



CITY OF OREGON CITY PLANNING COMMISSION AGENDA

Commission Chambers, Libke Public Safety Facility, 1234 Linn Ave, Oregon City
Monday, June 9, 2025 at 7:00 PM

Ways to participate in this public meeting:

- Attend in person, location listed above. Please see the public comment guidelines below.
- Attend the livestream of the meeting on the City's YouTube Channel:

<https://www.youtube.com/user/CityofOregonCity>

- Register to provide electronic testimony (email ocplanning@orc.org or call 503-722-3789 by 3:00 PM on the day of the meeting to register)
 - Email ocplanning@orc.org (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)
 - Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045
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1. CONVENE MEETING AND ROLL CALL

2. APPROVAL OF MINUTES

- a. Approval of Meeting Minutes for 5/12/2025

3. PUBLIC COMMENTS

Please see the public comment guidelines below.

4. PRESENTATIONS

5. PUBLIC HEARINGS

- a. GLUA-25-00008/VAR-25-00002-Variance to permit a drive aisle between the building and street for a porte cochère drop-off area as part of a planned assisted living facility rehabilitation-515 10th Street

6. DISCUSSION ITEMS

7. COMMUNICATIONS

8. ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the clerk. When the Chair calls your name, proceed to the speaker table, and state your name and city of residence. Each speaker is given 3 minutes to speak. As a general practice, the committee does not engage in discussion with those making comments. Complaints shall be addressed at the department level prior to addressing the committee.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the [Oregon City's website](https://www.oregoncity.org) and available on

demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.



CITY OF OREGON CITY

PLANNING COMMISSION

MINUTES - Draft

Commission Chambers, Libke Public Safety Building, 1234 Linn Ave, Oregon City

Monday, May 12, 2025, at 7:00 PM

1. CALL TO ORDER AND ROLL CALL

Chair Espe called the meeting to order at 7:00 PM.

Present: 6 – Chair Paul Espe, Vice Chair Brandon Dole, Commissioner Greg Stoll, Commissioner Karla Laws (Virtual), Commissioner Dirk Schlagenhauser, Commissioner Victoria Meinig, Commissioner Bob LaSalle

Staffers: 4 – Senior Planner Christina Robertson-Gardiner, Parks & Rec Director Scott Archer, Parks & Rec Deputy Director Tom Kissinger, Administrative Assistant Kay Neumann

2. APPROVAL OF MINUTES

- A. Approval for Work session and Regular Meeting Minutes from 4/14/2025

Commissioner Schlagenhauser moved to approve the minutes of 4/14 for the work session and the regular meeting. Commissioner LaSalle seconded the motion.

The motion passed unanimously.

Yea: 7 - Commissioner Laws, Commissioner Schlagenhauser, Commissioner Stoll, Commissioner Meinig, Commissioner LaSalle, Vice Chair Dole, Chair Espe

3. PUBLIC COMMENTS

- A. None.

4. PUBLIC HEARINGS

- A. GLUA 25-02: LEG-25-01 - Legislative Update to the Parks Master Plan, an Ancillary Document to the OC2040 Comprehensive Plan.

Chair Espe read the legislative preamble, outlining the process for legislative actions and the role of the Planning Commission in making recommendations to the City Commission.

Senior Planner Christina Robertson-Gardiner presented background information on the Parks Master Plan. She explained that the City Commission had adopted the plan in June 2024, but the final step was to adopt it as an ancillary document to the comprehensive plan. This step was crucial for legal standing, system development fees, grants, and providing a legal nexus for decisions.

Scott Archer, the Parks and Recreation Director, introduced himself as being in his fourth week back in the role. He deferred to Tom Kissinger, the Deputy Parks and Recreation Director, for the content presentation.

Tom Kissinger provided an overview of the Parks Master Plan, discussing:

- The public outreach process, which began in April 2022 and included town halls, meetings, surveys, and listening sessions.
- High priorities for investment, including multi-use trails, water access, outdoor amphitheater, and various types of parks.
- Level of service analysis for different park types and amenities.
- Current and projected needs for facilities, including 23.1 acres of neighborhood parks needed today and 29 acres by 2032.
- The capital improvement plan, detailing projects, costs, and rationale for inclusion.
- The parks inventory document, created in collaboration with staff and the Parks and Recreation Advisory Committee.

Chair Espe asked about relationships with schools for park use. Kissinger responded that there was currently no Intergovernmental Agreement (IGA) in place, but exploring such relationships was discussed in the master plan.

Chair Espe also inquired about land acquisition for future parks. Kissinger explained that land acquisition was a key strategy, with the plan identifying general areas for potential acquisition and considering future growth areas.

Vice Chair Dole expressed excitement about the potential for an aquatic and recreation center in the community.

Commissioner Stoll moved to recommend to the city commission approval of GLUA 25-002 and LEG 25-001 parks master plan. Vice Chair Dole seconded the motion.

The motion passed unanimously.

Yea: 7 - Commissioner Laws, Commissioner Schlagenhauer, Commissioner Stoll, Commissioner Meinig, Commissioner LaSalle, Vice Chair Dole, Chair Espe

5. COMMUNICATIONS

- A. The climate-friendly and equitable communities code amendments for parking reforms were being forwarded to the City Commission for adoption.
- B. The Community Development Director position job announcement was posted on April 16th.
- C. The city had responded to Senate Bill 1537 regarding the mandatory adjustment section.
- D. The City Commission would be discussing local road volumes at their work session the following day, with plans to conduct traffic counts on 20 local streets.
- E. The second meeting for May was canceled, and the next meeting will be June 9.

6. ADJOURNMENT

Chair Espe adjourned the meeting at 7:35 p.m.



CITY OF OREGON CITY

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

To: Planning Commission

Agenda Date: June 9, 2025

From:

SUBJECT:

GLUA-25-00008/VAR-25-00002-Variance to permit a drive aisle between the building and street for a porte cochère drop-off area as part of a planned assisted living facility rehabilitation-515 10th Street

STAFF RECOMMENDATION:

Staff recommends the Planning Commission approve GLUA-25-00008/VAR-25-00002- with conditions.

EXECUTIVE SUMMARY:

The applicant requests a Variance to construct a porte-cochere, a covered passenger loading area, in front of the main entry of the existing assisted living facility at 515 10th Street. This covered loading area is required by the State of Oregon for licensing an assisted living facility. According to Oregon Administrative Rules (OAR 411-054-0200 (3) (h)), a Residential Care Facility must have an entry and exit drive to and from the main building entrance that allows for a vehicle to pick up and drop off residents and mail deliveries without the need for vehicles to back up.

This design requires Variance Approval for two sections of OCMC 17.62 Site Plan and Design Review and the front yard setback of the R3.5 zone. However, staff has provided a condition of approval that requires a continuous pedestrian connection from Washington Street or 10th Street, which does not cross or use a drive aisle. The submitted site plan and mock-up provide conflicting information and do not confirm that there is direct pedestrian access from a public street. The applicant can provide additional information at the public hearing, and the Planning Commission can choose to retain the proposed condition or remove it from its decision based on any additional information from the applicant.

OCMC 17.62.050

B. Vehicular Access and Connectivity.

1. Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.

C. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:

1. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct and not cross a drive aisle. Exceptions may be allowed by the director where steep slopes, a physically constrained site, or protected natural resources prevent a direct connection or where an indirect route would

enhance the design and/or use of a common open space.

R3.5 17.08.040 - Dimensional standards.

Minimum front yard setback: All 20 feet, except 15 feet – Porch
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Due to the existing grade and site conditions, the

court at the main entry is the only feasible location to construct the drop off area. The existing building construction is up to the property line (10th Street right-of-way). The Applicant requests a variance to construct within the front yard setback as required for an R3.5 zone and to align the parking lot edge of the porte-cochere with the edge of the existing building wing constructed with a zero lot line.

Project Approval Process

The application is now moving forward with a rehabilitation project to open a 50-unit residential assisted living/ residential care facility. The review will involve several discrete reviews to achieve full approval.

Planning Commission Variance – June 2025

Porte cochère drop-off area in front of the building. The Variance application for a drop-off area is the first of these reviews and is necessary to proceed with the project.

Historic Review Board- Summer 2025

A new enclosed accessible connection from the hospital building to the Dr. Guy Mount House (505 10th Street) - a locally designated resource in the McLoughlin Conservation District. Note that the Hospital (515 10th Street) is not a designated resource in the local Conservation District, and exterior alterations themselves do not trigger historic review. An addition of 30% or more to a non-designated building would require review by the Historic Review Board. However, the proposed project's small additions will fall far below that threshold.

Type II Staff Level Review- Summer 2025

Site Plan and Design Review

- Geohazard review- any new construction onsite will be reviewed under the geohazard overlay direct regulation in OCMC 17.44
- Non-conforming use review to add the Dr. Guy Mount House to the previous non-conforming use review. The house was inadvertently omitted from the 2020 review, but was integrated into the hospital in the 1940s and historically supported the hospital and residential care facility non-conforming use. Office, reception, and some recreational spaces are being planned in the Dr. Mount House. No residential beds are being planned. The existing dwelling unit will remain for visitors.

BACKGROUND:

The subject site is approximately half an acre in size and is developed with the Oregon City Retirement Center, a building constructed around 1930. Originally the Oregon City Hospital,

the building was later converted into an assisted living facility. In 2020, the applicant requested a legal non-conforming review to confirm that the assisted living facility for up to 50 residents qualifies as a legal nonconforming use. LN 20-03 approved the request for nonconforming use with a cap of 50 residents.

Section 17.04.115 of the Oregon City Municipal Code defines assisted living facilities as:

17.04.115 - Assisted living facility.

"Assisted living facility" means a facility established for profit or nonprofit, which provides nursing care and related medical services on a twenty-four-hour-per-day basis to sixteen or more individuals because of illness, disease, or physical or mental infirmity. Provides care for those persons not in need of hospital care. Patients do not reside in self-contained dwelling units.

For the purposes of this report, residential care and assisted living facilities are used interchangeably.

NEXT STEPS:

OPTIONS:

1. Approve GLUA-25-00008/VAR-25-00002- with conditions.
2. Approve GLUA-25-00008/VAR-25-00002- with revised conditions.
3. Deny GLUA-25-00008/VAR-25-00002 and provide staff with updated findings.
4. Continuation of GLUA-25-00008/VAR-25-00002 to a date certain.



TYPE III STAFF RECOMMENDATION

May 30, 2025

FILE NUMBER: GLUA-25-00008/VAR-25-00002

**APPLICANT/
OWNER:** Nile Hagen
1327 SE Tacoma St #394 #394
Portland OR 97202

Application Submitted: 03/05/2025
Application Complete: 05/15/2025
120-Day Decision Deadline: 9/12/2025

REPRESENTATIVE: Aaron Clark, Lenity Architecture
3151 Kettle Court
Salem, OR 97301

REQUEST: Variance to permit a drive aisle between the building and street for a porte cochère drop-off area as part of a planned assisted living facility rehabilitation

LOCATION: 515 10th Street, Oregon City, OR 97045
Clackamas County Map: 2-2E-31AA-05300

REVIEWER: Christina Robertson-Gardiner, Senior Planner

ZONING: R 3.5

DECISION: Approval with Conditions

PROCESS: Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet of the subject property. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission, all issues are addressed. The decision is final unless appealed and description of the requirements for perfecting an appeal. The decision of the planning commission is appealable to the city commission within fourteen days of the issuance of the final decision. The city commission hearing on appeal is on the record and no new evidence shall be allowed. Only those persons or a city-recognized neighborhood association who have participated either orally or in writing have standing to appeal

the decision of the planning commission. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The city commission decision on appeal from the planning commission is the city's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

CHAPTER PAGE

CHAPTER 17.10 MEDIUM DENSITY RESIDENTIAL DISTRICTS	
CHAPTER 17.50 ADMINISTRATION AND PROCEDURES	
CHAPTER 17.60 VARIANCES	

Conditions of Approval Planning File GLUA-25-00008/VAR-25-00002

- (P) = Verify that condition of approval has been met with the Planning Division.
 (DS) = Verify that condition of approval has been met with the Development Services Division.
 (B) = Verify that condition of approval has been met with the Building Division.
 (F) = Verify that condition of approval has been met with Clackamas Fire Department.

The applicant shall fulfill the following conditions prior to issuance of a public improvement and/or Building permit associated with the proposed application.

1. The applicant is permitted to place the porte cochère drop-off area in the proposed location as part of a future site plan and design review for an assisted living/residential care facility. The site plan and design review shall be submitted within the next five years based on the existing building footprint. Demolition of the existing building footprint that exceeds 50% will require a new variance review for this request, requiring additional alternative analysis for the site location.
2. The applicant shall redesign the porte-cochère drop-off area to ensure that there is a direct pedestrian connection to the front door from Washington Street or 10th Street.

I. BACKGROUND:

1. Existing Conditions

The subject site is approximately half an acre in size and is developed with the Oregon City Retirement Center, a building constructed around 1930. Originally the Oregon City Hospital, the building was later converted into an assisted living facility. In 2020, the applicant requested a legal non-conforming review to confirm that the assisted living

facility for up to 50 residents qualifies as a legal nonconforming use. LN 20-03 approved the request for nonconforming use with a cap of 50 residents.

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For the purposes of this report, residential care and assisted living facilities are used interchangeably. However, the ORS provides a stricter definition of use, which the applicant will be pursuing with the redevelopment of the site.

The Oregon Revised Statutes provided the following definitions:

"Residential care" means services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; recreation; and the providing of room and board.

(7)"Residential care facility" means a facility that provides residential care in one or more buildings on contiguous properties:

*(a)For six or more socially dependent individuals or individuals with physical disabilities; **or**
(b)For fewer than six socially dependent individuals or individuals with physical disabilities if the purpose of the facility is to serve individuals with co-occurring behavioral health needs who are more appropriately served in smaller settings.*

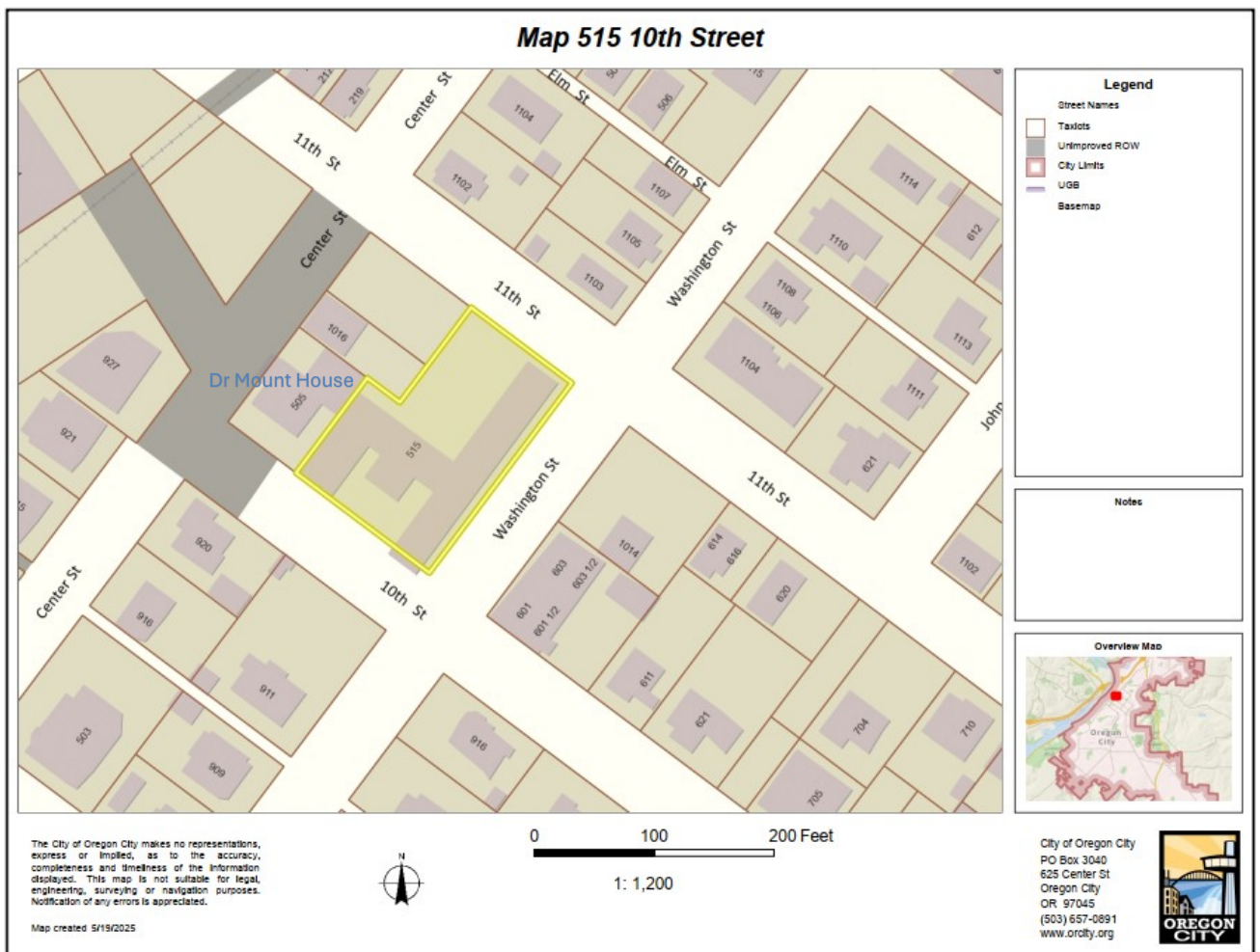


Figure 1. Vicinity Map

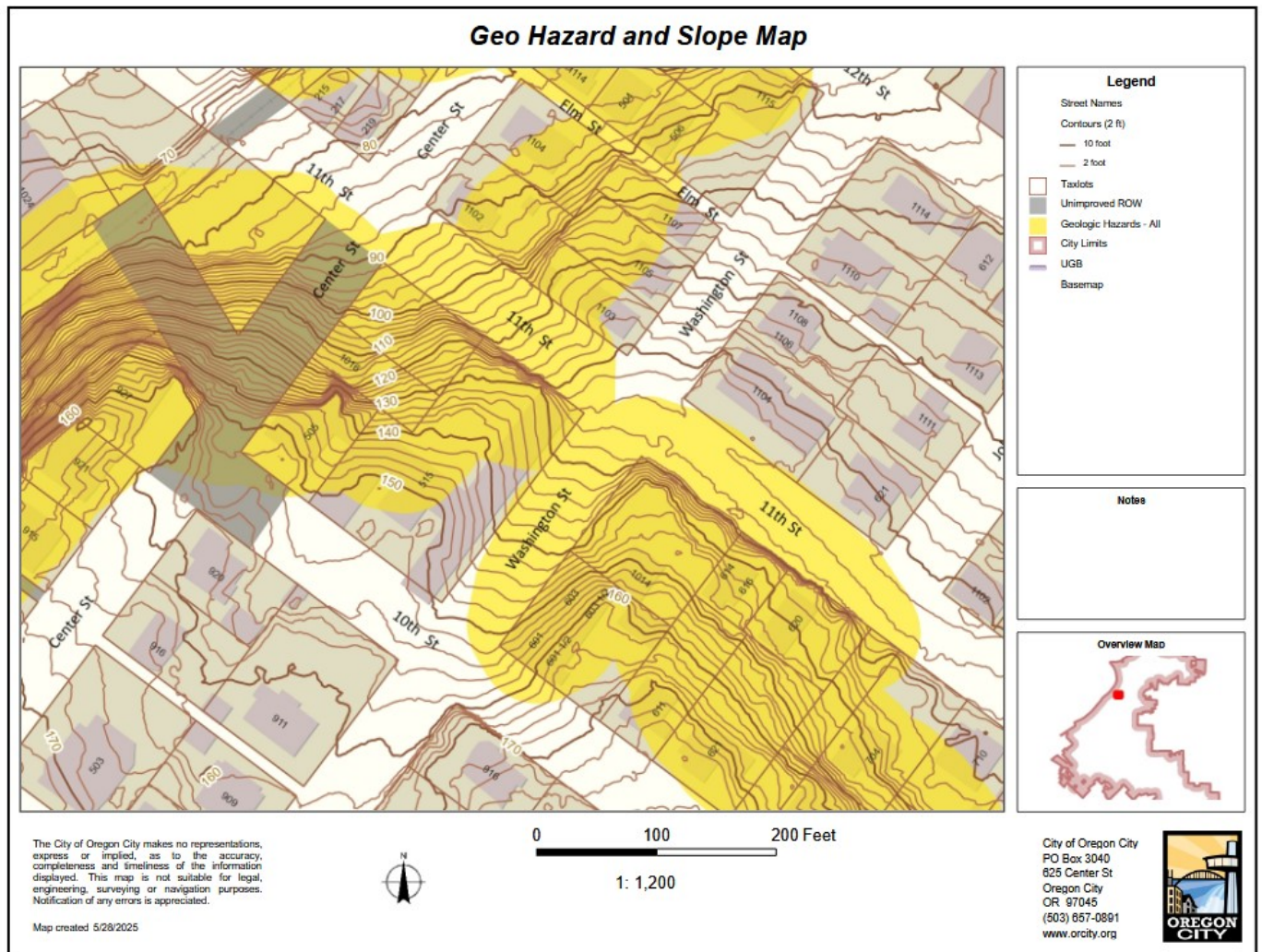


Figure 2- Existing Conditions/Topography



3 EXISTING VIEW AT 10th ST.
DATE: 2006



2 EXISTING VIEW TO WASHINGTON ST.
DATE: 2006



1 EXISTING VIEW (2002).
DATE: 2002

Figure 3: Existing Conditions

2. Project Description

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R3.5 17.08.040 - Dimensional standards.

<i>Minimum front yard setback: All</i>	<i>20 feet, except 15 feet — Porch</i>
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Due to the existing grade and site conditions, the court at the main entry is the only feasible location to construct the drop off area. The existing building construction is up to the property line (10th Street right-of-way). The Applicant requests a variance to construct within the front yard setback as required for an R3.5 zone and to align the parking lot edge of the porte-cochere with the edge of the existing building wing constructed with a zero lot line.

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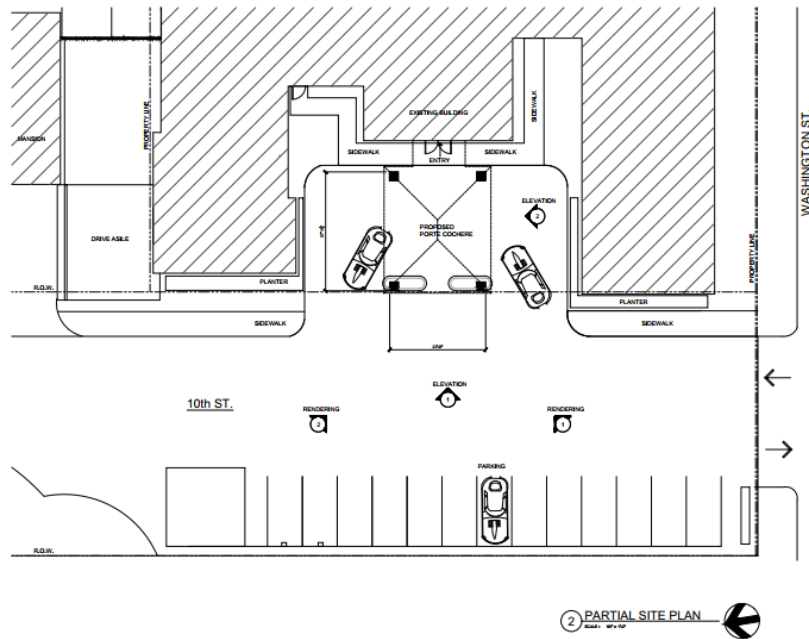
Historic Review Board- Summer 2025

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Type II Staff Level Review- Summer 2025

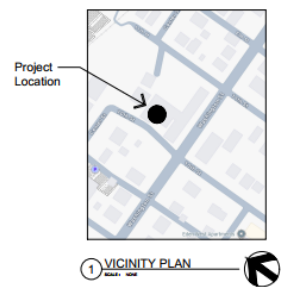
Site Plan and Design Review

- Geohazard review- any new construction onsite will be reviewed under the geohazard overlay direct regulation in OCMC 17.44
- Non-conforming use review to add the Dr. Guy Mount House to the previous non-conforming use review. The house was inadvertently omitted from the 2020 review, but was integrated into the hospital in the 1930/1940s and historically supported the hospital and residential care facility's non-conforming use. Office, reception, and some recreational spaces are being planned in the Dr. Mount House. No residential beds are being planned. The existing dwelling unit will remain for visitors.



- PROJECT NOTES:
1. SEEK APPROVAL FOR A VARIANCE FOR AN EXISTING DRIVE AISLE AT THE BUILDING ENTRY. PER OREGON CITY MUNICIPAL CODE SECTION 17.62.050B:
 - A. Vehicular Access and Connectivity.
 1. Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.
 2. CONSTRUCT A COVERED ENTRY TO AN EXISTING BUILDING.

Note the lack of a direct pedestrian connection from the public street.



lenity
architecture, inc.
200 West Coast Rd., Suite 200
OR 97101-1000

Porte Cochere Addition
515 10th St., Oregon City, OR

A1
Date: 1/30/2025

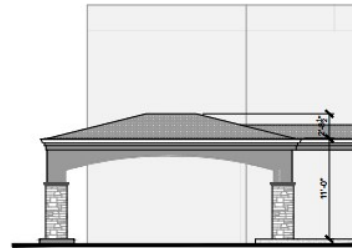
Figure 4: Proposed Site Plan

A direct pedestrian connection is shown from the public street.



2 RENDERING

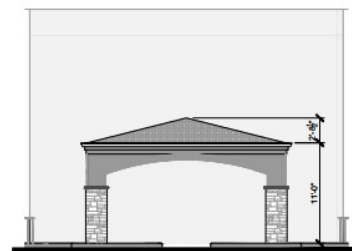
NOTE: EXISTING BUILDING BEHIND PROPOSED PORTE-COCHERE LEFT AS NONDESCRIPT AT THIS TIME. FINAL DESIGN AND MASSING TO BE DETERMINED.



2 ELEVATION



1 RENDERING



1 ELEVATION



Porte Cochere Addition

515 10th St, Oregon City, OR

A2
Date: 1/30/2025

Figure 5: Proposed Building Elevations

3. Permits and Approvals: The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

4. Public Comment

Public comments submitted include (Exhibit 3):

La Donna Sullivan

Provided comments regarding the signs for the land use notice and submitted a photo of the sign located above a retaining wall on-site, as well as questioning if the proposed use would be a drug treatment facility.

Staff Response:

Staff made a site visit and reviewed the posting code to see if the applicant needed to adjust their signs. Staff checked with Public Works to confirm that the retaining walls are within the right-of-way, and they are. As mentioned in the posting requirements below, signs must be placed on private property and be visible (though not necessarily readable) from the street. They are visible for all three signs (Washington, 10th, and 11th Streets). The applicant is not allowed to place the signs in the right-of-way. Staff



was able to confirm that the applicant has met the posting requirements below. While not required, staff asked the applicant if he could move the sign on 10th Street to the Washington corner for better visibility.

Staff responded with the following comment in the email regarding the proposal as a drug treatment facility.

“Based on what I've seen so far and in conversations with the applicant, I do not believe they are proposing a residential drug treatment facility. The previous non-conforming use approval was for a 50-person residential care facility, which would need to be re-reviewed to permit that use. I am not aware that the prior care facility provided drug treatment services, and if that request was ever made, it would be part of a new noticed non-conforming review request. Everything the applicant has shared with the city indicates that it will be rehabbed as a 50-unit adult residential care facility.”

None of the comments provided indicate that an approval criterion has not been met or cannot be met through the Conditions of Approval attached to this Staff Report.

McLoughlin Neighborhood Association- Provided support for the application.

II. ANALYSIS AND FINDINGS:

Municipal Code Standards and Requirements: The following sections of the Oregon City Municipal Code are applicable to this land use approval:

CHAPTER 17.10 MEDIUM DENSITY RESIDENTIAL DISTRICTS

17.10.010 – Designated.

The R-5 and R-3.5 residential districts are designed for medium density residential development.

17.10.020 - Permitted uses.

Permitted uses in the R-5 and R-3.5 districts are:

- A. Single-family detached residential units;*
- B. Accessory uses, buildings and dwellings;*
- C. Duplexes;*
- D. Triplexes;*
- E. Quadplexes;*
- F. Townhouses;*
- G. Cottage clusters;*
- H. Manufactured home parks or subdivisions in the R-3.5 district only;*
- I. Residential homes;*
- J. Parks, playgrounds, playfields and community or neighborhood centers;*
- K. Home occupations;*
- L. Family day care providers;*
- M. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);*

N. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
O. Transportation facilities.

Finding: Allowed as a non-conforming use. An assisted living facility is not a permitted use in the zone. Originally the Oregon City Hospital, the building was later converted into an assisted living facility. In 2020, the applicant requested a legal non-conforming review to confirm that the assisted living facility for up to 50 residents qualifies as a legal nonconforming use. LN 20-03 approved the request for nonconforming use with a cap of 50 residents. Alterations to the site may occur under this approval. Alterations and additions are revised under the commercial development code of 17.62 Site Plan and Design Review.

17.10.025 - Conditional uses.

The following uses are permitted in the R-5 and R-3.5 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;*
- B. Bed and breakfast inns/boarding houses;*
- C. Cemeteries, crematories, mausoleums and columbariums;*
- D. Child care centers and nursery schools;*
- E. Emergency service facilities (police and fire), excluding correctional facilities;*
- F. Residential care facilities;*
- G. Private and/or public educational or training facilities;*
- H. Public utilities, including sub-stations (such as buildings, plants and other structures);*
- I. Religious institutions;*
- J. Assisted living facilities; nursing homes and group homes for over fifteen patients.*
- K. Live/work dwellings.*

Finding: Allowed as a non-conforming use. An assisted living facility is a conditional use in the zone. Originally the Oregon City Hospital, the building was later converted into an assisted living facility. In 2020, the applicant requested a legal non-conforming review to confirm that the assisted living Facility for up to 50 residents qualifies as a legal nonconforming use rather than pursue a conditional use review. LN 20-03 approved the request for nonconforming use with a cap of 50 residents. Alterations to the site may occur under this approval. Alterations and additions are revised under the commercial development code of 17.62 Site Plan and Design Review.

17.10.030 - Master plans.

The following use is permitted in the R-3.5 district when authorized by and in accordance with the standards contained in OCMC 17.65.

- A. Multifamily residential.*

Finding: Not Applicable: The applicant is not proposing a multi-family residential project.

17.10.035 – Prohibited uses.

Prohibited uses in the R-5 and R-3.5 district are:

- A. Any use not expressly listed in OCMC 17.10.020, 17.10.025 or 17.10.030.*
- B. Marijuana businesses.*

Finding: Not Applicable: No prohibited uses are proposed for this project.

17.10.040 - Dimensional standards.

Dimensional standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.040

<i>Standard</i>	<i>R-3.5</i>
<i>Minimum lot size¹</i> <i>Single-family detached and duplex</i> <i>Triplex</i> <i>Quadplex and Cottage cluster</i> <i>Townhouse</i>	 3,500 sq. ft. 5,000 sq. ft. 7,000 sq. ft. 1,500 sq. ft.
<i>Finding: Complies as Proposed. Smallest lot size proposed:</i> Existing lot is compliant at .55 acres = 23,958 sq. ft.	
<i>Maximum height: All, except</i>	35 ft., except
<i>Cottage cluster unit</i>	25 ft.
<i>Finding: Complies as Proposed.</i> Building is less than 35' (as measured from 10th street at main building entrance)	
<i>Maximum building lot coverage</i> <i>Single-family detached and all duplexes</i> <i>With ADU</i> <i>Triplex, quadplex and townhouse</i> <i>Cottage cluster</i>	 55% 65% 80% None
<i>Finding: Complies as Proposed.</i> Combined lot coverage is 37% (14,051 sf bldgs./38,127 sf lot)	
<i>Minimum lot width</i> <i>All, except</i> <i>Townhouse</i>	 25 ft., except 20 ft.
<i>Finding: Complies as Proposed. Smallest width proposed:</i> 105'-0"	
<i>Minimum lot depth</i>	70 ft.
<i>Finding: Complies as Proposed. Smallest depth proposed:</i>	

198'-0'	
Minimum front yard setback All, except Porch	5 ft., except 0 ft.
Finding: Does not comply -existing condition. Smallest setback proposed: 0 ft. (existing)	
Minimum interior side yard setback: All, except Townhouse	5 ft., except 0 ft. (attached) /5 ft. (side)
Does not comply -existing condition. Smallest setback proposed: 0 ft. (existing)	
Minimum corner side yard setback	7 ft.
Finding: Complies as Proposed. Smallest setback proposed: 7'	
Minimum rear yard setback All, except Porch Cottage cluster ADU	20 ft., except 15 ft. 10 ft 5 ft.
Finding: Complies as Proposed. Smallest setback proposed: 10'	
Garage setbacks	20 ft. from ROW, except 5 ft. from alley
Finding: Not Applicable	

Notes:

1. For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.
2. Public utility easements may supersede the minimum setback.

17.10.045 - Exceptions to setbacks.

A. Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.

Finding: Complies as Proposed. The applicant proposed to construct projections including eaves, allowed in OCMC 17.10.045.A.

B. Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.

Finding: Does not comply (Existing Building) - the existing building's side abuts Washington St., with the rear facing 11th St. The existing building has no rear entrance. The front of the building faces the 10th St. right-of-way.

17.10.050 - Density standards.

A. *Density standards in the R-5 and R-3.5 districts are as follows:*

Table 17.10.050

<i>Standard</i>	<i>R-5</i>	<i>R-3.5</i>
<i>Minimum net density</i>	<i>7.0 du/acre</i>	<i>10 du/acre</i>
<i>Maximum net density</i> <i>All, except</i> <i>Townhouse</i>	<i>8.7 du/acre</i> <i>25 du/acre</i>	<i>12.4 du/acre</i> <i>25 du/acre</i>
Finding: Not applicable No new dwelling units proposed.		

B. Exceptions.

1. Any dwelling units created as accessory dwelling units do not count towards the minimum or maximum density limits in Table 17.10.050.

2. Duplexes, triplexes and quadplexes shall count as a single dwelling unit for the purposes of calculating maximum net density. Total dwelling units within a development may count for the purposes of calculating minimum net density.

3. Cottage clusters are exempt from maximum net density standards.

Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the land division requirements in Title 16 and the underlying zone district.

CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES

17.50.010 Purpose.

This chapter provides the procedures by which Oregon City reviews and decides upon applications for all

permits relating to the use of land authorized by ORS 92, 197 and 227. These permits include all form of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City Comprehensive Plan and Titles 16 and 17 of this code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project. Any grading activity associated with development shall be subject to preliminary review as part of the review process for the underlying development. It is the express policy of the City of Oregon City that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

17.50.030 Summary of the City's decision-making processes.

The following decision-making processes chart shall control the City's review of the indicated permits:

Table 17.50.030 – Permit Approval Process

Permit Type	I	II	III	IV	Expedited Land Division
Annexation				X	
Compatibility review for communication facilities	X				
Compatibility review for the Willamette Greenway Overlay District			X		
Code Interpretation			X		
Master plan/planned unit development - General Development plan			X		
Master plan/planned unit development - General Development plan amendment	X	X	X		
Conditional use (excluding shelters)			X		
Conditional use for a shelter				X	
Detailed development plan*	X	X	X		
Expedited land division		X(modified)			X
Extension	X				
Final plat	X				
Geologic hazards		X			
Historic review	X		X		
Live/Work dwelling review		X			
Lot line adjustment and abandonment	X				
Manufactured home park review (new or modification)	X				
Middle housing land division		X(modified)			X
Minor partition		X			
Modifications of residential design standards		X			
Natural resource overlay district exemption	X				
Natural resource overlay district review		X	X		
Nonconforming use, structure and lots review	X	X			
Placement of a single manufactured home on existing space or lot within a park	X				
Plan or code amendment					X

<i>Residential design standards review for single-family detached, duplexes, triplexes, quadplexes, townhouses, cottage clusters and accessory dwelling units (uses minor site plan and design review)</i>	X				
<i>Revocation</i>					X
<i>Site plan and design review</i>	X	X			
<i>Subdivision</i>		X			X
<i>Variance</i>		X	X		
<i>Zone Change</i>				X	

**If any provision or element of the master plan/planned unit development requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.*

A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The Community Development Director's decision is final and not appealable by any party through the normal city land use process.

B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The Community Development Director accepts comments for a minimum of fourteen days and renders a decision. The Community Development Director's decision is appealable to the City Commission, by any party who submitted comments in writing before the expiration of the comment period. Review by the City Commission shall be on the record pursuant to OCMC 17.50.190 under ORS 197.195(5). The City Commission decision is the City's final decision and is subject to review by the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the Planning Commission or the Historic Review Board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission or the Historic Review Board, all issues are addressed. The decision of the Planning Commission or Historic Review Board is appealable to the City Commission, on the record pursuant to OCMC 17.50.190. The City Commission decision on appeal from is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final, unless otherwise provided by state law.

D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval

standards and shall be heard by the City Commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission, all issues are addressed. If the Planning Commission denies the application, any party with standing (i.e., anyone who appeared before the Planning Commission either in person or in writing within the comment period) may appeal the Planning Commission denial to the City Commission. If the Planning Commission denies the application and no appeal has been received within fourteen days of the issuance of the final decision, then the action of the Planning Commission becomes the final decision of the City. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the City Commission for final consideration. In either case, any review by the City Commission is on the record and only issues raised before the Planning Commission may be raised before the City Commission. The City Commission decision is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final.

E. Expedited land divisions and middle housing land divisions are subject to the requirements of OCMC 16.24. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380.

F. Decisions, completeness reviews, appeals, and notices in this chapter shall be calculated according to OCMC 1.04.070 and shall be based on calendar days, not business days.

17.50.040 Development review in overlay districts and for erosion control.

For any development subject to regulation of geologic hazards overlay district under OCMC 17.44; natural resource overlay district under OCMC 17.49; Willamette River Greenway Overlay District under OCMC 17.48; historic overlay district under OCMC 17.40, and erosion and sediment control under OCMC 17.47, compliance with the requirements of these chapters shall be reviewed as part of the review process required for the underlying development for the site.

17.50.050 – Pre-application conference.

A. Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.

1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.

2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.

3. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.

Finding: Complies. *A pre-application meeting was held on October 22, 2024.*

B. A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule

and attend another conference before the City will accept a permit application. The Community Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

Finding: Compiles - The applicant submitted the variance application in March 2025 within the 6-month timeframe.

C. Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.

Finding: Complies- No requirements have been waived for this review.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

A. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.

B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the citizen involvement committee.

C. A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, citizen involvement committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a city facility.

D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the citizen involvement committee.

E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

Finding: Complies. A meeting with the McLoughlin *Neighborhood Association* was conducted on February 6, 2025, where this project was presented for discussion. A Sign-in sheet was provided as proof of presence.

17.50.060 Application requirements.

A permit application may only be initiated by the record property owner or contract purchaser, the City

Commission or Planning Commission. If there is more than one record owner, then the City will not complete a Type II—IV application without signed authorization from all record owners. All permit applications shall be submitted on the form provided by the City, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be, met.

Finding: Complies - This application was submitted by the property owner.

17.50.070 Completeness review and one hundred twenty-day rule.

A. Upon submission, the Community Development Director shall date stamp the application form and verify that all of the appropriate application review fee(s) have been submitted. Upon receipt of all review fees and an application form, the Community Development Director will then review the application and all information submitted with it and evaluate whether the application is complete enough to process. Within thirty days of receipt of the application and all applicable review fees, the Community Development Director shall complete this initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and if not, what information shall be submitted to make the application complete.

B. The applicant has one hundred eighty days from the date the application was made to submit the missing information or the application shall be rejected and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the one hundred eighty-day period, the Community Development Director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection A of this section.

The application will be deemed complete for the purpose of this section upon receipt by the Community Development Director of:

- 1. All the missing information;*
- 2. Some of the missing information and written notice from the applicant that no other information will be provided; or*
- 3. Written notice from the applicant that none of the missing information will be provided.*

C. Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one hundred twenty-calendar-day timeline or unless state law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:

- 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
- 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the*

subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.

3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.

4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.

D. A one hundred day-period applies in place of the one hundred twenty-day period for affordable housing projects where:

1. The project includes five or more residential units, including assisted living facilities or group homes;

2. At least fifty percent of the residential units will be sold or rented to households with incomes equal to or less than sixty percent of the median family income for Clackamas County or for the state, whichever is greater; and

3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of sixty years from the date of the certificate of occupancy.

E. The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.

F. The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.

Finding: Complies. The Notice of Decision deadline for this application is September 12, 2025

17.50.080 Complete application—Required information.

Unless stated elsewhere in OCMC 16 or 17, a complete application includes all the materials listed in this

subsection. The Community Development Director may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within thirty days of when the application is first submitted, the Community Development Director may require additional information, beyond that listed in this subsection or elsewhere in Titles 12, 14, 15, 16, or 17, such as a traffic study or other report prepared by an appropriate expert. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the City will not deem the application complete until all information required by the Community Development Director is submitted. At a minimum, the applicant shall submit the following:

A. One copy of a completed application form that includes the following information:

1. An accurate address and tax map and location of all properties that are the subject of the application;

2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s);

B. A complete list of the permit approvals sought by the applicant;

C. A complete and detailed narrative description of the proposed development;

D. A discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met or are not applicable, and any other information indicated by staff at the pre-application conference as being required;

E. One copy of all architectural drawings and site plans shall be submitted for Type II—IV applications.

One paper copy of all application materials shall be submitted for Type I applications;

F. For all Type II—IV applications, the following is required:

1. An electronic copy of all materials.

2. Mailing labels or associated fee for notice to all parties entitled under OCMC 17.50.090 to receive mailed notice of the application. The applicant shall use the names and addresses of property owners within the notice area indicated on the most recent property tax rolls.

3. Documentation indicating there are no liens favoring the City on the subject site.

4. A receipt from the county assessor's office indicating that all taxes for the lot or parcels involved are paid in full for the preceding tax year.

5. A current preliminary title report or trio for the subject property(ies);

G. All required application fees;

H. Annexation agreements, traffic or technical studies (if applicable);

I. Additional documentation, as needed and identified by the Community Development Director.

Finding: Complies. The application was deemed complete on May 15, 2025

17.50.090 - Public notices.

All public notices issued by the City announcing applications or public hearings of quasi-judicial or legislative actions, shall comply with the requirements of this section.

A. Notice of Type II Applications. Once the Community Development Director has deemed a Type II application complete, the City shall prepare and send notice of the application, by first class mail, to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The applicant shall provide or the City shall prepare for a fee an accurate and complete set of mailing labels for these property owners and for posting the subject property with the City-prepared notice in accordance with OCMC 17.50.100. The City's Type II notice shall include the following information:

1. Street address or other easily understood location of the subject property and city-assigned planning file number;

2. A description of the applicant's proposal, along with citations of the approval criteria that the City will use to evaluate the proposal;

3. A statement that any interested party may submit to the City written comments on the application during a fourteen-day comment period prior to the City's deciding the application, along with instructions on where to send the comments and the deadline of the fourteen-day comment period;

4. A statement that any issue which is intended to provide a basis for an appeal shall be raised in writing during the fourteen-day comment period with sufficient specificity to enable the City to respond to the issue;

5. A statement that the application and all supporting materials may be inspected, and copied at cost, at City Hall during normal business hours;

6. The name and telephone number of the planning staff person assigned to the application or is otherwise available to answer questions about the application;

7. The notice shall state that a city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.

Finding: Complies. Public Notices were posted and mailed in accordance with this section on May 19, 2025

B. Notice of Public Hearing on a Type III or IV Quasi-Judicial Application. Notice for all public hearings concerning a quasi-judicial application shall conform to the requirements of this subsection. At least twenty days prior to the hearing, the City shall prepare and send, by first class mail, notice of the hearing to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The City shall also publish the notice on the City website within the City at least twenty days prior to the hearing. Pursuant to OCMC 17.50.080.H, the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the City-prepared notice in accordance with OCMC 17.50.100. Notice of the application hearing shall include the following information:

- 1. The time, date and location of the public hearing;*
- 2. Street address or other easily understood location of the subject property and city-assigned planning file number;*
- 3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the City will use to evaluate the proposal;*
- 4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing and that a staff report will be prepared and made available to the public at least seven days prior to the hearing;*
- 5. A statement that any issue which is intended to provide a basis for an appeal to the City Commission shall be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue;*
- 6. The notice shall state that a city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal;*
- 7. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge and that copies may be obtained at reasonable cost at the planning division offices during normal business hours; and*
- 8. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.*

Finding: Complies - The notice utilized the standard City Noticing template, which includes the above information.

17.50.100 - Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

A. City Guidance and the Applicant's Responsibility. The City shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The City shall also provide a

statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner.

B. Number and Location. The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

Finding: Complies. The notice was posted as described above on the private property.

17.50.110 Assignment of decision-makers.

The following City entity or official shall decide the following types of applications:

A. Type I Decisions. The Community Development Director shall render all Type I decisions. The Community Development Director's decision is the City's final decision on a Type I application.

B. Type II Decisions. The Community Development Director shall render the City's decision on all Type II permit applications, which are then appealable to the City Commission with notice to the Planning Commission. The City's final decision is subject to review by LUBA.

C. Type III Decisions. The Planning Commission or Historic Review Board, as applicable, shall render all Type III decisions. Such decision is appealable to the City Commission, on the record. The City Commission's decision is the city's final decision and is subject to review by LUBA within twenty-one days of when it becomes final.

D. Type IV Decisions. The Planning Commission shall render the initial decision on all Type IV permit applications. If the Planning Commission denies the Type IV application, that decision is final unless appealed in accordance with OCMC 17.50.190. If the Planning Commission recommends approval of the application, that recommendation is forwarded to the City Commission. The City Commission decision is the City's final decision on a Type IV application and is subject to review LUBA.

E. Expedited Land Division (ELD). The Community Development Director shall render the initial decision on all ELD applications. The Community Development Director's decision is the City's final decision unless appealed in accordance to ORS 197.375 to a City-appointed hearings referee. The hearings referee decision is the City's final decision which is appealable to the Oregon Court of Appeals.

17.50.130 Conditions of approval and notice of decision.

A. All City decision-makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards, including standards set out in city overlay districts, the City's master plans, and City public works design standards, are, or can be met.

B. Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings pursuant to OCMC 1.20 of this code and ORS 30.315.

C. Notice of Decision. The City shall send, by first class mail, a notice of all decisions rendered under this chapter to all persons with standing, i.e., the applicant, all others who participated either

orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:

1. The file number and date of decision;
2. The name of the applicant, owner and appellant (if different);
3. The street address or other easily understood location of the subject property;
4. A brief summary of the decision, and if an approval, a description of the permit approved;
5. A statement that the decision is final unless appealed and description of the requirements for perfecting an appeal;
6. The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

D. Modification of Conditions. Any request to modify a condition of permit approval is to be considered either minor modification or a major modification, unless otherwise authorized. A minor modification shall be processed as a Type I. A major modification shall be processed in the same manner and shall be subject to the same standards as was the original application. However, the decision-maker may at their sole discretion, consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

Finding: Applicable. Reasonable conditions of approval have been attached where needed.

17.50.140 – Financial guarantees.

When conditions of permit approval require a permittee to construct certain public improvements, the City shall require the permittee to provide financial guarantee for construction of the certain public improvements. Financial guarantees shall be governed by this section.

A. Form of Guarantee. Guarantees shall be in a form approved by the City attorney. Approvable forms of guarantee include irrevocable standby letters of credit to the benefit of the City issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the City. The form of guarantee shall be specified by the City engineer and, prior to execution and acceptance by the City shall be reviewed and approved by the City attorney. The guarantee shall be filed with the City engineer.

B. Performance Guarantees. A permittee shall be required to provide a performance guarantee as follows.

1. *After Final Approved Design by the City.* The City may request the permittee to submit a performance guarantee for construction of certain public improvements. A permittee may request the option of submitting a performance guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City engineer.
2. *Before Complete Design Approval and Established Engineered Cost Estimate.* The City may request a permittee to submit a performance guarantee for construction of certain public improvements. A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the

permittee's engineer and approved by the City engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City engineer.

C. Release of Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the City. Once the City has inspected and accepted the improvement, the City shall release the guarantee to the permittee. If the improvement is not completed to the City's satisfaction within the time limits specified in the permit approval, the City engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the City in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the City, any remaining funds shall be refunded to the permittee. The City shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the City, or at some other mutually agreed-to time. If the permittee fails to commence construction of the required improvements within six months of being instructed to do so, the City may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.

D. Fee-in-lieu. When conditions of approval or the City engineer allows a permittee to provide a fee-in-lieu of actual construction of public improvements, the fee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the City engineer. The percentage required is to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and contract closeout. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City engineer. The fee-in-lieu shall be submitted as cash, certified check, or other negotiable instrument acceptable by the City attorney.

Finding: Not applicable. No financial performance guarantees are required since no new public improvements are necessary with this application. Financial guarantees will be reviewed at the time of Site Plan and Design Review.

17.50.141 – Public improvements – Warranty

All public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period. The warranty is to be used at the discretion of the City engineer or designee to correct deficiencies in materials or maintenance of constructed public infrastructure, or to address any failure of engineering design.

A. Duration of Warranty. Responsibility for maintenance of public improvements shall remain with the property owner or developer for a warranty period of two years.

B. Financial Guarantee. Approvable forms of guarantee include irrevocable standby letters of credit to the benefit of the City issued by a recognized lending institution, bond, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the City. The form of guarantee shall be specified by the City engineer and, prior to execution and acceptance by the City shall be reviewed and approved by the City attorney. The guarantee shall be filed with the City engineer.

C. Amount of Warranty. The amount of the warranty shall be equal to fifteen percent of the estimated cost of construction of all public improvements (including those improvements that will become owned and maintained by the City at the end of the two-year maintenance period), and shall be supported by a verified engineering estimate and approved by the City engineer. Upon expiration of the warranty period and acceptance by the City as described below, the City shall be responsible for maintenance of those improvements.

D. Transfer of Maintenance. The City will perform an inspection of all public improvements approximately forty-five days before the two-year warranty period expires. The public improvements shall be found to be in a clean, functional condition by the City engineer before acceptance of maintenance responsibility by the City. Transfer of maintenance of public improvements shall occur when the City accepts the improvements at the end of the two-year warranty period.

Finding: Not applicable. No warranty guarantees are required since no new public improvements are necessary with this application. Financial guarantees will be reviewed at the time of Site Plan and Design Review.

CHAPTER 17.60 VARIANCES

17.60.020 - Variances—Procedures.

A. A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the city recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the Variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D. of this section shall apply when applicable.

B. A nonrefundable filing fee, as listed in OCMC 17.50.080, shall accompany the application for a variance to defray the costs.

Finding: Complies as Proposed. The Applicant submitted a Type III Planning Commission Variance request. All required application materials and fees were submitted and the application was deemed complete on May 15, 2025.

C. Before the planning commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A Variance shall address the criteria identified in OCMC 17.60.030, Variances — Grounds.

Finding: Complies as Proposed. The Applicant has requested a Planning Commission Variance pursuant to the Type III review procedures.

D. Minor variances, as defined in subsection E. of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in OCMC 17.50.030B., and shall address the criteria identified in OCMC 17.60.030, Variance — Grounds.

E. For the purposes of this section, minor variances shall be defined as follows:

- 1. Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;*
- 2. Variances to width, depth and frontage requirements of up to twenty percent;*

3. *Variances to residential yard/setback requirements of up to twenty-five percent;*
4. *Variances to nonresidential yard/setback requirements of up to ten percent;*
5. *Variances to lot area requirements of up to five percent;*
6. *Variance to lot coverage requirements of up to twenty-five percent;*
7. *Variances to the minimum required parking stalls of up to five percent; and*
8. *Variances to the floor area requirements and minimum required building height in the mixed-use districts.*
9. *Variances to design and/or architectural standards for single-family dwellings, duplexes, single-family attached dwellings, internal conversions, accessory dwelling units, and 3-4 plexes in OCMC 17.14, 17.16, 17.20, 17.21, and 17.22.*

Finding: Not Applicable. There is no threshold for an Administrative review to allow a drive aisle in front of the building. OCMC 17.62.015 - Modifications that will better meet design review requirements provide for some sections of the site plan and design review chapter to be adjusted through a Type II administrative review at the time of site plan submittal. The location of parking lots and drive aisles is not one of them. Pedestrian orientation and access are fundamental components of the Oregon City design standards. As such, any request for relief from this standard requires a Type III Planning Commission Variance. In this case, the applicant faces significant constraints due to the site's topography, the existing building footprint, and the regulatory requirement for a covered drop-off area. Staff recommends that the applicant pursue the Variance as the first step in the review process, as they believe the applicant has sufficiently demonstrated the need for the Variance and met the necessary criteria for this issue

17.60.030 - Variance—Grounds.

A variance may be granted only in the event that all of the following conditions exist:

A. That the Variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;

Finding: Complies as Conditioned. The proposed porte-cochere will face the 10th Street right-of-way and the existing parking area of the previous assisted living facility. The proposed location for the porte-cochere is between the two side wings of the existing building and will thus have minimal, if any, impact on adjacent properties. Lighting will cast downward, providing additional visibility for pedestrians on site.

B. That the request is the minimum Variance that would alleviate the hardship;

Finding: Complies as Proposed. The addition of a porte-cochere, covered passenger drop loading area, is required for the facility to be licensed as an assisted living facility by the State of Oregon.

C. Granting the Variance will equal or exceed the purpose of the regulation to be modified.

Finding: Complies as Proposed. The addition of a porte-cochere, covered passenger drop-off loading area, is required for the facility to be licensed as an assisted living facility by the State of Oregon. An assisted living/retirement care facility would require a drop-off area that is in close proximity to the site for the rear of a new commercial building to preserve the operational orientation and access. In this situation, the existing building and topography prohibit the ability to add this type of access. As conditioned, the applicant will ensure a direct pedestrian connection to the front door of the establishment.

D. Any impacts resulting from the adjustment are mitigated;

Finding: Complies as Proposed. Granting the variance allows the facility to continue operating under licensure from the State of Oregon. As conditioned, the applicant will ensure a direct pedestrian connection to the front door of the establishment.

E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and

Finding: Complies as Proposed. Options for other covered passenger drop-off areas are not realistically feasible given the existing site conditions.

F. The Variance conforms to the comprehensive plan and the intent of the ordinance being varied.

Finding: Finding: Complies as Proposed. Oregon City is quite silent on planning for residents once they leave their homes. There are no specific comprehensive plan policies that address assisted living or residential care facilities, and there is no clarity on how the city categorizes these living arrangements. They are not identified as dwelling units, but there are references to community amenities, of which this would be one.

Pedestrian accessibility, however, shows up in numerous goals and policies in the comprehensive plan, and staff indicates that, as conditioned, the proposal will provide a direct pedestrian connection from the street to the facility, which meets the overall goals of the Oregon City 2040 vision.

The proposed Variance would allow for the development of the subject site in accordance with the following Comprehensive Plan Goals and Policies.

Chapter 2: Diverse Economy

GOAL 3 Guide growth and development in a manner that implements the City's 2040 Vision and maintains an urban growth boundary that supports and accommodates projected population and employment during the 20-year planning period.

POLICY 3.2 Promote development of walkable neighborhoods to reduce transportation demand and enhance localized access to community services and amenities.

Chapter 3: Connected Infrastructure

GOAL 1 Provide a safe, comfortable, and accessible transportation network that serves all modes of travel, including non-motorized modes

POLICY 1.2 Reduce Oregon City's carbon footprint by supporting and emphasizing non-motorized modes.

STRATEGY 1.2.A Provide an interconnected and accessible pedestrian system that links residential areas with major pedestrian generators such as employment centers, public facilities, and recreational areas.

POLICY 1.3 Support retention and expansion of local businesses, as well as recruitment of new businesses, across a variety of sizes and types

POLICY 3.2 Promote development of walkable neighborhoods to reduce transportation demand and enhance localized access to community services and amenities

CONCLUSION AND DECISION:

Based on the analysis and findings as described above, Staff concludes that the proposed development located at 515 10th Street, Oregon City, OR 97045, identified as Clackamas County Clackamas County Map: 2-2E-31AA-05300 can meet the requirements as described in the Oregon City Municipal Code by complying with the Conditions of Approval provided in this report. Therefore, the Community Development Director recommends approval of conditions, based upon the findings and exhibits contained in this staff report.

EXHIBITS:

1. Applicant's Narrative
2. Applicant's Plans
3. Public Comment
 - a. La Donna Sullivan
 - b. McLoughlin Neighborhood Association
4. LN 20-03 Staff Report and Decision.

June 2, 2025

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TYPE III – PLANNING COMMISSION VARIANCE REVIEW
Applicant's Submittal
5/14/2025

APPLICANT: Nile Hagen
1327 SE Tacoma St., #394, Portland, OR 97202

OWNER: Nile Hagen
1327 SE Tacoma St., #394, Portland, OR 97202

REQUEST: Variance for vehicular access at building entry to provide covered passenger loading area.

LOCATION: 505 and 515 10th St, Oregon City, OR
Clackamas County Map 2-2E-31AA, Tax lots 5200 and 5300

I. BACKGROUND:

1. Existing Conditions

Subject sites at 505 and 515 10th street combined are approximately ¾ of an acre in size and are developed with existing buildings; the Dr. Guy Moun House built in 1925 and the Oregon City Retirement Center constructed in the 1930's. These two structures have been physically, functionally and operationally tied to one another since the hospital's construction. They are joined by the garage between, as well as infrastructure. The mansion served as the administrative offices and supplemental common areas to the assisted living facility since the 1970's per the former owner, Ralph Tidwell. See attachment: [01-07-2025 Ralph Tidwell.pdf](#)

2. Project Description

The applicant requests a variance to construct a porte-cochere, covered passenger loading area, in front of the main entry of existing assisted living facility at 515 10th street. This covered loading area is required by the State of Oregon for licensing an assisted living facility. Per Oregon Administrative Rules (OAR 411-054-0200 (3) (h)), a Residential Care Facility must have an entry and exit drive to and from the main building entrance that allows for a vehicle to pick up and drop off residents and mail deliveries without the need for vehicles to back up. Due to existing grade and site conditions, the court at the main entry is the only feasible place to construct it. The existing building construction is up to the property line (10th street right-of-way). We ask for variance to construct within the front yard setback as required for anR3.5 zone and to align the parking lot edge of the porte-cochere with the edge of the existing building wing constructed with a zero lot line.

Municipal Code Standards and Requirements: The following sections of the Oregon City Municipal Code are applicable to this land use approval:
Chapter 17.50 Administration and Procedures
Chapter 17.60 Variances

CHAPTER 17.10 MEDIUM DENSITY RESIDENTIAL DISTRICTS

17.10.010 – Designated.

The R-5 and R-3.5 residential districts are designed for medium density residential development.

Applicant's Response: Both lots, 5200 and 5300 and existing buildings, are within the R3.5 zone in the City of Oregon City Zoning Map dated April 2022.

17.10.020 - Permitted uses.

Permitted uses in the R-5 and R-3.5 districts are:

- A. Single-family detached residential units;
- B. Accessory uses, buildings and dwellings;
- C. Duplexes;
- D. Triplexes;
- E. Quadplexes;
- F. Townhouses;
- G. Cottage clusters;
- H. Manufactured home parks or subdivisions in the R-3.5 district only;
- I. Residential homes;
- J. Parks, playgrounds, playfields and community or neighborhood centers;
- K. Home occupations;
- L. Family day care providers;
- M. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);
- N. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- O. Transportation facilities.

Applicant's Response: Outright permitted uses "A" through "O" are not applicable as the project is an assisted living facility.

17.10.025 - Conditional uses.

The following uses are permitted in the R-5 and R-3.5 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Bed and breakfast inns/boarding houses;
- C. Cemeteries, crematories, mausoleums and columbariums;
- D. Child care centers and nursery schools;
- E. Emergency service facilities (police and fire), excluding correctional facilities;
- F. Residential care facilities;
- G. Private and/or public educational or training facilities;
- H. Public utilities, including sub-stations (such as buildings, plants and other structures);
- I. Religious institutions;
- J. Assisted living facilities; nursing homes and group homes for over fifteen patients.
- K. Live/work dwellings.

Applicant's Response: Current status of the building is an assisted living facility "J", requiring a conditional use. However, the existing structure has continuously functioned

as an assisted living facility since the 1970's with the adjacent mansion serving as administrative offices and supplemental common space. LN 20-03 Staff Report. . (See [LN 20-03 Staff Report.pdf](#))

17.10.030 - Master plans.

The following use is permitted in the R-3.5 district when authorized by and in accordance with the standards contained in OCMC 17.65.

- A. Multifamily residential.

Applicant's Response: This section is not applicable as the current status of the building is an assisted living facility.

17.10.035 – Prohibited uses.

Prohibited uses in the R-5 and R-3.5 district are:

- A. Any use not expressly listed in OCMC 17.10.020, 17.10.025 or 17.10.030.
B. Marijuana businesses.

Applicant's Response: This section is not applicable as the current status of the building is an assisted living facility.

17.10.040 - Dimensional standards.

Dimensional standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.040

Standard	R-5	R-3.5
Minimum lot size ¹ Single-family detached and duplex Triplex Quadplex and Cottage cluster Townhouse	5,000 sq. ft. 5,000 sq. ft. 7,000 sq. ft. 1,500 sq. ft.	3,500 sq. ft. 5,000 sq. ft. 7,000 sq. ft. 1,500 sq. ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>Existing lot is compliant at .55 acres = 23,958 sq. ft.</i>
Maximum height: All, except	35 ft., except	35 ft., except
Cottage cluster unit	25 ft.	25 ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>Building is less than 35' (as measured from 10th street at main building entrance)</i>
Maximum building lot coverage Single-family detached and all duplexes With ADU Triplex, quadplex and townhouse Cottage cluster	50% 60% 70% None	55% 65% 80% None

<i>Applicant's Response:</i>	<i>N/A</i>	<i>Combined lot coverage is 37% (14,051 sf bldgs./38,127 sf lot)</i>
Minimum lot width All, except Townhouse	35 ft., except 20 ft.	25 ft., except 20 ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>105'-0"</i>
Minimum lot depth	70 ft.	70 ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>198'-0'</i>
Minimum front yard setback All, except Porch	10 ft., except 5 ft.	5 ft., except 0 ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>0 ft. (existing)</i>
Minimum interior side yard setback: All, except Townhouse	5 ft., except 0 ft. (attached) /5 ft. (side)	5 ft., except 0 ft. (attached) /5 ft. (side)
<i>Applicant's Response:</i>	<i>N/A</i>	<i>0 ft. (existing)</i>
Minimum corner side yard setback	7 ft.	7 ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>10'-0" (existing)</i>
Minimum rear yard setback All, except Porch Cottage cluster ADU	20 ft., except 15 ft. 10 ft. 10 ft.	20 ft., except 15 ft. 10 ft. 5 ft.
<i>Applicant's Response:</i>	<i>N/A</i>	<i>10'-0" (existing)</i>
Garage setbacks	20 ft. from ROW, except 5 ft. from alley	20 ft. from ROW, except 5 ft. from alley
<i>Applicant's Response:</i>	<i>N/A</i>	<i>+/- 58'-0"</i>

Notes:

For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.

Public utility easements may supersede the minimum setback.

17.04.550 Height of Building: a vertical distance measured from the average finished grade elevation on the street-facing elevation to: 1) one-half the vertical distance between eaves and the highest ridge

for a gable, hip or gambrel roof or 4) top of the parapet for buildings with parapets that completely surround the perimeter of the roof.

17.04.670 Lot Coverage: *area covered by the footprint of all structures 200 sf or greater (excluding decks and porches), expresses as a percentage of the total lot area*

17.04.940 - Porch: *"Porch" means a roofed open unenclosed area, which may be screened, attached to or part of and with direct access to or from a building.*

17.10.045 - Exceptions to setbacks.

- A. *Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.*

Applicant's Response: *Currently the existing building has all projections at 24" or less.*

- B. *Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.*

Applicant's Response: *Current existing building side abuts Washington St. with the rear abutting 11th St. Existing building has no rear entrance. The front of the building faces the 10th St. right-of-way.*

17.10.050 - Density standards.

- A. *Density standards in the R-5 and R-3.5 districts are as follows:*

Table 17.10.050

Standard	R-5	R-3.5
<i>Minimum net density</i>	<i>7.0 du/acre</i>	<i>10 du/acre</i>
Applicant's Response:	N/A	See below
<i>Maximum net density All, except Townhouse</i>	<i>8.7 du/acre 25 du/acre</i>	<i>12.4 du/acre 25 du/acre</i>
Applicant's Response:	N/A	See below

B. *Exceptions.*

- Any dwelling units created as accessory dwelling units do not count towards the minimum or maximum density limits in Table 17.10.050.*
- Duplexes, triplexes and quadplexes shall count as a single dwelling unit for the purpose of calculating maximum net density. Total dwelling units within a development may count for the purposes of calculating minimum net density.*
- Cottage clusters are exempt from maximum net density standards.*

Applicant's Response:

17.04.808 - Net density.

"Net density" means the number of dwelling units divided by the net developable area, as measured in acres. The result of minimum net density calculations shall be rounded up to the nearest whole dwelling unit, and the result of maximum net density calculations shall be

rounded down to the nearest whole dwelling unit. If rounding of minimum and maximum net densities results in conflicting numbers of dwelling units, the minimum net density shall be rounded down to nearest whole dwelling unit.

17.04.115 - Assisted living facility.

"Assisted living facility" means a facility established for profit or nonprofit, which provides nursing care and related medical services on a twenty-four-hour-per-day basis to sixteen or more individuals because of illness, disease, or physical or mental infirmity. Provides care for those persons not in need of hospital care. Patients do not reside in self-contained dwelling units.

Assisted living units are not dwelling units, density standards do not apply.

17.10.060 - Conversion of Existing Duplexes.

Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the land division requirements in Title 16 and the underlying zone district.

Applicant's Response: Not applicable as the existing building is a proposed assisted living facility and not a duplex.

17.10.070 – Additional standards for Thimble Creek Concept Plan Area.

Applicant's Response: This section is not applicable as the existing building is not within the Thimble Creek Concept Plan area.

CHAPTER 17.50 – ADMINISTRATION AND PROCEDURES

17.50.010 Purpose.

This chapter provides the procedures by which Oregon City reviews and decides upon applications for all permits relating to the use of land authorized by ORS 92, 197 and 227. These permits include all forms of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City Comprehensive Plan and Titles 16 and 17 of this code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project. Any grading activity associated with development shall be subject to preliminary review as part of the review process for the underlying development. It is the express policy of the City of Oregon City that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts.

17.50.030 Summary of the City's decision-making processes.

The following decision-making processes chart shall control the City's review of the indicated permits:

Table 17.50.030 – Permit Approval Process

Permit Type	I	II	III	IV	Expedited Land Division
<i>Annexation</i>				X	
<i>Compatibility review for communication facilities</i>	X				
<i>Compatibility review for the Willamette Greenway Overlay District</i>			X		
<i>Code Interpretation</i>			X		

Master plan/planned unit development - General Development plan			X		
Master plan/planned unit development - General Development plan amendment	X	X	X		
Conditional use (excluding shelters)			X		
Conditional use for a shelter				X	
Detailed development plan*	X	X	X		
Expedited land division		X(modified)			X
Extension	X				
Final plat	X				
Geologic hazards		X			
Historic review	X		X		
Live/Work dwelling review		X			
Lot line adjustment and abandonment	X				
Manufactured home park review (new or modification)	X				
Middle housing land division		X(modified)			X
Minor partition		X			
Modifications of residential design standards		X			
Natural resource overlay district exemption	X				
Natural resource overlay district review		X	X		
Nonconforming use, structure and lots review	X	X			
Placement of a single manufactured home on existing space or lot within a park	X				
Plan or code amendment					X
Residential design standards review for single-family detached, duplexes, triplexes, quadplexes, townhouses, cottage clusters and accessory dwelling units (uses minor site plan and design review)	X				
Revocation					X
Site plan and design review	X	X			
Subdivision		X			X
Variance		X	X		
Zone Change				X	

**If any provision or element of the master plan/planned unit development requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.*

- A. *Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any*

party other than the applicant. The Community Development Director's decision is final and not appealable by any party through the normal city land use process.

- B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The Community Development Director accepts comments for a minimum of fourteen days and renders a decision. The Community Development Director's decision is appealable to the City Commission, by any party who submitted comments in writing before the expiration of the comment period. Review by the City Commission shall be on the record pursuant to OCMC 17.50.190 under ORS 197.195(5). The City Commission decision is the City's final decision and is subject to review by the land use board of appeals (LUBA) within twenty-one days of when it becomes final.*
- C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the City Commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the Planning Commission or the Historic Review Board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission or the Historic Review Board, all issues are addressed. The decision of the Planning Commission or Historic Review Board is appealable to the City Commission, on the record pursuant to OCMC 17.50.190. The City Commission decision on appeal from is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final, unless otherwise provided by state law.*
- D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and shall be heard by the City Commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and Planning Commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice shall be issued at least twenty days pre-hearing, and the staff report shall be available at least seven days pre-hearing. At the evidentiary hearing held before the Planning Commission, all issues are addressed. If the Planning Commission denies the application, any party with standing (i.e., anyone who appeared before the Planning Commission either in person or in writing within the comment period) may appeal the Planning Commission denial to the City Commission. If the Planning Commission denies the application and no appeal has been received within fourteen days of the issuance of the final decision, then the action of the Planning Commission becomes the final decision of the City. If the Planning Commission votes to approve the application, that decision is forwarded as a recommendation to the City Commission for final consideration. In either case, any review by the City Commission is on the record and only issues raised before the Planning Commission may be raised before the City Commission. The City Commission decision is the City's final decision and is subject to review by LUBA within twenty-one days of when it becomes final.*

- E. *Expedited land divisions and middle housing land divisions are subject to the requirements of OCMC 16.24. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380.*
- F. *Decisions, completeness reviews, appeals, and notices in this chapter shall be calculated according to OCMC 1.04.070 and shall be based on calendar days, not business days.*

17.50.040 Development review in overlay districts and for erosion control.

For any development subject to regulation of geologic hazards overlay district under OCMC 17.44; natural resource overlay district under OCMC 17.49; Willamette River Greenway Overlay District under OCMC 17.48; historic overlay district under OCMC 17.40, and erosion and sediment control under OCMC 17.47, compliance with the requirements of these chapters shall be reviewed as part of the review process required for the underlying development for the site.

17.50.050 – Pre-application conference.

Applicant's Response: A pre-application meeting was completed on October 22, 2024. Therefore, this section is no longer applicable.

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- B. *The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the citizen involvement committee.*
- C. *A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, citizen involvement committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a city facility.*
- D. *If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the citizen involvement committee.*
- E. *To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other*

correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

Applicant's Response: A neighborhood association meeting was conducted on February 6, 2025 where this project was presented for discussion. Sign-in sheet provided as proof of presence.

17.50.060 Application requirements.

A permit application may only be initiated by the record property owner or contract purchaser, the City Commission or Planning Commission. If there is more than one record owner, then the City will not complete a Type II—IV application without signed authorization from all record owners. All permit applications shall be submitted on the form provided by the City, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be, met.

Applicant's Response: For upcoming permit applications, these protocols will be followed.

17.50.070 Completeness review and one hundred twenty-day rule.

- A. *Upon submission, the Community Development Director shall date stamp the application form and verify that all of the appropriate application review fee(s) have been submitted. Upon receipt of all review fees and an application form, the Community Development Director will then review the application and all information submitted with it and evaluate whether the application is complete enough to process. Within thirty days of receipt of the application and all applicable review fees, the Community Development Director shall complete this initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and if not, what information shall be submitted to make the application complete.*
- B. *The applicant has one hundred eighty days from the date the application was made to submit the missing information or the application shall be rejected and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the one hundred eighty-day period, the Community Development Director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection A of this section.*

The application will be deemed complete for the purpose of this section upon receipt by the Community Development Director of:

- 1. *All the missing information;*
 - 2. *Some of the missing information and written notice from the applicant that no other information will be provided; or*
 - 3. *Written notice from the applicant that none of the missing information will be provided.*
- C. *Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one*

hundred twenty-calendar-day timeline or unless state law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:

- 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
 - 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.*
 - 3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.*
 - 4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.*
- D. A one hundred day-period applies in place of the one hundred twenty-day period for affordable housing projects where:*
- 1. The project includes five or more residential units, including assisted living facilities or group homes;*
 - 2. At least fifty percent of the residential units will be sold or rented to households with incomes equal to or less than sixty percent of the median family income for Clackamas County or for the state, whichever is greater; and*
 - 3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of sixty years from the date of the certificate of occupancy.*
- E. The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.*
- F. The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.*

Applicant's Response: Missing application data will be submitted within the 180 timeframe. It is understood that a final decision will occur up to 120 days after the application is deemed complete.

17.50.080 Complete application—Required information.

Unless stated elsewhere in OCMC 16 or 17, a complete application includes all the materials listed in this subsection. The Community Development Director may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within thirty days of when the application is first submitted, the Community Development Director may require additional information, beyond that listed in this subsection or elsewhere in Titles 12, 14, 15, 16, or 17, such as a traffic study or other report prepared by an appropriate expert. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the City will not deem the application complete until all information required by the Community Development Director is submitted. At a minimum, the applicant shall submit the following:

- A. One copy of a completed application form that includes the following information:*
 - 1. An accurate address and tax map and location of all properties that are the subject of the application;*

2. *Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s);*
- B. *A complete list of the permit approvals sought by the applicant;*
- C. *A complete and detailed narrative description of the proposed development;*
- D. *A discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met or are not applicable, and any other information indicated by staff at the pre-application conference as being required;*
- E. *One copy of all architectural drawings and site plans shall be submitted for Type II—IV applications.*
One paper copy of all application materials shall be submitted for Type I applications;
- F. *For all Type II—IV applications, the following is required:*
 1. *An electronic copy of all materials.*
 2. *Mailing labels or associated fee for notice to all parties entitled under OCMC 17.50.090 to receive mailed notice of the application. The applicant shall use the names and addresses of property owners within the notice area indicated on the most recent property tax rolls.*
 3. *Documentation indicating there are no liens favoring the City on the subject site.*
 4. *A receipt from the county assessor's office indicating that all taxes for the lot or parcels involved are paid in full for the preceding tax year.*
 5. *A current preliminary title report or trio for the subject property(ies);*
- G. *All required application fees;*
- H. *Annexation agreements, traffic or technical studies (if applicable);*
- I. *Additional documentation, as needed and identified by the Community Development Director.*

Applicant's Response: Complete application package has been provided with provided information for Sections A through H.

17.50.090 - Public notices.

All public notices issued by the City announcing applications or public hearings of quasi-judicial or legislative actions, shall comply with the requirements of this section.

- A. *Notice of Type II Applications. Once the Community Development Director has deemed a Type II application complete, the City shall prepare and send notice of the application, by first class mail, to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The applicant shall provide or the City shall prepare for a fee an accurate and complete set of mailing labels for these property owners and for posting the subject property with the City-prepared notice in accordance with OCMC 17.50.100. The City's Type II notice shall include the following information:*
 1. *Street address or other easily understood location of the subject property and city-assigned planning file number;*
 2. *A description of the applicant's proposal, along with citations of the approval criteria that the City will use to evaluate the proposal;*
 3. *A statement that any interested party may submit to the City written comments on the application during a fourteen-day comment period prior to the City's deciding the application, along with instructions on where to send the comments and the deadline of the fourteen-day comment period;*

4. A statement that any issue which is intended to provide a basis for an appeal shall be raised in writing during the fourteen-day comment period with sufficient specificity to enable the City to respond to the issue;
5. A statement that the application and all supporting materials may be inspected, and copied at cost, at City Hall during normal business hours;
6. The name and telephone number of the planning staff person assigned to the application or is otherwise available to answer questions about the application;
7. The notice shall state that a city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal.

Applicant's Response: This section is not applicable as this is to be a Type III application.

- B. Notice of Public Hearing on a Type III or IV Quasi-Judicial Application. Notice for all public hearings concerning a quasi-judicial application shall conform to the requirements of this subsection. At least twenty days prior to the hearing, the City shall prepare and send, by first class mail, notice of the hearing to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The City shall also publish the notice on the City website within the City at least twenty days prior to the hearing. Pursuant to OCMC 17.50.080.H, the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the City-prepared notice in accordance with OCMC 17.50.100. Notice of the application hearing shall include the following information:
1. The time, date and location of the public hearing;
 2. Street address or other easily understood location of the subject property and city-assigned planning file number;
 3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the City will use to evaluate the proposal;
 4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing and that a staff report will be prepared and made available to the public at least seven days prior to the hearing;
 5. A statement that any issue which is intended to provide a basis for an appeal to the City Commission shall be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue;
 6. The notice shall state that a city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal;
 7. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge and that copies may be obtained at reasonable cost at the planning division offices during normal business hours; and
 8. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

Applicant's Response: This criteria is understood. Notices will be prepared for neighborhood distribution once the hearing date and time are established.

- C. *Notice of Public Hearing on a Legislative Proposal.* At least twenty days prior to a public hearing at which a legislative proposal to amend or adopt the City's land use regulations or comprehensive plan is to be considered, the Community Development Director shall issue a public notice that conforms to the requirements of this subsection. Notice shall be sent to affected governmental entities, special districts, providers of urban services, including Tri-Met, Oregon Department of Transportation and Metro, any affected recognized neighborhood associations and any party who has requested in writing such notice. Notice shall also be published on the City website. Notice issued under this subsection shall include the following information:
1. The time, date and location of the public hearing;
 2. The City-assigned planning file number and title of the proposal;
 3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed;
 4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing; and
 5. The name and telephone number of the planning staff person responsible for the proposal and who interested people may contact for further information.

Applicant's Response: This section is not applicable as this is to be a Type III application.

17.50.100 - Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

- A. *City Guidance and the Applicant's Responsibility.* The City shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The City shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner.
- B. *Number and Location.* The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

Applicant's Response: This criteria is understood. Notices will be prepared for posting on site once the hearing date and time are established.

7.50.110 Assignment of decision-makers.

The following City entity or official shall decide the following types of applications:

- A. *Type I Decisions.* The Community Development Director shall render all Type I decisions. The Community Development Director's decision is the City's final decision on a Type I application.

- B. *Type II Decisions. The Community Development Director shall render the City's decision on all Type II permit applications, which are then appealable to the City Commission with notice to the Planning Commission. The City's final decision is subject to review by LUBA.*
- C. *Type III Decisions. The Planning Commission or Historic Review Board, as applicable, shall render all Type III decisions. Such decision is appealable to the City Commission, on the record. The City Commission's decision is the city's final decision and is subject to review by LUBA within twenty-one days of when it becomes final.*
- D. *Type IV Decisions. The Planning Commission shall render the initial decision on all Type IV permit applications. If the Planning Commission denies the Type IV application, that decision is final unless appealed in accordance with OCMC 17.50.190. If the Planning Commission recommends approval of the application, that recommendation is forwarded to the City Commission. The City Commission decision is the City's final decision on a Type IV application and is subject to review LUBA.*
- E. *Expedited Land Division (ELD). The Community Development Director shall render the initial decision on all ELD applications. The Community Development Director's decision is the City's final decision unless appealed in accordance to ORS 197.375 to a City-appointed hearings referee. The hearings referee decision is the City's final decision which is appealable to the Oregon Court of Appeals.*

Applicant's Response: Understood for Type III decision.

17.50.120 Quasi-judicial hearing process.

All public hearings pertaining to quasi-judicial permits, whether before the Planning Commission, Historic Review Board, or City Commission, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Law, the applicable provisions of ORS 197.763 and any other applicable law.

- A. *Once the Community Development Director determines that an application for a Type III or IV decision is complete, the planning division shall schedule a hearing before the Planning Commission or Historic Review Board, as applicable. Once the Community Development Director determines that an appeal of a Type II, Type III or Type IV decision has been properly filed under OCMC 17.50.190, the planning division shall schedule a hearing pursuant to OCMC 17.50.190.*
- B. *Notice of the Type III or IV hearing shall be issued at least twenty days prior to the hearing in accordance with OCMC 17.50.090.B.*
- C. *Written notice of an appeal hearing shall be sent by regular mail no later than fourteen days prior to the date of the hearing to the appellant, the applicant if different from the appellant, the property owner(s) of the subject site, all persons who testified either orally or in writing before the hearing body and all persons that requested in writing to be notified.*
- D. *The Community Development Director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and makes a recommendation as to whether each of the approval criteria are met.*
- E. *At the beginning of the initial public hearing at which any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:*
 - 1. *That the hearing will proceed in the following general order: Staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;*

2. *That all testimony and evidence submitted, orally or in writing, shall be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria shall be listed and discussed on the record. The meeting chairperson may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;*
3. *Failure to raise an issue on the record with sufficient specificity and accompanied by statements or evidence sufficient to afford the City and all parties to respond to the issue, will preclude appeal on that issue to the land use board of appeals;*
4. *Any party wishing a continuance or to keep open the record shall make that request while the record is still open;*
5. *That the commission chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item; and*
6. *For appeal hearings, only those persons who participated either orally or in writing in the decision or review will be allowed to participate either orally or in writing on the appeal.*
- F. *Requests for continuance and to keep open the record: The hearing may be continued to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time-certain and location is established for the continued hearing. Similarly, hearing may be closed but the record kept open for the submission of additional written material or other documents and exhibits. The chairperson may limit the factual and legal issues that may be addressed in any continued hearing or open record period.*

Applicant's Response: Above procedures are understood.

17.50.130 Conditions of approval and notice of decision.

- A. *All City decision-makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards, including standards set out in city overlay districts, the City's master plans, and City public works design standards, are, or can be met.*
- B. *Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings pursuant to OCMC 1.20 of this code and ORS 30.315.*
- C. *Notice of Decision. The City shall send, by first class mail, a notice of all decisions rendered under this chapter to all persons with standing, i.e., the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:*
 1. *The file number and date of decision;*
 2. *The name of the applicant, owner and appellant (if different);*
 3. *The street address or other easily understood location of the subject property;*
 4. *A brief summary of the decision, and if an approval, a description of the permit approved;*
 5. *A statement that the decision is final unless appealed and description of the requirements for perfecting an appeal;*
 6. *The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.*
- D. *Modification of Conditions. Any request to modify a condition of permit approval is to be considered either minor modification or a major modification, unless otherwise authorized. A minor modification shall be processed as a Type I. A major modification shall be processed in the*

same manner and shall be subject to the same standards as was the original application. However, the decision-maker may at their sole discretion, consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved.

Applicant's Response: The above procedures and approval standards are understood.

17.50.140 – Financial guarantees.

When conditions of permit approval require a permittee to construct certain public improvements, the City shall require the permittee to provide financial guarantee for construction of the certain public improvements. Financial guarantees shall be governed by this section.

- A. Form of Guarantee. Guarantees shall be in a form approved by the City attorney. Approvable forms of guarantee include irrevocable standby letters of credit to the benefit of the City issued by a recognized lending institution, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the City. The form of guarantee shall be specified by the City engineer and, prior to execution and acceptance by the City shall be reviewed and approved by the City attorney. The guarantee shall be filed with the City engineer.*
- B. Performance Guarantees. A permittee shall be required to provide a performance guarantee as follows.*
 - 1. After Final Approved Design by the City. The City may request the permittee to submit a performance guarantee for construction of certain public improvements. A permittee may request the option of submitting a performance guarantee when prepared for temporary/final occupancy. The guarantee shall be one hundred twenty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City engineer.*
 - 2. Before Complete Design Approval and Established Engineered Cost Estimate. The City may request a permittee to submit a performance guarantee for construction of certain public improvements. A permittee may request the option of submitting a performance guarantee before public improvements are designed and completed. The guarantee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the City engineer. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City engineer.*
- C. Release of Guarantee. The guarantee shall remain in effect until the improvement is actually constructed and accepted by the City. Once the City has inspected and accepted the improvement, the City shall release the guarantee to the permittee. If the improvement is not completed to the City's satisfaction within the time limits specified in the permit approval, the City engineer may, at their discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the City in completing the construction, including any costs incurred in attempting to have the permittee complete the improvement. Once constructed and approved by the City, any remaining funds shall be refunded to the permittee. The City shall not allow a permittee to defer construction of improvements by using a performance guarantee, unless the permittee agrees to construct those improvements upon written notification by the City, or at some other mutually agreed-to time. If the permittee fails to commence construction of the*

required improvements within six months of being instructed to do so, the City may, without further notice, undertake the construction of the improvements and draw upon the permittee's performance guarantee to pay those costs.

- D. *Fee-in-lieu. When conditions of approval or the City engineer allows a permittee to provide a fee-in-lieu of actual construction of public improvements, the fee shall be one hundred fifty percent of the estimated cost of constructing the public improvements as submitted by the permittee's engineer and approved by the City engineer. The percentage required is to ensure adequate funds for the future work involved in design, bid, contracting, and construction management and contract closeout. The engineer's estimated costs shall be supported by a verified engineering estimate and approved by the City engineer. The fee-in-lieu shall be submitted as cash, certified check, or other negotiable instrument acceptable by the City attorney.*

Applicant's Response: The above is understood and is to be settled for determination by Owner.

17.50.141 – Public improvements – Warranty

All public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period. The warranty is to be used at the discretion of the City engineer or designee to correct deficiencies in materials or maintenance of constructed public infrastructure, or to address any failure of engineering design.

- A. *Duration of Warranty. Responsibility for maintenance of public improvements shall remain with the property owner or developer for a warranty period of two years.*
- B. *Financial Guarantee. Approvable forms of guarantee include irrevocable standby letters of credit to the benefit of the City issued by a recognized lending institution, bond, certified checks, dedicated bank accounts or allocations of construction loans held in reserve by the lending institution for the benefit of the City. The form of guarantee shall be specified by the City engineer and, prior to execution and acceptance by the City shall be reviewed and approved by the City attorney. The guarantee shall be filed with the City engineer.*
- C. *Amount of Warranty. The amount of the warranty shall be equal to fifteen percent of the estimated cost of construction of all public improvements (including those improvements that will become owned and maintained by the City at the end of the two-year maintenance period), and shall be supported by a verified engineering estimate and approved by the City engineer. Upon expiration of the warranty period and acceptance by the City as described below, the City shall be responsible for maintenance of those improvements.*
- D. *Transfer of Maintenance. The City will perform an inspection of all public improvements approximately forty-five days before the two-year warranty period expires. The public improvements shall be found to be in a clean, functional condition by the City engineer before acceptance of maintenance responsibility by the City. Transfer of maintenance of public improvements shall occur when the City accepts the improvements at the end of the two-year warranty period.*

Applicant's Response: The above references to warranty and maintenance are understood.

CHAPTER 17.60 VARIANCES

17.60.010 Authority.

According to procedures set forth in OCMC 17.60.030, the planning commission or the Community

Development Director may authorize variances from the requirements of this title. In granting a variance, the Planning Commission or Community Development Director may attach conditions to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

17.60.020 - Variances—Procedures.

- A. *A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the City Recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D of this section shall apply when applicable.*
- B. *A non-refundable filing fee, as listed in OCMC 17.50.080, shall accompany the application for a variance to defray the costs.*

Applicant's Response: Fees and plans included. Our request to construct a covered passenger drop off area is a variance to the required 5' setback from the front property line required in the R-3.5 zone where a zero lot line is allowed for porches. The porte-cochere meets the definition of porch as defined by 17.04.094, a roofed open unenclosed area, which may be screened, attached to or part of and with direct access to or from a building.

Additionally, this will allow the leading edge of the porte-cochere to align with the adjacent existing building wing which has a zero lot line setback. Provided site plan to scale and elevations to graphically demonstrate the impact of the proposed porte-cochere.

- C. *Before the Planning Commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A variance shall address the criteria identified in OCMC 17.60.030, Variances—Grounds*

Applicant's Response: This criteria is understood. Notices will be prepared for neighborhood distribution once the hearing date and time are established.

- D. *Minor variances, as defined in subsection E of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in OCMC 17.50.030.B, and shall address the criteria identified in OCMC 17.60.030, Variance—Grounds.*
- E. *For the purposes of this section, minor variances shall be defined as follows:*
 - 1. *Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;*
 - 2. *Variances to width, depth and frontage requirements of up to twenty percent;*
 - 3. *Variances to residential yard/setback requirements of up to twenty-five percent;*
 - 4. *Variances to nonresidential yard/setback requirements of up to ten percent;*
 - 5. *Variances to lot area requirements of up to five percent;*
 - 6. *Variance to lot coverage requirements of up to twenty-five percent;*
 - 7. *Variances to the minimum required parking stalls of up to five percent; and*

8. Variances to the floor area requirements and minimum required building height in the mixed-use districts.
9. Variances to design and/or architectural standards for single-family dwellings, duplexes, townhomes, accessory dwelling units, triplex, quadplexes, and cluster housing in OCMC 17.14, 17.16, 17.20, 17.21 and 17.22.

Applicant's Response: This criteria is understood.

17.60.030 - Variance—Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. *That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;*

Applicant's Response: The proposed porte-cochere will face 10th Street right-of-way and the existing facility parking area. There are no residential properties facing this area. The proposed porte-cochere location is between the two side wings of the existing building and will thus have minimal impact if any on adjacent properties. Lighting will cast downward providing additional pedestrian visibility on site.

- B. *That the request is the minimum variance that would alleviate the hardship;*

Applicant's Response: The addition of a porte-cochere, covered passenger drop loading area, is required for the facility to be licensed as an assisted living facility by the State of Oregon.

- C. *Granting the variance will equal or exceed the purpose of the regulation to be modified.*

Applicant's Response: Granting the variance allows the facility to continue operating under licensure from the State of Oregon.

- D. *Any impacts resulting from the adjustment are mitigated;*

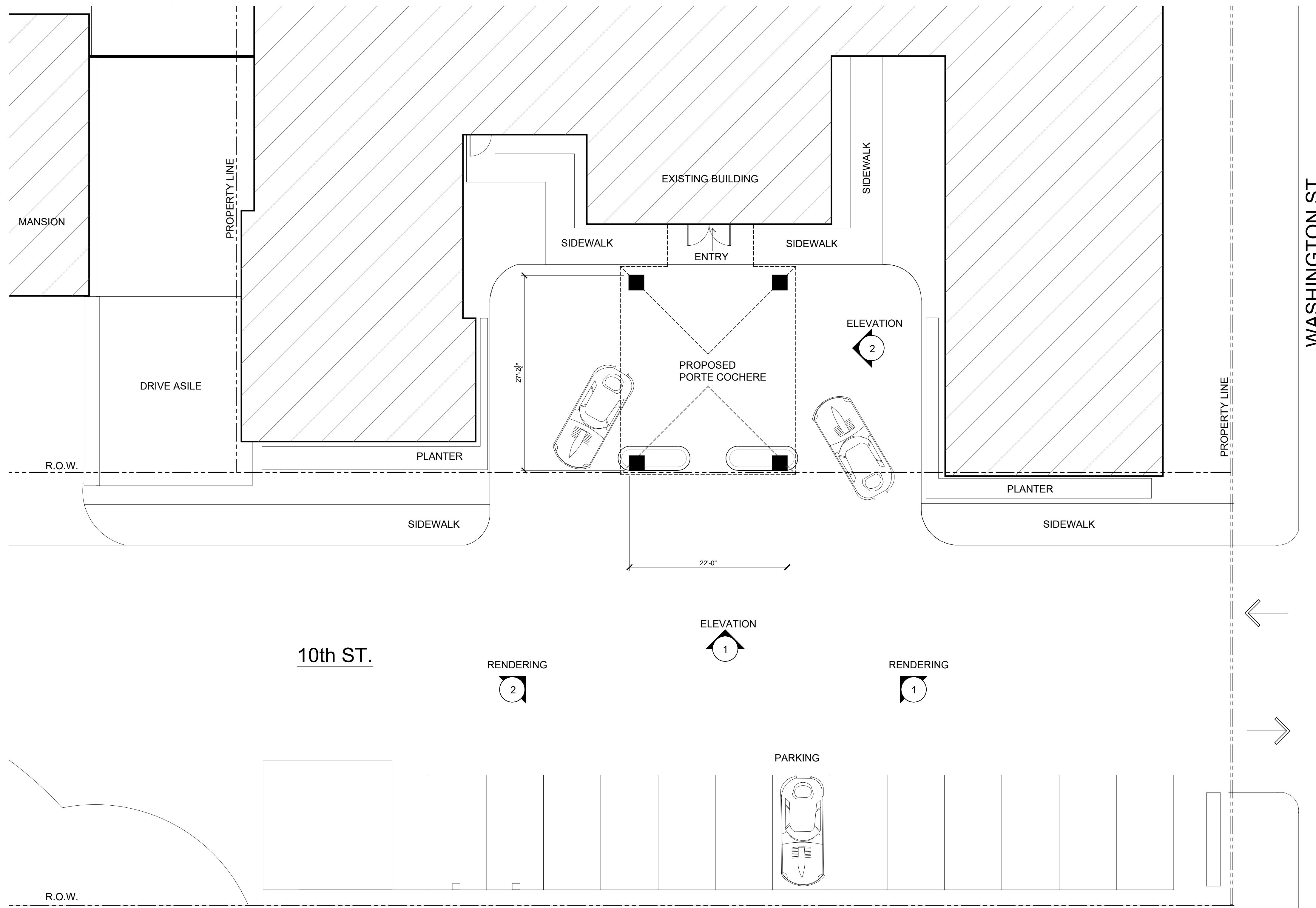
Applicant's Response: The proposed porte-cochere impacts on adjacent properties like visibility and lighting is minimal or non-existence.

- E. *No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and*

Applicant's Response: Other options for covered passenger drop off areas are not realistically feasible given existing site conditions.

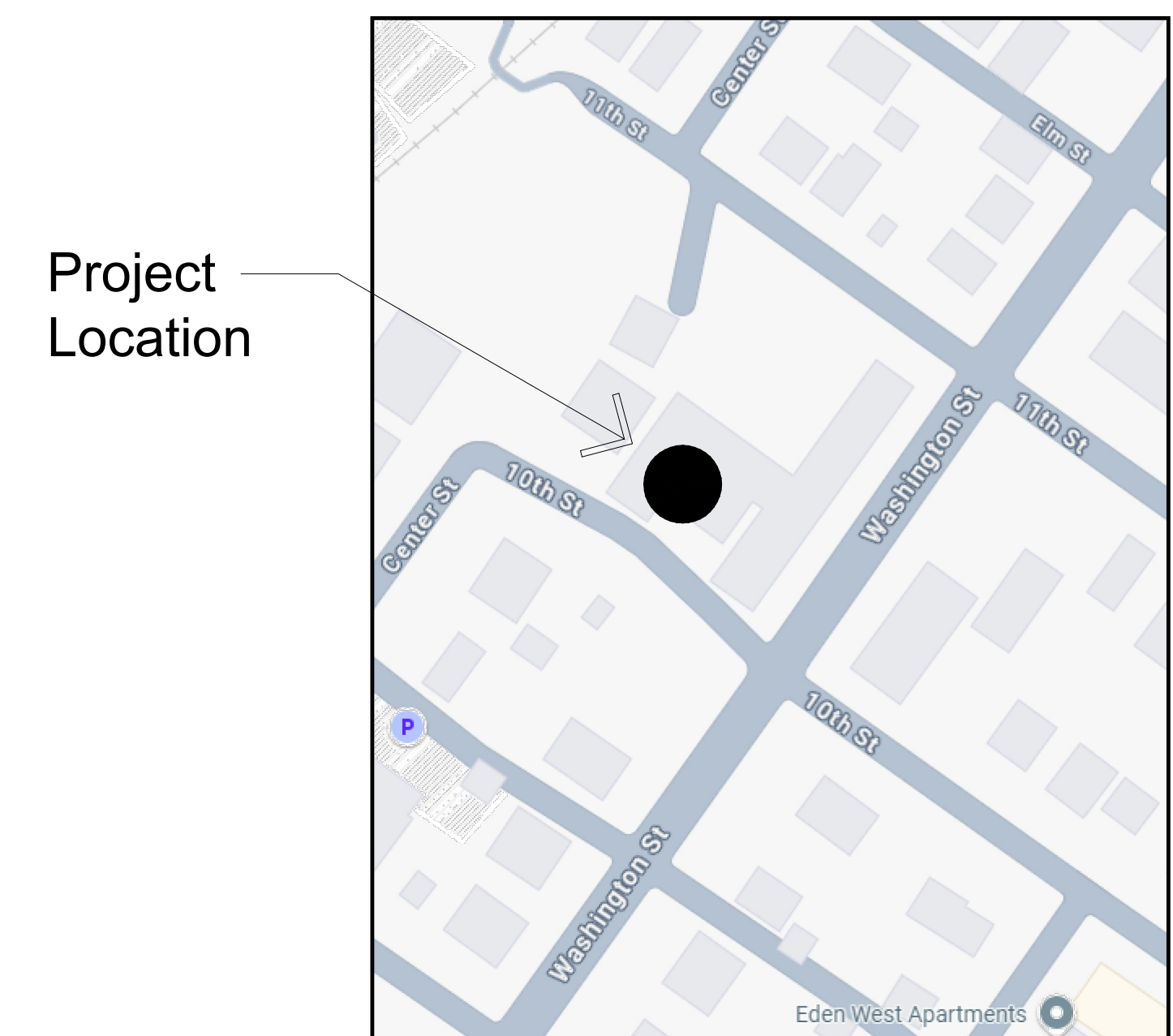
- F. *The variance conforms to the comprehensive plan and the intent of the ordinance being varied.*

Applicant's Response: The variance requested does not alter the comprehensive plan or adversely affect the intent of the ordinance.



2 PARTIAL SITE PLAN
SCALE: 1/8" = 1'-0"

- PROJECT NOTES:
- SEEK APPROVAL FOR A VARIANCE FOR AN EXISTING DRIVE AISLE AT THE BUILDING ENTRY. PER OREGON CITY MUNICIPAL CODE SECTION 17.62.050B:
 - Vehicular Access and Connectivity.*
 - Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.
 - CONSTRUCT A COVERED ENTRY TO AN EXISTING BUILDING.



1 VICINITY PLAN
SCALE: NONE

lenity
architecture, inc.

3150 Kettle Court SE, Salem, Oregon 97301
P 503 399 1090 F 503 399 0565 W lenityarchitecture.com

Porte Cochere Addition

515 10th St, Oregon City, OR

A1

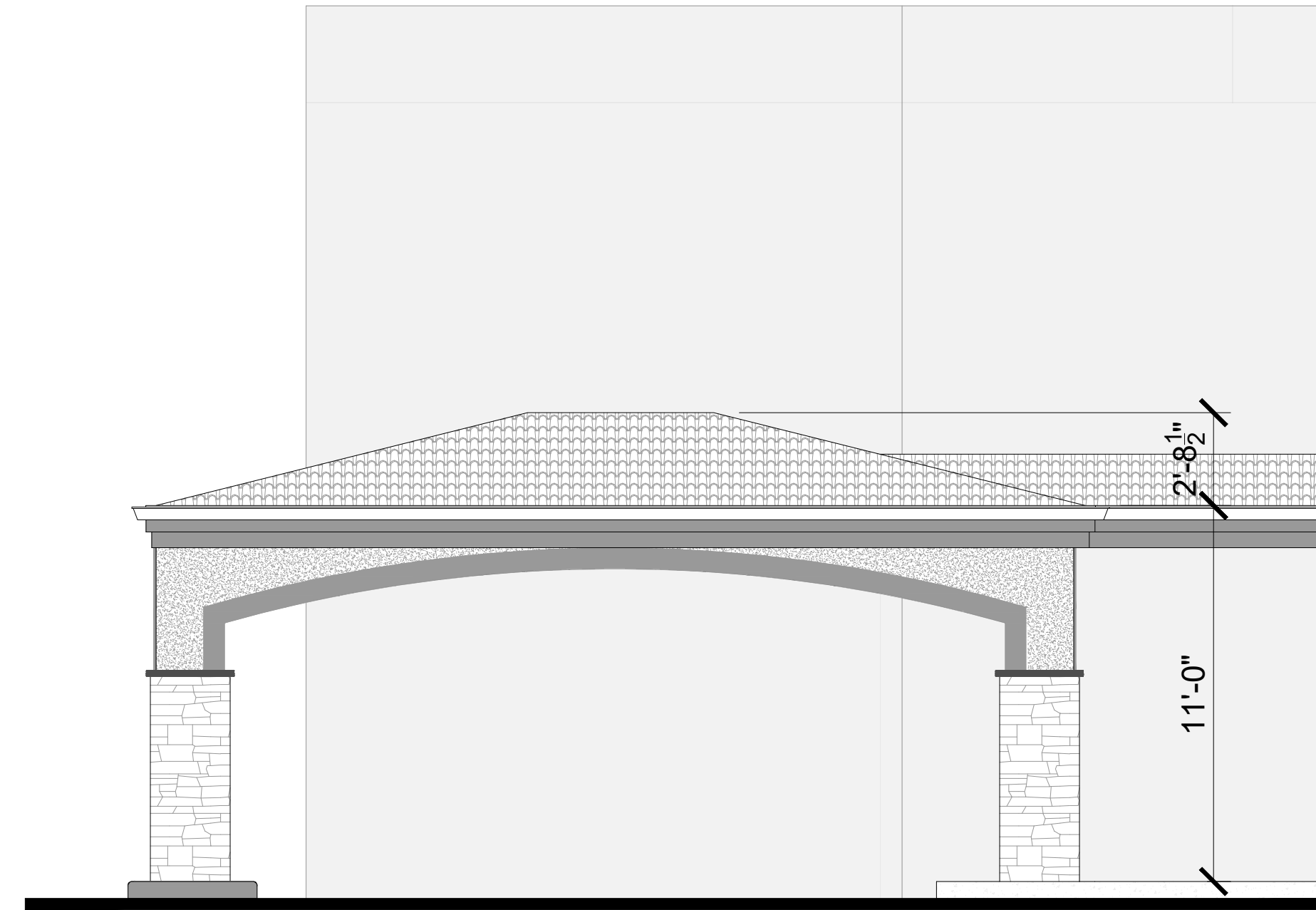
Date: 1/30/2025



2 RENDERING

SCALE: NONE

NOTE: EXISTING BUILDING BEHIND PROPOSED PORTE-COCHERE LEFT AS NONDESCRIPT AT THIS TIME. FINAL DESIGN AND MASSING TO BE DETERMINED.



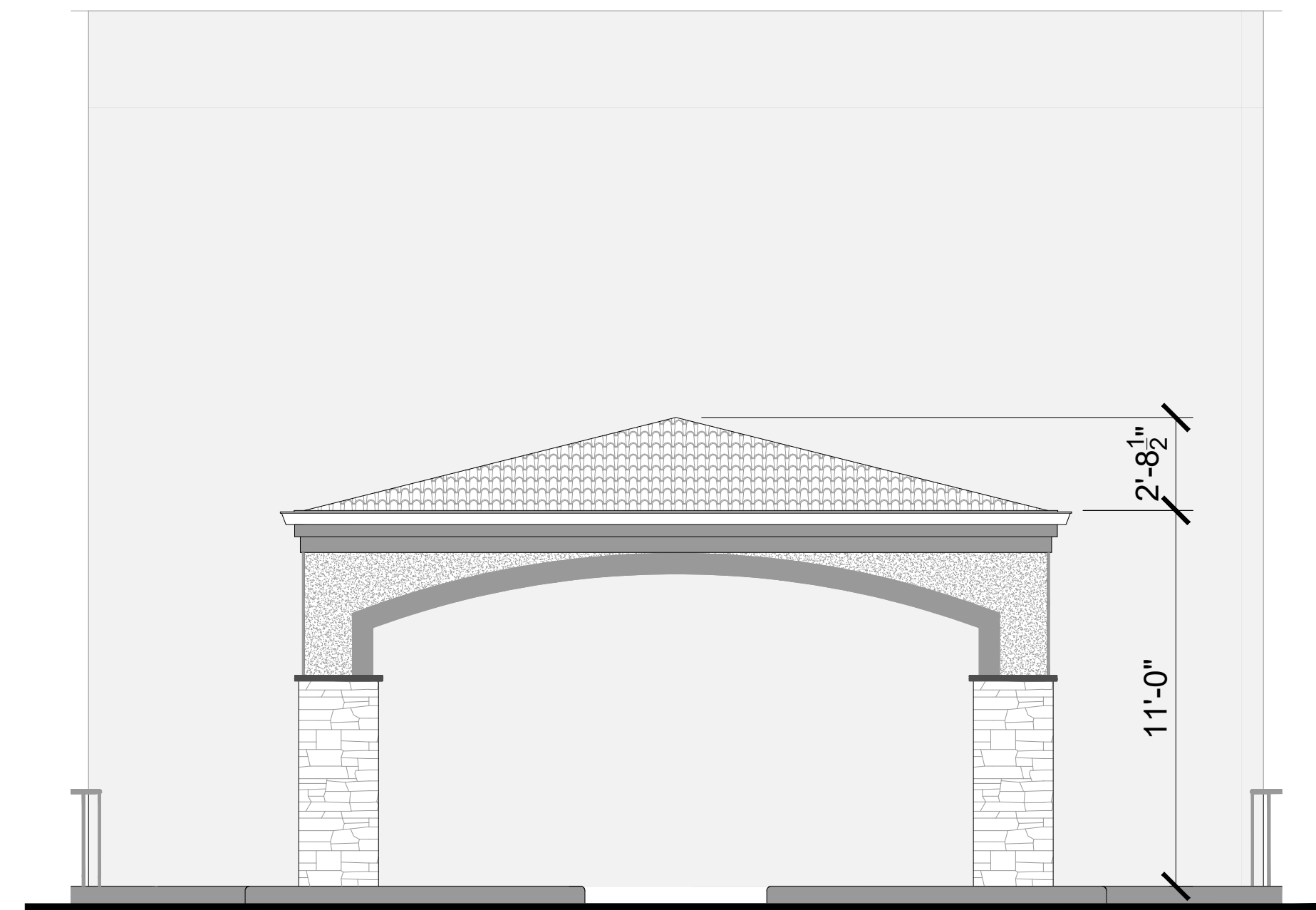
2 ELEVATION

SCALE: NONE



1 RENDERING

SCALE: NONE



1 ELEVATION

SCALE: NONE



3 EXISTING VIEW AT 10th ST
SCALE: NONE



2 EXISTING VIEW TO WASHINGTON ST.
SCALE: NONE



1 EXISTING VIEW (2002)
SCALE: NONE

Christina Robertson-Gardiner

From: Christina Robertson-Gardiner
Sent: Tuesday, May 27, 2025 11:25 AM
To: 'La Donna Sullivan'
Subject: RE: Repost signage for 515 10th st. Oregon city
Attachments: Pubilc NoticeGLUA25-08VAR-25-02.pdf

Morning, La Donna,

Thanks for your patience - I was out of the office on Friday afternoon.

I made a site visit today and reviewed our posting code to see if the applicant needed to adjust their signs. I checked with Public Works to confirm that the retaining walls are within the right-of-way, and they are. As mentioned in the posting requirements below, signs must be placed on private property and be visible (though not necessarily readable) from the street. They are visible for all three signs (Washington, 10th, and 11th Streets). The applicant is not allowed to place the signs in the right-of-way. I was able to confirm that the applicant has met the posting requirements below. While not required, I will ask the applicant if he could move the sign on 10th Street to the Washington corner for better visibility.

17.50.100 Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

A. City Guidance and the Applicant's Responsibility. The city shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The city shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the city's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner. B. Number and Location. The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

I am also attaching the notice to the email for your reference. Project notices can always be accessed through the city's main website by clicking on the project icon.



**OREGON
CITY**

I WANT TO... YOUR GOVERNMENT DEPARTMENTS DOING BUSINESS OUR C



This variance request is the first stage in a multi-stage review of the rehabilitation of an existing 50-bed residential care center. A future site plan review, a non-conforming review of the adjacent Dr. Mount House, which is to be considered part of the historic hospital, and a historic review for a connecting hallway to Dr. Mount House will be advertised later this summer.

Based on what I've seen so far and in conversations with the applicant, I do not believe they are proposing a residential drug treatment facility. The previous non-conforming use approval was for a 50-person residential care facility, which would need to be re-reviewed to permit that use. I am not aware that the prior care facility provided drug treatment services, and if that request was ever made, it would be part of a new noticed non-conforming review request. Everything the applicant has shared with the city indicates that it will be rehabbed as a 50-unit adult residential care facility.

If you would like to learn more about the project, I encourage you to contact the applicant or their representatives.

Nile Hagen nilehagen@gmail.com or Aaron Clark aaronc@lenityarchitecture.com

Let me know if you have any questions.



Christina Robertson-Gardiner (she/her)
Senior Planner
crobertson@orccity.org
Oregon City Planning Department
695 Warner Parrot Road
Oregon City, Oregon 97045
503-496-1564 Direct
503-722-3789 Main
<https://www.orccity.org/Planning>

PUBLIC RECORDS LAW DISCLOSURE: This e-mail is subject to the State Retention Schedule and may be made available to the public.

From: La Donna Sullivan <ladonnasullivan@yahoo.com>

Sent: Friday, May 23, 2025 6:54 AM

To: Christina Robertson-Gardiner <crobertson@orcity.org>; La Donna Sullivan <ladonnasullivan@yahoo.com>

Subject: Repost signage for 515 10th st. Oregon city

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Christina,

I am requesting reposting (Notice of Hearing signage) on 515 10th st. oregon City, OR 97045. See pic below.

Signage is posted more than 8ft above a large concrete wall and with a set back that makes it impossible for anyone to read. I drove by and took a picture, looking up you can not read the Notice of Hearing signage from any distance on the sidewalk.

I would like the reposting of signage and rescheduling the hearing so that the public has time to read it.

Please respond so I know what has been done to provide information to the public and rescheduling of Notice of Hearing meeting.

Thank you,

La Donna Sullivan

503.314.7105

Ladonnasullivan@yahoo.com



[Sent from Yahoo Mail for iPhone](#)

M C L O U G H L I N



N E I G H B O R H O O D
A S S O C I A T I O N

DATE: May 30, 2025
TO: Christina Robertson-Gardiner, Senior Planner
FROM: McLoughlin Neighborhood Association *WMM*
RE: GLUA-25-00008/VAR-25-00002
Porte Cochere for Oregon City Retirement Center
515 10th Street

MNA has reviewed the submitted materials and offers the following comments:

- We concur with the applicant's justifications for the variance, due to topographic constraints and existing site layout.
- Further, it should be noted that this segment of 10th Street functions more as a drive aisle between the existing building and parking area than a public street, thus the impacts to the public will be minimal.
- MNA looks forward to the revitalization of this historic property.

Thank you for your consideration.



TYPE II LEGAL NON-CONFORMING REVIEW STAFF REPORT AND NOTICE OF DECISION

March 27, 2020

FILE NUMBER: LN 20-00003: Type I Nonconforming Use Review

APPLICANT: Nile Hagen
3650 SE Johnson Creek Boulevard
Milwaukie, OR 97222

PROPERTY OWNER: Arthur Johnson
505 10th Street
Oregon City, OR 97045

REQUEST: The applicant requested the City confirm the legality of a care facility with a 50-person capacity located in the R-3.5 zoning district.

LOCATION: 515 10th Street, Oregon City, OR 97045
Clackamas County Map 2-2E-31AA, Tax Lot 5300

ZONING DESIGNATION: R-3.5 Dwelling District

DECISION: Approval

REVIEWER: Diliانا Vassileva
Assistant Planner

PROCESS: Pursuant to OCMC 17.50.1990, the decision of the Community Development Director is final unless appealed to the City Commission within fourteen (14) days following the mailing of the notice of decision. Only persons or recognized neighborhood associations who commented in writing to the Community Development Director during the open comment period may appeal this limited land use decision. Review by the City Commission shall be on the record, limited to the issues raised in the comments and no new evidence shall be considered. An appeal request must be in writing, demonstrate that the party has standing and explain how the proposal does not meet the applicable criteria. Unless waived, a valid appeal must also include the appropriate appeal fee.

A city-recognized neighborhood association requesting an appeal fee waiver pursuant to OCMC 17.50.290.C must officially approve the request through a vote of its general membership or board at a duly announced meeting prior to the filing of an appeal. The City Commission decision on appeal is the city's final decision and is appealable to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.

The applicant and all documents submitted by or on behalf of the applicant are available for inspection at no cost at the Oregon City Planning Division, 698 Warner Parrott Road, Oregon City, Oregon 97045,

from 8:30am to 3:30pm Monday thru Friday. The staff report, with all the applicable approval criteria, will also be available for inspection 7 days prior to the hearing. Copies of these materials may be obtained for a reasonable cost in advance.

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 722-3789.

I. BACKGROUND:

REQUEST:

The applicant submitted this Legal Non-conforming Review application to confirm the legality of an assisted living facility for up to 50 people located at 515 10th Street, Oregon City.

BACKGROUND:

The subject site is approximately half an acre in size and is developed with the Oregon City Retirement Center, a building which was constructed circa 1930. The building was originally the Oregon City Hospital but was later converted to an assisted living facility.

The applicant has requested a legal non-conforming review to confirm that the assisted living facility for up to 50 residents is a legal nonconforming use. Section 17.04.115 of the Oregon City Municipal Code defines assisted living facilities as:

17.04.115 - Assisted living facility.

"Assisted living facility" means a facility established for profit or nonprofit, which provides nursing care and related medical services on a twenty-four-hour-per-day basis to sixteen or more individuals because of illness, disease, or physical or mental infirmity. Provides care for those persons not in need of hospital care. Patients do not reside in self-contained dwelling units.

Assisted living facilities require a conditional use permit within the R-3.5 District and there are no records indicating that a conditional use permit was obtained, therefore, the applicant has requested a legal non-conforming review to confirm if the care facility is a legal non-conforming use. The applicant must demonstrate that the assisted living facility use was legally established and has not been discontinued for more than one year.

EVIDENCE SUBMITTED:

In order to confirm the legality of the use and structure, the following information was utilized:

- A completed land use application form
- A narrative submitted by the applicant
- Property tax records
- Oregon Department of Human Services assisted living facility license records (1999-2019)
- Phone book records
- State of Oregon Department of Consumer & Business Services, Building Codes Division and Oregon Office of State Fire Marshal inspection records
- Insurance policy records
- Letter from current property owner, Arthur Johnson
- Oregon City business license records
- Oregon City building permit records

1. Permits and Approvals: The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

2. Public Comments

Public comments submitted include (Exhibit 2):

- A comment from the McLoughlin Neighborhood Association indicating that the building's use as a care facility dates back to the 1970's and has not been discontinued, and requesting that the applicant enter into a good neighbor equipment with the neighborhood.

Staff Response: The evidence about the continual use of the facility since the 1970's has been included in this consideration. Though the City cannot require the applicant to establish a good neighbor agreement through the Legal Non-Conforming Review process, the comment has been forwarded to the applicant for his consideration.

- The following comments identified objection to the establishment of a care facility and concerns about the operation and management of the facility, but did not identify any evidence of the legal non-conforming status for consideration or any approval criteria for the Legal Non-Conforming review which have not been met:
 - Comment from Sandra Peterson identifying concerns about the impact an assisted living facility will have on speeding, traffic, and safety in the neighborhood.
 - Comment from Daphne Wuest identifying concerns about management of the facility and requesting that the assisted living facility establish a good neighbor agreement with the neighborhood.
 - Comment from Rachael Schweiger identifying concerns about ownership/management of the facility, parking, and disturbances to the neighborhood from visitors or residents of the facility.
 - Comment from Joshua Faletoi identifying concerns about DHS violations at the facility and objections to reinstating the legal non-conforming use.
 - Comment from Scott Martin and Beverly Powers opposing the assisted living facility use and identifying concerns about residents and visitors disturbing the neighborhood. Following the close of the public comment period, Mr. Martin submitted an additional comment clarifying his position and identifying support for approval of the legal non-conforming review.
 - Comment from Daryl Teagle identifying concerns about management of the facility and neglect of residents of the facility.

Staff Response: Through the Legal Non-Conforming Review, the applicant seeks to confirm that the 50-resident assisted living facility was legally established and has not discontinued for a period of more than one year through the past twenty years, and therefore, the facility has legal non-conforming status and the applicant is allowed to continue the previously-established use. This application is not for the establishment of a new facility. The comments above did not provide information indicating whether or not the use was legally established and has not discontinued for a period of more than one year, and did not identify any criteria for the Legal Non-Conforming Review which have not been met. Though the City does not regulate management and operations of assisted living facilities, the comments submitted have been

forwarded to the applicant for his consideration. Some of the comments received also identified concerns about parking and other disturbances or nuisances related to the facility. These issues are regulated by the Code Enforcement Division and comments have been forwarded to Code Enforcement for appropriate action.

- A comment from Daryl Teagle, Logan Altieri, Josh Faletoi, and David Converse requesting denial of the application, and identifying that the property lost its legal non-conforming status when DHS placed existing residents in other housing in January of 2020. The comment identifies that the legal non-conforming status has lapsed because the prospective property owner was set to close on the property 4-6 months ago but failed to do so. The comment also identifies concerns about management of the facility, safety and compliance with ADA standards, and provides a list of the facility's DHS violations.

Staff Response: Pursuant with OCMC 17.58.030.A, if a lawful nonconforming use is discontinued for a period of one year, it shall lose its lawful nonconforming status and the use of the property thereafter shall conform with the existing provisions of this title. Though the City received notification from DHS that the facility closed in January of 2020 (Exhibit 3), the legal non-conforming status would not have been lost when the facility closed, but rather when the use has been discontinued for a year. Though the City does not regulate management and operations of assisted living facilities, the comments submitted have been forwarded to the applicant for his consideration.

- A comment from the Oregon City School District indicating the school district does not have any comments on the application.

Staff Response: None required.

- A comment from the Oregon Department of Transportation indicating they do not have any comments on the application.

Staff Response: None required.

- A comment from Clackamas River Water District indicating they have no comments on the application.

Staff Response: None required.

II. ANALYSIS AND FINDINGS:

Municipal Code Standards and Requirements: The following sections of the Oregon City Municipal Code are applicable to this land use approval:

Chapter 17.58 - Lawful Nonconforming Uses, Lots, Structures and Sites

Chapter 17.50 - Administration and Procedures

The City Code Book is available on-line at www.oregoncity.org.

Permits and Approvals: The applicant is responsible for obtaining approval and permits from each applicable governmental agency and department at Oregon City including but not limited to the Engineering and Building Divisions.

CHAPTER 17.58 LAWFUL NONCONFORMING USES, LOTS, STRUCTURES, AND SITES

17.58.010 - Purpose.

Nonconforming situations are created when the application of zoning district to a site changes or the zoning regulations change. As part of the change, existing uses, density, or development might no longer be allowed or are further restricted. Nonconforming uses, structures and lots are those uses, structures and lots that were lawfully established but do not conform to the provisions of this title or the provisions of the zoning district in which the use, structure or lot is located. The intent of these provisions is not to force all nonconforming situations immediately to be brought into conformance. Instead, the intent is to guide nonconforming situations in a new direction consistent with city policy, and, eventually, bring them into conformance.

17.58.015 - Applicability.

The regulations of this chapter apply only to those nonconforming situations that were lawfully established or that were approved through a land use decision. All nonconforming structures, uses or lots shall have been maintained over time. These situations have lawful nonconforming status.

Nonconforming situations that were not allowed when established or have not been maintained over time have no lawful right to continue.

Finding: Applicable. The subject site is zoned R-3.5, Medium Density Residential District, where assisted living facilities are not permitted outright and they require a conditional use permit. In order to demonstrate that the 50-resident assisted living facility is a legal non-conforming use, the applicant must submit documentation demonstrating that the use was legally established and that it has not been discontinued for more than one year over the past 20 years.

17.58.020 - Lawful nonconforming lots of record.

Lots or parcels lawfully created but which do not now conform to the legal lot standards in this land use code may be occupied by uses otherwise permitted if those uses comply with all other provisions of this land use code.

Finding: Not Applicable. The applicant has not requested that the City confirm that the lot is a lawful non-conforming lot of record.

17.58.030 - Lawful nonconforming use.

A use that was lawfully established on a particular development site but that no longer complies with the allowed uses or the standards for those uses in this title may be considered a lawful nonconforming use. Change of ownership, tenancy, or management of a lawfully established nonconforming use shall not affect its lawful nonconforming status. The continuation of a lawful nonconforming use is subject to the following:

Finding: Complies as Proposed. The Oregon City Hospital was established circa 1930, and pre-dated zoning in Oregon City. Oregon City building permit records indicate that the conversion from the Oregon City Hospital to the Oregon City Retirement Center occurred in March of 1978. At that time the subject site was zoned R-4 Multi-Family Dwelling District, where assisted living facilities were not permitted. Nevertheless, the building permit for the conversion to an assisted living facility was approved and though no record of any Planning Division review was located, it can be assumed that the Building Division coordinated with the Planning Division prior to issuing the building permit to convert the hospital into an assisted living facility and that Planning approved the issuance of a building permit for the conversion. Though assisted living facilities were not permitted in the R-4 zone at the time of the conversion, it's possible that Planning staff allowed the conversion to an assisted living facility because the assisted living facility use is less intensive than a hospital and would have been more compatible with uses permitted in the R-4 Multi-Family Dwelling District, such as multi-family dwellings. Additionally, the facility has had a business license going back to 1990, which is the earliest year that the

City maintained business license records. Had the use not been established legally, the Planning Division would not have approved a business license. Finally, a public notice was provided for the legal non-conforming review application, and a comment from the McLoughlin Neighborhood Association was received indicating that long term residents of the McLoughlin Neighborhood Association confirm that the use was lawfully established to the best of their knowledge though no record of review from the Planning Division exists. Additional comments from nearby residents were received identifying objections to establishment of an assisted living facility and concerns about management of the facility, however, none of the comments provided evidence identifying that the assisted living facility was not lawfully established.

A. Discontinuance. If a lawful nonconforming use is discontinued for a period of one year, it shall lose its lawful nonconforming status and the use of the property thereafter shall conform with the existing provisions of this title. If a nonconforming use ceases operations, even if the structure or materials related to the use remain, the use shall be deemed to have been discontinued.

Finding: Complies as Proposed. The applicant submitted Oregon Department of Human Services licensing records going back to 1999, demonstrating that the facility has had a continuous DHS license to operate an assisted living facility for 50 residents for the past 20 years. Though there was a lapse in the DHS license records between 2000-2007, City business license records demonstrate that the Oregon City Retirement Center has had a city business license going back to 1990, which is the earliest year that the City maintained business license records. The fact that the facility maintained a business license between 2000 and 2007 demonstrates that assisted living facility use was not discontinued even though the facility appears to have been operating without a DHS license during that time. A public notice was provided for the legal non-conforming review application and a comment from the McLoughlin Neighborhood Association was received indicating that long term residents of the McLoughlin Neighborhood Association confirm that the assisted living facility use dates back to the 1970s and has been continuous. One comment was received identifying that the facility should have lost its legal non-conforming status when DHS closed the facility in January of 2020, however, per this section a legal non-conforming use loses its legal non-conforming status when it has been discontinued for more than one year, not immediately upon ceasing operations. On January 3, 2020, DHS staff notified the City of Oregon City that the agency has officially closed the Oregon City Retirement Center and that all residents have been relocated, therefore, the assisted living facility use must commence operations again prior to January 3, 2021, in order to maintain its legal non-conforming status (Exhibit 3). Additional comments from nearby residents were received identifying objections to the establishment of an assisted living facility use and concerns about management of the facility, however, none of the comments from residents identified that the assisted living facility use has been discontinued for more than one year at any point over the past twenty years.

B. Conformance. If a lawful nonconforming use is converted to a conforming use, no nonconforming use may be resumed.

Finding: Complies as Proposed. There are no city records which indicate that the assisted living facility was ever converted to a conforming use.

C. Destruction of a Non-residential Use. When a structure containing a lawful nonconforming non-residential use is damaged by fire or other causes, the re-establishment of the nonconforming use shall be prohibited if the repair cost of the structure is more than sixty percent of its assessed value.

D. Destruction of a Residential Use. When a structure containing a lawful nonconforming residential use is damaged by fire or other causes, the re-establishment of the nonconforming use shall be permitted.

E. Intentional Destruction. When a structure containing a nonconforming use is removed or intentionally damaged by fire or other causes within the control of the owner, the re-establishment of the nonconforming use shall be prohibited.

Finding: Not Applicable. The structure has not been destroyed either intentionally or unintentionally.

F. Expansion. No lawful nonconforming use may be replaced by a different type of nonconforming use, nor may any legal nonconforming use be expanded or intensified.

Finding: Complies as Proposed. City building inspection records indicate that the second story of the building has not been in use in recent years. The applicant has proposed to renovate the building and utilize the second story of the building to provide additional space for residents. Though the applicant is proposing to utilize the second story of the building again, the applicant has not proposed to increase the number of residents in the facility, only to reconfigure the room layout. The applicant submitted Oregon State Department of Human Services (DHS) licensing records for the facility, demonstrating that the existing license for the facility is for 50 residents. Utilizing existing space that was not previously used does not constitute an expansion of the use because the facility will continue to have no more than 50 residents as allowed by their current DHS license. A public notice was provided and no comments or evidence indicating that the proposal to utilize the second story of the building would be an expansion of a non-conforming use were received.

CHAPTER 17.50 ADMINISTRATION AND PROCEDURES

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

A. Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.

B. The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.

C. A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.

D. If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.

E. To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall

submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.

Finding: Not Applicable. A neighborhood association meeting is not required for a Type II Legal Non-Conforming Review application.

17.50.070 - Completeness review and one hundred twenty-day rule.

C. Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one hundred twenty calendar day time line or unless State law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:

- 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
- 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.*
- 3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.*
- 4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.*

D. A one-hundred day period applies in place of the one-hundred-twenty day period for affordable housing projects where:

- 1. The project includes five or more residential units, including assisted living facilities or group homes;*
- 2. At least 50% of the residential units will be sold or rented to households with incomes equal to or less than 60% of the median family income for Clackamas County or for the state, whichever is greater; and*
- 3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy.*

E. The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.

F. The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.

Finding: Complies as Proposed. This application is being reviewed pursuant to the Type II process. The application was submitted on February 26, 2020, and was deemed complete on March 2, 2020. The City has until June 29, 2020 to issue a decision.

17.50.080 - Complete application—Required information.

Unless stated elsewhere in OCMC 16 or 17, a complete application includes all the materials listed in this subsection. The Community Development Director may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within thirty days of when the application is first submitted, the Community Development Director may require additional information, beyond that listed in this subsection or elsewhere in Titles 12, 14, 15, 16, or 17, such as a traffic study or other report prepared by an appropriate expert. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the City will

not deem the application complete until all information required by the Community Development Director is submitted. At a minimum, the applicant shall submit the following:

A. One copy of a completed application form that includes the following information:

1. An accurate address and tax map and location of all properties that are the subject of the application;
2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s);

B. A complete list of the permit approvals sought by the applicant;

C. A complete and detailed narrative description of the proposed development;

D. A discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met or are not applicable, and any other information indicated by staff at the pre-application conference as being required;

E. One copy of all architectural drawings and site plans shall be submitted for Type II-IV applications. One paper copy of all application materials shall be submitted for Type I applications;

F. For all Type II – IV applications, the following is required:

1. An electronic copy of all materials.

2. Mailing labels or associated fee for notice to all parties entitled under OCMC 17.50.090 to receive mailed notice of the application. The applicant shall use the names and addresses of property owners within the notice area indicated on the most recent property tax rolls;

3. Documentation indicating there are no liens favoring the City on the subject site.

4. A receipt from the county assessor's office indicating that all taxes for the lot or parcels involved are paid in full for the preceding tax year.

5. A current preliminary title report or trio for the subject property(ies);

G. All required application fees;

H. Annexation agreements, traffic or technical studies (if applicable);

I. Additional documentation, as needed and identified by the Community Development Director.

Finding: Complies as Proposed. The applicant submitted all required items and the application was deemed complete on March 2, 2020. The City has until June 29, 2020 to issue a decision.

17.50.090 - Public notices.

All public notices issued by the City announcing applications or public hearings of quasi-judicial or legislative actions, shall comply with the requirements of this section.

Finding: Complies as Proposed. Staff provided notice to property owners within 300 feet of the subject site via mail, the site was posted with multiple land use notice signs, and the development proposal was posted on the Oregon City website. Staff provided email transmittal of the application and notice to affected agencies, the Natural Resource Committee, and to all Neighborhood Associations requesting comment.

17.50.100 - Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

A. City Guidance and the Applicant's Responsibility. The City shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be posted and the earliest date on which they may be removed. The City shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the City's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the applicable decision-making time limit in a timely manner.

B. Number and Location. The applicant shall place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices do not have to be posted adjacent to alleys or unconstructed right-of-way. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice.

Finding: Complies as Proposed. The site was posted with land use notice signs longer than the minimum requirement.

II. CONCLUSION AND DECISION

Based on the analysis and findings as described above, staff concludes that the proposed Type II Legal Non-Conforming Review for the property located at 515 10th Street, identified as Clackamas County Map 2-2E-31AA, Tax Lot 5300, meets the requirements as described in the Oregon City Municipal Code. Therefore, the Community Development Director approves Planning File LN-20-00003 based upon the findings and exhibits contained within this report.

EXHIBITS

1. Applicant's Narrative and Plans (On File)
2. Public Comments (On File)
3. Email from DHS (On File)