

**NOTICE OF TYPE II DECISION**  
**SITE DEVELOPMENT REVIEW (SDR) 2004-00007**  
**OAK TREE II APARTMENTS**



**120 DAYS = 10/30/2004**

**SECTION I. APPLICATION SUMMARY**

<b>FILE NAME:</b>	<b>OAK TREE II APARTMENTS</b>	
<b>CASE NOS.:</b>	<b>Site Development Review (SDR)</b>	<b>SDR2004-00007</b>
	Sensitive Lands Review (SLR)	SLR2004-00014
	Variance (VAR)	VAR2004-00048
	Development Adjustment (VAR)	VAR2004-00049
	Development Adjustment (VAR)	VAR2004-00050

**PROPOSAL:** The applicant is requesting Site Development Review approval to construct a 108-unit multi-family development complex containing five, three-story buildings including a clubhouse, management office, garages, and carports on an approximately 6.12 acre site. Sensitive Lands Review approval is requested for work within the associated drainage way. The applicant has also requested approval for a Variance to the design standards requiring the front façade and main entry to face the street on one building facing SW Durham Road; an Adjustment to use existing trees as street trees, and an Adjustment to allow architectural trellises to project into the front yard setback.

<b>APPLICANT:</b>	OT2, LLC c/o Ossey Development Corp. Attn: Richard B. Ossey 5437 Rosalia Way, Suite 100 Lake Oswego, OR 97035	<b>OWNER:</b> Michael D. Elton By MDE Institutional 6950 SW Hampton Street Suite 320 Portland, OR 97223
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**APPLICANT'S REP.:** Paul Franks Architecture  
3805 – 108<sup>th</sup> Avenue NE, Suite 222  
Bellevue, WA 98004-7613

**LOCATION:** Corner of SW 108<sup>th</sup> Avenue and SW Durham Road; WCTM 2S115AA, Tax Lots 700, 1000, 1100 and 1200.

**ZONE:** R-25; Medium High-Density Residential. The R-25 zoning district is designed to accommodate existing housing of all types and new attached single-family and multi-family housing units at a minimum lot size of 1,480 square feet. A range of civic and institutional uses are permitted conditionally.

**APPLICABLE REVIEW CRITERIA:** Community Development Code Chapters 18.360, 18.370, 18.390, 18.510, 18.705, 18.715, 18.720, 18.725, 18.745, 18.755, 18.765, 18.775, 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 above request subject to certain conditions of approval. The findings and conclusions on which the decision is based are noted in Section VI.

## CONDITIONS OF APPROVAL

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

Submit evidence of complying with the following conditions to the Planning Division. Staff contact: Mathew Scheidegger at 503-639-4171, ext. 2437.

1. Provide documentation that addresses roof mounted mechanical equipment and its proposed screening.
2. Provide documentation that shows water flow capacity will not be decreased as a result of the proposed work within the drainageway.
3. Provide approval from Washington County that erosion control provisions of the Surface Water Management program have been installed accordingly.
4. Prior to commencing site work, a combination utility/tree protection plan shall be incorporated as a supplement to the PFI permit plans to ensure minimization of utility lines and street improvements within the specified tree protection zone (TPZ).
5. Prior to commencing on-site improvements, the applicant shall submit a final Tree Protection Plan to the City Forester for review and approval that shows exactly how far the tree protection fencing will be from the face of each protected tree 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, and certify that the activities will not adversely impact the overall and long-term health and stability of each tree. Once approved, tree protection measures must be installed for all trees to be retained. Once installed, the City Forester must inspect the tree protection measures.
6. The applicant shall acknowledge in writing that the development code provides for the following penalties if the trees on-site are damaged or removed without approval:

Notwithstanding any other provision of this title, any party found to be in violation of this chapter pursuant to Chapter 1.16 of the Tigard Municipal Code shall be subject to a civil penalty of up to \$500 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.
7. Submit supplemental information addressing the position of the buildings and sun and wind consideration.
  8. Prior to the issuance of building permits, the developer shall apply for a sign permit.
  9. Provide documentation to the City's Engineer that the proposed activities within the 12-foot construction corridor will minimize site disturbance to the greatest extent possible.

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

10. 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 (ROW). Eight (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)).

11. 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.
12. 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.
13. Prior to issuance of the site permit, the applicant shall submit a suite layout map to Shirley Treat, Engineering Department. If the applicant is not sure how many suites will be used, they must estimate a number. The City will then assign suite 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).
14. Additional right-of-way shall be dedicated to the Public along the frontage of Durham Road to increase the right-of-way to 50 feet from the centerline. 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.
15. Additional right-of-way shall be dedicated to the Public along the frontage of 108<sup>th</sup> Avenue to increase the right-of-way to 29 feet from the centerline. 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.
16. 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 108<sup>th</sup> Avenue. The improvements adjacent to this site shall include:
  - A. City standard pavement section for a Neighborhood Route from curb to centerline equal to 18 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 and bicycle 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 108<sup>th</sup> Avenue in a safe manner, as approved by the Engineering Department.
17. The applicant's PFI submittal shall include the recommended improvements of the Kittelson Transportation Impact Analysis:
  - A. Provide a 100-foot northbound left-turn pocket at the Durham Road/108th Avenue intersection;
  - B. Install MUTCD compliant "STOP" signs on the eastbound approaches of the site access driveways on 108th Avenue; and
  - C. Re-stripe the center lane on Durham Road from SW 108th Avenue to the existing Phase I driveway with standard two-way left-turn lane striping.

18. A profile of 108<sup>th</sup> Avenue shall be required, extending 300 feet either side of the subject site showing the existing grade and proposed future grade.
19. Prior to issuance of the site permit the applicant shall apply for a Type 2 Adjustment to the driveway spacing standards of 18.705.030.H.3 for the existing driveway on Durham Road.
20. 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.
21. Prior to issuance of the site permit, the applicant's design engineer shall submit documentation, for review by the City (Kim McMillan), of the downstream capacity of any existing storm facility impacted by the proposed development. The design engineer must perform an analysis of the drainage system downstream of the development to a point in the drainage system where the proposed development site constitutes 10 percent or less of the total tributary drainage volume, but in no event less than 1/4 mile.
22. Any extension of public water lines shall be shown on the proposed Public Facility Improvement (PFI) permit construction drawings and shall be reviewed and approved by the City's Water Department, as a part of the Engineering Department plan review. **NOTE:** An estimated 12% of the water system costs must be on deposit with the Water Department prior to approval of the PFI permit plans from the Engineering Department and construction of public water lines.
23. 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.
24. The applicant shall obtain a 1200-C General Permit issued by the City of Tigard pursuant to ORS 468.740 and the Federal Clean Water Act.
25. The applicant's engineer shall provide a post-street construction sight distance certification for the three site access driveways.

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

**Submit to the Planning Department (Mathew Scheidegger, 639-4171, ext. 2437) for review and approval:**

26. Prior to issuance of a certificate of occupancy, the applicant is required to provide verification that the conditions of Clean Water Services have been satisfied.
27. Record deed restrictions for all trees to remain located on the proposed parcels.
28. Provide a joint access and maintenance agreement for the proposed Oak Tree II Apartments and the existing Oak Tree Apartments complexes.
29. Provide exact square footages of all street facing wall planes in order to verify that they are 500 square feet or less.
30. Submit a plan showing the visual clearance triangle of the proposed southern driveway and SW 108<sup>th</sup> to be no less than 30 feet.
31. Provide a letter from the franchise hauler indicating that the proposed waste facility has enough capacity for the proposed use.
32. Provide a plan showing the location of the required ADA parking stalls.

33. Provide calculation showing that the number of compact spaces does not exceed 50 percent of the total parking.
34. Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.
35. Prior to issuance of building permits the Project Arborist shall submit to the City Forester 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.
36. The property owner/applicant and their assigns are responsible for complying with the following requirement: The Project Arborist shall inspect the site at a minimum of every two weeks, and at any time when intrusions into the TPZ are required. The project arborist shall submit written reports to the City Forester a minimum of once every two weeks, as he monitors the construction activities and progress. These reports shall include any changes that may have occurred to the TPZ as well as indicate 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 and appropriate remedies can be imposed, if necessary. 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.
37. Submit a detailed lighting plan to the Tigard Police Department and Planning Division for review and approval.

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

38. 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.
39. Prior to a 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).
40. The applicant shall either place the existing overhead utility lines along SW 108<sup>th</sup> Avenue 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 \$24,150.00 and it shall be paid prior to a final building inspection.
41. Prior to a final building inspection, the applicant shall pay the standard water quantity fees (fee amounts will be the latest approved by CWS).
42. 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.

43. 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 parcels and found no land-use related documents.

#### Vicinity Information:

The subject site is located on the south side of SW Durham Road and west of SW 108<sup>th</sup> Avenue.

#### Site Information and Proposal Description:

The applicant is requesting Site Development Review approval to construct a 108-unit multi-family development complex containing five, three-story buildings including a clubhouse, management office, garages, and carports on an approximately 6.12 acre site. Sensitive Lands Review approval is requested for work within the associated drainage way. The applicant has also requested approval for a Variance to the design standards requiring the front façade and main entry to face the street on one building facing SW Durham Road; an Adjustment to use existing trees as street trees, and an Adjustment to allow architectural trellises to project into the front yard setback.

### **SECTION IV. COMMENTS FROM PROPERTY OWNERS WITHIN 500 FEET**

Two letters from neighbors were submitted which address the following concerns in bold:

**A buffer is constructed along the southern property line in order to lessen the impact of the complex on the surrounding single-family homes. A quality wooden fence is constructed or a concrete barrier as well as shrubs or trees, high enough that we cannot see the apartments from ground level.**

#### Staff Response:

The applicant has submitted a plan and indicated in the narrative that an eight-foot buffer planted with trees, shrubs, and a fence will run along the southern property, which is consistent with the required C-2 buffering standard.

**The addition of 108 units will negatively impact the already heavy traffic congestion of Durham Road. Peak traffic hours on this roadway will have cars backing up from Summerfield Drive to Hall Boulevard and beyond. With Durham Road being the only means for area residents to gain initial access to other parts of the metropolitan area, the resulting increase in congestion and resulting need for further traffic regulation would be unacceptable.**

#### Staff Response:

The applicant has submitted a traffic report that makes the following conclusion:

“Based on the results of the traffic impact analysis, the proposed Oak Tree Apartments – Phase II can be developed while maintaining acceptable levels of service and safety on the surrounding transportation system.”

The above conclusion is based off of a continued regional growth at 2.0 percent along SW Durham Road and 5.0 percent along Highway 99W. The traffic study generated by Kittelson & Associates, Inc. can be viewed on file at the City of Tigard.

**Open space here in Tigard and the surrounding area is fast disappearing and the result is a continuing reduction in quality of life in this area. It would seem that we can find better uses for our sensitive lands than impacting the quality of life for those that enjoy life here in Tigard.**

Staff Response:

Sensitive areas are present on the subject site. However, the applicant is preserving the sensitive areas to the greatest extent possible by meeting Clean Water Services Best Management Practices for Erosion Control in accordance with the CWS Erosion Control Technical Guidance Manual. The applicant is also re-vegetating all areas to be disturbed. By adding a pedestrian bridge that spans the natural area, more people should be able to enjoy the area while not disturbing resident wildlife.

**SECTION V. SUMMARY OF APPLICABLE REVIEW CRITERIA**

- A. Zoning Districts
  - 18.510 Residential Zoning Districts
- B. Applicable Development Code Standards
  - 18.370 (Variances and Adjustments)
  - 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)
  - 18.775 (Sensitive Lands)
  - 18.780 (Signs)
  - 18.790 (Tree Removal)
  - 18.795 (Visual Clearance)
- C. Specific SDR Approval Criteria
  - 18.360
- D. Street and Utility Improvement Standards
  - 18.810
- E. Impact Study
  - 18.390

**SECTION VI. APPLICABLE DEVELOPMENT CODE STANDARDS**

**A. ZONING DISTRICT**

**Residential Zoning District: Section 18.510.020**  
**Lists the description of the Residential Zoning Districts.**

The site is located in the R-25 zoning district: Medium-High Density Residential.

**Development Standards: Section 18.510.040.B**  
**States that Development standards in Residential Zoning Districts are contained in Table 18.510.2 below:**

**TABLE 18.520.2  
 DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES**

STANDARD	R-25	Proposed
Minimum Lot Size	1,480 sq. ft.	176,823 sq. ft.
Minimum Lot Width	None	440 ft.
Minimum Setbacks		
- Front yard	20 ft -	20 ft.
- Side facing street on corner & through lots [1]	20 ft	55 ft.
- Side yard	10 ft	35 ft.
-- Rear yard	20 ft	32 ft.
-- Side or rear yard abutting more restrictive zoning district	30 ft	35 ft.
- Distance between front of garage & property line abutting a public or private street.	20 ft	N/A
Minimum Building Height	-	N/A
Maximum Height	45 ft	< 45 ft.
Maximum Site Coverage [2]	80%	80 %
Minimum Landscape Requirement	20%	35 %

As demonstrated in the table above, the applicant's plans comply with the dimensional standards of the R-25 zone.

FINDING: Based on the analysis above, the Development Standards criteria have been satisfied.

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

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, 18.370, 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.

### **Variances and Adjustments:**

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

The applicant has requested a variance to 18.720.030.B Front facades. This section states: All primary ground-floor common entries or individual unit entries of street frontage units shall be oriented to the street, not to the interior or to a parking lot. The front elevation of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays and dormer windows and roof pediments are encouraged for structures facing a street to create visual interest.

**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 proposed adjustment will not be materially detrimental to the purpose of this title. Proposed Building "E" has been reviewed for its consistency with the neighboring property to the west, vegetated corridor 15 feet to the east and SW Durham Road is addressed within the body of this decision and is reviewed to ensure no negative impacts to the mentioned areas.

**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 special circumstances that exist on the property are sensitive lands, existing mature trees and a substantial grade change. Proposed Building "E" is oriented and located on the site to be compatible with the existing grades, minimize fill around existing trees, avoid removal of existing trees, maintain the sensitive areas setback and vegetative buffers. The existing street grade is eight feet above the ground floor finish floor elevation. An entry facing the street would view the earth rather than the street. Therefore, this standard has been satisfied.

**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;**

The proposed project is within the R-25 zone, which allows multi-family dwelling units. The requested variance will not result in a change of use that is not allowed within the zone. Therefore, this standard has been satisfied.

**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 applicant is requesting the variance in order to protect natural features to the greatest extent possible. As mentioned above, Building "E" is oriented and located on the site to be compatible with the existing grades, minimize fill around existing trees, avoid removal of existing trees, maintain the sensitive areas setback and vegetative buffers. Orientation to SW Durham Road would create a negative impact upon dwelling units.

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

The hardship is not self-imposed. The subject site is confined due to existing trees, and natural areas. The requested variance is the least needed to achieve the desired effect, which is allowing the buildings orientation to be slightly away from SW Durham Road. Therefore, this standard has been satisfied.

FINDING: Based on the analysis above, the Variance criteria have been met.

**Section 18.370.020.B.1.a provides that up to a 25% reduction of the dimensional standards for the front yard setbacks required in the base zone may be approved as a Type I Development Adjustment. Section 18.370.020.B.2, Approval Criteria, provides that a development adjustment shall be granted if there is a demonstration of compliance with all of the applicable standards:**

The applicant is requesting a 25 percent reduction to the front yard setback standard to allow architectural trellises at each building stairway to project into the front yard setback five feet along SW 108<sup>th</sup> Avenue.

**A demonstration that the adjustment requested is the least required to achieve the desired effect;**

The applicant is requesting the adjustment in order to add aesthetic value to the proposed project. No wall line of any of the proposed buildings will encroach into the setback. A 25 percent adjustment is allowed. Therefore, the requested adjustment is the least required to achieve the desired effect.

**The adjustment will result in the preservation of trees, if trees are present in the development area;**

No trees are associated with this request. Therefore, this criterion does not apply.

**The adjustment will not impede adequate emergency access to the site.**

The request is for a front yard setback adjustment. Access to the proposed buildings will remain unchanged. There is no impact on the adjacent street. Therefore, emergency access to the site will not be impeded.

**There is not a reasonable alternative to the adjustment, which achieves the desired effect.**

The requested adjustment will allow the applicant to build the trellises closer to the public right-of-way. Given the design aspirations, the alternative would not to build the trellises. There is no significant gain to the public in the latter option. Therefore, the adjustment is the most reasonable alternative.

FINDING: Based on the analysis above, Staff finds that the development adjustment criteria are satisfied.

**Adjustment for street tree requirements. By means of a Type I procedure, as governed by Section 18.390.030, the Director shall approve, approve with conditions, or deny a request for the adjustments to the street tree requirements in Section 18.745.030, based on the following approval criteria:**

The applicant is requesting to adjust the street tree spacing along the property frontage of SW Durham Road that extends 300 feet west from the intersection of SW 108<sup>th</sup> Avenue to the Durham Road entrance. The adjustment has been applied for in order to avoid planting trees on steep slopes and within the existing vegetated corridor that exists down the middle of the property which the applicant wishes to keep in its natural state.

**If the location of a proposed tree would cause potential problems with existing utility lines;**

The applicant is requesting the adjustment for spacing standards in order to span an existing sensitive area that includes steep slopes and a natural drainage way; Portland General Electric was notified of the proposal and did not offer any comments. Therefore, this standard does not apply.

**If the tree would cause visual clearance problems; or**

The applicant is requesting the adjustment for spacing standards in order to span a natural area. Visual clearance is not a factor of the requested adjustment and is addressed below under 18.795 Visual Clearance. Therefore, this standard does not apply.

**If there is not adequate space in which to plant street trees.**

Existing trees adjacent to the property line and right-of-way line and the steep slopes do not provide adequate space and conditions in which to plant street trees in the area that extends 300 feet west from the intersection of SW 108<sup>th</sup> Avenue to the existing Oak Tree entrance. The existing steep slopes do not allow planting of street trees and construction of a tree water well that would be required to guarantee the survival of the trees. This criterion has been satisfied.

FINDING Based on the analysis above, the Adjustment criteria have been met.

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

**Access plan:**

**No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan. The Director shall provide the applicant with detailed information about this submission requirement.**

The applicant has provided plans showing access, egress, and circulation from both SW Durham and 108<sup>th</sup>. Therefore, this standard has been satisfied.

**Joint access:**

**Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided: Satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and copies of the deeds, easements, leases or contracts are placed on permanent file with the City.**

According to the applicant, joint access is proposed for Building E from the existing driveway on SW Durham Road that currently serves the existing Oak Tree Apartments. Therefore, the applicant must provide a joint access and maintenance agreement for the proposed Oak Tree II Apartments and the existing Oak Tree Apartment complexes.

**Public street access:**

**All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.**

The proposed buildings will be accessible from SW Durham Road and SW 108<sup>th</sup>. Therefore, this criterion has been satisfied.

**Curb cuts:**

**Curb cuts shall be in accordance with Section 18.810.030N: Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in accordance with standards specified in this chapter and Section 15.04.080: Concrete curbs and driveway approaches are required; except where no sidewalk is planned, an asphalt approach may be constructed with City Engineer approval and Asphalt and concrete driveway approaches to the property line shall be built to City configuration standards.**

**No driveway approach shall be less than five feet from the side property line projected except in cul-de-sacs, without approval and written permission of the city. The end slopes may encroach within the five foot restricted area. No portion of any driveway approach, including the end slopes, shall be located closer than thirty feet to an intersection street right-of-way line. Commercial or service drives shall not be more than thirty feet in width and if located on the same lot frontage shall be**

separated by a minimum length of curb of thirty feet. Each residential driveway shall be not more than twenty-six feet in width including end slopes, and if more than one driveway is to be constructed to serve the same lot, the frontage spacing between such driveways shall be not less than thirty feet measured along the curb line. Joint access driveways shall conform to the appropriate width standard for commercial or residential type usage.

Curb cuts will be addressed under 18.810 Street and Utility Improvement Standards. Therefore, this standard has been satisfied.

**Walkways:**

**On-site pedestrian walkways shall comply with the following standards: 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;**

The proposed project is for a multi-family complex. Therefore, no walkways are required. However, the applicant has provided an internal walkway system that connects to SW 108<sup>th</sup> and SW Durham Road. Therefore, this standard has been satisfied.

**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 greatest distance a pedestrian will have to cross the parking lots or accessways is 27 feet. Therefore, this standard has been satisfied.

**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 applicant has indicated in the narrative that walkways will be paved with concrete with lighting as needed for safety purposes. Therefore, this standard has been satisfied.

**Access Management (Section 18.705.030.H)**

**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 has submitted a Transportation Impact Analysis report that was prepared by Kittelson & Associates, Inc., dated May 20, 2004. The report indicates that sight distance was observed in the field at each of the study intersections and found to be adequate. The applicant's engineer shall provide post-street construction sight distance certification for the three driveways.

The report also recommends that this project provide a 100-foot northbound left-turn lane at the intersection of 108<sup>th</sup> Avenue and Durham Road.

**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.

Durham Road is classified as an Arterial. There are no driveways, existing or proposed, that will be within the influence area of an Arterial intersection. This criterion is met.

**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.**

Durham Road is classified as an Arterial. The existing driveway is approximately 440 feet from the intersection of Durham Road and 108<sup>th</sup> Avenue. Because, as stated in 18.705.020.B Change or enlargement of use, the applicant is proposing to provide access to another 24 units from the existing driveway on Durham Road, an adjustment to this standard is required. The applicant is proposing to use this driveway as shared access for the existing Phase I units and 24 units of Phase II. The driveway is currently posted with a stop sign. The traffic engineer has recommended that the applicant re-stripe the center lane on Durham Road from 108<sup>th</sup> Avenue to the existing Phase I driveway, using the standard two-way, left-turn striping.

The applicant did not address this standard as it pertains to the existing driveway; therefore the applicant must apply for a Type 2 Adjustment to the driveway spacing standard prior to issuance of the site permit.

The development has one point of access into the parking lot that provides 24 feet of pavement. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the Access, Egress and Circulation standards have not been met.

**CONDITIONS:**

- ◆ Provide a joint access and maintenance agreement for the proposed Oak Tree II Apartments and the existing Oak Tree Apartments complexes.
- ◆ The applicant must apply for a Type 2 Adjustment to the driveway spacing standard prior to issuance of the site permit.

**Density Computations and Limitations (18.715):**

**Chapter 18.715 implements the Comprehensive Plan by establishing the criteria for determining the number of dwelling units permitted. The number of allowable dwelling units is based on the net development area. The net area is the remaining parcel area after exclusion of sensitive lands and land dedicated for public roads or parks. The net area is then divided by the minimum lot size permitted by the zoning district to determine the number of dwelling units that may be developed on a site.**

Based on the formulas in Chapter 18.715 of the City of Tigard Community Development Code, the maximum and minimum number of units permitted on the site are based on the net developable area, subtracting sensitive land areas, land dedicated to public parks, land dedicated for public right-of-way, and land for private streets from the total site area. Of the total site area (266,729 square feet), 8,644 square feet will be dedicated to public right-of-way. In addition, 81,262 square feet is encumbered by sensitive lands. This results in a net developable area of 176,823 square feet. Therefore, the maximum number of lots permitted on this site based on 1,480 square foot lots is 119 and the minimum number of lots is 95. The applicant proposes to build an 18 building, 108-unit multi-family complex, which meets the density requirements of the R-25 zone.

**FINDING:** Based on the analysis above, the Density Standards have been satisfied.

## Design Compatibility Standards (18.720)

### Density transition:

When a multi-family or attached single-family project abuts property zoned for detached single-family, the following design standards shall apply:

Building height shall not exceed two stories or 25 feet within 30 feet of the property line or three stories or 35 feet within 50 feet of the property line;

Building planes for multi-family dwellings within 50 feet of the common property line(s) and abutting public rights-of-way shall be subject to the following standards:

- ◆ No building plane that faces the common property line shall exceed 960 square feet within 30 feet or 1,400 square feet within 50 feet of the property line;
- ◆ No building plane shall have a dimension greater than 40 feet in length or 35 feet in height;
- ◆ If more than one building plane faces a property line and building planes align at a common distance from the line, the building planes shall be horizontally separated by at least 20 feet. For purposes of this standard, "common distance" shall be defined as within 12 feet;
- ◆ Building plane is defined as a surface that includes a building wall that extends from the ground to the top of each wall of a structure. Area is determined by multiplying the length of each wall by the height. The plane does not include roof area. When a structure along a wall juts out from the wall, or is off-set from an adjacent part less than four feet, the structure is considered part of the building plane of the wall behind it. If the structure protrudes more than four feet, it represents a separate building plane. If a building plane is at an angle in relation to the property line, the midpoint of the wall shall provide the point at which the plane and related distances are measured. These concepts are illustrated in Figure 18.720.1.

According to the plans, Building "C" is the only building located within 50-feet of the detached single-family project to the south. Proposed Building "C" will not exceed 30.11 feet in height. Building "C's" south facing building plane is approximately 1,025 square feet at 35 feet from the southern property line.

No building plane is greater than 40 feet in length and no building plane is greater than 35 feet in height. The tallest building plane out of the proposed five buildings is approximately 29 feet in height. No building plane of proposed Building "C" aligns at a common distance from the southern property line. Therefore, these standards have been satisfied.

### Front facades:

All primary ground-floor common entries or individual unit entries of street frontage units shall be oriented to the street, not to the interior or to a parking lot. The front elevation of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays and dormer windows and roof pediments are encouraged for structures facing a street to create visual interest.

All primary ground-floor common entries or individual unit entries of street frontage units are oriented to the street, not to the interior or to a parking lot, except proposed Building "E". Building "E" entry is angled to the street and setback slightly due to the existing grades, steep slopes, avoidance of the sensitive areas and preservation of existing trees. A variance has been addressed above under 18.370 Variances and Adjustments. The applicant has stated that all front elevations directly facing the public street are divided into wall planes of 500 square feet or less. However, when measured, Staff found that the southern most street facing wall plane of Building "C" is approximately 575 square feet. Therefore, the applicant is required to provide exact square footages of all street facing wall planes in order to verify that they are 500 square feet or less.

### Main entrance:

Primary structures must be oriented with their main entrance facing the street upon which the project fronts. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.

All primary ground-floor common entries or individual unit entries of street frontage units are oriented to the street except for proposed Building "E". Building "E" entry is angled to the street and setback slightly due to the existing grades, steep slopes, avoidance of the sensitive areas buffer and preservation of existing trees. A variance for Building "E" has been addressed above under 18.370 Variances and Adjustments. Therefore, this standard has been satisfied.

**Unit definition:**

**Each dwelling unit shall be emphasized by including a roof dormer or bay windows on the street-facing elevation, or by providing a roof gable or porch that faces the street. Ground-level dwelling units shall include porches that shall be at least 48 square feet in area with no dimension less than six feet.**

According to the plans submitted, each dwelling unit on the street facing elevation will be provided with an eight by ten-foot porch. Therefore, this standard has been satisfied.

**Roof lines:**

**Roof-line offsets shall be provided at intervals of 40 feet or less to create variety in the massing of structures and to relieve the effect of a single, long roof. Roof line offsets shall be a minimum 4-foot variation either vertically from the gutter line or horizontally.**

The submitted plans show roof-line offsets at a maximum for proposed Building "C" at 40 feet. All other buildings have a maximum roof line offset of 30 feet. Roof line offsets will have a minimum 5-foot vertical variation. Therefore, this standard has been satisfied.

**Trim detail.**

**Trim shall be used to mark all building roof lines, porches, windows and doors that are on a primary structure's street-facing elevation(s).**

Proposed Buildings A, B, C, and E are all street facing and have been proposed to include trim work around all roof lines, porches, windows and doors. Therefore, this standard has been satisfied.

**Mechanical equipment:**

**Roof-mounted mechanical equipment, other than vents or ventilators, shall be located and constructed so as to be screened from ground-level view. Screening shall be integrated with exterior building design.**

The applicant has indicated in the narrative that air conditioning units are proposed for the clubhouse and will be screened from view with landscaping. The applicant has not indicated whether or not roof mounted equipment is proposed. Therefore, the applicant is required to provide documentation that addresses roof mounted mechanical equipment and its proposed screening.

**Parking:**

**Parking and loading areas may not be located between the primary structure(s) and the street upon which the structure fronts. If there is no alley and motor vehicle access is from the street, parking must be provided: In a garage that is attached to the primary structure; In a detached accessory structure located at least 50 feet from the front property line; or In a parking area at the side or rear of the site.**

No parking has been proposed between the structures and the street. The closest parking garage to SW 108<sup>th</sup> is approximately 55 feet, located on the south side of proposed Building "C". Therefore, this criterion has been met.

**Pedestrian Circulation:**

**The on-site pedestrian circulation system shall be continuous and connect the ground-level entrances of primary structure(s) to the following: a. Streets abutting the site; b. Common buildings such as laundry and recreation facilities; c. Parking areas; d. Shared open space and play areas; e. Abutting transit stops; and f. Any pedestrian amenity such as plazas, resting areas and viewpoints.**

**There shall be at least one pedestrian connection to an abutting street frontage for each 200 linear feet of street frontage.**

The submitted plans show on-site pedestrian circulation from the primary entrances to the proposed common buildings such as laundry and clubhouse, the parking area and the associated open space. The pedestrian paths also connect to SW 108<sup>th</sup> and SW Durham Road at intervals of 80 feet. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, The Design Compatibility Standards have not been met. However, if the applicant meets the conditions below, the standards will be met.

**CONDITIONS:**

- ◆ Provide exact square footages of all street facing wall planes in order to verify that they are 500 square feet or less.
- ◆ Provide documentation that addresses roof mounted mechanical equipment and its proposed screening.

**ENVIRONMENTAL PERFORMANCE STANDARDS (18.725):**

**Noise:**

For the purposes of noise regulation, the provisions of Sections 7.40.130 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 of other point- source 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 emission 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; there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and these regulations shall not apply to signs or floodlights in parking areas or constructing 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.

The proposed use is multi-family, which is an outright permitted use within the R-25 zoning district. 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:** Based on the above, there is no evidence the Environmental Performance Standards will not be 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 proposed Armstrong Maples along SW 108<sup>th</sup> and SW Durham Road. Each of the proposed street trees along SW 108<sup>th</sup> is spaced at 30 feet, which is consistent with medium sized trees. The applicant has applied for an adjustment to street tree spacing along SW Durham Road due to existing natural areas that precludes meeting the required spacing standards. This standard has been satisfied.

### **Granting of adjustments:**

**Adjustments to the street tree requirements may be granted by the Director by means of a Type I procedure, as regulated in Section 18.390.030, using approval criteria in Section 18.370.020.C.4.b.**

The applicant has applied for an adjustment to the spacing standards of street trees, which has been addressed above under 18.370 Variances and Adjustments. Therefore, this standard has been 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 office use and existing office use.**

Property to the south of the subject site is zoned R-4.5 and developed with single-family detached homes. According to the Buffer Matrix (Table 18.745.1) a "C" buffering standard applies. The applicant is proposing to use a C-2 buffer along the south property line which will consist of an eight-foot buffer, trees planted at 15-30 feet, shrubs and a fence along the entire southern property line of approximately 315 feet comprised of the following sections:

- A. A 3-foot-high solid wood fence from the property line at SW 108<sup>th</sup> Avenue for a distance of 20-feet to the minimum front yard setback line. The height in this area is restricted by the vision clearance area requirements of Chapter 18.795.
- B. A one-foot, ten-inch-high retaining wall, one-foot, eight-inch-high earth berm sloped up toward the property line to raise the landscaping elevation, with a solid wood fence for a total height of seven-feet, nine inches from the existing grade. This wall and fence section extends a distance of 95 feet along the property line that is approximately the depth of the adjacent single-family house lot line.
- C. A six-foot, six-inch-high solid wood fence extending 200 feet along the southern property line.

However, according to standards in Chapter 18.795 Visual Clearance Areas, a visual clearance triangle of 30 feet is required. The applicant has proposed a three-foot fence extending 20 feet back from the right-of-way line of SW 108<sup>th</sup> and the southern most driveway. Therefore, the applicant is conditioned to submit a plan showing the visual clearance triangle of the proposed southern driveway and SW 108<sup>th</sup> to be no less than 30 feet.

### **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 proposed parking areas are located behind the proposed buildings and are not visible from the street. Landscape planters are proposed to define or screen the appearance of off-street parking areas from the public right-of-way. The parking lot landscaping will consist of a balance between low lying and vertical shrubbery and trees that will effectively screen the parking areas from view. Trees are proposed to be planted in landscaped islands in all parking areas, and are equally distributed on the basis of one tree for every seven parking spaces in order to provide a canopy effect. The minimum dimension of the landscape islands have been proposed to be three feet. This standard has been 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 has indicated that a garbage compactor is proposed to be enclosed by a six-foot high solid concrete block masonry wall with chain link fence gates with sight obscuring slats. Garbage and recycling storage areas will be appropriately screened according to the provisions in 18.755.050.C, design standard with six-foot high solid walls and gates. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the landscaping and screening standards have not been met. However, if the applicant complies with the condition below, the standard will be met.

**CONDITION:** Submit a plan showing the visual clearance triangle of the proposed southern driveway and SW 108<sup>th</sup> to be no less than 30 feet.

#### **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 in the narrative that the minimum standards method has been used for compliance, which is addressed below. However, the applicant has not provided a copy of the franchised hauler sign-off. Therefore, the applicant is required to provide a copy of the franchise hauler sign-off letter.

#### **Minimum Standards method:**

**The storage area requirement is based on the predominant use(s) of the building, (i.e. residential, office, retail, wholesale /warehouse /manufacturing, educational/institutional, or other). If a building has more than one of the uses listed herein and that use occupies 20 percent or less of the floor area of the building, the floor area occupied by that use shall be counted toward the floor area of the predominant use(s). If a building has more than one of the uses listed herein and that use occupies more than 20% of the floor area of the building, then the storage area requirement for the whole building shall be the sum of the requirement for the area of each use.**

The use of the proposed multi-family complex is residential. No other uses are associated with this project. This standard does not apply.

**Storage areas for multiple uses on a single site may be combined and shared.**

The proposal is for a multi-family use. No other uses are associated with this project.

The specific requirements are based on an assumed storage height of four feet for solid waste/recyclable. Vertical storage higher than four feet but no higher than seven feet may be used to accommodate the same volume of storage in a reduced floor space (potential reduction of 43% of specific requirements). Where vertical or stacked storage is proposed, the site plan shall include drawings to illustrate the layout of the storage area and dimensions of containers.

No vertical or stacked storage has been proposed. Therefore, this standard does not apply.

**Specific requirements:**

**Multi-unit residential buildings containing 5-10 units shall provide a minimum storage area of 50 square feet. Buildings containing more than 10 residential units shall provide an additional 5 square feet per unit for each unit above 10.**

The project proposes a garbage compactor with recycling storage located at a central location of 650 square feet. A garbage and recycling storage enclosure is proposed to serve Building "E" of 130 square feet. The total garbage and recycling storage area proposed for the project is 780 square feet. According to the standard, the total garbage and recycling storage area is 540 square feet for 108 multi-family dwelling units. The proposed garbage and recycling storage area exceeds the required area. Therefore, this standard has been satisfied.

**Location Standards.**

**To encourage its use, the storage area for source-separated recyclable shall be co-located with the storage area for residual mixed solid waste; Indoor and outdoor storage areas shall comply with Uniform Building and Fire Code requirements; Storage area space requirements can be satisfied with a single location or multiple locations, and can combine both interior and exterior locations; Exterior storage areas can be located within interior side yard or rear yard areas. Exterior storage areas shall not be located within a required front yard setback or in a yard adjacent to a public or private street; Exterior storage areas shall be located in central and visible locations on a site to enhance security for users; Exterior storage areas can be located in a parking area, if the proposed use provides at least the minimum number of parking spaces required for the use after deducting the area used for storage. Storage areas shall be appropriately screened according to the provisions in 18.755.050 C, design standards; The storage area shall be accessible for collection vehicles and located so that the storage area will not obstruct pedestrian or vehicle traffic movement on the site or on public streets adjacent to the site.**

The applicant has indicated that the storage area for source-separated recyclable will be co-located with the storage area for residual mixed solid waste. The location of the storage area is within the rear yard of the property within the proposed parking area. Therefore, this standard has been met.

**Design Standards.**

**The dimensions of the storage area shall accommodate containers consistent with current methods of local collection; Storage containers shall meet Uniform Fire Code standards and be made and covered with waterproof materials or situated in a covered area; Exterior storage areas shall be enclosed by a sight-obscuring fence wall, or hedge at least six feet in height. Gate openings which allow access to users and haulers shall be provided. Gate openings for haulers shall be a minimum of 10 feet wide and shall be capable of being secured in a closed and open position; Storage area(s) and containers shall be clearly labeled to indicate the type of materials accepted.**

The dimensions of the storage area are designed to accommodate containers consistent with current methods of local collection. The plan will be submitted to the franchise hauler for review prior to submittal for building permits, which has been conditioned earlier in this decision. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the Mixed Solid Waste and Recyclable Storage standards have not been fully met. However, if the applicant complies with the condition below, the standards will be met.

CONDITION: Provide a letter from the franchise hauler indicating that the proposed waste facility has enough capacity for the proposed use.

**OFF-STREET PARKING AND LOADING (18.765):**

**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 500 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; The 40 parking spaces which remain on the primary site must be available for users in the following order of priority: 1) Disabled-accessible spaces; 2) Short-term spaces; 3) Long-term preferential carpool and vanpool spaces; 4) Long-term spaces.

The associated off-street parking of each proposed building, at its greatest point is 70 feet from the buildings they serve. Therefore, this standard has been satisfied.

**Joint Parking:**

Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the peak hours of operation do not overlay, subject to the following: 1) The size of the joint parking facility shall be at least as large as the number of vehicle parking spaces required by the larger(est) use per Section 18.765.070; 2) Satisfactory legal evidence shall be presented to the Director in the form of deeds, leases or contracts to establish the joint use; 3) If a joint use arrangement is subsequently terminated, or if the uses change, the requirements of this title thereafter apply to each separately.

Joint parking has not been proposed with this project. Therefore, this standard does not apply.

**Parking in Mixed-Use Projects:**

In mixed-use projects, the required minimum vehicle parking shall be determined using the following formula. 1) Primary use, i.e., that with the largest proportion of total floor area within the development, at 100% of the minimum vehicle parking required for that use in Section 18.765.060; 2) Secondary use, i.e., that with the second largest percentage of total floor area within the development, at 90% of the vehicle parking required for that use in Section 18.765.060; 3) Subsequent use or uses, at 80% of the vehicle parking required for that use(s) in Section 18.765.060; 4) The maximum parking allowance shall be 150% of the total minimum parking as calculated in D.1.-3. above.

The project is not considered a mixed-use project. Therefore, this standard does not apply.

**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.

The proposed project is a 108 unit multi-family housing project with more than 10 required parking stalls. The minimum parking required for this project is 155 stalls. Adding 15 percent to the minimum parking increases the minimum parking requirement to 178 parking stalls. The applicant has proposed 193 parking stalls, which have been evenly distributed throughout the development. Bicycle parking is addressed below. Therefore, this standard has been satisfied.

**Preferential Long-Term Carpool/Vanpool Parking:**

Parking lots providing in excess of 20 long-term parking spaces shall provide preferential long-term carpool and vanpool parking for employees, students and other regular visitors to the site. At least 5% of total long-term parking spaces shall be reserved for carpool/vanpool use. Preferential parking for carpools/vanpools shall be closer to the main entrances of the building than any other employee or student

**parking except parking spaces designated for use by the disabled. Preferential carpool/vanpool spaces shall be full-sized per requirements in Section 18.765.040N and shall be clearly designated for use only by carpools and vanpools between 7:00 AM and 5:30 PM Monday through Friday.**

The proposal is for a multi-family development. The development will not have employees or students, and regular visitors will park in the required visitor parking which has already been addressed. Therefore, no preferential long-term carpool/vanpool parking will be required.

**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 a minimum of six ADA parking spaces, therefore, one van accessible (nine feet wide with an eight foot aisle) ADA handicap space is required. The applicant's plans do not show the location of the required ADA stalls. Therefore, the applicant is required to provide a plan showing the location of the required ADA parking stalls.

**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 addressed previously in this decision under Chapter 18.705 (Access, Egress and Circulation).

**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.**

Pedestrian access has been discussed previously in this decision under Chapter 18.705 (Access Egress and Circulation Standards).

**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. Therefore, this standard has been 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 has indicated in the narrative that parking spaces along the boundaries of parking lots or adjacent to interior landscaped areas and sidewalks will be provided with a curb four inches high located three feet back from the front of the parking stall. Therefore, this standard has been satisfied.

**Drainage:**

**Off-street parking and loading areas shall be drained in accordance with specifications approved by the City Engineer to ensure that ponds do not occur except for single-family and duplex residences, off-street parking and loading facilities shall be drained to avoid flow of water across public sidewalks.**

The applicant has indicated that drainage of the proposed parking lot will be in accordance with specifications approved by the City Engineer. Drainage will be addressed under 18.810 Street and Utility Improvement Standards. Therefore, this standard has been satisfied.

**Lighting:**

**A lights providing to illuminate any public or private parking area or vehicle sales area shall be arranged to direct the light away from any adjacent residential district.**

The applicant has indicated on the plans that lights providing illumination to private parking areas will be arranged to direct the light away from any adjacent residential district. This standard has been 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.**

The proposed parking provides parking spaces that are 8.5 x 18.5 for standard spaces and 7.5 x 16.5 for compact spaces. However, the applicant has not indicated how many compact spaces are provided. Therefore, the applicant is required to provide calculation showing that the number of compact spaces does not exceed 50 percent of the total parking.

**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 located 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 applicant has proposed to use private locked storage closets located on the deck or patio of each dwelling unit measuring 3.5 x 7.5 x 8 feet high. This standard has been 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 is proposing bicycle parking to be located in storage areas located on the porch or deck of each dwelling unit. The bicycle parking area for each unit will be able to be locked. Therefore, this standard has been satisfied.

**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.

Minimum bicycle parking for multi-family developments is calculated at one space for every two units. The applicant is providing individual spaces within each unit. Therefore, this standard has been 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 a Multi-family Use is 1.25 stalls for one bedroom units, 1.5 stalls for two bedroom units, and 1.75 stalls for three bedroom units. According to the applicant, there are 34 one bedroom units, 63 two bedroom units and eleven three bedroom units. Therefore, a minimum of 178 parking stalls are required for this proposal. The applicant is proposing 193 parking stalls. Therefore, this standard has been satisfied.

**Off-Street Loading Spaces:**

Commercial, industrial and institutional buildings or structures to be built or altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows: A minimum of one loading space is required for buildings with 10,000 gross square feet or more; A minimum of two loading spaces for buildings with 40,000 gross square feet or more.

The proposed project is neither commercial nor industrial. Therefore, this standard does not apply.

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

**CONDITIONS:**

- ◆ Provide a plan showing the location of the required ADA parking stalls.
- ◆ Provide calculation showing that the number of compact spaces does not exceed 50 percent of the total parking.

**Sensitive Lands (18.775):**

The Director shall have the authority to issue a sensitive lands permit in the following areas by means of a Type II procedure, as governed in Section 18.390.040, using approval criteria contained in Section 18.775.070:

Wetlands are located on-site and a Natural Resource Assessment conducted by Pacific Habitat Services, Inc. has been provided. According to the applicant, no work will be conducted within the associated wetlands. Therefore, the wetland criteria are not addressed within this decision.

**Steep Slopes:**

The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit on slopes of 25% or greater or unstable ground based upon findings that all of the following criteria have been satisfied.

The subject site of the proposed multi-family use has slopes that are greater than 25%. Therefore, the criterion of Section 18.775.070.C "With steep slopes" has been addressed below.

**The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;**

Proposed buildings, parking areas and associated development will occur at or near existing grades on the site. This will result in the least amount of ground disturbance. GeoPacific Engineering performed a geotechnical assessment of the project area. Their report, dated April 29, 2004 has identified that slopes adjacent to the creek are stable and capable of supporting the buildings and infrastructure proposed for this development. The proposed sewerline hookups and outfall installation area will require a construction corridor of up to 12 feet in width for each line to accommodate for construction equipment. According to the standard, the applicant must show that the proposed construction will not create site disturbance to an extent greater than the required for the use. Therefore, the applicant is required to provide documentation to the City's Engineer that the proposed activities within the 12-foot construction corridors will minimize site disturbance to the greatest extent possible.

**The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and of-site effects or hazards to life or property;**

As mentioned above, a geotechnical report was submitted by GeoPacific Engineering which states that slopes adjacent to the creek are stable and capable of supporting the buildings and infrastructure proposed for this development. Proposed impacts within area with steep slopes include a pedestrian bridge that will provide access across the creek, as well as the necessary installation of a sewerline and stormwater line west of the creek. Additional utilities are located east of the creek in areas where slopes are less than 25 percent.

The pedestrian bridge will be nine feet four inches wide free span composed of two rail flat cars of 67 and 45 feet placed upon concrete footings on either side of the creek. The concrete footings will be located in areas with steep slopes but are being designed to minimize the footprint of impact and are expected to be no wider than the bridge itself. The construction and installation of the bridge and pathway will not require the removal of trees or construction activity in the creek or adjacent wetlands. To ensure erosion control, Clean Water Services has conditioned the applicant to follow the guidelines set forth in the CWS Erosion Control Technical Guidance Manual and all work will be reviewed and permitted by the City's building Department. Therefore, this standard has been satisfied.

**The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and**

Using the geotechnical assessment, a steep slope setback of 15 feet has been proposed as part of the development plan. No proposed structures or impervious surfaces are proposed within 15 feet of steep slopes. A copy of the geotechnical assessment is on file with the City. Therefore, this standard has been satisfied.

**Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening.**

The applicant has indicated in the narrative that no trees will be removed due to the construction and installation of the bridge. The proposed sewerline hookups and outfall installation area will require a construction corridor of up to 12 feet in width to accommodate for construction equipment. The proposed 12-foot construction corridor will be within sloped areas greater than 25 percent. The applicant has provided a re-vegetation plan and legend showing all disturbed areas to be re-planted. This criterion has been met.

**Within Drainageways 18.775.070 (D):**

**The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit within drainageways based upon findings that all of the following criteria have been satisfied:**

**The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;**

The applicant has indicated that both sewerline hookups and the construction and placement of stormwater outfalls will take place in the associated drainageway. The installation of the sewer pipeline is necessary to connect to the existing sewer main, which is located at the bottom of the ravine. Each sewerline and outfall installation area will require a construction corridor of up to 12 feet in width to accommodate for construction equipment and the placement of excavated material during the installation period. According to the applicant, this is the least amount of impact needed for the proposed use. Therefore, this standard has been satisfied.

**The proposed land form alteration or development will not result in erosion stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;**

Clean Water Services has required the applicant to follow the "Best Management Practices (BMP's) for Erosion Control," in accordance with the CWS Erosion Control Technical Guidance Manual during, and following earth disturbing activities. Therefore, this standard has been satisfied.

**The water flow capacity of the drainageway is not decreased;**

The applicant has indicated that the water flow capacity of the associated drainageway will not be decreased as a result of the project. However, no information has been submitted to support the applicant's compliance statement. Therefore, the applicant is required to show that water flow capacity is not decreased as a result of the proposed work within the drainageway.

**Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening;**

The applicant has provided a re-vegetation plan and legend showing all disturbed areas to be re-planted. This criterion has been met.

**The drainageway will be replaced by a public facility of adequate size to accommodate maximum flow in accordance with the adopted 1981 Master Drainage Plan;**

According to the applicant and the natural assessment plan, the drainageway will not be altered by this project. Therefore, this standard does not apply.

**The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals shall be obtained.**

A Wetland Land Use Notification form was sent to Division of State Lands Wetlands Program. The response from DSL is, "Based on the information provided, wetland delineation appears to have been done on this site, but is unlikely to be reviewed by DSL. A state permit may be needed if wetlands/waterways are impacted by the development." The applicant has indicated that no disturbance to the associated wetlands or waterways will be required. To ensure protection of the wetlands, the applicant has been conditioned to follow the Best Management Practices for Erosion Control, in accordance with the CWS Erosion Control Technical Guidance Manual. Therefore, this standard has been satisfied.

Where land form alterations and/or development are allowed within and adjacent to the 100-year floodplain, the City shall require the consideration of dedication of sufficient open land area within and adjacent to the floodplain in accordance with the comprehensive plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.

The subject site is approximately 600 feet from the 100-year floodplain. Therefore, no dedication of open land is necessary. This standard does not apply.

**Special Provisions for Development within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and South Fork of Ash Creek: 18.775.090:**

In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 666-023-0030) pertaining to wetlands, all wetlands classified as significant on the City of Tigard Wetlands and Streams Corridors Map are protected. No land form alterations or developments are allowed within or partially within a significant wetland, except as allowed/approved pursuant to Section 18.775.130.

The applicant is not proposing any work within the associated wetlands. Therefore, this standard has been satisfied.

In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 666-023-0030) pertaining to riparian corridors, a standard setback distance or vegetated corridor area, measured horizontally from and parallel to the top of the bank, is established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.

The subject site does not involve the Tualatin River, Fanno Creek, Ball Creek, or the South Fork of Ash Creek. Therefore, this section does not apply.

The standard width for “good condition” vegetated corridors along the Tualatin River is 75 feet, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard “Wetlands and Streams Corridors Map”) is located within the 75-foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.

The subject site has a significant wetland located on site. According to the Tigard Local Wetland Inventory, the wetland is not related to the Tualatin River. Therefore, the 75-foot setback area in accordance with the Tualatin River does not apply.

The standard width for “good condition” vegetated corridors along Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50 feet, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard “Wetlands and Streams Corridors Map”) is located within the 50 foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.

As mentioned above, the associated wetland is not related to the Tualatin River. Therefore, this standard does not apply.

The minimum width for “marginal or degraded condition” vegetated corridors along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50% of the standard width, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130.

According to Clean Water Services, the associated vegetative corridor is a “marginal or degraded condition” vegetated corridor with a corridor width of 50-78 feet. However, the Tualatin River does not run through the subject site. In fact the Tualatin River is located 1500 feet south of the subject parcel. Therefore, this standard does not apply.

**The determination of corridor condition shall be based on the Natural Resource Assessment guidelines contained in the CWS "Design and Construction Standards".**

The applicant has received a Clean Water Services provider letter, which conditions a 50 to 78 foot buffer around the associated wetlands. The applicant has been conditioned to provide documentation that all guidelines of CWS have been followed and are met. Therefore, this standard has been satisfied.

**The standard setback distance or vegetated corridor area applies to all development proposed on property located within or partially within the vegetated corridors, except as allowed below: Roads, pedestrian or bike paths crossing the vegetated corridor from one side to the other in order to provide access to the sensitive area or across the sensitive area, as approved by the City per Section 18.775.070 and by CWS "Design and Construction Standards" Utility/service provider infrastructure construction (i.e. storm, sanitary sewer, water, phone, gas, cable, etc.), if approved by the City and CWS; A pedestrian or bike path, not exceeding 10 feet in width and meeting the CWS "Design and Construction Standards", Grading for the purpose of enhancing the vegetated corridor, as approved by the City and CWS; Measures to remove or abate hazards, nuisances, or fire and life safety violations, as approved by the regulating jurisdiction; Enhancement of the vegetated corridor for water quality or quantity benefits, fish, or wildlife habitat, as approved by the City and CWS; Measures to repair, maintain, alter, remove, add to, or replace existing structures, roadways, driveways, utilities, accessory uses, or other developments provided they are consistent with City and CWS regulations, and do not encroach further into the vegetated corridor or sensitive area than allowed by the CWS Design and Construction Standards.**

The applicant has proposed a pedestrian bridge that will span the associated drainageway, stormwater outfalls and the installation of a sewer pipeline that will connect to the existing sewer main at the bottom of the ravine.

The proposed bride will be nine feet four inches wide composed of two rail flat cars of 67 and 45 feet placed upon concrete footings on either side of the creek. The concrete footings will be located in areas with steep slopes but are being designed to minimize the footprint of impact and are expected to be no wider than the bridge itself. The construction and installation of the bridge and pathway will not require the removal of trees or construction activity in the creek or adjacent wetlands.

According to the applicant, the installation of the sewer pipeline is necessary to connect to the existing sewer main, which is located at the bottom of the ravine. The stormwater outfall will be placed in the vegetated corridor, at the edge of the adjacent wetland to reduce erosion by reducing the distance between the outfall and the creek. The applicant will not be working within the associated wetlands, therefore, the wetland criteria of 18.775.070 does not apply. Drainageways and Steep Slopes have been addressed above and conditioned and Clean Water Services has reviewed the proposal and has provided conditions of approval along with their Service Provider Letter. Therefore, this standard has been satisfied.

**Land form alterations or developments located within or partially within the Goal 5 safeharbor setback or vegetated corridor areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek that meet the jurisdictional requirements and permit criteria of the CWS, U.S. Army Corps of Engineers, Division of State Lands, and/or other federal, state, or regional agencies, are not subject to the provisions of Section 18.775.090.B, except where the: Land form alterations or developments are located within or partially within a good condition vegetated corridor, as defined in Sections 18.775.090.B.1 and 18.775.090.B.2; Land form alterations or developments are located within or partially within the minimum width area established for marginal or a degraded condition vegetated corridor, as defined in Section 18.775.090.B.3. These exceptions reflect instances of the greater protection of riparian corridors provided by the safe harbor provisions of the Goal 5 administrative rule.**

The Goal 5 safeharbor setback or vegetated corridor areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek are not located on the subject site. Therefore, Section 18.775.090.B applies and has been addressed above. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the Sensitive Lands standards have not been met. If the applicant complies with the condition below, the standards will be met.

**CONDITIONS:**

- ◆ Provide documentation to the City's Engineer that the proposed activities within the 12-foot construction corridor will minimize site disturbance to the greatest extent possible.
- ◆ Provide documentation that shows water flow capacity will not be decreased as a result of the proposed work within the drainageway.
- ◆ Prior to issuance of a certificate of occupancy, the applicant is required to provide verification that the conditions of Clean Water Services have been satisfied.
- ◆ Provide approval from Washington County that erosion control provisions of the Surface Water Management program have been installed accordingly.

**SIGNS (18.780):**

**In the R-12, R-25 and R-40 zones. No sign shall be permitted in the R-12, R-25 or R-40 zone except for the following: Wall sign(s) may not exceed a combined total area of one square foot per dwelling unit and may not project from the wall face; Every housing complex shall be allowed one permanent freestanding sign at each entry point to the housing complex from the public right-of-way, with the site properly landscaped and not exceeding 32 square feet in area per sign face. Illumination may be approved as long as it does not create a public or private nuisance, as determined by the Director considering the purpose of the zone; Every platted subdivision shall be allowed one permanent freestanding sign at each entry point to the subdivision from the public right-of-way, with the site properly landscaped, and not exceeding 32 square feet in area per sign face. Illumination may be approved as long as it does not create a public or private nuisance, as determined by the Director considering the purpose of the zone; For non-residential uses, one illuminated or non-illuminated freestanding sign not exceeding six feet in height and 32 square feet in area per sign face for uses approved under the site development review or conditional use process will be permitted. Wall signs may not exceed five percent of the gross area of the wall face on which the sign is mounted; Directional signs on private property when such signs are solely designed to identify driveway entrances and exits for motorists on adjoining public streets will be permitted. One sign with an area of four square feet per face shall be permitted per driveway. Such signs shall be consistent with Chapter 18.795, Visual Clearance Areas; The signs specified in Section 18.780.060A shall be allowed, subject to any restrictions imposed by this title; Temporary Signs in accordance with Sections 18.780.090 and 18.780.100; Lawn signs in accordance with Sections 18.780.060 A.1, A.6, and B.2; Special condition signs in accordance with Section 18.780.090; and Additional permitted sign including awning sign(s) and painted wall sign(s).**

The project is within the R-25 zoning district. The applicant is proposing one monument free standing sign at the corner of SW 108<sup>th</sup> and Durham that is approximately 29.5 square feet. External lighting is proposed to be directed on the sign. Submitted plans show the corner of 108<sup>th</sup> and Durham to be substantially landscaped. Therefore, this standard has been satisfied.

**FINDING:** Based on the analysis above, the Sign Standards have not been met. If the applicant complies with the conditions below, the standards will be met.

**CONDITIONS:**

- ◆ Prior to the issuance of building permits, the developer shall sign a copy of the City's sign compliance agreement.

- ◆ Prior to the issuance of building permit, the developer shall apply for a sign permit.

**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 submitted an arborist report that identifies 80 trees greater than 12-inches in diameter. Of the 80 trees viable for mitigation, 17 are to be removed. Therefore, the applicant is retaining 79 percent of the viable trees. According to the Development Code 18.790.030 Tree Plan Requirement, retention of 75 percent or greater of existing trees over 12 inches in caliper requires no mitigation.

The applicant's arborist has outlined tree protection steps before construction, during construction, and after construction. Protection measures include, establishing tree protection fencing around each tree or grove of trees to be retained. Fencing will be put in place before ground is cleared in order to protect trees and soil around the trees for any disturbance. Fencing will consist of six steel fencing (no-climb fencing or cyclone fencing). Based on the analysis above, and the tree mitigation/protection plan, the applicant will be required to contact the City's Arborist for sign-off on the protection fencing.

**Section 18.790.040 states that any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.**

The applicant will be required as a condition of approval to record a deed restriction limiting the removal of trees that are retained on the project site following completion of the project improvements, in accordance with this standard.

**FINDING:** Based on the analysis above, the Tree Removal standards will be met, if the applicant complies with the conditions listed below:

**CONDITIONS:**

- ◆ Record deed restrictions for all trees to remain located on the proposed parcels.
- ◆ Prior to commencing site work, a combination utility/tree protection plan shall be incorporated as a supplement to the PFI permit plans to ensure minimization of utility lines and street improvements within the specified tree protection zone (TPZ).
- ◆ Prior to commencing on-site improvements, the applicant shall submit a final Tree Protection Plan to the City Forester for review and approval that shows exactly how far the tree protection fencing will be from the face of each protected tree 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, and certify that the activities will not adversely impact the overall and long-term health and stability of each tree. Once approved, tree protection measures must be installed for all trees to be retained. Once installed, the City Forester must inspect the tree protection measures.

- ◆ The applicant shall acknowledge in writing that the development code provides for the following penalties if the trees on-site are damaged or removed without approval:

Notwithstanding any other provision of this title, any party found to be in violation of this chapter pursuant to Chapter 1.16 of the Tigard Municipal Code shall be subject to a civil penalty of up to \$500 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.
- ◆ Prior to issuance of building permits the Project Arborist shall submit to the City Forester 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.
  - ◆ The property owner/applicant and their assigns are responsible for complying with the following requirement: The Project Arborist shall inspect the site at a minimum of every two weeks, and at any time when intrusions into the TPZ are required. The project arborist shall submit written reports to the City Forester a minimum of once every two weeks, as he monitors the construction activities and progress. These reports shall include any changes that may have occurred to the TPZ as well as indicate 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 and appropriate remedies can be imposed, if necessary. 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.

FINDING: Based on the analysis above, the tree removal standards are met.

**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.**

The applicant has indicated and shown on the submitted plans that visual clearance areas will be maintained on the corner of SW 108<sup>th</sup> and Durham and the associated driveways into the site. Therefore, this standard has been satisfied.

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 immediately below with the following exceptions:**

The proposal contains no elements related to the provisions of the following and are, therefore, found to be inapplicable as approval standards:

18.360.090.8 (100-year floodplain); and 18.360.090.9 (Demarcation of Spaces).

The following sections are discussed elsewhere in this decision and, therefore, will not be addressed in this section:

18.360.090.3 (Exterior Elevations); 18.360.090.4 (Buffering, Screening and Compatibility Between Adjoining Uses); 18.360.090.13 (Parking); 18.360.090.14 (Landscaping); 18.360.090 (Drainage) and 18.360.090.14 (Provision for the Disabled).

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

GeoPacific Engineering performed a geotechnical assessment of the project area. Their report, dated April 29, 2004 has identified that slopes adjacent to the creek are stable and capable of supporting the buildings and infrastructure proposed for this development. The proposed project provides distances between adjoining buildings as prescribed in Chapter 18.730.040, the Uniform Building Code and Uniform Fire Code as required for adequate light, air circulation, and fire fighting.

In regard to the buildings being oriented with consideration for sun and wind, the applicant has indicated that, "The proposed project has not been designed with consideration for sun and wind because other code requirements dictated the building locations and orientations." It is agreed that natural areas limit the orientation of buildings. It appears that buildings on the south side could be oriented to the sun but this would impact neighboring properties more. The applicant will need to address the sun and wind consideration In order to satisfy this criterion. Trees have been addressed earlier in this decision (18.790 Tree Removal).

#### **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 has indicated that the proposed structures which provide private outdoor patios of 80 square feet designed for the exclusive use of individual units with a minimum dimension of eight-feet. The proposed buildings are oriented and landscaped in a manner which protects private spaces on adjoining properties from view and noise. Parking and driveways are buffered by landscaping and fencing from adjacent single-family residential uses to reduce the affect of any noise upon the adjacent properties. On-site lighting fixtures will be directed away from adjacent properties to reduce the affects of glare. This criterion has been satisfied.

#### **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 applicant's plans show private outdoor patios and balconies of 80 square feet designed for the exclusive use of individual units with a minimum dimension of eight feet. Balconies have not been proposed to be used for entrances or exits and have been included in the calculation of open space. The recreational portions of the proposed clubhouse have been included in the calculation of the required open space. Private outdoor spaces are screened with guard railings, building walls, recesses and landscaping to provide privacy for users. This standard has been satisfied.

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

**In addition to the requirements of subsections 5 and 6 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;**

The applicant is proposing 34 one bedroom units, 63 two bedroom units and 11 three bedroom units. According to the standard, 22,700 square feet of outdoor recreation space is required. The applicant is proposing 8,640 square feet of balconies and patios, 496 square feet of clubhouse patio space, 1,000 square feet of indoor clubhouse recreation space and 13,610 square feet of open space. Therefore, the proposed project is offering 23,746 square feet of recreation areas. This standard has been satisfied.

**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.**

The project proposes private outdoor areas that are clearly defined by trellises and landscaping. Therefore, this standard has been 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.**

Windows are provided in all of the proposed units. The windows will be facing both the outer perimeter of the project and the interior of the project. No common interior laundry area has been proposed. Mail boxes will be located in lighted areas having vehicular and pedestrian traffic. The proposed buildings will have exterior light fixtures and parking lot lighting will be provided. This standard has been satisfied.

**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. The following facilities may be required after City and Tri-Met review: Bus stop shelters; Turnouts for buses; and Connecting paths to the shelters.

The project is not adjacent to or within 500 feet of an existing or proposed transit route. Therefore, this standard does not apply.

**Provisions of the Underlying Zone:**

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.

**Dimensional Requirements:**

The proposed project complies with all of the provisions and regulations of the underlying zone shall apply unless modified by other sections or this title except for the variances and adjustments requested under Chapter 18.370.

**FINDING:** Based on the analysis above, the Site Development Review standards have not been fully met, however, if the applicant complies with the conditions listed below, the standards will be fully met.

**CONDITIONS:**

- ◆ Submit a detailed lighting plan to the Tigard Police Department and Planning Division for review and approval.
- ◆ Submit supplemental information addressing the position of the buildings and sun and wind consideration.

**D. STREET AND UTILITY IMPROVEMENTS STANDARDS (18.810):**

**Streets:**

**Improvements:**

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 right-of-way width and 72-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 Durham Road, which is classified as an Arterial on the City of Tigard Transportation Plan Map. At present, there is approximately 45 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant has indicated that they will dedicate the additional ROW required to provide 50 feet from centerline. They have also indicated that they will dedicate the ROW required for the radius at the intersection.

SW Durham Road is currently improved. In order to mitigate the impact from this development, the applicant should provide street trees. The applicant has applied for an adjustment to the street tree requirements based on existing large trees near the ROW, the steep slopes and the headwall for the creek. Staff agrees with the requested adjustment to the street tree requirements along the Durham Road frontage.

This site also lies adjacent to SW 108<sup>th</sup> Avenue, which is classified as a Neighborhood Route on the City of Tigard Transportation Plan Map. At present, there is approximately 20 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant has indicated that they will dedicate the additional ROW required to provide 29 feet from centerline. South West 108<sup>th</sup> Avenue is currently partially improved. In order to mitigate the impact from this development, the applicant shall provide half-street improvements in accordance with the current TSP.

**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 vertical grades on 108<sup>th</sup> Avenue are much less than 12%, 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 non-access 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.

This development has access to both Durham Road (Arterial) and 108<sup>th</sup> Avenue (Neighborhood Route). Because of the existing creek and wetlands area, that divides the parcel, access to 24 new units on the west side will be provided by sharing the existing Phase I driveway. The remaining 84 units will have access onto 108<sup>th</sup> Avenue, which is the lower classification street, thereby minimizing the traffic conflicts and meeting this criterion.

**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 blocks are created as a result of the applicant's proposal. Therefore, this standard does not apply.

**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.

As mentioned above, no blocks or dead end streets are being created. Therefore, this standard does not apply.

**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.

No lots are being created. Therefore, this standard does not apply.

**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.

No lots are being created. Therefore, this standard does not apply.

**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. Private streets and industrial streets shall have sidewalks on at least one side.

There is an existing, curb-tight sidewalk along Durham Road. No revisions to this sidewalk are required at this time as discussed below. The applicant's plans show a new sidewalk with planter strip along the 108<sup>th</sup> Avenue frontage, thereby meeting this criterion.

**Planter strip requirements:** A planter strip separation of at least five feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities, there are significant natural features (large trees, water features, etc) that would be destroyed if the sidewalk were located as required, or where there are existing structures in close proximity to the street (15 feet or less) Additional consideration for exempting the planter strip requirement may be given on a case by case basis if a property abuts more than one street frontage.

There is an existing, curb-tight sidewalk along SW Durham Road. The requirement of a planter strip along this section would be in conflict with the significant natural feature that dominates a large portion of the site abutting Durham Road. It is unlikely that improvements along the already improved sections of SW Durham Road will be extended in the foreseeable future. Durham Road was last improved in October of 1992 and is not indicated to be improved on the five year Capital Improvement Plan. Therefore, no revisions to the existing sidewalk are required at this time.

#### **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.

The applicant's plans indicate that they will connect to the public sewer in two locations. The units on the west side of the creek will connect to the public sewer located within the stream corridor. The units on the east side of the creek will connect to the public sewer located in 108<sup>th</sup> Avenue.

#### **Storm Drainage:**

**General Provisions:** Section 18.810.100.A 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).

The existing stream traversing the sight receives runoff from upstream. This unnamed tributary is located near the bottom of an approximate 100 acres basin that drains to the Tualatin River.

**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's engineer reviewed the downstream capacity of existing storm facilities and determined that there are no deficiencies requiring detention. A final stormwater report with downstream analysis per CWS standards shall be submitted with the 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.

Durham Road and 108<sup>th</sup> Avenue are both classified as bicycle facilities. Durham Road has existing bike lane striping.

**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.

The applicant is constructing the half-street improvements along 108<sup>th</sup> Avenue, which will include the bike striping.

**Minimum Width:** Section 18.810.110.C states that the minimum width for bikeways within the roadway is five feet per bicycle travel lane. Minimum width for two-way bikeways separated from the road is eight feet.

The bike lane width is 6 feet along a Neighborhood Route.

**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 108<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 690 lineal feet; therefore the fee would be \$24,150.00. The applicant has indicated that they will underground the utilities as part of the half-street improvements along 108<sup>th</sup> Avenue.

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

#### **Traffic Study Findings:**

A Transportation Impact Analysis for this project was prepared by Kittelson & Associates, Inc., dated May 20, 2004. The following intersections were part of the impact analysis: Highway 99/Durham Road, Durham Road/Phase I Driveway, Durham Road/108<sup>th</sup> Avenue, Durham Road/98<sup>th</sup> Avenue, 108<sup>th</sup> Avenue/North Driveway and 108<sup>th</sup> Avenue/South Driveway.

Under existing conditions it was determined that, during both the weekday a.m. and p.m. peak hour periods, all study area intersections currently operate at an acceptable Level of Service (LOS). The intersections were also forecast to operate at acceptable levels for Year 2005.

The proposed development is estimated to generate approximately 550 net new daily trip ends. Of these trip ends, 55 are expected to occur during the weekday a.m. peak hour and 75 are expected to occur during the weekday p.m. peak hour.

Analysis of signal warrants conducted at the Durham Road/108<sup>th</sup> Avenue intersection showed that none of the signal warrants are met under full build-out condition.

Kittelson has provided the following recommendations:

- 1) Provide a 100-foot northbound left-turn pocket at the Durham Road/108<sup>th</sup> Avenue intersection.
- 2) Construct half-street improvements on 108<sup>th</sup> Avenue frontage to City standards.
- 3) Install MUTCD compliant "STOP" signs on the eastbound approaches of the site access driveways on 108<sup>th</sup> Avenue.
- 4) Re-stripe the center lane on Durham Road from 108<sup>th</sup> Avenue to the existing Phase I driveway with standard two-way, left-turn lane striping.
- 5) Maintain and trim landscaping along the site frontage to ensure adequate sight distance is provided at all the site access driveways.

#### **Public Water System:**

There is an existing public water line in 108<sup>th</sup> Avenue. The applicant's plan shows a 6-inch fire line connection and a 3-inch domestic line connection to this public main line. The applicant also indicates that a 2-inch domestic service for the units on the west side of the creek will be connected to the existing system serving Phase I.

#### **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.

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 throughout the project 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.

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 required, as the development will disturb more than one acre.

**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.

**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 \$177,217 based on the proposed multi-family use.

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 \$553,803 (\$177,217 divided by .32). The difference between the TIF paid, and the full impact, is considered the unmitigated impact on the street system. The unmitigated impact of this project on the transportation system is \$376,586. The cost of the improvements and Right-of-way dedication is expected to be \$163,005. Thus, required improvements meet the rough proportionality test.

## **SECTION VII. OTHER STAFF COMMENTS**

**City of Tigard Police Department** has reviewed the proposal and has provided the following comments:

- ◆ Need to see detailed lighting plan for proposed development. The plans will need to include the common areas and the area of "pedestrian bridge" as well.

**City of Tigard Urban Forester** has reviewed the proposal and has provided the following comments:

- ◆ Landscape architect should seriously consider using native plants (trees, shrubs etc.) instead of non-natives in the plant legend (page DR-L-1.2). I will gladly assist in developing a list of native plants.

## **SECTION VIII. AGENCY COMMENTS**

**Tri-Met** has reviewed the proposal and has no objections to it.

**Tualatin Valley Water District** has reviewed the proposal and has no objections to it.

**Tualatin Valley Fire and Rescue** has reviewed the proposal and has provided the following comments:

- 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)
- 2) Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turnaround. Diagrams of approved turnarounds are available from the fire district. (UFC Sec. 902.2.2.4)
- 3) When buildings are completely protected with an approved automatic fire sprinkler system, the requirements for fire apparatus access may be modified as approved by the Chief. (UFC Sec. 902.2.1 Exception 1)
- 4) Where there are 25 or more dwelling units, vehicle congestion, adverse terrain conditions or other factors as determined by the Chief of the fire department not less than two approved means of access shall be provided to the city/county roadway or access easement. Exceptions may be allowed for approved automatic sprinkler system. (UFC Sec. 902.2.1)
- 5) 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)

- 6) 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)
- 7) 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)
- 8) 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)
- 9) Where required, fire apparatus access roadway curbs shall be painted yellow and marked “NO PARKING FIRE LANE” at each 25 feet. Lettering shall have a stroke of not less than one inch wide by six inches high. Lettering shall be white on red or black on yellow background. (UFC Sec. 901.4.5.2)
- 10) 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)
- 11) 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)
- 12) 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)
- 13) Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway. (UFC Sec. 903.4.2.4)
- 14) 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)
- 15) A fire hydrant shall be located within 70 feet of a fire department connection (FDC). Fire hydrants and FDC's shall be located on the same side of the fire apparatus access roadway. (UFC Sec. 903.4.2.5) FDC locations shall be approved by the Chief. (1996 Oregon Structural Specialty Code, Sec. 904.1.1)
- 16) Fire department connections shall not be located on the building that is being protected with the exception of Group R, Division 1 Occupancies not over 4 stories in height. (UFC Sec. 903.4.2.5)
- 17) 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)

## **SECTION IX. 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 SEPTEMBER 2, 2004 AND BECOMES EFFECTIVE ON SEPTEMBER 18, 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 SEPTEMBER 17, 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: \_\_\_\_\_  
Mathew Scheidegger  
Associate Planner

\_\_\_\_\_  
September 2, 2004  
DATE

APPROVED BY: \_\_\_\_\_  
Richard H. Bewersdorff  
Planning Manager

\_\_\_\_\_  
September 2, 2004  
DATE

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