



# City of Tualatin

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November 6, 2019

## ANALYSIS AND FINDINGS FOR AR 18-0007

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Case #:	AR 18-0007
Project:	Commons on the Tualatin
Location:	6645 SW Nyberg Lane; Tax lots: 2S1 24A 2600 and 2601
Applicant:	Ken Sandblast, Westlake Consultants: <a href="mailto:ksandblast@westlakeconsultants.com">ksandblast@westlakeconsultants.com</a>
Owner:	Nyberg Road Property LLC: <a href="mailto:tandem1@tandemprop.com">tandem1@tandemprop.com</a>

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### TABLE OF CONTENTS

I.	INTRODUCTION .....	2
A.	Applicable Criteria .....	2
B.	Project and Site Description .....	2
C.	Previous Land Use Actions.....	2
D.	Surrounding Uses.....	3
E.	Exhibit List.....	3
II.	PLANNING FINDINGS.....	4
Chapter 31:	General Provisions.....	4
Chapter 34:	Special Regulations.....	10
Chapter 43:	High Density Residential Planning District (RH) .....	12
Chapter 73:	Community Design Standards .....	13
	CONCLUSION AND RECOMMENDED CONDITIONS OF APPROVAL: .....	29

Arrangements can be made to provide these materials in alternative formats such as large type or audio recording. Please contact the Planning Division at 503.691.3026 and allow as much lead time as possible.

## I. INTRODUCTION

### A. Applicable Criteria

The following Chapters of the Tualatin Development Code (TDC)\* are applicable to the subject proposal:

- TDC Chapter 31: General Provisions
- TDC Chapter 34: Tree Removal Permit/Review
- TDC Chapter 43: High Density Residential Planning District
- TDC Chapter 73: Community Design Standards

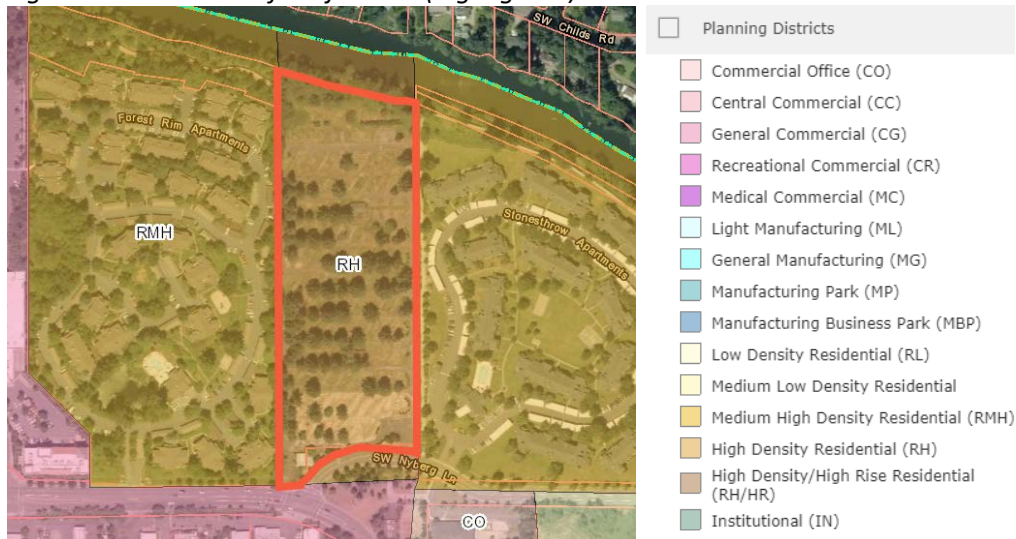
\* *Application submitted before adoption of Ordinance No. 1414-18 Amending Tualatin Development Code Chapters*

### B. Project and Site Description

The subject site is a 10.99-acre lot which is zoned High Density Residential (RH). The site is located north of the intersection of Nyberg Road and Nyberg Lane (6645 SW Nyberg Lane). The property has historically been used as an RV park, but has remained vacant since 2012. The property slopes from the western property line down to the northeast and southeast corners. Nyberg River is located to the north of the property.

The applicant, Westlake Consultants on behalf of Nyberg Road Property LLC, requests approval of a 264-unit multifamily development, tentatively named Commons on the Tualatin. The development includes five residential buildings, a community center, and a swimming pool. The residential buildings are three stories tall and feature a variety of finishes including wood grain, cultured stone, and concrete. Onsite parking (495 stalls of surface and structured), landscaped open space, and children’s play areas are also proposed with the application. A single vehicle access point is proposed to Nyberg Lane, on the eastern side of the property. Frontage improvements and other transportation related considerations were reviewed as part of the separate, but related, Type-II Public Facilities Decision.

Figure 1: Aerial view of subject site (highlighted)



### C. Previous Land Use Actions

- PMA 94-04 Rezone Lot 2601 from RMH to RH
- PMA 16-0001 Rezone Lot 2600 from CG to RH

#### **D. Surrounding Uses**

Surrounding uses include residential and commercial. Adjacent land uses include:

##### North:

- Tualatin River
- City of Rivergrove

##### West: Medium High Density Residential (RMH)

- Forest Rim Apartments

##### East: Medium High Density Residential (RMH)

- Tualatin River Greenway Connection
- Stonestrow Apartments

##### South: General Commercial (CG)

- Nyberg Lane
- Vacant Land
- Convenience Store

#### **E. Exhibit List**

A: Application Materials:

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

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

C: Noticing Materials

D: Public Comments

## II. PLANNING FINDINGS

### Chapter 31: General Provisions

#### Section 31.063 Neighborhood/ Developer Meetings.

(1) This section applies to the following types of Land Use applications: [...]; Architectural Reviews, [...].

(2) Prior to the submittal of an application listed in TDC 31.063(1) and following a pre-application meeting held with the City, the developer shall host a meeting for the surrounding property owners located within the mailing area designated in TDC 31.064(1)(c). Notice of the meeting shall be provided to Recognized Neighborhood Associations within the Notice Area of TDC 31.064(1)(c) and to designated representatives of recognized Citizen Involvement Organizations. The purpose of this meeting is to provide a means for the applicant and surrounding property owners to meet to review a development proposal and identify issues regarding the proposal so they can be considered prior to the application submittal. The meeting is intended to allow the developer and neighbors to share information and concerns regarding the project. The applicant may consider whether to incorporate solutions to these issues prior to application submittal.

(3) The Neighborhood/Developer Meeting shall be held on a weekday evening, or weekend no earlier than 10:00 a.m. and no later than 6:00 p.m., at a location within the City of Tualatin.

(4) The applicant shall at least 14 calendar days and no more than 28 calendar days prior to the meeting mail notice of the meeting pursuant to TDC 31.064(1) stating the date, time and location of the meeting and briefly discussing the nature and location of the proposal:

(5) Failure of a property owner to receive notice shall not invalidate the Neighborhood/Developer Meeting proceedings.

(6) The applicant shall, at least 14 calendar days before the meeting, post a sign pursuant to TDC 31.064(2). If the sign disappears prior to the meeting date, the applicant shall replace it within forty-eight (48) hours. The applicant shall remove the sign no later than fourteen (14) days after the meeting date.

(7) The applicant shall prepare meeting notes identifying the persons attending and the major points that were discussed and expressed.

(8) The applicant is required to hold one meeting prior to submitting an application for a specific site, but may hold additional meetings if desired.

(9) If an applicant fails to hold a neighborhood meeting, the application shall be deemed incomplete.

(10) The application shall include the following materials related to the Neighborhood/Developer meeting:

- (a) the mailing list for the notice;
- (b) a copy of the notice;
- (c) an affidavit of the mailing and posting;
- (d) the original sign-in sheet of participants;
- (e) the meeting notes described in TDC 31.063(7).

(11) Applications shall be submitted to the City within 180 days of the Neighborhood/Developer meeting. If an application is not submitted in this time frame, the Developer shall be required to hold a new Neighborhood/Developer meeting.

#### **Finding:**

*The applicant has provided evidence within Exhibit A5 that they held a Neighborhood/Developer meeting on May 2, 2018, 168 days prior to application submittal. The applicant has provided documentation of sign posting and notification in compliance with this section, as well as a sign-in sheet and notes from the meeting. These standards are met.*

**Section 31.071 Architectural Review Procedure.**

**(1) An applicant for a building or other permit subject to architectural review, [...], shall discuss preliminary plans with the Community Development Director and City Engineer in a pre-application conference prior to submitting an application. An applicant for Architectural Review of a development in the City shall conduct a Neighborhood/Developer Meeting subject to TDC 31.063. Following the pre-application conference and the Neighborhood/Developer Meeting, the applicant shall submit to the Community Development Director an Architectural Review Plan application which shall contain: [...]**

**(2) The applicant shall provide a list of mailing recipients pursuant to TDC 31.064(1).**

**(3) The applicant shall post a sign pursuant to TDC 31.064(2).**

**(4) For an application to be approved, it shall first be established by the applicant that the proposal conforms to the Tualatin Development Code, and applicable City ordinances and regulations. Failure to conform is sufficient reason to deny the application.**

**(5) The applicant shall hold a Neighborhood/Developer meeting pursuant to TDC 31.063 and meet the additional requirement that the Neighborhood/Developer Meeting shall be held within the Central Design District.**

[...]

**(6) The Community Development Director may require information in addition to that stated in this section.**

[...]

**Finding:**

*A Pre-application meeting to discuss the project was held on April 4, 2018, prior to application submittal on October 17, 2018. Staff deemed the application incomplete citing the lack of a Service Provider Letter from Clean Water Services, on November 15, 2018. On April 15, 2019, the applicant requested that the application be deemed complete, as submitted, and granted the City a 30 day extension to ORS 227.178 – 120 day rule. A second 30 day extension was granted by the applicant on May 14, 2019, and on June 14, 2019 a third 30 day extension was granted. On August 30, 2019 the applicant provided the missing items and granted a total extension of 153 days to ORS 227.178; this extension grants a final action date of January 13, 2020. The general land use submittal requirements were included with this application. These standards are met.*

**Section 31.073 Action of the Community Development Director and City Engineer on Architectural Review Plans.**

**(1) Except as provided in subsection (4), the Community Development Director and City Engineer shall issue final decisions for Expedited Architectural Review Plan Applications, on the Architectural Features and Utility Facilities, respectively, of the proposed Architectural Review Plan. Architectural Reviews shall be conducted as limited land use decisions. Decisions shall be made in accordance with TDC 31.074. The decision of the City Engineer on the Utility Facilities portion of the proposed Architectural Review Plan may be made after the Community Development Director issues a decision, provided the decision is made in accordance with this section.**

**(2) Each decision shall be one of the following:**

**(a) approval**

**(b) approval with conditions**

**(c) denial, or**

**(d) except for Expedited Architectural Review Plan Applications, a request for review by the Architectural Review Board of the Architectural Features as described in subsection (4) or a request for review by the City Council of the Utility Facilities of an Architectural Review.**

**(3) The Architectural Features and Utility Facilities decision shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria. At a minimum,**

the decisions shall identify the Architectural Review Plan, the applicant or a person to be contacted on behalf of the applicant, the date of the decision, the decision, and any time frame and conditions to which the decision is subject.

**(4) When the Community Development Director determines that a complete application for a proposed development raises a substantial question over Code requirements, size, location or complexity and is likely to raise concern from a substantial portion of nearby property owners or residents, the Community Development Director may request the Architectural Review Board review the Architectural Features of the proposal without the Director first reaching a decision. The Architectural Review Board shall conduct a de novo hearing in accordance with quasi-judicial evidentiary hearing procedures in TDC 31.077. This applies to all Architectural Reviews except for an Expedited Architectural Review Plan Application which shall not be the subject of a public hearing, and Architectural Reviews meeting the requirements of TDC 73.030(2). The Community Development Director shall prepare a report for presentation to the Architectural Review Board, which may include a recommendation on Board action. In this case the City Engineer shall make a decision on the Utility Facilities within 14 calendar days after the Architectural Review Board adopts a final order that approves or approves with conditions the Architectural Features and, unless otherwise required by the City Council, after any review has been completed by the City Council.**

**Finding:**

*Pursuant to TDC 73.030, multi-family projects of 100 units or more are to be reviewed by the Architectural Review Board in accordance with TDC 31.077. The Architectural Features of AR 18-0007 are subject to Architectural Review Board decision, with findings to applicable code sections addressed within this staff report. The Utility Facilities decision was processed as a separate Type-II action. With Condition of Approval A2, these standards are met.*

**Section 31.074 Architectural Review Application Review Process.**

**(1) Architectural Review shall be conducted as a limited land use decision in accordance with this section and other applicable sections.**

**(2) Once the Architectural Features and Utility Facilities portions of an Architectural Review application are deemed complete by the Community Development Director and the City Engineer respectively, written notice of the application shall be provided to:**

- (a) recipients pursuant to TDC 31.064(1); and**
- (b) potentially affected governmental agencies such as: school districts, fire district, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a County road or otherwise be subject to review by the County, then the County, and Clean Water Services.**
- (c) ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property.**

**(3) The notice provided in TDC 31.074(2) shall:**

- (a) state the nature of the application and the proposed use, if known;**
- (b) state the applicable decision criteria by TDC section for the decision;**
- (c) state the street address or other easily understood geographical reference to the subject property;**
- (d) state the date, place and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;**
- (e) state that issues which may provide the basis for a request for review to the Architectural Review Board, City Council and Land Use Board of Appeals shall be raised in writing prior to the expiration of the comment period. Issues shall be raised with sufficient detail and clarity to enable the decision maker to respond to the issue and state how a person may be adversely affected by the proposal;**

- (f) state that notice of the decision will be provided only to those persons who submitted written comments in accordance with this section;**
- (g) state the name of a City representative to contact and the telephone number where additional information may be obtained;**
- (h) state that copies of all evidence submitted by the applicant are available for review and can be obtained at cost ; and**
- (i) briefly summarize the local decision making process for the limited land use decision being made.**
- (j) state a railroad-highway grade crossing provides or will provide the only access to the subject property.**

**(4) Failure of a person or agency identified in TDC 31.074(2) to receive the notice required in TDC 31.074(2) shall not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.**

**(5) Parties who received notice of application in accordance with TDC 31.074(2) shall submit written comments to City offices no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.**

**(6) Approval or denial of a limited land use decision shall be based upon and accompanied by a brief statement that:**

- (a) explains the criteria and standards considered relevant to the decision;**
- (b) states the facts relied upon in issuing the decision; and**
- (c) explains the justification for the decision based on the criteria, standards and facts set forth.**

**(7) Notice of the decision shall be provided to the property owner, applicant and any person who submitted written comments in accordance with TDC 31.074(5) when the decision is made by staff. If the Architectural Review Board makes the initial decision, then anyone who testified orally or in writing at the public hearing shall be provided the notice of decision, in addition to those persons listed above. The notice shall include an explanation of rights to request a review of the decision.**

**(8) Requests for reviews can be filed as specified in TDC 31.075, and shall follow TDC 31.076.**

**Finding:**

*After the applicant requested the application be deemed complete per ORS 227.128, notice was sent to potentially affected agencies on April 16, 2019. A second courtesy notice was sent to the agencies after receipt of missing application materials on September 4, 2019. Public notice for the Architectural Review Board hearing and Utilities Facilities review concerning AR 18-0007 was mailed by city staff on October 15, 2019, and contained the information required by this section. A final decision and any appeal will follow the requirements of this section. These standards are met.*

**Section 31.077 Quasi-Judicial Evidentiary Hearing Procedures.**

**(1) A hearing under these procedures provides a forum to apply standards to a specific set of facts to determine whether the facts conform to the applicable criteria and the resulting determination will directly affect only a small number of identifiable persons. Except as otherwise provided, the procedures set out in this section shall be followed when the subject matter of the evidentiary hearing would result in a quasi-judicial decision.**

**(2) Notice of hearing shall be provided by regular first class mail to the following:**

**[...]**

- (i) recipients pursuant to TDC 31.064(1);**
- (ii) members of the hearing body;**
- (iii) the following government agencies: school districts, fire district, where the project either adjoins or directly affects a state highway, the Oregon Department of Transportation and where the project site would access a county road or otherwise be subject to review by the county, then the county; and**

- (iv) persons who have indicated in writing their desire to participate in the process on a particular application, and**
- (3) For purposes of identifying property owners to receive notification of hearing, the names and addresses of the owner or owners of record (fee title) as shown in the current, or within 30 days of a completed application, computer roll of the County Assessor shall be used. Preparation of the list of property owners shall be the applicant's responsibility and shall be prepared by one of the following persons: a land title company, a land use planning consultant authorized by the State of Oregon to conduct business in the State, a registered architect, landscape architect, engineer, surveyor or attorney, or where the City is the applicant, the Community Development Director. The list of property owners shall be updated not less than every 90 days by the applicant, until a final decision is rendered.**
- (4) Failure of a person or agency to receive a notice, shall not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.**
- (5) Notice of a hearing shall:**
- (a) Explain the nature of the application and the proposed use or uses which could be authorized;**
  - (b) list the applicable criteria from the TDC and other ordinances that apply to the application at issue;**
  - (c) set forth the street address or other easily understood geographical reference to the subject property;**
  - (d) state the date, time and location of the hearing;**
  - (e) state that failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient detail and clarity to enable a decision maker to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue;**
  - (f) include the name of the particular City representative to contact and the telephone number where additional information may be obtained;**
  - (g) state that a copy of the application, all evidence submitted by the applicant documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
  - (h) state that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost;**
  - (i) include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;**
  - (j) if the development application includes another request or application clearly state and describe the type of request or application.**
- (6) The person chairing the hearing shall follow the order of proceedings set forth in subsection (7) of this section. These procedures are intended to provide all interested persons a reasonable opportunity to participate in the hearing process and to provide for a full and impartial hearing on the application before the body. Questions concerning the propriety or the conduct of a hearing shall be addressed to the chair with a request for a ruling. Rulings from the chair shall, to the extent possible, carry out the stated intention of these procedures. A ruling given by the chair on such question may be modified or reversed by a majority of those members of the hearing body present and eligible to vote on the application before the body.**
- (7) The procedures to be followed by the chair in the conduct of the hearing are as follows:**
- (a) A statement by or on behalf of the chair of the nature of the application, a general summary of these procedures, whether the decision of the body is a final decision, and the nature of the available appeal procedures within the City, if any. In addition to the foregoing and for hearings conducted before the City Council only, the statement shall include the list of the applicable substantive criteria, the requirement that testimony and evidence must be directed toward the criteria or other plan or land use regulations which the person believes to apply and that failure to raise an issue with sufficient detail and clarity to afford the decision maker and the parties an**



**opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.**

**(b) A request that all hearing body members announce any potential conflict of interest, bias or ex parte contacts.**

**(c) Allow for consideration of challenges to a hearing body member's right to sit in the consideration of the application. Any such challenge shall be entertained only if the person making the challenge has delivered to the member challenged and the hearing, a statement of intent to challenge and the hearing body "chair," at least 48 hours prior to the hearing, a statement of intent to challenge the person setting forth with particularity the reasons and authority for such challenge. A copy of the statement of intent to challenge with proof that the "chair" and challenged member have been served shall be served upon the City Recorder at least 24 hours prior to the hearing. If due to information made public in accordance with subsection (7)(b) of this section, a person wishes to challenge a member's right to sit notwithstanding their failure to properly file, the hearing body, by majority vote, may decide to entertain such challenge.**

**(d) Presentation of the City staff report.**

**(e) Proponent's case.**

**(f) Other testimony or evidence in support of the application.**

**(g) Opponent's case.**

**(h) Other testimony or evidence against the application.**

**(i) Testimony or evidence concerning the application which by its nature is neither in favor nor against.**

**(j) Rebuttal, limited to comments on evidence in the record.**

**(k) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.**

**(l) If additional documents or evidence is provided in support of the application less than seven days prior to the hearing, any party shall be entitled to a continuance of the hearing.**

**(m) Close of hearing and deliberation. The body's deliberations may include questions directed to City staff, comments from City staff, or inquiries in paragraph (1) of this subsection, if new evidence, conditions or modifications not presented in the staff report or raised during the public hearing are raised after the close of the hearing, the hearing can be reopened and an opportunity shall be presented for any person to comment on or rebut that evidence or information.**

**(n) Except as provided in TDC 31.076(3) for the Architectural Review Plan decisions, the hearing body shall make a tentative oral decision or continue the matter to a time certain. If the body deems it necessary or advisable it may at any time prior to the adoption of a written order reopen the hearing and direct that additional evidence be presented on the entire application or only on certain stated issues. Notice of such reopened hearing shall be given in the manner provided by the original notice of hearing. When a hearing record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue.**

**(o) Except as otherwise provided, the hearing body shall, within a reasonable time after making a tentative decision, but not more than ten City business days or the next regular meeting adopt a written order which sets forth with particularity the basis for that decision. The decision shall be based upon the record of the proceeding. A proposed order or report submitted by the City Manager or designee or any other person may be adopted by the hearing body as its written order or findings. Where an application is approved, the terms of the approval shall be specified, including any restrictions and conditions. The written order is the final decision on the application and the date of the order is the date it is signed by the chairperson certifying its approval by the hearing body. No publication or other notice of the final City Council decision shall be required,**

however in the case of the Architectural Review Board decision, notice shall be given in accordance with TDC 31.074(3).

(8) The chair may admit and the hearing body may rely on all oral, documentary, physical, and mechanically recorded evidence if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Documentary, physical and mechanically recorded evidence may be admitted in the form of copies or excerpts or incorporated by reference. Evidence that is irrelevant, immaterial or unduly repetitious may be excluded from the hearing.

(9) Following a final decision only by the City Council, a person may request rehearing of the matter, which shall be allowed by the Council only if authorized by all of the Council members present and eligible to vote at the meeting at which the petition for rehearing is considered. Action on the rehearing request or the filing of a petition for rehearing shall not be required prior to seeking judicial review. If a rehearing is allowed, then quasi-judicial evidentiary hearing procedures shall apply.

**Finding:**

*Notice for the Architectural Review Board hearing was provided by regular first class mail, and contained the information required by this section. The Architectural Review Board will follow the hearing requirements set forth by this section. These standards are met.*

**Section 31.075 Effective Date of Decision.**

(1) The decisions of the Community Development Director and the City Engineer on the Architectural Features and Utility Facilities respectively or the Architectural Review Board, where the plan is initially reviewed by the Architectural Review Board shall each become final 14 calendar days after the date the notice of the decision is given unless written request for review of the Architectural Features or Utility Facilities decision is sought and submitted on a form provided by the City for that purpose.

**Finding:**

*The effective date of the Architectural Features decision will follow the requirements of this section. These standards are met.*

**Chapter 34: Special Regulations**

**Section 34.200 Tree Removal on Private Property.**

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

(a) For a tree on private property, the person must first obtain a Tree Removal Permit from the City or obtain approval through Architectural Review [...].

(3) The following exemptions apply to tree removal:

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

[...]

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

[...]

**Finding:**

*Tree removal has been included with this application. These standards are met.*

**Section 34.210 Application for Architectural Review.**

(1) Architectural Review. When a property owner wishes to remove trees, other than the exemptions permitted under TDC 34.200(3), to develop property, and the development is subject to Architectural Review approval, the property owner shall apply for approval to remove trees as part of the Architectural Review application process.

- (a) The application for tree removal shall include:
- (i) A Tree Preservation Site Plan, drawn to a legible scale, showing the following information:[...]. All trees proposed for removal and all trees proposed for preservation shall be indicated on the site plan as such by identifying symbols, except as follows:
    - (A) Where Clean Water Services (CWS) has issued a Service Provider Letter that addresses the proposed development currently under consideration, and
    - (B) Where CWS has approved delineation of a “sensitive area” or “vegetated corridor” on the subject property, and
    - (C) Where CWS has required dedication of an easement that prohibits encroachment into the delineated area, then
    - (D) All trees located within the CWS required easement need not be individually identified on the Tree Preservation Site Plan if the CWS required easement boundary is clearly illustrated and identified on the Tree Preservation Site Plan.
  - (ii) A tree assessment prepared by a qualified arborist, including the following information: an analysis as to whether trees proposed for preservation can in fact be preserved in light of the development proposed, are healthy specimens, and do not pose an imminent hazard to persons or property if preserved; an analysis as to whether any trees proposed for removal could be reasonably preserved in light of the development proposed and health of the tree; a statement addressing the approval criteria set forth in TDC 34.230; and arborist’s signature and contact information. The tree assessment report shall have been prepared and dated no more than one calendar year proceeding the date the development application is deemed complete by the City. Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located within the CWS required easement need not be included in the tree assessment report.
  - (iii) All trees onsite shall be physically identified and numbered in the field with an arborist approved tagging system. The tag i.d. numbers shall correspond with the tag i.d. numbers illustrated on the site plan. Where TDC 34.210(1)(a)(i)(A) through (D) are applicable, trees located in the CWS required easement need not be tagged.
- (b) The application for tree removal shall be approved or denied based on the criteria in TDC 34.230.
- (c) The approval or denial of an application to remove trees shall be a part of the Architectural Review decision.

**Finding:**

*The applicant has submitted a tree assessment and sufficient documentation (see Exhibit A4) in conjunction with the Architectural Review application. The criteria in TDC 34.230, addressed below, are the basis on approval or denial for tree removal as part of this Architectural Review. These standards are met.*

**Section 34.230 Criteria.**

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

- (1) An applicant must satisfactorily demonstrate that any of the following criteria are met:
- (a) The tree is diseased, and
    - (i) The disease threatens the structural integrity of the tree; or
    - (ii) The disease permanently and severely diminishes the esthetic value of the tree; or
    - (iii) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.
  - (b) The tree represents a hazard which may include but not be limited to:
    - (i) The tree is in danger of falling;
    - (ii) Substantial portions of the tree are in danger of falling.

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

**Finding:**

*The tree assessment recommends removal of 135 trees over 8-inch diameter breast height due to construction impacts or poor health. There are 150 trees to be retained on site. With Conditions of Approval A5 and A6, these standards are met.*

**Section 34.270 Tree Protection During Construction.**

**(1) Any tree required to be retained either through Architectural Review, Subdivision or Partition Review, or permit process that will be impacted by nearby construction activities must be protected in accordance with the TDC 73.250(2).**

**Finding:**

*There are 150 trees to be retained on site. With Conditions of Approval A5 and A6, these standards are met.*

**Chapter 43: High Density Residential Planning District (RH)**

[...]

**Section 43.015 Permitted Density.**

**Housing density shall not exceed 25 dwelling units per net acre [...]**

**(1) Where provided by TDC 43.180.**

[...]

**Finding:**

*Chapter 31.060 defines "Housing Density" as the number of dwelling units per acre of land, rounded to the nearest whole number. Chapter 1.020 defines "Net Acreage" as the land area within the lot lines of a tax lot after removing land for rights-of-way and tracts. The applicant states that the site is 10.98 net acres on the Fact Sheet included as Exhibit A5. The plan proposes 264 units, at 24 dwelling units per net acre. This standard is met.*

**Section 43.020 Permitted Uses.**

**No building, structures or land shall be used and no building or structures shall be erected, enlarged or altered except for the following uses:**

**(1) Townhouses and multifamily dwellings, including duplexes and triplexes.**

[...]

**Finding:**

*Multi-family dwellings are listed as a permitted use in the RH zone. This standard is met.*

**Section 43.070 Setback Requirements.**

**Except as otherwise provided, the setbacks for permitted uses are:**

**(1) The front yard setback is a minimum of [...], 35 feet for 2 ½-story structures, [...] The minimum setback to a garage door shall be 20 feet.**

**(2) The side yard setback shall be a minimum of 5 feet for 1-story, [...] 12 feet for 2 ½-story structures.**

[...]

**(4) The rear yard setback is the same as the side-yard setback.**

**(5) Where buildings are grouped as one project on one tract of land, the minimum distance between two buildings at any given point shall not be less than the sum of the maximum required side yards, computed separately for each building at that point. [...]**

**(6) Off-street parking and vehicular circulation areas shall be set back a minimum of 10 feet from any public right-of-way or property line. [...]**

**(8) Except for setbacks abutting property lines in the RL District, the decision authority may allow a reduction of up to 35% of the required front, side or rear yard setbacks, as determined in the Architectural Review process [...]**

**Finding:**

*Buildings A-E are three stories and Building F is one story. (1)-(4) The district does not define standards for three story development; therefore the 2.5 foot standard has been applied to Buildings A-E as shown in Table 1 below and on the Site Plan included as Exhibit A3.*

*(4) The rear property line has been established as the centerline of the Tualatin River. The rear yard setback to the property line is approximately 235 feet and approximately 100 feet to the ordinary high water mark or bank.*

*(5) The side yard requirement is 12 feet and five buildings are grouped as part of the project. The minimum required distance between buildings is 60 feet, and the minimum proposed is 69.5 feet between Buildings D and E.*

*(6) Off-street vehicular areas have been set back 40 feet from the Nyberg Lane right-of-way.*

*(8) A reduction to setback standards is not being sought. These standard are met.*

<b>Table 1 – Minimum Setback Requirements</b>			
<i>Yard</i>	<i>Direction</i>	<i>Required</i>	<i>Proposed</i>
Front	South; Bldg A	35 ft	35 ft
Side	East; Bldg C/E	12 ft	23 ft
Side	West; Bldg B	12 ft	12 ft
Rear	North; Bldg F	12 ft	Over 12 ft; See finding

**Section 43.080 Projections Into Required Yards.**

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

**Finding:**

*This standard is not applicable.*

**Section 43.100 Structure Height.**

**(1) Except as otherwise provided, the maximum structure height is 35 feet.**

**Finding:**

*Buildings A-E are 34 feet in height and Building F is 13.67 feet in height as illustrated on the Elevation Sheets included as Exhibit A2. This standard is met.*

**Chapter 73: Community Design Standards**

[...]

**Section 73.050 Criteria and Standards**

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

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

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

**Finding:**

*East and west of the proposed development are two existing “garden-style” multifamily residential developments that were constructed in the early 1980s and 1990s. The buildings within the proposed developed are designed with non-linear walls and balconies, variations in materials and colors, and covered or recessed entryways, consistent with the aforementioned adjacent developments.*

*The proposed site development has been reviewed and deemed to be in conformance with the above standards and compatible with the design of other developments in the general vicinity, subject to the imposition of conditions of approval. This standard is met.*

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

**Finding:**

*The proposed development would include utility facilities and/or public utility facilities. These facilities have been reviewed by the City of Tualatin Engineering Division, subject to approval of the Public Facilities Decision. This standard is met.*

[...]

- (4) **As part of Architectural Review, the property owner may apply for approval to remove trees, in addition to those exemptions allowed in TDC 34.200(3), by submitting information concerning proposed tree removal, pursuant to TDC 34.210(1). The granting or denial of a tree removal permit shall be based on the criteria in TDC 34.230.**

**Finding:**

*The proposal includes tree removal which has been reviewed under the criteria contained in TDC 34.230. This standard is met.*

[...]

**Section 73.056 Time Limit on Approval**

**Architectural Review approvals shall expire after two years unless:**

- (1) **A building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction pursuant thereto has taken place and an inspection performed by a member of the Building Division; or**
- (2) **The Architectural Review (AR) applicant requests in writing an extension and the City approves it. If the Community Development Director and City Engineer or their designees approved the AR. then the Community Development Director and City Engineer shall decide upon the extension request. If the Architectural Review Board (ARB) approved the AR. then the ARB shall decide upon the extension request. The applicant shall provide notice of extension request to past recipients of the AR notice of application and post a sign pursuant to TDC 31.064. Before approving an extension, the deciding party shall find the request meets these criteria:**
  - (a) **The applicant submitted a written extension request prior to the original expiration date.**

- (b) There have been no significant changes in any conditions, ordinances, regulations or other standards of the City or applicable agencies that affect the previously approved project so as to warrant its resubmittal for AR.
- (c) If the previously approved application included a special study, the applicant provided with the extension a status report that shows no significant changes on the site or within the vicinity of the site. A letter from a recognized professional also would satisfy this criterion if it states that conditions have not changed after the original approval and that no new study is warranted.
- (d) If the AR applicant neglected site maintenance and allowed the site to become blighted, the deciding party shall factor this into its decision.
- (e) The deciding party shall grant no more than a single one-year extension for an AR approval.
- (f) If the Community Development Director and City Engineer or their designees are the deciding party, then they shall decide within thirty (30) days of receipt of the request. If the ARB is the deciding party, then the ARB shall decide within sixty (60) days of receipt of the request. If the deciding party fails to decide within the applicable time period, the decision shall default to approval.

**Finding:**

*If approved, the application will be subject to the above criteria. With Condition of Approval A1, these standards are met.*

[...]

**Section 73.100 Landscaping and Building Installation and Maintenance**

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

**Finding:**

*With Condition of Approval A9, this standard is met.*

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

**Finding:**

*With Condition of Approval A9, this standard is met.*

**Section 73.130 Standards (Community Design)**

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

- (1) Private Outdoor Areas.
  - (a) [...], a separate outdoor area of not less than 80 square feet shall be attached to each ground level dwelling unit. These areas shall be separated from common outdoor areas in a manner which enables the resident to control access from separate to common areas with elements, such as walls, fences or shrubs.
  - (b) [...], a separate outdoor area of not less than 48 square feet in the form of balconies, terraces, or loggias shall be provided for each unit located above the ground level.

**Finding:**

*Separate outdoor areas are proposed for all units, as shown on the Floor Plans included in Exhibit A2. Units located within 2.5 feet of grade have a minimum of 80 square feet of patio space that will be*

*screened with shrubbery, and above-grade units have a private balcony area of 62 square feet or more. These standards are met.*

**(2) Entry Areas.**

- (a) [...], a private main entry area shall be provided in addition to required private outdoor areas and designed so that they are considered a private extension of each dwelling unit. [...], each entrance area shall be a minimum of 24 square feet in area for each dwelling unit and may be combined to serve more than a single unit, subject to the following minimum area requirements:

[...]

- (iv) Unlimited for four-story and greater and for buildings with dwelling unit entries from interior corridors.

[...]

- (c) Entry areas shall be separated from on-site parking areas and public streets with landscaping, change of grade, low fences, walls or other means that enable the resident to supervise and control access and to retain privacy.

**Finding:**

*All units are accessed from an interior hallway, separate from streets and parking areas. These standards are met.*

**(3) Shared Outdoor Areas and Children's Play Areas.**

- (a) [...], projects with 12 or more dwelling units shall provide year round shared outdoor areas for both active and passive recreation (gazebos and other covered spaces are encouraged to satisfy part of this requirement) totaling not less than 450 square feet per dwelling unit. [...], a minimum of 150 square feet of the 450 square feet shall be provided as a children's play area.

- (b) The shared outdoor and children's play areas shall be located and designed in a manner which:

- (i) Provides approximately the same accessibility to the maximum number of dwelling units possible;
- (ii) Allows residents to watch over these areas from windows in at least two adjacent dwelling units. These windows must provide viewing from the kitchen, living room, dining room or other activity room (bedrooms or bathrooms are not included);
- (iii) Provides a separation from all entryway and parking areas with a landscaped transition area measuring a minimum of 10 feet wide;
- (iv) Controls access to shared outdoor areas from off-site as well as from on-site parking and entrance areas with features such as fencing, walls and landscaping;
- (v) Provides both sunny and shady spots; and
- (vi) Provides a usable floor surface (material such as lawn, decks, wood chips, sand and hard surface materials qualify).

[...]

**Finding:**

*The project includes 264 units and is required to provide a minimum of 118,800 square feet of shared outdoor area and 39,600 square feet of children's play area. The proposed shared outdoor and children's play areas include shade trees and provides adequate separation near parking areas. Multiple play areas are accessible to the various buildings. With Condition of Approval A3.b., this standard is met.*



**(4) Safety and Security.**

- (a) [...], private outdoor areas shall be separated from shared outdoor areas and children's play areas with elements such as walls, buildings, landscaping, and changes in grade in a manner which enables residents to utilize these areas as an extension of their units.
- (b) Windows shall be located to encourage watching over entry areas, shared outdoor areas, walkways and parking areas.
- (c) An outdoor lighting system shall be provided which facilitates police observation and resident observation through strategic location, orientation and brightness without shining into residential units, public rights-of-way, or fish and wildlife habitat areas.
- (d) An identification system shall be established which clearly orients visitors and emergency services as to the location of residential units. Where possible, this system should be evident from the primary vehicle entryway.

**Finding:**

*At-grade private outdoor areas are separated from shared areas by landscaping as shown on the Landscape Plans, included as Exhibit A3. Each unit includes at least two windows that face out to the common areas as shown on the Floor Plans. The photometric plan notes that moderate illumination is directed to parking areas and pedestrian paths. An identification system will be required to be provided prior to issuance of a Certificate of Occupancy for the proposed buildings. Tualatin Valley Fire and Rescue provided a response to the notice of application as part of Exhibit B. Emergency fire services are predicated on the conditioning of a secondary fire access road and fire access roads that are a minimum width of 26 feet to serve buildings that over 30 feet in height. With Conditions of Approval A3.c. and A3.d., this standard is met.*

**(5) Service, Delivery and Screening.**

- (a) Provisions for postal delivery shall be conveniently located and efficiently designed for residents and mail delivery personnel.
- (b) Safe pedestrian access from unit entries to postal delivery areas, shared activity areas, and parking areas shall be provided. Elements such as, but not limited to, concrete paths, raised walkways through vehicular areas or bark chip trails will meet this requirement.
- (c) On and above grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners shall be screened with sight obscuring fences, walls or landscaping.

**Finding:**

*Postal delivery areas are located in the lobbies of Buildings A, B, and C as shown in the Floor Plans in Exhibit A2. Safe pedestrian access is provided throughout the site. Walkways will be required to be raised where they cross vehicular areas and all on and above grade electrical and mechanical equipment will be required to be screened. With Conditions of Approval A3.e.-g., these standards are met.*

**(6) Accessways.**

[...]

- (b) Accessways shall be provided between the development's walkway and bikeway circulation system and all of the following locations that apply:
  - (i) adjoining publicly-owned land intended for public use, including schools, parks, or bike lanes. Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland;
  - (ii) adjoining arterial or collector streets upon which transit stops or bike lanes are provided or designated;

[...]

- (c) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for

**development of a parcel adjacent to a vacant parcel shall enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement shall be subject to the City's review and approval.**

- (d) Accessways for multi-family development shall:**
  - (i) be a minimum of 8 feet in width;**
  - (ii) be constructed in accordance with the Public Works Construction Code if they are public accessways, and if they are private accessways they shall be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material, and be ADA compliant, if applicable;**
  - (iii) not have fences or gates which prevent pedestrian and bike access at the entrance to or exit from any accessway; and**
  - (iv) have curb ramps wherever the accessway crosses a curb.**
- (e) Outdoor Recreation Access Routes shall be provided between the development's walkway and bikeway circulation system and parks, bikeways and greenways where a bike or pedestrian path is designated.**

**Finding:**

*Per subsection (b)(ii) the subject site must provide an accessway consistent with subsection (d) between the development's walkway and bikeway circulation system and Nyberg Lane. Based on the submitted Site Plan (Exhibit A3), an accessway is identified to the east of Building A, connecting the development's walkway and bikeway circulation system with Nyberg Lane.*

*Staff notes that a public comment was received (Exhibit D) requesting an accessway north of Building C, off-site to the east, connecting to a portion of adjacent Tualatin River Greenway trail. Although there is no arterial or collector street per subsection (b)(ii) at this location and no publically-owned land as identified in subsection (b)(i), staff notes that the development includes an extension of the Tualatin River Greenway trail from the subject site to adjacent off-site portions of this trail, to the north (adjacent to Building E). Therefore, staff recommends that no additional connections, other than those proposed within the Site Plan (Exhibit A3) be conditioned. With Condition of Approval 3.h., these standards are met.*

- (7) Walkways.**
  - (a) Except for townhouses, walkways for multi-family development shall be a minimum of 6 feet in width and be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material, and be ADA compliant, if applicable.**
  - (b) Curb ramps shall be provided wherever a walkway crosses a curb.**

**Finding:**

*As shown on the Site Plan (Exhibit A3), six-foot wide concrete sidewalks are proposed throughout the development. Plans indicate that curb ramps will be provided wherever a walkway crosses a curb. This standard is met.*

- (8) The Federal Americans With Disabilities Act (ADA) applies to development in the City of Tualatin. Although TDC Chapter 73, does not include the Oregon Structural Specialty Code's (OSSC) accessibility standards as requirements to be reviewed during the Architectural Review process, compliance with the OSSC is a requirement at the Building Permit step. It is strongly recommended all materials submitted for Architectural Review show compliance with the OSSC.**

**Finding:**

*ADA and OSSC standards must be met during the building permit process. This standard is met.*

[...]

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

[...]

**(2) Standards - Multi-family Uses.**

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

**(a) Storage.**

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

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

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

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

**(b) Carports and Garages.**

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

<b>Table 2 –Storage Requirements</b>		
<b>Unit Type</b>	<b>Units Proposed</b>	<b>Required (sf)</b>
Studio / 1 Bedroom	110	2,640
2 Bedroom	111	3,996
3 Bedroom	43	2,064
<b>Total Minimum Requirement</b>		<b>8,700</b>
<b>Proposed Storage Area</b>		<b>8,663</b>

**Finding:**

*The applicant has proposed a combination of grouped bicycle lockers (Buildings A-E) and partitioned, storage areas (Buildings A-C). As shown in Table 2 above, the proposed storage area square footage does not meet the minimum requirement. The applicant has generally not proposed that these storage areas be attached to the exterior of each unit. Staff notes that while this standard makes sense in the context of a townhome or rowhome style of development, it would be highly impractical if strictly applied to a “garden-style” multifamily development as proposed. Therefore staff has recommended Condition of Approval A3.i. that would require storage units consistent with the above dimensional and square foot requirements, but that allow for the attachment requirement to be substantially satisfied by locating these storage areas within the building of the units for which they are intended to provide storage. Basement floor garages are proposed for Buildings A-C and have been designed to be exposed concrete to remain compatible with the overall building form. With Condition of Approval A3.i., these standards are met.*

**Section 73.227 Standards**

The following standards are minimum requirements for mixed solid waste and source separated recyclables storage areas. To provide for flexibility in designing functional storage areas, this section provides four different methods to meet the objectives of providing adequate storage for mixed solid waste and source separated recyclables and improving the efficiency of collection. An applicant shall choose and implement one of the following four methods to demonstrate compliance: 1) minimum standards; [...].

(1) The mixed solid waste and source separated recyclables storage standards shall apply to all new or expanded multi-family residential developments containing five or more units [...]

**(2) Minimum Standards Method.** This method specifies a minimum storage area requirement based on the size and general use category of the new or expanded development. This method is most appropriate when specific use of a new or expanded development is not known. It provides specific dimensional standards for the minimum size of storage areas by general use category.

**(a)** The size and location of the storage area(s) shall be indicated on the site plan. Compliance with the requirements set forth below are reviewed through the Architectural Review process.

**(i)** The storage area requirement is based on the area encompassed by predominant use(s) of the building (e.g., residential) as well as the area encompassed by other distinct uses. [...]

**(iii)** The specific requirements are based on an assumed storage area height of 4 feet for mixed solid waste and source separated recyclables. Vertical storage higher than 4 feet, but no higher than 7 feet may be used to accommodate the same volume of storage in a reduced floor space (potential reduction of 43 percent of specific requirements). Where vertical or stacked storage is proposed, submitted plans shall include drawings to illustrate the layout of the storage area and dimensions for containers.

**(iv)** Multi-family residential developments containing more than 10 units shall provide 50 square feet plus an additional 5 square feet per unit for each unit above 10.

**Finding:**

<b>Table 3 - Trash Enclosure Requirements</b>				
Use	Percentage	Units	Applied Rate (sf)	Required (sf)
Multi-family	100%	264	(264-10*5)	1,270
General	N/A	N/A	N/A	50
<b>Total Minimum Requirement</b>				<b>1,320</b>
<b>Proposed Trash and Recyclables Storage Area</b>				<b>2,196.83</b>

**Finding:**

*The applicant has chosen to demonstrate compliance with the minimum standards method. As shown in Table 3 and the Floor Plans included in Exhibit A2, a 1,320 square-foot storage area is required, and the applicant proposes approximately 2,197 square-feet. These standards are met.*

**(6) Location, Design and Access Standards for Storage Areas.**

**(a) Location Standards**

**(i)** To encourage its use, the storage area for source separated recyclables may be co-located with the storage area for mixed solid waste.

**(ii)** Indoor and outdoor storage areas shall comply with Building and Fire Code requirements.

**(iii)** Storage area space requirements can be satisfied with a single location or multiple locations, and can combine both interior and exterior locations.

**(iv)** Exterior storage areas shall not be located within a required front yard setback or in a yard adjacent to a public or private street.

**(v)** Exterior storage areas shall be located in central and visible locations on the site to enhance security for users.

**(vi)** Exterior storage areas can be located in a parking area, if the proposed use provides parking spaces required through the Architectural Review process. Storage areas shall be appropriately screened according to TDC 73.227(6)(b)(iii).

**(vii)** Storage areas shall be accessible for collection vehicles and located so that the storage area will not obstruct pedestrian or vehicle traffic movement on site or on public streets adjacent to the site.

**Finding:**

A single exterior trash enclosure will house both recycling and garbage. The proposed enclosure is outside of all setbacks and easements, in a visible area at the southwest corner of the site. Further, all buildings will have optional concierge trash pick-up service available to residents. Republic Services, the applicable franchise waste hauler, has reviewed the location to confirm that it will be accessible for collection vehicles as indicated as part of Exhibit A5. Vehicle access to the Building B garage and pedestrian access between Buildings B and C may be temporarily obstructed by collection vehicles on days of service. The location is removed from pedestrian circulation areas and vehicle traffic. With Condition of Approval A3.j., these standards are met.

**(b) Design Standards**

- (i) The dimensions of the storage area shall accommodate containers consistent with current methods of local collection at the time of Architectural Review approval.**
- (ii) Storage containers shall meet Fire Code standards and be made and covered with water proof materials or situated in a covered area.**
- (iii) Exterior storage areas shall be enclosed by a sight obscuring fence or wall at least 6 feet in height. In multi-family developments evergreen plants shall be placed around the enclosure walls, excluding the gate or entrance openings. Gate openings for haulers shall be a minimum of 10 feet wide and shall be capable of being secured in a closed and open position. A separate pedestrian access shall also be provided in multi-family developments.**
- (iv) Exterior storage areas shall have either a concrete or asphalt floor surface.**
- (v) Storage areas and containers shall be clearly labeled to indicate the type of material accepted.**

**Finding:**

*The proposed trash enclosure is 2,197 square feet and can accommodate current collection containers. A ten foot tall CMU enclosure with a gate opening 13 feet wide is proposed to surround the storage area. The CMU wall will further be screened by Waxleaf Privet evergreens as shown in Exhibit A3. Separate pedestrian access is provided. These standards are met.*

**(c) Access Standards**

- (i) Access to storage areas can be limited for security reasons. However, the storage areas shall be accessible to users at convenient times of the day, and to hauler personnel on the day and approximate time they are scheduled to provide hauler service.**
- (ii) Storage areas shall be designed to be easily accessible to hauler trucks and equipment, considering paving, grade, gate clearance and vehicle access. A minimum of 10 feet horizontal clearance and 8 feet vertical clearance is required if the storage area is covered.**
- (iii) Storage areas shall be accessible to collection vehicles without requiring backing out of a driveway onto a public street. If only a single access point is available to the storage area, adequate turning radius shall be provided to allow vehicles to safely exit the site in a forward motion.**

**Finding:**

*A singular trash enclosure area is being proposed to serve six buildings. Republic Services, the applicable franchise waste hauler, has confirmed that the proposed storage area will be accessible to their hauler trucks and equipment. With Condition of Approval A3.j., these standards are met.*

### **Section 73.240 Landscaping General Provisions**

**(1) The following standards are minimum requirements.**

[...]

- (9) Yards adjacent to public streets, shall be planted to lawn or live groundcover and trees and shrubs and be perpetually maintained in a manner providing a park-like character to the property as approved through the Architectural Review process.**
- (10) Yards not adjacent to public streets or Low Density Residential (RL) or Manufacturing Park (MP) Planning Districts shall be planted with trees, shrubs, grass or other live groundcover, and maintained consistent with a landscape plan indicating areas of future expansion, as approved through the Architectural Review process.**

#### **Finding:**

*As shown on the Landscape Plans included with Exhibit A3, all yards are provided with live landscaping. With Condition of Approval A9, these standards are met.*

- (11) Any required landscaped area shall be designed, constructed, installed, and maintained so that within three years the ground shall be covered by living grass or other plant materials. (The foliage crown of trees shall not be used to meet this requirement.) A maximum of 10% of the landscaped area may be covered with un-vegetated areas of bark chips, rock or stone. Disturbed soils are encouraged to be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.**

#### **Finding:**

*Sufficiently dense landscaping is proposed to achieve full coverage within three years. No rock or stone are being proposed as groundcover; however decomposed granite has been identified for soft trail areas. With Condition of Approval A9, this standard is met.*

[...]

### **Section 73.250 Tree Preservation.**

- (1) Trees and other plant materials to be retained shall be identified on the landscape plan and grading plan.**
- (2) During the construction process:**
- (a) The owner or the owner's agents shall provide above and below ground protection for existing trees and plant materials identified to remain.**
  - (b) Trees and plant materials identified for preservation shall be protected by chain link or other sturdy fencing placed around the tree at the drip line.**
  - (c) If it is necessary to fence within the drip line, such fencing shall be specified by a qualified arborist as defined in TDC 31.060.**
  - (d) Neither top soil storage nor construction material storage shall be located within the drip line of trees designated to be preserved.**
  - (e) Where site conditions make necessary a grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip-line area, such grading, paving, trenching, boring, digging, or similar encroachment shall only be permitted under the direction of a qualified arborist. Such direction must assure that the health needs of trees within the preserved area can be met.**
  - (f) Tree root ends shall not remain exposed.**
- (3) Landscaping under preserved trees shall be compatible with the retention and health of said tree.**
- (4) When it is necessary for a preserved tree to be removed in accordance with TDC 34.210 the landscaped area surrounding the tree or trees shall be maintained and replanted with trees that relate to the present landscape plan, or if there is no landscape plan, then trees that are complementary with existing, nearby landscape materials. Native trees are encouraged**

- (5) Pruning for retained deciduous shade trees shall be in accordance with National Arborist Association "Pruning Standards For Shade Trees," revised 1979.
- (6) Except for impervious surface areas, one hundred percent (100%) of the area preserved under any tree or group of trees retained in the landscape plan (as approved through the Architectural Review process) shall apply directly to the percentage of landscaping required for a development.

**Finding:**

*There are 150 trees proposed to be retained on site. With Conditions of Approval A3.a., A5, and A6 these standards are met.*

**73.260 Tree and Plant Specifications**

- (1) The following specifications are minimum standards for trees and plants:
  - (a) Deciduous Trees. Deciduous shade and ornamental trees shall be a minimum one and one-half inch (1-1/2") caliper measured six inches (6") above ground, balled and burlapped. Bare root trees will be acceptable to plant during their dormant season. Trees shall be characteristically shaped specimens.
  - (b) Coniferous Trees. Coniferous trees shall be a minimum five feet (5') in height above ground, balled and burlapped. Bare root trees will be acceptable to plant during their dormant season. Trees shall be well branched and characteristically shaped specimens.
  - (c) Evergreen and Deciduous Shrubs. Evergreen and deciduous shrubs shall be at least one (1) to five (5) gallon size. Shrubs shall be characteristically branched. Side of shrub with best foliage shall be oriented to public view.
  - (d) Groundcovers. Groundcovers shall be fully rooted and shall be well branched or leafed. English ivy (*Hedera helix*) is considered a high maintenance material which is detrimental to other landscape materials and buildings and is therefore prohibited.
- (2) Landscaping shall be installed in accordance with the provisions of Sunset New Western Garden Book (latest edition), Lane Publishing Company, Menlo Park, California or the American Nurserymen Association Standards (latest edition).
- (3) The following guidelines are suggested to ensure the longevity and continued vigor of plant materials:
  - (a) Select and site permanent landscape materials in such a manner as to produce a hardy and drought-resistant landscaped area.
  - (b) Consider soil type and depth, spacing, exposure to sun and wind, slope and contours of the site, building walls and overhangs, and compatibility with existing native vegetation preserved on the site or in the vicinity.
- (4) All trees and plant materials shall be healthy, disease-free, damage-free, well-branched stock, characteristic of the species.
- (5) All plant growth in landscaped areas of developments shall be controlled by pruning, trimming or otherwise so that:
  - (a) It will not interfere with designated pedestrian or vehicular access; and
  - (b) It will not constitute a traffic hazard because of reduced visibility.

**Finding:**

*The Landscape Legend provided on Sheet L-6, Exhibit A3, illustrates that all proposed trees will be at least the minimum 2" caliper planting size, balled and burlapped. Coniferous trees are specified to be a minimum of 8 feet. Shrubs are proposed between two to five gallons. With Condition of Approval A9 these standards are met.*

[...]

**Section 73.280 Irrigation System Required**

**Except for townhouse lots, landscaped areas shall be irrigated with an automatic underground or drip irrigation system.**

**Finding:**

*As indicated on General Note 9 of Sheet L-6, all landscape areas will be irrigated with an automatic underground irrigation system. This standard is met.*

[...]

**Section 73.300 Landscape Standards – Multi-family Uses**

**All areas within a development, including townhouses, not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas shall be landscaped. Townhouse developments may include hard surfaces in outdoor areas such as patios and storage areas as determined in the Architectural Review process.**

**Finding:**

*All areas within the development area that are not occupied by buildings, parking spaces, drive aisles, or pedestrian areas are planned to be landscaped with new plantings. These standards are met.*

[...]

**Section 73.330 Parking Lot Landscaping - Multi-family Uses**

- (1) Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.**
- (2) A clear zone shall be provided for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of 8 feet as measured from the ground level.**

**Finding:**

*All new parking lot trees are deciduous varieties that are capable of providing visibility within the desired vertical range. With Condition of Approval A9, this standard is met.*

- (3) A minimum 10-foot landscape setback shall be provided between the property lines and parking areas. This area shall be planted with deciduous trees an average of not more than 30 feet on center and shrubs at least 30 inches in height which provide screening of vehicular headlights. Trees shall meet the requirements of TDC 73.360(7). Native trees and shrubs are encouraged.**

**Finding:**

*At least 10-feet of landscaping is provided between property lines and parking areas. Conifer trees at 12 feet on center are used in lieu of deciduous trees at 30 feet on center to provide for better screening. Evergreen and deciduous shrubs that will achieve heights in excess of 30 inches are used with the trees to screen headlights. Smaller Varieties of native conifers such as the Virescens Cedar are used due to overhead power line located adjacent to the eastern property line. This standard is met.*

- (4) Provide a landscaped transition area of at least 10 feet in width between parking and vehicle circulation areas and buildings and shared outdoor areas. Deciduous shade trees located at not less than 30 feet on center shall be located in this transition area. The trees shall meet the requirements of TDC 73.360(7). Groundcover plants mixed with low shrubs must completely cover the remainder of this area within three years. Native trees and shrubs are encouraged.**

**Finding:**

*At least 10-feet of landscaping is provided between vehicular areas and buildings and shared outdoor areas, with Black Gum and Magnifica Hackberry trees at 30 feet on center. This standard is met.*



[...]

**Section 73.350 Off-Street Parking Lot Landscape Island Requirements - Multi-Family Uses.**

- (1) A minimum of 25 square feet per parking stall shall be improved with landscape island areas. They may be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping. They shall be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands. They shall be dispersed throughout the parking area (see TDC 73.380(3)). They shall be planted with groundcover or shrubs. They shall be planted with deciduous shade trees when needed to meet the parking lot shade tree requirements. Native plant materials are encouraged. Landscape square footage requirements shall not apply to parking structures and underground parking.
- (2) Landscaped island areas with trees shall be a minimum of 5 feet in width (from inside of curb to curb).
- (3) A minimum of one deciduous shade tree shall be provided for every four parking spaces to lessen the adverse impacts of glare, reduce heat from paved surfaces, and to emphasize circulation patterns. Required shade trees shall be within 5 feet of the face of a perimeter parking lot curb and shall be uniformly distributed throughout the parking lot (see TDC 73.380(3)).
- (4) Required plant material in landscape islands shall achieve 90 percent coverage within three years. Native shrubs and trees are encouraged.

**Finding:**

*There are 272 surface parking stalls proposed with the development, requiring 6,800 square feet of landscaping. The Civil Site Analysis included in Exhibit A3 illustrates that 8,600 square feet of landscape area is provided in the parking islands. All islands are greater than five feet wide. Additionally 68 shade trees are required and 101 trees are provided. With Condition of Approval A3.k., these standards are met.*

**Section 73.370 Off-Street Parking and Loading**

**(1) General Provisions.**

- (a) At the time of establishment of a new structure or use, or change in use, or change in use of an existing structure, within any planning district of the City, off-street parking spaces, off-street vanpool and carpool parking spaces for industrial uses, off-street bicycle parking, and off-street loading berths shall be as provided in this and following sections, unless greater requirements are otherwise established by the conditional use permit or the Architectural Review process, based upon clear findings that a greater number of spaces are necessary at that location for protection of public health, safety and welfare or that a lesser number of vehicle parking spaces will be sufficient to carry out the objectives of this section.

[...]

**Finding:**

*This project includes a new structure and use. Findings specific to the proposed use are provided below.*

- (n) Bicycle parking facilities shall include long-term parking that consists of covered, secure stationary racks, lockable enclosures, or rooms (indoor or outdoor) in which the bicycle is stored and short-term parking provided by secure stationary racks (covered or not covered), which accommodate a bicyclist's lock securing the frame and both wheels. The Community Development Director, their designee, or the Architectural Review Board may approve a form of bicycle parking not specified in these provisions but that meets the needs of long-term and/or short-term parking pursuant to Section 73.370.

- (o) Each bicycle parking space shall be at least 6 feet long and 2 feet wide, and overhead clearance in covered areas shall be at least 7 feet, unless a lower height is approved through the Architectural Review process.
- (p) A 5-foot-wide bicycle maneuvering area shall be provided beside or between each row of bicycle parking. It shall be constructed of concrete, asphalt or a pervious surface such as pavers or grasscrete, but not gravel or woody material, and be maintained.
- (q) Access to bicycle parking shall be provided by an area at least 3 feet in width. It shall be constructed of concrete, asphalt or a pervious surface such as pavers or grasscrete, but not gravel or woody material, and be maintained.
- (r) Required bicycle parking shall be located in convenient, secure, and well-lighted locations approved through the Architectural Review process. Lighting, which may be provided, shall be deflected to not shine or create glare into street rights-of-way or fish and wildlife habitat areas.
- (u) Bicycle parking areas and facilities shall be identified with appropriate signing as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle parking signs shall be located at the main entrance and at the location of the bicycle parking facilities.
- (v) Required bicycle parking spaces shall be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This shall not preclude the operation of private for-profit bicycle parking businesses.

**Finding:**

*Buildings A-E include an accessible indoor bicycle parking room for a total of 98 long-term bicycle parking stalls. The applicant also states that individual bicycle hooks will also be included within the units. No details or dimensions have not been provided for these facilities or for short-term bicycle parking facilities. With Condition of Approval A3.l., these standards are met.*

**(2) Off-Street Parking Provisions.**

- (a) The following are the minimum and maximum requirements for off-street motor vehicle parking in the City. Minimum standards for off-street motor vehicle parking for the uses in 73.370(2) (a) Residential Uses: iii. The maximum requirements are divided into Zone A and Zone B, as shown on the Tualatin Parking Zone Map, Figure 73-3.

*Excerpted from TDC 73.370(2):*

<b>Table 4 – Parking Requirements</b>				
<b>Use</b>	<b>Minimum Vehicle Parking Requirements</b>	<b>Minimum Parking Required</b>	<b>Bicycle Parking Requirements</b>	<b>Percentage of Bicycle Parking to be Covered</b>
[...]				
(iii) Multi-family dwellings in complexes with private internal driveways	1.0 space/studio	1.0 * 20 = 20	Developments with four or more units; [...] 1.00 space per unit	100
	1.25 space/1 BDR	1.25 * 90 = 113		
	1.50 space/2 BDR	1.5 * 111 = 167		
	1.75 space/ 3 BDR	1.75 * 43 = 75		

**Finding:**

*As identified above, the mix of unit types requires a total of 375 spaces. 495 stalls are proposed (222 as structured parking and 273 surface spaces). Buildings A-E include bicycle storage rooms with a total of 98 stalls. With Conditions of Approval A3.l.-m., these standards are met.*

[...]

**Section 73.380 Off-Street Parking Lots**

A parking lot, whether an accessory or principal use, intended for the parking of automobiles or trucks, shall comply with the following:

- (1) Off-street parking lot design shall comply with the dimensional standards set forth in Figure 73-1 of this section.
- (2) Parking stalls for sub-compact vehicles shall not exceed 35 percent of the total parking stalls required by TDC 73.370(2). Stalls in excess of the number required by TDC 73.370(2) can be sub-compact stalls.
- (3) Off-street parking stalls shall not exceed eight continuous spaces in a row without a landscape separation, except for parking structures and underground parking.
- (4) Parking stalls shall be constructed of asphalt or concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material. Drive aisles and parking stalls shall be maintained adequately for all-weather use and drained to avoid water flow across sidewalks. [...] Parking lot landscaping shall be provided pursuant to the requirements of TDC 73.350 and TDC 73.360. Walkways in parking lots shall be provided pursuant to TDC 73.160.
- (5) Except for parking to serve residential uses, parking areas adjacent to or within residential planning districts or adjacent to residential uses shall be designed to minimize disturbance of residents.

**Finding:**

*As shown on the Site Plan included in Exhibit A3, the proposed parking stalls are dimensioned at 9 feet wide by 18.5 feet long, to meet the Figure 73-1 requirements. There are 34 sub-compact stalls proposed, comprising 9% of required parking. Not more than eight continuous parking stalls are included with this proposal. All stalls are to be constructed with asphalt. With Condition of Approval A3.m., these standards are met.*

[...]

- (6) Artificial lighting, which may be provided, shall be deflected to not shine or create glare in a residential planning district, an adjacent dwelling, street right-of-way in such a manner as to impair the use of such way or a Natural Resource Protection Overlay District, Other Natural Areas identified in Figure 3-4 of the Parks and Recreation Master Plan, or a Clean Water Services Vegetated Corridor.

**Finding:**

*The Photometric plan included in Exhibit A3 indicates that lighting will not impact adjacent residential properties, the Nyberg Lane right-of-way, or the Natural Resource Protection Overlay District. This standard is met.*

- (7) Groups of more than 4 parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- (8) Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site.

**Finding:**

*All parking spaces onsite are accessed entirely on private property and do not require backing motions into the right-of-way. These standards are met.*

- (9) Parking bumpers or wheel stops or curbing shall be provided to prevent cars from encroaching on the street right-of-way, adjacent landscaped areas, or adjacent pedestrian walkways.**

**Finding:**

*Concrete curbing is provided to prevent cars from encroaching onto adjacent landscaping and pedestrian walkways. This standard is met.*

- (10) Disability parking spaces and accessibility shall be provided in accordance with applicable federal and state requirements.**

**Finding:**

*A minimum of nine ADA parking spaces are required and are thirteen are proposed. This requirement will be reviewed in greater detail during the building permit phase. With Condition of Approval A3.n., this standard is met.*

## **CONCLUSION AND RECOMMENDED CONDITIONS OF APPROVAL:**

Based on the application materials and above listed findings demonstrating compliance with the applicable criteria, staff respectfully recommends approval of the subject Architectural Review application (AR 18-0007), subject to the following recommended conditions of approval:

### **GENERAL:**

- A1. This Architectural Review approval expires after two years from the date of issuance unless a building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction pursuant thereto has taken place and an inspection performed by a member of the Building Division, or an extension is granted under the terms of TDC 73.056 or most current revision of the TDC.
- A2. The applicant must comply with the Public Facilities Decision (AR-18-0007) from the City of Tualatin Engineering Division, pursuant to TDC 31.073, or most current revision of the TDC.

### **PRIOR TO BUILDING PERMIT ISSUANCE:**

- A3. The applicant must submit a Final Site Plan Set (in .pdf format) to the Planning Division that is in substantial conformance to the submitted site plans and includes:
  - a. Tree protection fencing and tree protection measures on grading plan as described in Exhibit A4- Attachment 2 and Attachment 6, pursuant to TDC 73.250(2).
  - b. A minimum of 118,800 square feet of shared outdoor area and 39,600 square feet of children's play area, pursuant to TDC 73.130(3). Illustrate dimensions and amenities proposed for both shared outdoor areas and children's play areas as described in TDC 31.060 below:
    - i. Shared outdoor area may include, but is not limited to open lawn areas, gazebos, covered spaces, swimming pool areas, walking trails, and sport recreation fields.
    - ii. Children's play area may include, but is not limited to sand boxes, play structures, hard surface courts, and wading pools.
  - c. An identification system which clearly locates buildings and their entries for patrons and emergency services, pursuant to TDC 73.130(4)(d).
  - d. A secondary fire apparatus road, pursuant to Exhibit B and OFC D106. Fire apparatus roads that serve buildings over 30 feet in height must be a minimum, unobstructed width of 26 feet, pursuant to Exhibit B and OFC D105.1, D105.2.
  - e. Postal delivery areas that are located consistent with TDC 73.130(5)(a).
  - f. Raised pedestrian walkways through vehicular areas, pursuant to TDC 73.130(5)(b). Curb ramps must be provided wherever a walkway crosses a curb, pursuant to TDC 73.130(7)(b).
  - g. A method of screening for any on and above-grade mechanical or electrical equipment, pursuant to TDC 73.130(5)(c).
  - h. A minimum eight-foot wide accessway adjacent to Building A that connects the development's walkway system to the sidewalk adjoining SW Nyberg Lane, pursuant to TDC 73.150(6).
  - i. A minimum of 8,700 square feet of enclosed storage area or 24 square feet for each studio and one-bedroom units, 36 square feet each for two-bedroom units, and 48 square feet

each for three-bedroom units, pursuant to 73.190(2)(a). Storage areas must be a minimum of 6 feet in height.

- j. A minimum of 1,320 square feet of trash storage area, pursuant to TDC 73.227(6). Trash storage areas must be located so that pedestrian or vehicle movement is not obstructed.
  - k. A minimum of 6,800 square feet or 25 square feet per surface parking stall must be improved with landscape island area, pursuant to TDC 73.350. All islands must be greater than five feet in width. A minimum of one shade tree must be provided for every four parking stalls.
  - l. A minimum of 264 covered bicycling parking spaces in the form of lockable enclosures or bike storage rooms, pursuant to TDC 73.370(1)(n) and 73.370(2). Each bicycle space must be six feet long by two feet wide, pursuant to TDC 73.370(1)(o). A five-foot wide bicycle maneuvering area must be provided beside or between each row of bicycle parking with at least a three-foot wide access area, pursuant to TDC 73.370(1)(p) and (q). Maneuvering and access areas must be constructed of concrete, asphalt, or a suitable pervious surface. Bicycle parking areas must be identified with signage as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition), and must be located at the main building entrance and at the location of the bicycle parking facilities, pursuant to TDC 73.370(1)(u).
  - m. A minimum of 375 parking stalls or 1 stall per studio, 1.25 stall per one bedroom, 1.5 stall per two bedrooms, or 1.75 stall per three bedrooms, pursuant to TDC 73.370(2). All parking areas must meet the dimensional standards of 73-1. Parking for sub-compact vehicles must not exceed 35% of the minimum required parking stalls (131 of 375) pursuant to 73.380(2). Parking spaces provided in excess of the required minimum may be compact. Surface parking stalls must not exceed eight continuous spaces without a landscape separation, pursuant to TDC 73.380(3).
  - n. A minimum of nine accessible parking spaces must be provided, pursuant to TDC 73.380(10).
- A4. The applicant must submit Final Color Architectural Elevations (in .pdf format) to the Planning Division that in in substantial conformance to the submitted elevations.

**DURING CONSTRUCTION ACTIVITY:**

- A5. The applicant must install the tree protection fencing consistent with Condition A3.a. and Section 73.250(2). Please contact the Planning Division to schedule an inspection with a minimum of 48 hours' notice.
- A6. Arborist supervision is required for any construction activity within the critical root zone of trees 1315, 1320, 1321, 1519, 1529, 1530, 1534, 1554, 1594, 2020, 2026, pursuant to TDC 73.250(2).

**PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY:**

- A7. The applicant must construct proposed buildings and all site improvements as illustrated on the approved Final Site Plan and Final Color Architectural Elevations. The applicant must contact the Planning Division for a site inspection at least 72 hours prior to requesting a certificate of occupancy. This inspection is separate from inspection(s) done by the Building Division.

**THE FOLLOWING CODE REQUIREMENTS APPLY TO THE SITE IN AN ON-GOING MANNER:**

- A8. The applicant must submit sign permit applications separately from this Architectural Review (AR) for any proposed signage.
- A9. All exterior improvements approved through the AR process must be continually maintained, including necessary painting and repair, watering, weeding, pruning, and replacement, so as to remain substantially similar to original approval through the AR process, unless subsequently altered with Community Development Director's approval. TDC 73.100. All plant growth in landscaped areas must be pruned, trimmed or otherwise so that plant growth does not interfere with designated pedestrian or vehicular access and will not constitute a traffic hazard because of reduced visibility, pursuant to TDC 73.160(3)(e), 73.260(5), and 73.340(1).
- A10. All mechanical equipment, including rooftop equipment must be screened in accordance with TDC 73.130(5)(c). Prior to approval of a mechanical permit, the applicant or property owner must submit scaled elevations that illustrate screening by a parapet or other method.
- A11. The proposed development must comply with all applicable policies and regulations set forth by the TDC, or most current revision thereto.