

STAFF REPORT
CITY OF LAKE OSWEGO

PLANNING DIVISION

APPLICANT:

Kruse Village LLC

FILE NO:

LU 12-0052

TAX LOT REFERENCE:

Tax Lot 110 of Map 2 1E 07 AA

STAFF:

Jessica Numanoglu

LOCATION:

4591 Carman Drive

DATE OF REPORT:

April 26, 2013

COMP. PLAN DESCRIPTION:

CR&D

120-DAY DECISION DATE:

August 13, 2013

ZONING DESIGNATION:

CR&D

NEIGHBORHOOD ASSOCIATION:

Lake Forest

I. APPLICANT'S REQUEST

The applicant is requesting approval of a Development Review Permit for the following:

- Construction of an approximately 64,000 sq. ft. retail/office development in six single story, multi-tenant buildings;
- Minor Variances to reduce the 15-ft. setback by up to two feet along the Carman Dr. and Meadows Rd. frontages to accommodate canopies on Buildings A, C, D, E and F;
- Delineation of a Resource Preservation District; and
- The removal of 128 trees.

II. RECOMMENDATION

Approval of LU 12-0052 with conditions. The complete listing of conditions is provided on pages 35-43 of this report.

III. APPLICABLE REGULATIONS

- A. City of Lake Oswego Community Development Code (Chapter LOC 50):
- | | |
|-------------------------------|---|
| LOC 50.01.004.6 | Effect of Conditions of Approval or Development or Design Regulations Imposed Prior to Annexation |
| LOC 50.02.002.2 | Specific Standards for Commercial, Mixed Use and Industrial zones |
| LOC 50.03.002.3 | Commercial, Mixed Use, Industrial and Special Purpose Districts Use Table |
| LOC 50.04.001.4 | Dimensional Table for Commercial, Mixed Use and Industrial Zones |
| LOC 50.04.002.5 | Special Street Setbacks |
| LOC 50.05.010 and 50.07.004.8 | Sensitive Lands Overlay Districts |
| LOC 50.06.001 | Building Design |
| LOC 50.06.002 | Parking |
| LOC 50.06.003.1 | Access |
| LOC 50.06.003.2 | On-Site Circulation - Driveways and Fire Access Roads |
| LOC 50.06.003.3 | On-site Circulation – Bikeways, Walkway and Accessways |
| LOC 50.06.003.4 | Local Street Connectivity |
| LOC 50.06.003.5 | Transit System |
| LOC 50.06.004.1 | Landscaping, Screening, and Buffering |
| LOC 50.06.004.3 | Lighting |
| LOC 50.06.005 | Park and Open Space |
| LOC 50.06.006.1 | Weak Foundation Soils |
| LOC 50.06.006.3 | Drainage Standards |
| LOC 50.06.008 | Utilities |
| LOC 50.06.011 | Vision Clearance |
| LOC 50.07.003.1 | Application Procedures |
| LOC 50.07.003.3 | Public Notice/Opportunity for Public Comment |
| LOC 50.07.003.4 | Hearings |
| LOC 50.07.003.5 | Conditions on Development |
| LOC 50.07.003.7 | Appeals |
| LOC 50.07.003.14 | Minor Development Decision |
| LOC 50.08.002 | Minor Variance |
| LOC 50.09.002.5 | Compliance with Approved Permit |
- B. City of Lake Oswego Streets and Sidewalks Ordinance [LOC Chapter 42]:
- | | |
|---------------------------|-----------------------|
| LOC 42.08.400 - 42.08.470 | Streets and Sidewalks |
|---------------------------|-----------------------|
- C. City of Lake Oswego Signs [LOC Chapter 47]:
- | | |
|-----------------------------|-------|
| LOC 47.03.005 - 47.03.030.2 | Signs |
|-----------------------------|-------|
- D. City of Lake Oswego Tree Chapter [LOC Chapter 55]:
- | | |
|---------------------------|--------------|
| LOC 55.02.010 - 55.02.080 | Tree Removal |
|---------------------------|--------------|

LOC 55.02.084	Mitigation Requirements
LOC 55.08.020	Tree Protection Plan Required
LOC 55.08.030	Tree Protection Measures Required

E. Lake Oswego Charter Chapter IX
Section 40 Major Road Expenditures

F. Metro Code:
MC 3.07.440 Protection of Employment Areas

IV. **FINDINGS**

A. Background/Existing Conditions:

1. The site is a 5.1-acre parcel with frontages on Kruse Way (a major arterial street) to the north, Carman Drive (a major collector street) to the east, and Meadows Road (a major collector street) to the south (Exhibit E1).
2. The site is zoned CR&D and is developed with two single-family dwellings and various outbuildings (Exhibit E2). Upon development of the site, all existing structures will be removed. The surrounding properties are developed as follows:
 - North: properties are zoned R-5 and R-10 and are developed with apartments and a church.
 - South: property is zoned CR&D and is developed with an office building.
 - East: property is zoned OC and is developed with an office building and multi-family residential uses.
 - West: property is zoned CR&D and is developed an office building.
3. There is a Class II Resource Protection (RP) district (stream corridor) along the north property line (Exhibit E18).
4. There are 165 trees that are five inches in diameter or greater on the site or in the rights-of-way abutting the site (Exhibit E10).
5. The site slopes gradually down from the northeast corner towards the southwest corner. The western edge of the property is approximately three to four feet higher than the abutting property and the southwest corner is approximately four feet higher than Meadows Road elevation (Exhibit E2).
6. Trimet Bus line #38 provides service on Kruse Way. There is a transit stop at the southwest corner of Kruse Way and Carman Drive.

V. PUBLIC NOTICE OF APPLICATION AND APPLICANT’S BURDEN OF PROOF

A. Neighborhood Meeting:

Neighborhood meetings were held by the applicant on August 9, 2012, and February 5, 2013 (Exhibits F4 and F5).

B. Public Notice to Surrounding Area:

The City has provided adequate public notice and opportunity to comment on this application, as required by LOC 50.07.003.3. One letter in opposition to the application was received from a nearby resident (Exhibit G200), comments neither for nor against the application was received from the Waluga Neighborhood Association (Exhibits G1 and G2), and one letter in support of the application was received from Shoreinstein Realty Services, the owner and manager of several buildings in the Kruse Woods Corporate Park (Exhibit G100).

The issues raised in the letter from the resident were that the proposed retail development does not meet the intent and purpose of the CR&D district and that the development is not compatible in height or scale to the surrounding development. These issues will be addressed under the Zoning and Building Design standards, respectively.

The issues raised by the Waluga Neighborhood Association all relate to the traffic study and traffic management plan submitted by the applicant and will be addressed in a supplemental staff memorandum, to be distributed to the Development Review Commission prior to the public hearing on May 6th and posted on the project website¹ prior to the public hearing. The applicant’s traffic consultant responded to the comments and questions raised by the Waluga Neighborhood Association and is attached as Exhibit F17. Both the neighborhood association’s comments and the applicant’s response will be addressed in the supplemental staff memorandum.

C. Burden of Proof:

Per LOC 50.07.003.1.b, the applicant for a development permit shall bear the burden of proof that the application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval. The applicant has provided sufficient evidence to enable staff to evaluate the proposal. These documents are listed as exhibits at the end of this report.

VI. LOC 50.07.003.14 – MINOR DEVELOPMENT DECISIONS

A. Classification of Application:

¹ <http://www.ci.oswego.or.us/planning/lu-12-0052-development-review-permit-construct-64000-sf-retailoffice-development>.

LOC 50.07.003.14.a.ii(6), (16), and (20) designates the construction of a commercial structure, Minor Variances, and an RP Delineation as Minor Developments.

B. Criteria for Review of Application:

Per LOC 50.07.003.14.d.ii, for any minor development application to be approved, it shall first be established that the proposal complies with:

1. The requirements of the zone in which it is located;

Base Zoning Districts [LOC 50.02]

CR&D Zone Purpose [LOC 50.02.002.1.f]

The site is located in the CR&D zone. The purpose of the CR&D zone is to provide a mix of clean, employee-intensive industries, offices and high-density housing with associated services and retail commercial uses in locations supportive of mass transit and the regional transportation network.

A letter in opposition to the application was received by a resident stating that the proposed development, which will primarily contain retail and service uses, does not meet the intent and purpose of the CR&D district because the development is not an employee intensive use with associated services and retail, but is rather primarily for service and retail use (Exhibit G200).

Purpose statements in LOC 50.02.002.1 express the intended overall predominant zone characteristics and are neither intended nor applied as a criterion for approval of an individual development application; rather purpose statements guide the decision makers (Planning Commission and Council) when considering amendments to code provisions regarding the zones. Purpose statements can also be referenced when making interpretations of related code standards that are not clear.

LOC 50.03.002.3 clearly lists all of the permitted and conditional uses allowed in the CR&D zone. Presumably, the list of uses in this zone were selected to be compatible with the intent of the zone; in any event, the time to challenge the appropriateness of uses for the zone was at the time the zone provisions regarding uses were considered. As adopted, the zone use provisions have size limitations imposed on certain uses, such as retail and restaurants. The size limitations were established to comply with Metro Title 4 requirements, which are intended to preclude the development of "big box" retail stores in Metro Employment Areas. Staff finds that the purpose statement in LOC 50.02.002.1.f is not a criterion for approval.

All of the uses envisioned by the applicant on page 33 of the narrative (Exhibit F1) are permitted outright in the CR&D zone. Compliance with the use type and size limitations will be reviewed at the time of business license application for each tenant and/or the building permit application for tenant improvements. In addition, there is no standard in this zone that prohibits stand-alone commercial retail and service development or that requires any portion of each development in the zone

to contain employee intensive uses. See additional discussion, below, regarding Use Regulations and Conditions [LOC 50.03]. Staff finds that the proposed uses are permitted in the CR&D zone.

Specific Standards for Commercial, Mixed Use and Industrial Zones [LOC 50.02.002.2]

Residential Screening [LOC 50.02.002.2.a.i]

This standard requires that all business, service, repair, processing, and storage, or the display of merchandise on property abutting or adjacent to a residential zone shall be conducted wholly within an enclosed building unless screened from the residential zone by a buffer area. Buffering must either consist of a six-foot tall fence or a vegetative buffer that will reach six feet in height within two years of planting.

The site is adjacent to residential zones on the north side. As illustrated on the landscape plan (Exhibit E25), the area north of the buildings will be fully landscaped and includes pedestrian circulation to and around the site. The applicant states that no outdoor display or business activities will occur north side of the site (Exhibit F1); however, staff notes that there is an outdoor seating area in the northeast corner of the site which could be used by restaurant tenants (Exhibit E25). This seating area is level with the finished floor elevations of Buildings B and C, and is approximately seven feet below the grade of Kruse Way, which separates the site from the residentially-zoned properties to the north. The seating area will be buffered by the three-foot retaining wall and the existing 8-10" diameter trees on the north side of the wall, as well as the new shrubs and trees proposed in the northeast corner of the site (Exhibits E10 and E25). Due to this 7-foot grade difference and the existing and proposed landscaping in the northeast area of the site, staff finds that the outdoor seating area is adequately screened and buffered from the adjacent residentially zoned properties to the north. This standard is met.

Unified Site Plan [LOC 50.02.002.2.a.iii]

A unified site plan is required for all development in commercial zones that identifies circulation patterns and access points, method of provision of public services and general placement of lots and structures, and general types of uses.

The applicant proposes to develop the site as a retail/office development on a single lot. Exhibits E3, E15-E17, and E29 illustrate the location of structures, access points, utilities, and circulation patterns. This standard is met.

Specific Standards Applicable to the CR&D Zone [LOC 50.02.002.2.b.i]

This standard prohibits direct access from a lot to Kruse Way or to Kruse Woods Drive. No "major trees" (a tree with a trunk diameter of at least eight inches at 24 inches above grade) located within 30 ft. of the Kruse Way right-of-way may be removed for landscaping or development purposes.

The site does not abut Kruse Woods Drive and no access to Kruse Way is proposed (Exhibit E3). As illustrated on Exhibit E10, there are nine “major trees” located within 30 feet of Kruse Way that will be preserved on the site. This standard is met.

Traffic Management Requirements [LOC 50.02.002.2.d]

This standard lists traffic management requirements that apply to all uses in the CR&D, MC, OC, GC and HC zones located in the Kruse Way Corridor. Traffic generation limitations on proposed development are required to assure the functioning of Kruse Way and the adjacent street system within Service Level "E" at p.m. peaks. The Traffic Management Plan (TMP) must be implemented when the traffic at an affected intersection consistently exceeds "C" level of service. This standard requires that a TMP be submitted with the land use application and that a registered traffic engineer provide information on the current p.m. peak service level status and volume to capacity ratio of the intersections affected by the development, and the p.m. peak traffic that will be generated by the proposed development.

The applicant has submitted a TMP that addresses the requirements of this standard (Exhibits F10 and F11). The recommended TMP was prepared by a registered traffic engineer and focuses on strategies appropriate for this development, including transit stop improvements, transit incentive programs, new employee TriMet kits, promotional materials, carpool incentive programs, mixed use development shared trips and pedestrian accessibility, and providing bicycle parking spaces on site.

The TMP will be required to be implemented because the intersection operational analysis results show that affected intersections exceed level “C” of service (Exhibit F10). A condition will be imposed requiring a notice of development restriction to be recorded to put future property owners on notice that the site is subject to compliance with the TMP. As conditioned, this standard is met.

Use Regulations and Conditions [LOC 50.03]

This section outlines the permitted and conditional uses in each zone district and any standards or limitations for those uses.

The applicant proposes a mix of commercial and office uses in multiple tenant buildings (page 33 of Exhibit F1). Leases with specific tenants have not been finalized, but the applicant expects a mix of some or all of the following types of uses: business services, financial institutions, professional offices, personal care, retail sales, medical and dental labs, specialized food stores, restaurants, delicatessens, health care facilities, and fitness and exercise. All of these uses are permitted outright in the CR&D zone; however, some uses have size limitations, including restaurant and retail, which are limited to a maximum of 20,000 sq. ft. per business. Compliance with the permitted uses will be assured at the time of business license application and/or building permit for each tenant. This standard can be met.

Dimensional Standards [LOC 50.04]

Commercial, Mixed Use and Industrial Zones [LOC 50.04.001.4]

The applicant proposes to construct six single story, multi-tenant office/retail buildings totaling 64,284 square feet. The dimensional requirements in the CR&D zone are listed in the matrix, below.

LOC 50.04.001.4 Current CR&D Zone Standards and Analysis of Compliance		
Standards	Minimum Requirements	Proposed
Setbacks		
Front Yard	15 feet	26 feet (north; to canopy) 13'11" (east; to canopy)* 15 feet (east; to building) 13 feet (south; to canopy)* 15 feet (south; to building)
Side Yard	15 feet	13 feet (west; to canopy)* 15 feet (west; to building)
Height	60 feet within 120' of R-7.5, R-10 or R-15 zone 78'-158' for all other circumstances**	21-45 feet
Lot Coverage	55%	33.3% (includes canopies and covered walkway)
Min % of site area that is landscaped, natural, or outdoor rec area	25%	25.5%

*Minor variance requested. Actual setback to canopy on east side is 11'-11" and is 11 feet on the south and west sides because canopies are permitted outright to project into a required yard by up to two feet (LOC 50.04.003.8.a).

**See LOC 50.04.001.4.c.ii

As illustrated on Exhibits E5-E7 and E13-E14 and summarized in the matrix, above, the proposed development complies with all of the dimensional standards in the CR&D zone, except for canopies facing the front and side yards. The applicant is requesting minor variances to reduce these yards by up to two feet for canopies on Buildings A, C, D, E and F, which is discussed, below.

Per LOC 50.04.001.4.c.iii, landscaping, pedestrian walks and plazas, driveways and pedestrian amenities are all permitted in the setback area fronting a public road and landscaping, pedestrian walks and plazas are allowed within other setback areas in the CR&D zone. The applicant proposes all of these uses within the setback areas (Exhibit E22).

Staff finds that the proposed development complies with the CR&D zone dimensional standards.

Special Street Setbacks LOC 50.04.002

The Special Street Setback is to assure an adequate front yard setback is available in the event of possible future street improvements, such as additional lanes, pedestrian and bicycle facilities, transit facilities, drainage management improvements, lighting, and street landscaping. Carman Drive is identified as having a special setback of 40 feet, measured from the centerline of the right-of-way.

As illustrated on Exhibit E2, a 40-foot right-of-way, measured from the centerline, currently exists along the site's Carman Drive frontage. This standard is met.

Adjustments, Alternatives, and Variances [LOC 50.08]

Minor Variance [LOC 50.08.002]

The applicant is requesting a minor variance in order to reduce the 15-foot front and side yard setbacks along the east, west, and south property lines by two feet solely for intermittent canopy projections on Buildings A, C, D, E and F (Exhibits E5 and E14).²

Minor variances are small changes from the Code requirements that will have little or no effect on adjacent properties or users. The applicant has responded to the minor variance criteria in Exhibit F3. Per LOC 50.08.002.2, a minor variance may be granted if it is established that:

- (1) the granting of the variance will not be detrimental to the public health or safety, or materially injurious to properties or improvements within 300 feet of the property; and,*

The proposed variances will not be detrimental to public health or safety because all of the canopies will be constructed to current Building Code standards and will not hinder access by public safety responders to the buildings or site.

The variances will not be materially injurious to properties or improvements within 300 feet because the setback reduction is for intermittent canopy projections that do not add any substantial bulk to the buildings nor block access to light or air to any surrounding properties. The buildings themselves fully comply with the 15-foot setbacks. The site abuts streets on three sides and is separated by a parking lot and landscaping from the existing building on the only abutting property to the west (Exhibit E3). No letters were received from the public objecting to the variances.

² Although the variance request is to reduce the front and side setbacks from 15 feet to 13 feet for canopies, the actual resulting setbacks for the canopies will be no less than 11 feet because canopies are permitted outright to project into a required yard by up to two feet (LOC 50.04.003.8.a). Pursuant to the definition of "Yard, Required" in LOC 50.10.003.2, a required yard is the area of land between a lot line and a setback line, whether the setback line is determined by the terms of the Code or by an approval granted pursuant to the Code. A variance is an approval granted pursuant to the code; therefore, the canopies are permitted to project up to two feet into the setback line approved by the variance.

(2) the proposed development will not adversely affect existing physical and natural systems such as traffic, drainage, Oswego Lake, hillsides, designated sensitive lands, historic resources, or parks, and the potential for abutting properties to use solar energy devices any more than would occur if the development were located as specified by the requirements of the zone.

The proposal will not adversely affect existing physical and natural systems such as traffic, drainage, Oswego Lake, hillsides, or designated sensitive lands because the property is not located near Oswego Lake, the proposed variances have no direct impact on traffic and the development complies with the Drainage Standard, as discussed on page 25 of this report. The proposed variances will not adversely affect sensitive lands on the site because the applicant has delineated and protected the RP district along the north side of the site (Exhibit E18), and the applicant is not proposing any variance to reduce the required construction setback to the RP district.

The development will not impact any abutting property's ability to use solar energy devices any more than would occur if the development were located as specified by the requirements of the zone because the canopies are below the height of the buildings and the development is separated from other properties by streets on three sides and is well below the height of the development abutting the site to the west.

For all of the above reasons, staff finds that the requested minor variances to reduce the front and side yard setbacks from 15 to 13 feet solely for intermittent canopy projections on Buildings A, C, D, E and F meets the criteria for approval.

Overlay and Design Districts [LOC 50.05]

Sensitive Lands Overlay Districts [LOC 50.05.010]

The purpose of the sensitive lands districts, as designated on the City's Sensitive Lands Map and Atlas, is to protect the functions and values of wetlands, stream corridors, and tree groves on lands with environmental or natural significance. The City's Sensitive Lands Map and Atlas identify an RP district (Class II stream corridor) along the north property line.

Delineation of Streams [LOC 50.07.004.8.d]

Resource delineation is a more precise, site-specific determination of the location of a resource prepared by a qualified professional. The City Manager compares the applicant's delineation maps with the 1994/1995 ESEE Study and the Sensitive Lands Atlas and inspects the staked, delineated resource boundaries on the site. The City Manager will approve the delineation if he or she finds that the delineated boundary more accurately reflects the location of the resource than the boundary illustrated in the Sensitive Lands Atlas. The methodology for delineating a stream corridor shall be based on topographic maps, hydrology maps, and/or field observations pursuant to Figure 50.07.004-A.

A delineated RP district shall include the delineated stream or wetland and a protected riparian area, which is measured outward from the edge of the delineated stream corridor or wetland. A Class 2 RP district requires a 25-foot protected riparian area.

The RP district was delineated by a qualified professional (Exhibit F7) and is illustrated on Exhibit E18. The stream corridor boundary was delineated 10 feet from the stream centerline, pursuant to Figure 50.07.004-A. No wetlands were identified on the site.

The City's Natural Resource Planner reviewed the Resource Delineation and found that it accurately reflects the location of the stream corridor and the 25-foot protected riparian area. Per LOC 50.07.004.8.d.iii, upon final approval of the delineation, the boundary of the RP district as shown in the Sensitive Lands Atlas shall be modified to be consistent with the delineated boundary.

In order to put future property owners on notice that an RP district exists on the property, the applicant will be required to submit a map of the delineated RP boundary in a format that is acceptable for recordation by Clackamas County and execute a covenant running with the land that references the RP district and this City of Lake Oswego Planning and Building Services Department application file. This standard is met.

Construction Standards [LOC 50.05.010.4.d]

The construction standards require that the RP district be protected during construction by either a six-ft. tall chain link fence or an alternative method approved by the City Manager. The applicant submitted a letter requesting that the RP district not be required to be fenced, that no limits be placed on equipment within the RP district, and that the stream be protected by erosion control fencing (Exhibit F2).

The purpose of the construction standards is to prevent impacts to the RP district that may occur inadvertently during construction, including compaction of soil by equipment, erosion, spills, or other detrimental impacts. Six-foot tall protection fencing, as illustrated on the demolition plan (Exhibit E9), will be required on the south side of the RP district during demolition and grading for the construction of the buildings and parking lot, but fencing on the north side of the district will not be required since minimal construction activities will take place in that area. The applicant states that some limited amount of equipment will be necessary to perform the mitigation work and construct the new pathway within the RP district. Sections of the fence can be removed or opened as needed to provide access for the necessary equipment, but the timing and location shall be planned in advance and subject to City approval. Work within the RP district shall occur after the site is graded and the buildings have been constructed in order to minimize potential construction impacts after the fence is removed. As conditioned, this standard is met.

Mitigation [LOC 50.05.010.4.e]

Within the past year, the applicant removed invasive blackberries from the RP district (see picture at right). The applicant proposes to replant and enhance the RP district by completing the removal of invasive species and replanting with native plants (Exhibit E24). The proposed plants are native species, and the size and spacing meet the City's guidelines.



The Mitigation, Monitoring, and Maintenance Plan (Exhibit F8) submitted by the applicant states that the proposed mitigation will enhance several of the stream corridor's functions and values, including thermoregulation, invertebrate habitat, amphibian and turtle habitat, song bird habitat, and is supportive of characteristic vegetation. The plan also includes monitoring and maintenance provisions that sets a survival rate of 80% for woody species, but does not include a target survival rate for ferns, grasses, and rushes. The plan states that non-native and invasive species will be controlled, but it does not include a target for percent coverage. Finally, the plan does not specifically state that annual reports will be submitted to the City by October 31 of each year for a three-year period. As a condition of approval, the Mitigation, Monitoring, and Maintenance Plan shall be revised to state that trees, shrubs, ferns, grasses, and rushes will be replaced as needed throughout the monitoring period to ensure an 80% survival rate, and invasive plants will be removed to ensure less than 5% cover of invasive species. It should also state that any replacement species must be approved by the City, and that the applicant or other legally responsible agent shall provide an annual report to the City Manager by October 31 of each year for a three-year period. Per LOC 50.05.010.4.g.viii, the applicant will also be required to submit a performance bond or letter of credit that is equal to 120% of the value of the mitigation prior to the issuance of a building permit. As conditioned, this standard is met.

RP District and Construction Setback Requirements [LOC 50.05.010.6.b]

The RP district shall include the delineated stream and a protected riparian area. A 10-foot construction setback is required for new structures, parking areas, active use recreation facilities, and streets and driveways. The Resource Delineation Plan (Exhibit E18) illustrates a 25-foot protected riparian area and a 10-foot construction setback, as required for a Class II stream corridor. This standard is met.

RP District Development Standards [LOC 50.05.010.6.c]

This section prescribes development, uses or activities that are permitted within the RP district, subject to the standards of this section. The applicant proposes to install new landscaping, soft surface trails, pedestrian bridges, and low voltage landscape lights and to repave the pedestrian pathway along Kruse Way in the RP district (Exhibits E25 and E31).

Landscaping within an RP district is required to be native, to provide food or cover for wildlife and not be dependent on long-term irrigation. The proposed mitigation plan uses native plants from the City's Plant List in compliance with the landscaping standards (Exhibit E24).

Two pedestrian bridges and a soft-surface trail are proposed within the RP district. These uses are allowed in the resource provided any disturbed land is restored with native plants. As illustrated on Exhibit E24, the area around the trail and bridges will be landscaped with native plants.

Low voltage landscape lights are proposed within the RP district. The lights operate at 12 volts and will be connected to a 20 amp circuit, which is below the maximum 15 volt and 25 amp circuit allowed by this standard.

The applicant proposes to repave the existing seven-foot wide pedestrian path along Kruse Way that is located within the RP district. Replacing the existing path is allowed as an unavoidable public transportation facility, and mitigation is not required if the repaving work occurs within the existing footprint. However, the repaving must follow the construction standards in LOC 50.05.010.4.d. If any adjacent area is disturbed during construction, it must be replanted. In kind vegetation is acceptable on the north side of the sidewalk to replace the nonconforming grass.

The applicant notes on the tree removal plan (Exhibit E10) that 10 trees within the RP district are "to be evaluated during construction." If removal of any of these trees is proposed in the future, a tree removal application must be obtained and the criteria in LOC 50.05.010.6.c.ii(1)(b) must be met.

Staff finds that the proposed development complies or can be conditioned to comply with all of the Sensitive Lands standards.

2. The applicable Development Standards [LOC 50.06];

Building Design for Commercial Development [LOC 50.06.001.5]

This standard is applicable to development involving a commercial structure and prescribes standards for the design and orientation of buildings and associated elements and site features, preservation of natural land forms and vegetation, screening of mechanical equipment, and minimization of noise impacts.

Design Standards [LOC 50.06.001.5.b]

Buildings are required to be designed to be complementary in appearance to adjacent structures of good design with regard to materials, roof lines, height and overall proportions. Building elements and site features, such as bus shelters, benches, awnings, lights, signs, windows, etc. are to be complementary in appearance to those buildings or structures for which they are associated and used to define the first floor retail cornice. Mechanical equipment is required to be screened or placed in a location where they are not visible.

The applicant proposes to construct six single-story multi-tenant buildings around the perimeter of the site with surface parking in the center. The proposed site plan, building elevations, and perspective drawings are included as Exhibits E3-E7, E27 and E33 and the applicant addresses the building design standard in detail in the project narratives (Exhibits F1 and F3).

Exhibit E19 illustrates the location and height of existing development on adjacent properties. There are apartment buildings and a church located to the north, office buildings located to the east, west and south, and multi-family residential development to the southeast. The surrounding office buildings range in height from 39'-86' and are generally situated in the center of the lot with parking around the perimeter. The surrounding multi-family structures are 21'-36' in height and are situated at the perimeter of the site with parking in the center or behind the structures. The office towers along Meadows Road are flat-roofed, use red brick and glass as the predominant materials, and have multiple plane changes in their facades to break up the scale and create visual interest. The nearby residential developments consist of multiple structures that have pitched roofs, utilize horizontal siding and glass as their primary materials, and create visual interest by varying the wall planes and utilizing decks.

One letter from a resident in opposition to the application was received stating that the development is not compatible in height or scale to the surrounding development (Exhibit G200).

As discussed in the applicant's narrative, staff finds the proposed development is complementary in appearance to adjacent structures of good design with regard to materials, roof lines, height and overall proportions for the following reasons:

- The proposed buildings ranges in height from 21'-45' and provide a transition between the tall office towers along Meadows Road and the shorter office and multi-family structures to the north and the east.
- The proposed development is located close to the street frontages, rather than set back towards the center of the site as most of the surrounding buildings are. As a result, it will appear larger in reference to the surrounding buildings that are placed farther from the street.
- Although the proposed buildings will be closer to the streets than most of the surrounding development (buildings are required to be within 30 of a street per

LOC 50.06.001.5.g), substantial landscaping is proposed around the perimeter of the site that will be consistent with the pattern of wide landscaped areas provided along the street frontages of the surrounding development.

- The development utilizes both flat and pitched roof forms to complement the varied roof forms utilized on the adjacent structures.
- Photos of the surrounding buildings (Exhibit F3) provided by the applicant demonstrate the materials and facades of the adjacent structures. The applicant has also submitted a materials board and a matrix for the street-facing elevations of each of the proposed buildings that provides details about the proposed materials and the lengths and heights of each building section (Exhibit E27 and F3). Red brick is utilized prominently on most of the buildings, which provides a visual relationship to the adjacent office towers without being overtly repetitive. Additionally, several of the proposed building materials have a strong horizontal element, including wood louver and wood veneer that tie in with the horizontal siding on the adjacent residential structures. The varied materials, wall plane offsets and canopies break up the scale of the development and provide visual interest to the facades.

For the reasons listed, above, staff finds that the applicant has adequately demonstrated that the proposed development is complementary in appearance to adjacent structures of good design.

Exhibits E26, E28, E30 and E32 illustrates various site elements and features that are proposed, including a covered walkway, benches, waste receptacles, retaining walls, pavers and decking and lights. All of these elements and features are of a high quality contemporary design and appropriately complement the building or structure with which they are associated by utilizing similar materials, colors, and textures.

The elevation drawings also illustrate locations for future signs and the applicant indicates that the signs will be required to contain individual letters mounted directly to the wall surface or to a 6-inch raceway painted to match the building material it is attached to and that the size and height of the signs will meet the requirements of the Sign Code. A sign permit will be required for each tenant or complex sign and will be reviewed for compliance with the Sign Code at the time of application.

The locations of the signs, storefront awnings, and light fixtures clearly define the retail cornice and contribute to a pedestrian scale environment.

Staff finds that the associated site elements and features, as conditioned, will be complementary in appearance to those buildings or structures for which they are associated and are used to define the retail cornice.

Mechanical equipment will be located within buildings or on roofs and will either be within the roof structure or screened by a parapet (Exhibit F1). There are existing above-ground PGE transformer boxes in the southeast corner of the site that do not

appear to have adequate screening (Exhibit E25). Unless the existing transformers will be moved to an underground vault, the landscape plan should be revised to include shrubs or fencing of an adequate height at the time of installation to screen the transformers. Additionally, all new utilities shall be required to be installed underground unless the applicant can demonstrate this requirement to be impracticable. This will be made a condition of approval.

Existing Land Forms, Trees, Shrubs and Other Natural Vegetation [LOC 50.06.001.5.c]

Buildings shall be designed and located to complement and preserve existing natural land forms, trees, shrubs and other natural vegetation. Trees and other natural elements should be utilized to help define building proportion relationships and to provide scale.

The site does not contain any significant land forms; however, there are 165 trees of varying sizes on or in the right-of-way abutting the site. The most significant stands of firs are located in the southern area of the site, particularly in the southeast corner. While most of the trees are proposed to be removed (128 trees), the significant stand of firs at the southeast corner of the site and most of the trees along the Kruse Way frontage will be preserved. Preservation of the firs at the southeast corner will maintain the wooded character at the intersection of Carman Drive and Meadows Road and will provide scale to the area of the development that is nearest to residential properties. The trees remaining along Kruse Way will maintain the mature landscaping that is a prominent feature of this boulevard. Additionally, new trees are proposed along the entire site perimeter, in the parking lot, and along the building facades facing the parking lot. Staff finds that the buildings are designed and located to complement and preserve significant trees and that the existing and proposed trees will define building proportion and provide scale to the development as a whole.

Reduce Noise Impacts [LOC 50.06.001.5.d]

Building shall be designed and constructed to reduce noise impacts on interior occupied spaces and adjacent property.

The buildings will be placed around the perimeter of the site, which helps buffer the interior gathering spaces from traffic noise from the abutting streets as well as provide a buffer from the main activities in the center of the site to the surrounding properties. The applicant states that mechanical equipment will be kept away from primary outdoor gathering areas and adjacent residential properties (Exhibit F1). This standard is met.

Direct Water Away from Structures [LOC 50.06.001.5.e]

Buildings shall be designed and constructed with roof angles, overhangs, flashings, and gutters to direct water away from the structure.

All buildings and canopies are designed to direct water away from the structures (Exhibit F1).

Protect Pedestrians from the Elements [LOC 50.06.001.5.f]

Buildings shall incorporate features such as arcades, roofs, alcoves, porticos and awnings to protect pedestrians from the elements. These projections shall maintain a minimum vertical clearance of 13 ft. six in. where over fire lanes.

The buildings include multiple awning and roof projections (Exhibit E6). No projections are proposed over fire lanes.

Building Orientation [LOC 50.06.001.5.g]

Buildings are required to be located within 30 feet of a public street, except where prevented by topographic constraints, natural resources, or where, in multi-building complexes, the configuration of the lot prevents locating all buildings within 30 ft. of a public street. Buildings with multiple frontages and/or that are located on a transit street shall provide at least one public entrance within 30 feet of a transit street. Buildings within 30 feet of a public street are required to have a public entrance directly from the street.

All of the proposed buildings, except Building A, are located within 30 feet of a public street (Exhibit E14). Building A cannot be located within 30 feet because it is required to be located outside the RP district in the northwest area of the site.

Buildings A-C have frontage on Kruse Way, which is a transit street. Building B has a public entrance within 30 feet of Kruse Way; however, Buildings A and C do not. As discussed above, Building A cannot be within 30 feet of Kruse Way due to the presence of an RP district. Building C is located within 30 feet of Kruse Way, but cannot have an entrance on the façade facing Kruse Way due to topographic constraints. Kruse Way sits approximately seven feet higher than the finished floor of Building C and the ground surface immediately adjacent to the north façade is approximately three feet higher than the finished floor elevation, making a public entrance in this location impractical.

Buildings B-F are all located within 30 feet of a public street and all the buildings, except Building F, have a public entrance directly from the street. The finished floor of Building F is approximately 11-12 feet higher than the grade of Meadows road, making a direct entrance from the south impractical. Though not direct, a pathway and stairs from the sidewalk abutting Meadow Road are provided, which connect to the sidewalk leading to the entrances to Building F.

Staff finds that the applicant has adequately demonstrated compliance with the Building Design standard.

Parking [LOC 50.06.002]

This standard applies to all development which generates a parking need and prescribes the number of auto and bicycle parking spaces on the site, parking space dimensions and loading requirements.

The applicant has provided a table listing the gross floor area of anticipated uses on the site and the parking requirement for each use (Exhibit F1), which is summarized, below. Per Table 50.06.002-2, reductions to the minimum number of spaces apply to the development for gross floor area exceeding 20,000 s.f., availability of transit on a fronting street without shelter, and hard surface pedestrian and bike access to 100 or more residential units within 1,000 feet of the site.

Use	GFA (sq. ft.)	Spaces required per 1,000 s.f. of GFA	Parking Spaces Required
Eating and drinking establishment	12,000	13.3	159.6
Specialty food store	6,500	6.6	42.9
Bank	3,000	2.5	7.5
Medical office	7,920	3.9	30.89
Office	2,000	3.33	6.66
Retail	33,210	3.3	109.59
TOTAL	64,630 ³	-	357.14
Min. # spaces required after applying modifiers			246
Max. # spaces permitted (125% of min. before modifiers)			448

A total of 250 parking spaces are proposed, which exceeds the minimum number of spaces required for the development and is well under the maximum spaces permitted. All of the parking spaces and aisle widths conform to the minimum dimensions prescribed by Table 50.06.002-A for standard and compact spaces (Exhibit E14).

Up to 50% of the minimum required spaces may be provided as compact spaces and no spaces may be located in a required yard. A total of 85, or 34%, of the parking spaces are compact (Exhibit E14). All of the parking spaces meet the 15-foot front and side yard setbacks required by the CR&D zone.

Loading berths in sufficient numbers and size to adequately handle the needs of the development are required. According to the applicant, no loading berths are necessary due to the nature of the development and relatively small tenant spaces (Exhibit F1).

³ The GFA of all buildings is actually 64,284 s.f. Prior to revisions to the building footprints, the GFA was 64,630 and the applicant inadvertently did not update the parking table when the revisions were made. Since the GFA is actually 346 square feet less, the effect would be a slight reduction in the overall minimum required and maximum allowed parking spaces. Since the applicant is above the minimum spaces required for the larger GFA and is well under the maximum spaces allowed, it is not necessary to recalculate.

Development in commercial zones that requires a total of 50 or more parking spaces shall designate at least 5% of the number of parking spaces as employee carpool or vanpool parking. The carpool/vanpool spaces shall be full sized parking spaces and shall be clearly marked "Reserved-Carpool/Vanpool Only" with hours of use. Where employee parking spaces are not designated, employee carpool and vanpool parking spaces shall be located in close proximity to the building entrance normally used by employees.

A total of 13 reserved carpool/vanpool spaces are required. As illustrated on Exhibit E14, 13 spaces are designated as carpool/vanpool only and are centrally located between all of the buildings on the site.

Table 50.06.002-6 lists the number of bicycle parking spaces that are required by use. One bicycle parking space per 2,500 s.f. of retail sales and services (including financial institutions) and one space per 5,000 s.f. of offices (including doctor offices) and restaurant uses are required. Based on the anticipated uses, a minimum of 22 bicycle parking spaces are required on the site. As illustrated on Exhibit E14, 13 bike racks totaling at least 26 bicycle parking spaces are proposed on the site (one additional bike rack is proposed off site along Meadows Road).

Per LOC 50.06.002.2.b.vi, 100% of all bicycle spaces are required to be covered. Only two of the 13 on-site bike racks are covered. As a condition of approval, the applicant will be required to move the bike racks to locations where 100% of the bike spaces are covered or provide a free-standing cover that is compatible with the design and materials of the proposed buildings and site improvements. Cover for bike parking may be accommodated by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings, or freestanding shelters.

As conditioned, the automobile and bicycle parking standards are met.

Access/Access Lanes (Flag Lots) [LOC 50.06.003.1]

This standard is applicable to construction of commercial development and prescribes standards for the design of access points. The determination of the location and configuration of an access shall be based on a traffic study.

The applicant has submitted a Transportation Impact Analysis and Traffic Management Plan prepared by a traffic engineer addressing the requirements of this standard (Exhibits F10 and F11). Access to the site is proposed on Meadows Road and Carman Drive with new driveway approaches constructed according to City standards and the recommendation outlined in the analysis.

The Engineering staff finds that the proposed location and design of the access drives adequately address this standard.

On Site Circulation – Driveways and Access Roads [LOC 50.06.003.2]

This standard is applicable to all development proposing a new use or an increased use on a site when the development will result in the construction of, or the increased use of private streets, driveways, or parking lot aisles. This standard regulates driveways, including width, slope, and other aspects of geometric design, particularly those related to emergency vehicle access.

The maximum width of a driveway approach, measured where the edges of the driveway meet the right-of-way, shall be 24 feet, unless otherwise justified by the recommendations of a traffic study. Where the driveway meets the public street, the landing area shall be a minimum of 25 feet long and shall have a maximum grade of 5%. All driveway approaches shall be located and designed in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards.

The applicant's traffic analysis (Exhibits F10 and F11) adequately addresses the requirements of this standard. According to the traffic analysis, both of the proposed driveways will function acceptably with stop control and will have sufficient sight distance. Queues at the Meadows Road driveway are not expected to exceed 50 feet during the weekday p.m. peak hour and queues at the Carman Drive driveway are not expected to exceed 25 feet.

The traffic analysis provides the following recommendations for mitigation measures as part of the proposed development.

1. The existing driveway off of Carman Drive should be closed and replaced with a single right-in/right-out only driveway.
2. A raised median should be installed on Carman Drive between Kruse Way and Meadows Road (connecting to the existing median at the Meadows Road roundabout) to properly enforce turn movement restrictions and to maximize available northbound left-turn storage on Carman Drive approaching Kruse Way.
3. Shrubbery, landscaping, signing, and above ground utilities located near the internal intersections and site driveways should be located and maintained to ensure adequate sight distance.

The Engineering staff reviewed the recommendations and concurs with the mitigation measures described above. The extension of the median and plantings shall be designed to the satisfaction of the City Engineer. These recommendations will be made conditions of approval.

Exhibit E14 illustrates that the driveway approach onto Meadows Road will be 36 feet wide to account for left and right turn lanes out of the site and one lane for ingress (three 12-foot lanes) as recommended by the traffic study. The site grading plan illustrates that the landing grade will not exceed 5% for the first 25 feet where the approach meets the public street. As a condition of approval, the sidewalk

cross-slope will be required to meet Americans with Disabilities Act (ADA) standards across the driveway approaches.

Exhibit E21 illustrates emergency vehicle maneuvering on the site. According to the Fire Marshal, fire access to the site is adequate provided that all buildings are fully sprinklered. Compliance with Fire Code requirements will be reviewed at the time of building permit application.

As conditioned, this standard is met.

On Site Circulation – Bikeways, Walkways and Accessways [LOC 50.06.003.3]

This section is applicable to all minor developments involving the construction of a commercial structure. A pedestrian circulation plan is required for developments of one acre or more that provides connections between the proposed development and existing development on adjacent properties (other than via the street system), where feasible.

A pedestrian circulation plan is required for the proposal because the site exceeds one acre. Exhibit E29 illustrates pedestrian circulation throughout the entire site, including a direct connection (other than the street system) to the property to the west.

Walkways shall meet ADA standards. Walkways within the site, connections to the public sidewalk, and external connections off site shall provide convenient, accessible, and the most practical direct, barrier-free route design. ADA accessible walkways that provide access to all portions of the site and to each street frontage are provided on site (Exhibits F1 and E11). Compliance with this requirement will be reviewed at the time of building permit application.

Walkways crossing driveways, parking areas, and loading areas shall be clearly identifiable through the use of a different paving material, raised elevation, or other similar method. Where walkways are adjacent to vehicle travel areas, they shall be separated by a raised curb, bollards, buttons, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps.

As shown on Exhibit E29, all walkways that cross driveways or parking areas utilize pavers that are a different material than the parking lot or driveway. Sidewalks that abut parking are proposed to be at the same grade, but will be separated from the parking spaces by trees and bollards.

This standard is met. Compliance with the construction standards for walkways and accessways and ADA accessibility will be reviewed at the time of building permit application.

Local Street Connectivity [LOC 50.06.003.4]

This section is applicable to the construction of a commercial structure that is located on a parcel(s) of redevelopable land of 1.75 acres or larger.

Development shall be designed so that streets and pedestrian accessways create connections that improve local access to the existing system and consider connections to adjacent developable properties. Local and neighborhood collector streets shall provide for full street connections between through streets with spacing of no more than 530 feet, measured between the centers of the intersection of two through streets that provide for vehicle traffic movement. The spacing between Kruse Way and Meadows Road does not exceed 530 feet, but the spacing between Carman Drive and the nearest through street is more than 530 feet and a street between Kruse Way and Meadows would technically be required along the west side of the site. An exception to this requirement is permitted if the presence of Sensitive Lands discourages the construction of streets through the resource or where requiring the street would result in violation of other City standards (LOC 50.06.003.4.c.vi).

There is an RP district in the northwest area of the site and construction of a street connecting to Kruse Way would be a violation of LOC 50.02.002.2.b.i(1), which prohibits direct access to Kruse Way; therefore, no street connection will be required. LOC 50.06.003.4.c.vii and viii states that if an exception to the street connection is allowed, then a residential accessway on a public easement will be required so that spacing between bicycle and pedestrian connections shall be no more than 330 feet. However, a reduction in the number of residential accessways may be allowed if doing so would not significantly add travel time or distance from the proposed development to bus lines or activity centers in the area, or if existing development patterns on abutting properties preclude a logical connection, or if the traffic impacts from the development are too low to justify the cost of the accessway.

Because the site is bounded by streets on three sides and the site to the west is fully developed and does not contain a residential accessway, requiring a residential accessway between Kruse Way and Meadow Road 330 feet west of the centerline of Carman Drive will not reduce travel time or distance from the proposed development to bus lines or activity centers and an accessway to the west would not connect to any existing residential accessway. Staff finds that no residential accessway should be required. This standard is met.

Transit System [LOC 50.06.003.5]

This standard is applicable to commercial development and requires the installation of transit facilities and transit-oriented features that connect the development with the nearest transit street or paths that lead to the nearest transit street.

Kruse Way is a transit street served by TriMet bus route 38 (current peak hour traffic service only). The closest bus stop is at the northeast corner of the site at the intersection of Kruse Way and Carman Drive. The proposed development complies with this standard by constructing walkways that connect the site to the sidewalk system along each of the street frontages that leads to the transit stop (Exhibit E29). The applicant also proposes to provide new transit amenities at the bus stop which are being coordinated with TriMet and include construction of a new bus stop platform (concrete pad) and a covered shelter for transit riders. This standard is met.

Landscaping, Screening and Buffering [LOC 50.06.004.1]

This standard requires commercial development to provide a minimum 15% of the gross land area in landscaping and requires screening and buffering to mitigate for lighting or noise impacts, to screen public or private utilities or storage areas and parking lots, and as separation between dissimilar uses. Street trees are required along all street frontages.

As illustrated on Exhibit E22, a total of 46,020 square feet or 20.6% of the site is provided in landscaping and new and existing street trees are provided along all three street frontages.

The buildings are located around the perimeter of the site, with parking in the center. The perimeter of the site will be fully landscaped and trees and landscape islands are provided in the parking lot and around the buildings facing the parking lots. Dissimilar uses adjacent to the site include multi-family residential development to the north and to the southeast. Existing mature trees and new trees and vegetation are proposed along Kruse Way that provides buffering to the north and a significant stand of firs as well as new trees and landscaping are proposed in the southeast area of the site. (Additionally, both of the adjacent residential developments are located across a right-of-way from the applicant's site, providing further separation.)

As was discussed previously, there are PGE transformers in the southeast area of the site that do not appear to be adequately screened by the proposed landscaping if the transformers are to remain above ground. A condition will be imposed to require fencing or landscaping that is sufficient to screen the transformers at the time of planting. Trash enclosures are proposed to be fenced; however, no details on the materials for the enclosures were provided. As a condition of approval, the materials and colors for the trash enclosures shall be compatible with the materials and colors of the buildings and other site features, to the satisfaction of staff.

Per LOC 50.06.010.2, all landscape materials shall be guaranteed by the owner for a period of one 12-month growing season from the date of installation. Security in the amount of 5% of the total landscaping cost shall be provided to ensure necessary replacement. A schedule of continuing maintenance of plantings shall be submitted for review and approval by staff.

As conditioned, this standard is met.

Lighting Standard [LOC 50.06.004.3]

This section is applicable to all minor or major development which results in increased use of public and private streets, public pathways and access ways, or parking lots.

Open air parking lot lighting shall be designed to provide uniform lighting throughout the facility and shall not produce light trespass by the direct illumination of adjacent properties or produce glare at normal viewing angles. Full cut-off fixtures are required and lamps shall be utilized that emit light at the warm end of the color spectrum.

As illustrated on the photometric plan (Exhibit E31), the parking lot lighting is uniform and does not trespass onto adjacent properties. The parking lot lights are 20-foot pole mounted lights that utilize full cutoff fixtures and will not produce glare at normal viewing angles. LED lamps that produce warm light (3000 degree k) similar to high pressure sodium are proposed (Exhibit E32).

The minimum level of illumination is 0.15 foot-candles on the pavement and the maximum is 4.0 foot-candles. A uniformity ratio of 4:1 is required.

The Engineering staff has reviewed the photometric plan and fixture specifications (Exhibits E31 and E32) and determined that the parking lot lighting complies with the minimum and maximum illumination levels and uniformity ratios.

Street lights are required along major collector streets. There are existing cobra-head street lights located along the site frontages of Carman Drive and Meadows Drive. No photometric data for these existing street lights were provided so staff was not able to determine compliance with the street lighting standards (LOC 50.06.004.3.b.v). The applicant will be required to submit a lighting analysis to assure existing street lighting complies with this standard and if the existing lighting is inadequate, the applicant will be required to install new street lighting and/or modify existing lighting to comply with this standard. This will be made a condition of approval.

Kruse Way is a major arterial. Street lighting standards for major arterials are determined by the City Engineer. There are no existing street lights located along Kruse Way between Interstate-5 and Boones Ferry Road except at street intersections. The Engineering staff has determined that it would not be appropriate to add street lighting along the Kruse Way site frontage of this development, therefore, no street lighting will be required along Kruse Way.

As conditioned, this standard is met.

Park and Open Space Contributions [LOC 50.06.005]

This standard requires that commercial development provide 15% of the gross land area in open space, which may be provided as a combination of reserved land and landscaping that meets the requirement of the landscaping standard, above.

As illustrated on Exhibit E22, a total of 46,020 square feet or 20.6% of the site is provided in open space, which includes the area within the RP district on the north side of the site and landscaping that meets the landscaping standard. This standard is met.

Weak Foundation Soils [LOC 50.06.006.1]

The site is located in an area identified as potentially having weak foundation soils on the City's soil inventory map.

The applicant submitted a geotechnical engineering evaluation for the proposed development (Exhibit F14). The purpose of the evaluation was to explore the subsurface conditions at the site and provide geotechnical engineering recommendations for design and construction. Based on the analysis, the site can be developed as proposed following the recommendations outlined in the report. A copy of the geotechnical report will be required to be submitted with the building permit application. This standard is met.

Drainage Standard for Minor Development [LOC 50.06.006.3]

This standard requires that drainage improvements be provided to ensure that the proposed development will not adversely affect surrounding properties. In addition, this standard requires design features to minimize pollutants from entering the storm water system and that the intensity of runoff rates are maintained at their natural undeveloped level. The determination of whether or not the application meets the drainage requirements of LOC 50.06.006.3 is under the review authority of the City Manager or City Engineer.

The applicant submitted a preliminary Stormwater Management Report dated December 4, 2012 (Exhibit F12) and an addendum dated January 31, 2013 (Exhibit F13) prepared by a registered engineer. Stormwater from the building roof areas, foundation drains, parking, and hardscapes will be routed by storm drainage pipes to an underground detention facility located under the parking lot directly north of Building F (Exhibit E15). The detention facility consists of a 48-inch pipe (or approved equivalent) and will have a control structure to detain the design storm to the City of Lake Oswego standards. The required detention volume shall be the maximum difference between the runoff volume for the 50-year storm event from the proposed development property and the runoff volume for the 10-year storm event from the pre-development property.

The runoff from the detention facility will then be routed through an underground water quality system (storm filter vault, or approved equivalent) before being released to the existing public storm sewer main located in Meadows Road. The runoff from the main driveway access from Meadows Road cannot be routed to the primary storm water detention facility due to grade; therefore, this drainage will be routed to a storm water quality catch basin prior to being released to the storm drain in Meadows Road. The treatment design storm for water quality is 0.36 inches of precipitation falling in four hours with an average return period of 95 hours. The submitted preliminary drainage analysis indicates 12 storm filter cartridges will be needed in the vault and one cartridge in the catch basin.

A public storm manhole will be required at the right-of-way line of Meadows Road. The City will be responsible for future maintenance of the storm line within the right-of-way. The final design of the stormwater management facilities will be reviewed at the time of building permit submittal. All on-site stormwater facilities will be private and the owner will be required to submit an operations and maintenance plan and record a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities.

The drainage report addendum (Exhibit F13) analyzed the existing drainage channel along Kruse Way for capacity, based on the 50-year storm event. The contributing basins were determined to ensure the two pedestrian bridges will be designed to allow the upstream conveyance to pass through for capacity. The analysis indicates there is adequate channel capacity and clearance for the bridges.

As conditioned, this standard is met.

Utilities [LOC 50.06.008]

This standard is applicable to all development requiring connection to utilities. Utilities are available or can be made available as follows:

- Sanitary Sewer: The sanitary system for this development shall be private. There is an 8" public sewer located in Meadows Road. There is also a public sewer line located in Carman Drive; however, due to the depth of this sewer and considering the topography of the site sloping down to the southwest corner of the property, the sewer service for this development will need to connect to the public main in Meadows Road. A new manhole will be required at the main and also at the right-of-way line. The City will maintain the service lateral within the public right-of-way. The application drawings illustrate compliance with these requirements.
- Water and Hydrants: There is an existing 16-inch water main located in Meadows Road and Carman Drive, both owned and maintained by the Lake Grove Water District. The closest hydrants are located along Meadows Road and Carman Drive across the street from the site. The applicant has provided evidence that the Lake Grove Water District has the ability to serve this

development. At such time this development receives land use approval, the applicant shall arrange for a meeting with the District to determine the specific requirements, system development charges, and review fees required to obtain water service.

A total of four new fire hydrants are proposed on the site and in the right-of-way along Meadows Road (Exhibit E17). According to the Fire Marshal, the proposed fire hydrant locations are adequate to serve the development.

- Streets: Kruse Way is a fully improved road and is designated as a major arterial in the City's street classification system. Meadows Road is a fully improved major collector road. Carman Drive is designated as a major collector. Even though a sidewalk exists along the site frontage of Carman Drive, the street frontage has not been fully improved to include a bike lane. See additional comments under LOC Chapter 42, below.
- Sidewalks: An asphalt pathway exists along the site frontage of Kruse Way, and it is in poor condition due to damage by tree roots. A sidewalk also exists along the site frontage of Meadows Road and Carman Drive. See additional comments under LOC Chapter 42, below.
- Other utilities: It is the applicant's responsibility to ascertain the availability of electric, gas, telecommunications and cable TV. All overhead utilities shall be installed underground.

Compliance with this standard will be assured at the time of building permit application.

Vision Clearance [LOC 50.06.011]

This standard prescribes vision clearance triangles at the outside edges where a driveway intersects a street in which no sign, fence, vegetation or other obstruction higher than 30 inches above the centerline of the adjacent pavement may be installed. The vision clearance triangle at the intersection of a driveway and a street is formed by measuring 10 feet along each travel surface.

As illustrated on Exhibits E20 and E25, there will be no obstructions higher than 30 inches above the centerline of the adjacent pavement within the vision clearance triangles for the driveways on Carman Drive and Meadows Road. This standard can be met.

3. **Any additional statutory, regulatory or Lake Oswego Code provisions which may be applicable to the specific minor development application;**

Effect of Conditions of Approval or Development or Design Regulations Imposed Prior to Annexation [LOC 50.01.004.6]

This section requires owners of parcels annexed into the City to continue to comply with the use, design or development standards imposed by the prior jurisdiction until such a time that the use, structure, or parcel is modified or developed under City standards.

The abutting property to the west was developed under the jurisdiction of Clackamas County per permit Z0604-96-D (on file). Although there is a condition of approval imposed by the County that required cross easements for access to the adjacent properties, including the applicant's property, it appears this condition was never enforced by the County and the future access was neither included on the approved plans nor constructed. Because there is no shared access point for the applicant to connect to and the site sits 3-4 feet higher than the abutting property to the west, the City will not pursue enforcement of the County's condition of approval at this time.

Streets and Sidewalks [LOC Chapter 42]

This Chapter authorizes the City Engineer to make specific street and sidewalk improvement recommendations after taking a variety of policy and site specific factors into consideration.⁴ The City Engineer's comments are included for the review of the overall understanding of the project. The City Engineer's conditions of approval are included, as they must be included in the decision, to find that the application will comply with this Chapter.

The Engineering staff has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and Transportation System Plan (TSP), and offers the following observations and recommendations.

The proposed development is estimated to generate approximately 2,010 net new daily trips, including 194 net new trips (104 inbound, 90 outbound) during the weekday p.m. hour.⁵ Additional pedestrian and bicycle trips can be expected as well. The cumulative effect of new trips (all modes) imposes an

⁴To meet the review criteria for a major development, the applicant must comply with "any additional ... Lake Oswego Code provisions which may be applicable to the specific major development application, such as ... the Streets and Sidewalks Ordinance." LOC 50.07.003.15(d)(ii)(d). The determination of whether or not the application meets the requirements of LOC Chapter 42, Streets and Sidewalks, is under the review authority of the City Manager or City Engineer; the requirements of this Chapter are not under the review authority of a hearing body, other than to find whether or not the City Engineer or City Manager has found that the application complies with LOC Chapter 42, or whether conditions of approval are required for compliance with this Chapter.

⁵Kruse Village Transportation Impact Analysis and Traffic Management Program, prepared by Kittelson & Associates, December, 2012.

additional burden and concomitant concerns for preserving street capacity and public safety, particularly for bicycles and pedestrians.

The City has a governmental interest in assuring that new development does not contribute to a degradation of adequate, safe and efficient public transportation facilities. New development should mitigate the negative impacts (increased noise, and the degradation of aesthetics, safety, system capacity, and bicycle and pedestrian mobility) resulting from new development. The City has adopted a broad palette of policies, plans, regulations, and fees that have been designed to offset the adverse impacts of development on the natural and built environment. In this regard, the following regulations, standards and site specific characteristics have a direct bearing on the governmental interest in preserving the functionality and safety of the public infrastructure, and are particularly relevant to this development proposal:

- The City's comprehensive plan identifies Carman Drive as a bike route.
- Carman Drive and Meadows Road are designated as a major collector, and as such should be designed to safely accommodate bike and pedestrian traffic.
- Kruse Way is designated as a major arterial, and as such should be designed to safely accommodate bike and pedestrian traffic.
- The site is located within walking and biking distance of the surrounding neighborhoods and businesses.
- The site is located within a quarter of a mile of a transit system.
- LOC Chapter 42 directs the City Engineer to recommend to the decision making authority the appropriate width of public rights of way, and the width and character of the improvements contained therein.
- LOC Chapter 42 requires frontage improvements, including pedestrian improvements, to be constructed when property is developed.

The implementation of the City's plans, policies, and regulations will offset to some degree the negative impacts of development on the public infrastructure. LOC 50.07.003.5 allows the reviewing authority to impose conditions of approval on a development permit when the condition is reasonably related to alleviation of a need for public services or facilities created or contributed to by the proposed development. In addition, the U.S. Supreme Court has ruled (*Dolan v. City of Tigard*) that, in order to require exactions, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the exaction.

Meadows Road is fully improved along the site frontage. Kruse Way is also fully improved along the site frontage; however, the existing asphalt pathway is in disrepair. This development will be required to reconstruct the pathway along Kruse Way.

The site frontage along Carman Drive is substandard in that it lacks a bike lane. The City's comprehensive plan identifies Carman Drive as a bike route. The City's TSP also identifies major collector roads as having bike lanes. This development will be required to construct a minimum five-foot wide bike lane (excluding width of the painted stripe) along the site frontage of Carman Drive. A minimum 12' wide travel lane shall be maintained along the site frontage. A concrete curb and gutter will also be required along the site frontage, and the existing sidewalk shall be reconstructed to match the curb location. The sidewalk will be allowed to be curb-tight and shall be seven feet wide to remain consistent with the existing and surrounding sidewalks and pathways.

All frontage improvements, including sidewalks, are required to be located within the public right-of-way. Based on the preliminary design plans, these improvements will fit within the existing right-of-way and no additional street dedication will be needed.

As a condition of approval of the proposed development, the City will require the following exactions:

Along the site frontage of Carman Drive:

- Widen the pavement to achieve a five-foot wide bike lane (excluding striping and concrete portion of curb and gutter) and maintain a minimum 12' wide travel lane.⁶
- Construct a minimum seven-foot wide sidewalk (excluding 6" curb width) along the site frontage.
- Provide a minimum five-foot sidewalk clearance width around street elements such as tree wells, street lights, benches, etc.
- Provide a minimum eight-foot wide public utility easement behind the right-of-way for franchise utilities.
- All utilities (new and existing), including utility vaults shall be installed underground.
- Construct the right-in/right-out driveway approaches and sidewalk in compliance with City and ADA standards.
- Install street lights along the frontage according to the City's lighting standards.
- Extend the center median approximately 120 feet north, as shown on the preliminary drawings (Exhibit E14).
- Construct drainage facilities as necessary to accommodate the frontage improvements.

⁶ Note: Adding additional pavement to Carman Drive is technically a "street widening" as defined in Section 40 of the City Charter, and is subject to public notice and vote in a general election unless the election requirements are waived. The provisions of City Charter Section 40 must be adhered to before any street widening work may commence. The City will initiate the process and public notice, including preparation of the Council report.

Along the site frontage of Kruse Way:

- Reconstruct the existing pathway along the entire site frontage. The pathway shall be constructed with asphalt and be a minimum seven feet in width.
- Install eco-friendly root barriers along the edge of the pathway to avoid future impacts from tree roots.

Along the site frontage of Meadows Drive:

- Construct the driveway approach in compliance with City and ADA standards.
- Provide five feet minimum sidewalk clearance around light poles.

The above exactions are directly related to mitigating the adverse impacts created by the development, as follows:

- The provision of additional right-of-way (if necessary) will allow construction of the required street frontage improvements.
- The above described improvements will address the increased vehicle traffic because, with a separation between vehicles and pedestrians, the traffic capacity of the street will be preserved.
- The above described improvements will encourage use of the sidewalks for pedestrian travel and use of transit, thus reducing the demand that would otherwise arise for vehicle travel on the street.
- The above described improvements will address the safety of the pedestrians by providing separation of modes of travel.
- The above described improvements will address the safety of ingress into the site and egress from the site.

The City therefore finds that exacting the improvements on Kruse Way, Carman Drive and Meadows Road is directly related to the increased traffic, bike, and pedestrian trips that will be created by this development.

The City finds that the exaction of the required improvements is roughly proportional to the adverse impacts created by the development because:

- The proposed development can be expected to generate approximately 2,010 net new daily trips, including 194 net new trips (104 inbound, 90 outbound) during the weekday p.m. hour. The required frontage improvements will result in a greater use of alternative modes of travel (pedestrian, bicycle, transit), both today and in the future, as traffic congestion increases in the area. These additional alternative mode travel trips will help offset additional vehicle trips generated by the development.
- Similar exactions for site frontage improvements have been required for similar developments in the area, with the result being that such exactions have mitigated the increased traffic (vehicle, pedestrian, and bicycle) by preserving the functionality and public safety features of the public street system.

In light of the above facts and Code requirements, staff finds that the development of this site will place sufficient additional demand on the surrounding street system to justify the associated improvements above, and that these exactions are roughly proportional to the degree of impact imposed by the new development.

City of Lake Oswego Tree Code [LOC Chapter 55]

This code is intended to preserve and protect trees. Only those trees that must be removed in order to site proposed improvements will be granted tree removal permits. There are 165 that are five inches in diameter or greater on the site or in the right-of-way abutting the site (Exhibit E2). The applicant is requesting to remove 128 trees to accommodate the proposed development, seven of which are located within the public right-of-way (Exhibit E10).

Tree Removal

Trees proposed for removal can be granted tree removal permits if the following criteria are met:

1. *The removal is for development or landscaping purposes allowed pursuant to the City Code;*

All of the trees proposed for removal on the site are requested to be removed because they are in the footprint of proposed buildings or site improvements, including grading. The trees in the right of way are proposed to be removed either because they are in the footprint of a proposed site improvement, such as a pathway or grading, or for landscaping purposes

One exception is Tree #10, which is an invasive species and is located in the RP district along the site's Kruse Way frontage. The removal of this tree in an RP district is not permitted for landscaping or development purposes; however, the applicant may apply to remove the tree under a separate invasive tree permit process. Tree #10 will not be approved as a Type II request.

All of the proposed development is allowed pursuant to the Code. As conditioned, this standard is met.

2. *The removal will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;*

The site does not contain significant slopes that would be destabilized by the removal of the trees and threaten adjacent properties (Exhibit E2). The purpose of removing the trees is to redevelop the entire site with commercial buildings, a surface parking lot and associated landscaping. After the trees are removed, erosion control measures will be installed on the site and maintained until building and site improvements are constructed and landscaping is installed.

There is a stream corridor (RP district) in the northwest area of the site; however, no tree removal is being permitted within the delineated resource boundary. There are no other surface water features on the site.

Most of the trees are to be removed on from the site, leaving a significant stand of firs in the southeast corner of the site, a 54" fir along the Meadows Road right-of-way, and street trees along the Kruse Way frontage. According to the project arborist, the stand of firs in the southeast corner are somewhat buffered from typical south-southwest storm winds by the grove of trees across Carman Drive and are in good to excellent condition (Exhibit F9). The windbreak conditions for the 54" fir will not change because it is a solitary tree and the trees to be removed nearest to the tree are 6-14" in diameter and are much too small to provide any significant windbreak to that tree. The trees to be removed to the south of the street trees along Kruse Way are generally smaller trees that are spread out and do not form a significant windbreak. This standard is met.

3. *The removal will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood, except when alternatives to tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone; and*

Although the site contains many trees, most of the trees consist of unmaintained fruit trees and invasive species, as identified by the project arborist, and many are in poor condition or are diseased (Exhibits E10 and F9). The significant trees on or near the site that contribute to the character and aesthetics of the neighborhood are the street trees along Kruse Way, the stand of firs in the southeast corner of the site and the 54" fir in the Meadows Road right-of-way. All of the viable street trees along Kruse Way, the 54" fir, and most of the stand of firs in the southeast corner are not proposed for removal, thereby not significantly altering the landscaped boulevard character along Kruse Way and the wooded character in the area of the Carman Drive and Meadows Road intersection. This standard is met.

4. *The removal is not for the sole purpose of providing or enhancing views.*

The removal of the trees will not improve any view, and, as stated above, they are being removed for development and/or landscaping purposes.

Staff finds that the removal request complies with the applicable criteria and can be approved, except for Tree #10 because it is within the RP district. Staff recommends that the removal of Tree 10 be denied on the "development and landscaping" purpose of the requested Type II permit. However, staff notes that the applicant can apply to remove the tree under the invasive tree removal process. The applicant will be required to apply for a verification tree removal permit for the 127 trees approved prior to approval of any building permits.

Mitigation

Any tree approved for removal shall be mitigated at a minimum 1:1 ratio. In general, mitigation trees must have a minimum 2-inch caliper diameter for deciduous trees and be a minimum 6-8 foot tall (excluding leader) for evergreen trees. The applicant submitted a mitigation plan meeting or exceeding the minimum size requirements to replant 152 trees on the site (Exhibit E23). A copy of the mitigation plan shall be submitted with the tree verification application.

Tree Protection

Tree protection fencing is required when a tree protection zone or drip line of a tree that is five inches in diameter or greater is within the construction zone, whether on- or off-site. As authorized by 50.08.020, a tree protection application and plan should be submitted for staff review and approval prior to conducting any activities on site, including, but not limited to, clearing, grading, landscaping or excavation.

Tree protection fencing shall be placed at the tree protection zone, which is the zone required to protect the critical root area necessary for the continued health of the tree. The applicant shall propose the tree protection zone for each tree, for review and approval by staff.

As required by LOC 55.08.030(7), no construction, excavation, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the City. There are several trees on or near that site that will require protection measures during construction and because construction activities are proposed within the driplines of many of these trees, an arborist will be required to prepare the tree protection plan and be on site to oversee construction activities within the dripline. The arborist report prescribes protection measures for specific trees to remain on the site (Exhibit F9). A copy of the final report shall be included with the tree protection plan.

All tree protection plans submitted shall clearly illustrate all areas impacted by construction activities on site (including landscaping), the location of temporary fencing around the tree protection zone is within the drip line of a tree, or other tree protection measures as recommended by a certified arborist. In addition, signs should be placed on the fencing and notes added on the construction documents that informs the site contractors about the necessity of preventing damage to the trees, including bark and root zone, and that no materials should be stored nor compaction occur within the root zones of adjacent trees. This standard can be met.

Metro Title 4 – Protection of Employment Areas [MC 3.07.440]

The subject property is located in an area designated by Metro as a Title 4 Employment Area. It is rare for the City to apply Metro standards to an individual development proposal; however, because the Community Development Code is not

in full compliance with Title 4, Metro Title 4 standards must be directly applied to development applications [MC 3.07.810.D].

According to 3.07.440B:

“...a city or county shall not approve a commercial retail use in an Employment Area with more than 60,000 square feet of gross leasable area in a single building, or commercial retail uses with a total of more than 60,000 square feet of retail sales area on a single lot or parcel, or on contiguous lots or parcels, including those separated only by transportation right-of-way.”

The applicant proposes a total of 53,710 square feet of “commercial retail sales” (as construed under Title 4) on the site, which is below the 60,000 square foot maximum, and each building is well under the 60,000 square foot limitation for commercial retail use in a single building (Exhibits E3 and F2). Because the site is contiguous to three other lots in the Employment Area, the total square footage of retail sales on these three lots and the applicant’s lot cannot exceed 60,000 square feet. The only retail on the three contiguous lots is a 366 square foot deli located on the abutting site to the west. The total retail square footage on all three contiguous lots is 54,076 square feet, which does not exceed the maximum 60,000 square feet allowed.

At the urging of the Waluga Neighborhood Association as to the appropriate method of applying Title 4, staff contacted Metro staff about the proposed development and was informed that, as proposed, it did not violate Metro Title 4 restrictions in Employment Areas (Exhibit F16). This standard is met.

4. Any applicable condition of approval imposed pursuant to an approved ODPS or prior development permit affecting the subject property.

There are not prior conditions of approval that affect the subject property.

VII. CONCLUSION

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 12-0052 complies with all applicable criteria and standards or can be made to comply through the imposition of conditions, except for removal of Tree #10 for reasons discussed in the report.

VIII. RECOMMENDATION

Staff recommends **approval** of LU 12-0052, except for the removal of Tree #10, subject to the following conditions:

A. Prior to Issuance of any Building Permit, the Applicant/Owner Shall:

1. Submit final site and building plans for review and approval of staff that are the same or substantially similar to the site plan, grading plan, floor plans, and

building elevations illustrated on Exhibits E3-E33 to the satisfaction of staff, with the following modifications:

- a. All bike racks shall be covered. If free standing covers are proposed, the covers shall be designed to be complementary to the buildings in material and colors.
 - b. Unless the transformers in the southeast corner of the site will be moved to an underground vault, illustrate the location, size and species of evergreen shrubs or fencing of an adequate height at the time of installation to screen the transformers. All other utility vaults/boxes shall be placed underground. All utility/gas boxes shall be screened with fencing or landscaping.
 - c. Six-foot protection fencing shall be required on the south side of the RP district during demolition and grading for the construction of the buildings and parking lot, but fencing on the north side of the district will not be required. Sections of the fence may be removed or opened as needed to provide access for the necessary equipment to perform the mitigation work and construct the new pathway within the RP district, but the timing and location shall be planned in advance and subject to City approval. Work within the RP district shall occur after the site is graded and the buildings have been constructed to minimize potential construction impacts after the fence is removed.
 - d. The materials and colors for the trash enclosures shall be compatible with the materials and colors of the buildings and other site features, to the satisfaction of staff.
2. Submit a "Notice of Development Restrictions" containing the restrictions listed, below, for review and approval of staff. A copy of the strategies in the TMP (Exhibits F10 and F11), a reduced copy of the RP delineation map in acceptable format for recordation at the County, and a copy of a site plan illustrating trees # 141, 150, 151, 154, 155, 156, 160, 161, 162 and the three firs in the right-of-way at the northwest corner of Carman Drive and Meadows Road as shown on Exhibit E10, shall be included with the Notice as "Exhibit A", "Exhibit B", and "Exhibit C", respectively, to be recorded in the County record. The Notice shall include the following information:
- a. The site is subject to compliance with the Traffic Management Program (TMP) strategies as described in Exhibit A. The TMP shall not be amended without prior written approval by the City of Lake Oswego.
 - b. The property contains a delineated Resource Protection (RP) district as depicted in Exhibit B, and as determined and documented in City of Lake Oswego Planning and Building Services Department, Case File LU 12-0052.

The future development of the RP district is subject to the City of Lake Oswego requirements and development standards set forth in LOC 50.05.010, including but not limited to:

- i. Tree removal within the RP district is subject to tree cutting permit requirements and the provisions of LOC 50.05.010.
- ii. Manual removal of invasive or nuisance plant materials (such as English Ivy, Himalayan Blackberry, Poison Oak) within the RP district may be allowed, so long as native understory plants are maintained.
- iii. The RP district is intended to remain in its natural state to maintain the natural function and character of the resource area, which provides food and shelter for native wildlife.

CONTACT THE CITY OF LAKE OSWEGO PLANNING AND BUILDING SERVICES DEPARTMENT PRIOR TO COMMENCING ANY ACTIVITY INSIDE THE RP DISTRICT.

- c. The trees illustrated on Exhibit C are required to be preserved and may only be removed if determined to be dead or hazardous to people or property and a tree removal permit is issued. If so believed to be dead or hazardous, the property owner may apply for a tree removal permit subject to approval from the City Manager and shall mitigate at a minimum of a one-to-one ratio. Deciduous trees shall have a minimum caliper of two (2) inches. Conifer trees shall be a minimum of eight feet high (excluding the leader).
3. Record the approved "Notice of Development Restrictions", as described in Condition A(2), above, with the Clackamas County Clerk's Office and submit a copy of the document with the recording number to the Planning and Building Services Department.
 4. Submit engineered construction drawings for the public and site improvements for review and approval by the City Engineer. Drawings shall conform to the City's design standards and the drafting specifications found in the City's booklet "CAD Standards and Design Requirements," May 2006 edition. The plans shall include the following design elements:
 - a. Along the site frontage of Carman Drive:
 - i. A five-foot wide bike lane (excluding striping and concrete portion of curb and gutter) and a minimum twelve-foot wide travel lane.
 - ii. A minimum seven-foot wide sidewalk (excluding 6" curb width) along the site frontage.
 - iii. A minimum five-foot sidewalk clearance width around street elements such as tree wells, street lights, benches, etc.
 - iv. A minimum eight-foot wide public utility easement behind the right-of-way for franchise utilities.

- v. All utilities (new and existing) shall be installed underground. Along Carman Drive, the existing overhead utilities shall be undergrounded starting from the existing utility pole (which will remain) at the southwest corner of the intersection of Kruse Way and Carman Drive south to Meadows Road.
 - vi. Design of the right-in/right-out driveway approach in compliance with City's standards. The existing site driveway on Carman Drive shall be closed and replaced by the single right-in/right-out driveway. The sidewalk cross-slope shall meet ADA standards across the driveway approach. Shrubbery, landscaping, signage, and above ground utilities located near the driveway approach shall be located and maintained to ensure that adequate sight distance meeting AASHTO standards are met.
 - vii. Design of street lights along the frontage according to the City's lighting standards.
 - viii. Design of a raised center median in the right-of-way for approximately 120 feet north of the existing Meadows Road roundabout median, as shown on Exhibit E14. Plantings shall be included to the satisfaction of the City Engineer.
 - ix. Drainage facilities as necessary to accommodate the frontage improvements, to the satisfaction of the City Engineer.
- b. Along the site frontage of Kruse Way:
- i. Reconstructed pedestrian pathway along the entire site frontage to City standards. The pathway shall be constructed with asphalt and be a minimum seven feet in width. Work within the section of the pathway that is located in the RP district shall follow the construction standards in LOC 50.05.010.4.d. If any area adjacent to the pathway in the RP district is disturbed during construction, it shall be replanted. In kind vegetation (grass) is acceptable on the north side of the pathway within the RP district.
 - ii. Eco-friendly root barriers along the edge of the pathway (where necessary) to avoid future damage from tree roots.
- c. Along the site frontage of Meadows Road:
- i. Design the driveway approach in compliance with City's standards. The driveway approach shall be 36 feet wide and striped for a left turn lane and right turn lane out of the site, and one lane for ingress (three 12-foot lanes). The sidewalk cross-slope shall meet ADA standards across the driveway approach. Shrubbery, landscaping, signage, and above ground utilities located near the driveway approach shall be located and maintained to ensure that adequate sight distance meeting AASHTO standards are met.

- ii. A minimum five-foot sidewalk clearance width around street elements such as tree wells, street lights, benches, etc.
 - iii. Design of the public sanitary sewer and public storm sewer systems within the public right-of-way. The public sewer extensions shall each terminate with a manhole at the right-of-way line.
 - d. Submit a lighting analysis for the existing street lights along Carman Drive and Meadows Road. If the existing street lighting does not comply with the street lighting standards in LOC 50.06.004.3.b.v, the applicant shall install new street lighting and/or modify existing lighting to comply with this standard, to the satisfaction of the City Engineer.
 - e. The applicant shall monitor the condition of the pavement of Carman Drive and Meadow Road during the entire construction period. If any resulting wear and tear is discerned that exceeds the standards of the City Engineer, the applicant shall restore the surface of the roadbeds to the satisfaction of the City Engineer.
5. Complete all public improvements required in Condition A(4), above or provide a financial guarantee to ensure their construction per LOC 50.07.003.9. The financial guarantee shall be based on an itemized engineer's estimate that is in turn based on plans that are far enough advanced to support the estimate, to the satisfaction of the City Engineer.
 6. Submit a final site plan, storm plan and storm drainage report for the on-site water quality and detention system, prepared by a registered engineer. The design shall follow any geotechnical recommendations outlined in the geotechnical report (Exhibit F14).
 7. Submit a final erosion control plan and evidence of DEQ 1200-C erosion control permit. The erosion control plans shall be designed by a registered engineer.
 8. Submit evidence that the onsite private water design has been approved by the Lake Grove Water District.
 9. Submit evidence that the fire suppression design is to the satisfaction of the Fire Marshal.
 10. Pay all applicable System Development Charges pertaining to the development.
 11. Apply for and obtain a verification tree removal permit for the 127 trees approved for removal. The verification tree removal application shall include a copy of the tree removal plan (Exhibit E10) and the mitigation plan (Exhibit E23).
 12. Provide a written agreement between the applicant and a certified arborist demonstrating that the arborist will review the final site, utility, grading and landscape plans to assure long term survival of all trees to remain, and will be

present on site at any time during excavation, trenching, grading, root pruning or other activity within the tree protection zone to ensure proper protection of trees. The arborist shall prepare the tree protection plan, which shall include a final copy of Exhibit F9.

13. Submit a refundable deposit to the City that is equal to 120% of the value of the RP mitigation (including the cost of material and labor) illustrated in Exhibit E24. The deposit will be released by the City three years from the date of inspection of the RP mitigation plantings by the City upon receiving proof that the mitigation measures have been successfully implemented.
14. The RP Mitigation, Monitoring, and Maintenance Plan (Exhibit F8) shall be revised to state that all native plants will be replaced as needed throughout the monitoring period to ensure an 80% survival rate, and invasive plants will be removed to ensure less than 5% cover of invasive species. It shall also state that any replacement species must be approved by the City, and that the applicant or other legally responsible agent shall provide an annual report to the City Manager by October 31 of each year for a three-year period.
15. Submit an Operations and Maintenance plan for the private on-site storm facilities for review and approval by the Engineering staff and record a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities.

B. Prior to Performing Street Widening on Carman Drive, the Applicant/Owner Shall:

1. Satisfy the public notice and election requirements of Section 40 of the City Charter. The City will initiate the process and public notice, including preparation of the Council report.

C. Prior to Final Building Inspection or Occupancy of any Building, the Applicant/Owner Shall:

1. Complete all public and site improvements required by Condition A(4), above, and submit certified "as-built" drawings of public improvements conforming to the City's standards for record drawings.
2. Construct all private utility services.
3. Construct the private water services to serve the development.
4. Install all landscaping/mitigation planting as illustrated in Exhibits E18 and E25, and modified by Conditions A(1) and A(4), above.
5. Install the bicycle racks as required by Condition A (1)(a), above.

6. Provide a one-year guarantee (one 12-month growing season from the date of installation) for all landscape materials required by Condition C(4), above, pursuant to LOC 50.06.010.2. The guarantee shall consist of a security in the amount of five percent of the total landscaping cost (including material and labor). The applicant/owner shall also submit a landscape maintenance plan for review and approval of City staff.
7. Submit a final survey of the parking lot stamped and signed by a professional surveyor, with spot elevations, showing compliance with the final grading plan to assure proper drainage on site.
8. Perform an inspection of the pavement condition of Carman Drive and Meadows Road to ensure compliance with the requirements of Condition A(4)(e), above, to the satisfaction of the City Engineer. Complete necessary reconstruction of the surface of these streets if needed, to the satisfaction of the City Engineer.

D. Prior to Issuance of any Sign Permit, the Applicant/Owner Shall:

1. Obtain all necessary sign permits. The applicant/owner shall submit sign plans and elevations in accordance with the Sign Code for review and approval of staff. Colors and material of the signs shall be compatible with the architectural details and colors of the approved building in the following manner:
 - a. Internally lit cabinet signs or plastic-faced signs shall be prohibited.
 - b. Lighting shall be limited to indirect or halo lighting. Lighting for the monument sign shall consist of external lighting only. The applicant/owner shall submit lighting fixture details, including color, materials, and wattage for review and approval of staff.
 - c. Signage on the building shall consist of individual letters.
 - d. The monument sign shall not include any marquee (name plates), and shall incorporate architectural details from the proposed building.

(Note: The Conditions of Approval regarding sign limitations are not exclusive to the requirements and standards that will be reviewed when a sign permit application is submitted; there are additional compatibility standards for signs relating not only to the building itself, but to the surrounding area, in the Sign Code, LOC Chapter 47.)

Code Requirements:

1. **Expiration of Development Permit:** Per LOC 50.07.003.17, the development approved by this decision shall expire three years following the effective date of the development permit, and may be extended by the City Manager pursuant to the provisions of this section.

2. **Tree Protection:** Submit a tree protection plan and application prepared by a certified arborist as required by LOC 55.08.020 and 55.08.030 for review and approval by staff, including off-site trees that are within the construction zone. The plan shall include:
 - a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high cyclone fence secured by steel posts around the tree protection zone, or as recommended by the project arborist and approved by the City.
 - b. A note stating that no fill or compaction shall occur within the critical root zones of any of the trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by a certified arborist to reduce or mitigate the impact of the fill or compaction. The note shall also inform contractors that the project arborist shall be on site and oversee all construction activities within the tree protection zone.
 - c. A note that clearly informs all site contractors about the necessity of preventing damage to the trees, including bark and root zone. The applicant and contractor(s) shall be subject to fines, penalties and mitigation for trees that are damaged or destroyed during construction.
 - d. A sign shall be attached to the tree protection fencing which states that inside the fencing is a tree protection zone, not to be disturbed unless prior written approval has been obtained from the City Manager and project arborist.
3. **Tree Removal in the RP District:** If removal of any tree in the RP is proposed in the future, a tree removal application must be obtained removal the criteria in LOC 50.05.010.6.c.ii(1)(b) must be met.
4. **Permitted Uses and Parking Requirements in the CR&D Zone:** Each tenant in the development site shall be reviewed for compliance with the use and size limitations in the CR&D zone (LOC 50.03.002.3) and the parking requirements for the proposed use (LOC 50.06.002) at the time of business license application and/or tenant improvement application. A current list of the use and square footage for every tenant on the site will be required to be maintained to assure the combined parking requirement is continuously met for the project as a whole.
5. **RP Maintenance and Monitoring Reports:** The applicant or other legally responsible agent shall provide an annual report to the City Manager on October 31 of each year for a 3-year period following installation of the RP mitigation and inspection by the City. The report shall be prepared by a qualified professional and shall document site conditions with narrative and pictures [LOC 50.05.010.4.g.i(2)].
6. **Traffic Management Plan:** Per LOC 50.02.002.2.d.iv, implementation of the approved TMP for the site (Exhibits F10 and F11) is required when the traffic at an affected intersection identified in the TMP consistently exceeds “C” level of service.

Note:

1. The applicant is advised to take part in a Post Land Use Approval meeting. City staff would like to offer you an opportunity to meet and discuss this decision and the

conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting, please contact the staff coordinator at (503) 635-0290.

2. The land use approval for this project does not imply approval of a particular design, product, material, size, method of work, or layout of public infrastructure except where a condition of approval has been devised to control a particular design element or material.
3. Development plans review, permit approval, and inspections by the City of Lake Oswego Development Review Section are limited to compliance with the Lake Oswego Community Development Code, and other applicable codes and regulations. The applicant is advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, e.g., Americans with Disabilities Act, Endangered Species Act. City staff may advise the applicant of issues regarding state and federal laws that the City staff member believes would be helpful to the applicant, but any such advice or comment is not a determination or interpretation of federal or state law or regulation.

EXHIBITS

A-D. [No current exhibits; reserved for hearing use]

E. GRAPHICS/PLANS

- E1. Tax Map
- E2. Existing Conditions/Survey Map
- E3. Site Plan
- E4. Cover Sheet
- E5. Floor Plans
- E6. Elevation Drawings (Buildings A-F)
- E7. Elevation Drawing (Covered Walkway)
- E8. Existing Conditions Maps (detailed)
- E9. Demolition Plan
- E10. Tree Removal and Protection Plan
- E11. Grading Plan and Site Sections
- E12. Erosion Control Plan
- E13. Spot Elevation Plan
- E14. Parking Plan
- E15. Storm Drainage Plan
- E16. Sanitary Sewer Plan
- E17. Water Plan
- E18. RP Delineation Plan
- E19. Existing Building Heights Plan
- E20. Sight Distance/Vision Clearance Plans
- E21. Emergency Vehicle Turning Simulation Plan
- E22. Landscape Hardscape Calculation Exhibit

- E23. Tree Mitigation Plan
- E24. RP District Mitigation Plan
- E25. Landscape Plan
- E26. Enlarged Plaza and Boardwalk Plans
- E27. Materials Board (on file)
- E28. Site Furnishings
- E29. Pedestrian Circulation Plan
- E30. Site Landscape Sections
- E31. Photometric Plan
- E32. Light Fixture Cut Sheets
- E33. Perspective Elevations
- E34. Sign Examples

F. WRITTEN MATERIALS

- F1. Applicant's Narrative, dated February 8, 2013
- F2. Applicant's Response to Incomplete later (includes response to Metro Title 4 criteria), dated February 8, 2013
- F3. Letter from Applicant, dated April 5, 2013, with attachments
- F4. Neighborhood Meeting Minutes of August 17, 2012, meeting and list of attendees
- F5. Neighborhood Meeting Minutes of February 6, 2013, meeting
- F6. Applicant's Response to the Waluga Neighborhood Association's Letter (see Exhibit G200) Commenting on the Project at the Pre-Application Meeting
- F7. Resource Delineation Report Prepared by Schott & Associates, dated November 30, 2012
- F8. Resource Mitigation, Monitoring and Maintenance Plan Prepared by Schott & Associates, dated February 7, 2013
- F9. Arborist Report from Walter Knapp & Associates, LLC, dated December 3, 2012
- F10. Transportation Impact Analysis and Traffic Management Program Prepared by Kittelson & Associates, Inc., dated December 2012
- F11. Supplemental Transportation Information Prepared by Kittelson & Associates, Inc., dated February 6, 2013.
- F12. Preliminary Stormwater Report Prepared by AKS Engineering & Forestry, LLC, dated December 4, 2012
- F13. Addendum Stormwater Report Prepared by AKS Engineering & Forestry, LLC, dated January 31, 2013
- F14. Geotechnical Report Prepared by GeoDesign, Inc., dated August 13, 2012
- F15. Final Conditions of Approval for Clackamas County Design Review File Z0604-96-D for Development Abutting the Site to the West
- F16. Email Correspondence from Metro Regarding the Project's Compliance with Metro Title 4 regulations
- F17. Response to the Waluga Neighborhood Association comments (Exhibits G1 and G2) by Kittelson & Associates, Inc., dated April 24, 2013

G. LETTERS

Neither for nor Against (G1-99)

- G1. Email from the Waluga Neighborhood Association, dated April 17, 2013
- G2. Email from the Waluga Neighborhood Association with Correction to Exhibit G1, dated April 23, 2013

Support (G100-199)

- G100. Letter from Matthew A. Cole, dated April 25, 2013

Opposition (G200+)

- G200. Letter from the Waluga Neighborhood Association Commenting on the Project at the Pre-Application Meeting
- G201. Letter from Bruce Goldson, received December 20, 2012

Date of Application Submittal: December 6, 2012

Date Application Determined to be Complete: April 15, 2013

State Mandated 120-Day Rule: August 13, 2013