

**NOTICE OF TYPE II DECISION**  
**SITE DEVELOPMENT REVIEW (SDR) 2004-00005**  
**ASHBROOK TOWNHOMES**



**120 DAYS = 12/17/2004**

**SECTION I. APPLICATION SUMMARY**

<b>FILE NAME:</b>	<b>ASHBROOK TOWNHOMES</b>	
<b>CASE NOS.:</b>	<b>Site Development Review (SDR)</b>	<b>SDR2004-00005</b>
	Adjustment (VAR)	VAR2004-00045
	Variance (VAR)	VAR2004-00046

**PROPOSAL:** The applicant is requesting Site Development Review approval to construct a 19 lot condominium project on approximately 33,000 square feet. Additionally, an adjustment to reduce the minimum residential density requirement from 24 to 19 units and a variance to reduce the vision clearance requirement while meeting the sight distance requirement is requested. The existing dwelling is to be demolished.

<b>OWNER:</b>	Matrix Development Corp. 12755 SW 69 <sup>th</sup> Ave, Suite 100 Tigard, OR 97223	<b>APPLICANT:</b>	Same
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**LOCATION:** 8995 SW Oak Street; WCTM 1S135AA, Tax Lot 4200

**ZONE:** MUE-1: Mixed Use Employment Districts. The MUE-1 and 2 zoning district is designed to apply to areas where employment uses such as office, research and development and light manufacturing are concentrated. Commercial and retail support uses are allowed but are limited, and residential uses are permitted which are compatible with employment character of the area. Lincoln Center is an example of an area designated MUE-1, the high density mixed use employment district. The Nimbus area is an example of an area designated MUE-2 requiring more moderate densities.

**APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.390, 18.520, 18.630, 18.705, 18.715, 18.720, 18.725, 18.745, 18.755, 18.765, 18.780, 18.790, 18.795 and 18.810.

**SECTION II. DECISION**

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the request for Site Development Review and associated Variance and Adjustment, subject to certain conditions of approval. The findings and conclusions on which the decision is based are noted in Section VII.

## CONDITIONS OF APPROVAL

### THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF SITE PERMITS:

**Submit to the Planning Division (Morgan Tracy, 503-639-4171, ext. 2428) for review and approval:**

1. Prior to site work, the applicant shall provide a revised site plan that indicates the following revisions:
  - A. A 5 foot setback to be maintained between the parking area and SW 90<sup>th</sup> Avenue.
  - B. Additional marking for the parallel parking area to designate the end of the most southerly parallel space (with a painted striped island) and to maintain a clear backing area for the northernmost parking spot.
  - C. Units 1-5 shifted 1 foot toward SW 90<sup>th</sup> Avenue, ensuring that no elements of the building encroach into the right-of-way, to provide a minimum of 17.5 feet of aisle width behind a maximum of 6 units and minimum of 19.5 feet behind the remainder of the units. In no case shall the number of compact parking spaces exceed 16 spaces.
  - D. The location of a two space bike rack located near the northerly parking area. A detail of the bike rack shall also be included to demonstrate compliance with TDC 18.765.050.C.
2. Prior to site work, the applicant shall provide a revised landscape plan that shows:
  - A. Landscaping trees on the site are a minimum of 2½-inch diameter. Also, in the areas in front of the parking lot, additional 3.5 caliper inch sized trees are required.
  - B. 2½-inch diameter street trees, as approved by the City Forester, planted 28 feet on center along SW Oak and SW 90<sup>th</sup>.
3. Prior to ANY site work, a tree protection plan, prepared by a certified arborist shall be submitted to the City Forester for review and approval detailing methods to be used to preserve the fir tree on the south end of the project. This plan shall include protection devices established around the tree's dripline area. After the site has been staked for grading, the applicant's arborist shall determine whether preservation of the tree remains feasible. If it is determined that it is not feasible, the applicant shall consult with City Staff on site for verification. If the tree is determined to be viable with the proposed improvements, efforts shall be taken during construction plan review to maintain trenching and other site disturbances including grading outside the dripline. Allowances to meander sidewalks around the tree shall be considered. The construction plans shall also note that construction within this area shall only occur with a certified arborist present. If City Staff concurs in writing that this tree is not viable, the tree may be removed without penalty.

Failure to abide by this condition will be subject to the penalties established in the Development and Municipal Codes:

Notwithstanding any other provision of this title, any party found to be in violation of the tree removal chapter (including but not limited to removal or damage to trees not approved for removal) shall be subject to a civil penalty of up to \$500 pursuant to Chapter 1.16 of the Tigard Municipal Code and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:

- A. Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060 (D) of the Tigard Development Code; and
- B. Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.

4. Prior to issuance of building permits, the applicant shall submit for review, a copy of the proposed Covenants, Conditions, and Restrictions (CC&R's) for the proposed project. The CC&R's shall address, at a minimum, maintenance schedule and responsibility for the private access area, common spaces, and storm water quality facilities. The CC&R's shall further prohibit the placement of rooftop mechanical equipment or such equipment in the front of any unit. The CC&R's shall additionally restrict the construction of any impediments (such as fences, walls, or gates) between SW 90<sup>th</sup> Avenue and the rear of the units. The CC&R's shall also restrict the outdoor storage of refuse containers, except during trash pick up days.
5. Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.
6. Prior to the issuance of building permits, the applicant shall provide City staff with a plan that demonstrates that the applicant is providing a minimum of 48 square feet of private open space for each unit in compliance with TDC Section 18.360.090(A)(6). This may be accommodated by expanding the deck area on the units.

**Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:**

7. Prior to issuance of a site permit, a Public Facility Improvement (PFI) permit is required for this project to cover the half-street improvements and any other work in the public right-of-way. Six/Eight (6/8) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page ([www.ci.tigard.or.us](http://www.ci.tigard.or.us)).
8. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
9. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase. All construction vehicle parking shall be provided on-site. No construction vehicles or equipment will be permitted to park on the adjoining residential public streets. Construction vehicles include the vehicles of any contractor or subcontractor involved in the construction of site improvements or buildings proposed by this application, and shall include the vehicles of all suppliers and employees associated with the project.
10. Prior to issuance of the site permit, the applicant shall submit a building/unit layout map to Shirley Treat, Engineering Department. The City will then assign unit numbers and the address fee will then be calculated. The fee must be paid by the applicant prior to issuance of the site permit. (STAFF CONTACT: Shirley Treat, Engineering).
11. Additional right-of-way shall be dedicated to the Public along the frontage of Oak Street to increase the right-of-way to 31 feet from the centerline, plus additional right-of-way (ROW) to construct intersection realignment. The description shall be tied to the existing right-of-way centerline. The dedication document shall be on City forms. Instructions are available from the Engineering Department.

12. Additional right-of-way shall be dedicated to the Public along the frontage of 90<sup>th</sup> Avenue to increase the right-of-way to 27 feet from the centerline, plus additional ROW to construct intersection realignment. The description shall be tied to the existing right-of-way centerline. The dedication document shall be on City forms. Instructions are available from the Engineering Department.
13. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of Oak Street. The improvements adjacent to this site shall include:
  - A. City standard pavement section for a Collector street from curb to centerline equal to 17 feet;
  - B. pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
  - C. concrete curb, or curb and gutter as needed;
  - D. storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
  - E. 8 foot concrete sidewalk with a planter strip;
  - F. street trees in the planter strip spaced per TDC requirements;
  - G. street striping;
  - H. streetlight layout by applicant's engineer, to be approved by City Engineer;
  - I. underground utilities;
  - J. street signs (if applicable);
  - K. driveway apron (if applicable); and
  - L. adjustments in vertical and/or horizontal alignment to construct SW Oak Street in a safe manner, as approved by the Engineering Department.
14. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicate that they will construct a half-street improvement along the frontage of 90<sup>th</sup> Avenue. The improvements adjacent to this site shall include:
  - A. City standard pavement section for a local street from curb to centerline equal to 16 feet;
  - B. pavement tapers needed to tie the new improvement back into the existing edge of pavement shall be built beyond the site frontage;
  - C. concrete curb, or curb and gutter as needed;
  - D. storm drainage, including any off-site storm drainage necessary to convey surface and/or subsurface runoff;
  - E. 5 foot concrete sidewalk with a planter strip;
  - F. street trees in the planter strip spaced per TDC requirements;
  - G. street striping;
  - H. streetlight layout by applicant's engineer, to be approved by City Engineer;
  - I. underground utilities;
  - J. street signs (if applicable);
  - K. driveway apron (if applicable); and
  - L. adjustments in vertical and/or horizontal alignment to construct SW 90<sup>th</sup> Avenue in a safe manner, as approved by the Engineering Department.
15. Profiles of Oak Street and 90<sup>th</sup> Avenue shall be required, extending 300 feet either side of the subject site showing the existing grade and proposed future grade.
16. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, which indicates that they will construct a paved alley, 16 feet in width, in the public ROW along the north property line. The paving section shall meet the public street standards for a local residential street. If field conditions do not permit a full width improvement based on topographic and preexisting driveway locations, the pavement section may be reduced, but in no case shall be less than 12 feet.

17. The applicant shall revise the Oak Street half-street improvement plans to extend the public sidewalk to the new south-east property corner (post-ROW dedication).
18. Prior to issuance of the site permit, the applicant shall pay \$379.00 to the City for the striping of the bike lane along the frontage of Oak Street.
19. The applicant shall provide connection of proposed buildings to the public sanitary sewerage system. A connection permit is required to connect to the existing public sanitary sewer system.
20. Prior to construction, the applicant's design engineer shall submit documentation, for review by the City (Kim McMillan), of the revised detention calculations that include the 2-year, 10-year and 25-year storms.
21. The applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection prior to issuance of the City's Public Facility Improvement permit.
22. The applicant shall provide an on-site water quality facility as required by Clean Water Services Design and Construction Standards (adopted by Resolution and Order No. 00-7). Final plans and calculations shall be submitted to the Engineering Department (Kim McMillan) for review and approval prior to issuance of the site permit. In addition, a proposed maintenance plan shall be submitted along with the plans and calculations for review and approval.
23. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition."

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED  
PRIOR TO A FINAL BUILDING INSPECTION:**

**Submit to the Planning Division (Morgan Tracy, 503-639-4171, ext. 2428) for review and approval:**

24. Prior to final building inspection, the applicant shall complete the proposed improvements in substantial conformance with the final approved plans. A member of the planning division shall conduct a walkthrough the site to ensure that this condition is met.

**Submit to the Engineering Department (Kim McMillan, 639-4171, ext. 2642) for review and approval:**

25. Prior to a final building inspection, the applicant shall complete the required public improvements, obtain conditional acceptance from the City, and provide a one-year maintenance assurance for said improvements.
26. Prior to final building inspection, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3 mil mylar, 2) a diskette of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
27. The applicant shall either place the existing overhead utility lines along SW Oak Street or 90<sup>th</sup> Avenue (whichever street power is accessed) underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$35.00 per lineal foot. If the fee option is chosen, the amount will be \$3,500.00 and it shall be paid prior to final building inspection.

28. The applicant's engineer shall provide a post-street construction sight distance certification.
29. To ensure compliance with Clean Water Services design and construction standards, the applicant shall employ the design engineer responsible for the design and specifications of the private water quality facility to perform construction and visual observation of the water quality facility for compliance with the design and specifications. These inspections shall be made at significant stages, and at completion of the construction. Prior to final building inspection, the design engineer shall provide the City of Tigard (Inspection Supervisor) with written confirmation that the water quality facility is in compliance with the design and specifications. Staff Contact: Hap Watkins, Building Division.
30. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer, for the proposed onsite storm water treatment facility.

**THIS APPROVAL SHALL BE VALID FOR EIGHTEEN (18)  
MONTHS FROM THE EFFECTIVE DATE OF THIS DECISION.**

### **SECTION III. BACKGROUND INFORMATION**

#### Site History:

Staff conducted a search of City records for the subject property and found that apart from two code enforcement actions for vegetation in the vision clearance area, and a comprehensive plan and zone change to implement the Washington Square Regional Center no other land use approvals were found for the subject property.

#### Vicinity Information:

The subject site is located on the east side of SW 90<sup>th</sup> north of SW Oak Street, and just south of the new Metzger Elementary School. The area was recently rezoned as part of the Washington Square Regional Center. To the west across SW 90<sup>th</sup> and south across SW Oak Street is similar MUE-1 zoned property. To the north, across the unnamed alleyway is R-4.5 single family zoned property. The only abutting property (to the east) is zoned MUR-1, but is presently occupied by a single family residence.

#### Site Information and Proposal Description:

The proposed site is largely vacant, with one single family house situated in the southern portion of the site. The site is mostly flat. There are two trees on the property that will be in the future right-of-way for SW Oak and SW 90<sup>th</sup>. The current configuration of the intersection will require that the street be realigned to make a safer alignment of the two streets. The applicant is proposing to demolish the house and construct 19 units on the site for sale under condominium ownership. The units will be accessed by a driveway in the rear.

### **SECTION IV. NEIGHBORHOOD COMMENTS**

The Tigard Community Development Code requires that property owners within 500 feet of the subject site be notified of the proposal, and be given an opportunity for written comments and/or oral testimony prior to a decision being made. In addition, staff has posted a notice at the driveway to the site, visible from the street. Staff received several questions from surrounding property owners and citizens regarding the proposed design and site layout. In addition, the City received three letters from citizens.

John Frewing supplied an email commenting that the large fir tree adjacent to SW Oak Street should be retained to preserve the treed character of the neighborhood, and suggested a number of methods that this could be accomplished. These methods include meandering the sidewalk, using permeable pavers, protection of the root zone, and fertilization of impacted roots.

RESPONSE: Staff agrees that efforts to retain the tree should be made, but is also cognizant of the difficulties in doing such when road construction will require excavation to establish the road bed. The code does not establish authority to require certain trees to be retained, and the applicant has proposed to remove this tree. Nevertheless, staff encourages the effort and will require certain steps be taken to promote retention of the tree.

In addition, Dr. Gene and Vivian Davis expressed concern with the existing configuration of the intersection of SW Oak and SW 90<sup>th</sup>. They recommend it be realigned to intersect at a 90 degree angle.

RESPONSE: Staff concurs that the existing situation does not meet standard. The intersection will be realigned and reconstructed so that it meets at an approximate 70 degree angle, in compliance with current code requirements.

Shaunda Davis notes that there was no traffic study required for the project. Ms. Davis also notes that the one point of access on SW 90<sup>th</sup> which is already congested.

RESPONSE: A traffic study is only required when the project is impacting State Highways, will generate high volumes of traffic (more than 500 vehicles per day), or will create or worsen existing hazardous conditions. The 19 unit condo project is not located near any state highways, is expected to add fewer than 190 trips per day; and will be reconfiguring the odd intersection at 90<sup>th</sup> and Oak to conform to accepted engineering standards. SW 90<sup>th</sup> will be widened to accommodate the additional traffic, and on street parking will only be permitted where the roadway pavement is 28 feet wide. No parking will be allowed to block vision clearance at the driveway.

## **SECTION V. DECISION MAKING PROCEDURES, PERMITS AND USE**

### **Use Classification: Section 18.130.020** **Lists the Use Categories.**

The applicant is seeking approval to construct 19-condominium units in 4 buildings. Multi-family style development (3 or more units in one building) is an outright permitted use in the MUE-1 zoning classification.

### **Summary Land Use Permits: Chapter 18.310** **Defines the decision-making type to which the land-use application is assigned.**

The application is subject to Site Development Review for the use, adjustments to reduce the minimum density required in the Washington Square Regional Center area and a variance to reduce the vision clearance requirement. All three applications are subject to administrative review through a Type II review process.

### **Decision Making Procedures: Chapter 18.390** **Describes the decision-making procedures.**

Type II procedures apply to quasi-judicial permits and actions that contain some discretionary criteria. Type II actions are decided by the Director with public notice and an opportunity for a hearing. If any party with standing appeals a Director's Type II decision, the appeal of such decision will be heard by the Tigard Hearings Officer;

## **SECTION VI. SUMMARY OF APPLICABLE REVIEW CRITERIA**

The proposal's consistency with these Code Chapters is reviewed in the following sections:

- A. Zoning Districts
  - 18.520 Commercial Zoning Districts
- B. Applicable Development Code Standards
  - 18.370 Variances and Adjustments
  - 18.630 Washington Square Regional Center
  - 18.705 Access Egress and Circulation
  - 18.715 Density Computations
  - 18.720 Design Compatibility Standards
  - 18.725 Environmental Performance Standards
  - 18.745 Landscaping and Screening
  - 18.755 Mixed Solid Waste and Recyclable Storage
  - 18.765 Off-Street parking and loading requirements
  - 18.790 Tree Removal
  - 18.795 Visual Clearance
- C. Specific SDR Approval Criteria
  - 18.360
- D. Street and Utility Improvement Standards
  - 18.810
- E. Decision Making Procedures
  - 18.390 Impact Study

**SECTION VII. APPLICABLE DEVELOPMENT CODE STANDARDS**

**ZONING DISTRICTS**

**Residential Zoning District: Section 18.520.020**  
**Lists the description of the Commercial Zoning Districts.**

The site is located in the MUE-1 zoning district. The proposed use, condominiums, is outright permitted in the zone. Condominiums are a type of multi-family development, so long as each building contains a minimum of three attached units.

**Development Standards:**  
**Section 18.510.050 States that Development standards in Residential zoning districts are contained in Table 18.510.2 below:**

**TABLE 18.520.2  
 DEVELOPMENT STANDARDS IN COMMERCIAL ZONES**

STANDARD	MUE-1	PROPOSED
Minimum Lot Size - Detached unit - Boarding, lodging, rooming house	None	28,208 Sq. Ft.
Minimum Lot Width	None	~440 ft.
Minimum Setbacks[1] - Front yard - Side facing street on corner & through lots - Side yard - Side or rear yard abutting more restrictive zoning district - Rear yard - Distance between front of garage & property line abutting a public or private street.	0 ft 0 ft 0 ft - 0 ft N/A	4 ft. 50 ft. 50/2 ft. N/A 23 ft. rear loaded
Minimum Building Height	2 stories	3 Stories
Maximum Building Height	200 ft	32 ft
Maximum Site Coverage [2]	85%	78.5%
Minimum Landscape Requirement	15%	21.5%
Minimum FAR [3]	1.25	N/A
Minimum Residential Density	50 units/acre	19*
Maximum Residential Density	None	N/A

[1] Additional setbacks are required when the site abuts a residential zone

[2] Includes all buildings and impervious area

[3] Applies to all non –residential development and mixed use development that includes a residential component.

\*Applicant has requested an adjustment to the minimum density to reduce the number of units from 24 to 19.

Based on the analysis above, the underlying zone's development standards are not met. The applicant has requested an adjustment to reduce the number of units from the required 24 to 19. This is within the permissible 25% reduction through an adjustment. The criteria for which will be further evaluated under 18.630, later in this decision. Since no individual lots will be created in this multi family development, it should be noted that the interior access drive is considered a driveway, and not a private street as defined by the development code. As such, the approaches to the individual units need not be spaced 20 feet from the driveway. The minimum Floor Area Ratio is not applicable to this all-residential development.

FINDING: Based on findings, conditions, and the adjustments that are discussed later in this decision, the development standards in the MUE-1 zone can be satisfied.

## **B. APPLICABLE DEVELOPMENT CODE STANDARDS**

### **Variances and Adjustments (18.370):**

The applicant has requested a variance to the vision clearance requirements of 18.795. Since there are no adjustment provisions for this chapter, a variance is required.

**Variances shall be processed by means of a Type II procedure, as governed by Section 18.390.040, using standards of approval contained below.**

**The Director shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied:**

**a. The proposed variance will not be materially detrimental to the purposes of this title, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;**

The purpose of the vision clearance chapter is to establish standards which will assure proper sight distances at intersections to reduce the hazard from vehicular turning movements.

Interestingly, the requirements extend beyond mere intersections and require that driveways as well as street intersections are provided with vision clearance. Also, this standard was adopted prior to the establishment of AASHTO sight distance requirements of TDC 18.705 which are measured quite differently. AASHTO standards consider, among other things, the travel speed on the road and what traffic controls are in place or proposed. While vision clearance is measured at the edge of the right-of-way, sight distance is measured along the curb line where traffic travels. While the proposed development does not meet the standard application of the 30 foot vision clearance triangle, sight distance requirements are still met. The applicant will be required to provide post construction sight distance certification as a condition of approval. Since sight distances will continue to be met, the purpose of the chapter, and the title are not detrimentally affected. Likewise, no other properties are affected by this request.

**b. There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;**

The lot is unusual in that it has limited depth. The effect of this is that the buildings are forced closer to the street. The maximum front setback in the zone is 20 feet, while the minimum is 0 feet. The applicant has proposed that the buildings are 4 feet from the front lot line. A minimum distance is necessary to accommodate the interior access driveway, and the building footprint. Four feet is as far from the front lot line that the buildings can be placed.

The shape of the lot also is a factor in that the tapered ends prevent the buildings from being pushed (north or south) away from the access drive. While there is some opportunity to shift the buildings to the south by relocating the parking spaces, this could create sight visibility problems at the intersection of SW Oak and SW 90<sup>th</sup>. As this intersection affects a larger general traffic pool, these intersections receive higher preference for maintaining vision clearance.

The site is confined by rights of ways on three sides and two resulting intersections. These circumstances are due to the preexisting configuration of the lot, and the presence of the

surrounding streets, and are not generally applicable to other properties in the MUE-1 zone.

**c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;**

Vision clearance and AASHTO sight distance will be maintained at the adjacent intersections, and sight distance will also continue to be maintained at the driveway apron. The use of the property is not affected by the proposed variance. If the variance is not granted, a significant redesign will be required to accomplish the proposed density, which is already less than the minimum required (via a separate adjustment request).

**d. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms or parks will not be adversely affected any more than would occur if the development were developed as specified in the title; and**

The only system that would be impacted by the proposed variance is traffic. The traffic system would only be impacted if the site design resulted in unsafe access. It should be noted that the site could have been developed with front loaded garages and individual driveways out to SW 90<sup>th</sup> Street. That design would have met vision clearance; however, there would be 19 individual driveways with vehicles backing out into traffic. The proposed site plan reduces the access down to one point with vehicles entering the street in a forward motion. The proposal will affect traffic systems less than if the development were developed as specified in the title.

**e. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.**

The hardship is the result of the lot configuration, size, and orientation to other streets. It is also partly due to the required design parameters of the Washington Square Regional Center standards that encourage building to street presence and require that buildings be oriented toward the street in a pedestrian friendly manner. These are elements outside the applicant's control. The proposed variance is the minimum necessary to alleviate the hardship.

**Adjustments to Density Requirements in the WSRC (18.630)**

**The density requirements shown in Table 18.520.2 are designed to implement the goals and policies of the Comprehensive Plan. These requirements apply throughout the Washington Square Regional Center zoning districts, but the City recognizes that some sites are difficult to develop or redevelop in compliance with these requirements. The adjustment process provides a mechanism by which the minimum density requirements may be reduced by up to twenty-five percent (25%) of the original requirement if the proposed development continues to meet the intended purpose of the requirement and findings are made that all approval criteria are met. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purpose of the code.**

The applicant has proposed to reduce the density from the required 23 units to 19 units (a 17% reduction).

**Adjustment requests will be approved if the review body finds that the applicant has shown that approval criteria a through d below, are met:**

**a. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;**

The regulation in question is the minimum density requirement. The purpose for this regulation is to encourage high density urban style living that will support a variety of uses in the regional center. The applicant's proposal while reducing the number of units, still makes a single family style of living possible, encouraging entry level buyers. The alternative would be a single building or two buildings with multiple apartment units. Parking in this type of scenario would primarily occupy the ground floor, leaving a "dead zone" for activity. As proposed, a small ground floor den faces the street and allows opportunities for home based businesses to establish and grow.

**b. The proposal will be consistent with the desired character of the area;**

The applicant has proposed high quality materials (stone and brick columns, clapboard and stucco siding, trim details) to ensure that the product will represent the desired character of the area.

**c. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone;**

One variance to vision clearance is requested in concert with the requested reduction to density. The cumulative effect of these two “adjustments” is still consistent with the purpose of the zone as previously described.

**d. Any impacts resulting from the adjustment are mitigated to the maximum extent possible.**

The applicant is mitigating the impacts of reducing the density by placing the buildings up against the street. Even though the project will be less dense than the base zone requires by four units, the remaining units are positioned so that there is a strong street presence and the “empty area” of the site is hidden behind the structures. The applicant is proposing the maximum number of units that this particular property can accommodate, considering the site’s size, shape, orientation, and proposed housing type.

FINDING: The criteria for granting the requested variance and adjustment are met. Documentation that sight distance is met following construction is required.

CONDITION: Prior to final occupancy, the applicant shall provide post construction sight distance verification for the intersections of SW 90<sup>th</sup> at Oak Street, the site’s access, and Oakway Alley.

**Washington Square Regional Center Design Standards (18.630)**

**Design standards for public street improvements and for new development and renovation projects have been prepared for the Washington Square Regional Center. These design standards address several important guiding principals adopted for the Washington Square Regional Center, including creating a high-quality mixed use area, providing a convenient pedestrian and bikeway system, and utilizing streetscape to create a high quality image for the area.**

**All new developments, including remodeling and renovation projects resulting in new non single family residential uses are expected to contribute to the character and quality of the area. In addition to meeting the design standards described below and other development standards required by the Development and Building Codes, developments will be required to dedicate and improve public streets, connect to public facilities such as sanitary sewer, water and storm drainage, and participate in funding future transportation and public improvement projects necessary within the Washington Square Regional Center.**

**The following design standards apply to all development located within the Washington Square Regional Center within the MUC, MUE and MUR zones. If a standard found in this section conflicts with another standard in the Development Code, standards in this section shall govern.**

**Phasing of Development Standards: Projects may use the Site Development Review process (Chapter 18.360) to develop a site by phasing compliance with the development standards established in this Chapter. Such projects must demonstrate how future development of the site, to the minimum development standards established in this Chapter or greater, can be achieved at ultimate build out of the site. The Planning Director may waive or modify the approval period (Section 18.360.030.C) and phased development time schedule (Section 18.360.030.E.1) for projects approved under this section. If a time period greater than that specified in Section 18.360.030.C is necessary,**

it must be requested at the time of original application with a detailed time line for completion.

The application is for a single phase.

**Pre-Existing Uses and Developments:**

Chapter 18.630.030 states that notwithstanding the provisions of Section 18.760.040, uses prohibited and structures that would be nonconforming in any of the Regional Center Mixed Use zoning districts that were lawfully in existence at the time of adoption of the Regional Center Mixed Use districts are considered to be approved uses and structures. However, future additions, expansions, or enlargements to such uses or structures, shall be limited to the property area and use lawfully in existence at the time of adoption of this ordinance, February 22, 2002.

All existing structures will be removed from the property, this exemption is not applicable. Therefore, this project is required to meet all the relevant standards of the Washington Square Regional Center Design Criteria.

Section 18.630.040 requires a way for creating continuity and connectivity within the Washington Square Regional Center (WSRC). The primary objective is to create a balanced, connected transportation system that distributes trips within the WSRC on a variety of streets. The connectivity standards may be satisfied by either of two options:

1. Design Option.
  - a. Local street spacing shall provide public street connections at intervals of no more than 530 feet.
  - b. Bike and pedestrian connections on public easements or right-of-way shall be provided at intervals of no more than 330 feet.
2. Performance Option.
  - a. Local street spacing shall occur at intervals of no less than eight street intersections per mile.
  - b. The shortest vehicle trip over public streets from a major building entrance to a collector or greater facility is no more than twice the straight-line distance.
  - c. The shortest pedestrian trip on public right-of-way from a major building entrance to a collector or greater facility is no more than one and one-half the straight-line distance.

The proposal meets the Design Option because the project is located at two intersections. The parcel is approximately 440 feet in width and 65 feet in depth. The streets (SW Oak and SW Oakway) to the north and south are spaced 440 feet apart.

The next street in the east west direction (SW 87<sup>th</sup>) is 1,100 feet away. A future extension of SW Lincoln is planned to be 430 feet to the west, to comply with these requirements, but does not exist yet. Nevertheless, this project could not accommodate a street extension that would comply with code standards. As the parcel is only 65 feet deep (measured east to west), there is inadequate distance to establish a street along SW Oak that would not meet the 200 foot street spacing standards from SW 90<sup>th</sup> Avenue. This standard is satisfied to the extent possible within current code standards, and will additionally be met with the future completion of SW Lincoln Street.

**Section 18.630.050 specifies the site design standards applicable to developments in the Washington Square Regional Center.**

**Building placement on Major and Minor Arterials. Buildings shall occupy a minimum of 50% of all street frontages along major and minor arterial streets. Buildings shall be located at public street intersections on major and minor arterial streets.**

Neither SW 90<sup>th</sup> and SW Oak are classified as arterial streets. This standard is not applicable.

**Building setback. The minimum and maximum building setback from public street rights-of-way shall be in accordance with Table 18.520.2.**

Table 18.520.2 specifies that the minimum setback is 0 feet and the maximum setback is 20 feet along the front yard, and requires that a minimum of 20 feet shall be provided when the site abuts a residential zone. As specified, the buildings are placed 4 feet from the front property line. A porch projection extends another 2 feet into the front yard. There are no residential zones abutting the site.

**Front yard setback design.** For setbacks greater than 0 feet, landscaping, an arcade, or a hard-surfaced expansion of the pedestrian path must be provided between a structure and a public street or accessway. If a building abuts more than one street, the required improvements shall be provided on all streets. Landscaping shall be developed to an L-1 standard on public streets and an L-2 standard on accessways. Hard-surfaced areas shall be constructed with scored concrete or modular paving materials. Benches and other street furnishings are encouraged. These areas shall contribute to the minimum landscaping requirement per Section 18.520.040.B and Table 18.520.2.

Treatments of the type described will be provided between the buildings and SW 90<sup>th</sup> Avenue. No street furnishings have been proposed however; refer to the applicant's landscape plan, Sheet C10.

**Walkway connection to building entrances.** A walkway connection is required between a building's entrance and a public street or accessway. This walkway must be at least six feet wide and be paved with scored concrete or modular paving materials. Building entrances at a corner adjacent to a public street intersection are required. These areas shall contribute to the minimum landscaping requirement per Section 18.520.040.B and Table 18.520.2.

There is a sidewalk along the fronting public street. Six foot wide connections are provided to each unit from this sidewalk. Entrances are provided near the street intersections, but because each unit is provided with its own entry, the type of entrance envisioned by this standard (a primary entrance to a multi-use building) is not practicable. The intersection of SW Oak and 90<sup>th</sup> presents a design challenge due to the preexisting parcel configuration, intersection alignment, and required right-of-way dedication to realign the intersection. As a result, this area is narrow with a long sweeping curve radius, and no hard corner at which to locate a building entrance.

**Parking location and landscape design.** Parking for buildings or phases adjacent to public street rights-of-way must be located to the side or rear of newly constructed buildings. When buildings or phases are adjacent to more than one public street, primary street(s) shall be identified by the City where this requirement applies. In general, streets with higher functional classification will be identified as primary streets unless specific design or access factors favor another street. If located on the side, parking is limited to 50% of the primary street frontage and must be behind a landscaped area constructed to an L-1 landscape standard. The minimum depth of the L-1 landscaped area is five feet or is equal to the building setback, whichever is greater. Interior side and rear yards shall be landscaped to a L-2 landscape standard, except where a side yard abuts a public street, where it shall be landscaped to an L-1 landscape standard.

The primary street for this project is SW 90<sup>th</sup>. The units are all oriented toward this street, and will be addressed from this street. Parking is located inside, behind and to the side of the proposed units. The area occupied by parking is 40 feet of 440 feet, or 9%. There is a small corner of the parking area that due to the tapered nature of the lot, is shown closer than 5 feet from the property line. The applicant will be required to maintain a 5 foot setback between the parking and SW 90<sup>th</sup> Avenue. Additionally trees within the L-1 landscaped areas are required to be 3.5 inches in size. The applicants' plans are deficient in terms of meeting the required L-1 landscape standard as they are only proposing Pacific Wax Myrtle. This will need to be supplemented by additional 3.5 caliper inch sized trees planted 28 feet on center.

**Section 18.630.060** specifies the building design standards to control the vertical elements of new development within the Washington Square Regional Center.

**Ground floor windows.** All street-facing elevations within the Building Setback (0 to 10 feet) along public streets shall include a minimum of 50% of the ground floor wall area

with windows, display areas or doorway openings. The ground floor wall area shall be measured from three feet above grade to nine feet above grade the entire width of the street-facing elevation. The ground floor window requirement shall be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50% of the ground floor window requirement may be met on an adjoining elevation as long as the entire requirement is located at a building corner.

The applicants' elevations include a window and entry door for each unit. The total unit width is 16 feet, and the window and door are 9 feet in width (56%). Alone or in combination the standard will be met for each unit and/or building. Refer to Sheets A1 and A2. This satisfies the standard.

**Building facades.** Facades that face a public street shall extend no more than 50 feet without providing at least one of the following features: (1) a variation in building materials; (2) a building off-set of at least 1-foot; (3) a wall area that is entirely separated from other wall areas by a projection, such as an arcade; or (4) by another design features that reflect the building's structural system. No building facade shall extend for more than 300 feet without a pedestrian connection between or through the building.

There are four buildings proposed, each is longer than 50 feet. The applicant has proposed that the units will be faced with a combination of horizontal lap siding, shingles, and stucco type treatments. Trim boards are also used to distinguish the units from one another. Offsets of 1'6" are provided on various units, refer to Sheets A1-A4. None of the buildings exceeds 300 feet in length, and pedestrian connections have been provided for between the buildings. This standard is satisfied.

**Weather protection.** Weather protection for pedestrians, such as awnings, canopies, and arcades, shall be provided at building entrances. Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.

Each unit is provided with a porch over the front door. This standard is met.

**Building Materials.** Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board or vinyl siding may not be used as exterior finish materials. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than 2 feet.

The buildings will be faced with brick, stone, stucco, lap siding, and shingles. This is in compliance with this standard.

**Roofs and roof lines.** Except in the case of a building entrance feature, roofs shall be designed as an extension of the primary materials used for the building and should respect the building's structural system and architectural style. False fronts and false roofs are not permitted.

The proposed building expansion will utilize a gable and hip roof system. No false roofs will be utilized.

**Roof-mounted equipment.** All roof-mounted equipment must be screened from view from adjacent public streets. Satellite dishes and other communication equipment must be set back or positioned on a roof so that exposure from adjacent public streets is minimized. Solar heating panels are exempt from this standard.

The applicant has not indicated any mechanical equipment. However, based on previous issues relating to the provision of HVAC equipment after the approval process, staff assumes that HVAC equipment will be included, even though it has not been shown. There does not appear to be any opportunities on the ground for these units, and since the roofs will be pitched, it doesn't appear that the roofs can accommodate this equipment either. To address any subsequent need to place equipment (as may be determined through the building permit review process), such equipment shall not be allowed on the roof or within the front yard of any

unit.

**Section 18.630.070 specifies additional requirements as related to signs. In general for commercial developments in the MUC zone, the requirements for signs in commercial zones as described in 18.780 shall be used. Height limits for freestanding signs shall be 10 feet. Wall signs are not permitted to extend above the roofline of the wall on which the sign is located. No height increases will be permitted.**

The applicant is proposing one new freestanding sign at the intersection of SW 90<sup>th</sup> and SW Oak. Details specific to the sign are absent, so any sign will require application through a separate permit process. Therefore, this standard has been satisfied.

**Section 18.630.090 describes the landscaping and screening requirements applicable within the Washington Square Regional Center. For general landscaping of landscaped and screened areas within parking lots and along local collectors and local streets, planting standards of Chapter 18.745 Landscaping and Screening, shall apply. In addition the L-1 standard applies to setbacks on major and minor arterials, and where parking lots abut public streets. Where the setback is a minimum of 5 feet between the parking lot and a street, trees shall be planted at 3½ inch caliper, at a maximum of 28 feet on center. Shrubs shall be of a variety that will provide a 3-foot high screen and a 90% opacity within one year. Groundcover plants must fully cover the remainder of landscape area within two years. For general landscaping of landscaped and screened areas within parking lots, and along local collectors and local streets, planting standards of Chapter 18.745, Landscaping and Screening, shall apply. In addition, trees shall be provided at a minimum 2½ inch caliper, at a maximum spacing of 28 feet. Shrubs shall be of a size and quality to achieve the required landscaping or screening effect within two years.**

The landscaping requirements will be addressed under Chapter 18.745. However, since the applicant has specified 2 inch caliper trees, the applicant will be conditioned to ensure that parking lot and street trees along the private street are a minimum of 2½-inch diameter. Also, as noted previously, the applicants' plans are deficient in terms of meeting the required L-1 landscape standard as they are only proposing Pacific Wax Myrtle. This will need to be supplemented by additional 3.5 caliper inch sized trees planted 28 feet on center.

**FINDING:** The Washington Square Regional Center Design Standards have not been met.

**CONDITIONS:**

- ◆ Prior to site work, the applicant shall provide a revised site plan that maintains a 5 foot setback between the parking and SW 90<sup>th</sup> Avenue.
- ◆ Prior to site work, the applicant shall provide a revised landscape plan that specifies parking lot and street trees along the street are a minimum of 2½-inch diameter. Also, in the areas in front of the parking lot additional 3.5 caliper inch sized trees planted 28 feet on center are required.
- ◆ Prior to issuance of building permits, the applicant's plans shall reflect that no mechanical equipment is placed on the roof or within the front yard of any unit.

**The Site development Review approval standards require that a development proposal be found to be consistent with the various standards of the Community Development Code. The applicable criteria in this case are Chapters 18.360, 18.390, 18.520, 18.705, 18.745, 18.755, 18.765, 18.775, 18.780, 18.790, 18.795, and 18.810. The proposal's consistency with these Code Chapters is reviewed in the following sections.**

**Access, Egress and Circulation (18.705):**

**Required walkway location.** On-site pedestrian walkways shall comply with the following standards:

1. Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

This is neither a commercial, institutional, nor industrial use; therefore this standard is not applicable.

2. Within all attached housing (except two-family dwellings) and multi-family developments, each residential dwelling shall be connected by walkway to the vehicular parking area, and common open space and recreation facilities;

Each residential dwelling is connected by a walkway to the public sidewalk out front. The sidewalk has walkways that also lead to the parking area.

3. Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;

The walkways only cross the driveway at the access entry, which measures 24 feet and will be constructed of concrete to contrast with the pavement. All walkways are a minimum of 5 feet in width.

4. Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

The proposed walkway will be concrete, and will be lit by street lights and wall mounted luminaries.

FINDING: The walkway requirements are satisfied.

**Minimum access requirements for residential use: Section 18.705.030H.**

Vehicular access and egress for single-family, duplex or attached single-family dwelling units on individual lots and multi-family residential uses shall not be less than as provided in Table 18.705.1 and Table 18.705.2.

**TABLE 18.705.2  
VEHICULAR ACCESS/EGRESS REQUIREMENTS:  
RESIDENTIAL USE (MULTI-FAMILY)**

Dwelling Units/Lots	Minimum Number of Driveways Required	Minimum Access Width	Minimum Pavement Width
3-19	1	30 feet	24 feet Curbs and 5 foot sidewalk required

The applicant has proposed a single driveway access that meets this standard.

**FINDING:** As proposed, the application complies with the minimum access requirements for serving 19 units.

**Vehicular access to multi-family structures shall be brought to within 50 feet of the ground floor entrance or the ground floor landing of a stairway, ramp, or elevator leading to the dwelling units.**

Vehicle access is brought directly to each unit as each unit is served by a garage. This criterion is satisfied.

**Private residential access drives shall be provided and maintained in accordance with the provisions of the Uniform Fire Code.**

The individual homeowners will maintain the access drive once the property is developed and sold. The Tualatin Valley Fire and Rescue district has reviewed the proposal and the comments have been incorporated where necessary. This criterion is satisfied.

**Access drives in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus by one of the following:**

- ♦ **A circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet;**
- ♦ **A hammerhead-configured, paved surface with each leg of the hammerhead having a minimum depth of 40 feet and a minimum width of 20 feet;**
- ♦ **The maximum cross slope of a required turnaround is 5%.**

The fire department has commented that so long as there are no impediments to accessing the rear of the units from SW 90<sup>th</sup>, such as fences or walls, that the fire department would not utilize the access driveway for fire suppression. Likewise, garbage will be brought to the front curb along SW 90<sup>th</sup>. The small parking area at the end of the drive can be used for other vehicles that need to turn around if necessary.

The access drive to the north of the access entry is only 130 feet in length.

**Vehicle turnouts, (providing a minimum total driveway width of 24 feet for a distance of at least 30 feet), may be required so as to reduce the need for excessive vehicular backing motions in situations where two vehicles traveling in opposite directions meet on driveways in excess of 200 feet in length.**

The vehicular access drive provides ample opportunity for two vehicles to pass, given the low traffic volumes anticipated. No turnouts are required.

**Where permitted, minimum width for driveway approaches to arterials or collector streets shall be no less than 20 feet so as to avoid traffic turning from the street having to wait for traffic exiting the site.**

There are no driveway approaches proposed to any arterials or collector streets. SW 90<sup>th</sup> is considered a local street in the Washington Square Regional Center. This criterion is satisfied.

**Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.**

The applicant's narrative indicates that there is adequate sight distance and stacking available at the proposed driveway. The applicant's engineer shall provide final sight distance certification after street improvements have been completed.

Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.

The proposed driveway is approximately 300 feet north of the intersection, thereby meeting this criterion.

Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.

There are no proposed driveways along Oak Street, the collector street. The only driveway is on SW 90<sup>th</sup> which is classified as a local street, thereby meeting this criterion.

FINDING: The access requirements will be met with the following condition:

CONDITION: Prior to final occupancy of any unit, the applicant shall provide final sight distance certification after street improvements have been completed.

### **Density Computations (18.715)**

#### **Density Calculation: 18.715.020**

#### **Definition of net development area.**

Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:

- ◆ All sensitive land areas: a. Land within the 100-year floodplain; b. Land or slopes exceeding 25%; c. Drainage ways; and d. Wetlands.
- ◆ All land dedicated to the public for park purposes;
- ◆ All land dedicated for public rights-of-way. When actual information is not available, the following formulas may be used: Single-family development: allocate 20% of gross acreage; Multi-family development: allocate 15% of gross acreage.
- ◆ All land proposed for private streets; and
- ◆ A lot of at least the size required by the applicable base zoning district, if an existing dwelling is to remain on the site.

#### **Calculating maximum number of residential units.**

To calculate the maximum number of residential units per net acre, divide the number of square feet in the net acres by the minimum number of square feet required for each lot in the applicable zoning district.

This zone is peculiar in that it has no specific maximum residential density. Therefore this standard is not applicable.

#### **Calculating minimum number of residential units.**

As required by Section 18.510.040, the minimum number of residential units per net acre shall be calculated by multiplying the maximum number of units determined in Subsection B above by 80% (0.8).

The minimum required density is determined not by the above formula, since there is no set maximum density. The minimum density is prescribed by the development standards in the MUE-1 Zone, in this case 50 units to the acre. To establish the number of minimum units for a particular parcel, first the net developable area is established:

Gross lot area	32,680 square feet
ROW/Street dedication	4,472 square feet
Private access drive	7,912 square feet
Sensitive Lands	0 square feet
<b>NET DEVELOPABLE AREA</b>	<b>20,296 square feet or 0.47 acres</b>

Then this number is multiplied times 50 (0.47x50) to reach 23.5 units, which is then rounded down to the next full number of 23 units.

**FINDING:** The applicant has proposed 19 units, which is below the minimum required. However, the applicant has requested an adjustment that was previously addressed in this decision. By the affirmative finding in that adjustment, this criterion is met.

**The units per acre calculated by subtracting sensitive lands from the gross acres may be transferred to the remaining buildable land areas subject to the following limitations:**

**The number of units which can be transferred is limited to the number of units which would have been allowed on 25 percent of the unbuildable area if not for these regulations**

No transfers are proposed. These criteria are not applicable.

**Design Compatibility Standards (18.720):**

**These provisions apply to all multi-family and attached single-family residential projects in zoning districts R-4.5 through R-40 that abut property zoned for single-family residential development.**

The subject site does not abut any property zoned for single family development.

**Environmental Performance Standards (18.725):**

**These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 Performance Standards regulates: Noise, visible emissions, vibration and odors.**

**Noise:**

**For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.**

**Visible Emissions:**

**Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point- source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.**

**Vibration:**

**No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.**

**Odors:**

**The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.**

**Glare and heat:**

No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

**Insects and rodents:**

All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

This is an attached multi-family project, which is an outright permitted use within the MUE-1 Zone. There is no indication within the application that these standards will not be met. However, ongoing efforts to meet these standards shall be maintained and any violation of these standards will be addressed by the City of Tigard's Code Enforcement Officer.

FINDING: The Environmental Performance standards are met.

**Landscaping and Screening (18.745):**

**Street Trees:**

Section 18.745.040 states that all development projects fronting on a public street or a private drive more than 100 feet in length shall be required to plant street trees in accordance with Section 18.745.040.C Section 18.745.040.C requires that street trees be spaced between 20 and 40 feet apart depending on the size classification of the tree at maturity (small, medium or large).

The applicant has provided a street tree plan consisting of Japanese Snowbells (2" caliper in size). The Washington Square Regional Center standards require these trees to be minimum 2.5" caliper. Proposed street trees shall be as approved by the City Forester at the proper spacing along SW Oak and SW 90<sup>th</sup>. This standard is not satisfied.

**Buffering and Screening:**

Section 18.745.080 states that no buffer is required between abutting uses that are of a different type when the uses are separated by a street. No buffer is required between a proposed multi-family use and an existing multi-family use. Buffering and/or screening are required for dissimilar uses.

The only property that directly abuts the subject site lies to the east. Rights of way surround the other three sides of the project. The property to the east has a single family house located on the northern portion of the property with a long pan-handle (vacated railroad right-of-way) that runs out to SW Oak.

The buffer required between multi family and detached single units is a buffer level "C". The applicant has not requested any variance to this requirement, and therefore must provide between 6-10 feet of area, with screening as specified in the buffer matrix. The applicant's plans reflect this, using a combination of walls, fences, and shrubs to vary the width of the buffer area, refer to Sheet C10. This criterion is satisfied.

**Screening:**

**Special Provisions:**

Section 18.745.050.E requires the screening of parking and loading areas. Landscaped parking areas shall include special design features which effectively screen the parking lot areas from view. Planting materials to be installed should achieve a relative balance between low lying and vertical shrubbery and trees. Trees shall be planted in landscaped islands in all parking areas, and shall be equally distributed on the basis of one (1) tree for each seven (7) parking spaces in order to provide a canopy effect. The minimum dimension on the landscape islands shall be three (3) feet wide and the landscaping shall be protected from vehicular damage by some form of wheel guard or curb.

The landscape plan provided by the applicant indicates screening between the adjacent residential use, and the parking areas will be landscaped with a mixture of ground cover, low lying shrubs, and trees. Therefore, this criterion is satisfied.

**Screening Of Service Facilities.**

**Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight feet in height. All refuse materials shall be contained within the screened area;**

The applicant does not show the location of any service facilities especially air conditioning units, so compliance with this standard cannot be verified at this time. This is addressed in a previous condition, and as such this standard is satisfied.

**Screening Of Refuse Containers.**

**Except for one- and two-family dwellings, any refuse container or refuse collection area which would be visible from a public street, parking lot, residential or commercial area, or any public facility such as a school or park shall be screened or enclosed from view by placement of a solid wood fence, masonry wall or evergreen hedge. All refuse shall be contained within the screened area.**

The applicant's narrative indicates that the development will be served by individual trash bins characteristic of the trash bins utilized in single-family residences. Individual trash bins are typically stored on the site and only visible from the street on collection days. To ensure that his standard is satisfied, a condition will be imposed that restricts trash bins from being outside except on pickup days.

**FINDING:** Based on the analysis above, the landscaping and screening standards have not been fully met. If the applicant complies with the conditions listed below, the standards will be met.

**CONDITION:**

- ◆ Prior to commencing site work, the applicant shall revise the landscape/street improvement plans to show street trees as approved by the City Forester at the proper spacing and sizing along SW Oak and SW 90<sup>th</sup>.
- ◆ Prior to issuing building permits, the applicant shall execute CC&R's that restrict the outdoor storage of refuse containers, except during trash pick up days.

**Mixed Solid Waste and Recyclables Storage (18.755):**

**Chapter 18.755 requires that new construction incorporates functional and adequate space for on-site storage and efficient collection of mixed solid waste and source separated Recyclables prior to pick-up and removal by haulers.**

**The applicant must choose one (1) of the following four (4) methods to demonstrate compliance: Minimum Standard, Waste Assessment, Comprehensive Recycling Plan, or Franchised Hauler Review and Sign-Off. The applicant will have to submit evidence or a plan which indicates compliance with this section. Regardless of which method chosen, the applicant will have to submit a written sign-off from the franchise hauler regarding the facility location and compatibility.**

The applicant has indicated that the homes will be served by individual garbage bins typical of a single-family residence and has included a waste hauler sign off with the application. This standard is satisfied.

**FINDING:** The solid waste standards will be met.

**Off-Street Parking and Loading (18.765):**

**This Chapter is applicable for development projects when there is new construction, expansion of existing use, or change of use in accordance with Section 18.765.070 Minimum and Maximum Off-Street Parking Requirements.**

The proposed project will create 19 condominiums. Condominiums are treated as multi-family development and the minimum parking standards are based on the number of bedrooms in individual units. The required parking is addressed later in this discussion.

**Location of vehicle parking:**

**Off-street parking spaces for single-family and duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwellings. Off-street parking lots for uses not listed above shall be located not further than 200 feet from the building or use that they are required to serve, measured in a straight line from the building with the following exceptions: a) commercial and industrial uses which require more than 40 parking spaces may provide for the spaces in excess of the required first 40 spaces up to a distance of 300 feet from the primary site;**

Each unit will be provided with a single car garage. No parking spaces are further than 200 feet from the units. This criterion is satisfied.

**Visitor Parking in Multi-Family Residential Developments:**

**Multi-dwelling units with more than 10 required parking spaces shall provide an additional 15% of vehicle parking spaces above the minimum required for the use of guests of residents of the complex. These spaces shall be centrally located or distributed throughout the development. Required bicycle parking facilities shall also be centrally located within or evenly distributed throughout the development.**

As discussed later in this section, the applicant is required to provide 28.5 spaces. An additional 15% (4.28 spaces) equals 32.78, or 33 spaces. A total of 33 spaces are shown on the site plan. This criterion is satisfied.

**Disabled-Accessible Parking:**

**All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the State of Oregon Uniform Building Code and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.**

The applicant is required to provide 33 parking spaces. Under Oregon Revised Statutes (ORS 447.233 and 447.210) parking is required only for affected buildings. These multifamily units do not qualify as affected buildings, and therefore no ADA handicap spaces are required. This standard is satisfied.

**Access Drives:**

**With regard to access to public streets from off-street parking: access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site; the number and size of access drives shall be in accordance with the requirements of Chapter, 18.705, Access, Egress and Circulation; access drives shall be clearly and permanently marked and defined through use of rails, fences, walls or other barriers or markers on frontage not occupied by service drives; access drives shall have a minimum vision clearance in accordance with Chapter 18.795, Visual Clearance; access drives shall be improved with an asphalt or concrete surface; and excluding single-family and duplex residences, except as provided by Subsection 18.810.030.P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.**

The access drive, has been designed to facilitate traffic flow, is identifiable, and paved. Vision clearance was modified by the previous variance approval, earlier in this decision. A service drive is proposed to eliminate backing movements within the street.

**Pedestrian Access:**

**Pedestrian access through parking lots shall be provided in accordance with Section 18.705.030.F. Where a parking area or other vehicle area has a drop-off grade separation, the property owner shall install a wall, railing, or other barrier which will prevent a slow-moving vehicle or driverless vehicle from escaping such area and which will prevent pedestrians from walking over drop-off edges.**

All parking areas have pedestrian access by way of the interior sidewalk system that in turn connects with the public sidewalk at the street. This criterion is satisfied.

**Parking Lot Striping:**

**Except for single-family and duplex residences, any area intended to be used to meet the off-street parking requirements as contained in this Chapter shall have all parking spaces clearly marked; and all interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.**

The plans submitted show the parking spaces will be clearly marked with striping. Additional marking for the parallel parking is required to designate the end of the most southerly parallel space (with a painted striped island) and to maintain a clear backing area for the northernmost parking spot. With the imposition of a condition, this criterion can be satisfied.

**Wheel Stops:**

**Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.**

The applicant is providing curbs on all of the parking stalls in the accessory parking areas. Parallel stalls will not impact landscape areas or sidewalks. This criterion is satisfied.

**Space and Aisle Dimensions:**

**Section 18.765.040.N states that: “except as modified for angled parking in Figures 18.765.1 and 18.765.2 the minimum dimensions for parking spaces are: 8.5 feet x 18.5 feet for a standard space and 7.5 feet x 16.5 feet for a compact space”; aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width. No more than 50% of the required spaces may be compact spaces.**

The applicant’s plans and narrative indicate that of the 33 total spaces, all spaces in the garages and four outside spaces are standard sized spaces. The remaining 10 outside spaces are compact. Ten of 33 spaces is 30% of the total.

Of much greater concern are the dimensional requirements for aisle widths. As the units are oriented at a 90 degree angle to the access aisle, the following dimensions per Table 18.765.1 apply:

	<b>Standard</b>	<b>Compact</b>
<b>Parking stall width</b>	10	8
<b>Parking stall depth</b>	18.5	16.5
<b>Aisle width</b>	24	24

By utilizing a three foot overhang projection to the east, and with the garages being 20 feet deep (19’6” with a 6” garage door wall) the total depth provided (at the most narrow point in the project) is 40 feet. The total minimum distance required is 40.5 feet for compact spaces, and 42.5 feet for standard spaces. This criterion is not satisfied. By shifting the building one foot towards the street, units 1-3 will meet the standard for compact spaces, and the remainder of the units will meet the standard size space requirements. By designating these three units for compact spaces, there will be 13 compact spaces. Since the project may utilize up to 16 compact spaces to remain below the 50% compact/50% standard space standard, this criterion is met.

**Bicycle Parking Location and Access:**

Section 18.765.050 states bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures; bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways; outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to locate the parking area; and bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.

The site plan and narrative do not indicate any exterior bicycle parking spaces. According to Table 18.765.2 of the Tigard Development Code, the minimum bicycle parking requirement for a multi-family use is 1 space for every two units. Therefore, the proposal is required to provide 10 bicycle parking spaces. Considering the premise that each unit possesses a garage, it is not likely that the owners will be parking their bikes in racks. The applicant has indicated that the garages will serve to house the residents' bicycles. However, no accommodations for guest bicycle parking are provided. Using the premise that guest vehicle parking should account for 15% of the required parking, 15% of 10 bike spaces is 2 guest bike rack spaces. This standard is not satisfied.

**Bicycle Parking Design Requirements:**

Section 18.765.050.C. The following design requirements apply to the installation of bicycle racks: The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required; bicycle racks must be securely anchored to the ground, wall or other structure; bicycle parking spaces shall be at least 2½ feet by six feet long, and, when covered, with a vertical clearance of seven feet. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking; each required bicycle parking space must be accessible without moving another bicycle; required bicycle parking spaces may not be rented or leased except where required motor vehicle parking is rented or leased. At-cost or deposit fees for bicycle parking are exempt from this requirement; and areas set aside for required bicycle parking must be clearly reserved for bicycle parking only. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete or similar material. This surface must be designed to remain well drained.

The applicant has not provided a detail of the bike rack to be used; therefore, Staff is unable to confirm that this standard is met.

**Minimum Bicycle Parking Requirements:**

The total number of required bicycle parking spaces for each use is specified in Table 18.765.2 in Section 18.765.070.H. In no case shall there be less than two bicycle parking spaces.

As discussed above, according to Table 18.765.2 of the Tigard Development Code, the minimum bicycle-parking requirement for a multi-family use is 1 space for every two units. The applicant is providing a garage with each unit. Staff recommends that an additional two space bike rack be provided preferably near the north end of the project. This standard is not satisfied.

**Minimum Off-Street Parking:**

Section 18.765.070.H states that the minimum and maximum parking shall be as required in Table 18.765.2.

Table 18.765.2 states that the minimum parking for multi-family uses is 1.25 spaces for every one bedroom dwelling unit, 1.5 spaces for every two bedroom dwelling unit, and 1.75 spaces for every three bedroom dwelling unit. The proposal calls for 19 two-bedroom units.

Type of Unit	Space per Unit	Number of Units	Total Parking Req'd
2 Bedroom	1.50	19	28.5 spaces
Guest Parking	15% of Total		4.3 spaces
			<b>32.8 =&gt; 33 Spaces</b>

In addition, multi-family uses are required to provide an additional 15% for visitor parking (an additional 4.28 spaces) for a grand total of 33 spaces. The applicant has indicated in the narrative that 19 spaces will be provided in garages. The plan shows an additional 14 spaces around the periphery of the site.

Therefore, the applicant has met the minimum parking requirement.

**FINDING:** Based on the analysis above, the off-street parking and loading standards have not been fully satisfied, however, if the applicant complies with the conditions listed below, the standards may be met.

**CONDITIONS:**

- ◆ Prior to site work the applicant shall submit revised site plans that indicates additional marking for the parallel parking area to designate the end of the most southerly parallel space (with a painted striped island) and to maintain a clear backing area for the northernmost parking spot.
- ◆ Prior to site work the applicant shall submit revised site plans that show units 1-5 shifted 1 foot toward SW 90th Avenue, ensuring that no elements of the building encroach into the right-of-way, to provide a minimum of 17.5 feet of aisle width behind a maximum of 6 units and minimum of 19.5 feet behind the remainder of the units. In no case shall the number of compact parking spaces exceed 16 spaces.
- ◆ Prior to site work the applicant shall submit revised site plans that indicate the location of a two space bike rack located near the northerly parking area. A detail of the bike rack shall also be included to demonstrate compliance with TDC 18.765.050.C.

**Signs (18.780):**

**According to the requirements established by the WSRC Standards (18.630.070), Residential only developments within the MUC, MUE and MUR zones shall meet the sign requirements for the R-40 zone, Section 18.780.130.B**

No specific sign detail was included in conjunction with this development. The applicant may apply for sign permits to erect entry signs as authorized in Section 18.780.130(B). Any future signage will be subject to the sign permit requirements in Chapter 18.780. There has been a proliferation of sign violations from new developments. In accordance with a policy adopted by the Director's Designee, all new residential developments must enter into a sign compliance agreement to facilitate a more expeditious court process for citations.

**FINDING:** To expedite enforcement of sign violations, a sign compliance agreement will be required.

**CONDITION:** Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.

**Tree Removal (18.790):**

**Section 18.790.030 requires that a tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided with a site development review application. The tree plan shall include identification of all existing trees, identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper, which trees are to be removed, protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**

The applicant has provided an inventory of the trees on the property. There is a 14 inch spruce and a 20 inch fir on the site. Both trees are proposed to be removed; however, it appears that the 20" fir could be retained in the planter strip with some additional construction measures taken to ensure its viability. Since the applicant has proposed removing this tree, the City cannot penalize the applicant if it is later determined that this tree cannot be saved. No mitigation is required since both trees fall in the expanded public right-of-way area. However, since the tree could be a focal point in the right-of-way improvements, the applicant shall consult with the City Forester during the preparation of construction documents to establish protective measures, and coordinate with the Forester during construction to ensure the tree is protected adequately. The City Forester may deem the tree unviable or hazardous during the project, and with authorization this tree may be removed.

FINDING: There are opportunities to preserve a tree on the site.

CONDITIONS:

- ◆ Prior to ANY site work, a tree protection plan, prepared by a certified arborist shall be submitted to the City Forester for review and approval detailing methods to be used to preserve the fir tree on the south end of the project. This plan shall include protection devices established around the tree's dripline area. After the site has been staked for grading, the applicant's arborist shall determine whether preservation of the tree remains feasible. If it is determined that it is not feasible, the applicant shall consult with City Staff on site for verification. If the tree is determined to be viable with the proposed improvements, efforts shall be taken during construction plan review to maintain trenching and other site disturbances including grading outside the dripline. Allowances to meander sidewalks around the tree shall be considered. The construction plans shall also note that construction within this area shall only occur with a certified arborist present. If City Staff concurs in writing that this tree is not viable, the tree may be removed without penalty.

- ◆ Failure to abide by the previous condition will be subject to the penalties established in the Development and Municipal Codes:

Notwithstanding any other provision of this title, any party found to be in violation of the tree removal chapter (including but not limited to removal or damage to trees not approved for removal) shall be subject to a civil penalty of up to \$500 pursuant to Chapter 1.16 of the Tigard Municipal Code and shall be required to remedy any damage caused by the violation. Such remediation shall include, but not be limited to, the following:

1. Replacement of unlawfully removed or damaged trees in accordance with Section 18.790.060 (D) of the Tigard Development Code; and
2. Payment of an additional civil penalty representing the estimated value of any unlawfully removed or damaged tree, as determined using the most current International Society of Arboriculture's Guide for Plant Appraisal.

**Visual Clearance Areas (18.795):**

**Chapter 18.795 requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height (8) (trees may be placed within this area provided that all branches below eight (8) feet are removed). A visual clearance area is the triangular area formed by measuring a 30-foot distance along the street right-of-way and the driveway, and then connecting these two (2), 30-foot distance points with a straight line.**

Clear vision areas will be maintained at the street intersections. The applicant has requested a variance to reduce the width of the vision clearance triangle at the site access. Based on findings previously discussed and conditions imposed, this variance is granted. Therefore the vision clearance requirements are met to the extent that they have been modified in this decision.

FINDING: Based on the analysis above, the vision clearance standards have been met.

### **C. SPECIFIC SITE DEVELOPMENT REVIEW APPROVAL STANDARDS**

**Section 18.360.090(A)(2) through 18.360.090(A)(15) provides additional Site Development Review approval standards not necessarily covered by the provisions of the previously listed sections. These additional standards are addressed below :**

**Compliance with all of the applicable requirements of this title including Chapter 18.810, Street and Utility Standards;**

Those titles of the Tigard Development Code (TDC) have been addressed elsewhere in this decision where applicable. Chapter 18.810 is discussed later in this chapter. Compliance with the chapters has been demonstrated, or conditions have been imposed on the development to ensure compliance where applicable.

**Relationship to the natural and physical environment:**

**Buildings shall be located to preserve existing trees, topography and natural drainage where possible based upon existing site conditions; located in areas not subject to ground slumping or sliding; located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire-fighting; and Oriented with consideration for sun and wind.**

There are no trees on the developable portion of the property. Conditions have been imposed to encourage retention of a tree in the right-of-way. The other tree will be removed as it will be located in the future roadway pavement. The units have been broken into four and five unit blocks to provide adequate light, air circulation, and firefighting opportunities. The buildings are oriented in the only manner the site would allow, given its long narrow shape. A southeast exposure will provide sun exposure. This criterion is satisfied.

**Trees shall be preserved to the extent possible. Replacement of trees is subject to the requirements of Chapter 18.790, Tree Removal.**

Tree preservation has been addressed previously in this decision. This criterion has already been addressed.

**Exterior elevations:**

**Along the vertical face of single-family attached and multiple-family structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following recesses, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet; Extensions, e.g., decks, patios, entrances, floor area, of a minimum depth of eight feet, a maximum length of an overhang shall be 25 feet; and Offsets or breaks in roof elevations of three or more feet in height.**

The applicant has indicated in the narrative that offsets will occur at between each unit (approximately every 16 feet) with the use of overhangs, porches, and variations in the roof pitch. This standard is satisfied.

**Buffering, screening and compatibility between adjoining uses:**

**Buffering shall be provided between different types of land uses, for example, between single-family and multiple-family residential, and residential and commercial uses, and the following factors shall be considered in determining the adequacy of the type and extent of the buffer: On site screening from view from adjoining properties of such things as service areas, storage areas, parking lots, and mechanical devices on roof tops, i.e., air cooling and heating systems, shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:**

Buffering and screening has been addressed elsewhere in this decision. The discussion related to buffering and screening can be viewed under the analysis in Chapter 18.745. The site is additionally buffered by the presence of rights of way on three sides. This standard is satisfied.

**Privacy and noise: multi-family or group living uses:**

**Structures which include residential dwelling units shall provide private outdoor areas for each ground floor unit which is screened from view by adjoining units as provided in Subsection 6.a below;**

**The buildings shall be oriented in a manner which protects private spaces on adjoining properties from view and noise; On-site uses which create noise, light, or glare shall be buffered from adjoining residential uses; and buffers shall be placed on the site as necessary to mitigate noise, light or glare from off-site sources.**

The applicant is providing a buffer and privacy fencing to ensure that the adjoining properties will be protected from views and noises that are nuisances and the standards relating to those nuisances can be enforced through code compliance pursuant to TDC Chapter 18.725 Environmental Standards.

**Private outdoor area: multi-family use:**

**Private open space such as a patio or balcony shall be provided and shall be designed for the exclusive use of individual units and shall be at least 48 square feet in size with a minimum width dimension of four feet; and balconies used for entrances or exits shall not be considered as open space except where such exits or entrances are for the sole use of the unit; and required open space may include roofed or enclosed structures such as a recreation center or covered picnic area. Wherever possible, private outdoor open spaces should be oriented toward the sun; and private outdoor spaces shall be screened or designed to provide privacy for the users of the space.**

The plans include decks on the rear of each unit, the dimensions of such are 3'x8'6". This does not satisfy the minimum width or square footage requirement. The applicant will need to expand the deck to a width of at least 5'9" in order to meet the square footage requirement, and also meet the width dimension. This standard is not satisfied.

**Shared outdoor recreation areas: multi-family use:**

**In addition to the requirements of the subsections above, usable outdoor recreation space shall be provided in residential developments for the shared or common use of all the residents in the following amounts: Studio up to and including two-bedroom units, 200 square feet per unit; and Three or more bedroom units, 300 square feet per unit. The required recreation space may be provided as follows: It may be all outdoor space; or It may be part outdoor space and part indoor space; for example, an outdoor tennis court, and indoor recreation room; or It may be all public or common space; or It may be part common space and part private; for example, it could be an outdoor tennis court, indoor recreation room and balconies on each unit; and where balconies are added to units, the balconies shall not be less than 48 square feet. Shared outdoor recreation space shall be readily observable to promote crime prevention and safety; and where landfill and/or development is allowed within and adjacent to the 100-year floodplain, the City shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/ bicycle plan.**

A portion of the site's eastern edge will be provided with additional landscaping and left as open space. A total of 3,800 square feet is required. Subtracting the 48 square feet that is required for each balcony unit, 2,888 square feet of additional open area is required. 6,048 square feet of landscaped area is provided. This standard is met.

**Demarcation of public, semi-public and private spaces for crime prevention:**

The structures and site improvements shall be designed so that public areas such as streets or public gathering places, semi-public areas and private outdoor areas are clearly defined to establish persons having a right to be in the space, to provide for crime prevention and to establish maintenance responsibility; and these areas may be defined by, but not limited to: A deck, patio, low wall, hedge, or draping vine; A trellis or arbor; A change in elevation or grade; A change in the texture of the path material; Sign; or landscaping.

Apart from the public sidewalk along the front of the units, there are no public areas provided. Private outdoor areas are limited to upstairs decks. Semi public areas constitute the remainder of the site. For fire suppression requirements, no obstructions between SW 90<sup>th</sup> and the rear of the units are permitted. Nevertheless, the provision of landscaping and the fence and wall screening demarcate the semi public space. This standard is satisfied.

**Crime prevention and safety:**

Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants; Interior laundry and service areas shall be located in a way that they can be observed by others; Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic; The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person.

The applicant has indicated in the narrative that they intend to meet these standards. Each unit will have its own private laundry area, mailboxes will be along the private drive or located out on the public street, and a lighting plan has been provided to ensure that the site is clearly visible during nighttime. This standard is met.

**Public transit:**

Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to or within 500 feet of existing or proposed transit route; The requirements for transit facilities shall be based on: The location of other transit facilities in the area; and the size and type of the proposal.

Neither SW 90<sup>th</sup> nor SW Oak are transit routes and the nearest bus line is on SW Hall Boulevard, approximately a ¼ mile away. This standard is not applicable.

**Landscaping:**

All landscaping shall be designed in accordance with the requirements set forth in Chapter 18.745;

Landscaping and the applicable landscaping standards have been addressed previously in this decision. This standard is satisfied.

**Drainage:**

All drainage plans shall be designed in accordance with the criteria in the adopted 1981 master drainage plan;

Discussion relating to compliance with drainage standards has been addressed in the following discussion of streets and utilities. This standard is satisfied.

**Provision for the disabled: All facilities for the disabled shall be designed in accordance with the requirements set forth in ORS Chapter 447; and**

As noted previously, these buildings are not considered "affected buildings" that are subject to ADA requirements. Thus these requirements do not apply.

**All of the provisions and regulations of the underlying zone shall apply unless modified by other sections or this title, e.g., Planned Developments, Chapter 18.350; or a variance or adjustment granted under Chapter 18.370.**

These items have been discussed elsewhere in this decision. Where the standards have been found to be deficient, conditions have been imposed on the development to ensure compliance. Adjustments to minimum density and vision clearance were reviewed elsewhere in this decision. This standard is satisfied.

**FINDING:** The application has demonstrated compliance with all applicable Site Development Review Criteria with the exception of the requirement for private outdoor open space. Other conditions have been imposed elsewhere in this decision with regard to individual approval criteria of all applicable chapters of the Tigard Development Code.

**CONDITION:** Prior to the issuance of building permits, the applicant shall provide City staff with a plan that demonstrates that the applicant is providing a minimum of 48 square feet of private open space for each unit in compliance with TDC Section 18.360.090(A)(6).

**E. IMPACT STUDY (18.390)**

**Section 18.360.090 states, "The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions or denying an application:"**

**Section 18.390.040 states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standard, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.**

**In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. Section 18.390.040 states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.**

The applicant has provided an impact study addressing the project's impacts on public systems. The Washington County Traffic Impact Fee (TIF) is a mitigation measure that is required at the time of development. Based on a transportation impact study prepared by Mr. David Larson for the A-Boy Expansion/Dolan II/Resolution 95-61, TIF's are expected to recapture 32 percent of the traffic impact of new development on the Collector and Arterial Street system. The applicant will be required to pay TIF's of approximately \$29,859.

Based on the estimate that total TIF fees cover 32 percent of the impact on major street improvements citywide, a fee that would cover 100 percent of this projects traffic impact is \$93,309 (\$29,859 divided by .32)

The difference between the TIF paid, and the full impact, is considered the unmitigated impact on the street system. In this case the value of the unmitigated impact is \$63,450.

The applicant will be dedicating about 4,472 square feet of right-of-way, and will also be required to construct ½ street improvements. In addition payment in-lieu of constructing bike lanes is also required. The value of these exactions is:

Right-of-way dedications, 4,427 s.f. @ 3.00 per s.f.=	\$13,416.
½ Street Improvement, 550 l.f. @ 20.00 per l.f. =	\$11,000.
Alley Pavement,	\$1,500
Bike Lane Fee =	\$379
<b>TOTAL</b>	<b>\$26,295</b>

FINDING: Since the value of the exactions is less than the value of the remaining unmitigated impact, these exactions are proportionate and justified.

**Street And Utility Improvements Standards (Section 18.810):**

**Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:**

**Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.**

**Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.**

**Minimum Rights-of-Way and Street Widths:**

**Section 18.810.030.E requires an arterial street to have a 100-foot right-of-way width and a -foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.**

This site lies adjacent to SW Oak Street, which is classified as a Collector on the City of Tigard Transportation Plan Map. At present, there is approximately 40 feet of ROW, according to the most recent tax assessor's map. The applicant should dedicate additional ROW to provide 31 feet from centerline. The site also lies adjacent to SW 90<sup>th</sup> Avenue, which is classified as a Local street on the City's TSP. At present, there is approximately 40 feet of ROW. The applicant should dedicate additional ROW to provide 27 feet from centerline. Additional ROW shall be dedicated to provide for the realignment of the intersection. The north side of the property is adjacent to an alley, located within public ROW approximately 16 feet wide. No additional ROW dedication is required.

SW Oak Street and SW 90<sup>th</sup> Avenue are currently partially improved. In order to mitigate the impact from this development, the applicant should construct half-street improvements along both frontages per Tigard's TSP. The applicant shall also construct improvements to realign the intersection. The public alley must be paved, 16 feet wide, for the length of the property frontage. Based on the available right-of-way width, it may not be possible to pave to this full width. A determination of the final paving width will be made at time of PFI submittal, but in no case shall be less than 12 feet wide.

**Future Street Plan and Extension of Streets:**

**Section 18.810.030.F states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.**

There are no opportunities for additional street connections around this site. The site is surrounded on three sides by existing rights of way. Due to the existing street system and adjacent development patterns, there is no possibility of providing future connectivity to adjacent properties.

**Street Alignment and Connections:**

**Section 18.810.030.H.1 states that full street connections with spacing of no more than**

530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.

Section 18.810.030.H.2 states that all local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

There are no public street connections needed through this site due to existing development surrounding the site and topography.

**Cul-de-sacs:**

18.810.030.I states that a cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

- ◆ All cul-de-sacs shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
- ◆ The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- ◆ If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.

Does not apply.

**Grades and Curves:**

Section 18.810.030.N states that grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet). Centerline radii of curves shall be as determined by the City Engineer.

The proposed grades do not exceed 6%, thereby meeting this criterion.

**Access to Arterials and Major Collectors:**

Section 18.810.030.Q states that where a development abuts or is traversed by an existing or proposed arterial or major collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

- ◆ A parallel access street along the arterial or major collector;
- ◆ Lots of suitable depth abutting the arterial or major collector to provide adequate buffering with frontage along another street;
- ◆ Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial or major collector; or
- ◆ Other treatment suitable to meet the objectives of this subsection;
- ◆ If a lot has access to two streets with different classifications, primary access should be from the lower classification street.

The applicant has indicated that the only access to this development is from SW 90<sup>th</sup> Avenue, which is classified as a local street. The proposed location for access meets this criterion.

**Private Streets:**

**Section 18.810.030.T** states that design standards for private streets shall be established by the City Engineer. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.

Since this project is a condominium development, the entire internal access network is classified as a private driveway to be privately maintained by the condominium owners. State statutes set out specific regulations as to how ownership and maintenance of common areas is established. The internal access system will be reviewed and inspected by the Building Division as a part of the Site Permit.

**Block Designs:**

**Section 18.810.040.A** states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

**Block Sizes:**

**Section 18.810.040.B.1** states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ◆ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ◆ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ◆ For non-residential blocks in which internal public circulation provides equivalent access.

No streets are being created by this development. This standard is satisfied.

**Section 18.810.040.B.2** also states that bicycle and pedestrian connections on public easements or right-of-ways shall be provided when full street connection is not possible. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

There are no opportunities to connect a bicycle or pedestrian connection to surrounding streets as the adjoining parcels are presently developed and do not provide for any such extension.

**Lots - Size and Shape:**

**Section 18.810.060(A)** prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

The parcel is pre-existing, and the applicant is not proposing to create any new parcels. This standard is satisfied.

**Lot Frontage:**

**Section 18.810.060(B)** requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

The parcel is pre-existing and has over 461 feet of frontage onto SW 90<sup>th</sup>.

**Sidewalks:**

**Section 18.810.070.A** requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets.

The applicant has proposed constructing a sidewalk that meets the Washington Square Regional Center design standards. The sidewalk along Oak Street shall be extended east to the new property corner (post-dedication of ROW).

**Sanitary Sewers:**

**Sewers Required:** Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

**Over-sizing:**

Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

There is an 8-inch sewer in 90<sup>th</sup> Avenue and another 8-inch line located in the 16-foot public alley. The applicant's plans indicate they will extend the sewer line in 90<sup>th</sup> Avenue to the north, approximately 185 feet. Units 1-15 will be provided with individual laterals to the public main line. Units 16-19 will have separate laterals connecting to the public line located in the alley.

**Storm Drainage:**

**General Provisions:** Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

**Accommodation of Upstream Drainage:**

Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

There are no upstream drainage areas impacting this development.

**Effect on Downstream Drainage:**

Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

The applicant has indicated that detention will be provided on-site by installing an 18-inch underground pipe with a flow control manhole. The applicant's engineer shall submit revised detention calculations that include detention for the 2-year, 10-year and 25-year storms. These calculations shall be submitted with their PFI application.

**Bikeways and Pedestrian Pathways:**

**Bikeway Extension:** Section 18.810.110.A states that developments adjoining proposed

bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

Oak Street is classified as a bicycle facility.

**Cost of Construction:**

**Section 18.810.110.B states that development permits issued for planned unit developments, conditional use permits, subdivisions, and other developments which will principally benefit from such bikeways shall be conditioned to include the cost or construction of bikeway improvements.**

It would not be practical to require the developer to strip the bike lane at this time. However, it would be appropriate for the developer to contribute funds to the City to cover the cost of the bike lane striping.

The amount of the striping would be as follows:

• 40 feet of 8-inch white stripe, at \$2.50/lf	\$100.00
• 1 Mono-directional reflective markers @ \$4.00/ea	\$4.00
• 1 Bike lane legends @ \$175/ea	\$175.00
• 1 Directional mini-arrows @ \$100/ea	\$100.00
	<u>\$379.00</u>

**Utilities:**

**Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:**

- ◆ **The developer shall make all necessary arrangements with the serving utility to provide the underground services;**
- ◆ **The City reserves the right to approve location of all surface mounted facilities;**
- ◆ **All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and**
- ◆ **Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.**

**Exception to Under-Grounding Requirement:**

**Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.**

There are existing overhead utility lines along the frontage of SW Oak Street and SW 90<sup>th</sup> Avenue. If the fee in-lieu is proposed, it is equal to \$35.00 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is approximately 100 lineal feet; therefore the fee would be \$3,500.00.

**ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:**

**Public Water System:**

Tualatin Valley Water District provides service in this area. There are existing 6-inch and 16-inch lines located in 90<sup>th</sup> Avenue. The applicant is proposing to connect to the 6-inch line with individual taps for each unit. The plans also show a 6-inch connection for a new fire hydrant. TVWD will have to review and approve the applicant's proposed water line plans.

**Storm Water Quality:**

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

Prior to construction, the applicant shall submit plans and calculations for a water quality facility that will meet the intent of the CWS Design Standards. In addition, the applicant shall submit a maintenance plan for the facility that must be reviewed and approved by the City prior to construction.

The proposed unit from Stormwater Management is acceptable, provided the property owner agrees to hire the manufacturer (or approved equal) to provide the required maintenance of the unit. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer.

**Grading and Erosion Control:**

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

The Building Division, as a part of the site permit review, will review the grading/erosion control plan. An NPDES permit is not required, as the development will not disturb more than one acre.

**Site Permit Required:**

The applicant is required to obtain a Site Permit from the Building Division to cover all on-site private utility installations (water, sewer, storm, etc.) and driveway construction. This permit shall be obtained prior to approval of the final plat.

**Address Assignments:**

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard and within the Urban Service Boundary (USB). An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the City prior to issuance of the site permit.

For multi-tenant buildings, one address number is assigned to the building and then all tenant spaces are given suite numbers. The City is responsible for assigning the main address and suite numbers. This information is needed so that building permits for tenant improvements can be adequately tracked in the City's permit tracking system. Based upon the information provided by the applicant, this building will be a multi-tenant building. Prior to issuance of the site permit, the applicant shall provide a suite layout map so suite numbers can be assigned. The addressing fee will then be calculated based upon the number of suites that must be addressed. In multi-level structures, ground level suites shall have numbers preceded by a "1", second level suites shall have numbers preceded by a "2", etc.

**Fire and Life Safety:**

The TVFR letter, dated September 23, 2004 indicates that the site will not conform to UFC requirements, if access from SW 90<sup>th</sup> to the rear of the units is impeded. The applicant's plans show no fences, walls, or other structures that would prevent access, and have proposed walkways between the buildings. A condition will be imposed that restricts the placement of any impediments between SW 90<sup>th</sup> and the rear of the units.

**SECTION VIII. OTHER STAFF COMMENTS**

**The City of Tigard Long Range Planning Division** was notified of the proposal but offered no comments at this time.

**The City of Tigard Building Division** has reviewed the proposal and has no objections.

**The City of Tigard Public Works Department** has reviewed the proposal and has offered comments that have been incorporated into this decision.

**The City of Tigard Police Department** has reviewed the proposal and has no objections to it.

**The City of Tigard Water Department** has reviewed the proposal and has offered comments that have been incorporated into this decision.

**The City of Tigard Forester** has reviewed the proposal and has offered the following comments:

**1. LANDSCAPING AND SCREENING**

**18.745.030.C, Installation Requirements** The installation of all landscaping shall be as follows:

- 1. All landscaping shall be installed according to accepted planting procedures.**
- 2. The plant material shall be of high grade, and shall meet the size and grading standards of the American Standards for Nurberg Stock (ANSI Z-60, 1-1986, and any other future revisions); and**
- 3. Landscaping shall be installed in accordance with the provisions of this title.**

- ◆ The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10<sup>th</sup> edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.

- ◆ In order to develop tree species diversity onsite it is recommended that the following guidelines be followed:

- **No more than 30% of any one family be planted onsite.**
- **No more than 20% of any one genus be planted onsite.**
- **No more than 10% of any one species be planted onsite.**

**18.745.030.E, Protection of Existing Landscaping.** Existing vegetation on a site shall be protected as much as possible:

1. The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and
2. The plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around the individual trees).

See comments under "Tree Removal".

**18.745.030.G, Conditions of Approval of Existing Vegetation.** The review procedures and standards for required landscaping and screening shall be specified in the conditions of approval during development review and in no instance shall be less than that required for conventional development.

See recommended conditions of approval at the end of this memorandum.

### **18.745.040, Street Trees**

**A. Protection of existing vegetation.** All development projects fronting on a public street, private street or a private driveway more than 100 feet in length approved after the adoption of this title shall be required to plant street trees in accordance with the standards in Section 18.745.040.C.

- ◆ The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10<sup>th</sup> edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.
- ◆ In order to develop tree species diversity onsite it is recommended that the following guidelines be followed:
  - No more than 30% of any one family be planted onsite.
  - No more than 20% of any one genus be planted onsite.
  - No more than 10% of any one species be planted onsite.

## **2. TREE REMOVAL**

### **18.790.030, Tree Plan Requirement**

**A. Tree plan required.** A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.

**B. Plan requirements.** The tree plan shall include the following:

1. Identification of the location, size and species of all existing trees including trees designated as significant by the city;
2. Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:

- a. **Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;**
  - b. **Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
  - c. **Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
  - d. **Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.**
- 3. Identification of all trees which are proposed to be removed;**
- 4. A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.**
- ◆ As required, the applicant submitted a tree plan that was conducted by Walt Knapp. The plan contains four out of the four required components of a tree plan, and, is therefore, acceptable.
  - ◆ It is difficult to determine if any construction will occur within the trees' driplines. If construction does occur within the driplines, the Project Arborist must explain or set guidelines for how the tree roots will be protected.

Below are my suggestions for the applicant to follow for tree protection guidelines:

- ◆ Any tree that is located on property adjacent to the construction project that will have more than 15% of its root system disturbed by construction activities shall also be protected. These trees should be identified, and a plan on how to protect the trees' critical root zones should be completed.
- ◆ A note shall be placed on the final set of plans indicating that equipment, vehicles, machinery, grading, dumping, storage, burial of debris, or any other construction-related activities shall not be located inside of any tree protection zone or outside of the limits of disturbance where other trees are being protected.
- ◆ All tree protection devices shall be:
  - Visible.
  - Constructed of 11 Gauge steel chain-link fencing supported on at least 2" O.D. steel posts. Each post shall be no less than four feet high from the top of grade. Each post shall be driven into the ground to a depth of no less than two and a half feet below grade. Each post shall be spaced no further apart than four feet.
  - Between each post, securely attached to the chain-link fencing, shall be a sign indicating that the area behind the fencing is protected and no construction activity, including material storage, may occur behind the fencing.
  - Inspected and approved in the field by the project arborist and City Forester prior to clearing, grading, or the beginning of construction.
  - Remain in place and maintained until all construction is completed and a final inspection is conducted.
- ◆ To determine the size of the tree protection zone (TPZ) the project arborist should follow the guidelines listed below:
  - For individual trees follow the trunk diameter method. For every one-inch of diameter at breast height (DBH), or 4 ½ feet above the ground, allow 12 inches of space from the trunk of the tree. For example, a tree that is 15" at DBH must have at least 15' of tree protection zone around the entire canopy of the tree.

- For groups of trees the tree protection zone must be outside of the drip line of the trees on the edge of the stand. If there are conifers with narrow crowns on the edge of the stand follow the trunk diameter method or the drip line method, whichever is greater.
  - Calculate and follow the Optimal Tree Protection Zone calculation as shown in *"Trees and Development: A Technical Guide to Preservation of Trees During Land Development"* by Nelda Matheny and James R. Clark.
  - The project arborist may propose an alternate method for the establishment of the TPZ, provided the effort is coordinated with the City Forester.
- ◆ If it is necessary to enter the tree protection zone at any time with equipment (trucks, bulldozers, etc.) the project arborist and City Forester must be notified before any entry occurs. Before entering the TPZ, the project arborist and City Forester shall determine the method by which entry can occur, along with any additional tree protection measures.
  - ◆ Prior to issuance of building permits, the Project Arborist shall submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.

**RECOMMENDED CONDITIONS OF APPROVAL:**

1. The applicant shall submit a final Tree Protection Plan that shows exactly how far the tree protection fencing will be from the face of each protected tree (including those on neighboring properties where construction occurs within the trees' driplines) that will be impacted by construction activities within its dripline. The applicant, through their Project Arborist, shall justify the close proximity of the construction activities to the trees. He shall certify that the activities will not adversely impact the overall and long-term health and stability of each tree. Any construction that occurs within the neighboring trees' driplines should be justified by the applicant and approved by the City Forester and neighboring property owner(s). Work may proceed within the driplines only with the approval of the City Forester.
2. The Project Arborist shall submit written reports to the City Forester, at least, once every two weeks, as he monitors the construction activities and progress. These reports should include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall and long-term health and stability of the tree(s). If the reports are not submitted or received by the City Forester at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan is not being followed by the contractor, the City can stop work on the project until an inspection can be done by the City Forester and the Project Arborist. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated.
3. Prior to issuance of building permits the Project Arborist shall submit to the City Forester a final report describing how the Tree Protection Plan was implemented and detailing any failures to comply with the Tree Protection Plan. The report shall also describe the health of all remaining trees on the site, with details provided as to any tree that has had its root system disturbed or that has otherwise been damaged.

If you have any questions please call me anytime. Thank you for requesting my comments on this project.

## **SECTION IX. AGENCY COMMENTS**

**The Tualatin Valley Fire and Rescue** has reviewed the proposal and endorses this proposal predicated on the following criteria and conditions of approval:

Thank you for the opportunity to review the proposed site plan surrounding the above named development project. Tualatin Valley Fire & Rescue endorses this proposal predicated on the following criteria and conditions of approval:

- 1) Access roads shall be within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet. (UFC Sec. 902.2.1)

***The project as submitted does not meet this requirement. If all of the buildings will have direct access to SW 90<sup>th</sup> Avenue, with no fences, retaining walls or other impediments, an on-site turnaround will not be required.***

- 2) When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access may be modified as approved. If the applicant wishes to use the fire sprinkler exception, the applicant is required to make a formal request. (UFC Sec. 902.2.1 Exception 1)
- 3) Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (15 feet for one or two dwelling units and out buildings), and an unobstructed vertical clearance of not less than 13 feet 6 inches. (UFC Sec. 902.2.2.1)
- 4) Fire apparatus access roads shall be of an all-weather surface that is easily distinguishable from the surrounding area and is capable of supporting not less than 12,500 pounds point load (wheel load) and 50,000 pounds live load (gross vehicle weight). You may need to provide documentation from a registered engineer that the design will be capable of supporting such loading. Documentation from a registered engineer that the finished construction is in accordance with the approved plans or the requirements of the Fire Code may be requested. (Design criteria on back) (UFC Sec. 902.2.2)
- 5) The inside turning radius and outside turning radius shall be not less than 25 feet and 45 feet respectively, measured from the same center point. (UFC Sec. 902.2.2.3) – (See diagrams on back)
- 6) Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, “No Parking” signs shall be installed on one or both sides of the roadway and in turnarounds as needed. (UFC Sec. 902.2.4) Signs shall read “NO PARKING - FIRE LANE - TOW AWAY ZONE, ORS 98.810 - 98.812” and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have black or red letters and border on a white background. (UFC Sec. 901.4.5.1)

***If access is not available directly off S.W. 90<sup>th</sup> Ave., and the private drive is intended for fire apparatus access, it shall be posted as a fire lane and parking will not be allowed.***

- 7) The required fire flow for the building shall not exceed 3,000 gallons per minute (GPM) or the available GPM in the water delivery system at 20 psi, whichever is less. A worksheet for calculating the required fire flow is available from the Fire Marshal's Office. (UFC Sec. 903.3)

***The required fire flow for this project is 2328 gpm @ 20 psi. Fire flow data shall be provided that verifies the available fire flow prior to obtaining building permits. This requirement will be waived if fire sprinklers are installed.***

- 8) No portion of the exterior of a commercial building shall be located more than 250 feet from a fire hydrant when measured in an approved manner around the outside of the building and along an approved fire apparatus access roadway. Any hydrants that are left over from the minimum number of hydrant calculations may be full filled by hydrants that are up to 500 feet from any point of the building. The fire Prevention Ordinance has further requirements that need to be used for acceptance and placement of fire hydrants. (UFC Sec. 903.4.2.1)

***The submitted plans do not meet this requirement. The applicant will be required to install an additional hydrant along the project frontage to comply with this standard.***

- 9) The minimum number of fire hydrants for a building shall be based on the required fire flow prior to giving credit for fire protection systems divided by 1500. If the answer is equal to or greater than x.5 the next whole number of hydrants shall be used. There shall not be less than 2 hydrants per building. (UFC Sec. 903.4.2.1)

Considerations for placing fire hydrants shall be as follows:

- Existing hydrants in the area may be used to meet the required number of hydrants; however, hydrants that are over 500 feet away from the nearest point of the subject building shall not contribute to the required number of hydrants.
- Hydrants that are separated from the subject building by railroad tracks shall not contribute to the required number of hydrants.
- Hydrants that are separated from the subject building by divided highway, freeway, or heavily traveled collector streets shall not contribute to the required number of hydrants.
- Hydrants that are accessible only by a bridge shall be acceptable to contribute to the required number of hydrants only if approved by the Chief.
- Private hydrants or public hydrants that are on adjacent private property shall not contribute to the required number of hydrants for the subject building.

Exception: The use of hydrants located on other private property may be considered if their locations and access are encumbered in a legal document (such as deed restriction) by the owners of the involved parcels of property. The encumbrance may be lifted only after approvals by the Chief on behalf of the fire department and any other governmental agencies that may require approval.

- When evaluating the placement of hydrants at apartment or industrial complexes the first hydrant(s) to be placed shall be at the primary access and any secondary access to the site. After these hydrants have been placed other hydrants shall be sited to meet the above requirements for spacing and minimum number of hydrants. (UFC Sec. 903.4.2.1.1)
- 10) Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway. (UFC Sec. 903.4.2.4)
- 11) Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the centerline of the access road way that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly. (UFC Sec. 901.4.3)
- 12) Approved fire apparatus access roadways and fire fighting water supplies shall be installed and operational prior to any other construction on the site or subdivision. (UFC Sec. 8704)

**Tualatin Valley Water District** has reviewed the proposal and notes that 3 sets of final plans are required for permit review and approval. They also note that the water services (meter boxes) must be located out of driveway and sidewalk.

**QWEST** has reviewed the proposal and notes that the site is outside their service territory.

**Tri-Met** has reviewed the proposal and has no comments.

**Washington County** has reviewed the proposal and has no comments.

**Clean Water Services** has reviewed the proposal and notes that the final design shall be in accord with CWS R&O04-09 and the Erosion Prevention and Sediment Control Planning and Design Manual.

**PGE, Tigard Tualatin Schools, Tri-Met, and NW Natural** were all notified of the proposal and did not provide comments.

**SECTION X. PROCEDURE AND APPEAL INFORMATION**

Notice:

Notice was posted at City Hall and mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

**Final Decision:**

**THIS DECISION IS FINAL ON OCTOBER 26, 2004 AND BECOMES EFFECTIVE ON NOVEMBER 10, 2004 UNLESS AN APPEAL IS FILED.**

Appeal:

The decision of the Director (Type II Procedure) or Review Authority (Type II Administrative Appeal or Type III Procedure) is final for purposes of appeal on the date that it is mailed. Any party with standing as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the notice of the decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

**THE DEADLINE FOR FILING AN APPEAL IS AT 5:00 PM ON NOVEMBER 9, 2004.**

Questions:

If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.

PREPARED BY: Morgan Tracy  
Associate Planner

October 26, 2004  
DATE

APPROVED BY: Richard Bewersdorff  
Planning Manager

October 26, 2004  
DATE