

**ARCHITECTURAL REVIEW DECISION
POWDER TECH (AR 21-0016)**

June 21, 2022

Case #:	AR 21-0016
Project:	Powder Tech Accessory Structure
Location:	9900 SW Herman Road; Tax Lots: 2S123BD-01100
Applicant:	Eric Lnciault, EL Architects
Owner:	Powder Tech, Inc.

TABLE OF CONTENTS

I. INTRODUCTION	2
A. Applicable Criteria	2
B. Site Description.....	2
C. Proposed Project	3
D. Previous Land Use Actions.....	3
E. Surrounding Uses.....	3
F. Exhibit List.....	3
II. CONDITIONS OF APPROVAL	4
III. FINDINGS.....	7
Chapter 32: Procedures.....	7
Chapter 33: Applications and Approval Criteria.....	14
Chapter 61: General Manufacturing (MG) Zone.....	16
Chapter 63 – Industrial Uses and Utilities and Manufacturing Zones – Environmental Regulations.....	18
Chapter 70: Floodplain District (FP).....	21
Chapter 71: Wetlands Protection District (WPD).....	23
Chapter 73A – Site Design Standards.....	25
Chapter 73B: Landscaping Standards.....	26
Chapter 73C – Parking Standards	30
Chapter 74: Public Improvement Requirements.....	30
IV. APPEAL.....	32

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 Municipal Code (TMC) and the Tualatin Development Code (TDC) are applicable to the subject proposal:

- TMC 3: Utilities and Water Quality
- TDC 32: Procedures
- TDC 33.020: Architectural Review
- TDC 61: General Manufacturing Zone
- TDC 63: Industrial Uses – Environmental Regulations
- TDC 70: Floodplain District
- TDC 71: Wetland Protection District
- TDC 73A: Site Design
- TDC 73B: Landscaping Standards
- TDC 73C: Design Standards
- TDC 74: Public Improvement Requirements

B. Site Description

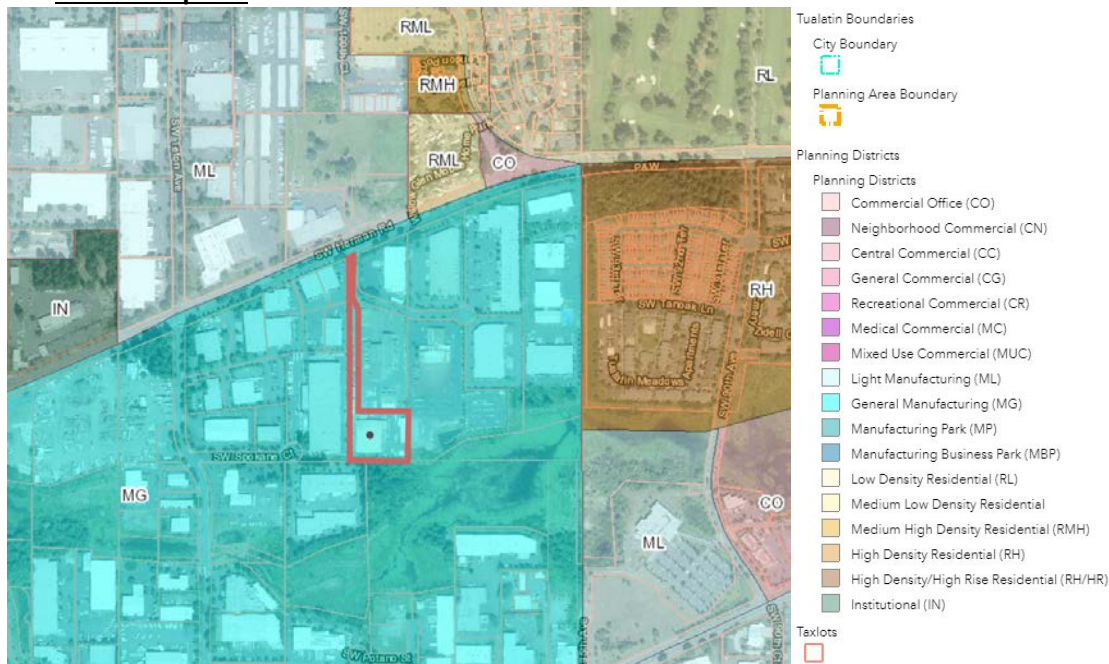


Figure 1 Aerial view of site with zoning (TualGIS)

The subject property is approximately 2.9 acres flag lot that is located at 9900 SW Herman Road east of SW Teton Avenue. The subject property is zoned General Manufacturing (MG). The subject property has predominantly flat topography. The property has an existing main building of approximately 26,000 square feet where manufacturing and processing of products takes place.

The site adjoins the Oregon Sandblast facility and access is via the existing Pacific Industrial Park driveway entering across the W&P RR crossing from SW Herman Road. To the south of the subject property is the Hedges Creek Greenway. The property is located within the Wetlands Protection District. However, the project will not encroach into the wetland or buffer area. A large portion of the property is within the 100-year floodplain but the majority of the main building appears to be outside of the floodplain. The location of the proposed detached accessory building will be within the 100-year floodplain.

C. Proposed Project

The applicant, EL Architects, on behalf of the property owner Powder Tech, has submitted a proposal to construct a 7,500 square foot uninsulated detached PEMB accessory building that will provide protection of finished products. The building will be placed in the same location as the previous tarp covered shelter near the southeast corner of the subject property. The applicant has stated that the color scheme will be consistent with that of the existing buildings and buildings on the surrounding properties.

D. Previous Land Use Actions

- AR-02-06 – Powder Tech addition
- AR-95-30 – Approved a Powder Tech building as a second building on the Oregon Sandblast property

E. Surrounding Uses

Surrounding uses are industrial, Hedges Creek Wetlands Protection Area located south of the project area. Specific planning districts and abutting land uses include:

North: Light Manufacturing District (ML)

- SW Herman Road
- Vacant land and industrial use

East: General Manufacturing District (MG)

- Industrial use and a stormwater detention facility

South: General Manufacturing District (MG)

- Industrial use and Hedges Creek Wetland Protection District

West: General Manufacturing District (MG)

- Industrial use

F. Exhibit List

A: Application Materials

- A1. Applicant's Narrative
- A2. Plan Set and Elevation Drawings
- A3. Preliminary Stormwater Report
- A4. Supporting Documents

B: Notice of Application

C: Clean Water Services Memorandum

D: Architectural Review AR-02-06 Landscaping Plan

II. CONDITIONS OF APPROVAL

Based on the Findings and Conclusions presented herein, AR 21-0016 is **approved** subject to the following conditions:

GENERAL:

Submit to the Planning Division (Keith Leonard, 503.691.3029 or kleonard@tualatin.gov) for review and approval:

- A1. This Architectural Review approval expires after two years from the date of issuance unless a building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction pursuant thereto has taken place and an inspection performed by a member of the Building Division, or an extension is granted under the terms of Section 33.020(10) or most current revision of the TDC.

PRIOR TO APPLICABLE EROSION CONTROL, FLOOD HAZARD AREA DEVELOPMENT, AND WATER QUALITY PERMIT ISSUANCE:

Submit to the Engineering Division via [eTrakit](#) for review and approval:

- A2. If final approved site development and/or permit plans, over a twelve-month period, have a cumulative disturbance area equal to or greater than 500 square feet on a site, as determined by the City Engineer, the applicant must submit final erosion control plans that minimize the impact of stormwater from the development to adjacent properties in accordance with Tualatin Development Code 74.640, Tualatin Municipal Code 3-5-050 and 3-5-060, Public Works Construction Code, and Clean Water Services' Design and Construction Standards Chapters 2 and 6.
- A3. If final approved site development and/or permit plans, over a twelve-month period, have a cumulative new plus modified impervious area meeting or exceeding thresholds defined within Clean Water Services' Design and Construction Standards Section 4.08.1 to require stormwater management, as determined by the City Engineer, the applicant must obtain approval from the City Engineer for alternate means and methods such as adequate CWS Environmental Services approved facilities, in accordance with, Tualatin Development Code (TDC) 74.630 and 74.650, Tualatin Municipal Code (TMC) 3-5-200 through 3-5-430, Public Works Construction Code (PWCC), and Clean Water Services' (CWS) Design and Construction Standards (D&CS) Chapter 4 the applicant must submit:
- a. Final stormwater plans and calculations certified by an Oregon registered, professional engineer in accordance with TMC 3-5-390(1) proving proposed systems:
 - i. Address runoff from all new and modified private impervious areas.
 - ii. Treat new and modified impervious areas in accordance with CWS D&CS 4.08.1.d meeting phosphorous removal in accordance with TMC 3-5-350 per the design storm in accordance with TMC 3-5-360 and CWS D&CS 4.08.2.
 - iii. In accordance with TMC 3-5-220(4), TMC 3-5-230, and CWS D&CS 4.08 detention as required.
 - iv. Comply with all requirements stated within the submitted CWS' Service Provider Letter File Number 21-003115 dated March 29, 2022 and CWS Memorandum dated April 18, 2022 conditions to obtain a Stormwater Connection Permit Authorization Letter in accordance with TDC 74.650(2) and CWS D&CS 3.01.2(d).

- b. Submit financial assurance for construction performance in accordance with TMC 3-390(c), PWCC 102.14.00, and amount per CWS D&CS 2.07 Table 2-1.
 - c. Submit a copy of the recorded private stormwater maintenance agreement for this development. The agreement must assure the owner as responsible for maintenance of the constructed portions of private stormwater systems within their lot. The identified system must include all conveyance, detention, hydromodification, infiltration, and treatment.
- A4. The applicant must, in accordance with TDC 70.120, submit a completed and owner signed Flood Hazard Area Development Permit application based on a Base Flood Elevation of 128.9 feet, NAVD 1988 including:
- a. Plans certified by a professional civil engineer registered in Oregon showing:
 - i. Floodplain fill balanced by cut in accordance with TMC 3-5-250.
 - ii. Proposed construction in accordance with TDC 70.170 and 70.180.
 - b. A floodplain elevation certificate for the proposed building indicating Construction Drawing.

PRIOR TO BUILDING PERMIT ISSUANCE:

- A5. The applicant must obtain applicable Erosion Control, Flood Hazard Area Development, and Water Quality Permits from the City of Tualatin.
- A6. The applicant must provide a certification from a qualified engineer that the proposed construction meets the requirements of TDC 71.040(1).

Submit to the Planning Division (Keith Leonard, 503.691.3029 or kleonard@tualatin.gov) for review and approval:

- A7. The applicant must submit a Final Site Plan Set (in .pdf format) that is in substantial conformance to the submitted site plans and shows:
- a. Walkways are in compliance with TDC 73A.500(1).
- A8. The applicant must submit a Final Landscaping Plan and Irrigation Plan (in .pdf format) and plant list that is in substantial conformance to the submitted site plans and also shows:
- a. Compliance with TDC 73B.020 Landscape Area Standards Minimum Areas by Use and Zone.
 - b. Compliance with TDC 73B.060(1)(b) by providing a 5-foot-wide landscaping area along the building perimeter.
 - c. Compliance with TDC 73B.080(1) Required Landscape Areas.
 - d. Compliance with TDC 73B.080(6) Re-vegetation in Un-landscaped areas.
 - e. Species of shrubs, groundcover and trees that will be planted in compliance with TDC 73B.090.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY AND/OR CERTIFICATE OF COMPLETION:

- A9. The applicant must complete all applicable private stormwater improvements as shown on the approved permit plans. All improvements must also be accepted by the City in accordance with TDC 74.120.

- A10. The applicant must submit applicable paper and electronic as-builts of the Engineering permits along with maintenance bonds and any final fees for water quality improvements.
- A11. The applicant must submit a floodplain elevation certificate for all structures indicating Finished Construction in accordance with TDC 70.120.
- A12. The applicant must install all improvements illustrated on the Site Plan Set, Landscaping and Irrigation plans required under Conditions of Approval A8 and A9.

THE FOLLOWING ITEMS APPLY TO THE SITE IN AN ON-GOING MANNER:

- A13. All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, pursuant to TDC 61.310(1).
- A14. The proposed development must comply with the Environmental Regulations of TDC 63.
- A15. 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.

III. FINDINGS

The Planning Division findings reference the 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).

[...]

(b) Type II Procedure (Administrative/Staff Review with Notice). A Type II procedure is used when the standards and criteria require limited discretion, interpretation, or policy or legal judgment. Type II decisions are made by the City Manager and require public notice and an opportunity for appeal to the Planning Commission, Architectural Review Board, or City Council as shown in Table 32-1. Those Type II decisions which are “limited land use decisions” as defined in ORS 197.015 are so noted in Table 32-1.

[...]

(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
Architectural Review						
Architectural Review (except as specified below) (limited land use)	II	ARB/CM	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 Architectural Review application is classified as Type II Procedure according to Table 32-1. It has been processed according to the applicable Type II procedures in the TDC. 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 April 1, 2022. The 120th day will be July 30, 2022. 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:

A pre-application meeting is mandatory. The applicant participated in a pre-application meeting on August 4, 2021. The applicant has also discussed the project with staff by phone call and email in-follow-ups to the pre-application meeting date. 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 that a virtual Neighborhood/Developer meeting was held on September 9, 2021 to accommodate the social distancing efforts in response to COVID-19 and declared State of Emergency (Resolution No. 5488-20). The applicant has provided documentation of sign posting and notification in compliance with this section. There were no attendees at the Neighborhood/Developer meeting (Exhibit A4). 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 applicant has provided a title report within Exhibit A4 showing Powder Tech, Inc. to be the current owner of the property. The application included a signed letter of authorization allowing Dave Finzer to sign the application on behalf of the property owner Powder Tech. 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 an application for AR 21-0016 on October 4, 2021. The application was deemed complete on April 1, 2022. 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 A4 that signs in conformance with this section of the TDC were placed on site. On August 26, 2021, Luke Orem, a representative of Powder Tech, placed a sign on the subject property in compliance with the TDC advertising the neighborhood meeting. On January 21, 2022, Luke Orem placed a sign on the subject property advertising the pending land use application. 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 applicant submitted an application for AR 21-0016 on October 4, 2021. The application was deemed incomplete on November 3, 2021. After receiving additional material, the application was then deemed complete on April 1, 2022. These standards are met.

Section 32.220 – Type II Procedure (Administrative Review with Notice).

Type II decisions are made by the City Manager with public notice and an opportunity for review and comment. The local appeal body for each application type is specified in Table 32-1. Type II decisions include limited land use decisions under ORS 197.195.

(1) Submittal Requirements. Type II 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 for completeness in accordance with TDC 32.160.

(3) Written Notice of Application and Opportunity to Comment. Once the application has been deemed complete, the City must mail notice of a pending Type II decision to the following individuals and agencies no fewer than 14 days before making the Type II decision to allow interested people and agencies the opportunity to submit written comments on the application before the City issues the decision.

(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 designated representatives of recognized Citizen Involvement Organizations as established in TMC Chapter 11-9;**
- (v) Any person who submits a written request to receive a notice;**
- (vi) 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; where the project site would access a County road or otherwise be subject to review by the County, then the County; 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; and**
- (vii) Utility companies (as applicable).**

(b) The mailed notice of pending Type II Decision, 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 proposed site plan;**
- (iv) Statement noting if a railroad-highway grade crossing provides or will provide the only access to the subject property;**
- (v) The type of application and a concise description of the nature of the land use action;**
- (vi) A list of the approval criteria by TDC section for the decision and other ordinances or regulations that apply to the application at issue;**
- (vii) Brief summary of the local decision making process for the land use decision being made;**
- (viii) The date, place and time where comments are due and that comments are due no later than 5:00 p.m. on the 14th calendar day after the notice was mailed;**
- (ix) A statement indicating that issues which may provide the basis for an appeal to the Oregon Land Use Board of Appeals must be raised in writing prior to the expiration of the comment period and with sufficient specificity to enable the applicant and local appeal body to respond to the issue;**
- (x) Statement that after the comment period closes, the City will issue its decision and the decision will be mailed to the applicant, property owner, anyone who submitted written comments on the application, and to anyone else is otherwise legally entitled to notice;**

(xi) A statement that comments received after the close of the public comment period will not be considered;

(xii) The name of a City representative to contact and the telephone number where additional information may be obtained; and

(xiii) Statement that the application and all documents and evidence submitted by the applicant are available for review and that copies can be obtained at a reasonable cost from the City.

(c) Failure of a person or agency identified in TDC 32.220(3)(a) to receive the notice required in TDC 32.220(3)(b) does not invalidate any proceeding in connection with the application provided the City can demonstrate by affidavit that notice was given in accordance with this section.

(d) Written comments must be received by the City no later than 5:00 p.m. on the 14th calendar day after the notice was mailed in order for comments to be considered.

(4) Decision. At the conclusion of the comment period, the City Manager must review the comments received and approve, approve with conditions, or deny the application. The decision must be in writing and include a statement that:

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

(b) States the facts relied upon in issuing the decision; and

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

Finding:

After application submittal and completeness review as required by this section, notice for the Type II application for AR 21-0016 was mailed by city staff on April 1, 2022 that contained the information required by this section of the TDC. One agency, Clean Water Services, provided comments as part of the notice of application which are included in Exhibit C. No public comments were received. These standards are met.

(5) Notice of Type II Decision. Notice of the decision must be provided to the property owner, applicant, and any person who submitted written comments in accordance with TDC 32.220(3)(d). If approval is granted to remove a Heritage Tree, a copy of the decision must be sent to the chair of the Tualatin Park Advisory Committee. The Type II Notice of Decision 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 the 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 an appeal is submitted; and

(e) A statement that all person entitled to notice of the decision may appeal the decision in accordance with TDC 32.310.

(6) Appeal of a Type II Decision. Appeals may be made in accordance with TDC 32.310.

(7) Effective Date of Type II Decision. A Type II Decision becomes effective 14 days after the City mails the Notice of Decision, unless an Appeal is submitted pursuant to TDC 32.310 or unless the conditions of approval specify otherwise.

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.

- (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 applicable standards and objectives in TDC 73A through 73C. These standards are met by the 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 to compliance with the above criteria. With Condition of Approval A1, these standards are met.

Chapter 61: General Manufacturing (MG) Zone

[...]

TDC 61.200. - Use Categories.

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.

Table 61-1 Use Categories in the MG Zone		
USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
INDUSTRIAL USE CATEGORIES		
Heavy Manufacturing	P(L)	Concrete batch plants are not permitted in the Leveton Tax Increment District. All other uses permitted outright.

[...]

Finding:

The site is within the General Manufacturing (MG) Planning District, which permits heavy manufacturing without limitation, examples of which include casting or fabrication of metals and electroplating. The detached accessory building will function as an accessory use to the main onsite manufacturing use (TDC Chapter 39.410) for storage of finished products and materials. 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	REQUIREMENT	LIMITATION OR CODE REFERENCE
Minimum Front Yard Setback	30 feet	
Minimum Side Yard Setback	0 - 50 feet	Determined through Architectural Review Process.
Minimum Rear Yard Setback	0 - 50 feet	Determined through Architectural Review Process.
Maximum Building Height	60 feet	May be increased to 100 feet if yards adjacent to structure are not less than a distance equal to the height of the structure. Measured at the 50-foot setback line, includes flagpoles. The building height may extend above 28 feet on a plane

		<p>beginning at the 50-foot setback line at a slope of 45 degrees extending away from the 50-foot setback line.</p> <p>Flagpoles may extend to 100 feet.</p>
--	--	--

[...]

Finding:

The site is developed with an existing main building where manufacturing and processing takes place. The accessory building will be located on the south eastern portion of the subject property. The subject property is a flagpole lot and the location of the proposed accessory building is approximately 1000 feet from SW Herman Road which exceeds the required front yard setback. AR-02-06 established the east side yard setback to be 0-50 feet. The proposed building will be 24.2 feet in height, under the maximum allowable height of 60 feet. These standards are met.

TDC 61.310. - Additional Development Standards.

(1) Outdoor Uses. All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities and outdoor play areas of child day care centers as required by state day care certification standards.

(2) Sound Barrier Construction. Sound barrier construction is required to mitigate the impact of noise associated with overhead doors and building mechanical equipment, including but not limited to heating, cooling and ventilation equipment, compressors, waste evacuation systems, electrical transformers, and other motorized or powered machinery located on the exterior of a building. Sound barrier construction must conform to the following standards:

(a) Applicability. New construction, including additions or changes to existing facilities, must comply with the provisions of this section. When additions or changes to existing facilities are proposed, existing structures on the property may be required to comply with the provisions of this section, as determined through the Architectural Review process. Where buildings or outdoor use areas located on more than one parcel are all part of a single use as determined through the Architectural Review process, all of the parcels may be required to comply with the provisions of this section.

(b) Distance from Residential Use. Sound barriers must be used to intercept all straight-line lateral (direct line between two points) paths of 450 feet or less between a residential property within a residential planning district and:

- (i) Any side edge of an overhead door or other doorway larger than 64 square feet, at a minimum height of eight feet above the floor elevation of the doorway; or
- (ii) Any building mechanical device at a minimum height equal to the height of the mechanical object to be screened.

(c) Exemption for Existing Structures. Where existing structures (on or off site) are located such that they will reflect sound away from residential areas and will function as a sound barrier, on-site sound barrier construction is not required, except that at the time such structures are removed, sound barrier construction is required.

(d) Design. Sound barriers must consist of masonry walls or earth berms located so as to reflect sound away from, rather than toward, noise sensitive properties. This may include masonry "wing walls" attached to a building, detached masonry walls (such as at the perimeter of the site), earth berms, or combinations of the three. Wing walls must be at least as tall as the tallest overhead door they are designed to screen at the point where they meet the building. The height of the wall may be reduced along a maximum incline formed by a horizontal distance twice the vertical change in height, or 26.5 degrees from horizontal.

(i) "Wing wall" means a wall that is attached to a building on one side and meets the screening requirements of (1) and (2) of this section."

Finding:

The applicant's narrative states that they are not proposing any outdoor use of the subject property. The applicant's narrative states that the south side of the proposed building will have a manually operated overhead door. The closest residential use is approximately 1,000 straight line feet from the proposed accessory building. These standards are met.

(3) Setback Reduction for Developments Adjacent to Greenways and Natural Areas. To preserve natural areas and habitat for fish and wildlife, the decision-making authority may provide a front, side, or rear yard setback reduction for developments that are adjacent to Greenways or Natural Areas that dedicate land for conservation or public recreational purposes, in accordance with the following standards.

(a) **Setback Reduction.** All permitted uses may be allowed a reduction of up to 35 percent of the front, side, or rear yard setbacks, as determined through the Architectural Review process, if as a result the buildings are farther away from fish and wildlife habitat areas.

(b) **Location of Greenway or Natural Area Lot.** A portion of the parcel must be located in one of the following conservation or protection areas:

- (i) Natural Resource Protection Overlay (NRPO) District (TDC Chapter 72); or
- (ii) Clean Water Services Vegetated Corridor.

(c) **Ownership of Greenway or Natural Area Lot.** The ownership of each Greenway or Natural Area Lot must be one of the following:

- (i) Dedicated to the City at the City's option;
- (ii) Dedicated in a manner approved by the City to a non-profit conservation organization; or
- (iii) Retained in private ownership.

(d) **Ownership Considerations.** The decision-making authority must consider, but is not limited to, the following factors when determining the appropriate ownership of the Greenway or Natural Area Lot:

- (i) Does the Park and Recreation Master Plan designate the lot for a greenway, pedestrian or bike path, public park, recreation, overlook or interpretive facility, or other public facility;
- (ii) Does the lot include one or more designated Heritage Trees, or one or more significant trees;
- (iii) Does the lot provide a significant view or esthetic element, or does it include a unique or intrinsically valuable element;
- (iv) Does the lot connect publicly owned or publicly accessible properties;
- (v) Does the lot abut an existing park, greenway, natural area or other public facility;
- (vi) Does the lot provide a public benefit or serve a public need;
- (vii) Does the lot contain environmental hazards;
- (viii) Geologic stability of the lot; and
- (ix) Future maintenance costs for the lot.

Finding:

The subject property is within the Wetlands Fringe Area of a Wetland Protection District, 100 year floodplain, Metro Title 13 Riparian Wildlife Habitat Classes I and III and Metro Title 13 Upland Wildlife Habitat Class A. However, TDC 72.013 does not identify the applicant's property as a "Significant Natural Resource". Additionally, Map 72-1, 72-2 or 72-3 do not illustrate the subject property as being located within a Natural Resource Protection area or a Greenway. These standards do not apply.

TDC 63.020. - Applicability.

The regulations of this Chapter apply to:

- (1) All industrial uses and utilities, regardless of the Planning District in which they are located, and
- (2) All Manufacturing Planning Districts, regardless of the use category.

Finding:

The subject property is located within the General Manufacturing (MG) Planning District, therefore, Chapter 63 is applicable.

TDC 63.051. - Noise.

All uses and development must comply with the Oregon State Department of Environmental Quality standards relating to noise and the City of Tualatin noise ordinance in, TMC 6-14.

TDC 63.052. - Vibration.

- (1) Restrictions. All uses and development must not cause or permit ground vibration into the property of another person that exceeds the limits set forth below in this section.
 - (a) Ground vibration as measured at the boundary of a residential planning district and an industrial planning district must not exceed 0.01 inches per second (0.00025 meters per second) RMS velocity.
 - (b) Ground vibration as measured at a common property boundary of any two properties within any industrial planning district must not exceed 0.1 inches per second (0.0025 meters per second) RMS velocity.
- (2) Method of Measurement. Vibration measurement procedures must conform to the methods described in this section and to procedures approved by the Oregon Department of Environmental Quality.
 - (a) Instrumentation must be capable of measuring RMS value of the vibration velocity over the frequency range of ten to 1,000 hertz.
 - (b) Measurement values must be recorded for a sufficient period of observation to provide a representative sample.
 - (c) Attachment of the vibration transducer to the ground must be by magnetic or screw attachment to a steel bar of a minimum of nine inches (22.9 cm.) in length, driven flush with the ground surface.
- (3) Exemptions. The requirements of TDC 63.052(1) do not apply to:
 - (a) Vibration resulting from the operation of any equipment or facility of a surface carrier engaged in interstate commerce by railroad;
 - (b) Vibration resulting from the operation of any road vehicle;
 - (c) Vibration resulting from construction activities and use of construction equipment; and
 - (d) Vibration resulting from roadway maintenance and repair equipment.

Finding:

The applicant's narrative states that no new ground vibration will result from the proposed structure's use. Additionally, the applicant has stated that they will continue to comply with the City of Tualatin Noise Ordinance, Tualatin Municipal Code Chapter 6-14, and Oregon Department of Environmental Quality requirements. These standards are met.

TDC 63.053 - Air Quality.

- (1) Restrictions. All uses and development must comply with the most recent air quality standards adopted by the Oregon Department of Environmental Quality. Plans of construction and operations must comply with the recommendations and regulations of the State Department of Environmental Quality.

(2) Method of Measurement. All measurements of air pollution must be by the procedures and with equipment approved by the State Department of Environmental Quality or equivalent and acceptable methods or measurement approved by the City. Upon request of the City, persons responsible for a suspected source of air pollution must provide quantitative and qualitative information regarding the discharge that will adequately and accurately describe operation conditions.

Finding:

The proposed accessory building will be used for storage of finished products and materials with no manufacturing activity taking place within the proposed structure. As proposed by the applicant, these standards are met.

TDC 63.054. - Odors.

All uses and development must not emit odors in such quantities as to create a nuisance condition at any point beyond the subject property line of the emitting use.

Finding:

The proposed accessory building will only be used for storage of finished products and materials. No manufacturing or processing will take place within the proposed accessory building and no odors will be produced. This standard is met.

TDC 63.055. - Heat and Glare.

(1) All uses and development must conduct all operations producing heat or glare entirely within an enclosed building.

(2) All uses and development may utilize exterior lighting, but the exterior lighting must be screened, baffled or directed away from residential planning districts.

Finding:

The applicant has stated in their narrative that no heat or glare will result from the use of the proposed accessory building. Additionally, no new lighting is proposed for the site or accessory building. These standards are met.

TDC 63.056. - Storage and Stored Materials.

(1) All uses and development must store all materials, including wastes, in a manner that will not attract or aid the propagation of insects or rodents, or in any other way create a health or safety hazard.

(2) All uses and development that utilize open storage that would otherwise be visible at the property line must conceal it from view at the abutting property line by a sight obscuring fence not less than six feet high and not accessible to the general public to protect public safety.

Finding:

The proposed accessory building will be used to store finished products and materials and no waste will be generated by the proposed structure. The stored products and material will be located within the proposed accessory building and will not be visible to the abutting properties. These standards are met.

TDC 63.057. - Liquid or Solid Waste Materials.

All uses and development are prohibited from disposing waste onto the site or into adjacent drainage ditches, creeks or other natural waterways in violation of State of Oregon DEQ standards, Clean Water Services Standards, City Standards, or in a manner that causes harm to wildlife.

Finding:

The applicant's narrative states that no waste related to the accessory building will be generated or disposed of on site or in Hedges Creek to the south of the subject property. Additionally, the applicant has stated that applicable Oregon DEQ, Clean Water Services and City of Tualatin environmental regulations will be met. This standard is met.

TDC 63.058. - Dangerous Substances.

All uses and development are prohibited from the storage, transfer, or processing of hazardous, toxic, or radioactive waste.

Finding:

The applicant's narrative states that no hazardous, toxic or radioactive waste will be processed, stored or transferred within or related to the proposed accessory building. This standard is met.

Chapter 70: Floodplain District (FP)

Section 70.040 - Lands to Which This Chapter Applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Tualatin.

[...]

Finding:

According to the FEMA Flood Mapping, the subject property is designated as Special Flood Hazard Area Zone X with the majority of the property designated as Zone AE; therefore this Chapter applies to the proposed detached accessory building.

TDC 70.110. - Development Permit Required.

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

Finding:

The applicant has submitted this architectural review application for review of the proposed construction of a detached accessory building. This standard is met.

Section 70.170. - General Standards.

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

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All manufactured dwellings shall be anchored according to TDC 70.180(3)(Specific Standards for Manufactured Dwellings).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(c) On-site waste disposal systems shall be located so as to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

[...]

Section 70.180 - Specific Standards.

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

[...]

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

(a) Be flood proofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and review of the structural design, specifications and plans. Such certification shall be provided to the official as set forth in TDC 70.140(3)(b) (Duties and Responsibilities of the Local Floodplain Administrator);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in TDC 70.180(1)(d)(Specific Standards for Residential Construction).

(e) Applicants shall supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any materials or specialized tools necessary to seal the structure.

[...]

(6) Below-Grade Crawl Spaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, CrawlSpace Construction for Buildings Located in Special Flood Hazard Areas:

(a) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in Section TDC 70.180(1)(Specific Standards for Residential Structures) above. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood

velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.

(b) The crawlspace is an enclosed area below the base flood elevation (BFE) and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one-foot above the lowest adjacent exterior grade.

(c) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE. The recommended construction practice is to elevate the bottom of joists and all insulation above BFE.

(d) Any building utility systems within the crawlspace must be elevated above B components during flood conditions. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.

(e) The interior grade of a crawlspace below the BFE must not be more than two feet below the lowest adjacent exterior grade.

(f) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(g) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.

(h) The velocity of floodwaters at the site shall not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

For more detailed information refer to FEMA Technical Bulletin 11-01

Finding:

The plans show the proposed structure within the floodplain. FEMA identifies the floodplain elevation at this site as 128.9 feet, NAVD 1988. No utility modifications are planned with this development. A flood hazard area development permit must be obtained prior to permit approval. This permit must include final approved plans identifying balanced cut and fill. Elevation certificates prior to and post construction must show construction in accordance with TDC 70.170 and 70.180. In order to construct the proposed detached accessory building the construction must meet building code requirements and a building permit must be approved by the Tualatin Building Division. With recommended Conditions of Approval A4 and A11, these standards are met.

Chapter 71: Wetlands Protection District (WPD)

TDC 71.030. - Applicability.

Uses located within the Wetlands Protection District (WPD) shall comply with the certification requirements contained in TDC 71.040.

Finding:

According to Map 71-1 Wetland Protection District, the subject property is located within the Wetlands Fringe Area and subject to the regulations within Chapter 71.

TDC 71.040. - Certification Required.

(1) All applications to the City for permits or approvals to fill or excavate, to construct buildings or other improvements, or to engage in public works upon lands lying within the Wetlands Protection District (WPD) which are otherwise required by City ordinance shall be accompanied by a written certification by a qualified engineer, licensed by the State of Oregon, which certification shall contain the following:

- (a) A statement that the activities subject to such application will conform to the environmental standards herein set forth;**
- (b) Proposed construction methods and schedule; and**
- (c) The basis upon which the engineer has founded the statements contained in such certification.**

[...]

Finding:

The proposed location of the accessory building will be in an area that is already covered by impervious asphalt. The applicant is not requesting any removal or fill activities within the Wetlands Protection District. With Condition of Approval A6, these standards are met.

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.

Section 71.061 Development Setback.

- (1) Except as otherwise provided for herein, all permanent surface structures and other surface improvements located adjacent to the Wetlands Protected Area (WPA) shall be set back not less than 40 feet from the boundary of the Wetlands Protected Area (WPA) established in accordance with the provisions of this chapter.**
- (2) Where buildings or other surface structures are placed on or immediately adjacent to the outer edge of the setback area, and where means of emergency access or egress is required to be furnished to or from the sides of such buildings or structures that adjoin or face the Wetlands Protected Area (WPA), such means of access or egress may be provided within the setback area.**
- (3) Except as otherwise provided herein or in the Resource Management Plan, no setback for permanent surface structures and other surface improvements is required from the boundary of the Sweek Pond Management Area (SPMA).**

[...]

Finding:

Although the subject property is party to a Wetland Mitigation Agreement, the subject property does not contain a wetland. The wetland boundary is located approximately 170 feet southeast of the proposed location for the detached accessory building. However, the subject property is located within the Wetland Fringe Area (WFA). The WFA is defined to mean and include those lands in the immediate watershed of the Wetlands Protection Area that constitute the balance of the area contained within the Wetlands Protection District established by TDC Chapter 71. Map 71-1 illustrates the subject property is located within the Wetland Fringe Area. However, the proposed location of the accessory building is not within the wetland setback area or the outer edge location. These standards are met.

Chapter 73A – Site Design Standards

TDC 73A.500. - Industrial Design Standards.

The following standards are minimum requirements for industrial development in all zones, except the Mixed-Use Commercial (MUC) zone, which has its own standards:

(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, pervious concrete, pavers, or grasscrete. Gravel or bark chips are not acceptable;
- (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:

The applicant's narrative states that crosswalk striping will be painted on the existing parking lot to connect the proposed accessory building to the existing main building sidewalk. With the Condition of Approval A7, these standards are 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
- (e) Above ground sewer or water pumping stations, pressure reading stations, water reservoirs, electrical substations, and above ground natural gas pumping stations must provide a minimum six foot tall security fence or wall.

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

(6) ***Adjacent to Transit.*** Industrial 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; and
- (b) Development abutting major transit stops as designated in TDC Chapter 11 (Figure 11-5) must:

- (i) Locate any portion of a building within 20 feet of the major transit stop or provide a pedestrian plaza at the transit stop;
- (ii) Provide a reasonably direct pedestrian connection between the major transit stop and a building entrance on the site;
- (iii) Provide a transit passenger landing pad accessible to disabled persons;
- (iv) Provide an easement or dedication for a passenger shelter as determined by the City;
- and
- (v) Provide lighting at the major transit stop.

Finding:

The applicant is proposing a detached accessory building for storage of finished products and materials. The site already contains existing lighting, service and delivery facilities. The subject property is not adjacent to a transit facility. These standards are not applicable.

Chapter 73B: Landscaping Standards

TDC 73B.020. - Landscape Area Standards Minimum Areas by Use and Zone.

The following are the minimum areas required to be landscaped for each use and zone:

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
* For properties within the Hedges Creek Wetland Protection District which have signed the "Wetlands Mitigation Agreement," the improved or unimproved wetland buffer area may reduce the required landscaping to 12.5 percent as long as all other landscape requirements are met.		

[...]

Finding:

The subject property is located within the fringe of a Wetland Protection District and is subject to a recorded Wetland Mitigation Agreement. The previously approved Architectural Review, AR 02-06, narrative stated that 14,052 square feet or 13.4% of the subject property would be landscaped (Exhibit D). However, the previously approved landscaping was removed from the area where the detached accessory building will be located and will need to be re-established. With Condition of Approval A8 and A12 this standard will be met.

TDC 73B.060. - Additional Minimum Landscaping Requirements for Industrial Uses.

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

[...]

- (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) Five-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 eight feet.

[...]

Finding:

The proposed building will be visible from the Powder Tech parking lot. Therefore, a five-foot wide landscaped area must be located around the perimeter of the detached accessory building that is visible from the parking lot. With Condition of Approval A8 and A12 these standards are met.

Section 73B.080 – Minimum Landscaping Standards for All Zones.

The following are minimum standards for landscaping for all zones.

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

Finding:

The subject property is under a Wetlands Mitigation Agreement that requires a minimum of 12.5% of the property landscaped. The landscaping plan that was originally approved as part of the decision for AR 02-06 (Exhibit D) illustrated 13.4% of the site being landscaped. Currently, the area that was landscaped around the detention pond has been eliminated and will need to be re-established. With Condition of Approval A8 and A12 these standards will be met.

<p>(2) Fences</p>	<ul style="list-style-type: none"> • 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.
-------------------	---

Finding:

The subject site is not located in a habitat area. There is no fencing proposed. This standard is not applicable.

<p>(3) Tree Preservation</p>	<ul style="list-style-type: none"> • Trees and other plant materials to be retained must be identified on the landscape plan and grading plan. • During construction:
------------------------------	---

	<ul style="list-style-type: none"> • Must provide above and below ground protection for existing trees and plant materials identified to remain; • 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; • If it is necessary to fence within the drip line, such fencing must be specified by a qualified arborist; • Top soil storage and construction material storage must not be located within the drip line of trees designated to be preserved; • 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 • Tree root ends must not remain exposed. • Landscaping under preserved trees must be compatible with the retention and health of the preserved tree. • 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 • 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
--	---

Finding:

No construction is proposed within the dripline of trees located on the subject property. These standards are not applicable.

<p>(4) Grading</p>	<ul style="list-style-type: none"> • 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. • All planting areas must be graded to provide positive drainage. • Soil, water, plant materials, mulch, or other materials must not be allowed to wash across roadways or walkways. • 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.
---------------------------	--

Finding:

The proposal does not include any grading. These standards are not applicable.

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

Finding:

The applicant did not submit an irrigation or landscape plans that illustrates compliance with applicable landscaping requirements listed in TDC 73B. With Conditions of Approval A8 and A12 this standard will be met.

<p>(6) Re-vegetation in Un-landscaped Areas</p>	<ul style="list-style-type: none"> • 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. • Plant materials must be watered at intervals sufficient to ensure survival and growth for a minimum of two growing seasons. • The use of native plant materials is encouraged to reduce irrigation and maintenance demands. • Disturbed soils should be amended to an original or higher level of porosity to regain infiltration and stormwater storage capacity.
--	---

Finding:

With Condition of Approval A8 and A12 these standards will be met.

Section 73B.090 – Minimum Standards Trees and Plants.

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

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

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

Finding:

With Condition of Approval A8 and A12 these standards are met.

Chapter 73C – Parking Standards

TDC 73C.010. - Off-Street Parking and Loading Applicability and General Requirements.

(1) Applicability. Off-street parking and loading is required to be provided by the owner and/or developer, in all zones, whenever the following occurs:

- (a) Establishment of a new structure or use;**
- (b) Change in use; or**
- (c) Change in use of an existing structure.**

Finding:

The applicant is not proposing any additional parking or any change to the existing parking or loading areas. The proposed accessory building will be located in the same location as the previous tarp covered structure and will only be used for storage of finished products and materials. These standards and Chapter 73C are not applicable to the current application.

Chapter 74: Public Improvement Requirements

TMC Title 3: Utilities and Water Quality

TMC Chapter 03-05 – Erosion Control, Surface Water Management, Water Quality Facilities, and Building and Sewers.

TMC 3-5-050 Erosion Control Permits.

(1) Except as noted in subsection (3) of this section, no person shall cause any change to improved or unimproved real property that causes, will cause, or is likely to cause a temporary or permanent increase in the rate of soil erosion from the site without first obtaining a permit from the City and paying prescribed fees. Such changes to land shall include, but are not limited to, grading, excavating, filling, working of land, or stripping of soil or vegetation from land.

(2) No construction, land development, grading, excavation, fill, or the clearing of land is allowed until the City has issued an Erosion Control Permit covering such work, or the City has determined that no such permit is required. No public agency or body shall undertake any public works project without first obtaining from the City an Erosion Control Permit covering such work, or receiving a determination from the City that none is required.

[...]

TDC 74.640 Grading.

(1) Development sites must be graded to minimize the impact of storm water runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development.

(2) A development applicant must submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. The City Manager may require the applicant to remove all excess material from the development site.

Finding:

If the threshold for an erosion control permit is met or exceeded, erosion control measures must be a part of the permit plans submitted for approval. A City of Tualatin Erosion Control Permit is required to assure measures will be installed to prevent sediment or erosion from leaving the site for disturbance of area more than 500 square feet, but less than 1 acre. Erosion and sediment control plans and permit applications conforming to the requirements of the City of Tualatin and CWS must be provided with the construction permit submittal documents. The applicant must obtain an erosion control permit from the City of Tualatin for disturbance greater than 500 square feet. The development site must be graded to minimize the impact of stormwater runoff onto adjacent properties and to allow adjacent properties to drain as they did before the new development. A development applicant must submit a grading plan showing that all lots in all portions of the development will be served by gravity drainage from the building crawl spaces; and that this development will not affect the drainage on adjacent properties. With Conditions of Approval A2 and A3, these standards are met.

TDC 74.650 Water Quality, Storm Water Detention and Erosion Control.

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

(2) On all other development applications, prior to issuance of any building permit, the applicant must arrange to construct a permanent on-site water quality facility and storm water detention facility and submit a design and calculations indicating that the requirements of the Surface Water Management Ordinance will be met and obtain a Stormwater Connection Permit from Clean Water Services.

(3) For on-site private and regional non-residential public facilities, the applicant must submit a stormwater facility agreement, which will include an operation and maintenance plan provided by the City, for the water quality facility for the City's review and approval. The applicant must submit an erosion control plan prior to issuance of a Public Works Permit. No construction or disturbing of the site must occur until the erosion control plan is approved by the City and the required measures are in place and approved by the City.

Finding:

The existing site includes CWS Environmental Services approved methods for construction under MAR 15-06 issued March 10, 2015. The applicant submitted a Technical Memorandum from Aquarius Environmental dated January 24, 2022 satisfying reflecting the capacity of the system previously approved, but without reflecting any additional site modification. If thresholds are met to require a water quality permit including a water quality facility, the applicant must obtain approval from the City Engineer for alternate means and methods such as adequate CWS Environmental Services approved

facilities or provide financial assurance and obtain a Water Quality Permit for stormwater calculation evaluation and construction of new facilities prior to issuance of construction permits. The final water quality facility plans and calculations must be certified by an Oregon registered professional engineer.

The applicant has submitted a Clean Water Services' Service Provider Letter File Number 21-003115 dated March 29, 2022 indicating that Sensitive Areas do not exist within the area of development. A CWS Memorandum was received/dated April 18, 2022 for development on this site. After land use decision issuance and applicant submittal of approvable plans, final plans are provided by the City to Clean Water Services for final review. Upon approval by Clean Water Services they will provide the City authorization to issue construction permits in the form of a Stormwater Connection Permit Authorization Letter. The applicant must submit final plans complying with the Clean Water Services' Service Provider Letter conditions and Memorandum that are sufficient to obtain a Stormwater Connection Permit Authorization Letter from Clean Water Services in accordance with TDC 74.650(2) and CWS D&CS 3.01.2(d). With Conditions of Approval A3 and A5, these standards are met.

TDC 74.120 Public Improvements.

(1) Except as specially provided, all public improvements must be installed at the expense of the applicant. All public improvements installed by the applicant must be constructed and guaranteed as to workmanship and material as required by the Public Works Construction Code prior to acceptance by the City. Work must not be undertaken on any public improvement until after the construction plans have been approved by the City Manager and a Public Works Permit issued and the required fees paid.

TDC 74.130 Private Improvements.

All private improvements must be installed at the expense of the applicant. The property owner must retain maintenance responsibilities over all private improvements.

TDC 74.140 Construction Timing.

(1) All the public improvements required under this chapter must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy; or, for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

(2) All private improvements required under this Chapter must be approved by the City prior to the issuance of a Certificate of Occupancy; or for subdivision and partition applications, in accordance with the requirements of the Subdivision regulations.

Finding:

Private improvements must be installed and maintained at the expense of the applicant. All private improvements proposed and modified by conditions of approval must be completed prior to receiving a Certificate of Occupancy. With Conditions of Approval A9 and A10, these standards are met.

IV. APPEAL

The Architectural Review portion of this decision will be final after 14 calendar days unless a written Notice of Appeal is received by the **Community Development Department – Planning Division at 10699 SW Herman Road, Tualatin, Oregon 97062 / planning@tualatin.gov before 5:00 p.m., July 6, 2022. The appeal must be submitted on the City appeal form with all the information requested provided thereon and signed by the appellant.** The plans and appeal forms are available at the Community Development Department – Planning Division offices. Appeal of a staff Architectural Review decision is heard by the City Council.

Submitted by:

A handwritten signature in blue ink, appearing to read 'K Leonard'.

Keith Leonard, AICP
Associate Planner