prior to the City approval of the subdivision or partition plat.  Any structures determined to be a historic City landmark shall be reviewed in accordance with [TDC Chapter 68](http://www.tualatinoregon.gov/developmentcode/tdc-68-historic-preservation).

(2) Any existing wells shall be abandoned in the manner prescribed by State and County regulations prior to the City approval of the subdivision or partition plat.

(3) Any existing underground fuel or oil tanks, septic tanks and similar underground storage tanks shall be removed or filled as required by the Department of Environmental Quality prior to the City's approval of the subdivision or partition plat.

***Response:*** *The project site for the proposed development does include an existing house that is to remain on a smaller lot. All other site fixtures described in this code section shall be removed as part of the subdivision application and will be done so when the site is cleared and readied for on-site improvements.*

**Section 36.430 Large Lots.**

When subdividing, partitioning or adjusting land into large lots which at some future time are possible to be re-subdivided, repartitioned or readjusted to a size which more closely conforms to the other lots in the subdivision or area, the applicant shall submit a future streets plan.  The future streets plan shall indicate that proposed large lots be of such size and shape and contain such building site restrictions as will provide for the extension and opening of streets at such intervals and the subsequent division of any such large lot into smaller size lots which meet the requirements of the TDC.

***Response:*** *The proposed development will not include any “Large Lots” that could be further divided in the future.*

**Section 36.440 Monuments.**

Survey markers and monumentation shall be placed as required by State law.  Any monuments that are disturbed before all improvements are completed shall be replaced by the applicant to conform to the requirements of State law.

***Response:*** *Survey monuments required for the proposed development will be set as required by state law.*

**Section 36.450 Side Lot Lines.**

The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.

***Response:*** *The proposed development is for a seven lot subdivision and will include a new internal public street that will end in a cul-de-sac. The lot lines that are outside of the cul-de-sac area shall be orientated such that they are at or very near to a right angle with the new public street. The new lots that are near the cul-de-sac shall be orientated such that the lines are directed towards the center of the cul-de-sac bulb.*

**Section 36.460 Size and Shape.**

(1) The lot size, width, shape and orientation shall be appropriate for the location of the lot and shall comply with the planning district standards for the type of development and use contemplated.

***Response:*** *The newly created lots in the proposed development will meet the criteria for lot size, width and shape and will be orientated for the best use to accompany the new public street.*

 (2) These minimum standards shall apply with the following exceptions:

(a) In areas that will not be served by public sewer or public water supply, the lots shall also conform to any special requirements developed by the County Health Department or the Department of Environmental Quality with respect to sewage disposal and water supply.

(b) Where the planning district designation is for commercial, institutional, or industrial use, other lot sizes, widths and areas may be permitted at the discretion of the City Council.  Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(c) Where the property constitutes or is part of a conditional use approval and fully complies with specific conditions imposed at the time of approval of the conditional use, other lot sizes, widths and areas may be permitted at the discretion of the City Council.

***Response:*** *The new lots in the proposed development will not require any exceptions.*

**Section 36.470 Frontage on Public Streets.**

All lots created after September 1, 1979 shall abut a public street, except for the following:

(1) Secondary condominium lots, which shall conform to [TDC 73.400](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) and [TDC 75](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-75-access-management);

***Response:*** *The proposed development is for a seven lot subdivision and will not include condominiums*

 (2) Lots and tracts created to preserve wetlands, greenways, Natural Areas and Stormwater Quality Control Facilities identified by [TDC Chapters 71](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-71-wetlands-protection-district-wpd), [72](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-72-natural-resource-protection-overlay-district-nrpo) [Figure 3-4](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tualatin_parks_and_rec_plan_figure_3-4.pdf) of the Parks and Recreation Master Plan and the Surface Water Management Ordinance, [TMC Chapter 3-5](http://www.tualatinoregon.gov/municipalcode/chapter-03-05-soil-erosion-surface-water-management-water-quality-facilities-and) respectively, or for the purpose of preserving park lands in accordance with the Parks and Recreation Master Plan;

***Response:*** *The proposed development will not include any lots and/or tracts dedicated to preserve wetlands, greenways or natural areas. A new tract may be created to contain a stormwater WQ facility.*

 (3) Residential lots where frontage along a public street is impractical due to physical site restraints. Access to lots shall occur via a shared driveway within a tract. The tract shall have no adverse impacts to surrounding properties or roads and may only be approved if it meets the following criteria:

(a) Does not exceed 250 feet in length,

(b) If the tract exceeds 150 feet in length, it has a turnaround facility as approved by the Fire Marshal for fire and life safety,

(c) The tract does not serve more than 6 lots,

(d) A public street is not needed to provide access to other adjacent properties as required by [TDC Chapter 74](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-74-public-improvement-requirements),

(e) A recorded document providing for the ownership, use rights, and allocation for liability for construction and maintenance has been submitted to the City Engineer prior to issuance of a building permit, and

(f) Access easements have been provided to all properties needing access to the driveway.

***Response:*** *None of the newly created lots in the proposed development are expected to have physical constraints to limit access along the public frontage.*

 (4) Lots in the Manufacturing Park Planning District which have access to the public right-of-way in accordance with [TDC 73.400](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) and [TDC Chapter 75](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-75-access-management) via permanent access easement over one or more adjoining properties, creating uninterrupted vehicle and pedestrian access between the subject lot and the public right-of-way.

***Response:*** *The proposed development is for a seven lot subdivision in a residential zoning district.*

**CHAPTER 40: LOW DENSITY RESIDENTIAL PLANNING DISTRICT (RL)**

### Section 40.010 Purpose.

The purpose of this district is to provide low density residential areas in the City that are appropriate for dwellings on individual lots, as well as other miscellaneous land uses compatible with a low density residential environment.

***Response:*** *The applicant acknowledges the purpose of the RL Planning district*

### Section 40.015 Permitted Density.

Housing density shall not exceed 6.4 units per net acre, except as set forth below:

(1) The maximum density for small-lot subdivisions, and partitions and subdivisions affected by [TDC 40.055](http://www.ci.tualatin.or.us/developmentcode/tdc-40-low-density-residential-planning-district-rl#40.055), shall not exceed 7.5 dwelling units per net acre.

(2) The maximum density for retirement housing in accordance with [TDC 34.170(2)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations) shall not exceed 10 dwelling units per net acre.

***Response:*** *The total area for the proposed development is 1.54 acres. Per the density requirement specified in this code section, the maximum density for the proposed development is 11.55 units.*

### Section 40.020 Permitted Uses.

(1) Single-family dwellings, including manufactured homes.

(2) Agricultural uses of land, such as truck gardening, horticulture, but excluding commercial buildings or structures and excluding the raising of animals other than the following:

(a) Normal household pets;

(b) Chickens as otherwise allowed by the Tualatin Municipal Code.

(3) Home occupations as provided in [TDC 34.030 to 34.050](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations).

(4) Public transit shelters.

(5) Greenways and Natural Areas, including but not limited to bike and pedestrian paths and interpretive stations.

(6) Residential homes.

(7) Residential facilities for up to 15 residents, not including staff.

(8) Family day care provider, provided that all exterior walls and outdoor play areas shall be a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(9) Sewer and water pump stations and pressure reading stations.

(10) Wireless communication facility attached, provided it is not on a single-family dwelling or its accessory structures.

(11) Accessory dwelling units as provided in [TDC 34.300 to 34.310](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations).

(12) Transportation facilities and improvements.

(13) Public park, public playground, and public recreation building.

***Response:*** *The proposed development is will only include single family, detached dwellings, which are a permitted use.*

### Section 40.030 Conditional Uses Permitted.

The following uses and their accessory uses are permitted as conditional uses when authorized in accordance with [TDC Chapter 32](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-32-conditional-uses):

(1) Common-wall dwellings.

(2) Condominium dwelling units provided they meet the following standards, notwithstanding other provisions of this Code, and meet the requirements of [ORS 91.500](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors091.html).

(a) All units shall be on a primary lot with frontage on a public street or in accordance with [TDC 36.470](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments).

(b) Access to secondary lots and to all buildings on the primary lot from public streets shall be guaranteed physically and legally by restrictive covenants and homeowners' association bylaws prior to issuance of building permits for the project and after approval of the state pursuant to state statutes, or in accordance with [TDC 36.470](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments).

(3) Small-lot subdivisions conforming to the following standards:

(a) No small lot subdivision shall have less than ten lots.

(b) All subdivision improvements shall conform to [TDC Chapter 36](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments).

(c) All dwelling units constructed shall conform to the construction standards of the State of Oregon Uniform Building Code as adopted by the City of Tualatin.

(d) A tree survey shall be prepared and submitted as part of the conditional use application. This tree survey shall show the location of existing trees having a trunk diameter of eight inches or greater, as measured at a point four feet above ground level. The purpose of this survey shall be to show that, by utilizing the small lot subdivision provisions, a greater number of trees can be preserved than would be possible without use of the small lot subdivision provisions. As used in this section, the word "tree" means a usually tall, woody plant, distinguished from a shrub by having comparatively greater height and characteristically, a single trunk rather than stems.

(e) The small lots:

(i) Shall be no less than 5,000 and no more than 6,499 square feet.

(ii) When a small lot abuts an existing lot in a City approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the size of the abutting lot.  For example, a new small lot shall be no less than 5,500 square feet if it abuts an existing lot of 6,000 square feet; 5,600 square feet if it abuts an existing lot of 6,100 square feet; 5,700 square feet if it abuts an existing lot of 6,200 square feet; and so on, up to 5,999 square feet if it abuts an existing lot of 6,499 square feet.

1. When a small lot is directly across a local street from an existing lot in a City approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the lot directly across the street.

(iv) When a Tract or easement is between a small lot and an existing lot in a City approved and recorded subdivision or partition the small lot shall be separated from the existing lot by at least 50 feet.

(v) For purposes of this subsection, a small lot is directly across the street if one or more of its lot lines, when extended in a straight line across the local street, intersect the property line of the lot across the street.

(vi) When a subdivision is constructed in phases, a small lot in a later phase may abut or be directly across a local street from an existing lot in an earlier phase.

(f) The small lots shall be part of a development that contains lots of at least 7,000 square feet that are necessitated by trees, steep terrain or other topographic constraints.

(g) The small lots shall not exceed 35 percent of the lots in the total subdivision.

(h) The number of lots having a minimum area of 7,000 square feet shall equal or be greater than the number of small lots in the subdivision.

(i) The average lot width shall be at least 30 feet.

(j) When a lot has frontage on a public street, the minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.

(k) The maximum building coverage for lots 5,000 to 6,499 square feet shall be 45 percent and for lots greater than 6,499 square feet shall be 35 percent.

(l) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in [TDC 73.400(7) - (12)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

(4) Other uses as specified below:

(a) Churches or other places of religious worship and accessory uses.

(b) Child day care center, if all exterior walls and outdoor play areas are a minimum distance of 400 feet from the exterior walls and pump islands of any automobile service station, irrespective of any structures in between.

(c) Governmental structure or land use including community buildings (public), fire station, public library or museum.

(d) Retail nursery.

(e) Hospital.

(f) Kindergarten through grade 12 school.

(g) Water reservoir with a maximum height of 75 feet.

(h) Golf course, country club with golf course.

(i) Agricultural animals, limited to cattle, horses and sheep, and agricultural structures such as barns, stables, sheds, but excluding feed lots, in areas designated on [Map 9-6](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12818/map9-6agriculturalanimals.pdf) Conditional Use of Agricultural Animals.  The City Council may limit the number of animals to be allowed on a specific parcel of property.

(j) Increased building height to a maximum of 50 feet, if all yards adjoining said building are not less than a distance equal to 1 1/2 times the height of the building.

(k) Retirement housing conforming to the standards in [TDC 34.160 - 34.170](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations).

***Response:*** *The proposed development does not include any of the conditional uses. This code section is not applicable.*

### Section 40.050 Lot Size for Permitted Uses.

Except as otherwise provided, the lot size for a single-family dwelling shall be:

1. The minimum lot area shall be an average of 6,500 square feet.

***Response:*** *The average lot area for the proposed development is 7,134 sf which exceeds the minimum lot area specified.*

1. The average lot width shall be at least 30 feet.

***Response:*** *The minimum lot width for the new lots for the proposed development is 68.0 feet. The average lot width exceeds the minimum average lot width specified.*

1. When a lot has frontage on a public street, the minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.

***Response:*** *The proposed development does include a cul-de-sac bulb. All lots exceed the minimum lot width of 30 feet for the lot width around the cul-de-sac bulb and minimum lot width of 50 feet on a public street.*

1. The maximum building coverage shall be 45 percent.

***Response:*** *Architectural plans have not yet been selected for the new homes to be constructed with the proposed development. They will be chosen to comply with this standard.*

(5) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in [TDC 73.400(7) - (12)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

***Response:*** *The proposed development does not include any flag lots.*

### Section 40.055 Lot Size for Greenway and Natural Area Tracts and Lots.

(1) The decision authority for partitions and subdivisions may allow one small lot for each 6,500 square feet of Tract created in the subdivision or partition process, provided the following criteria are met:

(a) Each Tract must be:

(i) wholly in the Natural Resource Protection Overlay (NRPO) District [(TDC Chapter 72)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-72-natural-resource-protection-overlay-district-nrpo), or

(ii) wholly in an Other Natural Areas identified in [Figure 3-4](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tualatin_parks_and_rec_plan_figure_3-4.pdf) of the Parks and Recreation Master Plan, or

(iii) wholly in a Clean Water Services Vegetated Corridor.

(b) The ownership of each Tract must be one of the following:

(i) dedicated to the City at the City's option, or

(ii) dedicated in a manner approved by the City to a non-profit conservation organization, or

(iii) retained in private ownership by the developer.

(c) The small lot:

(i) Shall be no less than 5,000 square feet and no more than 5,999.99 square feet.

(ii) The average lot width shall be at least 30 feet.

1. The minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.

(iv) The maximum building coverage for lots less than 6,000 square feet shall be 45 percent.

(v) The subdivision's or partition's density, net of the Tracts, shall not exceed 7.5 dwelling units per acre.

(2) The decision authority for partitions and subdivisions shall consider, but is not limited to, the following factors when determining if [TDC 40.055(1)(b)(i - iii)](http://www.ci.tualatin.or.us/developmentcode/tdc-40-low-density-residential-planning-district-rl#40.055) are allowed:

(a) Does the Park and Recreation Master Plan designate the Tract for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;

(b) Does the Tract include one or more designated Heritage Trees, or one or more significant trees;

(c) Does the Tract provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;

(d) Does the Tract connect publicly owned or publicly accessible properties;

(e) Does the Tract abut an existing park, greenway, natural area or other public facility;

(f) Does the Tract provide a public benefit or serve a public need;

(g) Does the Tract contain environmental hazards;

(h) Geologic stability of the Tract; and

(i) Future maintenance costs for the Tract.

(3) The following shall apply to small lots included in a partition or subdivision pursuant to (1) above:

(a) When a small lot abuts an existing lot in an approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the abutting lot.  For example, a new small lot shall be no less than 5,500 square feet if it abuts an existing lot of 6,000 square feet; 5,600 square feet if it abuts an existing lot of 6,100 square feet; 5,700 square feet if it abuts an existing lot of 6,200 square feet; and so on, up to 5,999 square feet if it abuts an existing lot of 6,499 square feet.

(b) When a small lot is directly across a local street from an existing lot in a City approved and recorded subdivision or partition the small lot shall be no more than 500 square feet smaller than the lot directly across the street.  For purposes of this section, a small lot is directly across the street if one or more of its lot lines, when extended in a straight line across the local street, intersect the property line of the lot across the street.

(c) When a Tract or easement is be-tween a small lot and an existing lot in a City approved and recorded subdivision or partition the small lot shall be separated from the existing lot by at least 50 feet.

(d) When a subdivision is constructed in phases, a small lot in a later phase may abut or be directly across a local street from an existing lot in an earlier phase.

***Response:*** *The proposed development does not include any tracts or lots for greenways or natural areas. This code section is not applicable.*

### Section 40.060 Lot Size for Conditional Uses.

Except as otherwise provided, the lot size for conditional uses shall be:

(1) The minimum lot area shall be 6,000 square feet, excepting secondary condominium lots as approved through the Architectural Review process and lots for public utility facilities.

(2) The average lot width shall be at least 60 feet, excepting secondary condominium lots as approved through the Architectural Review process and lots for public utility facilities.

(3) When a lot has frontage on a public street, the minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb, excepting secondary condominium lots as approved through the Architectural Review process and lots for public utility facilities.

(4) The maximum building coverage on a lot shall be 40 percent, excepting secondary condominium lots as approved through the Architectural Review process and lots for public utility facilities.

(5) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in [TDC 73.400(7) to (12)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

***Response:*** *The proposed development will not include any conditional uses for the RL planning district. This code section is not applicable.*

### Section 40.070 Setback Requirements for Permitted Uses.

Except as otherwise provided, the setbacks for permitted uses shall be:

(1) The front yard setback shall be a minimum of 15 feet, except to an unenclosed porch, which shall be 12 feet.

(2) The setback to a garage door shall be a minimum of 20 feet.

(3) The side yard setback shall be a minimum of five feet.

(4) For a corner lot, the following provisions shall apply:

(a) one front yard setback shall be a minimum of 15 feet; it shall be determined by the orientation of the structure based on the location of the front door.

(b) the second front yard setback shall be a minimum of 10 feet.

(5) The rear yard setback shall be a minimum of 15 feet.

***Response:*** *The newly created lots in the proposed development will meet or exceed the setback requirements specified in this code section.*

### Section 40.080 Setback Requirements for Conditional Uses.

(1) Except as otherwise provided, the setbacks for conditional uses shall be as determined and approved through the Architectural Review process.  However, no setback greater than 50 feet may be required.  Off-street parking and vehicular circulation areas shall be set back a mini-mum of ten feet from any public right-of-way or property line.

(2) Setback requirements for small lot subdivisions shall comply with the setback requirements for permitted uses as set forth in [TDC 40.070](http://www.ci.tualatin.or.us/developmentcode/tdc-40-low-density-residential-planning-district-rl#40.070).

***Response:*** *The proposed development will not include any conditional uses. This code section is not applicable.*

### Section 40.085 Setback Requirements Adjacent to the Norwood Expressway.

A setback no less than 50 feet in depth will be provided adjacent to the Norwood Expressway right-of-way.

***Response:*** *The proposed development is not adjacent to the Norwood Expressway. This code section is not applicable.*

### Section 40.090 Projections Into Required Yards.

Cornices, eaves, canopies, decks, sun-shades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may extend or project into a required front or rear yard setback area not more than three feet and into a required side yard not more than two feet, or into the required open space as established by coverage standards in this chapter.

***Response:*** *The proposed development may include projections which will not exceed the maximum allowed by this code section.*

### Section 40.100 Structure Height.

Except as otherwise provided, the maximum structure height is 35 feet.

***Response:*** *The proposed development will not include structures that exceed the height requirement specified in this code section.*

### Section 40.110 Access.

Refer to [TDC 36.470](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments) and [73.400](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

### Section 40.120 Off-Street Parking and Loading.

Refer to [TDC Chapter 73](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards).

### Section 40.130 Floodplain District.

Refer to [TDC Chapter 70](http://www.tualatinoregon.gov/developmentcode/tdc-70-flood-plain-district-fp).

### Section 40.140 Community Design Standards.

(1) Development of the following is subject to the provisions set forth in TDC 40.140(2) and standards and criteria set forth in [TDC Chapter 73](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards), in addition to all other applicable TDC standards:

(a) A new single-family dwelling.

(b) An addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure’s existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling).

(i) Where a single-family dwelling addition or alteration described in TDC 40.140(1)(b) is proposed, TDC 40.140(2) applies only to the portion of the structure being altered or added.

***Response:*** *The proposed development will include new single family dwellings.*

 (2) No building permits shall be issued for development described in TDC 40.140(1) until plans for the proposed development have been approved pursuant to one of the following two review options, and all other applicable TDC standards are met:

(a) LEVEL I – Clear and Objective Single-family Architectural Review.

(i) A Level I Single-family Architectural Review decision is a ministerial decision.

(ii) Application for Level I (Clear and Objective) Single-family Architectural Review shall be made pursuant to the application procedures set forth in [TDC 31.071(7)(a)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

 (iii) Proposed development that meets all standards set forth in [TDC 73.190(1)(a)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) shall be administratively approved by the Community Development Director.

(iv) Variances to standards set forth in [TDC 73.190(1)(a)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) are prohibited.

(v) Development unable to meet one or more of the standards set forth in [TDC 73.190(1)(a)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) may alternatively submit application for Level II (Discretionary) Single-family Architectural Review.

(b) LEVEL II – Discretionary Single-family Architectural Review.

(i) Proposed development that meets all approval criteria set forth in [TDC 73.190(1)(b)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards) shall be approved by the Community Development Director.

(ii) Application for Level II (Discretionary) Single-family Architectural Review shall be made pursuant to the application procedures set forth in [TDC 31.071(7)(b)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(iii) A Level II (Discretionary) Single-family Architectural Review application shall be processed as a limited land use decision pursuant to the provisions set forth in [TDC 31.071(7)(b)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *The proposed development will comply with the requirements set forth pertaining to Architectural Review.*

 (3) Where a site, structure, or object is designated a historic landmark, and pro-posed development is subject to [TDC Chapter 68](http://www.tualatinoregon.gov/developmentcode/tdc-68-historic-preservation) Historic Certificate of Appropriateness review, conditions of Certificate of Appropriateness approval may, at the discretion of the decision-making authority, include modification of one or more of the standards set forth in [TDC 73.190(1)(a)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards), or modification of one or more of the discretionary approval criteria set forth in [TDC 73.190(1)(b)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards), in order to meet the Certificate of Appropriateness approval criteria.

***Response:*** *The proposed development does not include any historic landmarks*

### Section 40.145 Placement Standards for Manufactured Homes.

Except for manufactured homes placed in manufactured dwelling parks, no manufactured home shall be permitted that does not meet the following standards.

(1) The manufactured home shall be multi sectional and shall enclose a space of not less than 1,000 square feet.  A manufactured home shall not be considered multi sectional by virtue of having a tip-out section.

(2) The manufactured home shall be placed on an excavated and back-filled foundation, and enclosed at the perimeter such that the manufactured home is located not more than 12 inches above grade.  However, a structural concrete foundation such as that required for a single-family dwelling constructed on the site shall not be required.

(3) The manufactured home shall have a pitched roof with a minimum slope of one foot in height for each four feet of width.

(4) The roof of the manufactured home shall be shingles, wood shakes, tiles, or other materials which create an appearance similar to shingles, wood shakes or tiles.  Exposed flat, corrugated or ribbed sheet metal, fiberglass, or other materials similar in form or appearance shall not be used as roofing material, except that they may be used for corner and edge flashing.

(5) The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwellings constructed under the State Building Code as defined in [ORS 455.010](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2011ors455.html).

(6) The manufactured home shall have an attached or detached two-car garage constructed of materials similar to the manufactured home.

***Response:*** *The proposed development will not include any manufactured homes.*

### Section 40.150 Landscape Standards.

Refer to [TDC Chapter 73](http://www.leg.state.or.us/ors/455.html).

**CHAPTER 73: COMMUNITY DESIGN STANDARDS**

**Section 73.010 Purpose.**

To provide a process and definable standards to improve the aesthetic quality of the City's physical development.

***Response:*** *The proposed development will meet the purpose of this code section.*

**Section 73.020 Findings and Objectives for the Architectural Review Process.**

(1) The City Council finds that excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structures and the lack of proper attention to site development and landscaping, in the business, commercial, industrial, and certain residential areas of the City hinders the harmonious development of the City; impairs the desirability of residence, investment or occupation in the City; limits the opportunity to attain the optimum use and value of land and improvements; adversely affects the stability and value of property; produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the City; and destroys a proper relationship between the taxable value of property and the cost of municipal services therefore.

(2) The City Council declares that the purposes and objectives of community design standards are to:

(a) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of development.

(b) Discourage monotonous, drab, unsightly, dreary and inharmonious development.

(c) Promote the City's natural beauty and visual character and charm by ensuring that structures and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain, natural environment, and landscaping. Exterior appearances of structures and other improvements should enhance these qualities.

(d) Encourage site planning and development to incorporate bikeways, pedestrian facilities, greenways, wetlands, and other natural features of the environment and provide incentives for dedication of access easements and property to the public through shift of residential density, system development charge credits, landscaping credits and setback allowances.

(e) Protect and enhance the City's appeal to tourists and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties.

(f) Stabilize and improve property values and prevent blighted areas and thus increase tax revenues.

(g) Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and thus decrease the cost of governmental services.

(h) Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement.

(i) Sustain the comfort, health, safety, tranquility and contentment of residents and attract new residents by reason of the City's favorable environment and thus pro-mote and protect the peace, health and welfare of the City.

(j) Determine the appropriate yard setbacks, building heights, minimum lot sizes when authorized to do so by City ordinance.

***Response:*** *The proposed development will adhere to the community design standards to ensure that the new units are complimentary to the existing character of the adjacent homes and overall feel of the community.*

**ARCHITECTURAL REVIEW BOARD**

**Section 73.030 Establishment of the Architectural Review Board.**

(1) There is hereby established an Architectural Review Board whose members, terms, officers and manner of transacting business shall be as prescribed by TDC 73.030 to [73.037](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.037).

(2) The Architectural Review Board shall be responsible for reviewing and commenting upon applications which may be directed to it through the development process in accordance with [TDC 31.073(4)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions) and requests for review of planning staff decisions concerning architectural features. Additionally, projects for commercial buildings 50,000 square feet and larger, industrial buildings 150,000 square feet and larger, multi-family projects of 100 units or more or for any number of multi-family units adjacent to a Low Density Residential (RL) Planning District shall be reviewed directly by the Architectural Review Board in accordance with [TDC 31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). The City Council may direct the Board to review and comment on other matters that the Council determines are or may be within the Board's areas of expertise.

***Response:*** *The applicant acknowledges the existence of the Architectural Review board.*

**Section 73.031 Qualification of Members.**

The Board shall consist of seven regular members and three alternate members as follows: one member of the City Council; one registered professional architect and one alternate member who shall be a registered professional architect; one registered professional landscape architect and one alternate member who shall be a registered professional landscape architect; one registered professional engineer or registered engineer in training and one alternate member who shall be a registered professional engineer or registered engineer in training; and three lay members. Of the three lay members, at least two shall reside in the City.

***Response:*** *The applicant acknowledges the qualifications of the Architectural Review board members*

**Section 73.032 Appointment and Term.**

The members of the Board shall be appointed by the Mayor and approved by the City Council. Whenever possible, the Mayor shall appoint individuals who are either property owners, residents, or actively engaged in business or employment in the City. Of the members first appointed, 3 members shall be appointed for terms of 1 year, and 4 members for terms of 2 years. Subsequent appointments shall be for terms of 2 years, or until successors are appointed. Terms of office shall commence on the dates of appointment of the respective members. The term of any alternate member designated in [TDC 73.031](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.031) shall be the same as the term of the professional member for whom the alternate member is designated.

***Response:*** *The applicant acknowledges the appointment of the Architectural Review board.*

**Section 73.033 Vacancies and Removal.**

Any vacancy shall be filled for the remainder of the unexpired term of the original appointment. The Mayor, with the approval of the City Council, may remove any regular or alternate member of the Board for misconduct or nonperformance. Unexcused absences from 3 consecutive meetings, including regular and special work sessions, or unexcused absences from more than 50 percent of such meetings held during the calendar year, shall constitute nonperformance. An excused absence may be obtained by contacting the Chairman or Secretary of the Board at least 24 hours prior to any scheduled Board meeting. No member of the Board may be excused for more than 3 Board meetings during any calendar year. Misconduct means conviction of a crime or violation of the Code of Ethics, [ORS 244,040](http://www.oregonlaws.org/ors/chapter/244), or laws concerning conflicts of interest, [ORS 244.120](http://www.oregonlaws.org/ors/chapter/244).

***Response:*** *The applicant acknowledges the process for removal of the Architectural Review board members.*

**Section 73.034 Chairman.**

The City Council member of the Board shall serve as Chairman

***Response:*** *The applicant acknowledges the position of Chairman for the Architectural Review board.*

**Section 73.035 Voting.**

Four members shall constitute a quorum for the transaction of business. The Chairman shall be counted to determine a quorum and shall have the same voting powers as other members of the Board. Each member shall have one vote. A majority vote of the members shall be required for all Board actions. An alternate member shall have the same voting rights as the professional member for whom the alternate member is designated.

***Response:*** *The applicant acknowledges the process of voting for the Architectural Review board members.*

**Section 73.036 Meetings and Records.**

The Board shall hold two regular meetings each month. However, the regular meetings need not be held if there are no drawings or plans submitted for review by the Board. The deliberations and proceedings of the Board shall be public.

***Response:*** *The applicant acknowledges that the Architectural Review board meets regularly and keeps records.*

**Section 73.037 Rules.**

The Board may adopt and amend rules to govern the conduct of its business, consistent with the provisions of this Code.

***Response:*** *The applicant acknowledges the use of rules by the Architectural Review board.*

**Section 73.038 Ex Officio Member Under Eighteen (18) Years of Age.**

In addition to the regular members of the Board, the City Council may appoint not more than one ex officio member under the age of eighteen (18) years, who shall serve a one-year term which may be renewed for one additional year. Except as otherwise provided, such ex officio member shall be treated as a board member, i.e., by receiving a copy of the agenda and staff report, and by full participation in the Board's discussion. Such ex officio member shall not be counted for purposes of establishing a quorum for the conduct of Board business and shall not be permitted to vote on motions or other action taken by regular Board members. The qualification of members of the Board under [73.031](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.031) shall not apply to the ex officio member. In addition to other criteria deemed relevant by the Council for appointment or removal, the Council may consider the effect of participation on the Board on such person's academic performance.

***Response:*** *The applicant acknowledges the possibility of Ex Officio members which may be appointed to the Architectural Review board.*

**ARCHITECTURAL REVIEW APPROVAL**

**Section 73.040 Architectural Review Plan Approval Required.**

(1) Except for an addition or alteration to an existing single-family dwelling when it results in less than a 35% expansion of the structure’s existing footprint or less than a 35% alteration of an existing wall plane or only affects the wall plane of the side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling, as permitted by these standards, no new building, condominium, townhouse, single family dwelling, addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure’s existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling), manufactured dwelling park, small-lot subdivision, landscape improvement (excluding greenways, parks and other Parks and Recreation Department road side improvements), parking lot improvement or expansion, above ground public utility facility (sewer or water pump stations, pressure reading stations and water reservoir), electrical substation, above ground natural gas pumping station, installation of decorative lighting (e.g. neon), exterior painting, awnings, murals, wireless communication facility, attached wireless communication facility or exterior major remodeling shall occur until the architectural review plan required under [TDC 31.071](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions) has been reviewed and approved by the Community Development Director and City Engineer or their designees, or by the Architectural Review Board or City Council for conformity with applicable standards or criteria.

***Response:*** *The proposed development will not include any significant modifications to existing structures. There is an existing single family dwelling on-site which will remain and not have more than a 35% expansion or alteration and six new single family dwelling units will be constructed*

 (2) No new single-family dwelling or addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure’s existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling), as permitted by these standards, shall occur until the architectural review application under [TDC 31.071(7)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions) has been reviewed and approved by the Community Development Director or their designee for conformity with the applicable standards or criteria.

***Response:*** *The new single family dwelling units will be submitted for review by the Community Development director.*

 (3) Construction, site development and landscaping shall be carried out in substantial accord with the approved architectural review plan or application. Review of the proposed architectural review plan or application and any changes thereto shall be conducted in accordance with [TDC Chapter 31](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *Plans for construction of the proposed site improvements will be submitted for all applicable reviews.*

**Section 73.050 Criteria and Standards.**

(1) In exercising or performing his or her powers, duties, or functions, the Community Development Director shall determine whether there is compliance with the following:

(a) The proposed site development, including the site plan, architecture, landscaping, parking and graphic design, is in conformance with the standards of this and other applicable City ordinances insofar as the location, height, and appearance of the proposed development are involved;

(b) The proposed design of the development is compatible with the design of other developments in the general vicinity; and

(c) The location, design, size, color and materials of the exterior of all structures are compatible with the proposed development and appropriate to the design character of other developments in the vicinity.

(2) In making his or her determination of compliance with the above requirements, the Community Development Director shall be guided by the objectives and standards set forth in this chapter. If the architectural review plan includes utility facilities or public utility facilities, then the City Engineer shall determine whether those aspects of the proposed plan comply with applicable standards.

(3) In determining compliance with the requirements set forth, the Community Development Director shall consider the effect of his or her action on the availability and cost of needed housing. The Community Development Director shall not use the requirements of this section to exclude needed housing types. However, consideration of these factors shall not prevent the Community Development Director from imposing conditions of approval necessary to meet the requirements of this section. The costs of such conditions shall not unduly increase the cost of housing beyond the minimum necessary to achieve the purposes of this Code. As part of the Architectural Review process, the Community Development Director has no authority to reduce dwelling unit densities.

(4) As part of Architectural Review, the property owner may apply for approval to remove trees, in addition to those exemptions allowed in [TDC 34.200(3)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations), by submitting information concerning proposed tree removal, pursuant to [TDC 34.210(1)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations). The granting or denial of a tree removal permit shall be based on the criteria in [TDC 34.230](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations).

(5) Conflicting Standards. In addition to the MUCOD requirements, the requirements in TDC Chapter 73 (Community Design Standards) and other applicable Chapters apply. If TDC Chapters [57](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-57-mixed-use-commercial-overlay-district), 73 and other applicable Chapters, conflict or are different, they shall be resolved in accordance with [TDC 57.200(2)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-57-mixed-use-commercial-overlay-district).

***Response:*** *The applicant acknowledges the provisions of this code section.*

**Section 73.055 Conditions Placed on Architectural Review Approvals.**

(1) An architectural review approval may include restrictions and conditions. These restrictions and conditions shall be reasonably conceived to:

(a) Protect the public from the potentially deleterious effects of the proposal;

(b) Fulfill the need for public facilities and services created by the proposal, or increased or in part attributable to the proposal;

(c) Further the implementation of the requirements of the Tualatin Development Code.

***Response:*** *The proposed site improvements will meet the intent of this code section.*

 (2) The following types of conditions are specifically contemplated by subsection (1) of this section and the listing below is illustrative only and not a limitation of the authority granted by this section.

(a) Development Schedule--A reasonable time schedule may be placed on construction activities associated with the proposed development, or portion of the development.

(b) Dedications, Reservation--Dedication or reservation of land, or the granting of an easement for park, open space, rights-of-way, bicycle or pedestrian paths, Greenway, Natural Area, Other Natural Area, riverbank, the conveyance of title or easements to the City or a non-profit conservation organization, or a homeowners' association.

(c) Construction and Maintenance Guarantees--Security from the property owners in such an amount that will assure compliance with approval granted.

(d) Plan Modifications--Changes in the design or intensity of the proposed development, or in proposed construction methods or practices, necessary to assure compliance with this chapter.

(e) Off-Site Improvements--Improvements in public utility facilities not located on the project site where necessary to assure adequate capacity and where service demand will be created or increased by the proposed development if the cost of providing services to others will be increased as a result of the development. The costs of such improvements may be paid for in full while allowing for recovery of costs from users on other development sites, or they may be prorated to the proposed development in proportion to the service demand projected to be created or increased by the project. For development on land where the Industrial Business Park Overlay District is applied, conditions of approval may be included to address the impact, or the cumulative impact, of the development generated by the underlying ML or MG District uses and the Overlay District uses, including but not limited to the traffic impacts generated by non-industrial uses. For development on land where the Mixed Use Commercial Overlay District (MUCOD) is applied, conditions of approval may be included to address the impact, or the cumulative impact, of the development generated by the underlying CG District uses and the MUCOD uses, including but not limited to the traffic impacts generated by noncommercial uses.

(f) Other Approvals--Evaluation, inspections or approval by other agencies, jurisdictions, public utilities, or consultants, may be required for all or any part of the proposed development.

(g) Access Limitation--The number, location and design of street accesses to a proposed development may be limited or specified where necessary to maintain the capacity of streets to carry traffic safely, provided that sufficient access to the development is maintained.

(h) Public Utility Facilities--Must be constructed in accordance with the City's Public Works Construction Code.

***Response:*** *The applicant acknowledges that there will be conditions for the site improvements that are included with the final decision issued by the Review Authority.*

**Section 73.056 Time Limit on Approval.**

Architectural Review approvals shall expire after two years unless:

(1) A building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction has taken place pursuant to the permit and an inspection has been performed by a member of the Building Division; or

(2) The Architectural Review (AR) applicant requests in writing an extension and the City approves it. If the Community Development Director and the City Engineer or their designees approved the AR, then the Community Development Director and City Engineer shall decide upon the extension request. If the Architectural Review Board (ARB) approved the AR, then the ARB shall decide upon the extension request. The applicant shall provide notice of extension request to past recipients of the AR notice of application and post a sign pursuant to [TDC 31.064](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). Before approving an extension, the deciding party shall find the request meets these criteria:

(a)  The applicant submitted a written extension request prior to the original date.

(b) There have been no significant changes in any conditions, ordinances, regulations or other regulations or other standards of the City or applicable agencies that affect the previously approved project so as to warrant its resubmittal for AR.

(c) If the previously approved application included a special study, the applicant provided with the extension a status report that shows no significant changes on the site or within the vicinity of the site. A letter from a recognized professional also would satisfy this criterion if it states that conditions have not changed after the original approval and that no new study is warranted.

(d) If the AR applicant neglected site maintenance and allowed the site to become blighted, the deciding party shall factor this into its decision.

(e) The deciding party shall grant no more than a single one-year extension for an AR approval.

(f) If the Community Development Director and City Engineer or their designees are the deciding party, then they shall decide within thirty (30) days of receipt of the request. If the ARB is the deciding party, then the ARB shall decide within sixty (60) days of receipt of the request. If the deciding party fails to decide within the applicable time period, the decision shall default to approval.

(3) The Architectural review approval was granted on or after January 1, 2007 through September 30, 2009. In those cases approval shall be extended to December 31, 2012. Such approval shall not be eligible for extension under [TDC 73.056(2)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.056). This subsection (3) shall terminate on January 2, 2013, without further action of the City Council.

***Response:*** *The applicant is intending to complete the site development improvements in a reasonable time that is less than two years, after permits are issued by the Review Authority.*

**OCCUPANCY**

**Section 73.095 Occupancy Requirements.**

(1) Except as allowed by Subsection (2), all landscaping and exterior improvements required as part of the Community Development Director's, Architectural Review Board's or City Council's approval shall be completed in addition to Fire and Life Safety, and Engineering/Building Department requirements prior to the issuance of any certificate of occupancy.

(2) A temporary certificate of occupancy may be issued by the Building Official prior to the complete installation of all required on-site landscaping, landscaping in the public right-of-way and on-site exterior improvements if security equal to 110 percent of the cost of the landscaping and exterior improvements, as determined by the Community Development Director, is filed with the City, assuring such installation within a time specified by the Community Development Director, but not to exceed 6 months after granting of temporary occupancy. The applicant shall provide a list of uncompleted items along with specific cost estimates of on-site landscaping and on-site exterior improvements, including materials and installation to the satisfaction of the Community Development Director prior to approval of the security. "Security" may consist of a corporate surety bond issued by a surety company authorized to transact business in the State of Oregon, a cash deposit, an assignment of bank funds, an irrevocable letter of credit, cash in escrow or a certified check; and the form shall meet with the approval of the City Attorney. If installation of the on-site landscaping or other on-site exterior improvements is not completed within the period specified by the Community Development Director, the security may be used by the City to complete the installation. Upon completion of the installation, any portion of the remaining security deposited with the City shall be returned to the party posting the security. The final landscape and exterior improvement inspection shall be made by the Planning Department prior to the return of any securities. Any portion of the plan not installed, not installed properly, or not properly maintained shall cause the inspection to be postponed until the project is completed, or shall cause the security to be used by the City.

***Response:*** *The applicant acknowledges the occupancy requirements that are applicable to the proposed site development. The applicant will likely meet all applicable requirements prior to seeking occupancy for any new structure constructed on-site.*

**LANDSCAPE AND BUILDING MAINTENANCE**

**Section 73.100 Landscaping Installation and Maintenance.**

(1) All landscaping approved through the Architectural Review Process shall be continually maintained, including necessary watering, weeding, pruning and replacement, in a manner substantially similar to that originally approved through the Architectural Review Process, unless subsequently altered with Community Development Director approval.

(2) All building exterior improvements approved through the Architectural Review Process shall be continually maintained including necessary painting and repair so as to remain substantially similar to original approval through the Architectural Review Process, unless subsequently altered with Community Development Director approval.

***Response:*** *The applicant will maintain all landscaping and building exterior improvements that are under their immediate control until such time that ownership is passed to a separate party.*

**DESIGN STANDARDS**

**Section 73.170 Structure Design – Single-family and Multi-family Uses.**

(1) Purpose – Single-family Uses.

The purpose of single-family building design objectives and standards is to implement the purposes and objectives of [TDC 73.020(2)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.020). The objectives and standards are intended to promote functional, safe, innovative and attractive buildings that are compatible with the surrounding environment.  This concerns the building form including the articulation of walls, roof design, materials, and placement of elements such as windows, doors, and identification features.

***Response:*** *The proposed development is for single family. The development will meet the purpose of this code section by promoting unit designs that are consistent with current trends and continue the existing aesthetics of the surrounding neighborhoods.*

 (2) Purpose – Multi-family Uses.

The purpose of multi-family, including townhouse, building design objectives and standards is to implement the purposes and objectives of [TDC 73.020(2)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.020). The objectives and standards are intended to promote functional, safe, innovative and attractive buildings which are compatible with the surrounding environment. This concerns the building form including the articulation of walls, roof design, materials, colors, placement of elements such as windows, doors, mechanical equipment and identification features.

***Response:*** *The proposed development is for single family.*

**Section 73.180 Objectives – Single-family and Multi-family Uses.**

(1) Objectives – Single-family Uses.

All new single-family dwellings, including an addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure’s existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling), should strive to meet the following objectives to the maximum extent practicable.  Architects and developers should consider these elements in designing new projects.  Development subject to Level I (Clear and Objective) Single-family Architectural Re-view approval may be permitted to vary from one or more of the clear and objective standards set forth in [TDC 73.190(1)(a)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.190), provided that the Level II (Discretionary) approval criteria set forth in [TDC 73.190(1)(b)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.190) are considered.  New single-family dwellings, including an addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure’s existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane (except for the wall plane of a side of the dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling), shall be designed, to the maximum extent practicable, to:

(a) Enhance Tualatin through the creation of attractively designed housing and streetscapes.

(b) Encourage originality, flexibility and innovation in structure design.

(c) Avoid stark unarticulated building façades (elevations) and encourage sufficient relief in façades of dwellings to avoid a single block or box appearance by mixing contrasting vertical and horizontal elements in the roof and walls of structures.

(d) Provide continuity in design by utilizing architectural materials and style employed on the front façade (elevation) on the remaining sides of the structure.

(e) Discourage monotonous, drab, unsightly, dreary and inharmonious development.

(f) Provide guidelines for good design at reasonable costs and with multiple options to achieve the purposes of [TDC 73.170(1).](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.170)

***Response:*** *The proposed development will include new house designs that meet the provisions of this code section. The new units shall be designed such that they are desirable additions to the established neighborhoods that surround the project site and will incorporate modern elements and color schemes.*

 (2) Objectives – Multi-family Uses.

All multi-family projects, including town-houses, should strive to meet the following objectives to the maximum extent practicable. Architects and developers should consider these elements in designing new projects. In the Central Design District, the Design Guidelines of [TDC 73.610](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.610) shall be considered. In the case of conflicts between objectives, the proposal shall provide a desirable balance between the objectives. Townhouses may necessitate a different balancing than multi-family developments, such as apartments. Buildings shall be designed, to the maximum extent practicable, to:

(a) Provide a composition of building elements which responds to function, land form, identity and image, accessibility, orientation and climatic factors.

(b) Enhance energy efficiency through the use of landscape and architectural elements, such as arcades, sun-screens, lattice, trellises, roof overhangs and window orientation.

(c) Create subclusters and stagger unit alignments.

(d) Utilize functional building elements such as carports and garages, balconies, entry areas and sun screens where possible to accomplish unit identity, pride of place and visual diversity.

(e) Give consideration to organization, design and placement of windows as viewed on each elevation. The system may be a variation on a theme or consistent symmetry and must operate in concert with the provision of adequate interior privacy, safety, daylight and ventilation.

(f) Select building materials which contribute to the project's identity, form and function, as well as to the existing site and surrounding natural landscape and development.

(g) Select colors in consideration of lighting conditions under which the structure is viewed, the ability of the material to absorb, reflect or transmit light, and the color's functional role (whether to blend into the environment, express a particular character, discriminate materials, define form and volume or simply as an identification feature such as with color coding).

(h) Minimize disruption of natural site features such as topography, trees and water features.

***Response:*** *The proposed development is for single family. This code section is not applicable.*

**Section 73.190 Standards – Single-family and Multi-family Uses.**

(1) Standards - Single-family Uses.

Except for the side of a single-family dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling, the standards in this section shall apply to all sides of a new single-family dwelling or to an addition or alteration to an existing single-family dwelling when it results in a 35% or more expansion of the structure’s existing footprint or a new second or higher story or a 35% or more alteration of an existing wall plane. The wall plane shall be defined as all vertical surfaces on one side of a dwelling from the base of the main floor level up including walls, garage doors, entries, gable ends, dormers, etc., and excluding any roof areas.  Garage door windows may be counted toward the required window coverage percentage in TDC 73.190(1)(a).  Cornices, eaves, canopies, decks, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may extend or project into a required front or rear yard set-back area not more than three feet (3’) and into a required side yard not more than two feet (2’), or into the required open space as established by coverage standards in TDC Chapter 40 Low Density Residential Planning District (RL) or Chapter 41 Medium Low Density Residential Planning District (RML).

(a) Level I (Clear and Objective) Single-family Architectural Review.  Dwellings shall:

(i) On the front façade (elevation), provide windows that occupy at least twelve percent (12%) of the wall plane, pro-vide at least three (3) of the Residential Roof Design Elements in TDC 73.190(1)(a)(iv) and provide at least five (5) of the Residential Wall Design Elements in TDC 73.190(1)(a)(v). The amount of required window coverage on the front façade (elevation) may be reduced in two percent (2%) increments to not less than eight percent (8%) of the wall plane for each additional Residential Wall Design Element provided.

(ii) On each side elevation, except for a side of a single-family dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling, provide windows that occupy at least eight percent (8%) of the wall plane, provide at least two (2) of the Residential Roof Design Elements in TDC 73.190(1)(a)(iv) and provide at least four (4) of the Residential Wall Design Elements in TDC 73.190(1)(a)(v). The amount of required window coverage on each side elevation may be reduced by two percent (2%) to not less than six percent (6%) of the wall plane if one (1) additional Residential Wall Design Element is provided on the same side elevation as that on which the reduction is made.

(iii) On the rear elevation, provide windows that occupy at least twelve percent (12%) of the wall plane, provide at least two (2) of the Residential Roof Design Elements in TDC 73.190(1)(a)(iv) and provide at least four (4) of the Residential Wall Design Elements in TDC 73.190(1)(a)(v). The amount of required window coverage on the rear elevation may be reduced by two percent (2%) to not less than ten percent (10%) of the wall plane if one (1) additional Residential Wall Design Element is provided.

(iv) Residential Roof Design Elements.

(A) Dormer, such as hipped, gabled, shed, or eyebrow dormer design, which is a projecting structure built out from a sloping roof and housing a window, vent, or decorative element.

(B) Pitched or sloping roof, such as a gable roof, which slopes down-ward in two parts from a central ridge forming a gable at each end, or hip roof, which has sloping ends and sides that meet at an inclined projecting angle.

(C) Roof eave of at least twelve inches (12”).

(D) Roof overhang (barge-board or verge board) of at least six inches (6”) measured outward from the face of the dwelling wall or wall plane.

(E) Window, decorative vent, door, decorated verge boards, trusses, false beams, corbels, brackets, or other decorative element(s) in gable ends.

(F) Variation in roof pitch, height of roof planes, or roof orientation, such as in a roof with multi-level eaves.

(v) Residential Wall Design Elements.

(A) Recessed entry – front façade only.

(B) Portico – front façade only. A roofed porch-like space, open along at least one side, connected to the main dwelling entrance, supported by columns or pillars, and either protruding from or recessed within the main dwelling structure.

(C) Covered porch at least thirty-six square feet (36 sq. ft.) in area and at least four feet (4’) deep.

(D) Balcony, which projects from the wall plane and is enclosed by a railing or parapet (low protective wall).

(E) Vertical offsets, at least two (2), either projecting or recessed, and at least six inches (6”) deep and a minimum of four feet (4’) long.

(F) Horizontal offset, either projecting or recessed, at least five inches (5”) deep.

(G) Bay window, box window, or box bay, which projects at least six inches (6”) outward from the wall plane and forms a bay, alcove, or window seat.

(H) Column or pilaster, either complete or engaged (where one part of its surface is in contact with a wall plane), and in the wall plane, at a change in wall plane, or at a corner of the dwelling.

(I) Exterior chimney of brick, stone, composite masonry or similar materials.

(J) Engaged tower, either square, rectangular, circular or polygonal in form.

(K) Window trim or surround (casing) at least three and one-half inches (3.5”) wide that completely surrounds the window, either with or without a sill beneath the window.

(L) Window grids, windows with multi-paned sashes, or elliptical, palladian, segmental arch, semicircular, or similarly shaped windows.

(M) Lintel, arch, or similar decorative header casing on windows, the main entry door, portico, garage door(s), or other opening in the wall plane.

(N) Shutters, as a matched pair for or on a window, either movable or fixed, designed to cover a window and filter light, and usually of wood or similar construction and paneled or fitted with louvers.

(O) Variation in wall cladding, wall-surface pattern, or decorative materials such as shakes, shingles, brick, stone or other similar.

(P) Decorative or “architectural” garage door(s), with or without windows, and including patterning relief at least five-eighths inch (5/8”) deep over the door(s) surface, excepting the window area if windows are present.

(Q) Decorative trellis or trellis-work, consisting of open rafter ends or beams and cross pieces to create the appearance of a structure over which climbing plants might be trained to grow.

(R) Band, band course, band molding, belly band, belt course, or similar horizontal element of relatively slight projection marking a division in the wall plane and adding architectural interest to a façade or elevation.

***Response:*** *The new units for the proposed development have not yet been designed but will include may of the design elements that are listed in this code section and will likely exceed the minimum amount of Roof and Wall design elements that are required per TDC 73.190(1)(a)(iii).*

 (b) Level II (Discretionary) Single-family Architectural Review.  Dwellings shall demonstrate consistency with the objectives of the specific standard from which relief is sought as outlined in [TDC 73.180(1)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.180), in light of the following discretionary guidelines:

(i) All roofs should be pitched or sloping and articulated by use of such elements as dormers, gables, overhangs or eaves, and should have variations in roof pitch, height of roof planes, or roof orientation to create visual interest and avoid monotony in appearance.

(ii) Architectural articulation and other design elements, such as balconies, porches, dormers, bay windows, vertical or horizontal offsets, variations in cladding, or moldings should be used on all sides of the dwelling (except for a side of a single-family dwelling located in a side yard where the side yard of the dwelling abuts the side yard of an adjacent dwelling) to avoid stark unarticulated building façades (elevations), to minimize the scale and visual impact of a continuous flat wall surface, and to create a sense of visual interest for passersby and neighboring property owners.

(iii) The architectural character (i.e., exterior materials, architectural articulation, design elements, etc.) of the front façade (elevation) of the dwelling should be utilized on all sides of the structure to create a unified appearance and to avoid a single block or box appearance.

(iv) New dwellings should be de-signed and situated on a property in order to create and maintain a visual sense of harmony with surrounding development and should not overwhelm the scale of surrounding development.

(v) The overall architectural de-sign of the dwelling should foster a compatible, positive relationship with the scale and character of the street, and the scale and character of surrounding existing development.

***Response:*** *It is likely the applicant will meet or exceed the requirements for the Level I review.*

 (2) Standards - Multi-family Uses.

The following standards are minimum requirements for multi-family and townhouse development.

(a) Storage.

(i) Except as provided in Subsection (a)(ii), enclosed storage areas are required and shall be attached to the exterior of each dwelling unit to accommodate garden equipment, patio furniture, barbecues, bicycles, etc. Garages are not intended to satisfy storage requirements. Each storage area shall be a minimum of 6 feet in height and have a minimum floor area of:

(A) 24 square feet for studio and one bedroom units;

(B) 36 square feet for two bed-room units; and

(C) 48 square feet for greater than two bedroom units.

(ii) For townhouses and residential and mixed use residential developments in the Central Design District, or within the Mixed Use Commercial Overlay District as determined in the Architectural Review process, some provision shall be made for outdoor storage adjacent to private outdoor areas. Such provisions shall be reviewed for adequacy through Architectural Review and shall be designed to accommodate barbecues or other small deck equipment.

(b) Carports and Garages.

(i) If carports and garages are provided for multi-family development, except townhouses, the form, materials, color and construction shall be compatible with the complex they serve.

(ii) At least one garage space shall be provided for townhouses

***Response:*** *The proposed development is for single family. This code section is not applicable.*

**Section 73.221 Purpose and Objectives.**

(1) Purpose. The purpose of fence design standards in the RL and RML Planning Districts for access-restricted lot lines and property lines abutting major and minor collector and arterial and expressway streets and interstate highways (I-5 or I-205) is to implement the community design objectives of [TDC 10.020](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-10-community-design).

***Response:*** *The proposed development is located in the RL Planning District and abuts a minor collector along the Northern and Western property lines of the project site.*

 (2) Objectives. Fences shall be designed to the maximum extent practicable, to achieve the following:

(a) Rear yards and side yards adjacent collector, arterial and expressway streets and interstate highways shall be screened from public view.

(b) Fences shall be constructed of highly durable materials that are low-maintenance and weather-resistant.

(c) Fence materials and design shall be compatible and harmonious with the required fence design type detailed in [TDC 34.330 and 34.340](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations).  The design shall incorporate stone-look or brick-look elements. Colors shall be subdued and natural earth-tones, brown-tones, or grey-tones.

***Response:*** *The applicant is proposing to construct a fence along the rear yards for the lots that abut SW 95th Avenue that will meet or exceed the requirements of this code section. Constructing a fence along SW 95th Avenue would be consistent with all of the lots that are also along the public right-of-way for SW 95th Avenue for more than 500 feet in either direction.*

**Section 73.222 Fence Standards.**

Minimum requirements for construction of fences in a RL or a RML Planning District, where an access-restricted lot line or property line abuts a public street right-of-way classified as a major or minor collector or arterial or expressway street, or a property line of a state-owned interstate highway are set forth in [TDC 34.330 and 34.340](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations).

***Response:*** *Any new fence constructed for**the proposed development will meet or exceed the applicable requirements.*

**LANDSCAPING**

**Section 73.230 Landscaping Standards.**

Purpose.

The purpose of this section is to establish standards for landscaping within Tualatin in order to enhance the environmental and aesthetic quality of the City:

(1) By encouraging the retention and protection of existing trees and requiring the planting of trees in new developments;

(2) By using trees and other landscaping materials to temper the effects of the sun, wind, noise, and air pollution.

(3) By using trees and other landscaping materials to define spaces and the uses of specific areas; and

(4) Through the use of trees and other landscaping materials as a unifying element within the urban environment.

***Response:*** *The existing site for proposed development does contain a number of trees that have a DBH of 12” or more. The development plan calls for a new public street and six new lots that will have frontage on the new street. The clearing of existing trees will be primarily restricted to trees that are in the lot re-development area for the new public street and building envelopes for the new homes. Trees around each existing house and trees along the border of the existing site will be retained on-site unless it is determined by a licensed arborist they should be removed.*

**Section 73.231 Landscape Guide-lines for the Central Design District.**

(1) Purpose. The purpose of the landscaping guidelines section is to enhance the environmental and aesthetic quality of the Central Design District.

(2) All multi-family residential, commercial, industrial, public and semi-public projects in the Central Design District should strive to meet the Design Guidelines of [TDC 73.610](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.610) for landscaping to the maxi-mum extent practicable. Landscape Architects and developers shall consider the landscaping elements of [TDC 73.610](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.610) in designing new projects. In case of conflicts between guidelines and or between guidelines and objectives in TDC Chapter 73, the proposal shall provide a balance.

***Response:*** *The proposed development is not located in the Central Design District. This code section is not applicable.*

**Section 73.240 Landscaping General Provisions.**

(1) The following standards are minimum requirements.

(2) The minimum area requirement for landscaping for conditional uses for RL, RML, RMH, RH and RH/HR Planning Districts, listed in [TDC 40.030](http://www.tualatinoregon.gov/developmentcode/tdc-40-low-density-residential-planning-district-rl), [41.030](http://www.ci.tualatin.or.us/developmentcode/tdc-41-medium-low-density-residential-planning-district-rml), [42.030](http://www.tualatinoregon.gov/developmentcode/tdc-42-medium-high-density-residential-planning-district-rmh), [43.030](http://www.tualatinoregon.gov/developmentcode/tdc-43-high-density-residential-planning-district-rh) and [44.030](http://www.tualatinoregon.gov/developmentcode/tdc-44-high-density-high-rise-planning-district-rh-hr), excluding [40.030(3), 40.030 (4)(j), 40.030 (4)(m), 40.030 (4)(n](http://www.tualatinoregon.gov/developmentcode/tdc-40-low-density-residential-planning-district-rl)) and [41.030(2)](http://www.ci.tualatin.or.us/developmentcode/tdc-41-medium-low-density-residential-planning-district-rml) shall be twenty-five (25) percent of the total area to be developed. When a dedication is granted in accordance with the planning district provisions on the subject property for a fish and wildlife habitat area, the minimum area requirement for landscaping shall be twenty (20) percent of the total area to be developed as determined through the AR process.

***Response:*** *The proposed development is in the RL planning district and does not include a fish and wildlife habitat area. The total area being developed is 1.54 acres. A minimum of 0.38 acres will be available for landscaping to meet this requirement.*

 (3) The minimum area requirement for landscaping for uses in CO, CR, CC, CG, ML and MG Planning Districts shall be fifteen (15) percent of the total land area to be developed, except within the Core Area Parking District, where the minimum area requirement for landscaping shall be 10 percent. When a dedication is granted in accordance with the planning district provisions on the subject property for a fish and wildlife habitat area, the minimum area requirement for landscaping may be reduced by 2.5 percent from the minimum area requirement as determined through the AR process.

***Response:*** *The proposed development is in the RL Planning District. This code section is not applicable.*

 (4) The minimum area requirement for landscaping for uses in IN, CN, CO/MR, MC and MP Planning Districts shall be twenty-five (25) percent of the total land area to be developed. When a dedication is granted in accordance with the planning district provisions on the subject property for a fish and wildlife habitat area, the minimum area requirement for landscaping may be reduced by 2.5 percent from the minimum area requirement as determined through the AR process.

***Response:*** *The proposed development is in the RL Planning District. This code section is not applicable.*

 (5) The minimum area requirement for landscaping for uses in the Industrial Business Park Overlay Planning District and the Manufacturing Business Park Planning District shall be twenty (20) percent of the total land area to be developed.

***Response:*** *The proposed development is in the RL Planning District. This code section is not applicable.*

 (6) The minimum area requirement for landscaping for approved Industrial Master Plans shall be 20% of the total land area to be developed.

***Response:*** *The proposed development is not an Industrial Master Plan. This code section is not applicable.*

 (7) For properties within the Hedges Creek Wetland Protection District which have signed the "Wetlands Mitigation Agreement", the improved or unimproved wetland buffer area may reduce the required landscaping to 12.5 percent as long as all other landscape requirements are met.

***Response:*** *The proposed development is not in the Hedges Creek Wetland Protection District. This code section is not applicable.*

 (8) Developments not in a Low Density Residential (RL) or Manufacturing Park (MP) Planning District, but which abut an RL or MP Planning District shall provide and perpetually maintain dense, evergreen landscaped buffers between allowed uses in the district and the adjacent Low Density Residential (RL) or Manufacturing Park (MP) Planning District as approved through the Architectural Review process.

***Response:*** *The proposed development is in the RL Planning District. This code section is not applicable.*

 (9) Yards adjacent to public streets, except as described in the Hedges Creek Wetlands Mitigation Agreement, [TDC 73.240(7)](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.240), shall be planted to lawn or live groundcover and trees and shrubs and be perpetually maintained in a manner providing a park-like character to the property as approved through the Architectural Review process.

***Response:*** *The proposed development will include yards that are adjacent to a public street. The applicant will maintain the yards until such time as the applicant is no longer the owner of the approved tax lots.*

 (10) Yards not adjacent to public streets or Low Density Residential (RL) or Manufacturing Park (MP) Planning Districts shall be planted with trees, shrubs, grass or other live groundcover, and maintained consistent with a landscape plan indicating areas of future expansion, as approved through the Architectural Review process.

***Response:*** *The proposed development will also include yards that are not adjacent to a public street. The applicant will maintain the yards until such time as the applicant is no longer the owner of the approved tax lots.*

 (11) Any required landscaped area shall be designed, constructed, installed, and maintained so that within three years the ground shall be covered by living grass or other plant materials. (The foliage crown of trees shall not be used to meet this requirement.) A maximum of 10% of the landscaped area may be covered with un-vegetated areas of bark chips, rock or stone. Disturbed soils are encouraged to be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.

***Response:*** *The proposed development will include yards and landscaped areas that shall be capable of meeting this requirement.*

 (12) In the MP District, wetland buffer areas up to 50 feet in width may be counted toward the required percentage of site landscaping, subject to the following:

(a) The amount of wetland buffer area which may be counted as landscaping is limited to a maximum of two and one-half percent (2.5 percent) of the total land area to be developed.

(b) All portions of the required buffer area to be counted as landscape shall be within the boundaries of the subject property. No credit may be claimed for wetland buffer areas lying outside the lot lines of the subject parcel.

(c) Where wetlands mitigation in the buffer has not yet occurred at the time of development, the developer shall perform, or bear the cost of, all necessary mitigation work in the course of site development, in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers and the Unified Sewerage Agency.

(d) Where wetlands mitigation in the buffer has already been performed in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers, the developer shall include an enhanced mitigation plan approved by the Oregon Division of State Lands and the Unified Sewerage Agency as part of the Architectural Review submittal. The developer shall complete all work required by the enhanced wetland mitigation plan in conjunction with development of the site.

***Response:*** *The proposed development is not in the MP District. This code section is not applicable.*

 (13) Landscape plans for required landscaped areas that include fences should carefully integrate any fencing into the plan to guide wild animals toward animal crossings under, over, or around transportation corridors

***Response:*** *The final construction plans will include all applicable requirements for landscaping.*

**Section 73.250 Tree Preservation.**

(1) Trees and other plant materials to be retained shall be identified on the landscape plan and grading plan.

(2) During the construction process:

(a) The owner or the owner's agents shall provide above and below ground protection for existing trees and plant materials identified to remain.

(b) Trees and plant materials identified for preservation shall be protected by chain link or other sturdy fencing placed around the tree at the drip line.

(c) If it is necessary to fence within the drip line, such fencing shall be specified by a qualified arborist as defined in [TDC 31.060](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(d) Neither top soil storage nor construction material storage shall be located within the drip line of trees designated to be preserved.

(e) Where site conditions make necessary a grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip-line area, such grading, paving, trenching, boring, digging, or similar encroachment shall only be permitted under the direction of a qualified arborist. Such direction must assure that the health needs of trees within the preserved area can be met.

(f) Tree root ends shall not remain exposed.

(3) Landscaping under preserved trees shall be compatible with the retention and health of said tree.

(4) When it is necessary for a preserved tree to be removed in accordance with [TDC 34.210](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations) the landscaped area surrounding the tree or trees shall be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, nearby landscape materials. Native trees are encouraged

(5) Pruning for retained deciduous shade trees shall be in accordance with National Arborist Association "Pruning Standards For Shade Trees," revised 1979.

(6) Except for impervious surface areas, one hundred percent (100%) of the area preserved under any tree or group of trees retained in the landscape plan (as approved through the Architectural Review process) shall apply directly to the percentage of landscaping required for a development.

***Response:*** *The final construction plans will include the required plans for landscaping and tree preservation and demonstrate compliance with all applicable requirements for tree preservation. For Preliminary Plat approval, all of the existing trees are shown on the Existing Conditions Plan and the Preliminary Grading plan shows the trees that the applicant is proposing to remove.*

**Section 73.260 Tree and Plant Specifications.**

(1) The following specifications are minimum standards for trees and plants:

(a) Deciduous Trees:

Deciduous shade and ornamental trees shall be a minimum one and one-half inch (1 1/2") caliper measured six inches (6") above ground, balled and burlapped. Bare root trees will be acceptable to plant during their dormant season. Trees shall be characteristically shaped specimens.

(b) Coniferous Trees.

Coniferous trees shall be a minimum five feet (5') in height above ground, balled and burlapped. Bare root trees will be acceptable to plant during their dormant season. Trees shall be well branched and characteristically shaped specimens.

(c) Evergreen and Deciduous Shrubs.

Evergreen and deciduous shrubs shall be at least one (1) to five (5) gallon size. Shrubs shall be characteristically branched. Side of shrub with best foliage shall be oriented to public view.

(d) Groundcovers.

Groundcovers shall be fully rooted and shall be well branched or leafed. English ivy (Hedera helix) is considered a high maintenance material which is detrimental to other landscape materials and buildings and is therefore prohibited.

(e) Lawns.

Lawns shall consist of grasses, including sod, or seeds of acceptable mix within the local landscape industry. Lawns shall be 100 percent coverage and weed free.

(2) Landscaping shall be installed in accordance with the provisions of Sunset New Western Garden Book (latest edition), Lane Publishing Company, Menlo Park, California or the American Nurserymen Association Standards (latest edition).

(3) The following guidelines are suggested to ensure the longevity and continued vigor of plant materials:

(a) Select and site permanent landscape materials in such a manner as to produce a hardy and drought-resistant landscaped area.

(b) Consider soil type and depth, spacing, exposure to sun and wind, slope and contours of the site, building walls and overhangs, and compatibility with existing native vegetation preserved on the site or in the vicinity.

(4) All trees and plant materials shall be healthy, disease-free, damage-free, well-branched stock, characteristic of the species.

(5) All plant growth in landscaped areas of developments shall be controlled by pruning, trimming or otherwise so that:

(a) It will not interfere with designated pedestrian or vehicular access; and

(b) It will not constitute a traffic hazard because of reduced visibility.

***Response:*** *Landscaping vegetation to be incorporated into the proposed development will consist of grass for the new lots and possibly planting new trees, as required by the review authority. All landscaping that is added to the site will meet or exceed the requirements of this code section.*

**Section 73.270 Grading.**

(1) After completion of site grading, top-soil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.

(2) All planting areas shall be graded to provide positive drainage.

(3) Neither soil, water, plant materials nor mulching materials shall be allowed to wash across roadways or walkways.

(4) Impervious surface drainage shall be directed away from pedestrian walkways, dwelling units, buildings, outdoor private and shared areas and landscape areas except where the landscape area is a water quality facility.

***Response:*** *The existing grades for the project site currently slope from gradually down from the south property line towards the north portion of the site. The proposed development will not change this positive flow pattern. After the site improvements have been completed, final grading of the site will be completed to ensure the drainage patterns of the site are correct. Final grading for each of the lots and top-soil restoration shall occur upon final completion of the new structure on each lot.*

**Section 73.280 Irrigation System Required.**

Except for townhouse lots, landscaped areas shall be irrigated with an automatic underground or drip irrigation system.

***Response:*** *The proposed development will not include any formal landscaped area. Irrigation systems for individual lots will be left up to future home-owners.*

**Section 73.290 Re-vegetation in Un-landscaped Areas.**

The purpose of this section is to ensure erosion protection, and in appropriate areas to encourage soil amendment, for those areas not included within the landscape percentage requirements so native plants will be established, and trees will not be lost.

(1) Where vegetation has been removed or damaged in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements, vegetation shall be replanted.

(2) Plant materials shall be watered at intervals sufficient to ensure survival and growth for a minimum of two growing seasons.

(3) The use of native plant materials is encouraged to reduce irrigation and maintenance demands.

(4) Disturbed soils should be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.

***Response:*** *The proposed development will only remove vegetation that is necessary to complete the site improvements. Existing vegetation around the perimeter of the existing site shall remain in place unless the a certified arborists makes a recommendation to remove.*

**Section 73.300 Landscape Standards - Multi-family Uses.**

All areas within a development, including townhouses, not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas shall be landscaped. Townhouse developments may include hard surfaces in outdoor areas such as patios and storage areas as determined in the Architectural Review process.

***Response:*** *The proposed development is for Single family. This code section is not applicable.*

**Section 73.310 Landscape Standards - Commercial, Industrial, Public and Semi-Public Uses.**

(1) A minimum 5-foot-wide landscaped area must be located along all building perimeters which are viewable by the general public from parking lots or the public right-of-way, excluding loading areas, bicycle parking areas and pedestrian egress/ingress locations. Pedestrian amenities such as landscaped plazas and arcades may be substituted for this requirement. This requirement shall not apply where the distance along a wall between two vehicle or pedestrian access openings (such as entry doors, garage doors, carports and pedestrian corridors) is less than 8 feet.

(2) Areas exclusively for pedestrian use that are developed with pavers, bricks, etc., and contain pedestrian amenities, such as benches, tables with umbrellas, children's play areas, shade trees, canopies, etc., may be included as part of the site landscape area requirement.

(3) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas or undisturbed natural areas shall be landscaped.

***Response:*** *The proposed development is for Single family. This code section is not applicable.*

**Section 73.370 Off-Street Parking and Loading.**

(1) General Provisions.

(a) At the time of establishment of a new structure or use, or change in use, or change in use of an existing structure, within any planning district of the City, off-street parking spaces, off-street vanpool and carpool parking spaces for commercial, institutional and industrial uses, off-street bicycle parking, and off-street loading berths shall be as provided in this and following sections, unless greater requirements are otherwise established by the conditional use permit or the Architectural Review process, based upon clear findings that a greater number of spaces are necessary at that location for protection of public health, safety and welfare or that a lesser number of vehicle parking spaces will be sufficient to carry out the objectives of this section. In the Central Design District, the Design Guidelines of [TDC 73.610](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-73-community-design-standards#73.610) shall be considered. In case of conflicts between guidelines or objectives in TDC Chapter 73, the proposal shall provide a balance.

(b) At the time of enlargement of an existing multi-family residential, commercial, institutional or industrial structure or use, TDC 73.370 shall apply to the existing and enlarged structure or use.

(c) Except where otherwise specified, the floor area measured shall be the gross floor area of the building primary to the function of the particular use of the property other than space devoted to off-street parking or loading.

(d) Where employees are specified, the term shall apply to all persons, including proprietors, working on the premises during the peak shift.

(e) Calculations to determine the number of required parking spaces and loading berths shall be rounded to the nearest whole number.

(f) If the use of a property changes, thereby increasing off-street parking or loading requirements, the increased parking/loading area shall be provided prior to commencement of the new use.

(g) Parking and loading requirements for structures not specifically listed herein shall be determined by the Community Development Director, based upon requirements of comparable uses listed.

(h) When several uses occupy a single structure, the total requirements for off-street parking may be the sum of the requirements of the several uses computed separately or be computed in accordance with TDC 73.370(1)(m), Joint Use Parking.

(i) Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces may be located on a separate parcel, provided the parcel is not greater than five hundred (500) feet from the entrance to the building to be served, measured along the shortest pedestrian route to the building. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the site. The parcel upon which parking facilities are located shall be in the same ownership as the structure.

(j) Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business.

(k) Institution of on-street parking, where none is previously provided, shall not be done solely for the purpose of relieving crowded parking lots in commercial or industrial planning districts.

(l) Parking facilities may be shared by users on adjacent parcels if the following standards are met:

(i) One of the parcels has excess parking spaces, considering the present use of the property; the other parcel lacks sufficient area for required parking spaces.

(ii) The total number of parking spaces meets the standards for the sum of the number of spaces which would be separately required for each use.

(iii) Legal documentation, to the satisfaction of the City Attorney, shall be submitted verifying permanent use of the excess parking area on one lot by patrons of the uses deficient in required parking area.

(iv) Physical access between adjoining lots shall be such that functional and reasonable access is actually provided to uses on the parcel deficient in parking spaces.

(v) Adequate directional signs shall be installed specifying the joint parking arrangement.

(vi) Areas in the Natural Resource Protection Overlay District, Other Natural Areas identified in [Figure 3-4](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tualatin_parks_and_rec_plan_figure_3-4.pdf) of the Parks and Recreation Master Plan, or a Clean Water Services Vegetated Corridor would be better protected.

(m) Joint Use Parking. Joint use of parking spaces may occur where two or more separate developments or multiple uses in a development are able to jointly use some or all of the same required parking spaces because their parking demands occur at different times. Joint use of parking spaces may be allowed if the following standards are met:

(i) There shall be no substantial conflict in the principal operating hours of the buildings or uses for which the joint use parking is proposed. Future change of use, such as expansion of a building or establishment of hours of operation which conflict with or affect a joint use parking agreement are prohibited, unless approval is obtained through the Architectural Review process;

(ii) The joint use parking spaces shall be located no more than 500 feet from a building or use to be served by the joint use parking;

(iii) The number and location of parking spaces, hours of use and changes in operating hours of uses subject to joint use shall be approved through the Architectural Review process;

(iv) Legal documentation, to the satisfaction of the City Attorney, shall be submitted verifying the joint use parking between the separate developments. Joint use parking agreements may include provisions covering maintenance, liability, hours of use and cross easements; and

(v) The City Attorney approved legal documentation shall be recorded by the applicant at the Washington or Clackamas County Recorder’s Office and a copy of the recorded document submitted to the Planning Department prior to issuance of a building permit.

(vi) Areas in the Natural Resource Protection Overlay District, Other Natural Areas identified in [Figure 3-4](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tualatin_parks_and_rec_plan_figure_3-4.pdf) of the Parks and Recreation Master Plan, or a Clean Water Services Vegetated Corridor would be better protected.

(n) Bicycle parking facilities shall include long-term parking that consists of covered, secure stationary racks, lockable enclosures, or rooms (indoor or outdoor) in which the bicycle is stored  and short-term parking provided by secure stationary racks (covered or not covered), which accommodate a bicyclist's lock securing the frame and both wheels. The Community Development Director, their designee, or the Architectural Review Board may approve a form of bicycle parking not specified in these provisions but that meets the needs of long-term and/or short-term parking pursuant to Section 73.370.

(o) Each bicycle parking space shall be at least 6 feet long and 2 feet wide, and overhead clearance in covered areas shall be at least 7 feet, unless a lower height is approved through the Architectural Review process.

(p) A 5-foot-wide bicycle maneuvering area shall be provided beside or between each row of bicycle parking. It shall be constructed of concrete, asphalt or a pervious surface such as pavers or grasscrete, but not gravel or woody material, and be maintained.

(q) Access to bicycle parking shall be provided by an area at least 3 feet in width. It shall be constructed of concrete, asphalt or a pervious surface such as pavers or grasscrete, but not gravel or woody material, and be maintained.

(r) Required bicycle parking shall be located in convenient, secure, and well-lighted locations approved through the Architectural Review process. Lighting, which may be provided, shall be deflected to not shine or create glare into street rights-of-way or fish and wildlife habitat areas.

(s) Long-term bicycle parking facilities may be provided inside a building in suitable secure and accessible locations.

(t) Bicycle parking may be provided within the public right-of-way in the Core Area Parking District subject to approval of the City Engineer and provided it meets the other requirements for bicycle parking.

(u) Bicycle parking areas and facilities shall be identified with appropriate signing as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle parking signs shall be located at the main entrance and at the location of the bicycle parking facilities.

(v) Required bicycle parking spaces shall be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This shall not preclude the operation of private for-profit bicycle parking businesses.

(w) Parking on existing residential, commercial and industrial development may be redeveloped as a transit facility as a way to encourage the development of transit supportive facilities such as bus stops and pullouts, bus shelters and park and ride stations. Parking spaces converted to such uses in conjunction with the transit agency and approved through the Architectural Review process will not be required to be replaced.

(x) Required vanpool and carpool parking shall meet the 9-foot parking stall standards in [Figure 73-1](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/figure_73-1parking_space_design_standards.pdf) and be identified with appropriate signage.

***Response:*** *The proposed development is for single family residential units. Each new lot will provide for a minimum of four off-street parking spaces. Two of the off-street spaces will be within the interior of the structure (in a garage) and two additional spaces off-street spaces will be available in the driveway. There will be no designated off-street parking lots as well as not designated bicycle parking spaces.*

 (2) Off-Street Parking Provisions.

(a) The following are the minimum and maximum requirements for off-street motor vehicle parking in the City, except for minimum parking requirements for the uses in TDC 73.370(2)(a) (Residential Uses:  iii, iv, v, vi, vii; Places of Public Assembly: I, ii, iv; Commercial Amusements:  I, ii; and Commercial: I, ii, xi, xii, xiv) within the Core Area Parking District (CAPD).  Minimum standards for off-street motor vehicle parking for the uses in 73.370(2) (a) Residential Uses:  iii, iv, v, vi, vii; Places of Public Assembly:  I, ii, iv; Commercial Amusements:  I, ii; and Commercial:  I, ii, xi, xii, xiv in the CAPD are in TDC 73.370(2)(b).  The maximum requirements are divided into Zone A and Zone B, as shown on the Tualatin Parking Zone Map, [Figure 73-3](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/figure73-3parkingmaximummap.pdf).  The following are exempt from calculation of maximum parking requirements:  parking structures; fleet parking; parking for vehicles for sale, lease or rent; car/vanpool parking; dedicated valet parking; and user-paid parking.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **USE** | **MINIMUM MOTOR VEHICLE PARKING REQUIREMENT** | **MAXIMUM MOTOR VEHICLE PARKING REQUIREMENT** | **BICYCLE PARKING REQUIREMENT** | **PERCENTAGE OF BICYCLE PARKING TO BE COVERED** |
| Residential Uses: |   |   |   |   |
| (i) Detached single-family dwelling, residential home, residential facilities (located in low density (RL) planning districts) Townhouse | 2.00 vehicle parking spaces per dwelling unit, residential home or residential facility (stalls or spaces within a residential garage not included, except as approved in Architectural Review). | None | None Required | N/A |
| (ii) Multi-family dwellings in subdivisions | 1.50 spaces per unit, in addition to garage | None | Developments with four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit | 100 |
| (iii) Multi-family dwellings in complexes with private internal driveways | 1.0 space/studio,1.25 space/1 bedr.,1.50 space/2 bedr.,1.75 space/3= bedr.in addition to garage | None | Developments with four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit | 100 |
| (iv) Retirement housing facility | 1.00 space per dwelling unit | None | 0.50 space per unit | 50 |
| (v) Boarding house, lodging | 1.00 space per guest house accommodation | None | 0.25 space per guest house accommodation | 50 |
| (vi) Congregate care, assisted living and residential care facilities | 0.50 space per dwelling unit | None | 2, or 0.20 spaces per dwelling unit, whichever is greater | 50 |
| (vii) Residential facilities (located in other than low density residential planning districts) | 1.00 space per 3 beds, plus 1.00 space per employee | None | 2, or 1.00 space for every 6 beds, whichever is greater | 50 |
| (viii) Dwelling units within the Central Design District except as specified in (d), (e), and (f) above | 1.50 space per dwelling unit, including garage | None | Developments with four or more units; none required if a garage is provided as an integral element of a unit; otherwise 1.00 space per unit | 100 |
| Institutions: |   |   |   |   |
| (i) Convalescent home, nursing home or sanitarium | 1.00 space per 2 beds for patients or residents | None | 2, or 1.00 space for every 6 beds, whichever is greater | 50 |
| (ii) Hospital | 1.00 space per 500 sq. ft. of gross floor area | None | 1 space per 1,000 gross sq. ft. | First 10 spaces or 40% whichever is greater |
| Places of Public Assembly: |   |   |   |   |
| (i) Library, reading room | 1.00 space per 400 sq. ft. of public area | None | 2, or 1.5 spaces per 1,000 gross sq. ft., whichever is greater | 10 |
| (ii) Nursery, primary, elementary or middle school, child day care center | 2.00 spaces per employee | None | 4, or 1.00 space per 5 students based on the design capacity of the facility, whichever is greater | 75 |
| (iii) Senior high school | 0.2 spaces per student and staff | Zone A and Zone B: 0.3 spaces per student plus 1.00 space per staff | 4, or 1.00 space per 5 students based on the design capacity of the facility, whichever is greater | 25 |
| (iv) Other places of public assembly, including churches | 1.00 space per 4 seats or 8 feet of bench length | Zone A: 0.6 spaces per seatZone B: 0.5 spaces per seat | 1.0 space per 40 seats or 80 feet of bench length | 35 |
| Commercial Amusements: |   |   |   |   |
| (i) Theater | 1.00 space per 4 seats | Zone A: 0.4 spaces per seatZone B: 0.5 spaces per seat | 1.0 space per 30 seats | 10 |
| (ii) Bowling alley | 5.00 spaces per lane | None | 4, or 0.50 spaces per lane, whichever is greater | 40 |
| (iii) Dance hall, skating rink | 4.3 spaces per 1,000 sq. ft. gross floor area | Zone A: 5.4 spaces per 1,000 sq. ft. gross floor areaZone B: 6.5 spaces per 1,000 sq. ft. gross floor area | 2.0 spaces per 1,000 sq. ft. of floor area | 50 |
| (iv) Racquet court, health club | 1.00 space per 1,000 sq. ft. gross floor area | Zone A: 1.3 spaces per 1,000 sq. ft. gross floor areaZone B: 1.5 spaces per 1,000 sq. ft. gross floor area | 2.0 spaces per 1,000 sq. ft. of exercise area | 50 |
| Commercial |   |   |   |   |
| (i) Retail shops (under 100,000 sq. ft. gross floor area) | 4.00 spaces per 1,000 sq. ft. of gross floor area | Zone A: 5.1 spaces per 1,000 sq. ft. gross floor areaZone B: 6.2 spaces per 1,000 sq. ft. gross floor area | 0.50 space per 1,000 sq. ft. of gross floor area | 50 |
| (ii) Retail store handling exclusively bulky merchandise such as furniture or automobiles and service or repair shops | 1.00 space per 400 sq. ft. of sales floor area | Zone A: 5.1 spaces per 1,000 sq. ft. gross floor areaZone B: 6.2 spaces per 1,000 sq. ft. gross floor area | 2, or 0.20 space per 1,000 sq. ft. of sales floor area, whichever is greater | 50 |
| (iii) Shopping center (over 100,000 sq. ft. of gross floor area) | 4.1 spaces per 1,000 sq. ft. of gross floor area | Zone A: 5.1 spaces per 1,000 sq. ft. gross floor areaZone B: 6.2 spaces per 1,000 sq. ft. gross floor area | 0.50 space per 1,000 sq. ft. of gross floor area | 50 |
| (iv) Banks/Savings and loans | 4.30 spaces per 1,000 sq. ft. of gross floor area | Zone A: 5.4 spaces per 1,000 sq. ft. gross floor areaZone B: 6.5 spaces per 1,000 sq. ft. gross floor area | 2, or 0.33 spaces per 1,000 sq. ft. whichever is greater | 10 |
| (v) Medical & dental offices | 3.90 spaces per 1,000 sq. ft. of gross floor area | Zone A: 4.9 spaces per 1,000 sq. ft. gross floor areaZone B: 5.9 spaces per 1,000 sq. ft. gross floor area | 2, or 0.33 spaces per 1,000 gross sq. ft. ;whichever is greater | First 10 spaces or 40%, whichever is greater |
| (vi) General office | 2.70 spaces per 1,000 sq. ft. of gross floor area | Zone A: 3.4 spaces per 1,000 sq. ft. gross floor areaZone B: 4.1 spaces per 1,000 sq. ft. gross floor area | 2, or 0.50 spaces per 1,000 gross sq. ft. whichever is greater | First 10 spaces or 40%, whichever is greater |
| (viii) Restaurant | 10.00 spaces per 1,000 sq. ft. of gross floor area | Zone A: 19.1 spaces per 1,000 sq. ft. gross floor areaZone B: 23.0 spaces pe 1,000 sq. ft. gross floor area | 2.00 spaces per 1,000 gross sq. ft. | 25 |
| (ix) Drive-up restaurant | 9.90 spaces per 1,000 sq. ft. of gross floor area | Zone A: 12.4 spaces per 1,000 sq. ft. gross floor areaZone B: 14.9 spaces per 1,000 sq. ft. gross floor area | 2.00 spaces per 1,000 gross sq. ft | 25 |
| (x) Motel | 1.00 space per room | None | 0.20 space per room | 10 |
| (xi) Mortuary | 1.00 space per 4 seats or an 8 feet of bench length in chapels | None | 1.0 space per 40 seats or 80 feet of bench length | 10 |
| (xii) Office furniture and office furniture sales | 1.00 space per 550 gross sq. ft. | None | 2, or 0.20 space per 1,000 sq. ft. of sales floor area, whichever is greater | 10 |
| (xiii) Park and ride lots | None | None | 5% of auto spaces | 100 |
| (xiv) Major transit stops (not Park and Ride lots) | None | None | 4 | 100 |
| (xv) Wireless communication facility | 1.0 space | None | N/A | N/A |
| Industrial |   |   |   |   |
| (i) Manufacturing | 1.60 spaces per 1,000 sq. ft. of gross floor area | None | 2, or 0.10 spaces per 1,000 gross sq. ft., whichever is greater | First 5 spaces or 30%, whichever is greater |
| (ii) Warehousing | 0.30 spaces per 1,000 sq. ft. of gross floor area | Zone A: 0.4 spaces per 1,000 sq. ft. gross floor areaZone B: 0.5 spaces per 1,000 sq. ft. gross floor area | 2, or 0.10 spaces per 1,000 gross sq. ft., whichever is greater | First 5 spaces or 30%, whichever is greater |
| (iii) Wholesale establishment | 3.00 spaces per 1,000 sq. ft. of gross floor area | None | 2, or 0.50 spaces per 1,000 gross sq. ft., whichever is greater | First 5 spaces or 30%, whichever is greater |

***Response:*** *The proposed development is for single family residential units. A minimum of four off-street parking spaces will be available for each lot that is created.*

(b) The following are the minimum requirements for off-street motor vehicle parking in the Core Area Parking District (CAPD) for the uses in TDC 73.370(2)(a)(Residential Uses: iii, iv, v, vi, vii; Places of Public Assembly: i, ii, iv; Commercial Amusements: i, ii; and Commercial: i, ii, xi, xii, xiv).

(i) Core Area Parking District (CAPD) off-street motor vehicle parking standards are required at 75% of the applicable off-street motor vehicle parking requirements identified in TDC 73.370(1)(h), 73.370(1)(m) and 73.370(2)(a).

(ii) Off-street motor vehicle parking requirements:  (Refer to Core Area Parking District Ordinance [TMC Chapter 11-3](http://www.tualatinoregon.gov/municipalcode/chapter-11-03-core-area-parking-district-board-tax-rate-and-impact-fees-committee) for fee schedules and regulations regarding the Core Area Parking District.)

(A) Commercial, semi-public, and public uses except as outlined under TDC 73.370(2)(b)(ii)(B). A minimum of 75% of required CAPD off-street motor vehicle parking shall be provided for the first two floors of gross leasable area for commercial, semi-public, and public uses above grade, except as outlined under TDC 73.370(2)(b)(ii)(B).

(B) Development of a publicly-owned community center on Tract 8 of the Tualatin Commons shall be exempt from providing off-street motor vehicle parking and the impact fee within the CAPD.

(C) Residential Uses:

(1) Common-wall Dwellings including townhouses and condominiums. A minimum of 75% of required CAPD off-street motor vehicle parking shall be provided.

(2) Multi-Family Dwellings. A minimum of 75% of required CAPD off-street motor vehicle parking shall be provided for the first two floors of living units, above grade.

(3) Retirement Housing, Residential Homes and Residential Facilities. A minimum of 75% of required CAPD off-street motor vehicle parking shall be provided for the first two floors of dwelling units, above grade.

(iii) CAPD off-street motor vehicle parking required under TDC 73.370(2)(b)(i) shall be provided for residential uses and gross leasable area of commercial, semi-public, and public uses below grade and above the second floor, except as outlined under TDC 73.370(2)(b)(ii)(B).

(iv) At the time of enlargement of an existing structure or use there shall be no net loss of existing off-street motor vehicle parking in addition to providing new off-street motor vehicle parking required under TDC 73.370(2)(b).

(v) Outdoor dining facilities are exempt from providing off-street motor vehicle parking within the CAPD.

***Response:*** *The proposed development is not in the Core Area Parking District. This code section is not applicable.*

 (3) Off-Street Vanpool and Carpool Parking Provisions.

The minimum number of off-street Vanpool and Carpool parking for commercial, institutional and industrial uses is as follows:

|  |  |
| --- | --- |
| **Number of Required Parking Spaces** | **Number of Vanpool or Carpool Spaces** |
| 0 to 10 | 1 |
| 10 to 25 | 2 |
| 26 and greater | 1 for each 25 spaces |

***Response:*** *The proposed development does not include off-Street Vanpool or Carpool parking provisions.*

**Section 73.400 Access.**

(1) The provision and maintenance of vehicular and pedestrian ingress and egress from private property to the public streets as stipulated in this Code are continuing requirements for the use of any structure or parcel of real property in the City of Tualatin. Access management and spacing standards are provided in this section of the TDC and TDC Chapter 75. No building or other permit shall be issued until scale plans are presented that show how the ingress and egress requirement is to be fulfilled. If the owner or occupant of a lot or building changes the use to which the lot or building is put, thereby increasing ingress and egress requirements, it shall be unlawful and a violation of this code to begin or maintain such altered use until the required increase in ingress and egress is provided.

***Response:*** *The proposed development will include driveway aprons designed and constructed to all applicable standards for ingress and egress between the public right-of-way and priv ate property.*

 (2) Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same ingress and egress when the combined ingress and egress of both uses, structures, or parcels of land satisfies their combined requirements as designated in this code; provided that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases or contracts to establish joint use. Copies of said deeds, easements, leases or contracts shall be placed on permanent file with the City Recorder.

***Response:*** *The proposed development will not include shared ingress and egress points of access. Each of the newly created lots will have their independent access point.*

 (3) Joint and Cross Access.

(a) Adjacent commercial uses may be required to provide cross access drive and pedestrian access to allow circulation between sites.

(b) A system of joint use driveways and cross access easements may be required and may incorporate the following:

(i) a continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards.

(ii) a design speed of 10 mph and a maximum width of 24 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;

(iii) stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross access via a service drive;

(iv) a unified access and circulation system plan for coordinated or shared parking areas.

(c) Pursuant to this section, property owners may be required to:

(i) Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;

(ii) Record an agreement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

(iii) Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners;

(iv) If (i-iii) above involve access to the state highway system or county road system, ODOT or the county shall be contacted and shall approve changes to (i-iii) above prior to any changes.

***Response:*** *The proposed development will not include and joint or cross access points.*

 (4) Requirements for Development on Less than the Entire Site.

(a) To promote unified access and circulation systems, lots and parcels under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall be reviewed as one unit in relation to the access standards. The number of access points permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area shall comply with the access requirements.

(b) All access must be internalized using the shared circulation system of the principal commercial development or retail center. Driveways should be designed to avoid queuing across surrounding parking and driving aisles.

***Response:*** *The proposed development plan will utilize the entire existing project site.*

 (5) Lots that front on more than one street may be required to locate motor vehicle accesses on the street with the lower functional classification as determined by the City Engineer.

***Response:*** *The proposed development does have frontage on multiple streets. The public right-of-way for SW 95th Avenue (a minor collector) borders the site along the westernmost property line and SW Sagert (a minor Collector) borders the site along the northernmost property line. The applicant is proposing to construct a new public street that will be designed to a local street standard and will be a single point of access to SW Sagert street for the newly created lots. The new lots will have frontage along the newly constructed public street.*

 (6) Except as provided in [TDC 53.100](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-53-central-commercial-planning-district-cc), all ingress and egress shall connect directly with public streets.

***Response:*** *The proposed development will provide for direct access to the public right-of-way along the newly constructed public street.*

 (7) Vehicular access for residential uses shall be brought to within 50 feet of the ground floor entrances or the ground floor landing of a stairway, ramp or elevator leading to dwelling units.

***Response:*** *The proposed development will include driveway for off-street parking that will be within 50 feet of the ground floor entrance of each new dwelling unit.*

 (8) To afford safe pedestrian access and egress for properties within the City, a sidewalk shall be constructed along all street frontage, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to City standards, except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design and in a manner approved by the City Engineer. Sidewalks approved by the City Engineer may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grades and alignment established by the City Engineer.

***Response:*** *The proposed development will include sidewalks along the frontage of the newly constructed public street.*

 (9) The standards set forth in this Code are minimum standards for access and egress, and may be increased through the Architectural Review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety, and general welfare.

***Response:*** *The applicant is not expecting to request an increase to the minimum standards for ingress and egress.*

(10) Minimum access requirements for residential uses:

(a) Ingress and egress for single-family residential uses, including townhouses, shall be paved to a minimum width of 10 feet. Maximum driveway widths shall not exceed 26 feet for one and two car garages, and 37 feet for three or more car garages. For the purposes of this section, driveway widths shall be measured at the property line.

***Response:*** *The proposed development is for single family residential use and will include driveways that meet this requirement.*

 (b) Ingress and egress for multi-family residential uses shall not be less than the following:

|  |  |  |  |
| --- | --- | --- | --- |
| **Dwelling Units** | **Minimum Number Required** | **Minimum Width** | **Walkways, Etc.** |
| 2 | 1 | 16 feet | No walkways or curbs required |
| 3-19 | 1 | 24 feet | No walkways or curbs required |
| 20-49 | 1or2 | 24 feet 16 feet (one way) | 6-foot walkway, 1 side only; curbs required   |
| 50-499 | 1or2 | 32 feet 24 feet | 6-foot walkway, 1 side only; curbs required   |
| Over 500 | As required by City Engineer | As required by City Engineer | As required by City Engineer |

***Response:*** *The proposed development is for single family residential use.*

 (11) Minimum Access Requirements for Commercial, Public and Semi-Public Uses.

In the Central Design District, when driveway access is on local streets, not collectors or arterials and the building(s) on the property is(are) less than 5,000 square feet in gross floor area, or parking is the only use on the property, ingress and egress shall not be less than 24 feet. In all other cases, ingress and egress for commercial uses shall not be less than the following:

|  |  |  |  |
| --- | --- | --- | --- |
| **Required Parking Spaces** | **Minimum Number Required** | **Minimum Pavement Width** | **Minimum Pavement Walkways, Etc.** |
| 1-99 | 1 | 32 feet for first 50 feet from ROW, 24' thereafter | Curbs required; walkway 1 side only |
| 100-249 | 2 | 32 feet for first 50 feet from ROW, 24' thereafter | Curbs required; walkway 1 side only |
| Over 250 | As required by City Engineer | As required by City Engineer | As required by City Engineer |

***Response:*** *The proposed development is for single family residential use.*

 (12) Minimum Access Requirements for Industrial Uses. Ingress and egress for industrial uses shall not be less than the following:

|  |  |  |  |
| --- | --- | --- | --- |
| **Required Parking Spaces** | **Minimum Number Required** | **Minimum Pavement Width** | **Minimum Pavement Walkways, Etc.** |
| 1-250 | 1 | 36 feet for first 50' from ROW, 24' thereafter | No curbs or walkway required |
| Over 250 | As required by City Engineer | As required by City Engineer | As required by City Engineer |

(13) One-way Ingress or Egress.

When approved through the Architectural Review process, one-way ingress or egress may be used to satisfy the requirements of Subsections (7), (8), and (9). However, the hard surfaced pavement of one-way drives shall not be less than 16 feet for multi-family residential, commercial, or industrial uses.

***Response:*** *The proposed development will not include any one-way ingress or egress.*

 (14) Maximum Driveway Widths and Other Requirements.

(a) Unless otherwise provided in this chapter, maximum driveway widths shall not exceed 40 feet.

(b) Except for townhouse lots, no driveways shall be constructed within 5 feet of an adjacent property line, except when two adjacent property owners elect to provide joint access to their respective properties, as provided by Subsection (2).

(c) There shall be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Engineer.

***Response:*** *The proposed development will not include driveways that exceed 40 feet in width. All constructed driveways will meet the spacing requirements set forth in this code section.*

 (15) Distance between Driveways and Intersections.

Except for single-family dwellings, the minimum distance between driveways and intersections shall be as provided below. Distances listed shall be measured from the stop bar at the intersection.

(a) At the intersection of collector or arterial streets, driveways shall be located a minimum of 150 feet from the intersection.

(b) At the intersection of two local streets, driveways shall be located a minimum of 30 feet from the intersection.

(c) If the subject property is not of sufficient width to allow for the separation between driveway and intersection as provided, the driveway shall be constructed as far from the intersection as possible, while still maintaining the 5-foot setback between the driveway and property line as required by TDC 73.400(14)(b).

(d) When considering a public facilities plan that has been submitted as part of an Architectural Review plan in accordance with [TDC 31.071(6)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions), the City Engineer may approve the location of a driveway closer than 150 feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision. The written approval shall be incorporated into the decision of the City Engineer for the utility facilities portion of the Architectural Review plan under the process set forth in [TDC 31.071](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions) through [31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *The proposed development is for single family residential use only.*

 (16) Vision Clearance Area.

(a) Local Streets - A vision clearance area for all local street intersections, local street and driveway intersections, and local street or driveway and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 10 feet from the intersection point of the right-of-way lines, as measured along such lines (see [Figure 73-2](https://www.tualatinoregon.gov/sites/default/files/fileattachments/developmentcode/3461/figure_73-2vision_clearance_area.pdf) for illustration).

(b) Collector Streets - A vision clearance area for all collector/arterial street intersections, collector/arterial street and local street intersections, and collector/arterial street and railroad intersections shall be that triangular area formed by the right-of-way lines along such lots and a straight line joining the right-of-way lines at points which are 25 feet from the intersection point of the right-of-way lines, as measured along such lines. Where a driveway intersects with a collector/arterial street, the distance measured along the driveway line for the triangular area shall be 10 feet (see [Figure 73-2](https://www.tualatinoregon.gov/sites/default/files/fileattachments/developmentcode/3461/figure_73-2vision_clearance_area.pdf) for illustration).

(c) Vertical Height Restriction - Except for items associated with utilities or publicly owned structures such as poles and signs and existing street trees, no vehicular parking, hedge, planting, fence, wall structure, or temporary or permanent physical obstruction shall be permitted between 30 inches and 8 feet above the established height of the curb in the clear vision area (see [Figure 73-2](https://www.tualatinoregon.gov/sites/default/files/fileattachments/developmentcode/3461/figure_73-2vision_clearance_area.pdf) for illustration).

***Response:*** *The proposed development will include a new local street that will intersect with a minor collector (SW Sagert Street). The street will be designed such that the required vision clearance is incorporated into the final design and construction.*

 (17) Major driveways, as defined in 31.060, in new residential and mixed-use areas are required to connect with existing or planned streets except where prevented by topography, rail lines, freeways, pre-existing development or leases, easements or covenants, or other barriers.

***Response:*** *The proposed development does not include a major driveway.*

**Section 73.410 Street Tree Plan.**

A person who desires to plant a street tree shall comply with [TDC 74.765](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-74-public-improvement-requirements), which comprises the street tree plan.

***Response:*** *The applicant will plant street trees, as required by the Review Authority.*

**CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS**

**Section 74.010 Purpose.**

The City's Community Plan sets forth the requirements for providing adequate transportation and utility systems to serve the community's present and future needs. Land development without adequate transportation and utility systems will adversely affect the overall economic growth of the City and cause undue damage to the public health and welfare of its citizens. Consequently, the City finds that it is in the public interest to require land development to meet the following improvement requirements.

***Response:*** *The applicant acknowledges the purpose of this code section.*

**Section 74.020 Authority.**

(1) The City Engineer may develop standard forms, including but not limited to deeds, easements, interim access agreements, escrow agreements, street improvement agreements, subdivision compliance agreements and agreements to dedicate right-of-way, to include the contents and warranties when they are submitted, and the procedure for implementation necessary to carry out the purpose of this chapter.

(2) Easements submitted on a final plat or on a separate easement form shall be subject to this chapter.

(3) Supervision of Planting. The Parks & Recreation Director has jurisdiction over all trees, plants and shrubs planted or growing in or upon the public rights-of-way of the City and their planting, removal, care, maintenance and protection. The Parks & Recreation Director shall enforce these provisions.

***Response:*** *The applicant acknowledges the authority of this code section.*

**IMPROVEMENTS**

**Section 74.110 Phasing of Improvements.**

The applicant may build the development in phases. If the development is to be phased the applicant shall submit a phasing plan to the City Engineer for approval with the development application. The timing and extent or scope of public improvements and the conditions of development shall be determined by the City Council on subdivision applications and by the City Engineer on other development applications.

***Response:*** *The proposed development will be completed in just one phase.*

**Section 74.120 Public Improvements.**

(1) Except as specially provided, all public improvements shall be installed at the expense of the applicant. All public improvements installed by the applicant shall be constructed and guaranteed as to workmanship and material as required by the Public Works Construction Code prior to acceptance by the City. No work shall be undertaken on any public improvement until after the construction plans have been approved by the City Engineer and a Public Works Permit issued and the required fees paid.

(2) In accordance with the Tualatin Basin Program for fish and wildlife habitat the City intends to minimize or eliminate the negative affects of public streets by modifying right-of-way widths and street improvements when appropriate. The City Engineer is authorized to modify right-of-way widths and street improvements to address the negative affects on fish and wildlife habitat.

***Response:*** *The applicant will design and construct all improvements within the public right-of-way at their own expense.*

**Section 74.130 Private Improvements.**

All private improvements shall be in-stalled at the expense of the applicant. The property owner shall retain maintenance responsibilities over all private improvements.

***Response:*** *The applicant will design and construct all improvements on private property at their own expense and remit responsibility for maintenance of improvements over to individual property owners at the sale of each new tax lot.*

**Section 74.140 Construction Timing.**

(1) All the public improvements required under this chapter shall be completed and accepted by the City prior to the issuance of a Certificate of Occupancy; or, for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

(2) All private improvements required under this chapter shall be approved by the City prior to the issuance of a Certificate of Occupancy; or for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

***Response:*** *The applicant will complete all site improvements prior to seeking occupancy for any of the new structures constructed within the proposed development.*

**RIGHT-OF-WAY**

**Section 74.210 Minimum Street Right-of-Way Widths.**

The width of streets in feet shall not be less than the width required to accommodate a street improvement needed to mitigate the impact of a proposed development. In cases where a street is required to be improved according to the standards of the TDC, the width of the right-of-way shall not be less than the minimums indicated in TDC Chapter 74, Public Improvement Requirements, [Figures 74-2A through 74-2G](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf).

(1) For subdivision and partition applications, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, [Figures 74-2A through 74-2G](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf) shall be shown on the final subdivision or partition plat prior to approval of the plat by the City. This right-of-way dedication shall be for the full width of the property abutting the roadway and, if required by the City Engineer, additional dedications shall be provided for slope and utility easements if deemed necessary.

***Response:*** *The applicant will dedicate additional right-of-way, as required by the review authority for the public right-of-way that is adjacent to the project site as well as the right-of-way necessary to complete the new local street.*

 (2) For development applications other than subdivisions and partitions, wherever existing or future streets adjacent to property proposed for development are of inadequate right-of-way width, the additional right-of-way necessary to comply with TDC Chapter 74, Public Improvement Requirements, [Figures 74-2A through 74-2G](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf) of the Tualatin Community Plan shall be dedicated to the City for use by the public prior to issuance of any building permit for the proposed development. This right-of-way dedication shall be for the full width of the property abutting the roadway and, if required by the City Engineer, additional dedications shall be provided for slope and utility easements if deemed necessary.

***Response:*** *The proposed development is for a seven lot subdivision.*

 (3) For development applications that will impact existing streets not adjacent to the applicant's property, and to construct necessary street improvements to mitigate those impacts would require additional right-of-way, the applicant shall be responsible for obtaining the necessary right-of-way from the property owner. A right-of-way dedication deed form shall be obtained from the City Engineer and upon completion returned to the City Engineer for acceptance by the City. On subdivision and partition plats the right-of-way dedication shall be accepted by the City prior to acceptance of the final plat by the City. On other development applications the right-of-way dedication shall be accepted by the City prior to issuance of building permits. The City may elect to exercise eminent domain and condemn necessary off-site right-of-way at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.

***Response:*** *The proposed development will not impact any existing streets that are not adjacent to the project site.*

 (4) If the City Engineer deems that it is impractical to acquire the additional right-of-way as required in subsections (1)-(3) of this section from both sides of the center-line in equal amounts, the City Engineer may require that the right-of-way be dedicated in a manner that would result in unequal dedication from each side of the road. This requirement will also apply to slope and utility easements as discussed in [TDC 74.320](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.320) and [74.330](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.330).  The City Engineer's recommendation shall be presented to the City Council in the preliminary plat approval for subdivisions and partitions, and in the recommended decision on all other development applications, prior to finalization of the right-of-way dedication requirements.

***Response:*** *The proposed development has public right-of-way along SW Sagert Street and SW 95th Avenue. The right-of-way width from the centerline to the boundary of the project site for the portion of the project site that is adjacent to these two streets, is consistent with the right-of-way width in either direction, away from the project site.*

 (5) Whenever a proposed development is bisected by an existing or future road or street that is of inadequate right-of-way width according to TDC Chapter 74, Public Improvement Requirements, [Figures 74-2A through 74-2G](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf), additional right-of-way shall be dedicated from both sides or from one side only as determined by the City Engineer to bring the road right-of-way in compliance with this section.

***Response:*** *The proposed development will not be bisected by an existing street but does include a new public street which will be dedicated to the public right-of-way.*

 (6) When a proposed development is adjacent to or bisected by a street proposed in [TDC Chapter 11](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-11-transportation), Transportation Plan [(Figure 11-3)](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figure_11-3_local_street_plan_tsp_update.pdf) and no street right-of-way exists at the time the development is proposed, the entire right-of-way as shown in TDC Chapter 74, Public Improvement Requirements, [Figures 74-2A through 74-2G](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf) shall be dedicated by the applicant. The dedication of right-of-way required in this subsection shall be along the route of the road as determined by the City

***Response:*** *The proposed development does include a new public street that will bisect a portion of the property prior to its termination. The applicant will dedicate the portion of the project site needed to construct the new street to the public right-of-way.*

**Section 74.220 Parcels Excluded from Development.**

On subdivision development applications which include land partitioned off or having adjusted property lines from the original parcel, but do not include the original parcel, the applicant shall be responsible for obtaining any necessary right-of-way from the owner of the original parcel if the right-of-way is needed to accommodate street improvements required of the applicant. The applicant shall submit a completed right-of-way dedication deed to the City Engineer for acceptance. The right-of-way dedication shall be accepted by the City prior to the City approving the final subdivision plat.

***Response:*** *The proposed development will include a portion of the adjacent property to the west of the original project parcel that was obtained by a property line adjustment that was approved by the city prior to submitting the subdivision application. The applicant will provide whatever documentation as required by the city for work in the public right-of-way.*

**EASEMENTS AND TRACTS**

**Section 74.310 Greenway, Natural Area, Bike, and Pedestrian Path Dedications and Easements.**

(1) Areas dedicated to the City for Greenway or Natural Area purposes or easements or dedications for bike and pedestrian facilities during the development application process shall be surveyed, staked and marked with a City approved boundary marker prior to acceptance by the City.

(2) For subdivision and partition applications, the Greenway, Natural Area, bike, and pedestrian path dedication and easement areas shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

(3) For all other development applications, Greenway, Natural Area, bike, and pedestrian path dedications and easements shall be submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the dedication or easement by the City.

***Response:*** *The proposed development will not include any dedicated areas for Greenways, Natural areas, bike or pedestrian paths.*

**Section 74.320 Slope Easements.**

(1) The applicant shall obtain and convey to the City any slope easements determined by the City Engineer to be necessary adjacent to the proposed development site to support the street improvements in the public right-of-way or accessway or utility improvements required to be constructed by the applicant.

(2) For subdivision and partition applications, the slope easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

(3) For all other development applications, a slope easement dedication shall be submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the easement by the City.

***Response:*** *The slopes across the project site are gradual. No slope easements will be provided by the applicant for this property.*

**Section 74.330 Utility Easements.**

(1) Utility easements for water, sanitary sewer and storm drainage facilities, telephone, television cable, gas, electric lines and other public utilities shall be granted to the City.

(2) For subdivision and partition applications, the on-site public utility easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; and

(3) For subdivision and partition applications which require off-site public utility easements to serve the proposed development, a utility easement shall be granted to the City prior to approval of the final plat by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.

(4) For development applications other than subdivisions and partitions, and for both on-site and off-site easement areas, a utility easement shall be granted to the City; building permits shall not be issued for the development prior to acceptance of the easement by the City. The City may elect to exercise eminent domain and condemn necessary off-site public utility easements at the applicant's request and expense. The City Council shall determine when condemnation proceedings are to be used.

(5) The width of the public utility easement shall meet the requirements of the Public Works Construction Code. All subdivisions and partitions shall have a 6-foot public utility easement adjacent to the street and a 5-foot public utility easement adjacent to all side and rear lot lines.

***Response:*** *The final plat for the proposed development will include all utility easements needed for the on-site improvements.*

**Section 74.340 Watercourse Easements.**

(1) Where a proposed development site is traversed by or adjacent to a watercourse, drainage way, channel or stream, the applicant shall provide a storm water easement, drainage right-of-way, or other means of preservation approved by the City Engineer, conforming substantially with the lines of the watercourse. The City Engineer shall determine the width of the easement, or other means of preservation, required to accommodate all the requirements of the Surface Water Management Ordinance, existing and future storm drainage needs and access for operation and maintenance.

(2) For subdivision and partition applications, any watercourse easement dedication area shall be shown to be dedicated to the City on the final subdivision or partition plat prior to approval of the plat by the City; or

(3) For all other development applications, any watercourse easement shall be executed on a dedication form submitted to the City Engineer; building permits shall not be issued for the development prior to acceptance of the easement by the City.

(4) The storm water easement shall be sized to accommodate the existing water course and all future improvements in the drainage basin. There may be additional requirements as set forth in [TDC Chapter 72](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-72-natural-resource-protection-overlay-district-nrpo), Greenway and Riverbank Protection District, and the Surface Water Management Ordinance. Water quality facilities may require additional easements as described in the Surface Water Management Ordinance.

***Response:*** *The proposed development will not include any watercourse easements.*

**Section 74.350 Tracts.**

A dedicated tract or easement will be required when access to public improvements for operation and maintenance is required, as determined by the City Engineer. Access for maintenance vehicles shall be constructed of an all-weather driving surface capable of carrying a 50,000-pound vehicle. The width of the tract or easement shall be 15-feet in order to accommodate City maintenance vehicles. In subdivisions and partitions, the tract shall be dedicated to the City on the final plat. In any other development, an access easement shall be granted to the City and recorded prior to issuance of a building permit.

***Response:*** *The final plat for the proposed development will include all tracts which may be necessary to facilitate the on-site improvements. Improvements within the tract for maintenance and operations vehicles will be designed and constructed to meet all applicable design standards.*

**TRANSPORTATION**

**Section 74.410 Future Street Extensions.**

(1) Streets shall be extended to the proposed development site boundary where necessary to:

(a) give access to, or permit future development of adjoining land;

(b) provide additional access for emergency vehicles;

(c) provide for additional direct and convenient pedestrian, bicycle and vehicle circulation;

(d) eliminate the use of cul-de-sacs except where topography, barriers such as railroads or freeways, existing development, or environmental constraints such as major streams and rivers prevent street extension.

(e) eliminate circuitous routes. The resulting dead end streets may be approved without a turnaround. A reserve strip may be required to preserve the objectives of future street extensions.

***Response:*** *The existing project site is a corner lot at the intersection of SW Sagert Street and SW 95th Avenue. There are no existing streets being extended to the project site.*

 (2) Proposed streets shall comply with the general location, orientation and spacing identified in the Functional Classification Plan [(Figure 11-1)](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figure_11-1_tualatin_functional_classification_plan_tsp_update.pdf), Local Streets Plan ([TDC 11.630](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-11-transportation) and [Figure 11-3)](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/figure11-3localstreetplan.pdf) and the Street Design Standards [(Figures 74-2A through 74-2G)](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf).

(a) Streets and major driveways, as defined in [TDC 31.060](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions), proposed as part of new residential or mixed residential/commercial developments shall comply with the following standards:

(i) full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers;

(ii) bicycle and pedestrian accessway easements where full street connections are not possible, with spacing of no more than 330 feet, except where prevented by barriers;

(iii) limiting cul-de-sacs and other closed-end street systems to situations where barriers prevent full street extensions; and

(iv) allowing cul-de-sacs and closed-end streets to be no longer than 200 feet or with more than 25 dwelling units, except for streets stubbed to future developable areas.

***Response:*** *The proposed development does include a new public street that will terminate in a cul-de-sac within the project site. The new public street will be less than 200 feet long and will serve seven lots. The parcels to the south of the project are all fully developed and would not be adequately served by extending the new public street through the proposed development which is why the applicant is proposing to terminate the new street in a cul-de-sac.*

 (b) Streets proposed as part of new industrial or commercial development shall comply with [TDC 11.630,](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-11-transportation)[Figure 11-1](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/figure11-1functionalclassificationplan_0.pdf), and [Figures 74-2A through 74-2G](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/tdc_figures_74-2a_through_74-2g_street_design_standards.pdf).

***Response:*** *The proposed development is for a residential subdivision with single family dwelling units.*

 (3) During the development application process, the location, width, and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. The arrangement of streets in a subdivision shall either:

(a) provide for the continuation or appropriate projection of existing streets into surrounding areas; or

(b) conform to a street plan approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance of or conformance to existing streets impractical.

***Response:*** *The existing project site for the proposed development is bordered by public right-of-way to the west and north and has fully developed parcels to the south. The new public street will meet the design requirements for a local street and will terminate in a cul-de-sac. The centerline for the new street will intersect with SW Sagert Street and will be located as far from the intersection of SW Sagert Street and SW 95th Avenue as possible. The new public street will provide lot frontage for all of the new parcels created by the proposed development. There are no existing public streets that can be extended into the proposed development site.*

 (4) The City Engineer may require the applicant to submit a street plan showing all existing, proposed, and future streets in the area of the proposed development.

***Response:*** *The final construction documents will be prepared by the project engineer and will include plans, for the proposed street along with the existing streets, as required. There are no future streets in the immediate vicinity of the project site that would impact the proposed development.*

 (5) The City Engineer may require the applicant to participate in the funding of future off-site street extensions when the traffic impacts of the applicant's development warrant such a condition.

***Response:*** *The proposed development will have a minimal impact on the adjacent streets.*

**Section 74.420 Street Improvements.**

When an applicant proposes to develop land adjacent to an existing or proposed street, including land which has been excluded under [TDC 74.220](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.220), the applicant should be responsible for the improvements to the adjacent existing or proposed street that will bring the improvement of the street into conformance with the Transportation Plan [(TDC Chapter 11)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-11-transportation), [TDC 74.425](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.425) (Street Design Standards), and the City’s Public Works Construction Code, subject to the following provisions:

(1) For any development proposed within the City, roadway facilities within the right-of-way described in [TDC 74.210](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.210) shall be improved to standards as set out in the Public Works Construction Code.

(2) The required improvements may include the rebuilding or the reconstruction of any existing facilities located within the right-of-way adjacent to the proposed development to bring the facilities into compliance with the Public Works Construction Code.

(3) The required improvements may include the construction or rebuilding of off-site improvements which are identified to mitigate the impact of the development.

(4) Where development abuts an existing street, the improvement required shall apply only to that portion of the street right-of-way located between the property line of the parcel proposed for development and the centerline of the right-of-way, plus any additional pavement beyond the centerline deemed necessary by the City Engineer to ensure a smooth transition between a new improvement and the existing roadway (half-street improvement). Additional right-of-way and street improvements and off-site right-of-way and street improvements may be required by the City to mitigate the impact of the development. The new pavement shall connect to the existing pavement at the ends of the section being improved by tapering in accordance with the Public Works Construction Code.

(5) If additional improvements are required as part of the Access Management Plan of the City, [TDC Chapter 75](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-75-access-management), the improvements shall be required in the same manner as the half-street improvement requirements.

(6) All required street improvements shall include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.

(7) For subdivision and partition applications, the street improvements required by TDC Chapter 74 shall be completed and accepted by the City prior to signing the final subdivision or partition plat, or prior to releasing the security pro-vided by the applicant to assure completion of such improvements or as otherwise specified in the development application approval.

(8) For development applications other than subdivisions and partitions, all street improvements required by this section shall be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.

(9) In addition to land adjacent to an existing or proposed street, the requirements of this section shall apply to land separated from such a street only by a railroad right-of-way.

(10) Streets within, or partially within, a proposed development site shall be graded for the entire right-of-way width and constructed and surfaced in accordance with the Public Works Construction Code.

(11) Existing streets which abut the pro-posed development site shall be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and [TDC Chapter 11](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-11-transportation), Transportation Plan, and [TDC 74.425](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.425) (Street Design Standards).

(12) Sidewalks with appropriate buffering shall be constructed along both sides of each internal street and at a minimum along the development side of each external street in accordance with the Public Works Construction Code.

(13) The applicant shall comply with the requirements of the Oregon Department of Transportation (ODOT), Tri-Met, Washington County and Clackamas County when a proposed development site is adjacent to a roadway under any of their jurisdictions, in addition to the requirements of this chapter.

(14) The applicant shall construct any required street improvements adjacent to parcels excluded from development, as set forth in [TDC 74.220](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.220) of this chapter.

(15) Except as provided in [TDC 74.430](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.430), whenever an applicant proposes to develop land with frontage on certain arterial streets and, due to the access management provisions of [TDC Chapter 75](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-75-access-management), is not allowed direct access onto the arterial, but instead must take access from another existing or future public street thereby providing an alternate to direct arterial access, the applicant shall be required to construct and place at a minimum street signage, a sidewalk, street trees and street lights along that portion of the arterial street adjacent to the applicant's property. The three certain arterial streets are S.W. Tualatin-Sherwood Road, S.W. Pacific Highway (99W) and S.W. 124th Avenue. In addition, the applicant may be required to construct and place on the arterial at the intersection of the arterial and an existing or future public non-arterial street warranted traffic control devices (in accordance with the Manual on Uniform Traffic Control Devices, latest edition), pavement markings, street tapers and turning lanes, in accordance with the Public Works Construction Code.

(16) The City Engineer may determine that, although concurrent construction and placement of the improvements in (14) and (15) of this section, either individually or collectively, are impractical at the time of development, the improvements will be necessary at some future date. In such a case, the applicant shall sign a written agreement guaranteeing future performance by the applicant and any successors in interest of the property being developed. The agreement shall be subject to the City's approval.

(17) Intersections should be improved to operate at a level of service of at least D and E for signalized and unsignalized intersections, respectively.

(18) Pursuant to requirements for off-site improvements as conditions of development approval in [TDC 73.055(2)(e](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-73-community-design-standards)) and [TDC 36.160(8)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-36-subdividing-partitioning-and-property-line-adjustments), proposed multi-family residential, commercial, or institutional uses that are adjacent to a major transit stop will be required to comply with the City’s Mid-Block Crossing Policy.

***Response:*** *The proposed development is adjacent to the public right-of-way for SW Sagert Street and SW 95th Avenue. The public right-of-way for SW Sagert Street is currently fully developed with a half-street section that consists of a traffic lane, a bike lane, curb and gutter, a planter strip and a concrete sidewalk. The half-street for SW 95th Avenue is consistent with the adjacent properties to the south and consists of a traffic lane, a bike lane and curb and gutter. A curb-tight sidewalk terminates just south of the intersection of SW 95th Avenue and SW Sagert Street. The applicant will complete improvements, as required within the public right-of-way of SW 95th Avenue.*

**Section 74.425 Street Design Standards.**

(1) Street design standards are based on the functional and operational characteristics of streets such as travel volume, capacity, operating speed, and safety. They are necessary to ensure that the system of streets, as it develops, will be capable of safely and efficiently serving the traveling public while also accommodating the orderly development of adjacent lands.

(2) The proposed street design standards are shown in Figures 72A through 72G. The typical roadway cross sections comprise the following elements: right-of-way, number of travel lanes, bicycle and pedestrian facilities, and other amenities such as landscape strips. These figures are intended for planning purposes for new road construction, as well as for those locations where it is physically and economically feasible to improve existing streets.

(3) In accordance with the Tualatin Basin Program for fish and wildlife habitat it is the intent of Figures 74-2A through 74-2G to allow for modifications to the standards when deemed appropriate by the City Engineer to address fish and wildlife habitat.

(4) All streets shall be designed and constructed according to the preferred standard. The City Engineer may reduce the requirements of the preferred standard based on specific site conditions, but in no event will the requirement be less than the minimum standard. The City Engineer shall take into consideration the following factors when deciding whether the site conditions warrant a reduction of the preferred standard:

(a) Arterials:

(i) Whether adequate right-of-way exists

(ii) Impacts to properties adjacent to right-of-way

(iii) Current and future vehicle traffic at the location

(iv) Amount of heavy vehicles (buses and trucks).

(b) Collectors:

(i) Whether adequate right-of-way exists

(ii) Impacts to properties adjacent to right-of-way

(iii) Amount of heavy vehicles (buses and trucks)

(iv) Proximity to property zoned manufacturing or industrial.

(c) Local Streets:

(i) Local streets proposed within areas which have environmental constraints and/or sensitive areas and will not have direct residential access may utilize the minimum design standard. When the minimum design standard is allowed, the City Engineer may determine that no parking signs are required on one or both sides of the street.

***Response:*** *The public streets that abut the existing project site are both classified as minor collectors. The applicant is not proposing to request either of these streets directly from any of the lots within the proposed development. The proposed public street within the interior of the project site will be designed and constructed to a local street standard and will be used for vehicular access from the newly created lots.*

**Section 74.430 Streets, Modifications of Requirements in Cases of Unusual Conditions.**

(1) When, in the opinion of the City Engineer, the construction of street improvements in accordance with [TDC 74.420](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.420) would result in the creation of a hazard, or would be impractical, or would be detrimental to the City, the City Engineer may modify the scope of the required improvement to eliminate such hazardous, impractical, or detrimental results. Examples of conditions requiring modifications to improvement requirements include but are not limited to horizontal alignment, vertical alignment, significant stands of trees, fish and wildlife habitat areas, the amount of traffic generated by the proposed development, timing of the development or other conditions creating hazards for pedestrian, bicycle or motor vehicle traffic. The City Engineer may determine that, although an improvement may be impractical at the time of development, it will be necessary at some future date. In such cases, a written agreement guaranteeing future performance by the applicant in installing the required improvements must be signed by the applicant and approved by the City.

***Response:*** *The proposed development will all be completed at one time without any future improvements.*

 (2) When the City Engineer determines that modification of the street improvement requirements in [TDC 74.420](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.420) is warranted pursuant to subsection (1) of this section, the City Engineer shall prepare written findings of modification. The City Engineer shall forward a copy of said findings and description of modification to the applicant, or his authorized agent, as part of the Utility Facilities Review for the proposed development, as provided by [TDC 31.072](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions). The decision of the City Engineer may be appealed to the City Council in accordance with [TDC 31.076 and 31.077](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *The proposed development will all be completed at one time without any future improvements.*

 (3) To accommodate bicyclists on streets prior to those streets being upgraded to the full standards, an interim standard may be implemented by the City. These interim standards include reduction in motor vehicle lane width to 10 feet [the minimum specified in AASHTO’s A Policy on Geo-metric Design of Highways and Streets (1990)], a reduction of bike lane width to 4-feet (as measured from the longitudinal gutter joint to the centerline of the bike lane stripe), and a paint-striped separation 2 to 4 feet wide in lieu of a center turn lane. Where available roadway width does not provide for these minimums, the roadway can be signed for shared use by bicycle and motor vehicle travel. When width constraints occur at an intersection, bike lanes should terminate 50 feet from the intersection with appropriate signing.

***Response:*** *Bike lanes already exist within the fully developed half-widths of the public streets that are adjacent to the project site. There are no bicycle lanes that will be included within the public right-of-way for the new local street that will be constructed within the interior of the project site.*

**Section 74.440 Streets, Traffic Study Required.**

(1) The City Engineer may require a traffic study to be provided by the applicant and furnished to the City as part of the development approval process as provided by this Code, when the City Engineer determines that such a study is necessary in connection with a proposed development project in order to:

(a) Assure that the existing or proposed transportation facilities in the vicinity of the proposed development are capable of accommodating the amount of traffic that is expected to be generated by the proposed development, and/or

(b) Assure that the internal traffic circulation of the proposed development will not result in conflicts between on-site parking movements and/or on-site loading movements and/or on-site traffic movements, or impact traffic on the adjacent streets.

(2) The required traffic study shall be completed prior to the approval of the development application.

(3) The traffic study shall include, at a minimum:

(a) an analysis of the existing situation, including the level of service on adjacent and impacted facilities.

(b) an analysis of any existing safety deficiencies.

(c) proposed trip generation and distribution for the proposed development.

(d) projected levels of service on adjacent and impacted facilities.

(e) recommendation of necessary improvements to ensure an acceptable level of service for roadways and a level of service of at least D and E for signalized and unsignalized intersections respectively, after the future traffic impacts are considered.

(f) The City Engineer will determine which facilities are impacted and need to be included in the study.

(g) The study shall be conducted by a registered engineer.

(4) The applicant shall implement all or a portion of the improvements called for in the traffic study as determined by the City Engineer.

***Response:*** *If required to do so by the review authority, the applicant will have a traffic study completed for the proposed development that will meet all of the requirements of this code section. However, it seems unlikely that such a study should be warranted since traffic accessing the existing public right-of-way will be of a relatively small volume and will be controlled with a single point of entry onto the existing transportation system.*

**Section 74.450 Bikeways and Pedestrian Paths.**

(1) Where proposed development abuts or contains an existing or proposed bikeway, pedestrian path, or multi-use path, as set forth in [TDC Chapter 11](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-11-transportation), Transportation [Figure 11-4](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12819/figure_11_4_tsp_appendix_h_bicycle_pedestrian_plan.pdf), the City may require that a bikeway, pedestrian path, or multi-use path be constructed, and an easement or dedication provided to the City.

(2) Where required, bikeways and pedestrian paths shall be provided as follows:

(a) Bike and pedestrian paths shall be constructed and surfaced in accordance with the Public Works Construction Code.

(b) The applicant shall install the striping and signing of the bike lanes and shared roadway facilities, where designated.

***Response:*** *The proposed development does abut two public rights-of-way that both already contain bicycle lanes. The new public street will be designed to a local street standard, shall be less than 200 feet in length and will terminate in a cul-de-sac. The applicant is not including a bicycle lane. A concrete sidewalk will be constructed within the public right-of-way for pedestrian use.*

**Section 74.460 Accessways in Residential, Commercial and Industrial Subdivisions and Partitions.**

(1) Accessways shall be constructed by the applicant, dedicated to the City on the final residential, commercial or industrial subdivision or partition plat, and accepted by the City.

(2) Accessways shall be located between the proposed subdivision or partition and all of the following locations that apply:

(a) adjoining publicly-owned land intended for public use, including schools and parks. Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland;

(b) adjoining arterial or collector streets upon which transit stops or bike lanes are provided or designated;

(c) adjoining undeveloped residential, commercial or industrial properties;

(d) adjoining developed sites where an accessway is planned or provided.

(3) In designing residential, commercial and industrial subdivisions and partitions, the applicant is expected to design and locate accessways in a manner which does not restrict or inhibit opportunities for developers of adjacent property to connect with an accessway. The applicant is to have reasonable flexibility to locate the required accessways. When developing a parcel which adjoins parcels where accessways have been constructed or approved for construction, the applicant shall connect at the same points to provide system continuity and enhance opportunities for pedestrians and bicyclists to use the completed accessway.

(4) Accessways shall be as short as possible, but in no case more than 600 feet in length.

(5) Accessways shall be as straight as possible to provide visibility from one end to the other.

(6) Accessways shall be located and improved within a right-of-way or tract of no less than 8 feet.

(7) Where possible, accessways shall be combined with utility easements.

(8) Accessways shall be constructed in accordance with the Public Works Construction Code.

(9) Curb ramps shall be provided wherever the accessway crosses a curb and shall be constructed in accordance with the Public Works Construction Code.

(10) [The Federal Americans With Disabilities Act (ADA)](http://www.ada.gov/) applies to development in the City of Tualatin. Accessways shall comply with the Oregon Structural Specialty Code’ s (OSSC) accessibility standards.

(11) Fences and gates which prevent pedestrian and bike access shall not be al-lowed at the entrance to or exit from any accessway.

(12) Final design and location of accessways shall be approved by the City.

(13) Outdoor Recreation Access Routes shall be provided between a subdivision or partition and parks, bikeways and greenways where a bike or pedestrian path is designated.

***Response:*** *There are no provision within this code section that would warrant constructing an accessway within the proposed development. All of the newly created lots will have immediate access to the public right-of-way via the lot frontage of each lot, which will be less than 200 feet from the public right-of-way of a minor collector.*

**Section 74.470 Street Lights.**

(1) Street light poles and luminaries shall be installed in accordance with the Public Works Construction Code.

(2) The applicant shall submit a street lighting plan for all interior and exterior streets on the proposed development site prior to issuance of a Public Works Permit.

***Response:*** *The proposed development will include street lights, as required.*

**Section 74.475 Street Names.**

(1) No street name shall be used which will duplicate or be confused with the names of existing streets in the Counties of Washington or Clackamas, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

(2) The City Engineer shall maintain the approved list of street names from which the applicant may choose. Prior to the creation of any street, the street name shall be approved by the City Engineer.

***Response:*** *The applicant will propose a street name that is consistent with the applicable standards and approved by the Review Authority.*

**Section 74.480 Street Signs.**

(1) Street name signs shall be installed at all street intersections in accordance with standards adopted by the City.

(2) Stop signs and other traffic control signs (speed limit, dead-end, etc.) may be required by the City.

(3) Prior to approval of the final subdivision or partition plat, the applicant shall pay the City a non-refundable fee equal to the cost of the purchase and installation of street signs, traffic control signs and street name signs. The location, placement, and cost of the signs shall be determined by the City.

***Response:*** *The applicant will install street signs at the intersection of the new public street and SW Sagert Street.*

**Section 74.485 Street Trees.**

(1) Prior to approval of a residential subdivision or partition final plat, the applicant shall pay the City a non-refundable fee equal to the cost of the purchase and installation of street trees. The location, placement, and cost of the trees shall be determined by the City. This sum shall be calculated on the interior and exterior streets as indicated on the final subdivision or partition plat.

(2) In nonresidential subdivisions and partitions street trees shall be planted by the owners of the individual lots as development occurs.

(3) The Street Tree Ordinance specifies the species of tree which is to be planted and the spacing between trees.

***Response:*** *The proposed development will include street trees, as required.*

**UTILITIES**

**Section 74.610 Water Service.**

(1) Water lines shall be installed to serve each property in accordance with the Public Works Construction Code. Water line construction plans shall be submitted to the City Engineer for review and approval prior to construction.

(2) If there are undeveloped properties adjacent to the subject site, public water lines shall be extended by the applicant to the common boundary line of these properties. The lines shall be sized to provide service to future development, in accordance with the City's Water System Master Plan, [TDC Chapter 12](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-12-water-services).

(3) As set forth is [TDC Chapter 12](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-12-water-services), Water Service, the City has three water service levels. All development applicants shall be required to connect the proposed development site to the service level in which the development site is located. If the development site is located on a boundary line between two service levels the applicant shall be required to connect to the service level with the higher reservoir elevation. The applicant may also be required to install or provide pressure reducing valves to supply appropriate water pressure to the properties in the proposed development site.

***Response:*** *Currently, there are existing waterlines within the public right-of-way of SW Sagert Street as well as SW 95th avenue. The project engineer will determine which waterline is at the most appropriate service level for the proposed development. The final construction plans will include a full design for a new waterline that is connected to an existing waterline and runs within the public right-of-way for the proposed street to serve the newly created lots.*

**Section 74.620 Sanitary Sewer Service.**

(1) Sanitary sewer lines shall be installed to serve each property in accordance with the Public Works Construction Code. Sanitary sewer construction plans and calculations shall be submitted to the City Engineer for review and approval prior to construction.

(2) If there are undeveloped properties adjacent to the proposed development site which can be served by the gravity sewer system on the proposed development site, the applicant shall extend public sanitary sewer lines to the common boundary line with these properties. The lines shall be sized to convey flows to include all future development from all up stream areas that can be expected to drain through the lines on the site, in accordance with the City's Sanitary Sewer System Master Plan, [TDC Chapter 13.](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-13-sewer-service)

***Response:*** *An existing sanitary sewer line exists within the public right-of-way for SW Sagert Street and will be used for the connection point for the new system that will be designed and constructed to serve the proposed development. The final construction plans will demonstrate how the new sanitary sewer system will be installed to serve the newly created lots and connect to the existing manhole near the intersection of the new local street and SW Sagert Street. The proposed sanitary sewer will be a gravity system that includes an appropriately sized mainline as well as service laterals that will extend from the mainline to serve each newly created lot.*

**Section 74.630 Storm Drainage System.**

(1) Storm drainage lines shall be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations shall be submitted to the City Engineer for review and approval prior to construction.

(2) The storm drainage calculations shall confirm that adequate capacity exists to serve the site. The discharge from the development shall be analyzed in accordance with the City's Storm and Surface Water Regulations.

(3) If there are undeveloped properties adjacent to the proposed development site which can be served by the storm drainage system on the proposed development site, the applicant shall extend storm drainage lines to the common boundary line with these properties. The lines shall be sized to convey expected flows to include all future development from all up stream areas that will drain through the lines on the site, in accordance with the Tualatin Drainage Plan in [TDC Chapter 14](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-14-drainage-plan-and-surface-water-management).

***Response:*** *The final construction plans for the proposed development will include a storm drain system comprised of collection points for surface water runoff and pipes for underground conveyance of surface water runoff which will discharge into a new water quality facility for detention and treatment prior to being released into the existing storm drain system.*

**Section 74.640 Grading.**

(1) Development sites shall be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.

(2) A development applicant shall submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City Engineer may require the applicant to remove all excess material from the development site.

***Response:*** *The drainage pattern from the existing project site flows from the southern portion of the site towards the public right-of-way of SW Sagert Street, as shown on the Existing Conditions plan. The proposed grading scheme for the site improvements will maintain this drainage pattern to ensure there is no impact felt from adjacent properties to the east or to the south.*

**Section 74.650 Water Quality, Storm Water Detention and Erosion Control.**

The applicant shall comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

(1) On subdivision and partition development applications, prior to approval of the final plat, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be satisfied and obtain a Stormwater Connection Permit from Clean Water Services; or

***Response:*** *The final construction drawings will include a new water quality facility contained wholly within the project site. The project engineer will prepare calculations for review and approval by the review authority, prior to approval of the final plat.*

 (2) On all other development applications, prior to issuance of any building permit, the applicant shall arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services.

***Response:*** *The proposed development will be part of a subdivision application.*

 (3) For on-site private and regional non-residential public facilities, the applicant shall submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant shall submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site shall occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

***Response:*** *The proposed development will be part of a subdivision application.*

**Section 74.660 Underground.**

(1) All utility lines including, but not limited to, those required for gas, electric, communication, lighting and cable television services and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets may be placed above ground. Temporary utility service facilities, high capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with all utility companies to provide the underground services. The City reserves the right to approve the location of all surface-mounted transformers.

(2) Any existing overhead utilities may not be upgraded to serve any proposed development. If existing overhead utilities are not adequate to serve the proposed development, the applicant shall, at their own expense, provide an underground system. The applicant shall be responsible for obtaining any off-site deeds and/or easements necessary to provide utility service to this site; the deeds and/or easements shall be submitted to the City Engineer for acceptance by the City prior to issuance of the Public Works Permit.

***Response:*** *The utility lines needed to serve the proposed development will be placed underground as required by the provisions within this code section.*

**Section 74.670 Existing Structures.**

(1) Any existing structures requested to be retained by the applicant on a proposed development site shall be connected to all available City utilities at the expense of the applicant.

(2) The applicant shall convert any existing overhead utilities serving existing structures to underground utilities, at the expense of the applicant.

(3) The applicant shall be responsible for continuing all required street improvements adjacent to the existing structure, within the boundaries of the proposed development site.

***Response:*** *The applicant will construct all proposed utilities within the public right-of -way and make connections to the existing utilities at their own expense.*

**Section 74.700 Removal, Destruction or Injury of Trees.**

It is unlawful for a person, without a written permit from the Operations Director, to remove, destroy, break or injure a tree, plant or shrub, that is planted or growing in or upon a public right-of-way within the City, or cause, authorize, or procure a person to do so, authorize or procure a person to injure, misuse or remove a device set for the protection of any tree, in or upon a public right-of-way.

***Response:*** *The proposed development will not cause any tree within the public right-of-way that is adjacent to the project site to be harmed or removed.*

**Section 74.705 Street Tree Removal Permit.**

(1) A person who desires to remove or destroy a tree, as defined in [TDC 31.060](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions),  in or upon public right-of-way shall make application to the Operations Director on City forms.

(2) The applicant must provide:

(a) the applicant’s name and contact information and if applicable that of the applicant’s contractor;

(b) the number and species of all street trees the applicant desires to remove;

(c) a clear description of the street trees’ the applicant desires to remove;

(d) the date of removal;

(e) the reason(s) for removal; and

(f) other information as the Operations Director deems necessary.

(3) Upon the Operations Director approving the removal of a street tree, the applicant or designated contractor shall replace each removed tree on a one-for-one basis by fulfilling the following requirements:

(a) Remove both the tree and stump prior to planting a replacement tree, or re-quest the City to remove the tree and stump and pay the applicable fee(s) established in [TDC 74.706](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.706); and

(b) Replace the removed tree by planting a species of street tree permitted by Schedule A of the TDC Chapter 74 within the time period specified in writing by the Operations Director; or, the applicant may request within sixty (60) days of the permit approval date that the City replace the street tree and pay the applicable fee(s) established in [TDC 74.706](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.706). If an applicant opts for the City to plant the replacement tree, the Operations Department may plant the tree on its usual tree-planting schedule. Planting done by the applicant or designated contractor shall comply with all applicable TDC sections and any additional requirements imposed by the Operations Director.

(c) The applicant shall comply with all applicable TDC sections and additional requirements imposed by the Operations Director. The Operations Director may:

(d) waive the one-for-one replacement requirement if he or she determines that the replacement would:

(i) conflict with public improvements or utility facilities, including but not limited to fire hydrants, water meters and pipes, lighting fixtures, traffic control signs; private improvements or utility facilities – including but not limited to driveways and power, gas, telephone, cable television lines; or, minimum vision clearance;

(ii) interfere with the existing canopy of adjacent trees, the maturation of the crown of the proposed replacement tree, or both;

1. cause a conflict by planting trees too close to each other, hurting their health;

(iii) limit the selection of species from Schedule A: and;

(iv) direct how to plant replacement tree(s).

(e) a person who fails to comply with TDC 74.705 shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in [TDC 34.220(3)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations), in addition to civil penalties in [TDC 31.111](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

***Response:*** *The applicant is not proposing to remove any existing street trees with the proposed development.*

**Section 74.706 Street Tree Fees.**

A person who applies to remove a street tree under [TDC 74.705](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.705) shall pay all costs incurred by the City as reflected in the applicable fees listed in the city of Tualatin Fee Schedule. City actions and associated fees include but are not limited to inspection of a street tree requested for removal, removal of a street tree, removal of a stump, planting of a street tree, and inspection(s) to determine if the applicant has fulfilled permit requirements.

***Response:*** *The applicant is not proposing to remove any existing street trees with the proposed development.*

**Section 74.707 Street Tree Voluntary Planting.**

A person who desires to plant a tree in or upon a public right-of-way may plant or have the City plant a species of street tree permitted by TDC Chapter 74 Schedule A without a City permit, if the tree is not a re-placement for a tree that the person has removed. Such a person may submit a request to the City with payment of fee(s) so that the City may plant a street tree. If a stump exists where a street tree is to be planted, the person shall remove the stump or pay a fee to the City as established in [TDC 74.706](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.706) so that the City may remove the stump on behalf of the person. In all instances, a person who desires to plant a tree shall comply with other applicable TDC sections and any additional requirements of the Operations Director.

***Response:*** *The applicant will plant any new street trees, as required with the improvements that are included with the proposed development.*

**Section 74.708 Street Tree Emergencies.**

(1) If emergency conditions occur that require the immediate cutting or removal of street trees to avoid danger or hazard to persons or property, the Operations Director shall issue emergency permits without payment of fees and formal applications. If the Operations Director is unavailable, the adjacent property owners may proceed to cut the trees without permits to the extent necessary to eliminate the immediate danger or hazard. If a street tree is cut under this section without filing of an application with the Operations Director, the person doing so shall report the action to the Operations Director within two City business days without payment of fee and shall provide such information and evidence as may be reasonably required by the Operations Di-rector to explain and justify the removal.

(2) In all instances, a person who removes a street tree as a result of an emergency must replace it within sixty (60) days of notifying the Operations Director. The City reserves the right to waive this requirement.

(3) A person who fails to comply with TDC 74.708 shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in [TDC 34.220(3)](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-34-special-regulations), in addition to civil penalties in [TDC 31.111](http://www.tualatinoregon.gov/developmentcode/tdc-chapter-31-general-provisions).

(4) If no emergency is found to exist, no person shall cut or remove a street tree without complying with the requirement of the Tualatin Development Code.

***Response:*** *The applicant is not proposing to remove any existing street trees with the proposed development.*

**Section 74.710 Open Ground.**

When impervious material or substance is laid down or placed in or upon a public right-of-way near a tree, at least nine square feet of open ground for a tree up to three inches in diameter shall be provided about the base of the trunk of each tree.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.715 Attachments to Trees.**

It is unlawful for a person to attach or keep attached a rope, wire, chain, sign or other device to a tree, plant or shrub in or upon a public right-of-way or to the guard or stake intended for the protection of such tree, except as a support for a tree, plant or shrub.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.720 Protection of Trees During Construction.**

(1) During the erection, repair, alteration or removal of a building or structure, it is unlawful for the person in charge of such erection, repair, alteration or removal to leave a tree in or upon a public right-of-way in the vicinity of the building or structure without a good and sufficient guard or protectors to prevent injury to the tree arising out of or by reason of such erection, repair, alteration or removal.

(2) Excavations and driveways shall not be placed within six feet of a tree in or upon a public right-of-way without written permission from the City Engineer. During excavation or construction, the person shall guard the tree within six feet and all building material or other debris shall be kept at least four feet from any tree.

***Response:*** *Safeguards for existing trees will be put in place for any trees that are to be saved, which may be in close proximity to construction activity.*

**Section 74.725 Maintenance Responsibilities.**

Trees, shrubs or plants standing in or upon a public right-of-way, on public or private grounds that have branches projecting into the public street or sidewalk shall be kept trimmed by the owner of the property adjacent to or in front of where such trees, shrubs or plants are growing so that:

(1) The lowest branches are not less than 12 feet above the surface of the street, and are not be less than 14 feet above the surface of streets designated as state highways.

(2) The lowest branches are not less than eight feet above the surface of a sidewalk or footpath.

(3) No plant, tree, bush or shrub shall be more than 24 inches in height in the triangular area at the street or highway corner of a corner lot, or the alley-street intersection of a lot, such an area defined by a line across the corner between the points on the street right-of-way line measured 10 feet back from the corner, and extending the line to the street curbs or, if there are no curbs, then to that portion of the street or alley used for vehicular traffic.

(4) Newly planted trees may remain untrimmed if they do not interfere with street traffic or persons using the sidewalk or obstruct the light of a street electric lamp.

(5) Maintenance responsibilities of the property owner include repair and upkeep of the sidewalk in accordance with the City Sidewalk Maintenance Ordinance.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.730 Notice of Violation.**

When the owner, lessee, occupant or person in charge of private grounds neglects or refuses to trim a tree, shrub or plant as provided in [TDC 74.725](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.725), the Operations Director shall cause a written notice to trim such tree or trees, shrubs or plants to be served upon such owner, lessee, occupant or person in charge, within 10 days after the giving  the notice; and if the owner, lessee or occupant or person in charge fails to do so,  the person shall be guilty of violating this ordinance and subject to the penalties  in [TDC 74.760](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.760).  The notice shall be served upon the owner, lessee, occupant or person in charge either by "Certified Mail-Return Receipt Requested", or by posting the same notice on the property or near to the trees, shrubs or plants to be trimmed.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.735 Trimming by City.**

If the owner, lessee, occupant or person in charge of the property fails and neglects to trim the trees, shrubs or plants within 10 days after service of the notice in [TDC 74.730](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#74.730), the Operations Director shall trim the trees, shrubs or plants. Such trimming by the City does not act to relieve such owner, lessee, occupant or person in charge of responsibility for violating this Chapter.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.740 Prohibited Trees.**

It is unlawful for a person to plant a tree within the right-of-way of the City of Tualatin that is not in conformance with Schedule A. Any tree planted subsequent to adoption of this Chapter not in compliance with [Schedule A](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#Schedule%20A) shall be removed at the expense of the property owner.

***Response:*** *Street trees that are planted with the proposed development will be selected from the approved tree list.*

**Section 74.745 Cutting and Planting Specifications.**

The following regulations are established for the planting, trimming and care of trees in or upon the public right-of-way of the City.

(1) When trees are cut down, the stump shall be removed to a depth of six inches below the surface of the ground or finish grade of the street, whichever is of greater depth.

(2) Trees shall be planted in accordance with [Schedule A](http://www.ci.tualatin.or.us/developmentcode/tdc-chapter-74-public-improvement-requirements#Schedule%20A), except when a greater density is allowed under a special permit from the Operations Director.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.750 Removal or Treatment by City.**

The Operations Director may remove or cause or order to be removed a tree, plant or shrub, planted or growing in or upon a public right-of-way which by its nature causes an unsafe condition or is injurious to sewers or public improvements, or is affected with an injurious fungus disease, insect or other pest. When, in the opinion of the Operations Director, trimming or treatment of a tree or shrub located on private grounds, but having branches extending over a public right-of-way is necessary, the Operations Director may trim or treat such a branch or branches, or cause or order branches to be trimmed or treated.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.755 Appeal of Permit Denial.**

When application for a permit under this Chapter is denied by the Operations Director, an order is issued by the Operations Director directing certain trees, shrubs or plants to be trimmed or removed, or a permit is granted by the Operations Director containing conditions which the applicant deems unreasonable,  the applicant may appeal to the Council in writing and filed with the City Recorder within 10 City business days after the denial of the permit sought or the making of the order the appellant deems unreasonable. After hearing, the Council may either grant or deny the application, rescind or modify the order from which the appeal was taken.

***Response:*** *The applicant acknowledges the requirement of this code section.*

**Section 74.760 Penalties.**

A person who violates this ordinance or fails to trim a tree or shrub for which notice to do so was provided, shall, upon conviction, be fined not more than $100.00.

***Response:*** *The applicant acknowledges the penalties for violating the ordinance referred to in this code section.*

**Section 74.765 Street Tree Species and Planting Locations.**

All trees, plants or shrubs planted in the right-of-way of the City shall conform in species and location and in accordance with the street tree plan in Schedule A. If the Operations Director determines that none of the species in Schedule A is appropriate or finds appropriate a species not listed, the Director may substitute an unlisted species.

|  |
| --- |
| **Schedule A: Street Tree Species** |
| The following street trees are authorized for planting in the City of Tualatin. Please refer to [Map 74-1](http://www.tualatinoregon.gov/sites/default/files/fileattachments/legal/developmentcode/12818/map74-1streettreeplantings.pdf) to reference locations of the following species of trees. |
| Species Common Names | Planting Strip Width (feet) | Powerline Compatible | Spacing on center (feet) |
| Zone 1 | 4 | 5 | 6+ |  |   |
| Leprechaun Ash | **•** | **•** | **•** |  | 30 |
| Purple Beech | **•** | **•** | **•** |  | 30 |
| European Hornbeam | **•** | **•** | **•** | **•** | 30 |
| Armstrong Maple | **•** | **•** | **•** |  | 30 |
| Scanlon/Bowhall Maple | **•** | **•** | **•** |  | 30 |
| Skyrocket English Oak | **•** | **•** | **•** |  | 30 |
| Capital Flowering Pear | **•** | **•** | **•** |  | 30 |
| Persian Parrotia | **•** | **•** | **•** |  | 30 |
| Eastern Redbud | **•** | **•** | **•** |  | 30 |
| Zelkova Musashino | **•** | **•** | **•** |  | 30 |
| Autumn Applause Ash |  | **•** | **•** |  | 30 |
| Shademaster Honey Locust |  | **•** | **•** |  | 30 |
| Zone 2 |  |  |  |  | 30 |
| Golden Desert Ash | **•** | **•** | **•** | **•** | 30 |
| Leprechaun Ash | **•** | **•** | **•** |  | 30 |
| Purple Beech | **•** | **•** | **•** |  | 30 |
| Goldenrain | **•** | **•** | **•** |  | 30 |
| European Hornbeam | **•** | **•** | **•** | **•** | 30 |
| Ivory Japanese Lilac | **•** | **•** | **•** | **•** | 30 |
| Amur Maackia | **•** | **•** | **•** | **•** | 30 |
| Amur Maple | **•** | **•** | **•** | **•** | 30 |
| Crimson Sentry Maple | **•** | **•** | **•** | **•** | 30 |
| Trident Maple | **•** | **•** | **•** | **•** | 30 |
| Skyrocket English Oak | **•** | **•** | **•** | **•** | 30 |
| Persain Parrotia | **•** | **•** | **•** |  | 30 |
| Eastern Redbud | **•** | **•** | **•** |  | 30 |
| Yellowwood | **•** | **•** | **•** |  | 30 |
| Raywood Ash |  | **•** | **•** | **•** | 30 |
| Urbanite Ash |  | **•** | **•** |  | 30 |
| Ginko |  | **•** | **•** |  | 30 |
| Greenspire Linden |  | **•** | **•** |  | 30 |
| Crimson King Maple |  | **•** | **•** |  | 30 |
| Tri-Color Beech |  |  | **•** |  | 60 |
| Frontier Elm |  |  | **•** |  | 60 |
| Globe Sugar Maple |  |  | **•** |  | 60 |
| Red Sunset Maple |  |  | **•** |  | 60 |
| Red Oak |  |  | **•** |  | 60 |
| Scarlet Oak |  |  | **•** |  | 60 |

***Response:*** *The applicant acknowledges the Street trees on the approved list.*

***TUALATIN MUNICIPAL CODE***

**TITLE 03: UTILITIES AND WATER QUALITY**

**Chapter 03-02: Sewer Regulations; Rates**

***3-2-020 Application, Permit and Inspection Procedure***

(1) No person shall connect to any part of the sanitary sewer system without first making an application and securing a permit from the City for such connection, nor may any person substantially increase the flow, or alter the character of sewage, without first obtaining an additional permit and paying such charges therefore as may be fixed by the City, including such charges as inspection charges, connection charges and monthly service charges.

(2) Upon approval of the application and payment of all charges, the City will issue a sewer connection permit for the premises covered in the application.  The application and permit shall be on forms provided by the City.

(3) After approval of the application, evidenced by the issuance of a permit, no change shall be made in the location of the sewer, the grade, materials, or other details from those described in the permit or as shown on the plans and specifications for which the permit was issued except with written permission from the City.  The applicant's signature on an application for any permit as set forth shall constitute an agreement to comply with all of the provisions, terms and requirements of this and other City of Tualatin ordinances, rules and regulations, laws of the State of Oregon, and with the plans and specifications filed with the application, if any, together with such corrections or modifications as may be made or permitted by the City, if any.  Such agreement shall be binding upon the applicant and may be altered only by the City upon the written request for the alteration from the applicant.

(4) It shall be the duty of the person doing the work authorized by permit to notify the City that said work is ready for inspection.

(5) All sewer construction work shall be inspected by an inspector acting for the City to insure compliance with all requirements of the City.  No sewer shall be covered at any point until it has been inspected and passed for acceptance.  No sewer shall be connected to the City's public sewer until the work covered by the permit has been completed, inspected, and approved by the inspector.  All sewers shall be tested for leakage in the presence of the inspector and shall be cleaned of all debris accumulated from construction operations.

(6) When any work has been inspected and the test results are not satisfactory, a written notice to that effect shall be given instructing the owner of the premises, or the agent of such owner, to repair the sewer or other work authorized by the permit in accordance with the ordinances, rules and regulations of the City.

(7) All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued shall be borne by the owner.  The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the work.

***Response:*** *The applicant will pay all applicable fees and obtain all required permits to complete the approved sewer improvements for the proposed development. The applicant will ensure that a responsible party for the project is available to the city for the duration of the project schedule. The applicant intends to complete all required improvements during a reasonable timeframe, at their own expense and will indemnify the city for said improvements, as required.*

***3-2-020 Materials and Manner of Construction***

(1) All building sewers, side sewers and connections to the main sewer shall be so constructed as to conform to the requirements of the Oregon State Plumbing Laws and rules and regulations and specifications for sewerage construction of the City.

***Response:*** *The sewers will be constructed per the approved construction documents, which will adhere to all applicable requirements.*

 (2) Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the City Inspector, to meet all requirements of the City.

***Response:*** *The proposed development includes an existing sewer connection for a structure that is to remain as well as six new connections for new construction.*

 (3) A public works permit must be secured from the City and other agency having jurisdiction by owners or contractors intending to excavate in a public street for the purpose of installing sewers or making sewer connections.

***Response:*** *The applicant will obtain all applicable permits prior to beginning construction.*

 (4) The City and its officers, agents or employees shall not be answerable for any liability or injury or death to any person or damage to any property arising during or growing out of the performance of any work by any such applicant.  The applicant shall be answerable for and shall save the City and its officers, agents and employees harmless from any liability imposed by law upon the City or its officers, agents or employees, including all costs, expenses, fees and interest incurred in defending same.

***Response:*** *The applicant acknowledges the requirement of not holding the city liable for harm done to any person(s) or material(s) that are associated with completing all required site improvements for the proposed development.*

**Chapter 03-03: Water Service**

***3-3-040 Separate Services Required***

 (1) Except as authorized by the City Engineer, a separate service and meter to supply regular water service or fire protection service shall be required for each building, residential unit or structure served.  For the purposes of this section, trailer parks and multi-family residences of more than four dwelling units shall constitute a single unit unless the City Engineer determines that separate services are required.

(2)  For nonresidential uses, separate meters shall be provided for each structure.  Separate meters shall also be provided to each buildable lot or parcel on which water service is or will be provided.

***Response:*** *The proposed development is for new single family, detached residences. All lots will have their individual water service and meter.*

***3-3-100 Meters***

(1)  Meters up to and including two inches will be furnished by the City.  Meters larger than two inches may be furnished by the customer upon approval of the Operations Director.

(2)  All meters, including those for fire protection service, shall be located within the public right-of-way or within an access easement approved by the City Engineer.

(3)  All meters, whether furnished by the City or a customer, shall be owned and maintained by the City.

(4)  Meters will be sealed by the City at the time of installation, and no seal shall be altered or broken except by one of its authorized agents.

(5)  If a change in size of a meter and service is required, the change shall be accomplished on the basis of a new installation.

(6)  The customer is responsible for maintaining access to the meter free and clear of all shrubs, landscaping and other materials.  Any obstructions may be trimmed or removed by the City and the cost therefore billed to the customer of the premises served.

***Response:*** *The proposed development is for new single family, detached residences. All lots will have their individual water services and meter which will be installed per the approved construction drawings and shall meet all applicable requirements. The applicant acknowledges all provisions of this code section.*

***3-3-110 Construction Standards***

All water line construction and installation of services and equipment shall be in conformance with the City of Tualatin Public Works Construction Code.  In addition, whenever a property owner extends a water line, which upon completion, is intended to be dedicated to the City as part of the public water system, said extension shall be carried to the opposite property line or to such other point as determined by the City Engineer.  Water line size shall be determined by the City Engineer in accordance with the City's Development Code or implementing ordinances and the Public Works Construction Code.

***Response:*** *The waterline and all services shall be designed and installed to meet all applicable requirements. The proposed development will include a cul-de-sac bulb so the waterline that is designed and installed will not likely be installed for future development as is the case that all adjacent lots are already fully developed.*

**Chapter 03-05: Soil Erosion, Surface Water Management. Water Quality Facilities & building Services**

***3-5-010 Policy***

It is the policy of the City to require temporary and permanent measures for all construction projects to lessen the adverse effects of construction on the environment.  The contractor shall properly install, operate and maintain both temporary and permanent works as pro-vided in this chapter or in an approved plan, to protect the environment during the term of the project.  In addition, these erosion control rules apply to all properties within the City, regardless of whether that property is involved in a construction or development activity.  Nothing in this chapter shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

***Response:*** *The proposed development includes provisions for erosion control to ensure that the adjacent properties or public rights-of-way are not adversely affected during the construction phase of the site improvements.*

***3-5-050 Erosion Control Permits***

(1) Except as noted in subsection (3) of this section, no person shall cause any change to improved or unimproved real property that causes, will cause, or is likely to cause a temporary or permanent increase in the rate of soil erosion from the site without first obtaining a permit from the City and paying prescribed fees.  Such changes to land shall include, but are not limited to, grading, excavating, filling, working of land, or stripping of soil or vegetation from land.

(2) No construction, land development, grading, excavation, fill, or the clearing of land is allowed until the City has issued an Erosion Control Permit covering such work, or the City has determined that no such permit is required.  No public agency or body shall undertake any public works project without first obtaining from the City an Erosion Control Permit covering such work, or receiving a determination from the City that none is required.

(3) No Erosion Control Permit from City is required for the following:

(a) For work of a minor nature provided all the following criteria are met:

(i) The development does not require a development permit or approval from the City;

(ii) No development activity or disturbance of land surface occurs within 100 feet of a sensitive area defined in TMC 3-5.270;

(iii) The slope of the site is less than 20 percent;

(iv) The work on the site involves the disturbance of less than 500 square feet of land surface; and

(v) The excavation, fill or combination thereof involves less than 20 cubic yards of material.

(b) Permits and approvals of land division, interior improvements to an existing structure, and other activities for which there is no physical disturbance to the surface of the land.

(c) A permit shall not be required for activities within the City which constitute accepted farming practices as defined in ORS 215.203, provided any erosion does not cause sedimentation in waters of the Tualatin River basin.

(4) An exception from the permit requirement shall not relieve the property or its owner from the prohibition of TMC 3-5.040.

***Response:*** *The applicant or one of their assigns will obtain an Erosion Control Permit prior to beginning any construction activity on site for the proposed development.*

***3-5-060 Permit Process***

(1) Applications for an Erosion Control Permit.  Application for an Erosion Control Permit shall include an Erosion Control Plan which contains methods and interim facilities to be constructed or used concurrently and to be operated during construction to control erosion.  The plan shall include either:

(a) A site specific plan outlining the protection techniques to control soil erosion and sediment transport from the site to less than one ton per acre per year as calculated using the Soil Conservation Service Universal Soil Loss Equation or other equivalent method approved by the City Engineer, or

(b) Techniques and methods contained and prescribed in the Soil Erosion Control Matrix and Methods, outlined in TMC 3-5.190 or the Erosion Control Plans - Technical Guidance Handbook, City of Portland and Unified Sewerage Agency, January, 1991.

***Response:*** *The application for the Erosion Control Permit will include all applicable material, as required by this code section.*

 (2) Site Plan.  A site specific plan, pre-pared by an Oregon registered profession-al engineer, shall be required when the site meets any of the following criteria:

(a) greater than five acres;

(b) greater than one acre and has slopes greater than 20 percent;

(c) contains or is within 100 feet of a City-identified wetland or a waterway identified on FEMA floodplain maps; or

(d) greater than one acre and contains highly erodible soils.

***Response:*** *The construction drawings prepared for the proposed development will be completed by a licensed professional engineer and will include a site plan that could be used to meet this requirement.*

***3-5-070 Maintenance***

The property owner or holder of an erosion control permit shall maintain the facilities and techniques contained in the approved Erosion Control Plan so as to continue to be effective during the construction or other permitted activity.  If the facilities and techniques approved in an Erosion Control Plan are not effective or sufficient as determined by the City site inspection, the permittee shall submit a revised plan within three days, (excluding Saturday, Sunday and holidays) of written notification either by personal delivery or regular mail, from the City.  Upon approval of the revised plan by the City, the permittee shall immediately implement the additional or revised facilities and techniques of the revised plan.  In cases where erosion is occurring, the City may require the applicant to install interim control measures prior to submittal of the revised Erosion Control Plan.  In no event will the City be responsible for the success or failure of any approved Erosion Control Plan.

***Response:*** *The applicant acknowledges the provisions of this code section and agrees to maintain the Erosion Control facilities and techniques that support the proposed development.*

***3-5-080 Inspection***

All erosion control measures shall be installed prior to the start of any work requiring an erosion control permit and shall be maintained until after the work is complete and until no further potential of erosion exists.  The permittee shall call the City prior to the foundation inspection of a building for an inspection of the erosion control measures for that property.

***Response:*** *The applicant acknowledges the provisions of this code section regarding inspection of the Erosion Control Facilities and techniques used for the proposed development.*

***3-5-090 Physical Erosion***

No person shall drag, drop, track or otherwise place or deposit, or allow to be placed or deposited mud, dirt, rock or other debris upon a public street or into any part of a public storm and surface water system, or into any part of a private storm and surface water system which drains or connects to the public storm and surface water system.  Any such deposit of material shall be immediately removed using hand labor or mechanical means.  No material shall be washed or flushed into any part of the storm and surface water system without approved erosion control measures first being installed to the satisfaction of the City.

***Response:*** *The applicant acknowledges the provisions of this code section.*

**Additional Surface Water Management Standards**

***3-5-200 Downstream Protection Requirement***

Each new development is responsible for mitigating the impacts of that development upon the public storm water quantity system.  The development may satisfy this requirement through the use of any of the following techniques, subject to the limitations and requirements in [TMC 3-5-210](https://www.tualatinoregon.gov/municipalcode/chapter-03-05-soil-erosion-surface-water-management-water-quality-facilities-and#3-5-210):

(1) Construction of permanent on-site stormwater quantity detention facilities designed in accordance with this title;

(2) Enlargement of the downstream conveyance system in accordance with this title and the Public Works Construction Code;

(3) The payment of a Storm and Surface Water Management System Development Charge, which includes a water quantity component designated to meet these requirements.

***Response:*** *Construction drawings as well as a drainage study/downstream analysis will be prepared for the proposed development by a licensed civil engineer. The applicant will comply with the provisions of this code section by meeting one of the three aforementioned techniques. The proposed development will include a storm water system that will consist of collecting storm water runoff and conveying it to a water quality facility constructed on-site, prior to releasing it to the existing storm drain system.*

***3-5-210 Review of Downstream System***

For new development other than the construction of a single family house or duplex, plans shall document review by the design engineer of the downstream capacity of any existing storm drainage facilities impacted by the proposed development.  That review shall extend downstream to a point where the impacts to the water surface elevation from the development will be insignificant, or to a point where the conveyance system has adequate capacity, as determined by the City Engineer.

To determine the point at which the downstream impacts are insignificant or the drainage system has adequate capacity, the design engineer shall submit an analysis using the following guidelines:

(1) evaluate the downstream drainage system for at least ¼ mile;

(2) evaluate the downstream drainage system to a point at which the runoff from the development in a build out condition is less than 10 percent of the total runoff of the basin in its current development status.  Developments in the basin that have been approved may be considered in place and their conditions of approval to exist if the work has started on those projects;

(3) evaluate the downstream drainage system throughout the following range of storms: 2, 5, 10, 25 year;

(4) The City Engineer may modify items 1, 2, 3 to require additional information to determine the impacts of the development or to delete the provision of unnecessary information.

***Response:*** *The design engineer for the proposed development will complete a drainage study and submit it to the city engineering staff to review and approve. The drainage study will include all of the necessary information to meet the requirements of this code section.*

If the increase in surface waters leaving a development will cause or contribute to damage from flooding, then the identified capacity deficiency shall be corrected prior to development or the development must construct onsite detention. To determine if the runoff from the development will cause or contribute to dam-age from flooding the City Engineer will consider the following factors:

(1) The potential for or extent of flooding or other adverse impacts from the run-off of the development on downstream properties;

(2) The potential for or extent of possibility of inverse condemnation claims;

(3) Incremental impacts of runoff from the subject and other developments in the basin; and

(4) Other factors that may be relevant to the particular situation.

The purpose of the City Engineer's review is to protect the City and its inhabitants from the impacts or damage caused by runoff from development while recognizing all appropriate limitations on exactions from the development.

***Response:*** *The design engineer for the proposed development will make a final determination as to whether or not there will be an adverse impact on downstream properties from the storm water runoff. If it is determined that there will be an adverse impact, the applicant will direct the design engineer to work with the city engineering staff to mitigate the effect of the storm water runoff leaving the project site through sound engineering practice and design.*

***3-5-220 Criteria for Requiring On-Site Detention to be Constructed***

The City shall determine whether the onsite facility shall be constructed.  If the onsite facility is constructed, the development shall be eligible for a credit against Storm and Surface Water System Development Charges, as provided in City ordinance.

On-site facilities shall be constructed when any of the following conditions exist:

(1) There is an identified downstream deficiency, as defined in TMC 3-5-210, and detention rather than conveyance system enlargement is determined to be the more effective solution.

(2) There is an identified regional detention site within the boundary of the development.

(3) There is a site within the boundary of the development which would qualify as a regional detention site under criteria or capital plan adopted by the Unified Sewerage Agency.

(4) The site is located in the Hedges Creek Sub-basin as identified in the Tualatin Drainage Plan and surface water runoff from the site flows directly or indirectly into the Wetland Protected Area (WPA) as defined in TDC 71.020.  Properties located within the Wetland Protection District as described in TDC 71.010, or within the portion of the sub-basin east of SW Tualatin Road are excepted from the on-site detention facility requirement.

***Response:*** *The proposed development will include final construction drawings that will be prepared by a licensed civil engineer and submitted to the city engineering staff for design and approval. The drawings will include all information necessary to construct the project to meet all applicable requirements. The design engineer will work with the city staff to include any additional information that may be required to meet the provisions of this code section.*

***3-5-230 On-Site Detention Design Criteria***

(1) Unless designed to meet the requirements of an identified downstream deficiency as defined in TMC 3-5.210, stormwater quantity onsite detention facilities shall be designed to capture run-off so the run-off rates from the site after development do not exceed predevelopment conditions, based upon a 25-year, 24-hour return storm.

(2) When designed to meet the requirements of an identified downstream deficiency as defined in TMC 3-5.210, stormwater quantity on-site detention facilities shall be designed such that the peak runoff rates will not exceed predevelopment rates for the 2 through 100 year storms, as required by the determined downstream deficiency.

(3) Construction of on-site detention shall not be allowed as an option if such a detention facility would have an adverse effect upon receiving waters in the basin or sub-basin in the event of flooding, or would increase the likelihood or severity of flooding problems downstream of the site.

***Response:*** *The proposed development will have an on-site storm water facility included in the project design. The facility will be designed and constructed to meet all applicable design and construction standards.*

***3-5-240 On-Site Detention Design Method***

(1) The procedure for determining the detention quantities is set forth in Section 4.4 Retention/Detention Facility Analysis and Design, King County, Washington, Surface Water Design Manual, January, 1990, except subchapters 4.4.5 Tanks, 4.4.6 Vaults and Figure 4.4.4G Permanent Surface Water Control Pond Sign.  This reference shall be used for procedure only.  The design criteria shall be as noted herein.  Engineers desiring to utilize a procedure other than that set forth herein shall obtain City approval prior to submitting calculations utilizing the proposed procedure.

(2) For single family and duplex residential subdivisions, stormwater quantity detention facilities shall be sized for the impervious areas to be created by the subdivision, including all residences on individual lots at a rate of 2640 square feet of impervious surface area per dwelling unit, plus all roads which are assessed a surface water management monthly fee under Unified Sewerage Agency rules.  Such facilities shall be constructed as a part of the subdivision public improvements.  Construction of a single family or duplex residence on an existing lot of record is not required to construct stormwater quantity detention facilities.

(3) All developments other than single family and duplex, whether residential, multi-family, commercial, industrial, or other uses, the sizing of stormwater quantity detention facilities shall be based on the impervious area to be created by the development, including structures and all roads and impervious areas which are assessed a surface water management monthly fee under Unified Sewerage Agency rules.  Impervious surfaces shall be determined based upon building permits, construction plans, site visits or other appropriate methods deemed reliable by City.

***Response:*** *The proposed development will be for a single family residential subdivision and will include an on-site storm water facility that will be designed by a licensed civil engineer to meet all applicable design standards.*

***3-5-280 Placement of Water Quality Facilities***

Title III specifies that certain properties shall install water quality facilities for the purpose of removing phosphorous.  No such water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action, approved by the City, is constructed to replace the area used for the water quality facility.

***Response:*** *The proposed development is not within an existing wetland area nor is one created by the proposed development.*

**Permanent On-Site Water Quality Facilities**

***3-5-290 Purpose of Title***

The purpose of this title is to require new development and other activities which create impervious surfaces to construct or fund on-site or off-site permanent water quality facilities to reduce the amount of phosphorous entering the storm and surface water system.

***Response:*** *The proposed development will create impervious areas on the project site and will include a storm water quality facility to collect runoff from a portion of the new public street and all runoff from the new structures constructed on-site.*

***3-5-300 Application of Title***

Title III of this Chapter shall apply to all activities which create new or additional impervious surfaces, except as provided in TMC 3-5.310.

***Response:*** *The proposed development will include new impervious areas on-site.*

***3-5-310 Exceptions***

(1) Those developments with application dates prior to July 1, 1990, are exempt from the requirements of Title III.  The application date shall be defined as the date on which a complete application for development approval is accepted by the City in accordance with City regulations.

(2) Construction of one and two family (duplex) dwellings are exempt from the requirements of Title III.

(3) Sewer lines, water lines, utilities or other land development that will not directly increase the amount of storm water run-off or pollution leaving the site once construction has been completed and the site is either restored to or not altered from its approximate original condition are exempt from the requirements of Title III.

***Response:*** *The proposed development will not be exempt from the application date. Construction on the proposed development will consist of new single family dwellings and a new public street which will increase the amount of storm water runoff on the project site.*

***3-5-310 Definitions***

 (1) "Stormwater Quality Control Facility" refers to any structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.  It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales, low impact development approaches (“LIDA”), and ponds which are maintained as stormwater quality control facilities.

(2) “Low impact development approaches” or “LIDA: means stormwater facilities constructed utilizing low impact development approaches used to temporarily store, route or filter run-off for the purpose of improving water quality. Examples include; but are not limited to, Porous Pavement, Green Roofs, Infiltration Planters/Rain Gardens, Flow-Through Planters, LIDA Swales, Vegetated Filter Strips, Vegetated Swales, Extended Dry Basins, Constructed Water Quality Wetland, Conveyance and Stormwater Art, and Planting Design and Habitats.

(3) "Water Quality Swale" means a vegetated natural depression, wide shallow ditch, or constructed facility used to temporarily store, route or filter run-off for the purpose of improving water quality.

(4) "Existing Wetlands" means those areas identified and delineated as set forth in the Federal Manual for Identifying the Delineating Jurisdictional Wetlands, January, 1989, or as amended, by a qualified wetlands specialist.

(5) "Created Wetlands" means those wetlands developed in an area previously identified as a non-wetland to replace, or mitigate wetland destruction or displacement.

(6) "Constructed Wetlands" means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such.  These areas must be clearly defined and/or separated from existing or created wetlands.  This separation shall preclude a free and open connection to such other wetlands.

***Response:*** *The proposed development will include a Storm Water Quality Control facility and a water quality swale. There are no known wetlands on the project site and a determination whether or not to use Low Impact Development Approaches will be made by the project engineer.*

***3-5-330 Permit Required***

Except as provided in TMC 3-5-310, no person shall cause any change to improved or unimproved real property that will, or is likely to, increase the rate or quantity of run-off or pollution from the site without first obtaining a permit from the City and following the conditions of the permit.

***Response:*** *The proposed development will include a new water quality swale to treat storm water runoff and release the treated water into the existing storm drain system at a pre-developed rate. The applicant will obtain a permit from the city, if required to mitigate any additional effects felt downstream from the proposed development.*

***3-5-340 Facilities Required***

For new development, subject to the exemptions of TMC 3-5-310, no permit for construction, or land development, or plat or site plan shall be approved unless the conditions of the plat, plan or permit approval require permanent stormwater quality control facilities in accordance with this Title III.

***Response:*** *The applicant will submit for review and approval, construction drawings that will illustrate all required site upgrades and improvements for treatment of storm water runoff and will obtain all required permits prior to beginning construction.*

***3-5-345 Inspection Reports***

The property owner or person in control of the property shall submit inspection reports annually to the City for the purpose of ensuring maintenance activities occur according to the operation and maintenance plan submitted for an approved permit or architectural review.

***Response:*** *The applicant or their project assigns will ensure that all inspection reports are submitted to the city, as required.*

***3-5-350 Phosphorus Removal Standard***

The stormwater quality control facilities shall be designed to remove 65 percent of the phosphorous from the runoff from 100 percent of the newly constructed impervious surfaces.  Impervious surfaces shall include pavement, buildings, public and private roadways, and all other surfaces with similar runoff characteristics.

***Response:*** *The project engineer for the proposed development will design the storm water quality facility to meet all applicable requirements.*

***3-5-360 Design Storm***

The stormwater quality control facilities shall be designed to meet the removal efficiency of TMC 3-5-350 for a mean summertime storm event totaling 0.36 inches of precipitation falling in four hours with an average return period of 96 hours.

***Response:*** *The project engineer for the proposed development will design the storm water quality facility to meet all applicable requirements.*

***3-5-370 Design Requirements***

The removal efficiency in TDC Chapter 35 specifies only the design requirements and are not intended as a basis for performance evaluation or compliance determination of the stormwater quality control facility installed or constructed pursuant to this Title III.

***Response:*** *The project engineer for the proposed development will design the storm water quality facility to meet all applicable requirements.*

***3-5-380 Criteria for Granting Exemptions to Construction of On-Site Water Quality Facilities***

On-site facilities shall be constructed as required by OAR 340-41-455, unless otherwise approved by the City on a case by case basis due to the size of the development, topography, or other factors causing the City to determine that the construction of onsite permanent stormwater treatment systems is impracticable or undesirable.  Determinations by the City may be based upon, but not limited to, consideration of the following factors:

Site topography, geological stability, hazards to public safety, accessibility for maintenance, environmental impacts to sensitive areas, size of the site and development, existence of a more efficient and effective regional site within the basin capable of serving the site, and consistency with sub-basin master plan.

A regional public facility may be constructed to serve private non-residential development provided:

(1) The facility serves more than one lot; and

(2) All owners sign a stormwater facility agreement; and

(3) Treatment accommodates reasonable worst case impervious area for full build-out, stormwater equivalent to existing or proposed roof area is privately treated in LIDA facilities, and any detention occurs on each lot.

***Response:*** *The proposed development will include a storm water quality facility.*

***3-5-390 Facility Permit Approval***

A stormwater quality control facility permit shall be approved only if the following are met:

(1) The plat, site plan, or permit application includes plans and a certification prepared by an Oregon registered, professional engineer that the proposed stormwater quality control facilities have been designed in accordance with criteria expected to achieve removal efficiencies for total phosphorous required by this Title III.  Clean Water Services Design and Construction Standards shall be used in preparing the plan for the water quality facility; and

(2) The plat, site plan, or permit application shall be consistent with the areas used to determine the removal required in TMC 3-5-350; and

(3) A financial assurance, or equivalent security acceptable to the City, is provided by the applicant which assures that the stormwater quality control facilities are constructed according to the plans established in the plat, site plan, or permit approval.  The financial assurance may be combined with our financial assurance requirements imposed by the City; and

(4) A stormwater facility agreement identifies who will be responsible for assuring the long term compliance with the operation and maintenance plan.

***Response:*** *The project engineer for the proposed development will design the storm water quality facility to meet all applicable requirements.*

***3-5-400 System Development Charge***

If under TMC 3-5-380, an on-site facility will not be constructed, the Storm and Surface Water System Development Charge shall be paid.

***Response:*** *The proposed development will include a storm water quality facility.*

***3-5-410 Permit Fee***

The City shall collect a reasonable fee established by the Council by resolution for the review of plans, administration, enforcement and field inspection to carry out the provisions of this title.

***Response:*** *The applicant will pay all fees required for plan review and permits.*

***3-5-420 Residential Developments***

The permanent stormwater quality control facilities for the construction of any single family and duplex subdivision shall be adequately sized for the public improvements of the subdivision and for the future construction of single family and duplex houses on the individual lots at a rate of 2,640 square feet of impervious surface per dwelling unit.

***Response:*** *The project engineer for the proposed development will design the storm water quality facility to meet all applicable requirements.*

***3-5-430 Placement of Water Quality Facilities***

No water quality facilities shall be constructed within the defined area of existing or created wetlands unless a mitigation action is approved by the City, and is constructed to replace the area used for water quality.

***Response:*** *The proposed development does not include any known wetlands.*

APPENDIX A

Recorded Deed for Property Line Adjustment

APPENDIX B

Service Provider Letters

APPENDIX C

Neighborhood Meeting Information

APPENDIX D

Arborist Report

APPENDIX E

Preliminary Drainage Calculations

APPENDIX F

Significant Natural Resource Area Reconnaissance

APPENDIX G

Proposed Site Plan

APPENDIX H

Tax Map