

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application by the North Clackamas Parks and Recreation District for a Conditional Use Permit to construct a new 15,360 square foot public library, to renovate an existing building (formerly the Concord Elementary School) to expand the North Clackamas Parks and Recreation District offices, and to construct certain site improvements.

Case File No: Z0020-23-C
(NCPRD)

A. SUMMARY

1. The subject property is an approximately 5.9 acre parcel that is the site of the former Concord Elementary School located at 3811 SE Concord Road, Milwaukie, OR 97267, also known as T2S, R1E, Section 12AD, Tax Lot 2900. The property is now owned by the North Clackamas Parks and Recreation District (NCPRD). The site is located in the community of Oak Grove in unincorporated Clackamas County (not actually within the City of Milwaukie) and has an existing 46,400 square foot, two-story building with a covered playground that is known as the Concord School building. This location is north of SE Concord Road directly west of SE Olive Street, with SE Spaulding Street terminating on the east side of the site, The site is approximately 600 feet east of McLoughlin Blvd. (Highway 99E) and approximately 5 miles north of Interstate 205. The property is zoned Urban Low Density Residential (R7), Urban Low Density Residential (R8.5), and Open Space Management (OSM). There are no mapped wetlands or water quality resources on the subject property.
2. The property was first used as a school for the Oak Grove community as early as 1890. The existing school building was built in 1936 and served as a school until 2014. The current Concord School building was constructed from a design by prominent Oregon Architect F.M. Stokes, was partially funded with a Federal Emergency Administration of Public Works grant, and is considered a good example of WPA-era construction and the only such example standing in the Oak Grove Community. Applicant states that the building is eligible to be on the National Register of Historic Places but is not listed at this time. There is a great deal of local community interest in preserving this building and maintaining the public use of the site, including using the site for a public library, park, and community center.
3. The applicant is Jason Varga, Project Manager for the NCPRD. The NCPRD previously obtained a conditional use permit to establish a “government use” in a small portion of the former Concord School building as offices and recreation facilities, including for classes and sports club activities. *See* File No. Z0390-22-C, submitted in August 2022 and approved with conditions January 10, 2023
4. On May 18, 2023, the Hearings Officer conducted a public hearing to receive testimony and evidence about the NCPRD’s current conditional use application (File No. Z0020-23-C) to expand the NCPRD’s use of the property to include construction of a new 15,360 square foot public library and to further renovate the former Concord School building into a community center to include indoor recreation space, community space, and the NCPRD’s offices. The remainder of the property will be developed with additional parking, a park with outdoor play

equipment, and green space. The Hearings Officer approved the application, subject to conditions of approval.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the May 18, 2023 public hearing about this application and during a subsequent open record period, including submittals identified as Exhibits 1-16. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County's staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, County Planner Melissa Lord discussed the staff report and related exhibits, providing a presentation and related discussion, and recommended approval of the application with conditions.
3. Ms. Lord explained that the NCPRD is proposing to construct a new 15,360 sq. ft. public library, to renovate the former Concord Elementary School building to expand the North Clackamas Parks and Recreational District offices from 4,746 sq. ft. of the building to 19,058 sq. ft., and to use the remaining portion of the existing building as a community center. The proposal also includes the redevelopment of a public park and various site improvements such as walkways, landscaping, lighting, and new public lots.
4. Ms. Lord shared a slide showing the portions of the subject property zoned Urban Low Density R7, Urban Low Density Residential R8.5, Open Space Management (OSM), and General Commercial (C-3), with an overlay showing the applicant's proposed uses of the property in each zone. Ms. Lord also shared a slide showing the application of the County's Zoning and Development Ordinance to each of the applicant's proposed uses. Specifically: a library is a conditional use within the OSM zoning district, but a library is a conditional use within the R7 and R8.5 zoning districts; a government use is a conditional use within the R7 and R8.5 zoning districts; a community building is a primary use within the R7 and R8.5 zoning districts; fitness and recreational facilities are a primary use within the OSM (outdoor, including parks), and a primary use within the R7 and R8.5 zoning districts; parking is an accessory use within the OSM zoning district, but is a conditional use within the R7 and R8.5 zoning districts.
5. Ms. Lord shared a slide showing the various land use permit requirements related to this proposal, including this application for a conditional use permit, a Design Review for a type II land use application related to institutional use in the Urban Low Density Residential District, accessory uses, and government-owned parks within the General Commercial (C-3) zoning district, and possibly an application for a variance, a Type II land use permit related to minimum setbacks to Spaulding Ave from the proposed library. Ms. Lord also shared and discussed slides showing how the application meets or can meet with conditions the various applicable ZDO section requirements and criteria, and the staff report evaluation related to each of these sections.
6. Ms. Lord shared slides concerning Oak Lodge Water Services' statement of feasibility, noting that the proposed utility demand (water service, sewer service, and surface water

management) will be evaluated during the Oak Lodge utility permit application process, and during the related Design Review land use application (Z0083-23). Ms. Lord provided a slide and discussed specific requirements under ZDO Section 1007.01 Roads & Connectivity, General Provisions, pointing out that the existing ROW varies along the SE Concord Road frontage from 60 to approximately 69 feet, and the existing one-half ROW width along the project footage varies at 30, 37 and 39.98 feet. Ms. Lord noted that the standard cross-section for a two-lane urban arterial roadway includes a 70-foot wide public ROW, with a one-half ROW width of 35 feet, providing discussion of a recommended condition of approval related to dedicating additional ROW to provide a minimum one half width of 35 feet as well as accommodate required frontage improvements. Ms. Lord also pointed to the mid-block crosswalk on SE Concord Road frontage that does not meet current standards, providing discussion of a recommended condition of approval requiring and upgrade including new signs, pavement markings, and lighting. Ms. Lord also noted that SE Spaulding Avenue requires a public vehicle turnaround within the ROW, discussing how that specific requirement for such public improvements will be address through the Design Review application for development of the proposed use.

7. Ms. Lord also shared a slid and provided discussion regarding ZDO Sections 1007.02 & 1007.04, Frontage Improvements & Pedestrian and Bike Facilities. Ms. Lord discussed requirements that road frontage improvements must meet current urban Roadway Standards, minimum requirements for a 20-foot wide half-street with 6-inch curb, 5-foot wide landscape strip with street trees, and a 7-foot wide sidewalk. Ms. Lord pointed to estimated trip generation of 2,053 vehicles per day from the project site, noting that improvement of the project site frontage to current standards on SE Concord Road is warranted, with discussion of a related recommended condition of approval. Ms. Lord pointed to ZDO Section 1007.07 Transportation Facilities Concurrency, providing discussion that the applicant's Traffic Impact Analysis identified issues at the SE Risley Ave/SE McLoughlin Blvd. intersection that is within Oregon Department of Transportation (ODOT) jurisdiction. Ms. Lord noted that County Transportation Engineering staff met with ODOT staff to discuss the proposed striping of SE Risley Avenue to mitigate expected traffic. She also noted that the applicant's TIA assumed single lane approaches, but SE Risley Ave actually functions with two lane approaches and therefore the projected failure of this intersection will not occur. Ms. Lord stated that updated findings and modified conditions of approval will be provided in an additional exhibit, requesting that the record stay open for a minimum of one week to add ODOT comments to the record and to revise findings and/or recommended conditions as necessary. (*See Exhibits 14, 15*)
8. The applicant/project manager for NCPRD, Jason Varga, read a statement of support provided by Mitzi Olson, the Library Director, pointing to the need for the library, the importance of this addition to the library system and the improved and safer access and facilities the proposed new library will provide to the community. Ms. Olson's statement discussed the community work, support, and local involvement that has gone into this project over the past few years.
9. Several members of the general public appeared and provided comments and testimony in support of approval of this application, including Anatta Blackmarr and Thelma Haggemiller, who each provided a statement of support and enthusiasm, as they are eagerly awaiting the new library and development of the site with a cultural or community center and park as proposed, describing it as a momentous step forward and a "dream come true" for the community.

10. Debbie Cleek, Principal of the Bookin Group, appeared and provided testimony and advocacy on behalf of NCPRD's application. Ms. Cleek affirmed that the applicant wanted the record to stay open for an additional, second week, to provide an opportunity to review the additional submittals provided by the County during the first week, and perhaps also a third week to provide a final written argument or statement. Ms. Cleek discussed certain issues with respect to proposed conditions of approval, including proposed conditions #9 and #11. Ms. Cleek and her staff also discussed certain engineering requirements directly with Mr. Ken Kent, County Development Engineering, concerning specificity of certain conditions of approval, some need for flexibility, and how some of these issues will be resolved through the Design Review process. Liz Manser of OPSIS Architecture suggested adding a clarifying statement concerning the discussed language of the conditions, referencing Design Review approval. Ms. Cleek agreed that, with additional language clarifying the proposed conditions of approval as discussed, the applicant does not otherwise dispute the proposed conditions. Mr. Kent also agreed with this discussion, referencing that the Design Review process addresses some of these issues and provides for approval with some variation. Ms. Manser and Ms. Lord agreed that the discussed clarifying phrase was acceptable.
11. At the conclusion of the public hearing, the Hearings Officer left the record open for 7 days for the purpose of allowing all parties the opportunity to submit additional evidence, arguments, or testimony for consideration in this matter, an additional 7 days to provide all parties an opportunity to respond to any new evidence submitted during the initial open record period, and a third 7 day period for the applicant to submit a final written argument.

C. PREHEARING COMMENTS, SUBMITTALS, FACTS

1. The application includes a completed land use application form, site plan, application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use and vicinity map. The application was initially submitted on January 13, 2023. Following submission of additional requested information the application was deemed complete March 3, 2023. The subject property is located inside an urban growth boundary. The 120-day deadline established by state law for processing this application is July 1, 2023.
2. The County requested responses to the application from: a) Department of Transportation and Development (DTD), Development Engineering; b) Department of Transportation and Development (DTD), Transportation Engineering; c) Oak Lodge, Water and Sewer District; d) Tri-Met (regional transit services); e) Clackamas Fire District #1; f) Oak Grove Community Planning Organization (CPO); and, Property Owners within 300 feet.
3. The County received written comments from Valerie Liljefelt on behalf of the Clackamas Fire District #1, with agency comments and requirements incorporated into the County's staff report. Ms. Lord responded to these comments requesting clarification concerning the potential need for a turnaround on Spaulding Ave., receiving a response from Ms. Liljefelt concerning the Fire District's review process. Ms. Lord communicated these requirements directly to NCPRD. Ms. Liljefelt reviewed the applicant's submittal, returning it with Clackamas Fire District review comments. (Exhibits 7, 7a, 7b, 8, 12)
4. Ken Kent, Clackamas County Development Engineering submitted written comments on behalf of County Development Engineering staff with a number of findings and proposed conditions that were incorporated into the County's staff report. Mr. Kent also submitted a review request to ODOT for comment on the proposal, noting that the project TIA evaluated

ODOT intersections and found that the SE McLoughlin (OR 99E)/SE Risley Avenue intersection will exceed mobility standards at 2025 buildout. Mr. Kent pointed to the TIA proposed mitigation to add right turn lanes on the eastbound and westbound approaches of SE Risely at SE McLoughlin, attaching a preliminary plan submitted by the applicant, and requesting comments from ODOT. [This issue was discussed at the hearing, with Ms. Lord explaining that the TIA had assumed single lane approaches, but SE Risley Ave actually functions with two lane approaches and therefore the projected failure of this intersection will not occur.] (Exhibits 9 and 10, testimony)

5. The County received written comments from Markus Mead on behalf of the Oak Lodge Water Services District, with agency comments and requirements incorporated into the County's staff report. (Exhibit 11)

D. POSTHEARING COMMENTS, SUBMITTALS, FACTS

1. Oregon Department of Transportation (ODOT) Development Review Planner Marah Danielson reviewed the proposed land use action and determined there will be no significant impacts to state highway facilities and no additional state review is required. ODOT staff noted that Clackamas County Engineering had provided compelling information that the proposed mitigation referenced in the applicant's TIA is not necessary, pointing to several supporting findings [including the erroneous TIA assumption concerning single-lane approaches] and concurring with County Engineering that the proposed mitigation at the Risley Ave/OR 99E intersection is unnecessary to address the Oregon Highway Plan mobility standard. [Exhibit 14]
2. Kenneth Kent, Clackamas County Development Engineering, submitted additional written comments during the open-record period, proposing changes to certain findings [particularly responsive to the ODOT comments] and changes to proposed conditions. [Exhibit 15]
3. Debbie Cleek, Principal of the Bookin Group, submitted additional written comments during the open-record period on behalf of the applicant, supporting the proposed changes submitted by Mr. Kent and referencing discussion at the hearing concerning agreement with respect to certain changes to the language in the proposed conditions.

E. FINDINGS AND DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. This application is being processed as a Type III Permit, pursuant to Clackamas County Zoning and Development Ordinance (ZDO) Section 1307. The Type III procedure is quasi-judicial in nature, and involves land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision. This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 315, 702, 1005, 1006, 1007, 1009, 1010, 1015, 1021, 1203 and 1307, and the Comprehensive Plan. Clackamas County Planning and Zoning Staff have reviewed these Sections of the ZDO and Comprehensive Plan in conjunction with this proposal and make the following findings and conclusions: ***[These findings and conclusions were reviewed, modified, and/or adopted by the Hearings Officer, with comments denoted by boldface type in italics.]***

1) PROJECT OVERVIEW:

Background: The applicant proposes a Conditional Use permit to construct a new 15,360 square foot public library and to renovate an existing building (formerly the Concord School) into a community center. The community center will include indoor recreation space, community space, and the North Clackamas Parks and Recreation District offices. The remainder of the property will be developed with vehicle parking, a park with outdoor play equipment and green space.

Recently, the applicants received approval with conditions of a conditional use permit to have the North Clackamas Parks and Recreation District offices operate within a portion of the existing building of the former Concord Elementary School. In addition to the office use, a portion of the existing building was to be used for indoor recreation (e.g. recreational classes and sports club activities). The land use file was reviewed under application number Z0390-22. The project scope proposed in land use file Z0390-22 left the majority of the existing building un-used (a “shell”).

A pre-application conference was held with the applicant on June 7, 2022 to discuss the preliminary proposal (reference file ZPAC0065-22).

The government-owned recreation facilities, such as classes and sport club activities, are a primary use in the R7 and R8.5 zoning districts. A community building is also a primary use in the R7 and R8.5 zoning district under the umbrella of a government-owned recreational use.

Site Description: The subject property is approximately 5.9 acres in area and is currently developed with a 46,400 square foot, two-story building (formerly the Concord Elementary School) and a covered playground. There are two existing parking lots that provide 43 parking spaces. The property was first used as a school for the Oak Grove community as early as 1890. The applicant’s research shows that the building on site currently was built in 1936 and served as a school until 2014.

As stated previously, the applicant recently requested that a portion of the former school building become the offices for the North Clackamas Parks and Recreation District. A certificate of occupancy for the new use has not been issued as of yet.

There are no mapped wetlands or water quality resources on the subject property. There are no mapped landslide hazards or steep slopes of 25% or greater.

2) ZDO SECTION 315 – URBAN LOW DENSITY RESIDENTIAL DISTRICT (R7 AND R8.5)

315.04 Dimensional Standards. Dimensional and building design standards applicable in the urban residential zoning districts are listed in Tables 315-2, Dimensional and Building Design Standards in the Urban Low Density Residential Zoning Districts.

Finding: Pursuant to Table 315-2, the minimum required front setback is 15 feet in the R7 zoning district. As currently designed, the library is proposed to be located 5 feet and 6 inches from the front property line on Spaulding Ave. which does not meet the minimum required setback. A site plan modification or an approved setback variance is required. A

variance is a discretionary land use application, and approval is not guaranteed. A condition of approval is warranted to ensure that the minimum required setback is being met.

The Hearings Officer concurs in this finding, adopting a condition of approval modified consistent with the discussion at the hearing.

3) ZDO SECTION 1203 CONDITIONAL USES

A. 1203.02: Submittal Requirements

This application includes a completed land use application form, site plan, application fee and completed supplemental application addressing the criteria in ZDO Section 1203. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1203.02 are included in the application. The application was submitted on January 13, 2023 and additional materials were received on March 3, 2023. Following submission of additional requested information, the application was deemed complete on March 3, 2023.

B. 1203.03(A): The use is listed as a conditional use in the zoning district in which the subject property is located.

Finding: *The subject property is zoned Urban Low Density Residential - R7, Urban Low Density Residential - R8.5, and Open Space Management (OSM). Section 315, Table 315-1 of the ZDO controls land uses in the underlying R7 and R8.5 zoning districts; Section 702 controls land uses in the underlying OSM district.*

The Hearings Officer concurs in this finding.

USE	Zoning District	
	OSM	R7 and R8.5
Library	Conditional	Conditional
Government office	(Not proposed)	Conditional
Community Building	(Not proposed)	Primary
Fitness and recreational facilities	Primary (outdoor)	Primary
Parking	Accessory	Conditional

The proposed development requires a conditional use permit for the new public library and for the expansion of the government use throughout the majority of the existing building (former Concord Elementary School) for the North Clackamas Parks and Recreation District (“Parks District”) offices. The conditional use permit is also required for the parking lot serving the community center. The table above and the zoning diagram provided earlier in this report are included to provide a visual representation of the proposed uses in each zoning district.

The public library will be located in part in the OSM zoning district and in part in the R7 district. In the OSM district, a library is a conditional use when associated with open space or recreational facilities, and the development proposal includes the construction of an outdoor public park. In the R7 district, a library is a use that is allowed as a conditional use in a planned unit development (PUD); however, the subject property is not in a planned unit development. The proposed library will be part of the Library District of Clackamas County which is a special district organized under ORS 357.216 to 357.286. Special districts are a form of local government. Government uses are a conditional use in the R-7 district, provided that they are not specifically listed elsewhere in the zoning district as a Conditional Use. Because libraries are only a conditional use in a PUD and the subject property is not in a PUD, the use is not otherwise listed and may be reviewed as a government use.

The Parks District is a public entity. A conditional use permit was previously issued to the Parks District to occupy a very small portion of the existing building with their offices (reference land use permit Z0390-22). The proposal involves expanding the Parks District's offices from 4,746 square feet of the building to 19,058 square feet. The (existing) building that will be used for the Parks District offices is within the R7 and R8.5 zoning districts. In the Zoning and Development Ordinance (ZDO), Table 315-1 specifies that "government uses" are a conditional use; therefore, a conditional use permit is necessary. The Parks District is a public entity and is a government use.

The parking lots that support this development are located in the OSM district. A parking lot is allowed as an accessory use to the park pursuant to Subsection 702.04(C); however, pursuant to Subsection 702.05(A and F), a parking lot serving indoor recreation facilities, meeting rooms, interpretive centers, and other similar uses are a conditional use. The parking lots will provide parking for persons visiting the community center and therefore require the review and approval of a conditional use permit.

The proposed library in the OSM and R7 zoning districts, the expansion of the government offices for the Parks and Recreation District in the existing building, and the parking lots serving the indoor recreation facility, meeting rooms, and community center, are listed as conditional uses in the applicable zoning districts. This criterion is met.

The Hearings Officer adopts the above findings and analysis, concurring that this criterion is met.

- C. **1203.03(B):** The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.

Finding: *In addition to the narrative provided in the applicant's submitted application materials, staff makes the following findings.*

The subject property is approximately 5.9 acres in size. The submitted site plans and narrative demonstrate the property is of sufficient size to accommodate the proposed uses. The library, Parks District office expansion, and parking associated with the community center are the conditional uses being evaluated with this land use application; however it is difficult to evaluate these uses in isolation due to the interconnectivity of all uses being proposed, including primary uses.

The subject property has direct vehicular access onto Concord Rd and Spaulding Ave; the primary parking lot is located off of Concord Rd between McLoughlin Blvd and SE Oatfield Rd. The development has adequate site circulation and vehicle maneuvering area to accommodate the parking areas proposed. Conditions of approval are recommended to ensure that the development and ADA accessibility standards are met.

The property is generally regular in shape and has modest slopes. It intersects with SE Concord Rd, SE Olive Ave, and SE Spaulding Ave, but the applicant states that the Olive Ave right of way is not open to vehicle traffic. The site is currently developed with a 46,400 square foot, two-story building (former school), a covered playground and two parking lots. The building (former school) has been on the property since the 1930s. Combined with size, the shape of the property does not present any significant limitation to the proposed use of the site. There are no mapped protected natural features on the property.

The location, size, shape, topographic, natural and developed characteristics of the property are suitable to accommodate the proposed conditional uses. When considering the characteristics of the subject property, staff finds that this criterion is met.

The Hearings Officer adopts the above findings, adopting related conditions of approval and concurring that, as conditioned, these criteria are met.

- D. **1203.03(C):** The proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.

Finding: *Staff reviewed the proposal for compliance with 1007.07. The findings are included in the staff report below. As conditioned, this criterion can be met.*

The Hearings Officer adopts the referenced findings and concurs that, as conditioned, this criterion can be met.

- E. **1203.03(D):** The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.

Finding: *The site is in the R7, R8.5 and OSM zoning districts and is surrounded by other properties in R7, R8.5 and General Commercial (C-3) zoning districts. Primary uses of the R7 and R8.5 zoning districts are provided in ZDO Section 315, primary uses allowed in the OSM district are provided in ZDO Section 702, and primary uses in the C-3 district are in ZDO Section 510. In addition to the applicant's narrative, staff makes the following findings:*

Land use in the surrounding area is primarily a mix of single-family detached dwellings and commercial development along McLoughlin Blvd. The neighborhood includes quiet residential streets, juxtaposed against the busy McLoughlin Blvd commercial corridor. The subject property has a dedicated history to institutional uses, and the proposal will continue to provide an institutional use. The institutional uses will serve as a transition between these two built environments.

The building identified as the community center is well-established in the neighborhood and has been on the subject property since the 1930s. A school operated on the subject

property from 1890 to 2014 when it ceased operation, and has since received a conditional use permit approval to use a small portion of the building for the North Clackamas Parks and Recreation District offices (reference planning land use file Z0390-22 for existing government use). Part of this application is to expand the government use (Parks and Recreation District offices) to a larger portion of the building.

For approximately 100 years, the subject property has been dedicated to serve the surrounding community and although the school ceased operation in 2014, the associated park and outdoor recreation area continues to serve the community. The proposed development will improve the park and recreational area by adding bollard-style lighting to increase park safety and surveillance of the outdoor space. Outdoor lighting will be required to comply with the standards in ZDO Section 1005 and will be evaluated through a subsequent Design Review land use application (reference land use file number Z0083-23). Given the property's dedicated history of being an institutional use (formerly Concord Elementary School), the addition of a library on site is suitable with the pre-existing uses of this property. The proposed public library and public park will lend itself to the community and continue to serve as an institutional use in the neighborhood. The library, community center and new park will serve the surrounding community and will integrate into the character of this site.

The County's Transportation Engineering division has reviewed this application and the traffic impact analysis provided in the application materials and have concluded that the existing transportation network is adequate to serve the proposed uses. The proposed conditional uses will not alter the character of the area in a manner that would substantially limit, impair or precludes the uses of the surrounding area.

The Hearings Officer concurs in the above findings, adopting referenced conditions of approval and agreeing that, as conditioned, these criteria are met.

- F. **1203.03(E):** The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.

Finding: *The applicant addresses the Comprehensive Plan in their submitted narrative and details how the proposed use is consistent with the residential goals of the Plan, although they reference some incorrect Comprehensive Plan designation policies in their findings. The subject property is designated Low Density Residential (LDR) and Public and Community Use Open Space (PCU) on the Comprehensive Plan map. The R7 and R8.5 zoning districts implement the goals and policies of the LDR plan designation and the OSM zoning district implements the PCU designation. The building that the Parks District offices will be located in is within the LDR designation; the library will be in the PCU designation.*

- a. Chapter 4, Residential – Low Density Residential Policies – 4.R

The low density residential policies include having adequate provisions for recreational facilities because they are integral parts of residential neighborhoods. The review of this permit, and the recommended conditions of approval are intended to ensure adequate design and safety, particularly with regard to vehicular and pedestrian access. The proposal is consistent with the goals and policies of Chapter 4 of the Comprehensive Plan.

b. PCU – 4.GG Open Space Policies

The Public and Community Open Space policies include preserving lands for park and recreation facilities, and for publically owned land to function as open space. Land should be allowed to have public recreation or other compatible private or public uses and structures. The proposal is consistent with the goals and policies of Chapter 4 of the Comprehensive Plan.

c. Chapter 5, Transportation – Access Standard Policies – 5.Q

5.Q.5 Access Standards shall be implemented through the Zoning and Development Ordinance and the County the County Roadway Standards. Where access management standards are adopted by the County in Special Transportation Plans, those standards shall apply.

As specified under ZDO Section 1007, development applications are required to provide adequate access to current County standards, which may include right-of-way dedication, frontage improvements, on-site access and parking.

SE Concord Road is classified as a minor arterial roadway (Comprehensive Plan map 5-4a). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for arterial roads.

Roadway Standards Section 220.4 indicates that development sites on arterial roadway should have one driveway, with additional access based on safety and circulation needs. Based on anticipated traffic use and volume, we can justify the need for two driveway approaches in order to provide adequate site circulation, emergency access, and minimize impacts to SE Concord Road. Although, the proposed driveways do not meet full access spacing due to the location of existing driveways on the south side of SE Concord Road, with the continuous center turn lane and alignment of the new driveways with existing higher volume driveways on the opposite site of the street, the proposed access will be adequate.

The Hearings Officer concurs in the above discussion, analysis, and findings, concluding that the proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.

G. **1203.03(F):** The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, and Section 1000 Development Standards.

Finding: *Staff reviewed compliance with ZDO Section 1000, as applicable. The findings are included in the staff report below. As conditioned, this criterion is met.*

The Hearings Officer concurs in these findings that, as conditioned, this criterion is met.

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4) ZDO SECTION 1000 DEVELOPMENT STANDARDS

Not all review subsections in ZDO Section 1000 are applicable. Below is an evaluation of the criteria that are applicable to the proposed conditional use. A separate Design Review land use application is in review for this proposal because ZDO Section 1102.01 requires a Design Review for institutional uses in the R7 and R8.5 zoning districts; reference land use permit Z0083-23. The findings below are related specifically to the conditional uses proposed; the detailed design criteria are reviewed in land use permit Z0083-23.

Section 1001 General Provisions – 1001.03 Applicability. Section 1000 applies to all development, as identified in Table 1001-1. If a section is identified as applicable in Table 1001-1, it does not necessarily mean that every subsection within that section will apply; rather, each applicable section must be reviewed to determine which, if any, provisions in that section are applicable to the proposed development.

Finding: *The institutional uses proposed are subject to the Sections identified in Table 1001-1. Applicable Sections for institutional uses include: 1002, 1003, 1004, 1005, 1006, 1007, 1009, 1010, 1011, 1015, and 1021.*

A condition of approval will require a subsequent Design Review land use permit approval for many of the siting and design requirements, rather than evaluating them as part of this Conditional Use application.

The Hearings Officer concurs in this analysis and findings, adopting related conditions of approval.

- A. Sections 1002, 1003, and 1004 are not applicable to the subject property or proposed development.
- B. Section 1005 relates to the specific design of the building and the site. Compliance with this subsection shall be reviewed in Design Review land use permit Z0083-23.
- C. **1006.03 Water Supply and 1006.04 Sanitary Sewer Service.** Approval of a development that requires public or community water service and sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the service provider(s).

Finding: *A statement of feasibility from Oak Lodge Water Services District was provided by the applicant and determined that the proposed utility demand will be quantified by the property owner for Oak Lodge to review with the associated Design Review land use application (land use permit number Z0083-23).*

A condition of approval is necessary to ensure that this criterion is met.

The Hearings Officer concurs in this analysis and findings, adopting related proposed conditions of approval.

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D. **1006.06 Surface Water Management and Erosion Control.** The following surface water management and erosion control standards apply:

- a. Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.
- b. The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the Clackamas County Roadway Standards apply
- c. Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
 - i. The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility
 - ii. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.

***Finding:** A statement of feasibility from Oak Lodge Water Services District was provided by the applicant and determined that the utility demand stormwater will be quantified by the property owner for Oak Lodge to review with the associated Design Review land use application (land use permit number Z0083-23). A condition of approval is necessary to ensure that this criterion is met.*

The Hearings Officer concurs in this analysis and findings, adopting the related proposed conditions of approval.

E. **1007.01(A and B) Roads and Connectivity – General Provisions.** The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.

Right-of-way dedications and improvements shall be required of all new developments, including institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

***Finding:** Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for arterial roads.*

The existing right-of-way varies along the SE Concord Road frontage from 60 to approximately 69 feet. The existing one half right-of-way width along the project site frontage varies at 30, 37 and 39.98 feet. West of the project site, SE Concord Road includes a three-lane cross section along the commercial zoned properties, transitioning to a two-lane cross section along the project site frontage. Additional right-of-way width was previously provided to accommodate the existing pull-out areas previously used for school buses. The project traffic study evaluated whether turn lanes would be needed for the site driveways on SE Concord Road, and found that left turn lane warrants are not met. Based on this, continuation of a three-lane section to accommodate a center turn lane is not needed along the project site frontage of SE Concord Road, and a two-lane cross section is adequate to serve the proposed development. The standard cross section for a two-lane urban arterial roadway, per Roadway Standards Drawing C140 includes a 70-foot wide public right-of-way, with a one half right-of-way width of 35 feet. The applicant will be required to dedicate additional right-of-way to provide a minimum one half width of 35 feet, as well as right-of-way to accommodate the required frontage improvements as discussed below. As conditioned, this criterion can be met.

The Hearings Officer concurs in this analysis, finding that, as conditioned, this criterion can be met.

- F. **1007.01(C and D) Roads and Connectivity.** Provisions pertaining to pedestrian, bicycle, and vehicle access, safety, and traffic flow.

Finding: *The frontage of SE Concord Road is improved with bike lanes, pull-out areas previously used by buses, and curb-tight sidewalk. The proposed preliminary plans include modifying the existing driveway access currently serving the site to include two driveways serving the main parking lot, and retaining an existing driveway at the easterly end of the frontage that provides access to a service area that includes trash and recycling. The existing sidewalk along the frontage is adequate, except for ADA accessibility across the eastern driveway approach. The new driveway approaches and the easterly driveway will require adequate ADA access.*

Reconstruction and expansion of the existing former school parking lot is proposed with two driveway approaches on SE Concord Road serving the main parking lot. ZDO 1007.01(C)(10) specifies that developments have the minimum number of driveway as required by DTD. Roadway Standards Section 220.4 indicates that development sites on arterial roadway should have one driveway, with additional access based on safety and circulation needs. Based on anticipated traffic use and volume, the proposed two driveway approaches are acceptable to provide adequate site circulation, emergency access, and minimize impacts to SE Concord Road. Although, the proposed driveways do not meet full access spacing due to the location of existing driveways on the south side of SE Concord Road, with the continuous center turn lane and alignment of the new driveways with existing higher volume driveways on the opposite side of the street, the proposed access will be adequate.

The preliminary plans for the proposed parking lot on the SE Concord Road frontage appears to be consistent with ZDO Section 1015 and Roadway Standards Drawing P100

and P200. The parking lot design will be reviewed through the Design Review application for the site.

There is an existing mid-block crosswalk on the SE Concord Road frontage that does not meet current standards and will require upgrading with new signs and additional lighting. Conditions of approval are necessary to ensure this criterion is met.

The Hearings Officer concurs in the above discussion, finding that, as conditioned, these criteria are met.

- G. **1007.01(E)**. All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.

Finding: *ZDO Sections 1203.03 and 1007.01(E) require that development adequately and safely accommodate pedestrians. There is an existing mid-block crosswalk on the SE Concord Road frontage does not meet current standards and will require upgrading with new signs and additional lighting, consistent with pavement marking and sign standards, per Roadway Standards Sections 271.1 and 281.1.*

The project site includes frontage on the SE Spaulding Avenue right-of-way. The right-of-way includes a half cul-de-sac bulb, but the improvement are undefined within the right-of-way. The current improvements at the terminus of SE Spaulding Avenue include a paved area that has mostly served as parking and access for the school. The preliminary plans include improvements within the right-of-way that include paving, curbs and sidewalk along the north side of the right-of-way. A small parking lot is proposed off of the north side of the right-of-way. The applicant is proposing to accommodate a turnaround area for emergency vehicles utilizing a portion of the parking lot driveway aisle that extends outside the public right-of-way. Because SE Spaulding Avenue is a public roadway, provisions for a public turnaround will be required. Although, the preliminary site design will provide for adequate access for a fire truck that includes maneuvering outside the right-of-way, a turnaround area within the public right-of-way is needed, as required by Roadway Standard Section 225.2. A passenger vehicle turnaround will be required within the public right-of-way. The specific requirement for the public improvements will be addressed through the Design Review application for development of the proposed use.

The Hearings Officer concurs in this discussion and in these findings.

- H. **1007.02(D) Public Roadways**. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standard.

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Finding: *The Traffic Impact Analysis provided by the applicant evaluated the sight distance at the proposed driveways on SE Concord Rd., and verified that the standards under Roadway Standards Section 240 can be met.*

The Hearings Officer concurs.

- I. **1007.02(F) and 1007.04(C) Road Frontage Improvements and Pedestrian and Bicycle Facilities.** Road frontage improvements must meet current urban Roadway Standards. Sidewalks, pedestrian pathways, bikeways, and accessways shall be constructed for institutional developments.

Finding: *The frontage of SE Concord Road is improved with bike lanes, pull-out areas, 6-inch curb and 7.5-foot wide curb-tight sidewalk. The proposed preliminary plans include modifying the existing driveway access currently serving the site to include two driveways serving the main parking lot, and retaining an existing driveway at the easterly end of the frontage that provides access to a service area that includes trash and recycling facilities. The applicant is proposing to retain the existing sidewalk and construct the new driveway approach to provide ADA accessibility. Based on estimated trip generation of 2,053 vehicles per day from the project site, improvement of the project site frontage to current standards on SE Concord Road is warranted.*

The standard cross-section for an arterial roadway, per Roadway Standards Drawing C140, includes a minimum 20-foot wide half street, with 6-inch curb, 5-foot wide landscape strip with street trees, and a 7-foot wide sidewalk. The applicant will be required to remove the existing curb tight sidewalk and replace it with landscape strip, street trees and a setback sidewalk. Where the curb line exceeds the minimum 20-foot half street width, the curb can remain.

As conditioned, this criterion can be met.

The Hearings Officer concurs, finding that, as conditioned, these criteria can be met.

- J. **1007.05 Transit Amenities.** All institutional developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development.

Finding: *The subject property is not located on an existing transit route, as identified on Map 5-8a in the Comprehensive Plan. Tri-Met was notified of the application and provided with the opportunity to provide comments, but the County did not receive a response.*

The Hearings Officer adopts this finding.

- K. **1007.06(A) Street Trees.** Within the Portland Metropolitan Urban Growth Boundary (UGB), street trees are required on all road frontage for institutional developments, except that for structural additions to existing institutional buildings street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet.

Finding: *The property is located within the Portland Metropolitan UGB and so street trees are required along the road frontage for institutional developments. The existing*

building on site that will be used for the Parks District office expansion will not involve an addition of 10% of the assessed value, or 999 square feet. The proposed library is new construction on an institutional use; therefore, street trees are required. As designed, the application materials do not show street trees proposed. A condition of approval will be necessary to ensure this criterion is met.

Street trees are required along the Concord Rd frontage, and the species must be chosen from a County-approved list of street trees, unless approval for planting of another species is given by the Department of Transportation and Development. Specific tree species can be determined in the subsequent Design Review land use application, Z0083-23.

The Hearings Officer concurs, adopting related conditions of approval to ensure this criterion is met.

- L. **1007.07 Transportation Facilities Concurrency.** Shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.

Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner.

Finding: *ZDO Subsection 1007.07 requires that there is an adequate transportation system in place at the time of a development. Under Roadway Standards Section 295.2(b), a traffic impact study is generally required when a development will generate more than 20 peak hour vehicle trips. The applicant has provided a Transportation Impact Analysis (TIA) by Global Transportation Engineering, dated March 3, 2023 evaluating a number of intersections in the vicinity of the project site, addressing trip generation, on-site circulation and intersection sight distance.*

The proposed conditional use will result in a total of 93 morning peak hour trips, 216 evening peak hour trips, and 2,053 weekday daily trips. The TIA finds that with the proposed use, roadways and intersection within the influence area of the site will operate with adequate capacity and safety, except for the SE Risley Avenue/SE McLoughlin Boulevard (OR99E). The TIA indicates that the intersection does not meet mobility performance standards, per Table 5-2a of the Comprehensive Plan, in the 2025 background condition and the 2025 buildout condition. The TIA proposes a mitigation to add right turn lanes on the eastbound and westbound approaches on SE Risley Avenue. The SE Risley Avenue/SE McLoughlin Boulevard(OR99E) intersection falls under the jurisdiction of ODOT. ODOT submitted comments during the first open record period, dated May 18, 2023. ODOT notes that the TIS assumed that SE Risley Ave had only single lane approaches to McLoughlin Boulevard (OR99E). SE Risley Ave is nearly 50' wide where it intersects McLoughlin Boulevard (OR99E). Because of its width, left and right turning vehicles are already able to queue side-by-side, and county traffic engineering staff have personally observed that the intersection currently operates this way. Striping would not effectively change the operational characteristics of the intersection. Traffic and Development Engineering staff concur with ODOT's comments and find that the SE Risley Avenue/SE McLoughlin Boulevard(OR99E) intersection will meet mobility standards. Traffic and Development Engineering staff find that the capacity of the transportation is adequate. This criterion is met.

The Hearings Officer concurs in the above discussion and analysis, finding that this criterion is met.

- M. Section 1009, 1010 and 1021 relate to landscaping, signage, and solid waste and recycling. Compliance with these sections is reviewed in the associated Design Review land use permit Z0083-23, with the exception of compliance with Subsection 1009.04, described below.

Section 1009.04 Screening and Buffering. Screening shall be used to eliminate or reduce the visual impacts of service areas and facilities, such as loading areas and receptacles for solid waste or recyclable material.

Finding: *Compliance with screening and buffering requirements are necessary to mitigate the impact the conditional uses will have on the neighborhood and surrounding properties. As proposed, the design does not implement the requirements of this subsection to limit the impact of the subject property to the adjacent residential property. Screening and buffering techniques listed in Subsection 1009.04(B through E) are necessary to mitigate the impacts of the proposed institutional uses to the residential use to the east (3901 SE Concord Rd). Staff recommends that a condition of approval be imposed to ensure compliance with this criterion.*

The Hearings Officer concurs, adopting the proposed condition of approval.

- N. **1015 Parking and Loading.** Inside the Portland Metro UGB, parking, loading, and maneuvering areas shall be hard-surfaced, unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority or in order to comply with Subsection 1006.06. Off-street parking areas are governed by Subsection 1015.02(A) and minimum automobile parking space requirements for the proposed uses provided in Table 1015-1. The minimum number of bicycle parking spaces listed in Table 1015-3 are required. If a listed use is located with the UGB, it shall have a minimum of two bicycle parking spaces or the number required by Table 1015-3, whichever is greater.

Finding: *The Climate Friendly and Equitable Communities (CFEC) rules are in effect pursuant to OAR 660-012-0400 through OAR 660-012-0450. No vehicle parking can be required for any development that is within ¾ mile of a rail transit stop or ½ mile of a frequent transit corridor. This property is eligible to follow the CFEC rules due to the frequency and location of the Tri-Met bus service, bus lines #33; therefore, no minimum parking is required. Maximum parking standards are in effect. The applicant is electing to provide 164 vehicle parking spaces and 13 bicycle racks capable of locking two bicycles, each, totaling 26 bicycle parking spaces.*

Within the Urban Grown Boundary (UGB), the parking maximums listed for Urban Zone A in Table 1015-1 apply to the maximum vehicle parking standards as demonstrated in the table, below. Pursuant to Subsection 1015.01(C), parking requirements for uses and structures not specifically listed in Tables 1015-1, Automobile Parking Space Requirements or 1015-3, Minimum Required Bicycle Parking Spaces are subject to the requirements for the most similar use. For the purposes of determining maximum vehicle parking, staff finds that “Theaters, Dance Halls, Community Clubs, Skating Rinks, Public Meeting Places” is the most similar use to a library and a park in Table 1015-1. For the purposes of determining minimum bicycle parking, staff finds that and that “Theaters,

Places of Worship, Auditoriums, Dance Halls and other Public Assembly Places” is the most similar use in Table 1015-3 for the recreation facility (community center) and the library.

Proposed Use	Area (square feet)	Vehicle Parking Ratio Maximum (per 1,000 square feet)	Maximum Vehicle Spaces Permitted	Bicycle Parking Ratio Required	Minimum Bicycle Spaces Required
Recreation Facilities	25,642	5.4	139	1 per 40 seats or persons of design capacity	<i>unknown</i>
Office Use	19,058	3.4	65	1 per 2,500 square feet	8
Library	15,141	None	None	1 per 40 seats or persons of design capacity	<i>unknown</i>
Park	1.94 acres	None	None	5 per acre	10
Total	-	-	None	-	

There is no requirement to provide a minimum number of vehicle parking spaces; the number of parking spaces that the applicant is electing to provide was based upon the number of spaces recommended by the Institute of Transportation Engineers, an established organization for transportation professionals. The maximum number of vehicle spaces is applicable, and the proposal does not exceeds the maximum number of parking spaces allowed.

Compliance with subsection 1015.03 pertaining to the design and location of the bicycle racks will be reviewed through the related Design Review land use application, file Z0083-23. As demonstrated by the table above, the minimum required bicycle parking spaces could not be determined based upon the information provided by the applicant. The design capacity for the recreation facility in the community center and the library must be provided in order to determine the minimum number of bicycle parking spaces required for those uses. The proposed development includes parking for 26 bicycles. A condition of approval is warranted to ensure that the minimum number of bicycle parking spaces is being provided.

As conditioned, this criterion can be met.

The Hearings Office concurs, finding that as conditioned these criteria can be met.

F. CONDITIONS OF APPROVAL

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis. It shall be the responsibility of the property owner(s) to comply with the limitation of any approval resulting from the decision described herein.

I reviewed and considered the entire record in this matter, including the original staff report, original proposed conditions of approval submitted by staff, the arguments advanced by the NCPRD concerning alternatives and proposals concerning certain language in proposed conditions of approval, and the discussion at the hearing. I also reviewed and considered the pre-hearing materials submitted, including the application, agency and public comments received prior to the public hearing, and post-hearing submittals including the post-hearing response submitted by ODOT, staff memorandum proposing certain changes to the proposed conditions, and additional comments related to the original findings and recommended conditions of approval from the initial staff report, and applicant's written response to the open record period. Upon review, I find the following conditions are designed to ensure that the requirements of this Conditional Use permit are met, adopting the following, with changes to proposed conditions of approval indicated by bold italicized text and/or strike through:

1. Approval of this land use permit is based on the submitted written narrative and plans filed with the County on January 13, 2023 and additional materials received on March 3, 2023. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. The conditional use approval is valid for four (4) years from the date of the final written decision (ZDO 1203.05). During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a) A building permit for a new primary structure that was part of the conditional use approval, or
 - b) A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.

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3. The proposed development is located within the service area of Oak Lodge Water Services for sanitary sewer, water and surface water and shall be subject to the Oak Lodge Rules and Regulations and Design and Construction Standards for applicable utilities.
4. Prior to approval of any permits necessary to implement this Conditional Use approval (e.g., building permit, Transportation Engineering development permit for the parking lot or frontage improvements), a Design Review land use permit shall be obtained.
5. Compliance with the screening and buffering techniques listed in ZDO Subsection 1009.04(B through E) are necessary to mitigate the impacts of the proposed institutional uses to the residential use to the east located at 3901 SE Concord Road. Updated site plan and landscape plans shall be provided in the subsequent Design Review land use permit demonstrating compliance with Section 1009.04(B through E).
6. The subject property shall be developed with open space or recreational facilities prior to obtaining a certificate of occupancy for the library. [702.05(B)].
7. The minimum number of bicycle parking spaces shall be provided and designed in accordance with Section 1015.03. Compliance with the standards shall be evaluated in the subsequent Design Review land use permit.
8. Street trees shall be planted along the Concord Road frontage. Updated site plan and landscape plans shall be provided in the subsequent Design Review land use permit demonstrating compliance with Section 1007.06.
9. The site plan shall be ~~modified to~~ comply with **the** minimum front yard setback standard from Spaulding property line in the R-7 **zoning district**. ~~unless a setback variance is approved.~~ **If a setback variance is required and approved, the minimum front yard setback standards would be subject to the variance permit; a variance is a discretionary land use application, and approval may not be granted.** [315.04].
10. The SE Concord Road frontage improvements for proposed driveways, ADA accessible sidewalks along the entire site frontage, and midblock crosswalk shall be upgraded to current standards prior to obtaining a certificate of occupancy.
11. Prior to obtaining a certificate of occupancy, Design Review approval shall be obtained for vehicular, pedestrian and bicycle access, including frontage improvements and site development, and such improvements shall be constructed or bonded in conformance with ZDO Section 1301.02, including the following:
 - a. The applicant shall dedicate right-of-way along the entire site frontage of SE Concord Road site frontage and verify by a professional survey that a 35-foot wide, one-half right-of-way width exists. Additional right-of-way dedication shall be provided to encompass the required sidewalk, with the right-of-way located a minimum of 6 inches behind the sidewalk
 - b. The applicant shall design and construct improvements along the entire site frontage of SE Concord Road to arterial roadway standards, consistent with Standard Drawing C140, **or as otherwise approved in the Design Review application**. These improvements shall consist of the following:
 - i. Up to a minimum 20-foot wide, one half street improvement, as measured from the right-of-way centerline to face of curb. Where the existing curb

exceeds the minimum width, the curb can be retained. The structural section shall comply with Standard Drawing C100 for an arterial roadway.

- ii. Standard 6-inch curb,
 - iii. A minimum 5-foot wide landscape strip with street trees.
 - iv. A 7-foot wide unobstructed sidewalk, per Standard Drawing S960.
 - v. Minimum 24-foot wide concrete driveway approaches, per Drawing D650.
 - vi. The midblock crosswalk shall be upgraded to current standards, including signs, pavement markings and lighting per Roadway Standards 271.1 and 281.1.
- c. Drainage facilities for the site and street improvements shall be constructed in conformance with Clackamas County Roadway Standards Chapter 4 and Oak Lodge Water Services Standards.
- d. Improvement of the terminus of SE Spaulding Court shall be provided to local road standards, providing paving a minimum of 30 feet wide, 6-inch curbs, a passenger vehicle turnaround, 5-foot wide sidewalk on the north side of the right-of-way frontage, and ADA accessibility from the site to the public sidewalk and roadway, ***or as otherwise approved in the Design Review application.***
- e. Adequate on site circulation shall be provided for the parking and maneuvering of all vehicles anticipated to use the site. Parking spaces shall meet minimum dimensional requirements of ZDO Section 1015, and Roadway Standards Drawing P100 or P200, as applicable.
- f. ***[deleted]***

G. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer APPROVES application Z0020-23-C for a Conditional Use permit to construct a new 15,360 square foot public library, to renovate an existing building (formerly the Concord Elementary School) to expand the North Clackamas Parks and Recreation District offices, and to construct certain site improvements, subject to conditions of approval.

Dated: June 14, 2023



Carl D. Cox
Clackamas County Hearings Officer

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APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision is "final" for purposes of a LUBA appeal as of the date of the decision appearing by my signature.