



**ARCHITECTURAL REVIEW DECISION
 8101 SW NYBERG OFFICE BUILDING (AR 23-0007)**

July 14, 2023

Case #:	AR 23-0007
Project:	8101 SW Nyberg Office Building
Location:	8101 SW Nyberg Street; Tax ID: 2S124BC02700
Applicant:	Curt Trolan, MDG Architecture Interiors
Owner:	North Rim Development Group, LLC

TABLE OF CONTENTS

I. INTRODUCTION.....2

 A. Applicable Criteria 2

 B. Site Description 2

 C. Proposed Project 2

 D. Previous Land Use Actions 3

 E. Surrounding Uses..... 3

 F. Exhibit List 3

II. CONDITIONS OF APPROVAL4

III. FINDINGS.....7

Chapter 32: Procedures7

Chapter 33: Applications and Approval Criteria 14

Chapter 53: Central Commercial Zone (CC) 16

Chapter 70: Floodplain District (FP) 19

Chapter 73A: Site Design..... 21

Chapter 73B: Landscaping Standards 24

Chapter 73C: Parking Standards..... 28

Chapter 73D: Waste and Recyclables Management Standards..... 35

Chapter 74: Public Improvement Requirements 37

IV. APPEAL..... 40

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

I. INTRODUCTION

A. Applicable Criteria

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

- TDC 32: Procedures
- TDC 33.020: Architectural Review
- TDC 33.110 Tree Removal
- TDC 53: Central Commercial (CC)
- TDC 70: Floodplain District (FP)
- TDC 73A: Site Design
- TDC 73B: Landscaping Standards
- TDC 73C: Parking Standards
- TDC 73D: Waste and Recyclables
- TDC 74: Public Improvement Requirements
- TDC 75: Access Management

B. Site Description



Figure 1 Aerial view of site with zoning (TualGIS)

The site at 8101 SW Nyberg Street is a 0.96-acre lot that is zoned Central Commercial (CC). The site has access to SW Nyberg Street and SW Seneca Street. The site is located east of the Lake at the Commons and west of SW Martinazzi Avenue. The site has an existing 16,567 sf office building that was approved under Architectural Review 74-09.

C. Proposed Project

MDG Architecture | Interiors, on behalf of North Rim Development Group, LLC, is requesting approval for a Type II Architectural Review to enclose a breezeway and make site modifications to an existing two-story structure located at 8101 SW Nyberg Street. Additional alterations would include, restriping areas of the parking lot, replacement of the roof, installation of an elevator, and the modification of the windows, columns, and entries.

D. Previous Land Use Actions

- AR 74-09

E. Surrounding Uses

Surrounding uses include:

- North: Central Commercial (CC)
- Municipal Parking Lot – City of Tualatin
 - SW Seneca Street
- South: Central Commercial (CC)
- Office Building
 - SW Nyberg Lane
- West: Central Commercial (CC)
- Retail Shops
- East: Central Commercial (CC)
- Wells Fargo Bank

F. Exhibit List

- A: Application Materials
- A1. Application & Narrative
 - A2. Plan Set & Elevations
 - A3. Supporting Documents
- B: Public Notice
- C: Clean Water Services Memorandum

II. CONDITIONS OF APPROVAL

Based on the Findings and Conclusions presented herein, AR 23-0007 is **approved** subject to the following conditions:

GENERAL:

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

PRIOR TO BUILDING PERMIT ISSUANCE:

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

- A2. 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. A revised grading plan that reflects the modifications of the site plan submitted as Page A0.1 “Site Plan – April 2023”.
 - b. A landscape plan with details that demonstrate:
 - i. The location of the new landscape area.
 - ii. The new landscape area is compliant with the minimum standards for trees and plants in TDC 73B.090.
 - iii. The new landscape area is irrigated in compliance with TDC 73B.080(5).
 - c. Details to demonstrate the modifications to the structure height are in conformance with the development standards of TDC 53.300.
 - d. Details to demonstrate the bicycle parking standards are consistent with TDC 73C.050;
 - i. Bicycle parking areas and facilities must be identified with appropriate signing as specified in the Manual of Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle parking signs must be located at the main entrance and at the location of the bicycle parking facilities.
 - e. Details to demonstrate the dimensions of the proposed loading berth are in compliance with TDC 73C.120.

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

- A3. The applicant must obtain Erosion Control and Flood Hazard Area Development Permits and if applicable, a Driveway Approach and Sidewalk or Public Works Permit from the City of Tualatin.
- A4. The applicant must submit a copy of a recorded 8-foot-wide Public Utility Easement adjacent to SW Nyberg Street and SW Seneca Street adjacent to the development’s lot.

PRIOR TO EROSION CONTROL AND FLOOD HAZARD AREA DEVELOPMENT AND IF APPLICABLE, DRIVEWAY APPROACH AND SIDEWALK OR PUBLIC WORKS PERMIT ISSUANCE:

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

- A5. The applicant must apply for an Engineering Erosion Control Permit and if applicable, a Driveway Approach and Sidewalk Permit:
- a. Apply using [eTrakit](#). With the initial Engineering permit(s) application(s) include:

- i. One combined set of 24"x36" plans including all applicable Engineering permits attached to one Engineering permit. Include a note on other Engineering permits stating which application includes the set; and,
 - ii. Payment for an Erosion Control Permit fee per the [fee schedule](#); and,
 - iii. If applicable, payment for a Driveway Approach and Sidewalk Permit fee or Public Works Permit deposit per the [fee schedule](#); and,
- b. Deliver two 24"x36" hard copies of the combined Engineering permit plan sets to:

City of Tualatin
Attn: Engineering Division c/o Principal Engineer
10699 SW Herman Road
Tualatin, OR 97062

- A6. If applicable, the applicant must submit Driveway Approach and Sidewalk or Public Works Permit Plans identifying locations of SW Nyberg Street and SW Seneca Street public sidewalk and driveway panels adjacent to the development's lot to be repaired to ADA standards. A Public Works Permit may include work approved with conditions within MAR23-0009.
- A7. The applicant must submit Final Erosion Control Plans in accordance with Tualatin Development Code (TDC) 74.640, Tualatin Municipal Code (TMC) 3-5-050 and 3-5-060, Public Works Construction Code (PWCC), and Clean Water Services' (CWS) Design & Construction Standards (D&CS) Chapters 2 and 6 that minimize the impact of stormwater from the development to adjacent properties.
- A8. The applicant must submit a completed and owner signed Flood Hazard Area Development Permit application in accordance with TDC 70.110 and 70.120 with the Base Flood Elevation of 128.1 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 as approved by the City Engineer, and
 - ii. Proposed construction in accordance with TDC 70.170 and 70.180; and.
 - b. A floodplain elevation certificate for the proposed building indicating Construction Drawings; and
 - c. A copy of the onsite operations and maintenance documentation for flood events that would affect the structure as approved by the City Engineer.

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

The applicant must contact the Planning Division (Madeleine Nelson, 503.691.3027 or mnelson@tualatin.gov) for a site inspection at least 72 hours prior to requesting a certificate of completeness. This inspection is separate from inspection(s) done by the Building Division. The following conditions must be satisfied:

- A9. The applicant must install an identification system that clearly locates buildings and their entries for patrons and emergency services, pursuant to Section 73A.500(4)(d). Building identification approved by TVF&R must be placed in a position that is plainly legible and visible from the street fronting the property. Numbers must contrast with their background, must be a minimum of 4 inches high, and must have a minimum stroke width of 1/2 inch. It is recommended to double this size on large buildings.

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

- A10. The applicant must complete all the private and public improvements as shown on the approved permit plans. All improvements must also be accepted by the City in accordance with Tualatin Development Code (TDC) 74.140.

- A11. The applicant must submit a floodplain elevation certificate indicating Finished Construction and including photos in accordance with TDC 70.120.

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

- A12. 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*.
- A13. Consistent with TDC 35.030 a nonconforming development may be repaired and maintained and continued, but not altered or enlarged, except: (i) aesthetic changes to the external dimensions of the building; (ii) a development conforming as to use but nonconforming as to setback or yard requirements may be altered or enlarged, providing the alteration or enlargement does not result in a violation of the change to setback or yard requirements; (iii) a nonconforming development may be altered or enlarged when such alteration or enlargement will bring the development or use into conformity with the Planning District Standards for the property.
- A14. If the use of the property changes, thereby increasing off-street parking or loading requirements, the increased parking/loading area must be provided prior to commencement of the new use, pursuant to TDC 73C.010(2)(a)(v).
- A15. All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, pursuant to TDC 61.310(1).
- A16. The applicant must screen with sight-obscuring fences or walls and landscaping, in accordance with TDC 73A.200(11) all above-grade and on-grade electrical and mechanical equipment, as well as, outdoor storage.
- A17. All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped, pursuant to TDC 73B.030(1).
- A18. Site landscaping must be maintained to meet the vision clearance requirements of TDC 73C.220 and TDC Figure 73-2.
- A19. Vegetation must be replanted in all areas where vegetation has been removed or damaged. The use of native plant material is encouraged.
- A20. All sign permits require separate sign permit approval per TDC Chapter 38. This approval does not constitute sign permit approval.

III. FINDINGS

Findings reference the Tualatin Development Code, 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	CM	ARB / CC	Yes	Yes	TDC 33.020
[...]						
* City Council (CC); Planning Commission (PC); Architectural Review Board (ARB); City Manager or designee (CM); Land Use Board of Appeals (LUBA).						

Finding:

The Architectural Review application proposed development is classified as “General Development” under TDC 33.020(3)(f) and therefore is subject to the Type II Procedure Type according to Table 32-1. The application has been processed according to the applicable code for Type II procedures. These standards are 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 TDC32.160, 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 May 19, 2023. The 120th day will be September 16, 2023. The final action on this application must take place within 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 April 19, 2023 and submitted their application on May 3, 2023. 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 provided evidence that a Neighborhood/Developer meeting was held on April 24, 2023. The applicant has provided documentation of sign posting and notification in compliance with this section in Exhibit A3. 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 provided a title report (Exhibit A3) showing North Rim Development Group, LLC to be the current owner of the subject site. The application has been signed by an agent of North Rim Development Group, LLC. 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, MDG Architecture / Interiors, on behalf of North Rim Development Group, LLC, submitted an application for Architectural Review 23-0007 on May 3, 2023. The application was deemed complete on May 19, 2023. 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 were placed on site in accordance with this section. These standards are met.

Section 32.160 – Completeness Review.

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

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

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

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

(a) All of the missing information;

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

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

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

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

[...]

Finding:

The applicant submitted an application for Architectural Review 23-0007 on May 3, 2023. The application was deemed complete on May 19, 2023. 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 submittal and completeness review as required by this section, notice for the Type II application for AR 23-0007 was mailed by city staff on May 24, 2023, and contained the information required by this section, as attached in Exhibit B. 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 chairman 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 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 standards and objectives in TDC 73A through 73G. 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.

Section 33.110 Tree Removal Permit/Review

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

[...]

(3) Exemptions. The following actions are exempt from the requirements of a tree removal permit.

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

- (i) Not located in the Natural Resource Protection Overlay District (NRPO);
- (ii) Not located in the Wetlands Protection Area (WPA) of the Wetlands Protection District (WPD);
- (iii) Not a Heritage Tree; and
- (iv) Not previously required to be retained or planted under an approved Architectural Review decision.

Finding:

Tree removal is not proposed under this application. These standards are not applicable.

Section 33.110 Tree Removal Permit/Review Approval Criteria

(5) Approval Criteria.

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

- (i) The tree is diseased and:**
 - (A) The disease threatens the structural integrity of the tree; or**
 - (B) The disease permanently and severely diminishes the esthetic value of the tree; or**
 - (C) The continued retention of the tree could result in other trees being infected with a disease that threatens either their structural integrity or esthetic value.**
- (ii) The tree represents a hazard which may include but not be limited to:**
 - (A) The tree is in danger of falling; or**
 - (B) Substantial portions of the tree are in danger of falling.**
- (iii) It is necessary to remove the tree to construct proposed improvements based on Architectural Review approval, building permit, or a approval of a Subdivision or Partition Review.**

Finding:

Tree removal is not proposed under this application. These standards are not applicable.

Chapter 53: Central Commercial Zone (CC)

[...]

Section 53.200 Use Categories.

- (1) Use Categories.** Table 53-1 lists use categories Permitted Outright (P) or Conditionally Permitted (C) in the CC zone. Use categories may also be designated as Limited (L) and subject to the limitations listed in Table 53-1 and restrictions identified in TDC 53.210. Limitations may restrict the specific type of use, location, size, or other characteristics of the use category. Use categories which are not listed are prohibited within the zone, except for uses which are found by the City Manager or appointee to be of a similar character and to meet the purpose of this zone, as provided in TDC 31.070.
- (2) Overlay Zones.** Additional uses may be allowed in a particular overlay zone. See the overlay zone Chapters for additional uses.

**Table 53-1
 Use Categories in the CC Zone**

USE CATEGORY	STATUS	LIMITATIONS AND CODE REFERENCES
COMMERCIAL USE CATEGORIES		
Office	P	—
Retail Sales and Services	P/C	Conditional use permit required for veterinary clinic. Memorial Planning and Products Center (as defined in TDC 39.115) not permitted. All other uses permitted outright. All uses subject to TDC53.210(4).

Section 53.210 Additional Limitations on Uses.

- (1) ***Appliance Stores.*** Incidental repair of appliances is permitted as an accessory use.
- (2) ***Veterinary Clinic.*** Veterinary clinics may be permitted as a conditional use if treatment is limited to small animals.
- (3) ***Outdoor Uses.*** All uses must be conducted wholly within a completely enclosed building, except off-street parking and loading, Basic Utilities, Wireless Communication Facilities, outdoor play areas of child day care centers, as required by state day care certification standards, and as provided in (a)–(c), below.
 - (a) Outside storage or sales requires a conditional use permit.
 - (b) Outdoor sales, as defined in TDC31.060 and as provided for in TDC 34.011, are permitted as a temporary use.
 - (c) Portable collection facilities as an accessory use require a conditional use permit, and are subject to the following standards:
 - (i) The facility must be sited such that it is either adjacent to existing vegetation or in a location where vegetation can be installed to enhance the appearance of the facility;
 - (ii) If vegetation is not already in place, landscaping, as approved through the Architectural Review process, must be installed adjacent to the location of the portable collection facility;
 - (iii) Items must not be stored outside the facility, except for temporary storage of oversized goods;
 - (iv) Oversized goods stored outside must be collected daily and removed from the premises or stored inside the portable collection facility; and
 - (v) Adequate receptacle must be provided for items dropped off during times the facility is not attended.

Finding:

The project area is within the Central Commercial (CC) Planning District. The existing structure and site plan were reviewed as Architectural Review 74-09. The building’s current use is a mix of general office and retail shops. The application proposed no changes to the existing uses. These standards are met.

Section 53.300 Development Standards.

Development standards in the CC zone are listed in Table 53-2. Additional standards may apply to some uses and situations, see TDC53.310.

**Table 53-2
Development Standards in the CC Zone**

STANDARD	REQUIREMENT	LIMITATIONS AND CODE REFERENCES
MINIMUM LOT SIZE		
All Uses	10,000 square feet	
MINIMUM LOT WIDTH		
Minimum Average Lot Width	75 feet	When lot has frontage on public street or is located on a cul-de-sac street, minimum lot width at the street must be 40 feet.
Infrastructure and Utilities Uses	—	As determined through the Subdivision, Partition, or Lot Line Adjustment process
Flag Lots	—	Must be sufficient to comply with minimum access requirements of TDC 73C.
MINIMUM SETBACKS		
Front	0—20 feet	Determined through Architectural Review Process. Buildings over 45 feet in height are subject to TDC 53.410(1). Residential garage doors facing public street must be set back 20 feet from public right-of-way.
Side and Rear	0 - 20 feet	Determined through Architectural Review Process.
Rear	0 - 15 feet	Determined through Architectural Review Process.
Corner Lots	0 - 20 feet along each frontage	Must be a sufficient distance to provide a adequate sight distance for vehicular and pedestrian traffic at an intersection, as determined through the Architectural Review process.
Parking and Vehicle Circulation Areas	5 feet	Except as approved through Architectural Review process.
Fences	5 feet	From public right-of-way.
MAXIMUM STRUCTURE HEIGHT		
All Uses	45 feet	Flagpoles may extend up to 100 feet. Height bonus available in limited locations, see TDC 53.410(1).

Section 53.310 Additional Development Standards.

- (1) ***Height Bonus.*** In the CC zone, north of SW Boones Ferry Road and south of the Tualatin River, the maximum height for a structure is 125 feet, when approved with a conditional use permit and subject to the following setback requirements:

- (a) **Front yard.** Any structure south of Hedges Creek must comply with the CC District setbacks and any structure north of Hedges Creek must comply with the TDC Chapter 72 setbacks for Hedges Creek.
- (b) **Side yard.** The minimum side yard setback is:
 - (i) For structures 45 feet or less in height, zero to 15 feet as determined through the Architectural Review process;
 - (ii) For structures greater than 45 feet, but less than 84 feet, the side yard setback must be 30 feet for that portion of the structure greater than 45 feet and less than 84 feet in height; and
 - (iii) For structures greater than 84 feet but less than or equal to 125 feet in height, the side yard setback must be 45 feet for that portion of the building greater than 84 feet in height.

Finding:

The existing building was reviewed under Architectural Review 74-09 against the code standards at the time of approval. The proposed modifications will not impact the existing setbacks. No fences were proposed in this application. The submitted elevation plans indicate the height of the existing structure will be increased. With Condition of Approval A2 this standard is met.

Chapter 70: Floodplain District (FP)

[...]

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).

TDC 70.120. - Application for Development Permit.

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

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

[...]

TDC 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.

[...]

- (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.

TDC 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 floodproofed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water;

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

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

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

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

(6) Below-Grade Crawl Spaces. Below-grade crawlspaces are allowed subject to the following standards as found in FEMA Technical Bulletin 11-01, Crawl Space 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 construction within the floodplain. FEMA identifies the floodplain elevation at this site as 128.1 feet, NAVD 1988. All utilities planned with this development which are located within the floodplain must be designed to meet code.

A Flood Hazard Area Development permit must be obtained prior to construction. This permit must include final approved plans identifying balanced cut and fill as approved by the City Engineer. Elevation certificates prior to and post-construction must show construction in accordance with TDC 70.170 and 70.180.

With Conditions of Approval A8, A3, and A11, these standards are met.

Chapter 73A: Site Design

Section 73A.300 – Commercial Design Standards.

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

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

(a) Walkways must be a minimum of six 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;
- (d) Walkways must be provided between the main building entrances and other on-site buildings, accessways, and sidewalks along the public right-of-way;
- (e) Walkways through parking areas, drive aisles, and loading areas must be visibly raised and of a different appearance than the adjacent paved vehicular areas;
- (f) Bikeways must be provided that link building entrances and bike facilities on the site with adjoining public right-of-way and accessways; 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 stated the existing walkways are made of concrete and are a minimum of six feet in width. The application proposed a modification to the concrete sidewalk and ramp adjacent to the accessible parking stalls. The applicant proposed the modification will be flush with the asphalt paving. These standards are met.

(2) Accessways.

- (a) **When Required.** Accessways are required to be constructed when a multi-family development is adjacent to any of the following:
 - (i) Residential property;
 - (ii) Commercial property;
 - (iii) Areas intended for public use, such as schools and parks; and
 - (iv) Collector or arterial streets where transit stops or bike lanes are provided or designated.
- (b) **Design Standard.** Accessways must meet the following design standards:
 - (i) Accessways must be a minimum of eight feet in width;
 - (ii) Public accessways must be constructed in accordance with the Public Works Construction Code;
 - (iii) Private accessways must be constructed of asphalt, concrete or a pervious surface such as pervious asphalt or concrete, pavers or grasscrete, but not gravel or woody material;
 - (iv) Accessways must meet ADA standards applicable at time of construction or alteration;
 - (v) Accessways must be provided as a connection between the development's walkway and bikeway circulation system;
 - (vi) Accessways must not be gated to prevent pedestrian or bike access;
 - (vii) 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; and
 - (viii) Must be constructed, owned and maintained by the property owner.
- (c) **Exceptions.** The Accessway standard does not apply to the following:
 - (i) Where a bridge or culvert would be necessary to span a designated greenway or wetland to provide a connection, the City may limit the number and location of accessways to reduce the impact on the greenway or wetland; and
 - (ii) Accessways to undeveloped parcels or undeveloped transit facilities need not be constructed at the time the subject property is developed. In such cases the applicant for development must enter into a written agreement with the City guaranteeing future performance by the applicant and any successors in interest of the property being developed to construct an accessway when the adjacent undeveloped parcel is developed. The agreement recorded is subject to the City's review and approval.

Finding:

The application does not propose any modification to the existing accessway. This standard is met.

(3) Drive-up Uses. Drive-up uses must comply with the following:

- (a) Provide a minimum stacking area clear of the public right-of-way and parking lot aisles from the window serving the vehicles as follows:
 - (i) Banks—Each lane must be 100 feet long;
 - (ii) Restaurants—Each lane must be 160 feet long; and
 - (iii) Other uses—Each lane must be between 80 and 160 feet long, as determined by the City.
- (b) Stacking area must not interfere with safe and efficient access to other parking areas on the property.
- (c) Drive-up aisles and windows must be a minimum of 50 feet from residential zones.
- (d) The width and turning radius of drive-up aisles must be approved by the City.
- (e) A wall or other visual or acoustic may be required by the City.

Finding:

The application does not propose a drive-up use. These standards are not applicable.

(4) Safety and Security. Commercial 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.

Finding:

The existing development has windows that face the east and west along the facades of the building. The application proposed to increase the size of the east facing windows along the first floor. Exterior lighting under the canopy is existing and will remain. The applicant proposed to add additional decorative linear sconces to the canopy columns. The applicant does not propose any ground sewer or water pumping stations, pressure reading stations, water reservoirs or electrical substations. With Condition of Approval A9 and A16, this standard is met.

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

- (a) Above grade and on-grade electrical and mechanical equipment such as transformers, heat pumps and air conditioners must be screened with sight obscuring fences, walls or landscaping;
- (b) Outdoor storage must be screened with a sight obscuring fence, wall, berm or dense evergreen landscaping; and

- (c) **Above ground pumping stations, pressure reading stations, water reservoirs; electrical substations, and above ground natural gas pumping stations must be screened with sight-obscuring fences or walls and landscaping.**

Finding:

The applicant’s narrative stated all utilities are existing and will be maintained to the current condition. The proposal does not include the addition of any outdoor storage. No above ground sewer, water pumping stations, pressure reading stations, water reservoirs, electrical substations, or above ground natural gas pumping stations are proposed as part of this development. With Condition of Approval A16, this standard is met.

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

- (a) **Development on a transit street designated in TDC Chapter 11 (Figure 11-5) must provide either a transit stop pad on-site, or an on-site or public sidewalk connection to a transit stop along the subject property's frontage on the transit street.**
- (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’s narrative stated the closest access to public transportation is Trimet Bus Route #96 located at a bus stop at SW Martinazzi Avenue and SW Seneca Street. The narrative stated the stop is approximately 200 feet from the project site. These standards are met.

Chapter 73B: Landscaping Standards

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

Excerpted from 73B.020	
Zone	Minimum Area Requirement
(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

[...]

Finding:

The subject site is located in the Central Commercial (CC) zoning district. Existing site landscaping was determined and approved under Architectural Review 74-09. The existing landscape areas are to be maintained. The project proposes minimal changes to the existing site landscaping. The landscape area to be modified is at the new elevator location. With Condition of Approval A17 this standard is met.

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

- (1) **General.** In addition to requirements in TDC 73B.020, commercial uses, except those located in the Mixed-Use Commercial (MUC) zone, must comply with the following:
 - (a) All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped.
 - (i) This standard does not apply to areas subject to the Hedges Creek Wetlands Mitigation Agreement.
 - (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.
 - (d) Development that abuts an RL or MP Zone must have landscaping approved through Architectural Review and must provide and perpetually maintain dense, evergreen landscaped buffers between allowed uses and the adjacent RL and MP zones.
- (2) **Manufacturing Park (MP)—Wetland Buffer.** Wetland buffer areas up to 50 feet in width may be counted toward the required percentage of site landscaping, subject to the following:
 - (a) Area counted as landscaping is limited to a maximum of two and one-half percent (of the total land area to be developed);
 - (b) Area to be counted as landscape must be within the boundaries of the subject property;
 - (c) No credit may be claimed for wetland buffer areas lying outside the lot lines of the subject parcel;
 - (d) Where wetlands mitigation in the buffer has not yet occurred at the time of development, the developer must perform, or bear the cost of, all necessary mitigation work in the course of site development, in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers and the Unified Sewerage Agency; and
 - (e) Where wetlands mitigation in the buffer has already been performed in accordance with a Removal/Fill Permit or permits issued by the Oregon Division of State Lands and the US Army Corps of Engineers, the developer must include an enhanced mitigation plan approved by the Oregon Division of State Lands and the Unified Sewerage Agency as part of the Architectural Review submittal. The developer must complete all work required by the enhanced wetland mitigation plan in conjunction with development of the site.

Finding:

The subject site is located in the Central Commercial (CC) zoning district. Existing site landscaping was determined and approved under Architectural Review 74-09. The project proposes minimal changes to the existing site landscaping. Existing landscape areas are to be maintained. The landscape area to be modified is at the new elevator location. These standards are met.

Section 73B.080 – Minimum Landscaping Standards for All Zones.
The following are minimum standards for landscaping for all zones.

(1) Required Landscape Areas	<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:

All areas not occupied by buildings, parking spaces, driveways, drive aisles, pedestrian areas, or undisturbed natural areas must be landscaped. The applicant proposed a new modified landscape area at the new elevator location. The applicant proposed for the existing landscaping to remain and be maintained. With Condition of Approval A2 and A17, this standard is met.

(2) Fences	<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:

No fences are proposed with this project. This standard is not applicable.

(3) Tree Preservation	<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: • 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 dripline; • 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
------------------------------	--

	<ul style="list-style-type: none"> • 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:

Tree removal is not proposed with this application. This standard is met.

<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 applicant provided a layout for the Paving and Grading Plan in Exhibit A2. The plan proposed minor modifications to curbs, sidewalks, and parking paving repair. The applicant’s narrative stated the modifications will provide positive drainage which will not drain across walkways. With Condition of Approval A19, this standard is met.

<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:

Modified landscaping is proposed at the new elevator location. An automatic underground or drip irrigation system must be provided in new landscaped areas. With Condition of Approval A2, this standard is 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:

The applicant proposed that existing site landscaping will remain and continue to be maintained. The applicant’s narrative stated all disturbed landscape areas as a result of construction will be vegetated. With Condition of Approval A19, this standard is 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.

Standard		
(1) Deciduous Shade Trees	<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; • 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. 	
(2) Deciduous Ornamental Trees	<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 	
(3) Coniferous Trees	<ul style="list-style-type: none"> • 5 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:

Modified landscaping was proposed at the new elevator location. The existing site landscaping is to remain and be maintained. No trees or lawns are proposed with this application. The applicant’s narrative stated no Hedera helix was proposed. With Condition of Approval A2, these standards are met.

Chapter 73C: Parking Standards

Section 73C.020 – Parking Lot Design Standards.

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

- (1) Off-street parking lot design must comply with the dimensional standards set forth in Figure 73-1;
- (2) Parking lot drive aisles must be constructed of asphalt, concrete, or pervious concrete;

- (3) Parking stalls must be constructed of asphalt, concrete, previous concrete, or a pervious surface such as pavers or grasscrete, but not gravel or woody material. Pervious surfaces, are encouraged for parking stalls in or abutting the Natural Resource Protection Overlay District, Other Natural Areas, or in a Clean Water Services Vegetated Corridor;**
- (4) Parking lots must be maintained adequately for all-weather use and drained to avoid water flow across sidewalks;**
- (5) Parking bumpers or wheel stops or curbing must be provided to prevent cars from encroaching on adjacent landscaped areas, or adjacent pedestrian walkways.**
- (6) Disability parking spaces and accessibility must meet ADA standards applicable at time of construction or alteration;**
- (7) Parking stalls for sub-compact vehicles must not exceed 35 percent of the total parking stalls required by TDC 73C.100. Stalls in excess of the number required by TDC 73C.100 can be sub-compact stalls;**
- (8) Groups of more than 4 parking spaces must be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley;**
- (9) Drives to off-street parking areas must be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site;**
- (10) On-site drive aisles without parking spaces, which provide access to parking areas with regular spaces or with a mix of regular and sub-compact spaces, must have a minimum width of 22 feet for two-way traffic and 12 feet for one-way traffic; When 90 degree stalls are located on both sides of a drive aisle, a minimum of 24 feet of aisle is required. On-site drive aisles without parking spaces, which provide access to parking areas with only sub-compact spaces, must have a minimum width of 20 feet for two-way traffic and 12 feet for one-way traffic;**
- (11) Artificial lighting, must be deflected to not shine or create glare in a residential zones, street right-of-way, a Natural Resource Protection Overlay District, Other Natural Areas, or a Clean Water Services Vegetated Corridor;**
- (12) Parking lot landscaping must be provided pursuant to the requirements of TDC 73C.200; and**
- (13) Except for parking to serve residential uses, parking areas adjacent to or within residential zones or adjacent to residential uses must be designed to minimize disturbance of residents.**

Finding:

The parking lot design for the existing developed site was reviewed through Architectural Review 74-09. Several areas of the existing parking lot design are not in compliance with the current Tualatin Development Code parking standards and are considered nonconforming. The applicant proposed minimal changes to the curbs, parking paving and restriping of the existing parking lot that will not alter or expand the current nonconforming parking lot design. With Condition of Approval A13, these standards are met.

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

- (1) Requirements. Bicycle parking facilities must include:**
 - (a) Long-term parking that consists of covered, secure stationary racks, lockable enclosures, or rooms in which the bicycle is stored;**
 - (i) Long-term bicycle parking facilities may be provided inside a building in suitable secure and accessible locations.**
 - (b) Short-term parking provided by secure stationary racks (covered or not covered), which accommodate a bicyclist's lock securing the frame and both wheels.**
- (2) Standards. Bicycle parking must comply with the following:**
 - (a) Each bicycle parking space must be at least six feet long and two feet wide, with overhead clearance in covered areas must be at least seven feet;**

- (b) A five-foot-wide bicycle maneuvering area must be provided beside or between each row of bicycle parking. It must be constructed of concrete, asphalt or a pervious hard surface such as pavers, or grasscrete, and be maintained;
 - (c) Access to bicycle parking must be provided by an area at least three feet in width. It must be constructed of concrete, asphalt, or a pervious hard surface such as pavers or grasscrete, and be maintained;
 - (d) Bicycle parking areas and facilities must be identified with appropriate signing as specified in the Manual on Uniform Traffic Control Devices (MUTCD) (latest edition). At a minimum, bicycle parking signs must be located at the main entrance and at the location of the bicycle parking facilities;
 - (e) Bicycle parking must be located in convenient, secure, and well-lighted locations approved through the Architectural Review process. Lighting, which may be provided, must be deflected to not shine or create glare into street rights-of-way or fish and wildlife habitat areas;
 - (f) Required bicycle parking spaces must be provided at no cost to the bicyclist, or with only a nominal charge for key deposits, etc. This does not preclude the operation of private for-profit bicycle parking businesses;
- [...]

Finding:

The applicant’s site plan in Exhibit A2 depicted five two-stall bike racks for a total of 10 bicycle parking spaces. Four of the bike racks will be under the existing canopy of the building. With Condition of Approval A2, these standards are met.

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

(1) The following are the minimum and maximum requirements for off-street motor vehicle parking in the City:

USE	MINIMUM MOTOR VEHICLE PARKING	MAXIMUM MOTOR VEHICLE PARKING	BICYCLE PARKING	PERCENTAGE OF BICYCLE PARKING TO BE COVERED
(e) Commercial				
(i) Retail shops (under 100,000 square feet of gross floor area)	4.00 spaces per 1,000 square feet of gross floor area	Zone A: 5.1 spaces per 1,000 square feet of gross floor area Zone B: 6.2 spaces per 1,000 square feet of gross floor area	0.50 space per 1,000 square feet of gross floor area	50
(vi) General office	2.70 spaces per 1,000 square feet of gross floor area	Zone A: 3.4 spaces per 1,000 square feet of gross floor area Zone B: 4.1 spaces per 1,000 square feet of gross floor area	2 spaces, or 0.50 spaces per 1,000 gross square feet, whichever is greater	First ten spaces or 40 percent, whichever is greater

Finding:

Table 1: Minimum and Proposed Parking by Use

Use	Square Footage	Vehicle Parking Min.	Core Area Parking District Minimum	Proposed Vehicle Parking	Bike Parking Min.	Proposed Bike Parking
<i>Retail Shops</i>	<i>872</i>	<i>4</i>	<i>3</i>		<i>1</i>	
<i>General Office</i>	<i>15,695</i>	<i>42</i>	<i>N/A</i>		<i>8</i>	
Total	16,567	46	45	58	9	10

The existing site consists of 872 sf of Retail Shops and 15,695 sf of General Office for a total of 16,567 sf. The Retail Shops use requires a minimum of 4 parking stalls and the General Office use requires a minimum of 42 parking stalls. The minimum total parking stalls for onsite parking is 46 stalls. The applicant’s site plans depicted 58 parking stalls in Exhibit A2.

Map 10-3 of Tualatin’s Comprehensive Plan identified the site as part of the Core Area Parking District. Under Section 73C.110 some uses must provide 75 percent of the spaces required in TDC 73C.100(1), Retail Shops (under 100,000 square feet of gross floor area) were an identified use to provide 75 percent of the spaces required by this section.

The total number of bicycle parking spaces required is nine spaces with five spaces needing to be covered. 10 bicycle parking spaces are proposed on the site plan in Exhibit A2. Eight of the 10 bicycle parking spaces are proposed to be covered. These standards are met.

Section 73C.110 - Core Area Parking District Minimum Parking Requirements.

Uses in the Core Area Parking District must comply with the following parking requirements:

- (1) The following uses must provide 75 percent of the spaces required in TDC 73C.100(1), whether provided individually, in accordance with the Shared Parking in TDC 73C.030, or the Joint Use Parking in TDC 73C.040:
 - (a) Multi-Family dwellings in complexes with private internal driveways;
 - (b) Retirement housing facility;
 - (c) Boarding house, lodging;
 - (d) Congregate care, assisted living and residential care facilities;
 - (e) Residential facilities (located in other than low density residential planning districts);
 - (f) Library, reading room;
 - (g) Nursery, primary, elementary or middle school, and child day care center;
 - (h) Other places of public assembly, including churches;
 - (i) Theater;
 - (j) Bowling alley;
 - (k) Retail shops (under 100,000 square feet of gross floor area);
 - (l) Retail store handling exclusively bulky merchandise such as furniture or automobiles and service or repair shops;
 - (m) Mortuary;
 - (n) Office furniture and office furniture sales; and
 - (o) Major transit stops (not Park and Ride lots).
- (2) At the time of enlargement of an existing structure or change in use, there must be no net loss of existing off-street parking, in addition to providing new off-street parking as required under TDC 73C.110.

(3) The following uses are exempt from providing off-street parking within the Core Area Parking District:

- (a) The publicly-owned community center on Tract 8 of the Tualatin Commons; and**
- (b) Outdoor dining facilities.**

Finding:

Map 10-3 of Tualatin’s Comprehensive Plan identified the site as part of the Core Area Parking District. Under Section 73C.110 some uses must provide 75 percent of the spaces required in TDC 73C.100(1), Retail Shops (under 100,000 square feet of gross floor area) were an identified use to provide 75 percent of the spaces required by this section. The application will not reduce any off-street parking. These standards are met.

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

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

Use	Square Feet of Floor Area	Number of Berths	Dimensions of Berth	Unobstructed Clearance of Berth
Commercial	Less than 5,000	0	0	0
	5,000—25,000	1	12 feet × 25 feet	14 feet
	25,000—60,000	2	12 feet × 35 feet	14 feet
	60,000 and over	3	12 feet × 35 feet	14 feet
Industrial	Less than 5,000	0	0	0
	5,000—25,000	1	12 feet × 60 feet	14 feet
	25,000—60,000	2	12 feet × 60 feet	14 feet
	60,000 and over	3	12 feet × 60 feet	14 feet
Institutional	Less than 5,000	0	0	0
	5,000—25,000	1	12 feet × 25 feet	14 feet
	25,000—60,000	2	12 feet × 35 feet	14 feet
	60,000 and over	3	12 feet × 35 feet	14 feet

- (2) Loading berths must not use the public right-of-way as part of the required off-street loading area.**
- (3) Required loading areas must be screened from public view, public streets, and adjacent properties by means of sight-obscuring landscaping, walls or other means, as approved through the Architectural Review process.**
- (4) Required loading facilities must be installed prior to final building inspection and must be permanently maintained as a condition of use.**
- (5) The off-street loading facilities must in all cases be on the same lot or parcel as the structure they are intended to serve. In no case must the required off-street loading spaces be part of the area used to satisfy the off-street parking requirements.**
- (6) A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children must be located on the site of a school or child day care center having a capacity greater than 25 students.**

Finding:

The existing building is 16,567 sf and requires one off-street loading berth. The existing site does not include a loading berth. The site plan in Exhibit A2 proposed one loading berth to the southwest of the site. The off-street loading facility is located on the same lot it is intended to serve. The applicant’s

narrative stated the loading area for the building is located with adequate maneuvering room to eliminate the use of the right-of-way. The applicant’s narrative stated the building’s existing landscaping will screen the loading area from public view and streets. With Condition of Approval A2, these standards are met.

Section 73C.130 – Parking Lot Driveway and Walkway Minimum Requirements.

Parking lot driveways and walkways must comply with the following requirements:

(2) Commercial Uses. Ingress and egress for commercial and institutional uses must not be less than the following:

Required Parking Spaces	Minimum Number Required	Minimum Pavement Width	Minimum Pavement Walkways, etc.
1-99	1	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
100-249	2	32 feet for first 50 feet from ROW, 24 feet thereafter	Curbs required; walkway 1 side only
Over 250	As required by City Manager	As required by City Manager	As required by City Manager

Finding:

The parking lot design for the existing developed site was reviewed through Architectural Review 74-09. Several areas of the existing parking lot design are not in compliance with the current Tualatin Development Code parking standards and are considered nonconforming. Walkways are existing on site. There are no modifications proposed to walkways under this application. The existing site driveways range in dimension from the original construction and are between 24 and 26 feet in width. There are no modifications proposed to the parking lot driveways under this application. These standards are not applicable.

PARKING LOT LANDSCAPING

Section 73C.220 - Commercial Parking Lot Landscaping Requirements.

Commercial uses must comply with the following landscaping requirements for parking lots in all zones:

- (1) General.** Locate landscaping or approved substitute materials in all areas not necessary for vehicular parking and maneuvering.
- (2) Clear Zone.** Clear zone required for the driver at ends of on-site drive aisles and at driveway entrances, vertically between a maximum of 30 inches and a minimum of eight feet as measured from the ground level.
 - (a) Exception:** does not apply to parking structures and underground parking.
- (3) Perimeter.** Minimum five feet in width in all off-street parking and vehicular circulation areas, including loading areas and must comply with the following.
 - (a)** Deciduous trees located not more than 30 feet apart on average as measured on center;
 - (b)** Shrubs or ground cover, planted so as to achieve 90 percent coverage within three years;
 - (c)** Plantings which reach a mature height of 30 inches in three years which provide screening of vehicular headlights year round;
 - (d)** Native trees and shrubs are encouraged; and

- (e) Exception: Not required where off-street parking areas on separate lots are adjacent to one another and connected by vehicular access.**

Finding:

The site has an existing developed parking lot. The parking lot is surrounded by an existing landscape buffer that contains trees, evergreen hedges and groundcover. It is unknown if the perimeter landscaping meets the minimum five feet in width, however the applicant proposes no modifications to the existing parking lot landscaping. With Condition of Approval A18, these standards are met.

- (4) Landscape Island. Minimum 25 square feet per parking stall must be improved with landscape island areas and must comply with the following.**
- (a) May be lower than the surrounding parking surface to allow them to receive stormwater run-off and function as water quality facilities as well as parking lot landscaping;**
 - (b) Must be protected from vehicles by curbs, but the curbs may have spaces to allow drainage into the islands;**
 - (c) Islands must be utilized at aisle ends to protect parked vehicles from moving vehicles and emphasize vehicular circulation patterns;**
 - (d) Landscape separation required for every eight continuous spaces in a row.**
 - (e) Must be planted with one deciduous shade trees for every four parking spaces; Required trees must be evenly dispersed throughout the parking lot;**
 - (f) Must be planted with groundcover or shrubs;**
 - (g) Native plant materials are encouraged;**
 - (h) Landscape island areas with trees must be a minimum of five feet in width (from inside of curb to curb);**
 - (i) Required plant material in landscape islands must achieve 90 percent coverage within three years; and**
 - (j) Exceptions:**
 - (i) Landscape island requirements do not apply to Duplexes and Townhouses; and**
 - (ii) Landscape square footage requirements do not apply to parking structures and underground parking.**

Finding:

The parking lot design for the existing developed site was reviewed through Architectural Review 74-09. Several areas of the existing parking lot design are not in compliance with the current Tualatin Development Code parking standards and are considered nonconforming. The existing parking lot does not have landscape separation for every eight continuous spaces. A minimum of 25 square feet per parking stall is not improved with landscape island areas. The applicant's proposed scope of work does not alter or enlarge the nonconforming development of the parking areas. These standards are not applicable.

- (5) Driveway Access. For lots with 12 or more parking spaces, site access from the public street must be defined by:**
- (a) Landscape area at least five feet in width on each side of the site access;**
 - (b) Landscape area must extend 25 feet from the right-of-way line; and**
 - (c) Exceptions: Does not apply to parking structures and underground parking which must be determined through the Architectural Review process.**

Finding:

The parking lot design for the existing developed site was reviewed through Architectural Review 74-09. The applicant's proposed scope of work does not modify the landscaping around the driveway access. This standard is not applicable.

Chapter 73D: Waste and Recyclables Management Standards

TDC 73D.010. - Applicability and Objectives.

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

- (b) Commercial developments;**
- [...]**

Section 73D.020 - Design Methods.

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

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

Section 73D.030 – Minimum Standards Method.

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

- (1) The size and location of the storage area(s) must be indicated on the site plan. Requirements are based on an assumed storage area height of four feet for mixed solid waste and source separated recyclables. Vertical storage higher than four feet, but no higher than 7 feet may be used to accommodate the same volume of storage in a reduced floor space (potential reduction of 43 percent of specific requirements). Where vertical or stacked storage is proposed, submitted plans must include drawings to illustrate the layout of the storage area and dimensions for containers.**
- (2) The storage area requirement is based on uses. If a building has more than one use and that use occupies 20 percent or less of the gross leasable area (GLA) of the building, the GLA occupied by that use must be counted toward the floor area of the predominant use(s). If a building has more than one use and that use occupies more than 20 percent of the GLA of the building, then the storage area requirement for the whole building must be the sum of the area of each use. Minimum storage area requirements by use is as follows:**

[...]

- (c) Commercial, industrial, and institutional developments must provide a minimum storage area of ten square feet plus:**
 - (i) Office—Four square feet/1,000 square feet gross leasable area (GLA);**
 - (ii) Retail—Ten square feet/1,000 square feet GLA;**
 - (iii) Wholesale/Warehouse/Manufacturing—Six square feet/1,000 square feet GLA;**
 - (iv) Educational and Institutional—Four square feet/1,000 square feet GLA; and**
 - (v) All other uses—Four square feet/1,000 square feet GLA.**
- (3) Mixed solid waste and source separated recyclables storage areas for multiple tenants on a single site may be combined and shared.**

Finding:

The applicant used the minimum standards method. The existing building is a mix of office and retail space. 84 square feet of trash and recycling storage are required. The applicant proposed no modifications to the existing onsite trash and recycling enclosure. The applicant's narrative stated the

existing trash enclosure is 96 square feet and located at the southwest corner of the building. This standard is met.

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

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

(1) Location Standards.

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

(2) Design Standards.

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

(3) Access Standards.

- (a) Storage areas must be accessible to users at convenient times of the day, and to hauler personnel on the day and approximate time they are scheduled to provide hauler service.
- (b) Storage areas must be designed to be easily accessible to hauler trucks and equipment, considering paving, grade, gate clearance and vehicle access.
- (c) Storage areas must be accessible to hauler trucks without requiring backing out of a driveway onto a public street. If only a single access point is available to the storage area, adequate turning radius must be provided to allow hauler trucks to safely exit the site in a forward motion.
- (d) Storage areas must be located so that pedestrian and vehicular traffic movement are not obstructed on site or on public streets adjacent to the site.
- (e) The following is an exception to the access standard:
 - (i) Access may be limited for security reasons.

Finding:

The applicant proposed no modifications to the existing onsite trash and recycling enclosure. The applicant's narrative stated the existing trash enclosure is constructed with a 6-foot high brick enclosure

with a pedestrian gate access. For this application, Republic Services reviewed the site plan and confirmed that access to the trash and recycling enclosures will not be affected by the project's scope of work. A service provider letter from Republic Services is attached as Exhibit A3. These standards are met.

Chapter 74: Public Improvement Requirements

[...]

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.

Finding:

All public improvements will be installed by the applicant at their expense after approval of plans and applicable issued Erosion Control and Flood Hazard Area Development Permits and if applicable, Driveway Approach and Sidewalk or Public Works Permit. With recommended Conditions of Approval A10 and A11, this standard is met.

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.

Finding:

All private improvements will be installed by the applicant at their expense and will require prior approval of plans and building permits. With recommended Conditions of Approval A10 and A11, this standard is met.

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:

All public and private improvements proposed and modified by conditions of approval will be completed and accepted by the City prior to receiving a Certificate of Occupancy. With recommended Conditions of Approval A10 and A11, these standards are met.

[...]

TDC 74.420 Street Improvements.

When an applicant proposes to develop land adjacent to an existing or proposed street, including land which has been excluded under TDC 74.220, the applicant should be responsible for the improvements to the adjacent existing or proposed street that will bring the improvement of the street into conformance with the Transportation Plan (TDC Chapter 11), TDC 74.425 (Street Design Standards), and the City's Public Works Construction Code, subject to the following provisions:

(1) For any development proposed within the City, roadway facilities within the right-of-way described in TDC 74.210 must be improved to standards as set out in the Public Works Construction Code.

(2) The required improvements may include the rebuilding or the reconstruction of any existing facilities located within the right-of-way adjacent to the proposed development to bring the facilities into compliance with the Public Works Construction Code.

[...]

(4) Where development abuts an existing street, the improvement required must apply only to that portion of the street right-of-way located between the property line of the parcel proposed for development and the centerline of the right-of-way, plus any additional pavement beyond the centerline deemed necessary by the City Manager to ensure a smooth transition between a new improvement and the existing roadway (half-street improvement). Additional right-of-way and street improvements and off-site right-of-way and street improvements may be required by the City to mitigate the impact of the development. The new pavement must connect to the existing pavement at the ends of the section being improved by tapering in accordance with the Public Works Construction Code.

[...]

(6) All required street improvements must include curbs, sidewalks with appropriate buffering, storm drainage, street lights, street signs, street trees, and, where designated, bikeways and transit facilities.

[...]

(8) For development applications other than subdivisions and partitions, all street improvements required by this section must be completed and accepted by the City prior to the issuance of a Certificate of Occupancy.

[...]

(11) Existing streets which abut the proposed development site must be graded, constructed, reconstructed, surfaced or repaired as necessary in accordance with the Public Works Construction Code and TDC Chapter 11, Transportation Plan, and TDC 74.425 (Street Design Standards).

(12) Sidewalks with appropriate buffering must be constructed along both sides of each internal street and at a minimum along the development side of each external street in accordance with the Public Works Construction Code.

[...]

Finding:

Adjacent to the development's lot sidewalks and driveways within public right of way of SW Nyberg Street and SW Seneca Street will be confirmed to be in compliance with ADA standards or repaired. With recommended Conditions of Approval A6, A3, A10 and A11, these standards are met.

TDC 74.630 Storm Drainage System.

(1) Storm drainage lines must be installed to serve each property in accordance with City standards. Storm drainage construction plans and calculations must be submitted to the City Manager for review and approval prior to construction.

(2) The storm drainage calculations must confirm that adequate capacity exists to serve the site. The discharge from the development must be analyzed in accordance with the City's Storm and Surface Water Regulations.

[...]

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.

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 Layout, Paving, and Grading Plan illustrates no change to the existing capturing of stormwater runoff from the sites developed areas with conveyance discharging to existing public main lines.

The site disturbance is approximately 1,512 square feet. Erosion and sediment control plans and permit applications conforming to the requirements of the City of Tualatin, CWS, and Oregon Department of Environmental Quality will be provided with the construction permit submittal documents. The applicant will obtain an erosion control permit from the City of Tualatin for disturbance greater than 500 square feet.

A Clean Water Services' Service Provider Letter and Memorandum dated June 7, 2023 acting as Storm Water Connection Permit Authorization were received. After land use decision issuance the applicant will submit final plans complying with the Service Provider Letter conditions and CWS 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 recommended Conditions of Approval A7, A8, A3, A10, and A11, these standards are met.

IV. APPEAL

The Architectural Review portion of this decision will be final after 14 calendar days unless a written 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 28, 2023. **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. Appeals of a staff Architectural Features decision are reviewed by the Architectural Review Board (ARB); appeals of Public Facilities Decision elements are appealed directly to City Council as specified in TDC Table 32-1.

Submitted by:



Madeleine Nelson
Assistant Planner