



January 24, 2020

**NOTICE OF  
ARCHITECTURAL REVIEW BOARD DECISION**

**\*\* APPROVAL WITH CONDITIONS\*\***

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Case #:	AR 19-0008
Project:	Tualatin Industrial Park
Location:	11040 SW Tualatin-Sherwood Rd, Tualatin, OR. Tax Lots: 2S122D000600, 2S127AA00500, 2S122DD00700
Applicant:	T. Chavez, Phelan Development
Owner:	Myslony Development, LLC

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**I. FINDINGS**

- A. An application for Architectural Review (AR) was filed by Phelan Development for a project known as Tualatin Industrial Park.
- B. The Architectural Review Board (ARB) conducted a noticed public hearing on January 22, 2020 in conformance with the laws of the State of Oregon and the City of Tualatin.
- C. At the January 22, 2020 public hearing, the ARB found that additional modifications to landscaping and lighting were required in order to meet objectives related to attractively designed streetscapes and areas of visual interest for occupants and visitors to the site, as described in TDC 73A.010. Condition A3 has been modified to include these changes. Additional changes to A3 approved include the removal of the reference to trail easement's measured width in order to most clearly defer to the dimensions as determined in the City Engineer's Decision, and correction to the list lettering, as described below (changes in bold):

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. Building setbacks at least 30 feet from front property line at SW Myslony Street.
- b. A site configuration on the North side of Building A that will meet parking stall length (*TDC Figure 73-1*), drive aisle width (*TDC 73C.020*), and ingress/egress standards (*TDC 73C.130(3)*) without encroaching into the required ~~16-foot~~ easement for the Ice Age Tonquin Trail as discussed in the City Engineer's Decision. No development other than landscaping, and pedestrian amenities related to the future trail, are permitted within the easement.
- c. A walkway connection between Building A and Building B designed to be of a different appearance than the adjacent paved vehicular areas and meeting all standards of TDC 73A.400(1).

- d.** Detail to demonstrate that proposed bicycle parking meets the standards of TDC 73C.050(2) (a), (b), and (c), and that the number of spaces conforms with TDC 73C.100(1).
- e.** Eleven parking spaces designated as carpool/vanpool parking, consistent with TDC 73C.100(2).
- f.** Deciduous trees planted no more than 30 feet apart on the perimeter of vehicle circulation areas consistent with TDC 73C.230(3). Such trees may be omitted where the perimeter area is also within a Public Utility Easement as required by the City Engineer's Decision, and where there are existing trees at or near the property line.
- g.** At least 502 square feet of designated interior waste storage area.
- h.** Landscape plan revisions replacing all instances of Pistacia Chinensis (Chinese Pistache) with a non-fruit-bearing deciduous tree, such as Sterling Silver Linden.
- i.** Landscape plan revisions to incorporate additional coniferous and deciduous trees in a more varied and clustered array, with a variety of plant selections and sizes. Additional trees and shrubs should be incorporated along the frontage on Tualatin-Sherwood Road and throughout the site. Trees and shrubs should be patterned to the specific visual effect of breaking up the long façade walls and providing pedestrian scale shrubs at sidewalks and walkways.
- j.** Lighting plan revisions to incorporate decorative lighting complimenting the landscaping along the frontage on Tualatin-Sherwood Road and throughout the site, while continuing to avoid off-site glare.

## II.ACTION

**The ARB approved AR 19-0008. The ARB adopted the analysis and findings, dated January 22, 2020.**

The Architectural Review Board Decision approves AR 19-0008 subject to the following Architectural Review conditions:

### GENERAL:

- A1. This Architectural Review approval shall expire after two years 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 Section 33.020(10).
- A2. The applicant must comply with the City Engineer's Decision (AR 19-0008) from the City of Tualatin Engineering Division, pursuant to TDC 33.020(6)(a)(ii).

### PRIOR TO BUILDING OR ENGINEERING 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. Building setbacks at least 30 feet from front property line at SW Myslony Street.

- b. A site configuration on the North side of Building A that will meet parking stall length (*TDC Figure 73-1*), drive aisle width (*TDC 73C.020*), and ingress/egress standards (*TDC 73C.130(3)*) without encroaching into the required easement for the Ice Age Tonquin Trail as discussed in the City Engineer's Decision. No development other than landscaping, and pedestrian amenities related to the future trail, are permitted within the easement.
  - c. A walkway connection between Building A and Building B designed to be of a different appearance than the adjacent paved vehicular areas and meeting all standards of *TDC 73A.400(1)*.
  - d. Detail to demonstrate that proposed bicycle parking meets the standards of *TDC 73C.050(2)* (a), (b), and (c), and that the number of spaces conforms with *TDC 73C.100(1)*.
  - e. Eleven parking spaces designated as carpool/vanpool parking, consistent with *TDC 73C.100(2)*.
  - f. Deciduous trees planted no more than 30 feet apart on the perimeter of vehicle circulation areas consistent with *TDC 73C.230(3)*. Such trees may be omitted where the perimeter area is also within a Public Utility Easement as required by the City Engineer's Decision, and where there are existing trees at or near the property line.
  - g. At least 502 square feet of designated interior waste storage area.
  - h. Landscape plan revisions replacing all instances of *Pistacia Chinensis* (Chinese Pistache) with a non-fruit-bearing deciduous tree, such as Sterling Silver Linden.
  - i. Landscape plan revisions to incorporate additional coniferous and deciduous trees in a more varied and clustered array, with a variety of plant selections and sizes. Additional trees and shrubs should be incorporated along the frontage on Tualatin-Sherwood Road and throughout the site. Trees and shrubs should be patterned to the specific visual effect of breaking up the long façade walls and providing pedestrian scale shrubs at sidewalks and walkways.
  - j. Lighting plan revisions to incorporate decorative lighting complimenting the landscaping along the frontage on Tualatin-Sherwood Road and throughout the site, while continuing to avoid off-site glare.
- A4. The applicant must demonstrate owner permission for the removal of off-site trees and demonstrate that landscaping requirements for those neighboring properties will continue to be met. Alternatively, the applicant must provide a revised landscaping plan showing trees as preserved, with adequate protection for trees at the property line from all impacts of development.

**DURING CONSTRUCTION ACTIVITY:**

- A5. The applicant must install the tree protection fencing consistent with Section 73.250(2). Please contact the Planning Division to schedule an inspection with a minimum of 48 hours' notice.

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

- A6. Areas impacted by grading and structure demolition must be revegetated pursuant to TDC 73B.040(1).
- A7. The applicant must install an identification system which clearly locates buildings and their entries for patrons and emergency services.
- A8. The applicant must install bicycle parking signage and vanpool/carpool parking signage per MUTCD standards, pursuant to TDC 73C.010(2)(xi) and TDC 73C.050(2)(d).
- A9. 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:**

- A10. Standards for this site have been reviewed considering both future parcels as one site. Future modifications to either parcel will need to be reviewed for the entire site as a whole.
- A11. All mechanical equipment must be screened in accordance with TDC 73A.300(5). 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.
- A12. All sign permits require separate sign permit approval per TDC Chapter 38. This approval does not constitute sign permit approval.
- A13. All site, building exterior, and landscaping improvements approved through the AR process must be continually maintained, so as to remain substantially similar to original approval through the AR process, except as permitted under TDC 33.020(7) (Modifications to Previously Approved Final Architectural Review Decisions).
- A14. All parking spaces shall be continuously maintained in compliance with the dimensional standards specified in TDC Figure 73-1.
- A15. Site landscaping and street trees shall be maintained to meet the vision clearance requirements of TDC Figure 75-1.
- A16. The proposed development must comply with the noise standards of TDC 63.051.

**III.APPEAL**

The applicant or any person who submitted written comments or testified orally or in writing at the Tualatin Architectural Review Board hearing and who may be adversely affected by the Board's decision may file a request for review of the final decision of the Tualatin Architectural Review Board to the City Council.

The Tualatin Architectural Review Board's decision will be final after 14 calendar days from the mailing of this order, unless a written appeal is received by the **Tualatin Planning Division at 18880 SW Martinazzi Avenue, Tualatin, Oregon, before 5:00 p.m., February 10, 2020. The appeal must be submitted on the City appeal form with all the information requested provided thereon, signed by the appellant, and include the applicable appeal fee.** The plans and appeal forms are available at the Planning Division offices. The appeal forms must include reasons, current appeal fee, and meet the requirements of Section 32.310 of the Tualatin Development Code. The City Council will review and make a decision. The parties will be notified of the Council meeting date.

ADOPTED THIS 24<sup>TH</sup> DAY OF JANUARY.

ARCHITECTURAL REVIEW BOARD  
CITY OF TUALATIN

BY:



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Chris Goodell, Acting Chair  
Architectural Review Board



**Analysis and Findings for  
Tualatin Industrial Park (AR 19-0008)  
January 22, 2020**

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Project:	Tualatin Industrial Park
Location:	11040 SW Tualatin-Sherwood Rd, Tualatin, OR. Tax Lots: 2S122D000600, 2S127AA00500, 2S122DD00700
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*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 33.020: Architectural Review
- TDC 33.110: Tree Removal Permit/Review
- TDC 61: General Manufacturing Zone (MG)
- TDC 71: Wetlands Protection District (WPD)
- TDC 73A: Site Design Standards
- TDC 73B: Landscaping Standards
- TDC 73C: Parking Standards
- TDC 73D: Waste and Recyclables Management Standards

Additional code sections are considered in the separate, but related, City Engineer’s Decision.

Based on the Analysis and Findings presented, staff recommends approval of AR 19-0008 with conditions.

### **B. Site Description**

The subject site is a 717,020 square-foot (16.5 acre) property located at 11045 SW Tualatin-Sherwood Road (Washington County Tax Assessor Map 2S122D000600, 2S127AA00500, 2S122DD00700), and is zoned General Manufacturing (MG).

The site has most recently been used for agriculture, with an existing house and accessory structures on the east side of the site near SW Tualatin-Sherwood Road, which would be demolished to accommodate the proposed development. The land predominantly features open fields; existing mature trees are clustered near the existing house and also edge several neighboring property lines. The north end of the property folds around the eastern cul-de-sac of SW Myslony Street, forming the primary access available to the site. The land is relatively flat, with a gradual downslope; the land reaches a high point of 166 feet in elevation at the south end near SW Tualatin-Sherwood Road, and a low point near the Myslony cul-de-sac at 146 feet. A site assessment conducted by Pacific Habitat Services (Exhibit A5) found no wetlands or waters on the site.

Figure 1: Aerial view of subject site (highlighted)



### C. Proposed Project

As described in the applicant’s narrative (Exhibit A1, Page 2), Phelan Development proposes to construct two industrial building shells intended for a mix of warehouse and manufacturing uses to be determined by future tenant(s). A separate Property Line Adjustment (PLA 19-0009) will create two lots: Lot A to the north at SW Myslony Street, and Lot B to the south along SW Tualatin-Sherwood Road. Building A on Lot A would be approximately 129,975 square feet, and Building B on Lot B would be approximately 187,150 square feet.

As shown on the applicant’s architectural elevations (Exhibit A2 Sheets A-4 and A-5), the proposed buildings would stand approximately 40-feet in height. The proposed design is predominantly a concrete tilt-up style in white, anchored by glazed façade areas at either end, accented in two tones of gray. On Building A, oriented toward SW Myslony Street to the west, a central entrance accented in gray with windows is proposed. On the southeast end of Building B facing SW Tualatin-Sherwood Road, a central gray area with a clerestory window is proposed. Each building would have one full elevation dedicated to loading docks; on Building A, the loading area faces east away from the right-of-way, and Building B’s loading area faces north, also generally away from the right-of-way.

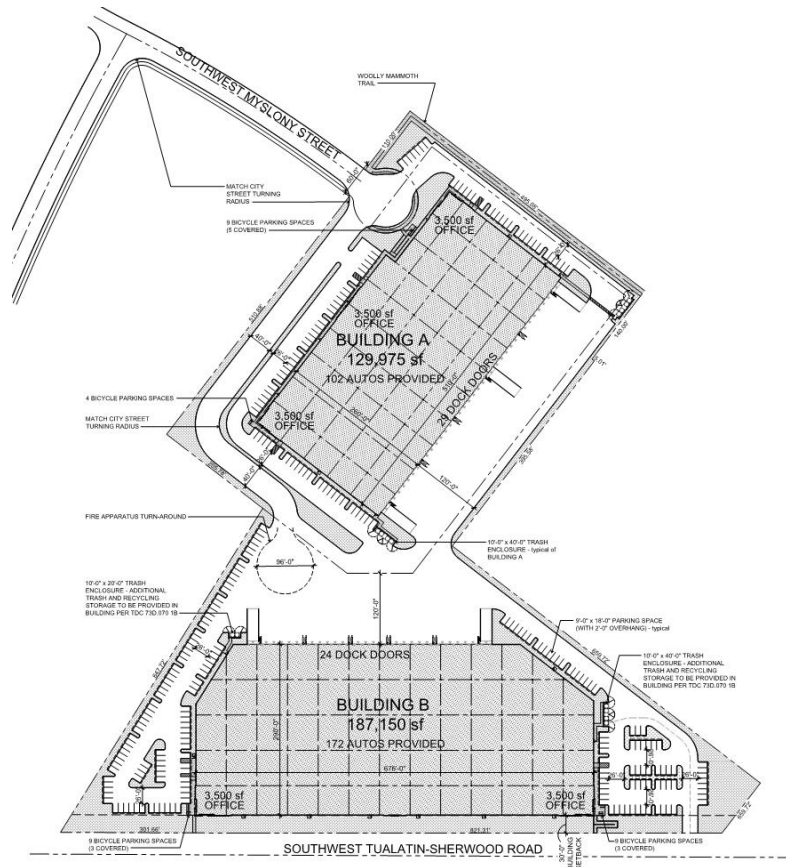
The surrounding vicinity is primarily developed with concrete tilt-up structures of a generally similar height to the proposed structure. There are several examples of similarly sized and massed buildings in the immediate area on both SW Myslony Street and SW Tualatin-Sherwood Road. Many industrial buildings on the Tualatin-Sherwood Road corridor are sited with parking areas closest to the roadway; a greater amount of landscaping and building façade will be visible from this corridor.

The majority of the site that is not dedicated to the buildings themselves, is allocated to vehicle maneuvering and parking. The site plan proposes all vehicle access off of SW Myslony Street due to access restrictions from SW Tualatin-Sherwood Road. The proposed design would include two driveways coming off of the Myslony cul-de-sac. To the south, a drive toward Building B would be separated by a landscaping strip from parking at Building A. The center of the site would provide greater room for



maneuvering large trucks. An emergency access is proposed at SW Tualatin-Sherwood Road at the southeast corner of the site.

Figure 2: Site Plan (overview)



**D. Previous Land Use Actions**

- In November of 2006, the northern 170 feet of the property was annexed to the City of Tualatin (ANN 06-0001).

**E. Surrounding Uses**

Surrounding uses indicate a transitional area primarily light industrial uses. Adjacent land uses include:

North/East: General Manufacturing (MG)

- UPS

North/West: General Manufacturing (MG)

- Undeveloped site with wetlands

West: General Manufacturing (MG)

- Tualatin Business Park
- Franklin Business Park

East: General Manufacturing (MG)

- Western Industrial Ceramics
- Northwest Door and Supply

South: General Manufacturing (MG)

- A Storage Place
- Arlington Commons (business condos)
- Lakeside Lumber
- Other manufacturing and warehouse uses

**F. Exhibit List**

Exhibit A1 - Applicant's Narrative

Exhibit A2 – Elevations and Plan Set

Exhibit A3 – Supporting Application Documents

Exhibit A4 - Arborist Report

Exhibit A5 – CWS Service Provider Letter and Site Assessment Report

Exhibit A6 – Waste Hauler Letter

## II. PLANNING FINDINGS

These findings reference the Tualatin Development Code (TDC), unless otherwise noted.

### Chapter 32: Procedures

#### Section 32.010 – Purpose and Applicability.

[...]

**(2) Applicability of Review Procedures.** All land use and development permit applications and decisions, will be made by using the procedures contained in this Chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or application. There are five types of permit/application procedures as described in subsections (a) through (e) below. Table 32-1 lists the City’s land use and development applications and corresponding review procedure(s).

[...]

**(c) Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III procedure is used when the standards and criteria require discretion, interpretation, or policy or legal judgment. Quasi-Judicial decisions involve discretion but implement established policy. Type III decisions are made by the Planning Commission or Architectural Review Board and require public notice and a public hearing, with an opportunity for appeal to the City Council.

[...]

**(3) Determination of Review Type.** Unless specified in Table 32-1, the City Manager will determine whether a permit or application is processed as Type I, II, III, IV-A or IV-B based on the descriptions above. Questions regarding the appropriate procedure will be resolved in favor of the review type providing the widest notice and opportunity to participate. An applicant may choose to elevate a Type I or II application to a higher numbered review type, provided the applicant pays the appropriate fee for the selected review type.

**Table 32-1 – Applications Types and Review Procedures**

Application / Action	Procedure Type	Decision Body*	Appeal Body*	Pre-Application Conference Required	Neighborhood /Developer Mtg Required	Applicable Code Chapter
<b>Architectural Review</b>						
Industrial Buildings 150,000 square feet and larger  [...]  as requested by the CM	III	ARB	CC	Yes	Yes	TDC 33.020
[...]						
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						

**Finding:**

*The proposed project includes over 317,000 square feet of industrial square footage, divided between a 129,975 square-foot building (Building A), and a 187,150 square-foot building (Building B). The project is therefore classified as a Type III Procedure Types according to Table 32-1. The application has been processed according to the applicable code for Type III procedures. This standard is met.*

**Section 32.030 – Time to Process Applications.**

**(1) Time Limit - 120-day Rule.** The City must take final action on all Type II, Type III, and Type IV-A land use applications, as provided by ORS 227.178, including resolution of all local appeals, within 120 days after the application has been deemed complete under TDC 32.160, unless the applicant provides written request or consent to an extension in compliance with ORS 227.178. (Note: The 120-day rule does not apply to Type IV-B (Legislative Land Use) decisions.)

[...]

**Finding:**

*The application was deemed complete on December 5, 2019. The 120<sup>th</sup> day will be April 3, 2020. The hearing for AR 19-0008 is scheduled for January 22, 2020. The final action will take place within the 120 days unless the applicant requests an extension in compliance with ORS 227.178. This standard is met.*

**Section 32.110 – Pre-Application Conference.**

**(1) Purpose of Pre-Application Conferences.** Pre-application conferences are intended to familiarize applicants with the requirements of the TDC; to provide applicants with an opportunity discuss proposed projects in detail with City staff; and to identify approval criteria, standards, and procedures prior to filing a land use application. The pre-application conference is intended to be a tool to assist applicants in navigating the land use process, but is not intended to be an exhaustive review that identifies or resolves all potential issues, and does not bind or preclude the City from enforcing any applicable regulations or from applying regulations in a manner differently than may have been indicated at the time of the pre-application conference.

**(2) When Mandatory.** Pre-application conferences are mandatory for all land use actions identified as requiring a pre-application conference in Table 32-1. An applicant may voluntarily request a pre-application conference for any land use action even if it is not required.

**(3) Timing of Pre-Application Conference.** A pre-application conference must be held with City staff before an applicant submits an application and before an applicant conducts a Neighborhood/Developer meeting.

**(4) Application Requirements for Pre-Application Conference.**

**(a) Application Form.** Pre-application conference requests must be made on forms provided by the City Manager.

**(b) Submittal Requirements.** Pre-application conference requests must include:

**(i) A completed application form;**

**(ii) Payment of the application fee;**

**(iii) The information required, if any, for the specific pre-application conference sought; and**

**(iv) Any additional information the applicant deems necessary to demonstrate the nature and scope of the proposal in sufficient detail to allow City staff to review and comment.**

**(5) Scheduling of Pre-Application Conference.** Upon receipt of a complete application, the City Manager will schedule the pre-application conference. The City Manager will coordinate the involvement of city departments, as appropriate, in the pre-application conference. Pre-application conferences are not open to the general public.

**(6) Validity Period for Mandatory Pre-Application Conferences; Follow-Up Conferences.** A follow-up conference is required for those mandatory pre-application conferences that have previously been held when:

- (a) An application relating to the proposed development that was the subject of the pre-application conference has not been submitted within six (6) months of the pre-application conference;**
- (b) The proposed use, layout, and/or design of the proposal have significantly changed; or**
- (c) The owner and/or developer of a project changes after the pre-application conference and prior to application submittal.**

**Finding:**

*The subject land use action is identified as requiring a pre-application conference in Table 32-1. The applicant participated in a pre-application meeting on August 14, 2019, 85 days prior to submittal. These standards are met.*

**Section 32.120 – Neighborhood/Developer Meetings.**

**(1) Purpose.** 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.

**(2) When Mandatory.** Neighborhood/developer meetings are mandatory for all land use actions identified in Table 32-1 as requiring a neighborhood/developer meeting. An applicant may voluntarily conduct a neighborhood/developer meeting even if it is not required and may conduct more than one neighborhood/developer meeting at their election.

**(3) Timing.** A neighborhood/developer meeting must be held after a pre-application meeting with City staff, but before submittal of an application.

**(4) Time and Location.** Required neighborhood/developer meetings must be held within the city limits of the City of Tualatin at the following times:

- (a) If scheduled on a weekday, the meeting must begin no earlier than 6:00 p.m.**
- (b) If scheduled on a weekend, the meeting must begin between 10:00 a.m. and 6:00 p.m.**

**(5) Notice Requirements.**

**(a) The applicant must provide notice of the meeting at least 14 calendar days and no more than 28 calendar days before the meeting. The notice must be by first class mail providing the date, time, and location of the meeting, as well as a brief description of the proposal and its location. The applicant must keep a copy of the notice to be submitted with their land use application.**

**(b) The applicant must mail notice of a neighborhood/developer meeting to the following persons:**

- (i) All property owners within 1,000 feet measured from the boundaries of the subject property;
  - (ii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases; and
  - (iii) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9.
- (c) The City will provide the applicant with labels for mailing for a fee.
- (d) Failure of a property owner to receive notice does not invalidate the neighborhood/developer meeting proceedings.
- (6) **Neighborhood/Developer Sign Posting Requirements.** The applicant must provide and post on the subject property, at least 14 calendar days before the meeting. The sign must conform to the design and placement standards established by the City for signs notifying the public of land use actions in TDC 32.150.
- (7) **Neighborhood/Developer Meeting Requirements.** The applicant must have a sign-in sheet for all attendees to provide their name, address, telephone number, and email address and keep a copy of the sign-in sheet to provide with their land use application. The applicant must prepare meeting notes identifying the persons attending, those commenting and the substance of the comments expressed, and the major points that were discussed. The applicant must keep a copy of the meeting notes for submittal with their land use application.

**Finding:**

*The applicant has provided evidence within Exhibit A3 that they held a Neighborhood/Developer meeting on September 12, 2019, 56 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 32.130 – Initiation of Applications.**

**(1) Type I, Type II, Type III, and Type IV-A Applications.** Type I, Type II, Type III, and Type IV-A applications may be submitted by one or more of the following persons:

- (a) The owner of the subject property;
- (b) The contract purchaser of the subject property, when the application is accompanied by proof of the purchaser's status as such and by the seller's written consent;
- (c) A lessee in possession of the property, when the application is accompanied by the owners' written consent; or
- (d) The agent of any of the foregoing, when the application is duly authorized in writing by a person authorized to submit an application by paragraphs (a), (b) or (c) of this subsection, and accompanied by proof of the agent's authority.

[...]

**Finding:**

*The application has been signed by a representative of Myslony Development, LLC, the owner of the subject property. This standard is met.*

**Section 32.140 – Application Submittal.**

**(1) Submittal Requirements.** Land use applications must be submitted on forms provided by the City. A land use application may not be accepted in partial submittals. All information supplied on the application form and accompanying the application must be complete and correct as to the applicable facts. Unless otherwise specified, all of the following must be submitted to initiate completeness review under TDC 32.160:

- (a) A completed application form.** The application form must contain, at a minimum, the following information:
  - (i) The names and addresses of the applicant(s), the owner(s) of the subject property, and any authorized representative(s) thereof;**
  - (ii) The address or location of the subject property and its assessor’s map and tax lot number;**
  - (iii) The size of the subject property;**
  - (iv) The comprehensive plan designation and zoning of the subject property;**
  - (v) The type of application(s);**
  - (vi) A brief description of the proposal; and**
  - (vii) Signatures of the applicant(s), owner(s) of the subject property, and/or the duly authorized representative(s) thereof authorizing the filing of the application(s).**
- (b) A written statement addressing each applicable approval criterion and standard;**
- (c) Any additional information required under the TDC for the specific land use action sought;**
- (d) Payment of the applicable application fee(s) pursuant to the most recently adopted fee schedule;**
- (e) Recorded deed/land sales contract with legal description.**
- (f) A preliminary title report or other proof of ownership.**
- (g) For those applications requiring a neighborhood/developer meeting:**
  - (i) The mailing list for the notice;**
  - (ii) A copy of the notice;**
  - (iii) An affidavit of the mailing and posting;**
  - (iv) The original sign-in sheet of participants; and**
  - (v) The meeting notes described in TDC 32.120(7).**
- (h) A statement as to whether any City-recognized Citizen Involvement Organizations (CIOs) whose boundaries include, or are adjacent to, the subject property were contacted in advance of filing the application and, if so, a summary of the contact. The summary must include the date when contact was made, the form of the contact and who it was with (e.g. phone conversation with neighborhood association chairperson, meeting with land use committee, presentation at neighborhood association meeting), and the result;**
- (i) Any additional information, as determined by the City Manager, that may be required by another provision, or for any other permit elsewhere, in the TDC, and any other information that may be required to adequately review and analyze the proposed development plan as to its conformance to the applicable criteria;**

**(2) Application Intake.** Each application, when received, must be date-stamped with the date the application was received by the City, and designated with a receipt number and a notation of the staff person who received the application.

**(3) Administrative Standards for Applications.** The City Manager is authorized to establish administrative standards for application forms and submittals, including but not limited to plan details, information detail and specificity, number of copies, scale, and the form of submittal.

**Finding:**

*The applicant submitted the subject application on November 7, 2019. The application was deemed complete on December 5, 2019. The general land use submittal requirements were included with this application. These standards are met.*

**Section 32.150 - Sign Posting.**

**(1) When Signs Posted.** Signs in conformance with these standards must be posted as follows:

- (a) Signs providing notice of an upcoming neighborhood/developer meeting must be posted prior to a required neighborhood/developer meeting in accordance with Section 32.120(6); and**
- (b) Signs providing notice of a pending land use application must be posted after land use application has been submitted for Type II, III and IV-A applications.**

**(2) Sign Design Requirements.** The applicant must provide and post a sign(s) that conforms to the following standards:

- (a) Waterproof sign materials;**
- (b) Sign face must be no less than eighteen (18) inches by twenty-four (24) inches (18" x 24"); and**
- (c) Sign text must be at least two (2) inch font.**

**(3) On-site Placement.** The applicant must place one sign on their property along each public street frontage of the subject property. (Example: If a property adjoins four public streets, the applicant must place a sign at each of those public street frontages for a total of four signs). The applicant cannot place the sign within public right of way.

**(4) Removal.** If a sign providing notice of a pending land use application disappears prior to the final decision date of the subject land use application, the applicant must replace the sign within forty-eight (48) hours of discovery of the disappearance or of receipt of notice from the City of its disappearance, whichever occurs first. The applicant must remove the sign no later than fourteen (14) days after:

- (a) The meeting date, in the case of signs providing notice of an upcoming neighborhood/developer meeting; or**
- (b) The City makes a final decision on the subject land use application, in the case of signs providing notice of a pending land use application.**

**Finding:**

*The applicant provided certification within Exhibit A3 that signs in conformance with this section were placed on site in accordance with this section. These standards are met.*

**Section 32.160 – Completeness Review.**

**(1) Duration.** Except as otherwise provided under ORS 227.178, the City Manager must review an application for completeness within 30 days of its receipt.



**(2) Considerations.** Determination of completeness will be based upon receipt of the information required under TDC 32.140 and will not be based on opinions as to quality or accuracy. Applications that do not respond to relevant code requirements or standards can be deemed incomplete. A determination that an application is complete indicates only that the application is ready for review on its merits, not that the City will make a favorable decision on the application.

**(3) Complete Applications.** If an application is determined to be complete, review of the application will commence.

**(4) Incomplete Applications.** If an application is determined to be incomplete, the City Manager must provide written notice to the applicant identifying the specific information that is missing and allowing the applicant the opportunity to submit the missing information. An application which has been determined to be incomplete must be deemed complete for purposes of this section upon receipt of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

**(5) Vesting.** If an application was complete at the time it was first submitted, or if the applicant submits additional required information within 180 days of the date the application was first submitted, approval or denial of the application must be based upon the standards and criteria that were in effect at the time the application was first submitted.

**(6) Void Applications.** An application is void if the application has been on file with the City for more than 180 days and the applicant has not provided the missing information or otherwise responded, as provided in subsection (4) of this section.

[...]

**Finding:**

*The subject application was submitted on November 7, 2019. The application was deemed complete December 5, 2019. These standards are met.*

**Section 32.230 – Type III Procedure (Quasi-Judicial Review – Public Hearing).**

Type III decisions involve the use of discretion and judgment and are made by the Planning Commission or Architectural Review Board after a public hearing with an opportunity for appeal to the City Council. The decision body for each application type is specified in Table 32-1. 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.

**(1) Submittal Requirements.** Type III applications must include the submittal information required by TDC 32.140(1).

**(2) Determination of Completeness.** After receiving an application for filing, the City Manager will review the application will for completeness in accordance with TDC 32.160.

**(3) Written Notice of Public Hearing – Type III.** Once the application has been deemed complete, the City must mail by regular first class mail Notice of a Public Hearing to the following individuals and agencies no fewer than 20 days before the hearing.

(a) Recipients:

- (i) The applicant and, the owners of the subject property;**
- (ii) All property owners within 1,000 feet measured from the boundaries of the subject property;**
- (iii) All property owners within a platted residential subdivision that is located within 1,000 feet of the boundaries of the subject property. The notice area includes the entire subdivision and not just those lots within 1,000 feet. If the residential subdivision is one of two or more individually platted phases sharing a single subdivision name, the notice area need not include the additional phases;**
- (iv) All recognized neighborhood associations within 1,000 feet from the boundaries of the subject property;**
- (v) All designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;**
- (vi) Any person who submits a written request to receive a notice;**
- (vii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies, including but not limited to: 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; Tri Met; and, ODOT Rail Division and the railroad company if a railroad-highway grade crossing provides or will provide the only access to the subject property. The failure of another agency to respond with written comments on a pending application does not invalidate an action or permit approval made by the City under this Code;**
- (viii) Utility companies (as applicable); and,**
- (ix) Members of the decision body identified in Table 32-1.**
- (b) The Notice of a Public Hearing, at a minimum, must contain all of the following information:**
  - (i) The names of the applicant(s), any representative(s) thereof, and the owner(s) of the subject property;**
  - (ii) The street address if assigned, if no street address has been assigned then Township, Range, Section, Tax Lot or Tax Lot ID;**
  - (iii) The type of application and a concise description of the nature of the land use action;**
  - (iv) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;**
  - (v) Brief summary of the local decision making process for the land use decision being made and a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;**
  - (vi) The date, time and location of the hearing;**
  - (vii) Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;**
  - (viii) The name of a City representative to contact and the telephone number where additional information may be obtained; and**

- (ix) Statement that the application and all documents and evidence submitted to the City are in the public record and available for review, and that copies can be obtained at a reasonable cost from the City; and**
- (x) Statement 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.**
- (c) Failure of a person or agency to receive a notice, does not invalidate any proceeding in connection with the application, provided the City can demonstrate by affidavit that required notice was given.**

**Finding:**

*After submittal and completeness review as required by this section, notice for the Type III hearing concerning AR 19-0008 was mailed by city staff on December 16, 2019, and contained the information required by this section. These standards are met.*

**(4) Conduct of the Hearing - Type III.**

The person chairing the hearing must follow the order of proceedings set forth below. 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 will be addressed to the chair with a request for a ruling. Rulings from the chair must, 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 decision body present and eligible to vote on the application before the body. The procedures to be followed by the chair in the conduct of the hearing are as follows:

- (a) At the commencement of the hearing, the person chairing the hearing must state to those in attendance all of the following information and instructions:**
  - (i) The applicable substantive criteria;**
  - (ii) That testimony, arguments and evidence must be directed toward the criteria described in paragraph (i) of this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision;**
  - (iii) That failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue;**
  - (iv) At the conclusion of the initial evidentiary hearing, the decision body must deliberate and make a decision based on the facts and arguments in the public record; and**
  - (v) Any participant may ask the decision body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the decision body grants the request, it will schedule a date to continue the hearing as provided in TDC 32.230(4)(e), or leave the record open for additional written evidence or testimony as provided TDC 32.230(4)(f).**
- (b) The public is entitled to an impartial decision body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the decision body must follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of**

interest arises, that member or members of the decision body must not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the decision body must individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they must be excused from the proceedings.

**(c) Presenting and receiving evidence.**

- (i) The decision body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;**
- (ii) No oral testimony will be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and**
- (iii) Members of the decision body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.**

**(d) The decision body, in making its decision, must consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.**

**(e) If the decision body decides to continue the hearing, the hearing must be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity must be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the decision body may limit additional testimony to arguments and not accept additional evidence.**

**(f) If the decision body leaves the record open for additional written testimony, the record must be left open for at least seven days after the hearing. Any participant may ask the decision body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the decision body must reopen the record, as follows:**

- (i) When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;**
- (ii) An extension of the hearing or record granted pursuant to this section is subject to the limitations of TDC 32.030, unless the applicant waives his or her right to a final decision being made within the required timeframe; and**
- (iii) If requested by the applicant, the decision body must grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.**

**Finding:**

*The Architectural Review Board will follow the hearing requirements set forth by this section. These standards will be met.*

**(5) Notice of Adoption of a Type III Decision.**

Notice of Adoption must be provided to the property owner, applicant, and any person who provided testimony at the hearing or in writing. The Type III Notice of Adoption must contain all of the following information:

- (a) A description of the applicant’s proposal and the City’s decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
- (b) The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area;
- (c) A statement that a copy of the decision and complete case file, including findings, conclusions, and conditions of approval, if any, is available for review and how copies can be obtained;
- (d) The date the decision becomes final, unless a request for appeal is submitted; and
- (e) The notice must include an explanation of rights to appeal the decision to the City Council in accordance with TDC 32.310.

**(6) Appeal of a Type III Decision.** Appeal of an Architectural Review Board or Planning Commission Type III Decision to the City Council may be made in accordance with TDC 32.310.

**(7) Effective Date of a Type III Decision.**

- (a) The written order is the final decision on the application.
- (b) The mailing date is the date of the order certifying its approval by the decision body.
- (c) A decision of the Architectural Review Board or Planning Commission is final unless:
  - (i) a written appeal is received at the City offices within 14 calendar days of the date notice of the final decision is mailed; or
  - (ii) The City Manager or a member of the City Council requests a review of the decision within 14 calendar days of the date notice of the final decision is mailed.

**Finding:**

*A final decision and any appeal will follow the requirements of this section. These standards will be met.*

## **Chapter 33: Applications and Approval Criteria**

[...]

### **Section 33.020 Architectural Review**

[...]

**(5) Approval Criteria.**

**(b) General Development.**

- (i) Applications for General Single Family Dwellings (not clear and objective), must comply with TDC 73A.140.
- (ii) Applications for General Development must comply with the applicable standards and objectives in TDC Chapter 73A through 73G.

**Finding:**

*The subject application, which is for “general development,” must comply with the standards and objectives in TDC 73A through 73G. These standards are met by submittal of the subject application.*

**(9) Permit Expiration.**

Architectural Review decisions (including Minor Architectural Review decisions) expire two (2) years from the effective date unless the applicant has received a building, or grading permit submitted in conjunction with a building permit application, substantial construction has occurred pursuant to the building permit, and an inspection has been performed by a member of the Building Division.

**(10) Extension of Permit Expiration.**

(a) An Architectural Review approval may be extended if the applicant, or successor interest, submits a written request for an extension of time within two (2) years of the effective date.

(b) A Minor Architectural Review approval may not be extended. A new application is required if the permit expires.

(c) Upon receipt of a request for an extension of time, the City will process the extension request as follows:

(i) If the City Manager approved the Architectural Review, then the City Manager will decide the extension request under the Type II procedures in TDC 32.220.

(ii) If the Architectural Review Board (ARB) approved the Architectural Review, then the ARB will decide the extension request under the Type III quasi-judicial procedures in TDC 32.230.

(d) The City must provide notice of the extension request to past recipients of the Architectural Review notice of decision and the applicant must post a sign pursuant to TDC 32.150.

(e) The City Manager or Architectural Review Board, as applicable, may grant the extension of time upon finding the following:

(i) The applicant submitted a written extension request prior to the expiration date;

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

(iii) If the previously approved application included a special study, the applicant provided a status report includes a letter from a recognized professional that states that conditions have not changed after the original approval and that no new study is warranted; and

(iv) If the site has been neglected so as to allow the site to become blighted, the deciding party must factor this into its decision.

(f) The City Manager or Architectural Review Board, as applicable, may grant or deny the extension request. The decision must be in writing and must be made within sixty (60) days of receipt of the request for extension. If the decision is to grant the extension, the extension can be no more than a single one-year extension.

(g) Upon making the decision, the City must provide notice of the extension decision as provided in TDC 32.220 for Type II decisions made by the City Manager and TDC 32.230 for Type III decisions made by the Architectural Review Board.

**Finding:**

*The proposed application is approved subject the compliance with the above criteria. With recommended Condition of Approval A1, these standards are met.*

**Section 33.110 Tree Removal Permit/Review**

**(1) Purpose.** To regulate the removal of trees within the City limits other than trees within the public right-of-way which are subject to TDC Chapter 74.

**(2) Applicability.** No person may remove a tree on private property within the City limits, unless the City grants a tree removal permit, consistent with the provisions of this Section.

[...]

**(3) Procedure Type.** Tree Removal Permit applications are subject to Type II Review in accordance with TDC Chapter 32. Tree Removal Permit applications submitted with an Architectural Review, Subdivision, or Partition application will be processed in conjunction with the Architectural Review, Subdivision, or Partition decision.

**Finding:**

*The applicant has submitted a tree plan and sufficient documentation in conjunction with the Architectural Review application. The criteria in TDC 33.110, addressed below, are the basis on approval or denial for tree removal as part of this Architectural Review. These standards are met.*

**Section 33.110 Tree Removal Permit/Review Approval Criteria**

**(5) Approval Criteria.**

**(a) An applicant must satisfactorily demonstrate that at least one of the following criteria are met:**

**(i) The tree is diseased and:**

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

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

**(C) 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.**

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

**(A) The tree is in danger of falling; or**

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

**(iii) 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.**

**(b) If none of the conditions in TDC 33.110(5)(a) are met, the certified arborist must evaluate the condition of each tree.**

**(i) Evergreen Trees.** An evergreen tree which meets any of the following criteria as determined by a certified arborist will not be required to be retained:

**(A) Trunk Condition - extensive decay and hollow; or**

**(B) Crown Development - unbalanced and lacking a full crown;**

**(ii) Deciduous Trees.** A deciduous tree which meets any of the following criteria as determined by a certified arborist will not be required to be retained:

- (A) Trunk Condition - extensive decay and hollow;**
- (B) Crown Development - unbalanced and lacking a full crown; or**
- (C) Structure - Two or more dead limbs.**

**Finding:**

*The applicant’s arborist surveyed 15 trees over 8” dbh on site, all 15 of which are proposed for removal. Of the on-site trees proposed for removal, all but one are proposed to be removed for private improvements and to accommodate demolition of the existing buildings at the north of the property. The proposed tree removal meets the standards of criterion 33.110(5)(a)(iii), which allows for tree removal where needed for development. Tree 10586 is proposed to be removed due to very poor condition including damage from past topping leading to dieback; removal of this tree is consistent with TDC 33.110(5)(a)(ii).*

*The tree survey also identified off-site trees which need to be protected, primarily due to grading impacts. The arborist identified 33 off-site trees likely to be impacted by proposed development on site. The applicant proposes to remove five of these neighboring trees: Tree 10828 on Tax ID 2S127AB00100, Trees 10783, 10784, 10785, and 20011 on Tax ID 2S122DD00100. In order to remove these trees, the applicant will need to demonstrate permission from the applicable property owners. A replacement tree would be necessary for Tree 10828 in order for the neighboring property to remain in compliance with perimeter landscaping standards as described in TDC 73C.230(3). With recommended Condition of Approval A4 related to requirements for tree removal on neighboring properties, and recommended Condition of Approval A5 related to tree protection, these standards are met.*

## **Chapter 61: General Manufacturing (MG) Zone**

[...]

### **TDC 61.200. - Use Categories.**

**(1) Use Categories.** Table 61-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the MG zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 61-1 and restrictions identified in TDC 61.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.

**(2) Use Categories in the Limited Commercial Setback.** Commercial uses may be further restricted within the Limited Commercial Setback, see TDC 60.210(4).

**(3) Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 61-1  
Use Categories in the MG Zone**



USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
[...]		
<b>INDUSRIAL USE CATEGORIES</b>		
[...]		
Heavy Manufacturing	P (L)	Concrete batch plants are not permitted in the Leveton Tax Increment District. All other uses permitted outright.
Light Manufacturing	P	—
Warehouse and Freight Movement	P/C	Conditional use required for warehousing of building materials and supplies. All other uses permitted outright.

[...]

**Finding:**

*The project identifies manufacturing and warehouse uses as the likely uses for the proposed site. These uses are permitted in the subject zone. Additional review may be necessary at the time of tenant improvements. This standard is met.*

**Section 61.300 – Development Standards.**

**Development standards in the MG zone are listed in Table 61-2. Additional standards may apply to some uses and situations, see TDC 61.310.**

**Table 61-2  
Development Standards in the MG Zone**

	Standard	Min. Proposed
<b>MINIMUM SETBACKS</b>		
<b>Front (SW Myslony)</b>	<b>30</b>	21
<b>Front (SW Tualatin-Sherwood)</b>	<b>30</b>	30
<b>Side</b>	<b>0-50 feet</b>	60
<b>Rear</b>	<b>0-50 feet</b>	60
<b>Parking and Circulation Areas</b>	<b>5 feet</b> No minimum setback required adjacent to joint access	10

	approach in accordance with TDC 73C.	
<b>STRUCTURE HEIGHT</b>		
<b>Maximum Height</b>	<b>60 feet</b>	40 feet

[...]

**Finding:**

*The front setback at SW Myslony Street is less than the minimum 30 feet required by the standards of this section. All other setbacks are proposed to be met. With recommended Condition of Approval A3 requiring modifications to meet the minimum front setback, these development standards will be met.*

**Chapter 71: Wetlands Protection District (WPD)**

**Section 71.060 Environmental Standards.**

**All construction or development, including excavation or filling, or the use of any land within the Wetlands Protection District (WPD), shall conform to the environmental standards required by TDC 71.061 to 71.066.**

**Finding:**

*The southeast portion of the site is within the Wetlands Fringe Area, a subset of the Wetlands Protection District. No portion of the property is within 40 feet of a Wetlands Protected Area and limited sections of this code chapter apply.*

[...]

**TDC 71.062. - Excavation and Filling.**

**Excavation, filling and earth-moving activities are permitted within the Wetlands Protection District (WPD), subject to the following restrictions:**

[...]

- (2) Within the Wetlands Fringe Area (WFA), excavation and filling shall be allowed in all areas for purposes related to its full development and use in accordance with applicable primary planning district classifications and for purposes of increasing or decreasing the elevations within such area to, or in excess of, the level of the so-called "100-year flood plain"; provided, however:**
  - (a) Excavation or filling in the Wetlands Fringe Area (WFA) shall not, when completed, result in significant increase or decrease in the volume of surface water that will thereafter flow or discharge into the Wetlands Protected Area (WPA) from the Wetlands Fringe Area (WFA).**
  - (b) All excavation, filling or other earth-moving activities within the Wetlands Fringe Area (WFA) shall be conducted in such a manner that erosion and silting of surface water runoff into the Wetlands Protected Area (WPA) will not take place. Where upland areas are exposed and subject to erosion due to such excavation, filling or other earth-moving activities, temporary grass cover or other soil stabilizing vegetation shall be established immediately upon completion of such activities if such exposure and erosion will result in erosion or siltation of any portion of the Wetlands Protected Area (WPA).**

- (3) Where necessary or desired in order to fully utilize all land lying in the Wetlands Fringe Area (WFA), or for the purpose of the installation or maintenance of subsurface improvements located thereon, fill, excavation or other earth-moving activities shall be permitted within the setback area above described; provided that, upon completion of such activities, the profile of the setback area shall conform with the characteristics of a "Type A" or "Type B" development setback, as depicted by Figure 71-1.
- (a) Fill materials placed in the setback area shall consist of topsoil of suitable nature and character to allow re-vegetation in accordance with the provisions of TDC 71.064, or, in the alternative, where topsoil is not utilized for purposes of fill, the materials that are utilized as fill shall be covered with topsoil to a depth of at least 12 inches where the underlying fill material is heavily compacted.
  - (b) Quatoma, Woodburn or Hillsboro loam, when identified within the setback area or upon adjacent land inside the Wetlands Fringe Area (WFA) by the U.S. Soil Conservation Service or by other reliable means, shall be suitable in nature and character to serve as topsoil for purposes of allowing re-vegetation of soil surfaces altered by filling, excavation or other earth-moving activities undertaken within the set-back area, or elsewhere within the Wetlands Fringe Area (WFA) in accordance with the requirements of the provisions of TDC 71.064. Where other types of soils or materials are proposed for use as topsoil in accordance with this subsection, the same shall be of a type and character that will promote rapid propagation and growth of vegetation which will provide food, cover and nesting areas for wildlife, as well as a visual barrier or screen between the Wetlands Protected Area (WPA) and adjacent uplands.
  - (c) Cove clay and silty clay loam shall not be used for purposes of providing any topsoil cover required to be placed within the setback area after filling, excavation or other earth-moving activities.
  - (d) Placement of landfill and topsoil within the setback area should be accomplished before September 15 in order to provide adequate opportunity for re-vegetation to occur during the ensuing growing season. Pending permanent re-vegetation in accordance with the requirements of TDC 71.064, filled areas within the setback area should be planted with temporary grass cover, winter cereal grains (broadcast at a rate of not less than 100 pounds per acre), or other soil-stabilizing vegetation for fast and effective control of any erosion or siltation that will occur in the Wetlands Protected Area (WPA) if stabilization is not effected in such areas.

**Finding:**

*Excavation, grading, and erosion control practices are subject to further review in permitting. With recommended Conditions of Approval A2 clarifying that the applicant must comply with the City Engineer's Decision (PRF 19-0008), these standards are met.*

[...]

**TDC 71.063. - Contamination and Sedimentation.**

During the course of development, site preparation, construction of any improvements, or usage of lands lying within the Wetlands Fringe Area (WFA) or the Sweek Pond Management Area (SPMA), the introduction of storm drainage, surface and roof runoff into the Wetlands Protection Area (WPA) and

the Sweek Pond Management Area (SPMA) shall only occur when such runoff is substantially free of silt, debris, oil or other materials injurious to plants or wildlife in the Wetlands Protected Area and the Sweek Pond Management Area (WPA and SPMA).

- (1) All apparent and potential sources of storm drainage and surface runoff contamination located within the Wetlands Fringe Area (WFA) and the Sweek Pond Management Area (SPMA) such as operating areas, and equipment cleaning and maintenance area, shall have curbs and be drained into impoundment areas or a waste treatment system in such a manner that no contaminated storm drainage or surface runoff originating in such areas will be discharged directly into the Wetlands Protected Area (WPA) or Sweek Pond Management Area (SPMA) without treatment that would render such drainage uncontaminated.
- (2) No solid wastes that are known to be toxic to vegetation or wildlife within the Wetlands Protected Area (WPA) and the Sweek Pond Management Area (SPMA) shall be permanently stored or disposed of within the Wetlands Fringe Area (WFA) or Sweek Pond Management Area (SPMA).
- (3) No pesticides shall be used in the Wetlands Protected District before the type, duration and manner of use have been approved by the Oregon Department of Environmental Quality.
- (4) To prevent soil movement into, or erosion within, the Wetlands Protected Area and the Sweek Pond Management Area (WPA and SPMA) as a result of drainage from adjacent upland areas within the Wetlands Fringe Area (WFA) and Sweek Pond Management Area (SPMA) during the course of development, site preparation, construction of improvements or use, a combination of filters or diversions or other appropriate means to be specified by an engineer shall be employed where necessary in order to supplement soils stabilization that will result from re-vegetation as otherwise provided for and described in TDC 71.062(2) and 71.064.

**Finding:**

*Excavation, grading, and erosion control practices are subject to further review in permitting. With recommended Conditions of Approval A2 as covered in the City Engineer's Decision (PFR 19-0008), these standards are met.*

**TDC 71.064. - Vegetation.**

[...]

- (2) Vegetation occurring within the Wetlands Fringe Area (WFA) may be removed or altered at any time during the course of development, site preparation, construction of improvements or usage, when reasonably required for any of such purposes, subject to the following:
  - (a) Areas where vegetation has been removed or altered incidental to construction or development of land areas within the Wetlands Fringe Area (WFA) lying outside the setback area, which are not otherwise committed and used as the location or site of surface improvements associated with the development or use of the property, shall be seeded or planted to reestablish a vegetation cover compatible with the adjacent wetland habitats insofar as practicable.
  - (b) Areas where vegetation has been removed or altered incidental to development or usage of land areas within the Wetlands Fringe Area (WFA) which occurs by reason of filling, excavation or other activities undertaken within the setback areas, shall be seeded or planted so as to effect eventual reestablishment of vegetation, if practicable, of the character, type and density that occurred in the areas affected prior to such removal or alteration.

- (c) Owners and occupiers of land lying within the setback area upon which vegetation has been disturbed as a result of development, site preparation, construction of improvements or use shall permit access to such areas by public agencies, resource management groups and environmental interest groups approved by the City for purposes of entry and the conduct of activities designed or intended to effect the seeding, planting and maintenance of vegetation within the setback area in addition to, or in lieu of, the vegetation to be placed therein in accordance with TDC 71.064(2)(b) in the nature of trees, shrubs or other vegetation forms that will provide food, cover and nesting areas for wildlife and which may also provide a visual barrier or screen between the boundary of the Wetlands Protected Area (WPA) and adjacent upland areas. No such activity shall be authorized or permitted where the same or the effects thereof may materially impair or damage the structural integrity or usefulness of landfill occurring within such area, or which may enhance the area's susceptibility to erosion or damaging surface or subsurface water flow, or which may damage, or impair the usefulness of, utilities or other improvements lying within or adjacent to the area otherwise permitted under the terms of this chapter.
- (d) Re-vegetation as required by the provisions of this section shall begin as soon as practicable, but in no event later than 60 days, after cessation of development, unless otherwise approved by the City. Such re-vegetation shall be deemed to comply with the requirements of this chapter if approved or recommended as to type, species and placement by either the U.S. Soil Conservation Service or the Oregon Department of Fish and Wildlife.
- (3) Land areas within the Wetlands Fringe Area (WFA) that lie outside the 40-foot setback area and which are not otherwise committed to development or use in connection with the intended development or use to be made of such areas by the owners, developers or occupiers thereof, shall be left, insofar as practicable, in their natural state for so long as such development or use does not require their alteration. Subject to the limitations set forth in TDC 71.064(2)(c), access shall be afforded to public agencies, resource management groups and environmental interest groups approved for purposes of planting and maintenance of vegetation within such areas that will afford food, cover and nesting areas for wildlife indigenous to the Wetlands Protected Area (WPA) except where such entry or activities are unsafe or may damage the property or security of adjacent developed areas. Any such vegetation shall be subject to removal at a later date, should such areas be required or involved in future development.
- (4) There shall be included in the statement of proposed construction methods and schedule required as part of the certification by TDC 71.040 of this chapter, a landscaping and re-vegetation plan and schedule, which shall set forth in reasonable detail the means by which the applicant(s) for any building permits, subdivision approvals or public works permits within the Wetlands Protection District (WPD) shall comply with the requirements of this section.

[...]

**Finding:**

*Excavation, grading, and erosion control practices are subject to further review in permitting. With recommended Conditions of Approval A2 as covered in the City Engineer's Decision (PFR 19-0008). These standards are met.*

## **Chapter 73A: Site Design**

### **Section 73A.400 – Industrial Design Standards.**

The following standards are minimum requirements for commercial development in all zones:

**(1) Walkways.** Industrial development must provide walkways as follows:

- (a) Walkways must be a minimum of five feet in width;
- (b) Walkways must be constructed of asphalt, concrete, or a pervious surface such as pavers or grasscrete (not gravel or woody material);
- (c) Walkways must meet ADA standards applicable at time of construction or alteration;
- (e) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;
- (f) Walkways through parking areas, drive aisles, and loading areas must be of a different appearance than the adjacent paved vehicular areas; and
- (g) Outdoor Recreation Access Routes must 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:**

*A walkway for Building A to the north is proposed connecting the SW Myslony Street right-of-way with the main entrance. Walkways are also proposed on either side of Building B, connecting with SW Tualatin-Sherwood Road. These proposed walkways are at least 5 feet wide and proposed to be constructed of hard surface. Further compliance with ADA standards will be evaluated at the time of building permit. With recommended Conditional of Approval A3 requiring a walkway of a different appearance than surrounding vehicular area to be established between the respective walkways of Building A and Building B, and connecting with the easement for the future public trail, these standards will be met.*

[...]

**(4) Safety and Security.** Industrial development must provide safety and security features as follows:

- (a) Locate windows and provide lighting in a manner that enables tenants, employees, and police to watch over pedestrian, parking, and loading areas;
- (b) Locate windows and interior lighting to enable surveillance of interior activity from the public right-of-way;
- (c) Locate, orient, and select exterior lighting to facilitate surveillance of on-site activities from the public right-of-way without shining into public rights-of-way or fish and wildlife habitat areas;
- (d) Provide an identification system which clearly locates buildings and their entries for patrons and emergency services; and

[...]

**Finding:**

*As seen on the elevation plans (Sheets A-4 and A-5, Exhibit A2), windows for Building A are generally oriented toward the SW Myslony Street right-of-way. Windows on Building B are generally oriented toward*

*the Tualatin-Sherwood right-of-way. Loading area doors are shown with a single window each, providing additional visibility into the center and northeastern rear of the site. Lighting is provided throughout the site to enhance visibility, as seen as the applicant's photometric study (Sheet FC-2, Exhibit A2). Standards (a) and (b) are met. As shown on the applicant's photometric study (Sheet FC-2, Exhibit A2), lighting will primarily be focused toward the edges of perimeter of the buildings and interior parking areas. Standard (c) is met. Building identification will be reviewed at the time of building permit, and should meet all standards of Tualatin Valley Fire and Rescue as well as all applicable building code standards. With recommended Condition of Approval A8, criterion (d) is met.*

**(5) Service, Delivery, and Screening. Commercial development must provide service, delivery, and screening features as follows:**

- (a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;**
- (b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and**
- (c) Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.**

**Finding:**

*Mechanical equipment is not yet proposed with this application, though likely to be installed at the time of building permit. Likewise, outdoor storage has not been proposed. With recommended Condition of Approval A12 requiring screening, these standards are met.*

**(6) Adjacent to Transit. Commercial development adjacent to transit must comply with the following:**

- (a) Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street.**
- [...]**

**Finding:**

*SW Tualatin-Sherwood Road is designated as a transit street in TDC Chapter 11, Figure 11-5. There is no existing bus stop along the frontage of this property. A walkway connection is proposed between Building B and SW Tualatin-Sherwood Road. With recommended Condition of Approval A3 requiring a walkway connection between Building B and Building A, this standard will be met.*

## Chapter 73B: Landscaping Standards

### Section 73B.020 – Landscape Area Standards Minimum Areas by Use and Zone.

*Excerpted from 73B.020*

Zone	Minimum Area Requirement*	Minimum Area Requirement with dedication for a fish and wildlife habitat*
[...]		
(3) CO, CR, CC, CG, ML and MG zones except within the Core Area Parking District—All uses	15 percent of the total area to be developed	12.5 percent of the total area to be developed

**Finding:**

*As shown in the landscaping plans, Sheets L1.0 through L1.7 (Exhibit A2), 110,526 square feet of landscaping is provided. The landscape area represents 15.4% of the total site area. This standard is met.*

### Section 73B.040 – Additional Minimum Landscaping Requirements for Commercial Uses.

**(1) General.** In addition to requirements in TDC 73B.020, commercial uses must comply with the following:

(a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.

[...]

**Finding:**

*Landscaping is provided in all areas not otherwise occupied by buildings, vehicle area, or pedestrian area; this standard is met.*

**(b) Minimum 5-foot-wide landscaped area must be located along all building perimeters viewable by the general public from parking lots or the public right-of-way, but the following may be used instead of the 5-foot-wide landscaped area requirement:**

(i) Pedestrian amenities such as landscaped plazas and arcades; and

(ii) Areas developed with pavers, bricks, or other surfaces, for exclusive pedestrian use and contain pedestrian amenities, such as benches, tables with umbrellas, children's play areas, shade trees, canopies.

(c) 5-foot-wide landscaped area requirement does not apply to:

(i) loading areas,

(ii) bicycle parking areas,

(iii) pedestrian egress/ingress locations, and



(iv) where the distance along a wall between two vehicle or pedestrian access openings (such as entry doors, garage doors, carports and pedestrian corridors) is less than 8 feet.

**Finding:**

*The buildings are buffered with at least five feet of landscaping or pedestrian amenity areas, with the exception of loading and pedestrian areas, as seen on Sheets L1.0 through L3.0 (Exhibit A2). These standards are met.*

**Section 73B.070 – Minimum Landscaping Standards for All Zones.**

The following are minimum standards for landscaping for all zones.

Standards	
(1) Required Landscape Areas	<ul style="list-style-type: none"> <li>• Must be designed, constructed, installed, and maintained so that within three years the ground must be covered by living grass or other plant materials.</li> <li>• The foliage crown of trees cannot be used to meet this requirement.</li> <li>• A maximum of 10% of the landscaped area may be covered with un-vegetated areas of bark chips, rock or stone.</li> <li>• Must be installed in accordance with the provisions of the American National Standards Institute ANSI A300 (Part 1) (Latest Edition).</li> <li>• Must be controlled by pruning, trimming, or otherwise so that:</li> <li>• It will not interfere with designated pedestrian or vehicular access; and</li> <li>• It will not constitute a traffic hazard because of reduced visibility.</li> </ul>

**Finding:**

*The density of plantings as shown on Sheets L1.0 through L3.0 (Exhibit A2) is sufficient to provide full coverage of landscaping within three years. These standards are met.*

(2) Fences	Landscape plans that include fences must integrate any fencing into the plan to guide wild animals toward animal crossings under, over, or around transportation corridors.
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**Finding:**

*No fences are proposed. This standard is met.*

(3) Tree Preservation	<ul style="list-style-type: none"> <li>• Trees and other plant materials to be retained must be identified on the landscape plan and grading plan.</li> </ul> <p><b>During construction:</b></p> <ul style="list-style-type: none"> <li>• Must provide above and below ground protection for existing trees and plant materials identified to remain;</li> <li>• Trees and plant materials identified for preservation must be protected by chain link or other sturdy fencing placed around the tree at the drip line;</li> <li>• If it is necessary to fence within the drip line, such fencing must be specified by a qualified arborist;</li> <li>• Top soil storage and construction material storage must not be located within the drip line of trees designated to be preserved;</li> </ul>
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	<ul style="list-style-type: none"> <li>• 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 must 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; and</li> <li>• Tree root ends must not remain exposed.</li> <li>• Landscaping under preserved trees must be compatible with the retention and health of the preserved tree.</li> <li>• When it is necessary for a preserved tree to be removed in accordance with TDC 33.110 (Tree Removal Permit) the landscaped area surrounding the tree or trees must 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, landscape materials. Native trees are encouraged</li> <li>• 100% of the area preserved under any tree or group of trees (Except for impervious surface areas) retained in the landscape plan must apply directly to the percentage of landscaping required for a development</li> </ul>
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**Finding:**

*No trees are proposed to be retained on site. Protection for off-site trees been identified on a tree preservation plan on sheets L1.0 through L1.7 (Exhibit A2), with tree protection fencing specified (Exhibit A2). As shown, sturdy fencing is proposed. With recommended Conditions of Approval A4 and A5, these standards are met.*

<p><b>(4) Grading</b></p>	<ul style="list-style-type: none"> <li>• After completion of site grading, top-soil is to be restored to exposed cut and fill areas to provide a suitable base for seeding and planting.</li> <li>• All planting areas must be graded to provide positive drainage.</li> <li>• Soil, water, plant materials, mulch, or other materials must not be allowed to wash across roadways or walkways.</li> <li>• Impervious surface drainage must be directed away from pedestrian walkways, dwelling units, buildings, outdoor private and shared areas and landscape areas except where the landscape area is a water quality facility.</li> </ul>
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**Finding:**

*The applicant proposes to develop or landscape all exposed areas remaining after grading. These standards are met.*

<p><b>(5) Irrigation</b></p>	<ul style="list-style-type: none"> <li>• Landscaped areas must be irrigated with an automatic underground or drip irrigation system</li> <li>• Exceptions: Irrigation requirement does not apply to duplexes and townhouses.</li> </ul>
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**Finding:**

*Irrigation is proposed in new landscaping areas as detailed on Sheet L2.1. This standard is met.*

<p><b>(6) Re-vegetation in Un-landscaped Areas</b></p>	<ul style="list-style-type: none"> <li>• Vegetation must be replanted in all areas where vegetation has been removed or damaged in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements,.</li> <li>• Plant materials must be watered at intervals sufficient to ensure survival and growth for a minimum of two growing seasons.</li> <li>• The use of native plant materials is encouraged to reduce irrigation and maintenance demands.</li> <li>• Disturbed soils should be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.</li> </ul>
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**Finding:**

*The applicant proposes to landscape all areas not otherwise proposed for development. These standards are met.*

**Section 73B.080 – Minimum Standards Trees and Plants.**

The following minimum standards apply to the types of landscaping required to be installed for all zones.

Standard		
<p><b>(1) Deciduous Shade Trees</b></p>	<ul style="list-style-type: none"> <li>• One and on-half inch caliper measured six inches above ground;</li> <li>• Balled and burlapped; bare root trees will be acceptable to plant during their dormant season;</li> <li>• Reach a mature height of 30 feet or more;</li> <li>• Cast moderate to dense shade in summer;</li> <li>• Live over 60 years;</li> <li>• Do well in urban environments, tolerant of pollution and heat, and resistant to drought;</li> <li>• Require little maintenance and mechanically strong;</li> <li>• Insect- and disease-resistant;</li> <li>• Require little pruning; and</li> <li>• Barren of fruit production.</li> </ul>	
<p><b>(2) Deciduous Ornamental Trees</b></p>	<ul style="list-style-type: none"> <li>• One and on-half inch caliper measured six inches above ground;</li> <li>• balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species</li> </ul>	
<p><b>(3) Coniferous Trees</b></p>	<ul style="list-style-type: none"> <li>• 5 feet in height above ground;</li> <li>• balled and burlapped; bare root trees will be acceptable to plant during their dormant season; and</li> </ul>	

	<ul style="list-style-type: none"> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species.</li> </ul>	
(4) Evergreen and Deciduous Shrubs	<ul style="list-style-type: none"> <li>• One to five gallon size;</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species; and</li> <li>• Side of shrub with best foliage must be oriented to public view.</li> </ul>	
(5) Groundcovers	<ul style="list-style-type: none"> <li>• Fully rooted;</li> <li>• Well branched or leafed;</li> <li>• Healthy, disease-free, damage-free, well-branched stock, characteristic of the species; and</li> <li>• English ivy (<i>Hedera helix</i>) is prohibited.</li> </ul>	
(6) Lawns	<ul style="list-style-type: none"> <li>• Consist of grasses, including sod, or seeds of acceptable mix within the local landscape industry;</li> <li>• 100 percent coverage and weed free; and</li> <li>• Healthy, disease-free, damage-free, characteristic of the species.</li> </ul>	

**Finding:**

*Per the Plant Schedule provided on Sheets L1.1 through L1.7, and planting details on L2.0, the standards for groundcover, shrubs, and trees to be planted are met.*

## Chapter 73C: Parking Standards

### Section 73C.020 – Parking Lot Design Standards.

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

- (1) Off-street parking lot design must comply with the dimensional standards set forth in Figure 73-1; [...]
- (2) Parking lot drive aisles must be constructed of asphalt, concrete, or pervious concrete;
- (3) Parking stalls must be constructed of asphalt, concrete, pervious concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material. Pervious surfaces, are encouraged for parking stalls in or abutting the Natural Resource Protection Overlay District, Other Natural Areas, or in a Clean Water Services Vegetated Corridor;
- (4) Parking lots must be maintained adequately for all-weather use and drained to avoid water flow across sidewalks;
- (5) Parking bumpers or wheel stops or curbing must be provided to prevent cars from encroaching on adjacent landscaped areas, or adjacent pedestrian walkways.

#### Finding:

*As shown on the Hardscape Plan, Sheets C1.0 through C1.7 (Exhibit A2), stalls are proposed to be 18.5 feet long (16 feet on asphalt with a maximum 2.5 feet of overhang into landscape area) and 9 feet wide, accounting for wheel overhang into landscape areas. These standards are met. Drive aisles and stalls are proposed to be comprised of asphalt. Concrete curbs and wheel stops are also proposed. These standards are met.*

- (6) Disability parking spaces and accessibility must meet ADA standards applicable at time of construction or alteration;
- (7) Parking stalls for sub-compact vehicles must not exceed 35 percent of the total parking stalls required by TDC 73C.100. Stalls in excess of the number required by TDC 73C.100 can be sub-compact stalls;

#### Finding:

*The Hardscape Plan, Sheets C1.0 through C1.7 (Exhibit A2) shows eleven ADA compliant parking spaces planned near entrances at both proposed buildings. There are no subcompact stalls proposed. ADA standards will be reviewed in greater detail following submittal of a building permit. These standards are met.*

- (8) Groups of more than 4 parking spaces must 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;
- (9) Drives to off-street parking areas must be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site;
- (10) On-site drive aisles without parking spaces, which provide access to parking areas with regular spaces or with a mix of regular and sub-compact spaces, must have a minimum width of 22 feet for two-

**way traffic and 12 feet for one-way traffic; When 90 degree stalls are located on both sides of a drive aisle, a minimum of 24 feet of aisle is required. On-site drive aisles without parking spaces, which provide access to parking areas with only sub-compact spaces, must have a minimum width of 20 feet for two-way traffic and 12 feet for one-way traffic;**

**Finding:**

*The design of the parking lot will not require movement on the public street. Drive aisles with parking are at least 26 feet wide as proposed. A drive aisle from SW Myslony Street to Building B is proposed at 40 feet wide. At the north end of the site at Building A, the drive aisle width may need to be modified in order to accommodate the full area of the required easement for the Ice Age Tonquin Trail. With recommended Condition of Approval A3, these standards will be met.*

**(11) Artificial lighting, must be deflected to not shine or create glare in a residential zones, street right-of-way, a Natural Resource Protection Overlay District, Other Natural Areas, or a Clean Water Services Vegetated Corridor;**

**(12) Parking lot landscaping must be provided pursuant to the requirements of TDC 73C.200; and**

**(13) Except for parking to serve residential uses, parking areas adjacent to or within residential zones or adjacent to residential uses must be designed to minimize disturbance of residents.**

**Finding:**

*As shown on the applicant's photometric study (Sheet FC-2, Exhibit A2), lighting will primarily be focused toward the edges of perimeter of the buildings and interior parking areas. These standards are met.*

**Section 73C.050 – Bicycle Parking Requirements and Standards.**

**(1) Requirements. Bicycle parking facilities must include:**

**(a) Long-term parking that consists of covered, secure stationary racks, lockable enclosures, or rooms in which the bicycle is stored;**

**(i) Long-term bicycle parking facilities may be provided inside a building in suitable secure and accessible locations.**

**(b) Short-term parking provided by secure stationary racks (covered or not covered), which accommodate a bicyclist's lock securing the frame and both wheels.**

**(2) Standards. Bicycle parking must comply with the following:**

**(a) Each bicycle parking space must be at least six feet long and two feet wide, with overhead clearance in covered areas must be at least seven feet;**

**(b) A five (5) foot-wide bicycle maneuvering area must be provided beside or between each row of bicycle parking. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;**

**(c) Access to bicycle parking must be provided by an area at least three feet in width. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;**

**(d) Bicycle parking areas and facilities must be identified with appropriate signing as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle**

parking signs must be located at the main entrance and at the location of the bicycle parking facilities;

(e) Bicycle parking must be located in convenient, secure, and well-lighted locations approved through the Architectural Review process. Lighting, which may be provided, must be deflected to not shine or create glare into street rights-of-way or fish and wildlife habitat areas;

(f) Required bicycle parking spaces must be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This does not preclude the operation of private for-profit bicycle parking businesses;

(g) Bicycle parking may be provided within the public right-of-way in the Core Area Parking District subject to approval of the City Engineer and provided it meets the other requirements for bicycle parking; and

(h) The City Manager 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 Architectural Review.

**Finding:**

*As shown on Sheet A-1 (Exhibit A2) applicant proposes to provide covered outdoor bike parking at the northwest and southwest corners of Building A, and the southeast and southwest corners of Building B, near proposed tenant entrances. With recommended Condition of Approval A3 in order to show compliance with standards (a), (b), (c), and (d), these standards are met.*

**Section 73C.100 – Off-Street Parking Minimum/Maximum Requirements.**

USE	MINIMUM MOTOR VEHICLE PARKING	MAXIMUM MOTOR VEHICLE PARKING	BICYCLE PARKING	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
[...]				
(f) Industrial				
(i) Manufacturing	1.60 spaces per 1,000 square feet of gross floor area	None	2, or 0.10 spaces per 1,000 gross square feet, whichever is greater	First five spaces or 30 percent, whichever is greater
(ii) Warehousing	0.30 spaces per 1,000 square feet of gross floor area	Zone A: 0.4 spaces per 1,000 square feet of gross floor area Zone B: 0.5 spaces per 1,000 square feet of gross floor area	2, or 0.10 spaces per 1,000 gross square feet, whichever is greater	First five spaces or 30 percent, whichever is greater

**Finding:**

While tenants have not been named for this development, the applicant proposes to construct parking appropriate for a mix of 187,417 square feet (59%) warehousing, and 129,708 square feet (41%) of manufacturing. These standards are met.

Table 1: Minimum and Proposed Parking by Use

Use	Square Footage	Vehicle Parking Min.	Proposed	Bike Parking Min.	Proposed
Manufacturing	129,708	208		13	
Warehousing	187,417	56		19	
<b>Total</b>	<b>317,125</b>	<b>264</b>	<b>274</b>	<b>32</b>	<b>31</b>

For the mix of uses, 264 parking spaces are required; 274 are proposed. Additionally, 32 bike parking spaces are required by code based on the current total building area, 10 of which must be covered. The site will provide covered bike parking as shown on Sheet A-1 (Exhibit A2). The applicant has proposed 31 bike parking spaces, which is one short of the minimum standard. With anticipated changes to the building footprint in order to meet setback requirements, this minimum may be recalculated. With recommended Condition of Approval A3 requiring an additional bike parking space and additional detail on the standards of TDC 73C.050, these standards are met.

(2) In addition to the general parking requirements in subsection (1), the following are the minimum number of off-street vanpool and carpool parking for commercial, institutional, and industrial uses.

Number of Required Parking Spaces	Number of Vanpool or Carpool Spaces
0 to 10	1
10 to 25	2
26 and greater	1 for each 25 spaces

[...]

**Finding:**

Since 264 parking spaces are required, 11 are required to be carpool/vanpool spaces. No carpool/vanpool spaces are designated on the plans. With Condition of Approval A3, this standard is met.

**Section 73C.120 – Off-Street Loading Facilities Minimum Requirements.**

(1) The minimum number of off-street loading berths for commercial, industrial, and institutional uses is as follows:

Use	Square Feet of Floor Area	Number of Berths	Dimensions of Berth	Unobstructed Clearance of Berth
<b>Industrial</b>				
60,000 and over	3	12 feet x 35 feet	14 feet	60,000 and over

(2) Loading berths must not use the public right-of-way as part of the required off-street loading area.



**(3) Required loading areas must be screened from public view, public streets, and adjacent properties by means of sight-obscuring landscaping, walls or other means, as approved through the Architectural Review process.**

**(4) Required loading facilities must be installed prior to final building inspection and must be permanently maintained as a condition of use.**

**(5) The off-street loading facilities must in all cases be on the same lot or parcel as the structure they are intended to serve. In no case must the required off-street loading spaces be part of the area used to satisfy the off-street parking requirements.**

[...]

**Finding:**

*Given the nature of the proposed site, well over the minimum number of loading berths are provided; 32 on Building A and 26 on Building B. The loading berths are oriented away from the right-of-way. The loading area for Building A is to be screened from neighboring properties with juniper and dwarf strawberry trees. The loading area for Building B is to be screened with more juniper along with honeysuckle to the east. From the west, screening is provided with evergreen huckleberry, Mexican orange, as well as existing mature western red cedar trees straddling the property line and proposed for protection. These standards are met.*

**Section 73C.130 – Parking Lot Driveway and Walkway Minimum Requirements. Parking lot driveways and walkways must comply with the following requirements:**

[...]

**(3) Industrial Uses. Ingress and egress for industrial uses must not be less than the following:**

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, Etc.
1-250	1	36 feet for first 50' from ROW, 24 feet thereafter	No curbs or walkway required
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

**Finding:**

*The site provides two points of ingress and egress at the north and south ends of the SW Myslony Street cul-de-sac. Each is proposed as 40 feet wide for well over the first 50 feet from the right-of-way. The north access drive may need to be modified in order to accommodate the full width of the Ice Age Tonquin Trail easement, in which case, the ingress/egress will need to continue to comply with this section as discussed in recommended Condition of Approval A3. This standard is met.*

**(6) Maximum Driveway Widths and Other Requirements.**

**(a) Unless otherwise provided in this chapter, maximum driveway widths for Commercial, Industrial, and Institutional uses must not exceed 40 feet.**

**(b) Driveways must not be constructed within 5 feet of an adjacent property line, unless the two adjacent property owners elect to provide joint access to their respective properties, as provided by TDC73C.040.**

- (c) The provisions of subsection (b) do not apply to townhouses and duplexes, which are allowed to construct driveways within 5 feet of adjacent property lines.
- (d) There must be a minimum distance of 40 feet between any two adjacent driveways on a single property unless a lesser distance is approved by the City Manager.
- (e) Must comply with the distance requirements for access as provided in TDC 75.
- (f) Must comply with vision clearance requirements in TDC 75.

**Finding:**

*No driveways are greater than 40 feet wide or within 5 feet of an adjacent property line other than those to be held in common ownership. The two driveways on either side of the SW Myslony Street cul-de-sac are more than 40 feet in distance from one another and the access is further addressed by the City Engineer's separate findings regarding the standards of TDC Chapter 75. These standards are met.*

**PARKING LOT LANDSCAPING**

**Section 73C.200 – Parking Lot Landscaping Standards Purpose and Applicability.**

- (1) Purpose. The goals of the off-street parking lot standards are to create shaded areas in parking lots, to reduce glare and heat buildup, provide visual relief within paved parking areas, emphasize circulation patterns, reduce the total number of spaces, reduce the impervious surface area and stormwater runoff, and enhance the visual environment. The design of the off-street parking area must be the responsibility of the developer and should consider visibility of signage, traffic circulation, comfortable pedestrian access, and aesthetics.
- (2) Applicability. Off-street parking lot landscaping standards apply to any surface vehicle parking or circulation area.

**Section 73C.230 – Industrial Parking Lot Landscaping Requirements.** Industrial uses must comply with the following landscaping requirements for parking lots in all zones.

- (1) General. Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering

**Finding:**

*The parking lot contains landscaping in areas not uses for vehicles and pedestrian movement. This standard is met.*

- (2) **Clear Zone.** Clear zone required 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:**

*As shown in the landscape plans L1.0 through L1.7 (Exhibit A2), the proposed plantings will provide for visual clearance at the end of drive aisles and drive entrances. With recommended Condition of Approval A16 related to maintenance, this standard is met.*

**(3) Perimeter. Minimum 5 feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following:**

- (a) Deciduous trees located not more than 30 feet apart on average as measured on center;**
- (b) Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;**
- (c) Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;**
- (d) Native trees and shrubs are encouraged; and**
- (e) Exception: Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.**

**Finding:**

*As shown in the landscape plans L1.1 through L1.7 (Exhibit A2), at least five feet of landscape buffer is proposed for all parking and vehicle drive areas. These areas are not all proposed with deciduous trees as specified under standard (a). With recommended Condition of Approval A3 to modify the landscape plan to accommodate additional trees as specified in standard (a), and to factor in potential changes to accommodate the full width of the easement for the Ice Age Tonquin Trail, these standards are met.*

**(4) Landscape Island. Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following.**

- (a) May be lower than the surrounding parking surface to allow them to receive stormwater runoff and function as water quality facilities as well as parking lot landscaping;**
- (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;**
- (c) Islands must be utilized at aisle ends to protect parked vehicles from moving vehicles and emphasize vehicular circulation patterns;**
- (d) Landscape separation required for every eight continuous spaces in a row;**
- (e) Must be planted with one deciduous shade trees for every four parking spaces; Required trees must be evenly dispersed throughout the parking lot;**
- (f) Must be planted with groundcover or shrubs;**
- (g) Native plant materials are encouraged;**
- (h) Landscape island areas with trees must be a minimum of 5 feet in width (from inside of curb to curb);**
- (i) Required plant material in landscape islands must achieve 90 percent coverage within three years; and**
- [...]**

**Finding:**

*Given 274 parking spaces, 6,850 square feet of parking lot landscape island area is required. As shown in the landscape plans L1.1 through L1.7 (Exhibit A2), the proposed parking lot landscaping exceeds this ratio. Given 274 parking spaces, 69 trees are required and 69 are proposed. Curbs are included in the design and islands are provided at aisle ends. The landscape islands meet the spacing and size criteria as well. These standards are met.*

## **Chapter 73D: Waste and Recyclables Management Standards**

### **Section 73D.010 – Applicability and Objectives.**

**(1) Applicability.** The requirements of this Chapter apply to all new or expanded:

- (a) Common wall residential developments containing five or more units;
- (b) Commercial developments;
- (c) Industrial developments; and
- (d) Institutional developments.

**(2) Objectives.** Mixed solid waste and source separated recyclable storage areas should be designed to the maximum extent practicable to:

- (a) Screen elements such as garbage and recycling containers from view;
- (b) Ensure storage areas are centrally located and easy to use;
- (c) Meet dimensional and access requirements for haulers;
- (d) Designed to mitigate the visual impacts of storage areas;
- (e) Provide adequate storage for mixed solid waste and source separated recyclables; and
- (f) Improve the efficiency of collection of mixed solid waste and source separated recyclables.

### **Section 73D.020 - Design Methods.**

An applicant required to provide mixed solid waste and source separated recyclables storage areas must comply with one of following methods:

- (1) The minimum standards method in TDC 73D.030;
- (2) The waste assessment method in TDC 73D.040;
- (3) The comprehensive recycling plan method in TDC 73D.050; or
- (4) The franchised hauler review method in TDC 73D.060.

#### **Finding:**

*The applicant proposes to use the Minimum Standards Method (TDC 73D.030) and has verified that the location and configuration of the proposed waste facility and access will satisfy Republic Services. As discussed below, these standards are met.*

### **Section 73D.030 – 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.

(1) The size and location of the storage area(s) must be indicated on the site plan. Requirements are based on an assumed storage area height of four feet for mixed solid waste and source separated recyclables. Vertical storage higher than four 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 must include drawings to illustrate the layout of the storage area and dimensions for containers.

**(2) The storage area requirement is based on uses. If a building has more than one use and that use occupies 20 percent or less of the gross leasable area (GLA) of the building, the GLA occupied by that use must be counted toward the floor area of the predominant use(s). If a building has more than one use and that use occupies more than 20 percent of the GLA of the building, then the storage area requirement for the whole building must be the sum of the area of each use. Minimum storage area requirements by use is as follows:**

- (a) Common wall residential 5-10 units must provide 50 square feet.**
- (b) Common wall residential greater than 10 units must provide 50 square feet plus an (additional 5 square feet per unit above 10.**
- (c) Commercial, industrial, and institutional developments must provide a minimum storage area of 10 square feet plus:
  - (i) Office - 4 square feet/1000 square feet gross leasable area (GLA);**
  - (ii) Retail - 10 square feet/1000 square feet GLA;**
  - (iii) Wholesale/ Warehouse/ Manufacturing - 6 square feet/1000 square feet GLA;**
  - (iv) Educational and Institutional - 4 square feet/1000 square feet GLA; and**
  - (v) All other uses- 4 square feet/1000 square feet GLA.****

**(3) Mixed solid waste and source separated recyclables storage areas for multiple tenants on a single site may be combined and shared.**

**Finding:**

*A minimum 780 square feet of trash enclosure area is required for Building A (129,975/1000 \*6) and a minimum 1,122 square feet is required for Building B (187,150/1000 \*6). Several trash enclosures are proposed as shown on the landscape plans L1.1 through L1.7 (Exhibit A2). Lot A features a 400-square-foot trash enclosure at the northeast corner and second 400-square-foot enclosure at the southeast corner. Lot B has a 200-square-foot proposed enclosure at the southwest corner and a 400-square-foot enclosure at the northeast corner. The applicant proposes to comprise the difference with an interior trash storage area. With recommended Condition of Approval A3 that the final site plans show such an interior area comprising at least 502 square feet, these standards are met.*

**Section 73D.070 – Location, Design and Access Standards.**

**The following location, design, and access standards are applicable to all storage areas:**

**(1) Location Standards.**

- (a) The storage area for source separated recyclables may be collocated with the storage area for mixed solid waste.**
- (b) Storage area space requirements can be satisfied with a single location or multiple locations, and can combine both interior and exterior locations.**
- (c) Exterior storage areas must:
  - (i) Be located in central and visible locations on the site to enhance security for users;**
  - (ii) Be located in a parking area; and**
  - (iii) Not be located within a required front yard setback or in a yard adjacent to a public or private street.****

**(2) Design Standards.**

- (a) The dimensions of the storage area must accommodate containers consistent with current methods of local collection at time of construction or alteration.**

- (b) Indoor and outdoor storage areas must comply with Oregon Building and Fire Code requirements.**
- (c) Exterior storage areas must be enclosed by a sight obscuring fence or wall at least 6 feet in height.**
- (d) Evergreen plants must be placed around the enclosure walls, excluding the gate or entrance openings for common wall, commercial, and institutional developments.**
- (e) Gate openings for haulers must be a minimum of 10 feet wide and must be capable of being secured in a closed and open position.**
- (f) Horizontal clearance must be a minimum of 10 feet and a vertical clearance of 8 feet is required if the storage area is covered.**
- (g) A separate pedestrian access must also be provided in common wall, commercial, and institutional developments.**
- (h) Exterior storage areas must have either a concrete or asphalt floor surface.**
- (i) Storage areas and containers must be clearly labeled to indicate the type of material accepted.**

**Finding:**

*The proposed waste areas are in visible parking areas convenient to tenant entries and loading areas, and are outside of the applicable setbacks. As shown in the applicant's submittal, Republic Services, the applicable waste hauler, has indicated that the dimensions and accessibility of the enclosures meet their service needs (Exhibit A2). Further compliance with Building and Fire Code standards will be reviewed at the time of building permit. The location and design standards are met.*

**(3) Access Standards.**

- (a) Storage areas must 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.**
- (b) Storage areas must be designed to be easily accessible to hauler trucks and equipment, considering paving, grade, gate clearance and vehicle access.**
- (c) Storage areas must be accessible to hauler trucks 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 must be provided to allow hauler trucks to safely exit the site in a forward motion.**
- (d) Storage areas must be located so that pedestrian and vehicular traffic movement are not obstructed on site or on public streets adjacent to the site.**
- (e) The following is an exception to the access standard:**
  - (i) Access may be limited for security reasons.**

**Finding:**

*As shown in the applicant's submittal, Republic Services, the applicable waste hauler, has indicated that the dimensions and accessibility of the enclosures meet their service needs (Exhibit A6). These standards are met.*

### III. CONCLUSION AND RECOMMENDATION

Based on the application materials and analysis and findings presented above, staff finds that the applicable criteria have been met relative to the proposed Architectural Review request (AR 19-0008), and therefore recommends approval of this application with the following conditions of approval:

#### GENERAL:

- A1. This Architectural Review approval shall expire after two years 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 Section 33.020(10).
- A2. The applicant must comply with the City Engineer's Decision (PFR 19-0008) from the City of Tualatin Engineering Division, pursuant to TDC 33.020(6)(a)(ii).

#### PRIOR TO BUILDING OR ENGINEERING 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. Buildings that are setback at least 30 feet from front property line at SW Myslony Street, and in conformance with all other applicable development standards.
  - a. A site configuration on the North side of Building A that will meet parking stall length (*TDC Figure 73-1*), drive aisle width (*TDC 73C.020*), and ingress/egress standards (*TDC 73C.130(3)*) without encroaching into the required 16-foot easement for the Ice Age Tonquin Trail (discussed in the City Engineer's Decision PRF 19-0008). No development other than landscaping, and pedestrian amenities related to the future trail, are permitted within the easement.
  - b. A walkway connection between Building A and Building B designed to be of a different appearance than the adjacent paved vehicular areas and meeting all standards of TDC 73A.400(1).
  - c. Detail to demonstrate that proposed bicycle parking meets the standards of TDC 73C.050(2) (a), (b), and (c), and that the number of spaces conforms with TDC 73C.100(1).
  - d. Eleven parking spaces designated as carpool/vanpool parking, consistent with TDC 73C.100(2).
  - e. Deciduous trees planted no more than 30 feet apart on the perimeter of vehicle circulation areas consistent with TDC 73C.230(3). Such trees may be omitted where the

perimeter area is also within a Public Utility Easement as required by the City Engineer's Decision, and where there are existing trees at or near the property line.

- f. At least 502 square feet of designated interior waste storage area.
- A4. The applicant must demonstrate owner permission for the removal of off-site trees and demonstrate that landscaping requirements for those neighboring properties will continue to be met. Alternatively, the applicant must provide a revised landscaping plan showing trees as preserved, with adequate protection for trees at the property line from all impacts of development.

**DURING CONSTRUCTION ACTIVITY:**

- A5. The applicant must install the tree protection fencing consistent with Section 73.250(2). Please contact the Planning Division to schedule an inspection with a minimum of 48 hours' notice.

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

- A6. 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.
- A7. Areas impacted by grading and structure demolition must be revegetated pursuant to TDC 73B.040(1).
- A8. The applicant must install an identification system which clearly locates buildings and their entries for patrons and emergency services.
- A9. The applicant must install bicycle parking signage and vanpool/carpool parking signage per MUTCD standards, pursuant to TDC 73C.010(2)(xi) and TDC 73C.050(2)(d).

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

- A10. This development is approved for 187,417 square-feet of warehousing uses and 129,708 square-feet of manufacturing uses. Additional review and approvals may be necessary for other uses permitted in the zone, but not contemplated as part of this approval.
- A11. Standards for this site have been reviewed considering both future parcels as one site. Future modifications to either parcel will need to be reviewed for the entire site as a whole.



- A12. All mechanical equipment must be screened in accordance with TDC 73A.300(5). 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.
- A13. All sign permits require separate sign permit approval per TDC Chapter 38. This approval does not constitute sign permit approval.
- A14. All site, building exterior, and landscaping improvements approved through the AR process must be continually maintained, so as to remain substantially similar to original approval through the AR process, except as permitted under TDC 33.020(7) (*Modifications to Previously Approved Final Architectural Review Decisions*).
- A15. All parking spaces shall be continuously maintained in compliance with the dimensional standards specified in TDC Figure 73-1.
- A16. Site landscaping and street trees shall be maintained to meet the vision clearance requirements of TDC Figure 75-1.
- A17. The proposed development must comply with the noise standards of TDC 63.051.