



City of Tualatin

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November 5, 2019

CITY ENGINEER’S REVIEW FINDINGS AND DECISION

Case #:	AR 18-0007
Project:	Tualatin Apartments
Location:	6645 SW Nyberg Lane; Tax lots: 2S1 24A 2600 and 2601
Applicant:	Ken Sandblast, Westlake Consultants: ksandblast@westlakeconsultants.com
Owner:	Nyberg Road Property LLC: tandem1@tandemprop.com

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I. CONDITIONS OF APPROVAL

Based on the findings and conclusions presented, the City Engineer approves AR18-0007 subject to the following conditions:

A. PRIOR TO ISSUANCE OF EROSION CONTROL, PUBLIC WORKS, AND WATER QUALITY PERMITS:

PFR-1 The applicant must submit final sanitary sewer system plans that:

- a) Are in accordance with TMC3-2, TDC 74.620, and the Public Works Construction Code.
- b) Show location of the sanitary sewer lines, grade, materials, and other details including:
 - (1) Cleanouts for private laterals at the edge of the public sanitary sewer line easement.
 - (2) Compliance with the contractor insurance and bond requirements of the City of Tualatin.
 - (3) Relocation of private stormwater catch basins outside the public sanitary sewer easement.
- c) Obtain staff approval prior to planting a species of tree different from proposed in this Architectural Review within the public sanitary sewer easement.

PFR-2 The applicant must submit final water system plans that:

- a) Are in accordance with code section TMC 3-3, TDC 74.610, and the Public Works Construction Code.
- b) Show location of the water lines, grade, materials, and other details including:
 - i) Gate valves at the main for separate domestic and fire service laterals.
 - ii) Domestic service lateral with meter and approved Reduced Pressure Backflow Device (RPBD).
 - iii) Separate backflow device for the irrigation system on the private-side service.
 - iv) DCVA Fire Vault for the fire service located adjacent to SW Nyberg Lane right-of-way within a public utility easement.

PFR-3 The applicant must submit final plans in accordance with code section TMC 3-5-050 and -060 plus TDC 74.640:

- a) For a City of Tualatin erosion control permit and a 1200C NPDES Erosion Control Permit.
- b) That shows minimized impact to adjacent properties allowing drainage prior to development and gravity drainage from development prior to issuance of construction permits.
- c) That minimize the impact of stormwater from the development to adjacent properties consistent with TMC 3-5-200 and TDC 74.640.

PFR-4 In accordance with TMC 3-5-200 to -430 the applicant must submit:

- a) Final stormwater plans and calculations that:
 - i) Demonstrate that phosphorous removal and design storm requirements are met.
 - ii) Are certified by an Oregon registered, professional engineer.
 - iii) Include stormwater treatment of runoff from all new and modified public and private impervious areas.
 - iv) Include detention, if needed, or upsize downstream public stormwater lines in SW Nyberg Lane to Nyberg Slough to meet Tualatin policy maximum conveyance of 82% capacity.
 - v) Demonstrate compliance with the submitted Service Provider Letter conditions to obtain a Stormwater Connection Permit Authorization Letter in accordance with TDC 74.650.
 - vi) Have been revised, moving private catch basins and storm sewer out of the public sanitary sewer easement.

- b) Financial assurance for construction of the private water quality facility
- c) If needed, a fee-in-lieu of construction of a public water quality facility for reconstruction within SW Nyberg Lane or SW Nyberg Road.
- d) A copy of a recorded private stormwater facility agreement that identifies the responsible party for the permanent compliance with an operation and maintenance plan.

PFR-5 In accordance with TDC 70 the applicant must submit a Flood Hazard Area Development Permit application that includes:

- a) Elevation Certificates for each structure on the lot indicating that residential structures are elevated at least one foot above the floodplain elevation of 126.6 feet (NAVD 88).
- b) Final plans that show balanced cut and fill within the floodplain.
- c) A FEMA Conditional Letter of Map Revision (CLOMR) or FEMA confirmation that no CLOMR is needed.

PFR-6 In accordance with TDC 72 the applicant must:

- a) In accordance with TDC 72.013 the subject property contains a portion in a natural resource site identified in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) are Significant Natural Resources as Unit S, Resource F9, Interstate 5 Hwy ROW and Unit T1-T7, Resource F43, TLID #2S124A002601. The northern portion of the project site has been identified on Map 72-1: Natural Resource Protection Overlay District (NRPO) and Greenway Locations as the location of the Tualatin River Greenway, a greenway protected in the NRPO, which development requirements are included in TDC 72.
- b) In accordance with TDC 72.060 the subject property must comply with the following development restrictions in greenways.
 - i) Except as provided in Subsection (2), no building, structure, placement of fill, vegetation removal, impervious surface, use, activity or other development shall occur within Riverbank Greenway.
 - ii) The following uses, activities and types of development are permitted within riverbank and greenways to minimize intrusion into riparian areas:
Public bicycle or pedestrian ways, subject to the provisions of TDC 72.070.
Public parks and recreational facilities including benches, interpretive stations, trash receptacles and directional signage, when part of a City-approved Greenway plan.
Wildlife protection and enhancement, including the removal of non-native vegetation and replacement with native plant species.
- c) The City may, through architectural review, or other development approval process, attach appropriate conditions to approval of a development permit. Such conditions may include, but are not limited to:
 - i) Use of Greenways and Natural Areas for storm drainage purposes;
 - ii) Location of approved landscaping, pedestrian and bike access areas, and other non-building uses and activities in Greenways.

PFR-7 In accordance with TDC 73.400 the applicant must:

- a) Submit final plans showing the access from private property to SW Nyberg Lane:
 - i) At least 32 feet wide with a maximum of 40 feet measured at right-of-way.
 - ii) Approximately 250 feet away from the intersection of SW Nyberg Lane with SW Nyberg Road and SW 65th Avenue.
- b) Show appropriate vision clearance triangles for a Collector.

- PFR-8** The applicant must submit a copy of an approved Washington County Facility Permit to construct half-street improvements for the SW Nyberg Road/SW Nyberg Lane intersection. The applicant must show that all other County requirements have been met in accordance with code section TDC 74.420 and Washington County's "CONDITIONS OF APPROVAL FOR CITY CASEFILE AR18-0007, dated October 9, 2019. The half-street improvements along SW Nyberg Road are required to accommodate the reconstruction of half-street improvements along the site's SW Nyberg Lane frontage and must include:
- a) Modification and/or upgrades to the existing ADA ramps (including opposing sides) at the intersection of SW Nyberg Road/SW Nyberg Lane
 - b) Modification and/or upgrades to the existing signal equipment
- PFR-9** The applicant must provide a copy of the recorded dedication of 11.5 feet of additional right-of-way along the site's SW Nyberg Lane frontage to total 38 feet from centerline in accordance with code section TDC 74.210.
- PFR-10** In accordance with TDC 74.320 the applicant must submit a copy of recorded slope easements for SW Nyberg Lane if necessary, temporary for construction and permanent for maintenance.
- PFR-11** The applicant must submit a copy of the recorded 8-foot wide public utility easement adjacent to the site's frontage along SW Nyberg Lane and SW Nyberg Road in accordance with TDC 74.330.
- PFR-12** In accordance with TDC 74.420, the applicant must submit final half-street improvement plans for SW Nyberg Lane and the intersection of SW Nyberg Lane/SW Nyberg Road. The half-street plans must indicate widening to required cross-section, curb and gutter, planter strip, ADA compliant sidewalk, street trees, and approved street lighting.
- PFR-13** In accordance with TDC 74.470 the applicant must submit final plans that show street lights on SW Nyberg Lane and SW Nyberg Road meeting Public Works Construction Code standards. If needed to meet the standards, new street light fixtures must be added, meeting PGE Option A and 3000K LED standards.
- PFR-14** Final plans must include the addition of street trees, type approved by the City, to meet the spacing standard in accordance with TDC 74.485 and 74.765.
- PFR-15** The applicant must submit PDFs of final site and permit plans.

B. PRIOR TO ISSUANCE OF A BUILDING PERMIT:

- PFR-16** The applicant must obtain Erosion Control, Flood Hazard Area Development, Public Works, and Water Quality Permits from the City of Tualatin and Facility Permit from Washington County.
- PFR-17** The applicant must financially secure all public improvements and private water quality facilities in accordance with PWCC 102.14.00.
- PFR-18** In accordance with TDC 72 the applicant must:
- a) The applicant must construct the Tualatin River Creek Greenway Trail and related improvements from the existing trail connection to the west and east of the subject property as shown on Clean Water Services, Service Provider Letter No. 18-003752 with issue date of August 19, 2019. Final design and construction standards for the pathway and

- related facilities must be approved by the Parks and Recreation Director. Applicant must enter into an Improvement Agreement to construct the Tualatin River Greenway Tail and associated improvements. The Applicant may also work with the City regarding the availability and City approval of credits for System Development Charges.
- b) Subject property must minimize intrusion into the riparian area, the proposed pathway will be constructed as detailed in Section 72.070.
 - c) Construction of the bike and pedestrian path in the greenway, the developer of the path must adhere to the following guidelines, wherever practicable:
 - i) Incorporate trails into the surrounding topography.
 - ii) Provide viewing opportunities for special vistas, wetlands, and unique natural features.
 - iii) Protect existing vegetation to the greatest extent possible. In wooded areas meander paths through the woods to avoid significant trees. An arborist should be consulted to determine methods for minimizing impact of construction of paths near trees greater than 5 inch caliper as measured 4 feet above-grade.
 - iv) Replant trees in the vicinity where they were removed. Use native species as outlined in the approved plant list incorporated in the Parks and Recreation Master Plan.
 - v) Minimize impact on wetland environments. Build paths above wetlands wherever possible. Use boardwalks, bridges or other elevated structures when passing through a wetland. Direct trails away from sensitive habitat areas such as nesting or breeding grounds.
 - vi) Provide interpretive opportunities along the trail. Use interpretive signage and displays to describe plant and animal species, nesting areas, wildlife food sources, and geologic, cultural and historic features.
 - vii) Provide amenities along the trail. Place benches, trash receptacles and signage where appropriate.
 - viii) Mitigate surface water drainage near streams. Where hard surface trails occur adjacent to creeks, provide, when appropriate, an open water system through swales, trench percolation, or on-site detention ponds to prevent erosion and negative impacts.
 - ix) Incorporate signage. Place properly scaled and sited regulatory and guide signs to instruct users on accessibility, local conditions, safety concerns and mileage information.
 - d) Applicant is to submit final trail design and plans showing the pathway in compliance with the City trail construction standards to be approved by the Parks and Recreation Director.
 - i) At least 12' concrete trail and 14' board walk.
 - ii) At least 2 foot shy on each side of the trail.
 - iii) Connecting to the existing trail segments to the east and west of the subject property.
 - iv) Compliance with CWS water quality and vegetated corridor requirements.
 - v) Construction material that complies with the City standards approved by the Parks and Recreation Director.
 - vi) Enter into a public facilities improvement agreement for the scope, budget and schedule for the shared use path.
 - vii) Meet and comply with construction standards established by the City.
 - viii) The path alignment location is in accordance with, and identified in the approved Clean Water Services, Service Provider Letter No. 18-003752, issued August 19, 2019.
 - e) The applicant will create a trail and related easement with the location and alignment as shown in the Clean Water Services, Service Provider Letter No. 18-003752 with issue date of August 19, 2019. There will be no financial compensation for the land easement. The easement must be approved by the Parks and Recreation Director.
 - i) Applicant is to execute and record Greenway easement(s) covering the connecting pathway, to include over the storm outfall.

PFR-19 In accordance with TDC 74 the applicant must:

- a) Pathway easement(s) for bike and pedestrian facilities during the development application process must be surveyed, staked and marked with a City approved boundary marker prior to acceptance by the City.
- b) Bike, and pedestrian path easement(s) must be submitted to the City Engineer; building permits must not be issued for the development prior to acceptance of the easement by the City.
- c) The applicant must grant a minimum of 16 foot wide easement to accommodate a 12 to 14 foot shared use pathway as identified in the approved Clean Water Services, Service Provider Letter No. 18-003752 issued August 19, 2019
 - i) The applicant must survey the greenway path easement. The Parks and Recreation Director must approve the location of easement(s) prior to its acceptance.
 - ii) Any existing structures, facilities or features within the greenway and trail area must be shown on final plans to be removed prior to acceptance, and the site must be restored pursuant to mitigation and enhancement plantings required in the Clean Water Services service provider letter.
 - iii) Trees within the greenway must be preserved to comply with development restrictions of natural resources, except any specific modifications approved by the City. Trees that potentially prevent a hazard to users of the trail must be assessed and appropriate actions taken to reduce hazards as recommended by an ISA-certified arborist, and approved by the Parks and Recreation Director.
 - iv) The applicant must show on final plans a permanent outdoor recreation access route north of Buildings E that connects to the Tualatin River Greenway Trail.
 - v) The applicant must grant a maintenance access easement on all drive aisles and parking lots within the development.
 - vi) The developer must not install fences or gates that would prohibit access to the path or greenway, though safety fencing may be installed as required by TDC or with approval of the Parks and Recreation Director.
 - vii) The applicant must show on final plan sheets the trail, required mitigation, enhancement, and related improvements or facilities. Final design and construction standards for the pathway and related improvements or facilities must be approved by the Parks and Recreation Director.
 - viii) Trees and shrubs must be shown on final plans to be planted between the Greenway Path and the properties adjoining the Subject Property to create and maintain visual privacy. The need for screening and plant selection must be approved by the Parks and Recreation Director.
 - ix) CWS required mitigation and enhancement plantings must be shown on final plans to be selected and placed in a manner that, when plantings are mature, retains open views of the Tualatin River in several areas along the trail.

C. PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY:

PFR-20 The applicant must complete all the private and public improvements as shown on the approved permit plans. All improvements must be accepted by the City in accordance with TDC 74.420 and SW Nyberg Road improvements by Washington County.

PFR-21 The applicant must submit final elevation certificates for all structures.

PFR-22 If a Conditional Letter of Map Revision was needed, the applicant must submit a Letter of Map Revision from FEMA.

PFR-23 The applicant must submit paper and electronic as-builts of the Engineering permit plans.

PFR-24 In accordance with TDC 72 the applicant must:

- a) The applicant must construct a permanent outdoor recreation access route north of Building E to the trail. No public access easement is required in that location.
- b) The applicant must construct the shared use pathway, required mitigation, enhancement, and related improvements or facilities. Final design and construction standards for the pathway and related facilities must be approved by the Parks and Recreation Director.
- c) All existing structures, facilities and amenities within the greenway must be removed prior to acceptance, and the site must be restored pursuant to mitigation and enhancement plantings required in Clean Water Services, Service Provider Letter No. 18-003752 issued August 19, 2019.
- d) Trees and shrubs must be planted between the Greenway Path and the properties adjoining the Subject Property to create and maintain visual privacy. The need for screening, locations and plant selection must be approved by the Parks and Recreation Director.
- e) Required mitigation and enhancement plantings must be selected and placed in a manner that, when plantings are mature, retains open views of the Tualatin River in several areas along the path.
- f) An arborists report showing tree condition must be completed, and hazard trees are to be removed as determined and approved by the Parks and Recreation Director.

II. APPEAL

A request for appeal of this decision must be received by the City of Tualatin within the 14-day appeal period ending on **November 19, 2019 at 5 PM**. Issues must have been described with adequate clarity and detail with identification of the associated Tualatin Municipal or Development Code section to afford a decision maker an opportunity to respond to the issue. A request for appeal must be submitted on the forms provided by the City, signed by the appellant and include the applicable appeal fee.

III. APPLICABLE CRITERIA

Tualatin Municipal Code (TMC)
Title 03: Utilities and Water Quality

Tualatin Development Code (TDC)
Chapter 70: Floodplain District
Chapter 72: Natural Resource Protection Overlay District
Chapter 74: Public Improvement Requirements
Chapter 75: Access Management

IV. FINDINGS

A. TMC TITLE 03: UTILITIES AND WATER QUALITY

FINDINGS:

The applicant's plans show connection to the public utilities, in compliance with TMC Title 03.

B. TDC CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS

I. TDC 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.

FINDINGS:

The submitted plans show an existing 8-inch public sanitary sewer line extending adjacent to the east property line of the development from SW Nyberg Lane north through the site then crossing the lot to the west near the north end of the lot. Private sanitary sewer laterals connect from each proposed building to the public line. This concept is acceptable.

Typically trees are not allowed within public easements as the roots can damage pipes, however the proposed on site vegetation has been evaluated by the Parks Maintenance Manager and Street/Sewer/Storm Division Manager to be a species that can be allowed as shown offset 5 feet or more from the public line within public easements. The applicant must obtain staff approval prior to planting a species of tree different from proposed in this Architectural Review within the public sanitary sewer easement.

All sewer line construction and installation must be completed in conformance with the City of Tualatin Public Works Construction Code. The applicant has not applied for a public works permit for these improvements. The applicant must submit final sanitary sewer plans prior to issuance of construction permits.

There are no undeveloped properties adjacent to the site; the developed properties have access to public sanitary sewer lines.

C. TMC CHAPTER 03-03: WATER SERVICE

II. TMC 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.

III. TMC 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.

IV. TMC 3-3-120 BACKFLOW PREVENTION DEVICES AND CROSS CONNECTIONS.

(1) Except where this ordinance provides more stringent requirements, the definitions, standards, requirements and regulations set forth in the Oregon Administrative Rules pertaining to public water supply systems and specifically OAR 333 Division 61 in effect on the date this ordinance becomes effective are hereby adopted and incorporated by reference.

(2) The owner of property to which City water is furnished for human consumption shall install in accordance with City standards an appropriate backflow prevention device on the premises where any of the following circumstances exist:

(a) Those circumstances identified in regulations adopted under subsection (1) of this section;

(b) Where there is a fire protection service, an irrigation service or a nonresidential service connection which is two inches (2") or larger in size;

- (c) Where the potable water supply provided inside a structure is 32 feet or more, higher than the elevation of the water main at the point of service connection;
- (4) Except as otherwise provided in this subsection, all irrigation systems shall be installed with a double check valve assembly. Irrigation system backflow prevention device assemblies installed before the effective date of this ordinance, which were approved at the time they were installed but are not on the current list of approved device assemblies maintained by the Oregon State Health Division, shall be permitted to remain in service provided they are properly maintained, are commensurate with the degree of hazard, are tested at least annually, and perform satisfactorily. When devices of this type are moved, or require more than minimum maintenance, they shall be replaced by device assemblies which are on the Health Division list of approved device assemblies.

V. TMC 3-3-130 CONTROL VALVES.

The customer shall install a suitable valve, as close to the meter location as practical, the operation of which will control the entire water supply from the service. The operation by the customer of the curb stop in the meter box is prohibited.

FINDING:

The plans indicate connections to an existing 8-inch public water line on the north side of SW Nyberg Lane. Separate laterals are required for domestic and fire services, with gate valves near the main, a reduced pressure backflow prevention for domestic, and a DCVA fire vault within the public utility easement. The plans show a water meter, a DCVA fire vault, and valves near the main, but the specific routing within right-of-way is not indicated. The private laterals are proposed to serve a domestic and a fire line serving the entire site.

A public works construction permit for water system must be obtained prior to obtaining a Building Permit. The applicant has not applied for a public works permit for these improvements. The applicant must submit water system plans that show location of the water lines, grade, materials, and other details prior to obtaining a public works permit. Final plans must include separate gate valves at the main for each lateral, backflow protection for irrigation, reduced pressure backflow prevention for domestic, and a DCVA for the fire lateral within the public utility easement prior to obtaining a Public Works Permit.

A. TDC CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS

VI. TDC 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.
- (3) As set forth in TDC Chapter 12, 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.

FINDINGS:

The plans indicate a connection to an existing 8-inch public water line on the north side of SW Nyberg Lane. However, separate laterals are required for domestic and fire services.

A public works construction permit for water system plans must be obtained prior to obtaining a Building Permit. The applicant must submit water system plans that show location of the water lines, grade, materials, and other details prior to obtaining a public works permit.

No additional public water line extension is shown. Adjacent properties are developed and have access to public water lines. This criteria is satisfied.

The existing 8-inch main in SW Nyberg Lane is a service level A main, which this site correctly utilizes. This criteria is met.

B. TMC 3-5 ADDITIONAL SURFACE WATER MANAGEMENT STANDARDS

VII. TMC 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:**
 - (A) The development does not require a development permit or approval from the City;**
 - (B) No development activity or disturbance of land surface occurs within 100 feet of a sensitive area defined in TMC 3-5.270;**
 - (C) The slope of the site is less than 20 percent;**
 - (D) The work on the site involves the disturbance of less than 500 square feet of land surface; and**
 - (E) 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.**

VIII. TMC 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.

(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.

IX. TDC SECTION 74.640 GRADING.

(1) Development sites must 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 must 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.

FINDINGS:

The applicant has submitted a preliminary erosion control plan. No land disturbing activities will commence until the erosion control permit is issued.

All runoff from impervious surface areas will be collected by the private on-site storm conveyance system. The storm sewer system has been designed to provide treatment and discharges to the Tualatin River or the Nyberg public storm sewer system.

The applicant must obtain a 1200C Construction Erosion Control permit from Oregon DEQ and obtain an erosion control permit from the City of Tualatin prior to issuance of permits allowing construction activities.

X. TMC 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:

- (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.**

XI. TMC 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.**

XII. TMC 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 Subbasin 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 subbasin east of SW Tualatin Road are excepted from the on-site detention facility requirement.**

XIII. TMC 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 subbasin in the event of flooding, or would increase the likelihood or severity of flooding problems downstream of the site.**

XIV. TMC 3-5-240 ON-SITE DETENTION DESIGN METHOD.

- (1) The procedure for determining the detention quantities is set forth in Section 4.4 Retention/Retention 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.**
- (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.**

D. TMC 3-5 PERMANENT ON-SITE WATER QUALITY FACILITIES

XV. TMC 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.

XVI. TMC 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.

XVII. TMC 3-5-350 PHOSPHOROUS 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.

XVIII. TMC 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.

XIX. TMC 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.

XX. TMC 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.

XXI. TDC SECTION 74.630 STORM DRAINAGE SYSTEM.

- (1) Storm drainage lines must be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations must be submitted to the City Engineer for review and approval prior to construction.
- (2) The storm drainage calculations must confirm that adequate capacity exists to serve the site. The discharge from the development must 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 must extend storm drainage lines to the common boundary line with these properties. The lines must 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.

XXII. TDC SECTION 74.650 WATER QUALITY, STORM WATER DETENTION AND EROSION CONTROL.

The applicant must comply with the water quality, storm water detention and erosion control requirements in the Surface Water Management Ordinance. If required:

(2) On all other development applications, prior to issuance of any building permit, the applicant must 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.

(3) For on-site private and regional non-residential public facilities, the applicant must 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 must submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site must occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

FINDINGS:

The applicant's plans show the site's drainage divided between the northern and southern half of the property. The northern half shall drain to the Tualatin River and the southern half shall drain to an existing 12-inch public stormwater line in the adjacent right-of-way of SW Nyberg Lane to the Nyberg Slough. Both drainage systems utilize underground Stormfilter Vaults as an approved proprietary filtration system per clean Water Services "2007 Design and Construction Standards for Sanitary and Surface Water Management." The vaults meet phosphorus and sediment removal standards for the design storm.

Detention is not required for runoff discharged to the Tualatin River or Nyberg Slough. The downstream analysis provides calculations for the adequacy of the existing storm sewer system in SW Nyberg Lane to convey flow to the wetlands located south of SW Nyberg Lane. These calculations show that no detention is needed.

The proposed vaults are located outside of wetlands and buffers. The proposed stormwater concepts are acceptable.

The applicant must obtain a Water Quality Permit prior to issuance of construction permits. As demonstrated in the responses to and in compliance with the TDC, the application materials include Preliminary Plans prepared by an Oregon registered, professional engineer, which demonstrates the proposed stormwater facility is designed in accordance with the provisions above and in compliance with the TDC and TMC. The final water quality facility plans and calculations must be certified by an Oregon registered, professional engineer.

Financial assurance and recording of a maintenance agreement is required prior to Water Quality Permit issuance. Financial assurance must be submitted and a private stormwater facility agreement identifying the responsible party for the long-term compliance with the operation and maintenance plan must be recorded prior to permit issuance.

Adjacent lots are developed and have access to public stormwater infrastructure. No extension of public stormwater lines are proposed or needed.

The applicant has submitted a Service Provider Letter from Clean Water Services indicating that Sensitive Areas exist on the site. A CWS Memorandum was received dated May 1, 2019 for development

on this site. After land use decision issuance, final plans are provided by the City to Clean Water Services for final review. Upon approval by Clean Water Services they will provide the City authorization to issue construction permits. The applicant must submit final plans that are sufficient to obtain a Stormwater Connection Permit Authorization Letter that complies with the submitted Service Provider Letter conditions.

E. TMC 3-5 ADDITIONAL SURFACE WATER MANAGEMENT STANDARDS

XXIII. TMC 3-5-250 - FLOODPLAIN DESIGN STANDARDS.

- (1)Balanced Cut and Fill Standard.** All fill placed in a floodplain shall be balanced with an equal amount of removal of soil material. No net fill in any floodplain is allowed with two exceptions:(a)When an engineering study has been conducted and approved by the City showing that the increase in water surface elevation resulting from the fill will not cause or contribute to significant damage from flooding to existing buildings or dwellings on properties upstream and downstream;(b)When an area has received special protection from floodplain improvement projects which either lower the floodplain, or otherwise protect affected properties, are approved by the City, where the exceptions comply with adopted master plans, if any, and where all required permits and approvals have been obtained in compliance with other local, state, and federal laws regarding fill in floodplains, including FEMA rules.
- (2)Excavation Restricted.** Large areas may not be excavated in order to gain a small amount of fill in a floodplain. Excavation areas shall not exceed the fill areas by more than 50 percent of the square footage, unless approved by the City.
- (3)Excavation and Fill Volume Calculation.** Any excavation dug below the winter "low water" elevation shall not count towards compensating for fill, since these areas would be full of water in the winter, and not available to hold storm water following a rain. Winter "low water" elevation is defined as the water surface elevation during the winter when it has not rained for at least three days, and the flows resulting from storms have receded. This elevation may be determined from records, studies or field observation. Any fill placed above the 100 year floodplain will not count towards the fill volume.
- (4)Excavation Grade Design Standard.** The excavated area must be designed to drain if it is an area identified to be dry in the summer; for example, if it is to be used for a park, or if it is to be mowed in the summer. Excavated areas identified as to remain wet in the summer, such as a constructed wetland, shall be designed not to drain. For areas that are to drain, the lowest elevation should be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the drainage way. One percent slopes will be allowed in small areas.
- (5)Excavation Location.** Excavation to balance a fill does not need to be on the same property as the fill, but shall be in the same drainage basin, within points of constriction on the conveyance system, if any, as near as practical to the fill site, and shall be constructed as a part of the same development project which placed the fill.

XXIV. TMC 3-5-260 - FLOODWAY DESIGN STANDARDS.

- (1)Obstruction Prohibited.** Nothing may be constructed or placed in a floodway that will impede or constrict the flow of storm water. This includes, but is not limited to earth works, street and bike path crossings, and trees. If an object is placed in the floodway, the floodway must be widened or modified to accommodate the storm flows with no measurable increase in water surface elevation upstream or downstream, or unless the property owners of property where the water surface increase occurs grant written permission by agreement or easement. The floodway may not be

modified such that water velocities are increased such that stream bank erosion will be increased, unless the stream banks are protected to prevent an increase in erosion.

(2)Floodway Modifications. Any proposed work within or modification to a floodway must be certified by an Oregon Registered Professional Engineer as meeting the requirements of TMC 3-5.250(1).

(3)Floodway Identification. For streams, creeks, rivers and other watercourses where the City has not identified the floodway, the entire floodplain shall be treated as a floodway, or a study prepared by an Oregon Registered Professional Engineer and approved by the City may be used to define the floodway limits for a stream section.

No net fill is proposed on the site. A total of 72.4 CU yards over 3,145 SF of cut will be taken from the northeast corner of the site to fill-in 66.8 CU yards over 6,921 SF of floodplain on the Southeast portion of the site. No excavation below the Ordinary High Water Line will occur. The area being cut on the Northern portion of the site is planned as open space with exception of the planned City improvements for the Tualatin River Greenway Path. No obstruction is proposed within the floodway. This is acceptable.

The applicant must obtain a Flood Hazard Area Development Permit that includes final plans that meet balanced cut and fill standards for excavation and grading within the floodplain.

F. TDC 70: FLOOD PLAIN DISTRICT (FP) - NEW FLOODPLAIN CODE EFFECTIVE OCTOBER 19, 2018

XXV. TDC SECTION 70.110 - DEVELOPMENT PERMIT REQUIRED.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established by TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard). The permit shall be for all structures, including manufactured homes, as set forth in TDC 70.030 (Definitions), and for all other development, including fill and other activities, also as set forth in TDC 70.030 (Definitions).

XXVI. TDC SECTION 70.120 - APPLICATION FOR DEVELOPMENT PERMIT.

Application for a development permit shall be made on forms furnished by the Local Floodplain Administrator and may include, but not be limited to, plans in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;**
- (2) Elevation in relation to mean sea level of floodproofing of any structure;**
- (3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in TDC 70.180 (Specific Standards for Nonresidential Structures); and**
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.**

XXVII. TDC SECTION 70.170 - GENERAL STANDARDS.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All manufactured dwellings shall be anchored according to TDC 70. 180(3)(Specific Standards for Manufactured Dwellings).

(2) Construction Materials and Methods.

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (c) On-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

(4) Subdivision Proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed so as to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (d) here base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

(5) AH and AO Zone Drainage. Adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

XXVIII. TDC SECTION 70.180 - SPECIFIC STANDARDS.

In all areas of special flood hazards where base flood elevation data has been provided (Zones A1-30, AH, and AE) as set forth in TDC 70.050 (Basis for Establishing the Areas of Special Flood Hazard) or TDC 70.140(2) (Use of Other Base Flood Data (In A and V Zones)), the following provisions are required:

(1) Residential Construction.

- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood elevation.
- (b) New public streets providing vehicle access to residences, including residences within mixed use developments, shall be constructed at or above the base flood elevation. Public street rights-of-way in existence as of January 14, 1993, shall not be subject to this requirement.
- (c) Below grade crawl-space construction in the floodplain shall comply with all NFIP specifications and applicable Building Code Requirements.

(d) Elevated structures that are not floodproofed, but that have fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (ii) The bottom of all openings shall be no higher than one foot above grade.
- (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(2) Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to a minimum according to ASCE 24; or, together with attendant utility and sanitary facilities, shall:

- (a) Be floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;
- (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in TDC 70.140(3)(b) (Duties and Responsibilities of the Local Floodplain Administrator);
- (d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in TDC 70. 180(1)(d)(Specific Standards for Residential Construction).
- (e) Applicants shall supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

XXIX. TDC SECTION 70.200 ALTERATIONS TO FLOODPLAIN, DRAINAGE, OR WATERCOURSES.

- (1) Applicants proposing to increase the Base Flood Elevation by more than one foot or alter a watercourse must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before any encroachment, including fill, new constructions, substantial improvement, or other development, in the regulatory floodway is permitted.
- (2) Within six months of project completion, an applicant for a Letter of Map Revision (LOMR) must submit a completed application to FEMA and submit evidence to the City that a Letter of Map Revision (LOMR) has been requested that reflects the as-built changes to the Flood Insurance Study (FIS) and/or Flood Insurance Rate Map (FIRM).
- (3) The applicant must prepare and submit technical data to support the Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) application and pay any processing or application fees to FEMA.

FINDINGS:

As depicted on the submitted plan set, there are two areas of the subject site with existing topography below the 100-yr floodplain elevations: (i) along the bank of the Tualatin River in the north area of the property and (ii) a small area in the southeast corner of the property. This application proposes to fill the southeast corner and balance that with equivalent floodplain capacity along the bank in the north area. This application does not propose any increase to the Base Flood Elevation nor any fill or improvements with the floodway.

Building A on the site plan is the only habitable structure which has any floor area in the proximity of the Floodplain. The lowest floor in Building A is the Basement Level, the planned finish floor elevation for this level is 124 feet (NGVD 29). Per current FEMA FIRMs the base flood elevation for the Tualatin River is 125.9 feet and the Nyberg Slough is 126.6 feet, both NAVD 88. Adding 3.52 feet to converting the proposed lowest floor of 124 feet (NGVD 29) to 127.52 feet (NGVD 88) indicates the finished floor is only 0.92 feet above the floodplain, which is less than the minimum 1 foot. The applicant must submit final construction plans that have residential structures elevated 1 foot or more above the floodplain. The applicant must submit a Flood Hazard Area Development Permit application with elevation certificates for all proposed structures on the site prior to construction permits. The application must submit final elevation certificates after construction, prior to occupancy permits.

The applicant must submit a Conditional Letter of Map Revision (CLOMR) or FEMA confirmation that no CLOMR is needed prior to any permit issuance. Within six months of project completion, a copy of an application to FEMA for Letter of Map Revision (LOMR) must be submitted. The applicant will ensure all technical data and fees requested by the agency are submitted to FEMA. A copy of FEMA approval of the LOMR must be submitted prior to final occupancy approval by the City.

G. TDC CHAPTER 72: NATURAL RESOURCE PROTECTION OVERLAY DISTRICT (NRPO)

XXX. TDC SECTION 72.030 GREENWAYS.

(2) Riverbank Greenway (NRPO-GR).

(a) Except as provided in Subsection (b), the NRPO District along the south bank of the Tualatin River, beginning at the City's western Urban Growth Boundary (UGB) and extending to the City's eastern UGB, and along the north bank of the Tualatin River from the northwest corner of Tax Lot 1007 to the southeast corner of Tax Lot 1006, Washington County Tax Map 2S1 24B, shall have a width as measured from a line 40 feet inland from the top of the bank extending to the middle of the river. The top of the bank shall be where the landform called "the bank" changes from a generally up-slope feature to a generally flat feature.

XXXI. TDC SECTION 72.040 NATURAL AREAS.

(1) Natural Areas are the wetlands and upland open space areas on Map 72-1. They provide flood control, water quality, erosion control, fish and wildlife habitat, and valuable scenic qualities. Natural Areas may include restored and enhanced wetlands, park sites and other areas accessible by the public for passive recreation.

(2) Wetland Natural Areas.

(a) Wetland Preservation Natural Areas (NRPO-WPNA) are shown on Map 72-1. They include all land within a delineated wetland boundary.

- (b) Wetland Conservation Natural Areas (NRPO-WCNA) are shown on Map 72-1. Except as provided in Subsection (c), they include all land within a delineated wetland boundary.**
- (c) For uses not permitted in TDC 72.060(3), excavation, fill or removal in a NRPO-WCNA is allowed subject to the Oregon Division of State Lands (DSL) requirements and the following standards:**
 - (i) The wetland acreage affected by the excavation, fill or removal shall not exceed 30% of the subject property's delineated wetland acreage. The wetland acreage affected shall include excavation, fill or removal activities conducted since March 1, 1996.**
 - (ii) The excavation, fill or removal shall not reduce or block water features such as springs, drainage courses and streams.**
 - (iii) The wetland's functions and values listed in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995) shall be retained or improved through mitigation and/or enhancement. The wetland's functions and values may be assessed using the Oregon Freshwater Wetland Assessment Methodology (DSL, 1996, as amended).**
 - (iv) Mitigation shall be conducted either on the subject property or within the same stream watershed as the subject wetland unless the applicant demonstrates the impracticality of doing so.**

XXXII. TDC SECTION 72.060 DEVELOPMENT RESTRICTIONS IN GREENWAYS AND NATURAL AREAS.

- (1) Except as provided in Subsection (2), no building, structure, grading, excavation, placement of fill, vegetation removal, impervious surface, use, activity or other development shall occur within Riverbank, Creek and Other Greenways, and Wetland and Open Space Natural Areas.**
- (3) The City may, through the subdivision, conditional use, architectural review, or other development approval process, attach appropriate conditions to approval of a development permit. Such conditions may include, but are not limited to:**
 - (a) Use of Greenways and Natural Areas for storm drainage purposes;**
 - (b) Location of approved landscaping, pedestrian and bike access areas, and other non-building uses and activities in Greenways and Natural Areas;**
 - (c) Setback of proposed buildings, parking lots, and loading areas away from the Greenway and Natural Area boundary.**

XXXIII. TDC SECTION 72.110 EASEMENTS FOR PEDESTRIAN AND BICYCLE ACCESS.

In any portion of the NRPO District, the City may, through the subdivision, partition, conditional use, architectural review, or other applicable development approval process, require that easements for pedestrian and bicycle access and maintenance uses be granted as a condition of approval when said easements are necessary to achieve the purposes of the Parks and Recreation Master Plan, Greenways Development Plan, or Bikeways Plan.

FINDINGS:

A portion of the project site, tax lot, 2S124A002601 has been identified as a natural resource site in the City of Tualatin Natural Resource Inventory and Local Wetlands Inventory (December, 1995 Wetland and Natural Areas Inventory Environmental and Social Value Assessment). This site contains the Tualatin River Greenway a natural resource that has been determined to be significant: Unit S, Resource F9, Interstate 5 Hwy ROW; Unit T1-T7, Resource F43, TLID #2S124A002601.

The northern portion of the project site has been identified on Map 72-1: Natural Resource Protection Overlay District (NRPO) and Greenway Locations as the location of the Tualatin River Greenway, a greenway protected in the NRPO.

The Applicant is not proposing any buildings, structures, grading, excavation, placement of fill, vegetation removal, impervious surface, use, activity or other development within the Greenway, except as permitted in Clean Water Services, Service Provider Letter #18-003752 issued August 19, 2019. In order to minimize intrusion into the riparian area, the proposed pathway will be constructed as detailed in Section 72.070.

The City's Parks and Transportation System plans indicate that the Tualatin River Greenway Trail will be constructed adjacent to the Tualatin River, along the Northern boundary of the property. The applicant will create an easement which would provide the location and alignment as shown in the Clean Water Services, Service Provider Letter No. 18-003752 issued August 19, 2019 for the extension of the trail, and must enter into an Improvement Agreement for design and construction of the public trail facility.

The Applicant may seek Parks SDC credits to construct a portion of the proposed Tualatin River Greenway trail multi use trail as approved by the Parks and Recreation Director.

To achieve the purposes of the Parks and Recreation Master Plan, Greenways Development Plan and Pedestrian and Bikeways Plan, the applicant must execute and record Greenway easement(s) covering the connecting pathway and shy from the existing east and west trail connections, to include over the storm outfall.

The area proposed for easement(s) purposes must be surveyed, and must be staked and marked with a City approved boundary marker.

H. TDC CHAPTER 73: COMMUNITY DESIGN STANDARDS

XXXIV. TDC 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.

(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.

(10) Minimum access requirements for residential uses: (b) Ingress and egress for multi-family residential uses shall not be less than the following: For 50-499 dwelling units 1 access 32 feet wide or 2 access 24 feet wide.

(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.

(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), 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 through 31.077.

(16) Vision Clearance Area.

(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 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 for illustration).

FINDINGS:

The plans show a 32-foot wide paved drive aisle with 6-foot walkway on one side and curbs on both sides. The proposed drive entrance is at the same location as the existing access drive entrance, approximately 250 feet from the stop bars at the existing SW Nyberg Lane intersection to the beginning of the driveway measured at right-of-way. The width and setback from the intersection satisfy criteria.

The proposed landscaping includes vegetation and trees up to the existing right-of-way including within the proposed 11.5 feet of dedication on SW Nyberg Lane, which is classified as a Minor Collector. All proposed landscaping must be designed and installed with sufficient vision clearance. The applicant must submit final plans that include the proposed entrance with adequate vision clearance for a Collector.

I. TDC CHAPTER 74: PUBLIC IMPROVEMENT REQUIREMENTS

XXXV. TDC 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.

FINDINGS:

This decision includes requirements for half-street improvements of SW Nyberg Lane plus associated intersection with SW Nyberg Road. The SW Nyberg Lane improvements must be constructed in accordance with the Public Works Construction Code and SW Nyberg Road in accordance with Washington County code. The applicant must obtain a public works permit prior to commencing work on SW Nyberg Lane and a Washington County Facility permit for SW Nyberg Road. The applicant must complete construction of SW Nyberg Lane to Public Works Construction Code standards prior to acceptance by the City and Washington County for SW Nyberg Road.

XXXVI. TDC SECTION 74.140 CONSTRUCTION TIMING.

(1) All the public improvements required under this chapter must 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 must 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.

FINDINGS:

All public and private improvements proposed and modified by conditions of approval, including, but not limited to the stormwater systems and facilities, must be completed prior to receiving a Certificate of Occupancy.

XXXVII. TDC 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.

(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 of the Tualatin Community Plan must 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 must be for the full width of the property abutting the roadway and, if required by the City

Engineer, additional dedications must be provided for slope and utility easements if deemed necessary.

FINDINGS:

The proposed site is adjacent to SW Nyberg Lane and SW Nyberg Road, which are classified in the City of Tualatin's Transportation system plan as a Minor Collector and Major Arterial, respectively.

SW Nyberg Road is under Washington County jurisdiction. Adequate varied right-of-way width for a Major Arterial exists for this street.

SW Nyberg Lane is a Minor Collector and as TDC Figures 74-2A-G shows, the preferred cross-section is 76' wide for a full street and 38' wide for a half-street. Current right-of-way width for the section of SW Nyberg Lane varies from approximately 25-32 feet.

This application proposes 11.5 feet of right-of-way dedication along the subject property's southern boundary, for a total of 38 feet. The applicant must dedicate 11.5 feet of right-of-way dedication adjacent to SW Nyberg Lane.

XXXVIII. TDC 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.**

FINDINGS:

The site includes an easement which must be created to contain a public pathway along the Tualatin River Greenway. The Applicant must work with the City to provide an easement to contain the proposed trail and shy. The Applicant has agreed to design and build the proposed pathway, subject to the availability of credits for System Development Charges. The applicant must construct the Tualatin River Greenway Trail from the existing trail connections to the east and west as shown in the Clean Water Services, Service Provider Letter #18-003752 issued August 19, 2019, and related amenities. Final design and construction standards for the pathway and related amenities must be approved by Parks and Recreation Director.

XXXIX. TDC SECTION 74.320 SLOPE EASEMENTS.

- (1) The applicant must 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.**

(3) For all other development applications, a slope easement dedication must be submitted to the City Engineer; building permits must not be issued for the development prior to acceptance of the easement by the City.

FINDINGS:

Preliminary plans do not indicate a half-street improvement and therefore do not clarify if slope easements will be needed. Final plans may include temporary construction and/or permanent maintenance slope easements. The applicant must provide a copy of recorded slope easements for SW Nyberg Lane if necessary, temporary for construction and permanent for maintenance.

XL. TDC 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 must be granted to the City.

(4) For development applications other than subdivisions and partitions, and for both on-site and off-site easement areas, a utility easement must be granted to the City; building permits must 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 must determine when condemnation proceedings are to be used.

(5) The width of the public utility easement must meet the requirements of the Public Works Construction Code. All subdivisions and partitions must 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.

FINDINGS:

The City Engineer has determined that no sides or rear easements are needed due to adjacent lots access from right-of-way, however the easements adjacent to SW Nyberg Lane and SW Nyberg Road must be 8 feet wide.

The applicant must submit a copy of the recorded 8 foot wide PUE (public utility easement) adjacent to their frontage along SW Nyberg Lane and SW Nyberg Road prior to issuance of building permits.

XLI. TDC 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, 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), TDC 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 must 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 must 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 Manager 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 must 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, the improvements must be required in the same manner as the half-street improvement requirements.**
- (6) All required street improvements must include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.**
- (8) For development applications other than subdivisions and partitions, all street improvements required by this section must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.**
- (10) Streets within, or partially within, a proposed development site must 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 proposed development site must be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and TDC Chapter 11, Transportation Plan, and TDC 74.425 (Street Design Standards).**
- (12) Sidewalks with appropriate buffering must 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 must 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.**
- (15) Except as provided in TDC 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, 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 must 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.**
- (17) Intersections should be improved to operate at a level of service of at least D and E for signalized and unsignalized intersections, respectively.**

XLII. TDC SECTION 74.425 STREET DESIGN STANDARDS.

- (4) All streets must 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 must 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; and**
- (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); and**
- (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.**
- (ii) 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.**

XLIII. TDC 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

(2) The required traffic study must be completed prior to the approval of the development application.

(3) The traffic study must 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 must be conducted by a registered engineer.

FINDINGS:

The applicant must obtain a Washington County Facility Permit for any work within SW Nyberg Road right-of-way. This work must include the replacement of ADA ramps and the receiving ramps across SW Nyberg Road and SW Nyberg Lane. The county will work with the applicant to determine the feasibility of replacing the receiving ramps.

The site is located along SW Nyberg Lane, a Minor Collector, and SW Nyberg Road, a Major Arterial. The proposed access is to SW Nyberg Lane, the lesser classification and non-Arterial street. This criterion is satisfied.

The applicant has submitted a Transportation Impact Study (TIA) by Lancaster Engineering, dated October 4, 2018. The report identifies off-site mitigation for the intersection of SW 65th and SW Borland. However, due to the low number of trips generated by this development compared to existing trips there is no operational mitigation necessary or recommended at the intersections identified in the study. All intersections meet or exceed City Level of Service (LOS) expectations considering 2019 background conditions.

XLIV. TDC SECTION 74.470 STREET LIGHTS.

- (1) Street light poles and luminaries must be installed in accordance with the Public Works Construction Code.**
- (2) The applicant must submit a street lighting plan for all interior and exterior streets on the proposed development site prior to issuance of a Public Works Permit.**

FINDINGS:

The applicant has not submitted a public street lighting plan to confirm that the existing street lights provide illumination meeting the standards in Table 203-3 of the Public Works Construction Code. All existing lighting along SW Nyberg Street and SW Nyberg Lane must be reviewed for compliance with PWCC Table 203-3. The applicant must submit final plans that show adequate street lighting or improvements to bring the adjacent half streets into compliance.

XLV. TDC 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.**

XLVI. TDC 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.

FINDINGS:

The plans show a number of existing street trees behind the curb-tight sidewalk, but there are gaps that do not meet the spacing standard in Table 74-1 of the TDC. With the half street improvement street trees must be located within the new planter strip. Final plans must include the addition of street trees, type approved by the City, to meet the spacing standard

XLVII. TDC 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 must 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 must 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.

FINDINGS:

All planned utility lines shall conform with the provisions of this section. Utility services lines to the site will be placed underground as shown on the plans.

J. TDC CHAPTER 75: ACCESS MANAGEMENT

XLVIII. TDC SECTION 75.060 EXISTING DRIVEWAYS AND STREET INTERSECTIONS.

(1) Existing driveways with access onto arterials on the date this chapter was originally adopted shall be allowed to remain. If additional development occurs on properties with existing driveways with access onto arterials then this chapter applies and the entire site shall be made to conform with the requirements of this chapter.

(2) The City Engineer may restrict existing driveways and street intersections to right-in and right-out by construction of raised median barriers or other means.

XLIX. TDC SECTION 75.120 EXISTING STREETS.

(5) NYBERG STREET

Tualatin-Sherwood Road to 65th Avenue:

(b) East of I-5.

On the north side of the Nyberg Woods development (Tax Lot 2S1 24A 2503) shall be limited to one signalized access and one right-in/right-out access. The driveway for Forest Rim Apartments (Tax Lot 2S1 24A 2800) may remain.

L. TDC SECTION 75.140 COLLECTOR STREETS.

(a) Major Collectors. Direct access from newly constructed single family homes, duplexes or triplexes shall not be permitted. As major collectors in residential areas are fully improved, or adjacent land redevelops, direct access should be relocated to the nearest local street where feasible.

(b) Minor Collectors. Residential, commercial and industrial driveways where the frontage is greater or equal to 70 feet are permitted. Minimum spacing at 100 feet. Uses with less than 50 feet of frontage shall use a common (joint) access where available.

FINDINGS:

The proposed development has frontage on SW Nyberg Road and SW Nyberg Lane, which are classified as a Major Arterial and Minor Collector, respectively.

No access exists or is proposed to SW Nyberg Road, an access restricted Major Arterial. This criterion is satisfied.

Access is proposed to SW Nyberg Lane, which includes a frontage greater than the minimum of 70 feet. This criterion is satisfied.

V. EXHIBITS LIST

A: Application Materials:

- A1. Applicant's Narrative
- A2. Elevations
- A3. Plan Set
- A4. Traffic Report
- A5. Arborist Report
- A6. Supporting Documents

B: Tualatin Valley Fire & Rescue Memorandum – April 23, 2019

C: Clean Water Services Memorandum – May 1, 2019

D: ODOT Memorandum – October 10, 2019

E: Washington County Memorandum – October 9, 2019

F: Noticing Materials

G: Public Comments