

BEFORE THE LAND USE HEARINGS OFFICER  
CLACKAMAS COUNTY, OREGON

Regarding an Appeal of a Planning Director Decision Approving an Application for a Design Review 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, and to construct certain site improvements.

Case File No: Z0083-23-HO  
(NCPRD/Farley)

**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, or “Applicant”). 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, approved with conditions January 10, 2023. The NCPRD also previously obtained a condition use permit 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. *See* File No. Z0020-23-C, approved with conditions June 19, 2023.

4. On August 15, 2023, County Planner II Melissa Lord issued notice of Type II land use decision approving application file no. Z0083-23-D, subject to conditions of approval, consistent with the recommendation of the Design Review Committee. File no. Z0083-23-D is an application for a Design Review 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 additional vehicle parking, a 2-acre park with outdoor play equipment and green space.
5. On August 28, 2023, William Farley timely submitted this appeal of the County’s approval of application Z0083-23-D, citing that: “Conditions of approval do not adequately address project impacts for criteria identified in ZDO Section 1007.” On September 28, 2023, the Hearings Officer conducted a public hearing to receive testimony and evidence about the NCPRD’s land use application File No. Z0083-23-D. The Hearings Officer approved the application subject to conditions of approval.

**B. HEARING, RECORD HIGHLIGHTS, AND POST-HEARING SUBMITTALS**

1. The Hearings Officer previously conducted a hearing on May 18, 2023 related to this project, approving 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.
2. The application includes a completed land use application form, location map, site plan and project drawings, elevation plan drawings, landscaping plan, pedestrian pathway drawing, application fee and several supplemental application materials addressing the criteria in the applicable sections of the ZDO. The application also includes a description of the proposed use and vicinity map. The application was initially submitted on March 6, 2023. Following submission of additional requested information the application was deemed complete May 23, 2023. The subject property is located inside an urban growth boundary. The application was approved by the County on August 15, 2023, within the 120-day deadline established by state law for processing this application.

***Documents and Comments Submitted Prior to Hearing***

3. The applicant, Jason Varga, originally submitted this application for a Design Review permit on March 6, 2023 as Project Manager for the North Clackamas Parks and Recreation District (NCPRD). Specifically, the application is for “Design Review for Concord Community Center and Oak Lodge Library.” County Planner II Melissa Lord issued notice of incomplete application on March 30, 2023 concerning certain missing information required for a complete application. The Applicant submitted several additional materials on May 23, 2023, and this application was deemed complete on May 23, 2023. Ms. Lord issued notice of land

use application on July 11, 2023 to property owners within 300 feet of the subject property, Community Planning Organizations, and interested agencies.

4. The Applicant submitted several additional application materials in July 2023, including a modification request concerning certain setback requirements of Section 1005.02(E). The additional materials included site plans and supporting information for a new Trash Enclosure, Bike Parking, the proposed setback at Spaulding Ave., Signage, pedestrian path through the parking lot, screening (showing existing trees on neighboring property, areas requiring screening) with a Planting Plan for the site.
5. The County received several agency comments concerning the application, including submitted requirements for street lighting, requirements for a waste and recycling enclosure, a response from the Oregon Department of Transportation staff stating they had no issues or concerns with the project, comments from Markus Mead of Oak Lodge Water Service District with conditions of approval related to the project. The Oak Grove Community Council (OGCC) Community Planning Organization (CPO) submitted written comments along with a recommendation of approval with conditions. Among other things, the OGCC recommended reducing the number of parking spaces provided in the development to the minimum required number of spaces (131) to maximize green space area and encourage alternatives such as carpooling, public transit, walking, and bicycling. The OGCC also recommended further traffic analysis and recommendations to ensure that safe and efficient vehicular traffic can be accommodated on Concord Road serving the new Library, park, and Community Center, and recommended that the signage for the project include provisions for advertising events and making announcements.
6. Ms. Lord presented the project to the County's Design Review Committee on July 25, 2023 at a public meeting, discussing certain requirements for modifications, and certain issues that had been clarified. The Design Review Committee recommended approval of the project.
7. On September 26, 2023, the County received comments submitted by William Farley, the Appellant in this matter. Mr. Farley submitted these comments as an interested, concerned citizen providing input into the County's review of this application for a Design Review permit, in support of the project but asserting certain impacts are not adequately addressed. Mr. Farley's comments pertain to the adequacy of pedestrian connectivity under Section 1007 (Roads and Connectivity) in the County's Zoning and Development Ordinance and assert that numerous subsections of that chapter support conditioning the project on providing adequate pedestrian connectivity, meaning sidewalks and/or bicycle lanes providing safe pedestrian connectivity between the site and nearby neighborhoods.
8. Mr. Farley contends in his September 26, 2023 comments that the Applicant's Transportation Impact Analysis' projected 2,053 average daily trips is roughly equivalent to constructing a 200-lot single-family subdivision in the neighborhood. He also points to the analysis' statement that the project will draw much of its traffic from the immediate neighborhood, and asserts that "no analysis was conducted regarding the additional pedestrians expected to be attracted to the site or pedestrian connectivity to/from the nearby neighborhoods." Mr. Farley points to the Applicant's transportation analysis' description that sidewalks and bike lanes are present on both sides of the street along the frontage, but contends the analysis "omits any

discussion regarding the gap in pedestrian facilities east of the SE Harold Avenue intersection.” Mr. Farley recommends that the County “require the project to construct a separated pedestrian facility between the subject site and the intersection of SE Oatfield Road/SE Concord Road to mitigate the negative impacts.” Mr. Farley asserts that the “project would have nexus to these improvements and the costs of construction would be well within the rough proportionality requirements of their expected impacts.” Mr. Farley makes several suggestions, including that, as an alternative to requiring the Applicant to construct pedestrian improvements, a fee-in-lieu should be required for the cost of construction of these off-site improvements, allocating the funds to improving pedestrian connectivity/safety in the Concord/Oatfield area.

9. Kenneth Kent, County Development Engineering, submitted written comments in an August 1, 2023 memorandum concerning analysis by County Development Engineering staff. Among other things, Mr. Kent notes that the proposed development is subject to the County’s ZDO Section 1007 (Roads and Connectivity). Mr. Kent provides discussion concerning staff review of the Transportation Impact Analysis (TIA) by Global Transportation Engineering, dated March 3, 2023. Mr. Kent notes that the TIA finds that with the proposed use, studied roadways and intersections will operate with adequate capacity and safety, except for the Risley Avenue/SE McLoughlin Boulevard (OR 99E). However, Mr. Kent further noted that County Engineering and ODOT had coordinated review of this intersection and proposed mitigation and had determined that the TIA had evaluated the intersection with single lane approaches when the existing width provided for separate right turns, and concluded that the recommended TIA mitigation was not required. Mr. Kent reported that County “Traffic and Development Engineering staff find that the capacity of the transportation system is met.”
10. In his August 1, 2023 memorandum, Mr. Kent also discussed County Development Engineering review of ZDO Section 1007. He noted that Section 1007.02(F) specifies that developments improve the roadway frontage to current urban roadway standards. In addition, Mr. Kent pointed to ZDO Section 1007.04(C) requirements for pedestrian and bicycle facilities along the frontage of institutional developments. Mr. Kent points to findings that the frontage of SE Concord Road is improved with bike lanes, pullout areas, 6-inch curb and 7.5-foot wide curb-tight sidewalk, not meeting current requirements, stating: “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.” Mr. Kent states that required frontage improvements include a minim 20-foot wide half-street, with 6-inch curb, 5-foot wide landscape trip with street trees, and a 7-foot wide sidewalk.
11. In his August 1, 2023 memorandum, Mr. Kent points to ZDO Section 1007.01(E)’s requirements that development adequately and safely accommodate pedestrians. Mr. Kent reports that 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, consistent with pavement marking and sign standards, per Roadway Standards Section 271.1 and 281.1.” Mr. Kent also points to improvements within the right-of-way that will include paving, curbs and sidewalk along the north side of the right-of-way. Mr. Kent’s August 1, 2023 memorandum included a number of conditions of approval, including requirements for improvements along the entire site frontage of SE Concord Road to current standards, including a 7-foot wide unobstructed sidewalk along the entire site frontage, and

upgrading the midblock crosswalk to current standards and ADA accessibility. Conditions of approval in the August 1, 2023 memorandum also included improving the terminus of Spaulding Court to current roadway standards, including a minimum 5-foot wide sidewalk on the northerly side of the right-of-way frontage. Further, the August 1, 2023 memorandum included conditions of approval requiring a minimum 5-foot wide, ADA accessible walkway to the existing sidewalk at the end of SE Olive Avenue.

12. On August 1, 2023, the County received comments submitted by Gwendolen Reyes-Illig, a resident of SE Concord Rd., providing input into the County's review of this application for a Design Review permit. Ms. Reyes-Illig is in support of the project, but expressed concerns over the large size of the parking lot hoping that additional green space could be preserved, and encouraged consideration of improvements to the safety of the Concord crosswalk in front of the community center.
13. On August 15, 2023, Ms. Lord approved the application, subject to conditions of approval, consistent with the recommendation of the Design Review Committee. On August 28, 2023, Mr. Farley submitted this appeal. On September 6, 2023, Ms. Lord issued notice for this appeal hearing, scheduled it for public hearing on September 28, 2023 at 1:00 pm.
14. The August 15, 2023 Design Review approved by Ms. Lord included several conditions of approval, including Condition of Approval 5(a) requiring the Applicant to provide an updated trash enclosure drawing to demonstrate compliance with the signage standards of Subsection 1021.07. On August 21, 2023 the Applicant submitted an updated trash enclosure drawing stamped by a registered architect, appearing to fulfill the requirement of Condition of Approval 5(a) but also not showing the walkway through the parking lot that is shown on the Applicant's landscaping plan. Similarly, on August 21, 2023 the Applicant submitted an updated Plant Schedule, fulfilling the requirement of Condition of Approval 5(b)(i) to provide an updated landscaping plan showing the minimum caliper for deciduous trees will be 2-inches at the time of planting. On August 21, 2023, the Applicant also submitted an updated Planting Plan, appearing to fulfill the requirement of Condition of Approval 5(b)(ii) to provide certain buffering between the subject property and 3901 SE Concord Rd. as identified on plans provided at the Design Review Committee meeting, but continuing to show landscaping proposed on the Walmart property without that property owner's approval. Exhibit 25 also shows the walkway through the parking lot having a curb inconsistent with access and mobility requirements.
15. On September 9, 2023, the County received additional comments submitted by Gwendolen Reyes-Illig (resident of SE Concord Rd.) in support of the project, but asserting that "far too much of the property is being allocated for parking." Ms. Reyes-Illig notes that there is no required minimum number of parking spaces and advocates for shrinking the parking lot and increasing the amount of space for landscaping with native trees and plants. Ms. Reyes-Illig questions the need for 65 parking spaces for "office use" and questions whether 139 other spaces are really necessary, noting that by improving the sidewalks and crosswalks more people can walk or bike to the site, instead of driving a car.
16. On September 21, 2023, the Transportation Impact Analysis (TIA) from land use application file Z0020-23 was submitted into the record in this matter. This TIA from Global

Transportation Engineering consists of a memorandum by Dana Beckwith, PE, PTOE and Richard Martin, EIT, dated March 3, 2023 with several elements and components providing data and analysis identifying potential impacts to the transportation network for the year of opening of the site, based on the Clackamas County Roadway Standards and the Oregon Department of Transportation Analysis Procedures Manual. Among other things, while no crash patterns were found and no mitigations recommended for the intersections of OR 99E at SE Oak Grove Blvd. and OR 99E at SE Concord Rd., a fatality and pedestrian crash patterns were found at the intersection of OR 99E at SE Vineyard Rd., with the authors recommending: “Clackamas County and ODOT investigate crashes at this intersection independent of this project.” The authors provided detailed descriptions and analysis of the pedestrian-involved crashes at the intersection of OR 99E and SE Vineyard Road, but concluded that: “The library and community center development will only add through traffic on OR 99E to the intersection, which is a low-risk movement in regards to pedestrian conflicts.”

17. The March 3, 2023 TIA from Global Transportation Engineering also included (among other things) a neighborhood impacts analysis. The TIA noted that the previous use of the project site was institutional, as an elementary school generating AM and mid-day peak hour trips from school buses, student pick-ups/drop-offs, school staff trips, and PM peak hour trips from after-school activities. The authors state: “The proposed will have similar neighborhood impacts. As a community center and library, the project site will draw much of its traffic from the immediate neighborhood, similar to a public school. The capacity analysis shows that impacts to the neighboring traffic system [are] minimal, and those impacts that are identified are able to be mitigated.” The authors state that that: “The study area includes Pacific Highway East (OR 99E), SE Oak Grove Boulevard, SE Risley Avenue, SE Concord Road, SE Oatfield Road, SE, Vineyard Road, and SE Spaulding Avenue. All modes of travel including pedestrians, bicycles, transit, and motor vehicles were evaluated.” The authors also noted that “Traffic volumes were adjusted according to ODOT guidance to account for the traffic impacts of the COVID-19 pandemic The authors also provided detail concerning the adjustments made.
18. The March 3, 2023 TIA from Global Transportation Engineering described existing roadway characteristics, including for pedestrian sidewalks and bike lanes for each of the study area roads. Specifically, the study states that OR 99E (a Principal Arterial) has sidewalks and bike lanes on both sides of the road, SE Concord Road (a Minor Arterial east of OR 99E, and a Collector west of OR 99E) has sidewalks on both sides of the road west of SE Harold Avenue and bike lanes on both sides of the road, Oatfield Road (a Minor Arterial) has sidewalks on both sides south of SE Spaulding Avenue and bike lanes on both sides of the road, SE Oak Grove Boulevard (a Minor Arterial) has sidewalks on both sides east of OR 99E, intermittent west of OR 99E, and bike lanes on both sides of the road, SE Risley Avenue (a Connector) has intermittent sidewalks on both sides of the road, and no bike lanes, SE Spaulding Avenue (a Local Road) has no sidewalks and no bike lanes, and SE Vineyard Road (a Connector) has sidewalks on both sides of the road, and no bike lanes. The March 3, 2023 TIA from Global Transportation Engineering included Traffic Count Data for pedestrians, bicycles, and scooters, in addition to data collected for all vehicles, heavy trucks, and buses.

19. With respect to Circulation Analysis, the March 3, 2023 TIA states, among other things: “Pedestrian and bicycle facilities throughout the site will connect all parking lots and the main building. A shared use path will have access to the site from the northwest corner of the lot at the current SE Olive Avenue right-of-way and the northeast side of the lot at the current SE Spaulding Avenue right-of-way. This shared-use path will extend through the site to connect the Concord Community Park, the Oak Lodge Library, and the Concord Community Center for both pedestrians and bicycles. Sidewalks to serve pedestrians will be provided along all building frontages and out to SE Concord Road to connect to existing pedestrian infrastructure. All accesses and vehicle facilities will be built to Clackamas County roadway standards.”
20. Christopher Dreger and Diane Jones, residents of SE Concord Road, submitted written comments concerning the appeal of the County’s approval of this application. They expressed concerns with the Traffic Impact Analysis submitted with this application, asserting that: “SE Harold Avenue seems to be completely missing in this analysis...”. Mr. Dreger and Ms. Jones contend that this “gap in the Transportation Impact Analysis is glaring because it is via SE Harold Ave. that traffic would travel to SE Vineyard and OR 99E.” Further, they contend that the traffic counts are not adequate because they were conducted during the COVID-19 Pandemic. Mr. Dreger and Ms. Jones describe SE Harold Ave. as “narrow and already heavily used by families walking with kids and dogs, runners, and cyclists and there is insufficient room for two way traffic overtaking pedestrians.” They point to issues raised in the TIA concerning crash history involving pedestrians at the intersection of OR 99E at SE Vineyard Road, pointing out that SE Harold Ave. is used to reach SE Vineyard from SE Concord Rd. Mr. Dreger and Ms. Jones also describe SE Concord Road as “a high prioritization for walking and cycling safety improvements...”. They contend that the increased vehicle trips to the site are evidenced by the increased size of the parking lot, from 43 spaces to 164 parking spaces, and object to plans to use some of the existing open space for the additional parking.
21. In their written comments, Mr. Dreger and Ms. Jones disagree with staff findings that there are no bodies of water or wetlands on the site, pointing to a stream of water that runs down the brick wall behind the Concord School, and a large drainage pipe on the site that they describe as the source of the stream of water. Mr. Dreger and Ms. Jones provided several photos of the drainage pipe, and also showing that Boardman Creek is located nearby, asserting an Environmental Impact Assessment should be completed for the development, trees should be protected, and the open space park area of the site preserved.

### ***The Appellant’s Traffic Impact Analysis***

22. The Appellant, Mr. William Farley, P.E., is a traffic engineer. Mr. Farley submitted a September 27, 2023 memorandum he prepared to support his appeal of the County’s approval of application Z0083-23-D. In his memorandum, Mr. Farley provides information related to the pedestrian environment east of SE McLoughlin Boulevard in the vicinity of the subject property. Mr. Farley provides an existing conditions analysis with an aerial map of the subject site and vicinity, and street descriptions similar to those provided in the Applicant’s TIA, but adding some additional detail. For example, Mr. Farley notes that east of SE Oatfield Road, SE Concord Rd. becomes a 25 mph Local street with a two-lane cross section, with no roadway striping east of SE Francis Avenue and no sidewalks are available between

SE Oatfield Road and SE La Bonita Way. Mr. Farley also provides intersection descriptions with additional detail. For example, he notes that the traffic signals at the intersection of SE Oatfield Road at SE Concord Road have signalized pedestrian crosswalks with button actuation on each leg of the intersection, whereas the Applicant's TIA noted the traffic signals and crosswalks, but not the button actuation. Mr. Farley also points to the intersection of SE Oatfield at SE Spaulding as only having a stop sign and no crosswalk, stating pedestrians crossing at this point need to wait for drivers to yield. Mr. Farley also provides a description of transit service similar to that provided by the Applicant's TIA. Mr. Farley includes photos of the neighborhood streets, sidewalks, bike lanes, intersections, and crosswalks, in an appendix to his memorandum.

23. Mr. Farley's memorandum provides a review of the County's current Transportation System Plan (Chapter 5 of the County's Comprehensive Plan), noting the plan was adopted in 2013 and describes over 300 needed roadway projects. He provided information concerning multiple projects in this plan that would be constructed in the vicinity of the site. Those projects include: Project #1061 (completion of gaps in pedestrian facilities on SE Concord Road from SE River Road to SE Oatfield Road); Project #1062 (addition of turn lanes at major intersections on SE Concord Road from SE River Road to SE Oatfield Road); Project #1070 (safety audit/transportation safety review of Oatfield Road from Jennings Avenue to Lake Road); Project #3065 (completion of gaps in pedestrian facilities along SE Oatfield Road between Milwaukie and Gladstone); and, Project #3069 (completion of gaps in pedestrian facilities along SE Risley Avenue between Arista Drive and Hager Road).
24. In his September 27, 2023 memorandum, Mr. Farley included a "Pedestrian Facility Evaluation" stating: "The comfort and perceive safety of pedestrian facilities within 0.5-miles of the subject site east of SE McLoughlin Boulevard were evaluated." Mr. Farley notes that there are pedestrian routes available, but states that "since SE Oatfield Road does not provide many opportunities to safely or comfortably cross, walking as a mode choice is likely to be the most attractive for those living along the Local streets between SE McLoughlin Boulevard and SE Oatfield Road." Mr. Farley reports that along the section of SE Oatfield Road within 0.5 miles of the subject site, sidewalks are only provided near transit stops. Mr. Farley also states that per the County's Traffic Counts Map, SE Oatfield Road carries approximately 13,000 vehicles on average each day and, with a posted speed limit of 35 mph and the use of the roadway, states it is likely that the 85<sup>th</sup> percentile speed is about 40 mph. Based on this analysis, Mr. Farley concludes pedestrians would likely prefer to walk along SE McLoughlin Boulevard.
25. With respect to pedestrian facilities along SE Concord Road west of Oatfield, Mr. Farley reports that sidewalks are only provided between SE Harold Avenue and SE McLoughlin Boulevard. He explains that pedestrians walking from Oatfield to the subject site must walk within a bike lane for approximately 450 feet, noting that the County's Traffic Counts Map shows that SE Concord Road west of Oatfield Road carries an average of approximately 7,000 vehicles daily and, based on a posted speed limit of 35 mph and the use of the roadway, states it is likely that the 85<sup>th</sup> percentile speed is about 40 mph. With respect to pedestrian facilities along SE Concord Road east of Oatfield, Mr. Farley reports that this section of SE Concord Road is classified as a Local street that connects to other Local roadways, with County Traffic Counts Map data showing it carries an average of 1,000 vehicles per day and, based on a



posted speed limit of 25 mph and the use of the roadway, states it is likely that the 85 percent of drivers are traveling around 25 mph. Mr. Farley states that pedestrians are likely comfortable sharing the travel lane with motor vehicles, although he points to potential safety concerns near the intersection of Oatfield and at SE La Bonita Way.

26. Mr. Farley provides similar analysis for SE Risley Avenue, noting it is classified as a Connector street providing a route between SE Oatfield Road and SE McLoughlin Boulevard, with the Applicant's TIA data showing SE Risley Road carries about 1,300 vehicles daily and, with a posted speed limit of 25 mph, it is likely 85 percent of drivers are traveling 30 mph or less. He reports that limited sidewalks are provided along SE Risley Avenue between SE Oatfield Road and SE McLoughlin Boulevard, but sidewalks are present near the intersections with SE Kellogg Avenue and SE Olive Avenue, as well as a marked crosswalk, and sidewalks are provided along the north side east of SE Kronberg Avenue.
27. With respect to pedestrian facilities on SE Olive Avenue, Mr. Farley reports that there are sidewalks on SE Olive Avenue along the west side between SE Risley Avenue (from the marked sidewalk) to where the road ends at the subject property and, with low traffic volumes and most drivers traveling 25 mph or less, pedestrians may feel comfortable using the roadway. Similarly, with respect to pedestrian facilities along SE Spaulding Avenue between SE Oatfield Road and the subject property, Mr. Farley reports that although there are no sidewalks along SE Spaulding Avenue, traffic volumes and speeds are expected to be low, allowing pedestrians to safely walk on the edge of the travel lane. However, Mr. Farley points to SE Oatfield Road as "a significant barrier for pedestrians to reach this route when approaching from the east."
28. Mr. Farley provided a Trip Generation Analysis describing the proposed development and using trip rates from the *Trip Generation Manual*.<sup>1</sup> Mr. Farley referenced estimating additional traffic generated by the community center using trip rates from *Land Use: 495 – Recreational Community Center* based on gross floor area. Mr. Farley also referenced estimating additional traffic generated by the new public library using trip rates from *Land Use: 590 – Library* also based on gross floor area. Mr. Farley further referenced estimating additional traffic generated by the offices using trip rates from *Land Use: 710 – General Office Building* based on gross floor area. Although Mr. Farley asserts that it is not relevant due determining the expected impacts of the proposal on the nearby transportation system due to the extended period of vacancy, he also calculated estimates for traffic generated from the site's previous use as an elementary school using trip rates from *Land Use: 520 – Elementary School* based on the average number of students enrolled at the school between 2005 and 2010. Using this methodology, Mr. Farley provided data for AM Peak Hour, PM Peak Hour, and Average Weekday trips for these proposed uses and the prior school use, projecting 2,053 total average weekday trips for the combined proposed uses, an increase of 1,277 average weekday trips over the projected 776 average weekday trips for the prior school use.
29. Mr. Farley also reported that the *Trip Generation Manual* provides limited data concerning trips generated using other active modes of transportation, such as walking, biking, or transit. He stated that, based on trip rates for *Land Use: 495 – Recreational Community Center* and

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<sup>1</sup> Institute of Transportation Engineers, *Trip Generation Manual, 11<sup>th</sup> Edition, 2021*.  
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*Land Use: 710 – General Office Building*, the proposed development will generate at least four trips walking, biking, or using transit during the AM peak hour and least eight trips walking, biking, or using transit during the PM peak hour. Mr. Farley asserted that, although the *Trip Generation Manual* did not supply rates for walking, biking, or using transit for the library land use, given the number of residences with a 0.5 mile radius of the site, as well as the nearby roadways with bicycle facilities and transit options, “the proposed library has a high likelihood to generate a significant number of trips that choose walking and biking over driving.”

### ***The Appellant’s Mitigation Analysis***

30. Mr. Farley’s September 27, 2023 memorandum includes a mitigation analysis based upon his conclusion that: “Since multiple criteria have failed to be met for Section 1007, specifically pertaining to pedestrian connectivity in the vicinity of the site, the project can be conditioned with improvements to the transportation system that mitigate its impacts and bring it into compliance.” He points to a gap in pedestrian facilities on SE Concord Road east of the site as having been previously identified as a priority by Clackamas County in Chapter 5 of the Comprehensive Plan. Mr. Farley points to Project #1061 in Table 5-3a: *Tier 1 -20 Year Capital Projects* as calling for the County to complete gaps in pedestrian facilities along SE Concord Road between SE Oatfield Road and SE River Road, and also points out that this project was identified as a high priority in the Clackamas County Pedestrian Master Plan in 1996 and was one of 76 priority projects used in the methodology used to determine Transportation System Development Charges (TSDCs).
31. Mr. Farley’s September 27, 2023 memorandum suggests a sidewalk be constructed between SE Harold Avenue and SE Oatfield Road, pointing out that pedestrians crossing the roadway at the signalized crossing at Oatfield would then have a separated facility to access the proposed community center and public library. Further, Mr. Farley contends that “This improvement would allow at least an additional 160 homes and a senior housing development located within 0.5-miles of the site and within the neighborhood to the east of Oatfield to comfortably access the site on foot without the need to walk within a roadway that carries a high volume of traffic at faster travel speeds.” Mr. Farley provides a supporting aerial map of the vicinity showing the residential properties within a 0.5-mile radius of the site. Mr. Farley agrees that, as the right-of-way width is only 40 feet east of SE Harold Avenue, and thus not sufficient for construction to County cross-section standards for a Minor Arterial, full street improvements are not likely. However, Mr. Farley asserts that the Applicant could construct interim pedestrian facilities and bikeways, as appropriate, on existing streets (such as SE Concord Road) that are not built to the applicable cross-section. Mr. Farley recommends that the Applicant be required to complete the gap in pedestrian facilities between SE Oatfield Road and the subject property by constructing an interim sidewalk along the north side of SE Concord Road in place of the existing bike lane.
32. Mr. Farley’s September 27, 2023 memorandum includes cost estimates for constructing the recommended five-foot wide sidewalk on the north side of SE Concord Road separated from the travel lane by a six-inch curb with gutters. He references ODOT’s Historical Bid Price Listing for 2022 and the Portland Bureau of Transportation’s Engineering Estimate Worksheet, providing a detailed estimate in the appendix to his memorandum. Mr. Farley

estimates that the total cost to construct a sidewalk connecting SE Oatfield Road to the existing sidewalk on the north side of SE Concord Road is approximately \$720,000. Mr. Farley also prepared an estimate of the additional cost to have a sidewalk constructed in the ultimate location (not interim), requiring acquisition of property for public right-of-way along the five properties situated there. Mr. Farley estimates that, based on Market Values from County Tax Assessment the cost of acquiring the property needed to construct a sidewalk to the County's standards is between \$135,000 (market value) and \$250,000, again providing detailed data supporting this estimate in the appendix to his memorandum.

33. In his September 27, 2023 memorandum, Mr. Farley also performed an estimate of the Clackamas County Transportation System Development Charges (TSDC fees) that are typically assessed to new or expanded developments to help cover the cost of adding capacity to transportation facilities (i.e. improvements for vehicles, bicyclists, and pedestrians) to accommodate (or mitigate the impact of) new trips added by the development. Mr. Farley estimated the total TSDC charges for the project at \$550,411, providing detail concerning his calculation. Mr. Farley then used this estimate of total TSDC charges for the project to conduct a rough proportionality assessment. Mr. Farley reports that the TSDC charge is calculated at 44% of the cost estimated to construct the highest priority capital projects, essentially equating the 44% cost to a rough equivalent of the cost of mitigating transportation system impacts from new or expanded development. Next, Mr. Farley used this TSDC calculation as a rough estimate of the Applicant's proposal's impact on the transportation system, essentially dividing the calculated TSDC charge of \$550,411 by 44%, or \$1.25 million. Mr. Farley concludes that "off-site mitigation within the public right-of-way can cost around \$1.25 million and still be considered roughly proportionate to the project's total impacts.
34. Mr. Farley concludes his September 27, 2023 memorandum by asserting that the Applicant's proposal can be conditioned to require the Applicant to construct an interim sidewalk between SE Oatfield Road and SE Harold Avenue along the north side of SE Concord Road because: "1. A nexus exists in the trips generated by the proposed development in that pedestrian and vehicular traffic will travel to the immediate area surrounding the site, including in the direction towards where the gap in pedestrian facilities is located. [and] 2. The construction of the interim sidewalk would be expected to cost approximately \$720,000, which is within the bounds of what would be considered roughly proportionate to the project's impact to the transportation system (estimated at \$1.25 million)." Mr. Farley contends that additional improvements are needed to meet the criteria in the County ZDO Sections 1007.01 (B, E, F, and G) and 1007.02 (A and E). Mr. Farley recommends that the project be conditioned with the construction of an interim sidewalk connection along the north side of SE Concord Road between SE Harold Avenue and SE Oatfield Road.

### ***September 28, 2023 Public Hearing***

35. The Hearings Officer received testimony and evidence at the September 28, 2023 public hearing about this application and during a subsequent open record period, including submittals identified as Exhibits 1-37. 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.

### ***County Staff Presentation***

36. At the hearing, County Planner Melissa Lord discussed the application for Design Review approval for the Oak Lodge Library and Concord Community Center, providing background concerning the subject property, discussion concerning the Design Review Committee’s recommendation of approval, the August 15, 2023 staff decision approving the application, the appeal submitted by the Appellant Mr. Farley. Ms. Lord also provided discussion concerning related exhibits and comments submitted into the record, providing a PowerPoint presentation, and recommending approval of the application with conditions consistent with the and requiring correction of certain inconsistencies between submitted plans.
37. Ms. Lord provided a slide and discussion noting that the subject property is a 5.9 acre parcel with portions located within the R7, R8.5 and OSM zoning districts. She pointed to previously approved applications related to the Applicant’s development of the site, including conditional use permit Z0390-22 approving use of the former Concord School for NCPRD offices and indoor recreational space, leaving most of the building a “shell” and, later, conditional use permit Z0020-23 approving use of the entire Concord School building. Ms. Lord noted there are no environmental overlays mapped on the property, the County’s Design Review Committee recommended approval of the application (subject to conditions) on July 25, 2023, staff issued a decision of approval with conditions on August 15, 2023, and Mr. Farley’s appeal filed within the 12-day appeal period.
38. Ms. Lord shared a slide showing an aerial view of the subject property and vicinity, with an overlay showing the subject property and names for streets in the vicinity. Ms. Lord provided a description of the Applicant’s proposal for the subject property, including developing it with a new 15,360-sf public library, renovating an existing 46,000-sf building (formerly the Concord School) into a community center that will include indoor recreational space, community space, and the NCPRD offices. The proposal also includes a main parking lot with 158 spaces accessed from Concord Rd., and a secondary parking lot with 6 spaces accessed from Spaulding Ave. Ms. Lord addressed comments concerning the number of parking spaces proposed for the project, stating that the maximum parking spaces per standards is calculated at 204 spaces and, although there is no minimum standard, the proposal’s approximately 160 spaces was approved as significantly less than the maximum. In addition, the proposal includes a 1.94-acre public park with outdoor play equipment, lighting, pathways, and neighborhood connector. Ms. Lord shared slides of several aerial photos showing the locations of the various items she described in the proposal. Ms. Lord also shared slides of site plans submitted with the application also showing the items she described, and renderings showing the proposed development of the property.
39. Ms. Lord shared several additional slides providing a summary of the staff decision approving the application with conditions. She pointed to the different zoning districts on the subject

property, noting that the public library will be located in the R7 and OSM zoning districts, and the community center is located in the R7 and R8.5 zoning districts. Ms. Lord explained that the NCRPD's offices are a conditional use in the R7 and R8.5 zones, whereas the community center and indoor fitness/recreation are primary uses in the R7 and R8.5 zones. Ms. Lord further explained that the parking lots proposed in OSM supporting indoor recreational uses is a conditional use, the parking lots supporting an outdoor recreation use or park in OSM is an allowed accessory use, and public and private outdoor recreational facilities, parks and libraries in OSM are primary uses. She also reported that dimensional standards are met, such as setbacks, building height, and lot coverage, with a condition of approval requiring the vacation of the Spaulding Ave. right-of-way. Ms. Lord pointed to ZDO section 707 and 1004: Historic Protection and Historic Landmarks, and staff findings that these provisions are not applicable. Ms. Lord explained that the former Concord school building is eligible to be on the National Register of Historic Places but is not listed. She further noted that the building has not been designated as a Clackamas County Historic Landmark, a Historic District, or a Historic Corridor, as defined in ZDO Section 707.

40. Ms. Lord pointed to ZDO Section 1005.02: Site Design, noting that the proposal provides for interconnected onsite walkways including site lighting, bollard-style pathway lighting, and connections to two adjoining neighborhoods (Olive Ave. and Sunset Ct.). Ms. Lord also pointed to provisions that a minimum 8-foot wide walkway must connect from the sidewalk on Concord Rd. to the library main entrance. [Condition of Approval 11; 1005.02(E)(2)]. Ms. Lord also pointed to provisions requiring a minimum 5-foot wide walkway through the primary parking lot, tire stops that must be at least four inches high and located two feet within the space to prevent any portion of a car within the lot from extending over the walkway. [Condition of Approval 15; Section 1005.02(D)]. Ms. Lord further pointed to requirements of ZDO Section 1005.03: Building Design, noting the proposal's clearly defined public entrances with covered entryways, the new library's brick veneer siding that is complimentary of the existing Concord School building and consistent with Historic Preservation guidelines. Ms. Lord also pointed to ZDO Section 1007: Roads and Connectivity, noting that the current width of the right-of-way varies along the Concord Rd. frontage adjacent to the subject property, with this issue addressed by Condition of Approval #8. Ms. Lord recommended approval of the application with conditions, consistent with the August 15, 2023 staff decision, with two additional recommended conditions of approval related to correcting inconsistencies between certain plans submitted by the applicant.

### ***Appellant Presentation***

41. At the hearing, the Appellant William Farley shared a PowerPoint presentation and provided discussion concerning the application for Design Review approval for the Oak Lodge Library and Concord Community Center and the County's approval that he is appealing. Mr. Farley described himself as a licensed PE civil engineer with over a decade of experience in traffic engineering. Mr. Farley also makes clear that he is in support of the project, quoting the statement made by Mitzi Olson, Oak Lodge Library Director: "The new modern library will be an inclusive, welcoming destination; its park setting and multi-use capabilities will quickly become the heart of the community." However, Mr. Farley contends that conditions of approval imposed with the County's decision approving this application do not adequately address the project's impacts, particularly with respect to local neighborhood pedestrians.

42. Mr. Farley provided a slide and discussion concerning site circulation and traffic, including for transit, bike, car, and pedestrian. He pointed out that there is good public access via the location's proximity to SE McLoughlin Blvd. and SE Oatfield Rd., including convenient bus routes, and the site is located adjacent to a bike route and neighbors are able to walk to the site. Mr. Farley also noted that there is public street access on three sides of the site, and described the site as having good "front door" access from the proposed west parking lot, noting that ADA/universal accessibility issues will be addressed. Mr. Farley also drew attention to several site constraints, including that: the main entry is not accessible, the development likely requires traffic impact and parking studies, the location may result in a higher incidence of unwelcome behavior, service access from SE Spaulding is challenging due to grade changes, nearby local streets are not pedestrian-friendly (curb-tight sidewalks or no sidewalks), and that parking requirements may limit available park space.
43. With respect to transportation and site access, Mr. Farley points to multimodal access as a site attribute, noting that the "site is served well by vehicular access on three sides. Specifically, Mr. Farley states: SE Concord Road is the primary access to the site, with minor access on SE Spaulding Avenue to the east and SE Olive Avenue to the north; SE Concord Road provides nearby pedestrian and vehicular access to SE McLoughlin Blvd., a principal arterial to the west, and SE Oatfield Road to the east; S Concord Road has pedestrian and bicycle routes; SE Oatfield Road and SE McLoughlin Blvd. have bus access; the subject property is 1.7 miles from the SE Park Avenue MAX station; and, the SE Concord Road drop-off area that was previously used for school bus transportation is planned to remain for convenience. Mr. Farley shared several slides of the area, including an aerial photo of the site and photos of SE Concord Rd., pointing out that SE Concord Rd. is missing an approximately 450 foot portion of sidewalk beginning shortly east of the site, with no sidewalks on either side of SE Concord Rd. east of SE Harold Ave., although there are bike lanes on both sides of SE Concord Rd. that continue east.
44. Mr. Farley provided several slides and discussion concerning County ZDO Section 1007: Roads and Connectivity. He specifically pointed to several relevant portions of ZDO Section 1007 including the following relevant portions of its provisions:
- Section 1007.01(B) Right-of-way dedications and improvements shall be required of all new developments, including...institutional uses, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.
  - Section 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...
  - Section 1007.01(F) Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for separate of motor vehicles, bicycle and pedestrian traffic, and other modes as appropriate.
  - Section 1007.01(G) The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossing lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.

- Section 1007.02(A) All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.
- Section 1007.02(E) New developments...may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way 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.

45. Mr. Farley provided several slides and discussion concerning the County’s Comprehensive Plan, including quoting the following Transportation System Plan (TSP) provisions and Transportation System Plan (TSP) Policies:

- Provide a transportation system that optimizes benefits to the environment, the economy and the community
- Plan the transportation system to create a prosperous and adaptable economy and further the economic well-being of businesses and residents of the County.
- Tailor transportation solutions to suit the diversity of local communities.
- Promote a transportation system that maintains or improves our safety, health, and security.
- Provide an equitable transportation system
- Promote a fiscally responsible approach to protect and improve the existing transportation system and implement a cost-effect system to meet future needs.
- 5.R.1 Require new development to be served by adequate transportation facilities and access points that are designed and constructed to safely accommodate all modes of travel.
- 5.R.2 For new developments... require right-of-way dedication, on-site frontage improvements... and off-site improvements necessary to safely handle expected traffic generated by the development and travel by active modes.
- 5.R.3 Assess anticipated off-site traffic impacts caused by new developments. The developer may be required to participate financially or otherwise in the provision of off-site improvements, dedications or other requirements.

46. Mr. Farley shared a slide that includes Table 1 from his September 27, 2023 memorandum/Transportation Impact Analysis showing anticipated trip generation for the proposed use, and a comparison to the previous use of the site as an elementary school (noting that this is an old use and not actually relevant to the current assessment of impact). The Appellant’s Table 1 shows that the proposed new use of the site (library, community center, and offices) is anticipated to generate a total of 2,053 average daily weekday trips and is reproduced below:

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Table 1: Trip Generation Summary – Total Vehicle Trips

Use	Size	AM Peak Hour			PM Peak Hour			Average
		In	Out	Total	In	Out	Total	Weekday
Library	15,360 SF	11	4	15	60	65	125	1,107
Community Center	25,642 SF	32	17	49	30	34	64	739
Offices	19,058 SF	26	3	29	5	22	27	207
<b>Total</b>		<b>69</b>	<b>24</b>	<b>93</b>	<b>95</b>	<b>121</b>	<b>216</b>	<b>2,053</b>

Table 2: Trip Generation Comparison

Use	Size	AM Peak Hour			PM Peak Hour			Average
		In	Out	Total	In	Out	Total	Weekday
Proposed		69	24	93	95	121	216	2,053
Elementary School	342 stds	137	116	253	25	30	55	776
<b>Net Difference</b>		<b>-68</b>	<b>-92</b>	<b>-160</b>	<b>70</b>	<b>91</b>	<b>161</b>	<b>1,277</b>

47. Mr. Farley states that the net difference of 1,277 average weekday trips is equivalent to the average weekday trips anticipated from developing an approximately 200 lot subdivision. Mr. Farley’s presentation included a slide with a quote from the Applicant’s March 3, 2023 Transportation Impact Analysis concerning “Neighborhood Impacts Analysis” as follows: “The previous use of the project site was an elementary school. As an elementary school, the property generated AM and mid-day peak hour trips from school buses, student pick-ups/drop-offs, and school staff trips, and PM peak hour trips from after-school activities. The proposed uses will have similar neighborhood impacts. **As a community center and library, the project site will draw much of its traffic from the immediate and surrounding neighborhoods.** The capacity analysis shows that impacts to the neighboring traffic system is minimal, and those impacts that are identified can be mitigated.” [Emphasis by Appellant]
48. Mr. Farley contends that the project “will contribute a significant amount of traffic to the nearby transportation system, including additional vehicle trips and those using active modes. This traffic would be largely drawn from the surrounding neighborhoods.” Mr. Farley points to the road immediately adjacent to the site, and asserts that: “Concord Road currently does not provide pedestrian facilities east of Harold Ave that would give residents in nearby neighborhoods or transit rides on Oatfield Road a safe and comfortable way to reach the site on foot.” With respect to the applicable criteria from County ZDO Section 1007, Mr. Farley shares a slide essentially summarizing these findings from his September 27, 2023 memorandum/Transportation Impact Analysis:
- 1007.01(B) – Not met. Dedications and improvements are not consistent with Policy 5.R in Chapter 5 of the Comprehensive Plan.
  - 1007.01(E) – Not met. Road adjacent to site does not adequately nor safely accommodate pedestrians.



- 1007.01(F0 – Not met. Roadway does not provide for separation of modes of traffic.
  - 1007.01(G) – Not met. The needs for all modes of transportation are not balanced to provide for safe and efficient flow of traffic.
  - 1007.02(A) – Not met. Concord is not developed according to the Minor Arterial classification nor to a standard reflective of being an Arterial in the Essential Pedestrian Network Map.
  - 1007.02(E) – Not met. The minimal dedication of right-of-way along Concord is not consistent with policies identified in Chapter 5.R of the Comprehensive Plan
49. Mr. Farley makes recommendations for mitigating the impacts identified in his TIA, including as a proposed solution that the Applicant “complete the gap.” Here, Mr. Farley points out that Project #1061 in the County’s TSP calls for the filling of gaps in pedestrian facilities on Concord Road between River Road and Oatfield Road. He also points out that this same project was previously identified in the County’s Pedestrian Master Plan in 1996. Mr. Farley shared additional slides with aerial photos of the area and overlays showing the network of pedestrian connections within a 0.5 mile radius or boundary for the subject property. He suggests that the Applicant be required to replace the existing bike land on the north side of SE Concord Road with a sidewalk for pedestrians, completing the gap in this manner. Mr. Farley provided a preliminary engineering estimate for completing this project, estimating the cost of completing this roughly 450 feet of sidewalk is approximately \$720,000, and estimating that acquiring the property to build the sidewalk next to the existing bike lane instead of over it would add another \$130,000 to this cost.
50. Mr. Farley’s presentation included a rough proportionality test, calculating the Transportation System Development Charges for the proposal at \$550,441. As a methodology, Mr. Farley noted that the TSDCs represent 44% of the County’s actual needs, calculating the related expenditure as \$550,441 divided by 0.44, or \$1.25 million, asserting this is roughly the impact cost of the project to the County, and is roughly proportionate to the cost of improving the sidewalk as he recommends. Mr. Farley further contends that if the Applicant is not required to directly complete the sidewalk, then the Applicant should be required to pay a fee in lieu of construction of these improvements, to be added to the County’s “Sidewalk Improvement Fund” for such improvements.
51. Mr. Farley concludes his presentation by contending that the application does not meet the requirements of ZDO Section 1007 and the policies identified in Chapter 5 of the County’s Comprehensive Plan. He asserts that the County should condition the project to complete a portion of Project #1061 identified in the TSP. Mr. Farley points to the application as having a nexus to these improvements, asserts that these improvements are proportionate to the impacts from the project, and contends that the project would balance the needs of all modes of transportation.

***Applicant***

52. Debbie Cleek, Principal of the Bookin Group, appeared and provided testimony and advocacy on behalf of NCPRD’s application. Ms. Cleek asserts that the Applicant met County requirements for scoping and preparing its Traffic Impact Analysis (TIA) per County Code, and points out that County Engineering approved the project as meeting the requirements of

ZDO Section 1007 based on the information in the TIA. Ms. Cleek specifically notes that the Appellant only points to the general standards of ZDO 1007, whereas the specific provisions of ZDO Section 1007.07 determine whether the capacity of the transportation facilities is adequate based on the improvements identified in the transportation impact study. Ms. Cleek further points out that the general provisions of ZDO Section 1007.01 cited by the Appellant does not specifically address off-site connectivity for pedestrians. She points to the code standards contained in ZDO Section 1007.04 Pedestrian and Bicycle Facilities, and specifically to subsection (F)(2), which indicates that the only location upon which the sidewalks for an institutional development are required is on the street frontage upon which the institutional development is proposed.

53. Ms. Cleek points to the section of the staff decision issued by the County addressing ZDO Section 1007.01 (C and D) Roads and Connectivity, and containing specific provisions pertaining to pedestrian, bicycle, and vehicle access, safety, and traffic flow. She notes that, based on an estimated trip generation of 2,053 vehicles per day, improvement of the Concord frontage is warranted, but contends that once these improvements are conditioned the approval criteria of this section is met. Ms. Cleek also points to County staff analysis for ZDO Sections 1007.02(F) and 1007.04 (C) Road Frontage Improvements and Pedestrian and Bicycle Facilities reaching the same conclusions.
54. Ms. Cleek notes that the Applicant is proposing to improve the street frontages on both Concord Road and Spaulding Court with pedestrian amenities meeting the roadway standards as well as upgrading the existing mid-block crosswalk on Concord. Ms. Cleek asserts that these required improvements are proportional to the amount of development proposed on the site and will sufficiently mitigate any resulting impacts to the transportation system the project will create. Ms. Cleek contends that the Appellant's arguments about proportionality do not take into account the construction cost of the improvements already proposed which, beyond pedestrian facilities, also include full half-street improvements to Concord Road, full reconstruction of the terminus of Spaulding Court, and a right-turn only lane at the intersection of McLoughlin and Risley Avenue. Ms. Cleek asserts there is no nexus in ZDO Section 1007 that would require the Applicant to improve the frontages of property it doesn't own or control. Furthermore, Ms. Cleek contends that an on-street pedestrian connection to Oatfield Rd. would not alleviate connectivity issues in this overall system because there is not robust pedestrian infrastructure on Oatfield Rd.
55. Ms. Cleek also addressed comments from neighbors. She discussed the number of parking spaces for the project, stating that it was calculated based on standards provided by the Institute of Transportation Engineers and informed by current parking demands at the existing Oak Lodge Library and other recreational facilities operated by the Clackamas County Parks and Recreation District. Ms. Cleek states that, even though there is no code minimum parking required for the site, the parking must still adequately serve the proposed use without causing significant spillover and impacts into the surrounding neighborhood. Ms. Cleek also stated that the Applicant is aware there is an outfall pipe located on the property directly north of site that is identified on the site survey. Ms. Cleek describes this off-site pipe as draining to an area on the site where there is no development or disturbance proposed, but is a slope that has already been heavily modified from its natural condition to retain the hillside. Ms. Cleek asserts that it is unlikely this feature meets the bar for a "natural area" that would be protected

by ZDO Section 1011, citing the definition of “natural area” contained in ZDO Section 202: “An area of land or water that has substantially retained its character and functions as an important habitat for plant and animal life.” Further, she pointed out that these standards only apply to areas that are indicated as Open Space on the County’s Comprehensive Plan whereas this drainage is located in the residential portion of the site that has a designation of Low Density Residential, or LDR.

56. Dana Beckwith, PE, PTOE, is a Transportation Engineer with Global Transportation Engineering. Mr. Beckwith, together with Richard Martin, EIT, conducted the Transportation Impact Analysis (TIA) and wrote the March 3, 2023 memorandum that the Applicant submitted in this matter. Mr. Beckwith addressed comments from neighbors concerning traffic counts being done during COVID-19, reporting that these counts were adjusted according to ODOT guidance to account for the traffic impacts of the COVID-19 pandemic, applying a calculated adjustment, as described within the TIA. Mr. Beckwith also addressed comments asserting the TIA did not address SE Vineyard Rd. traffic appropriately. Mr. Beckwith pointed out that both County Engineering and ODOT were provided with methodology memos in advance of developing the TIAs, and the study areas and intersections were developed through this collaborative process. Mr. Beckwith also addressed comments about growth rates in the TIA, contending that appropriate growth rates were incorporated.
57. With respect to SE Harold Ave., Mr. Beckwith reports that they do not anticipate a significant portion of traffic taking that route. With respect to crash data, Mr. Beckwith notes the TIA looked at the ODOT data, conducting a five-year crash analysis at all study intersection, noting pedestrian accidents have occurred at the intersection of OR 99E and SR Vineyard Rd., including a fatality that included drug use as a factor. Mr. Beckwith reports that they did not identify crash patterns at that location that would be exacerbated by this project. Mr. Beckwith also addressed comments that the TIA equates the proposed use with the previous school use, stating that the only place in the TIA that such comparison is made is in the comment that the proposed use will draw much of its traffic from the immediate neighborhood, in a manner similar to a public school, because it is a community-oriented development.

### ***County Staff***

58. Ken Kent, Clackamas County Development Engineering, concurs with the Applicant’s description of the decision-making process. Mr. Kent addressed discussion about the pedestrian-connectivity in the area and off-site, noting that County standards provide for pedestrian improvements along the frontage of the project site, but the County has not adopted standards or requirements for off-site connectivity. Mr. Kent states for the County to determine that off-site pedestrian connections could be required, the County would have to adopt a code standard that specified when and at what level those improvements could be required. However, Mr. Kent further states that the code does not currently require such off-site connectivity and only on-site pedestrian improvements are required as conditioned here through the design review. Mr. Kent describes the frontage improvements the County is requiring along Concord Rd. and Spaulding Ct. noting the pedestrian connections along the entire frontage, but reiterates that there are no provisions for requiring continuing sidewalks

beyond that. Mr. Kent states that completion of these sidewalks falls within the realm of the County's Transportation System Plan and Capital Improvement Plan.

59. Mr. Kent points out that (as also pointed out by Mr. Farley) the County has a Capital Improvement Plan for Concord Rd. that would fill in the gaps in pedestrian connectivity between River Rd. and Oatfield Rd. Mr. Kent addresses Mr. Farley's assertion that the project should be required to pay a fee in lieu of constructing these improvements, again stating the County does not have a code that would require off-site pedestrian connections, so such fee is not required. With respect to other traffic impacts, County staff concurred with the Applicant's TIA showed that with the proposed development the study intersection would continue to operate within mobility standards. Mr. Kent explained that the requirements for frontage improvements were supported by the Applicant's TIA, included bringing the midblock crosswalk up to current standards. Mr. Kent answered an audience question about off-site improvements, stating that the only provisions the County code for off-site capacity relate to transportation system capacity, and this typically relates to off-site intersections. Mr. Kent noted that these concurrency requirements include such things as requiring a developer to mitigate these impacts by adding a signal, or pay funds toward improvements.

### ***Public***

60. Several members of the public provided input at the hearing, including:
- Neil Nelson, who resides on SE Concord Rd. Mr. Nelson reports that area walkability is a huge concern for his family and important to his neighbors as well. Mr. Nelson states that children who attended Concord School were bused, and describes the walk from Oatfield Rd. along Concord to the site as "not safe." Mr. Nelson submitted a video one of his neighbors took walking Mr. Nelson's daughters along the bike lane on this route, showing how fast the vehicles travel and how uncomfortable/unsafe the walk is due to the lack of a pedestrian sidewalk.
  - Joseph Edge, who resides on SE River Forest Rd. Mr. Edge is the Land Use Chair for the Oak Grove Community Planning Organization, and is in support of the project. Mr. Edge also supports Mr. Farley's arguments with respect to additional traffic impacts to the neighborhood, and needs for connectivity, accessways, and pedestrian facilities.
  - Christine Zetterberg, who resides on Meadowlark Lane. Ms. Zetterberg states her home is three blocks from the project site and her three children attended Concord Elementary School, but she did not allow them to walk to school or alongside Concord Rd. Ms. Zetterberg describes how the amount and speed of local traffic has increased, and how her husband walked to the bus stop and had a number of "close calls" while walking along Concord Rd. Ms. Zetterberg understands that improving these sidewalks is not directly part of the project, but points to the issue.
  - Havilah Ferschweiler, who resides on SE La Cresenta Way. Ms. Ferschweiler has resided in the neighborhood for twenty years, has three daughters, and currently uses the library on McLoughlin 2-3 times per week (driving there), and plans to use the new Concord Library. Ms. Ferschweiler also reports that there are not a lot of sidewalks in the neighborhood and it is dangerous to walk the route, and she supports adding the sidewalks along Concord.
  - Mark Elliott, who resides on SE Risling Rd. Mr. Elliott is a former member of the Concord School Task Force and is vice president of the Oak Grove CPO. Mr. Elliott discusses how

public safety was a concern discussed by the Concord School Task Force, and he is very much in support of any improvements that can be made to the safety of Concord Rd.

61. The County received several submissions on the day of the hearing in addition to the PowerPoint presentations shared by the County and Appellant and the video referenced by Mr. Nelson. These submissions included written statements by:
- Kristin Walker, who resides on SE Robin Road. Ms. Walker reports she lives approximately 3 blocks from the Concord School site in a neighborhood to the east of the site and on the east side of Oatfield Rd. Ms. Walker describes herself as “a lifelong supporter of libraries and community spaces,...”. Ms. Walker supports the project, but expresses concerns regarding pedestrian safety, and is in support of the Appellant Mr. Farley’s appeal. Ms. Walker notes there is currently no sidewalk on either side of Concord Rd. to connect her neighborhood to the proposal site. Ms. Walker also asserts that at a minimum a sidewalk should be built on the north side of Concord Rd. to connect the existing sidewalk to the intersection of Concord and Oatfield Rd.
  - Michael Rohrscheib, who resides on SE Concord Rd. Mr. Rohrscheib is also in support of the project, but like Ms. Walker, Mr. Rohrscheib expresses concerns for pedestrian safety (including his own experiences) points to the need for sidewalks, noting the street area for pedestrians is also the bike lane.

#### ***Open Record Period Following September 28, 2023 Hearing***

62. 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.

#### ***Initial Open Record Period***

63. The County received several submissions during the initial 7-day open-record period ending 4:00 pm October 5, 2023, including comments submitted by members of the public in support of completing the sidewalk on SE Concord to SE Oatfield and describing the importance of completing this pedestrian connection to this community.
64. The Appellant, Mr. Farley, submitted an October 5, 2023 memorandum to provide additional written testimony in support of his appeal of application Z0083-23, the Design Review for the Concord Community Center and Oak Lodge Library at 3811 SE Concord Road. In this memorandum, Mr. Farley references findings that the proposal will generate 2,053 average daily trips. Mr. Farley points to the Applicant’s TIA supporting the finding that approximately 50 percent of the site traffic with travel to and from SE Oatfield Road using SE Concord Road, or approximately 1,026 trips per day. Mr. Farley provided data from 2021 Clackamas County Daily Traffic Counts reporting that SE Concord road east of SE Harold Avenue carries 6,805 average daily trips, calculating that completion of the proposal will increase the average traffic on this segment of roadway by over 15 percent.

65. Mr. Farley also points to findings that the new trips to and from the project site will largely come from the immediate and surrounding neighborhoods. Mr. Farley refers to his own TIA finding that at least eight trips would travel by walking, biking, or transit during the peak PM hour. Mr. Farley further points to 2020 Clackamas County census data reporting that 6.5 percent of commuters elect to walk, bike, take transit, or other active means in their work commute, suggesting that applying this same rate here projects at least 67 new daily trips to the site by walking, biking, or transit along the SE Concord Road east of SE Harold Avenue segment. Mr. Farley contends that a high percentage of the expected visitors to the new library and community center will be young children, exacerbating the safety issue.
66. With respect to requiring off-site improvements, Mr. Farley contends that “[l]arge scale developments throughout the State of Oregon are often conditioned with the construction of off-site mitigation to offset any impacts resulting from the development.” Mr. Farley notes that it is common to require the extension of a public roadway beyond a project’s site frontage to improve connectivity to other parts of the transportation system, and asserts that developments can similarly be required to connect sidewalks beyond their frontage. Mr. Farley points to his TIA memorandum and discussion of criteria from Section 1007.01 and Chapters 5 and 10 of the County’s Comprehensive Plan. Mr. Farley also points to ZDO Section 225.4 of the County’s Roadway Standards and the following provision:  
“On a case by case basis, the County may require construction of improvements within existing off-site (beyond a development site’s frontage) public rights-of-way in order to provide adequate safe access to newly created lots or parcels or for other development. If engineering determines that off-site roadway improvements are necessary to achieve minimally adequate and safe traffic flow, such improvements may be required before Engineering can recommend approval of a proposed development.”
67. Mr. Farley points to his additional analysis (noting he is a registered professional traffic engineer) evaluating pedestrian access and finding pedestrian connectivity from the east on SE Concord Road is inadequate to safely serve the site. Mr. Farley points to his recommended construction of approximately 450 feet of sidewalk to connect the site through to the intersection of SE Concord Road with SE Oatfield Road. Mr. Farley references the County’s identification of this gap in project lists and plans, concluding: “Based on the County’s own reports and analysis, there is no shortage of evidence showing that the completion of the sidewalk between the site and SE Oatfield Road is necessary and should be constructed.”
68. With respect to the alternative proportionality test Mr. Farley suggested in his TIA memorandum, he notes there was some confusion concerning the methodology he used for conducting a “rough proportionality” test for the sidewalk condition recommendation. Mr. Farley agrees that an alternative means of determining rough proportionality is to compare required frontage improvements for a development to the number of additional trips being generated. Mr. Farley provides an example noting that if the 0.41-acre property located at 3949 SE Spaulding Avenue were partitioned for construction of an additional single family dwelling, the development would result in approximately 10 additional average daily trips. Mr. Farley states this property currently has frontage of approximately 72 feet on SE Spaulding Avenue, and the developer would be required to construct sidewalks and frontage improvements along this frontage or pay a fee in lieu for the improvements per Section

1007.08. Mr. Farley notes that this example results in the developer constructing 72 feet of sidewalk for 10 trips, essentially asserting that if that example demonstrates rough proportionality, then by comparison requiring the Applicant's project to construct 450 feet of sidewalk on SE Concord Rd. is well within the proportional impact of the expected 2,053 additional daily trips.

69. Mr. Farley addressed statements presented at the hearing by the Applicant's representative, Ms. Cleek, that Section 1007.01 is a general provision that does not explicitly call out off-site connectivity for pedestrians. Mr. Farley contends that he referenced multiple sections within these provisions specifically discussing the needs to accommodate and balance the needs of all modes, including pedestrians. Mr. Farley points to Section 1007.04(F) referenced by Ms. Cleek as the specific standard for requiring sidewalks, asserting it establishes a minimum for where sidewalks shall be constructed. He points to the policy in Chapter 5 of the County's Comprehensive Plan and Section 225.4 of the County's Roadway Standards explicit discussion concerning construction of off-site road improvements, including sidewalks.
70. Mr. Farley agrees with Ms. Cleek's statement that his analysis of rough proportionality did not account for costs of the frontage improvements already imposed with the project. Mr. Farley addresses this by stating that, if the preliminary engineering estimate is revised to account for the 550 additional feet of 7-foot sidewalk with curb, the construction of two driveways for access to the new parking lot, the update of the midblock crossing to standards, and doubling of most material costs, the total cost for improvements to SE Concord Road would be estimated at \$1.19 million, again providing a detailed projections. Mr. Farley points out that these sidewalk improvements are identified in the County's 20-year capital project list and should be eligible for credit to the assessed TSDC charges. Mr. Farley agrees that other rough proportionality tests can be used, such as the one referenced by County staff that weighs the traffic impacts or scale of the development and the costs to improve a particular frontage. Mr. Farley asserts that if this method were used (noting traffic impacts being roughly equivalent to constructing 14,760 feet of sidewalk), then conditioning 450 feet of sidewalk on Concord Road "wouldn't be in the realm of being considered disproportionate." Mr. Farley states that a rough proportionality test is used to determine whether a mitigation request is Constitutionally prohibited. He contends that no specific methodology was prescribed for the analysis, just that the request must be roughly proportional.
71. Mr. Farley addressed statements by Ms. Cleek asserting that there is no nexus in Section 1007 of the County's ZDO that would require the improvement of property the Applicant doesn't own. Mr. Farley also referenced Ms. Cleek's assertion that an on-street pedestrian connection to Oatfield Road would not alleviate connectivity issues in the overall system since Oatfield does not have a robust pedestrian network. Mr. Farley refutes these assertions by Ms. Cleek, pointing again to Chapter 5 of the County's Comprehensive Plan and pointing out it is explicitly referenced multiple times in Section 1007. Mr. Farley points again to statements in Section 5.R.2 and Section 5.R.3 that "off-site improvements necessary to handle expected traffic generated by the development and travel by active modes" and statements that a developer may be required to participate financially or otherwise in the provision of off-site improvements. Further, Mr. Farley points again to County Roadway Standards referenced in Section 1007, and pointing out that Section 225.4 of these Roadway Standards states that the County may require the construction of improvements within existing off-site right-of-way.

Mr. Farley contends that there are no code sections or provisions restricting the County from exacting such off-site improvements, including improvements to the pedestrian network, only Constitutional limits such as the rough proportionality requirement.

72. Mr. Farley addressed statements by Mr. Kent that the County does not have an adopted standard or requirement for off-site connectivity and off-site connectivity is not required for this development. Mr. Farley reviews the discussed criteria, policies, and standards that reference requiring off-site improvements to ensure adequate safety and access to a development. Mr. Farley also points to *Hagan v. City of Grants Pass*, 76 Or LUBA (2017) and asserts that, if staff is incorrect in the assumption that the County lacks authority to impose conditions of approval requiring such off-site improvements in mitigation of a project's traffic impacts, the decision is subject to remand by LUBA and this would cause undue delays in the project. Mr. Farley asserts that his goals as Appellant "is not to stop the construction of the community center or library, but to ensure the safety of those that wish to visit it." Mr. Farley concludes again recommending that the approval of the application be conditioned with the construction of an interim sidewalk along the north side of SE Concord Road between SE Harold Avenue and SE Oatfield Road, providing safe access to local residents and balancing transportation needs.
73. Ms. Cleek submitted an October 5, 2023 written memorandum on behalf of the Applicant in response to the appeal, addressing the arguments presented by the Appellant both in writing and orally at the September 28, 2023 public hearing. The memorandum also addresses comments submitted in writing and orally at the hearing from other members of the public, and addresses comments from Melissa Lord, County staff planner, presented at the hearing.
74. With respect to assertions that the Applicant's TIA did not adequately account for pedestrian traffic generated by the project, Ms. Cleek asserts that the Applicant met the County's requirement for scoping and preparing the TIA per County code, with County Engineering approving the project based on the information provided in the TIA. Therefore, Ms. Cleek contends the Applicant has met the requirements imposed by County Engineering and support County Engineering's findings that the project meets the approval criteria of Section 1007 – Roads and Connectivity. Ms. Cleek specifically points to Section 1007.07, which determines if the capacity of the transportation facilities is adequate based on the "*improvements identified in a transportation impact study.*" [Emphasis by Ms. Cleek]
75. With respect to assertions that a sidewalk on Concord Road that connects the site to Oatfield Rd. is required to meet the connectivity requirements in the County's ZDO, Ms. Cleek notes that the Appellant cited the General Provisions of Section 1007.01 as requiring pedestrian connectivity. However, Ms. Cleek points out that this code section does not explicitly call out off-site connectivity for pedestrians, but does explicitly state that the only location sidewalks are required for an institutional development is on "*the street frontage of a lot upon which*" the development is proposed. [Emphasis by Ms. Cleek] Ms. Cleek also points out that the staff decision issued by the County addresses Section 1007.01 (C and D), which specifically addresses Roads and Connectivity and includes provisions pertaining to pedestrian, bicycle and vehicle access, safety, and traffic flow. Ms. Cleek points to staff findings that, based on an average trip generation of 2,053 vehicle trips per day, the frontage improvements along SE Concord are warranted, and the approval criteria of this section are met by conditioning the



frontage improvements. Ms. Cleek points to staff analysis for Section 1007.02(F) Road Frontage Improvements, and 1007.04 (C) Pedestrian and Bicycle Facilities, for which County staff reached the same conclusions.

76. Ms. Cleek addresses assertions that requiring connection of the sidewalk on SE Concord would be appropriate mitigation because it is “roughly proportional” to the impacts associated with the development. Here, Ms. Cleek points out that the Applicant is proposing to improve street frontages on both SE Concord Rd. and SE Spaulding Ct. with pedestrian amenities meeting the County’s Roadway Standards, as well as upgrading the existing mid-block crosswalk on SE Concord Rd. to current standards. Ms. Cleek argues that “[t]hese required improvements are proportional to the amount of development proposed on the site and will sufficiently mitigate any resulting impacts to the transportation system the project will create.” Ms. Cleek contends that the appellant’s arguments about proportionality do not take into account the construction costs of the street improvements already proposed nor the cost of the land being dedicated to make these improvements, which beyond pedestrian facilities also include a full half-street improvement to SE Concord Road and a full reconstruction of the terminus of SE Spaulding Ct. Ms. Cleek submitted a site plan showing the full street improvements required with this development as Exhibit A to this memo. Ms. Cleek further asserts that the Appellant’s methodology for calculating “rough proportionality” does not align with Mr. Kent’s description of how the County makes this determination.
77. With respect to assertions that a nexus in the ZDO exists to require an off-site sidewalk improvement, Ms. Cleek points to Mr. Kent’s testimony at the hearing directly stating that there is no nexus in Section 1007 of the County ZDO that would require the applicant to improve the frontages of properties that they do not currently own or control. Ms. Cleek contends that the only pedestrian connections required are on-site and on the street frontage of the site.
78. Ms. Cleek addressed responses provided in comments provided by Ms. Reyes-Illig and by Diane Jones and Christopher Dreger. Ms. Cleek discusses their assertions that the amount of on-site parking proposed is excessive given that there are no minimum parking requirements for the site. Here, Ms. Cleek states that the proposed number of parking spaces is based on the Institute of Transportation Engineers (ITE), “a well-established source.” Ms. Cleek stated that, in addition to using this source for calculating parking needs, the number of proposed spaces was also informed by current parking demands at the existing Oak Lodge Library and other recreational facilities operated by the NCPRD. Ms. Cleek argues that even though there is no minimum parking requirement, the on-site parking must still adequately serve the proposed uses so as not to cause significant spillover impacts to the surrounding neighborhood. Ms. Cleek also discusses assertions that a drainage pipe located north of the existing building should be considered a seasonal creek subject to the standards of ZDO 1011. Ms. Cleek noted that the Applicant and staff are aware of this existing outfall pipe and it is identified on the site survey. Ms. Cleek reports that this off-site pipe drains to an area without development or disturbance proposed with this project, in an area with a slope that has been heavily modified to retain the hillside. Ms. Cleek argues it is unlikely this feature meets the bar for a “natural area” protected by Section 1011. Further, Ms. Cleek argues that these standards only apply to areas indicated as Open Space on the Comprehensive Plan, this location is in the residentially-zoned portion of the site zoned Low Density Residential

(LDR), pointing out that staff also concluded that Section 1011 is not applicable to this project.

79. Ms. Cleek also responded to additional comments submitted by Ms. Jones and Mr. Dreger regarding the methodology of the Applicant's TIA. Ms. Cleek addressed the assertion by Ms. Jones and Mr. Dreger that the TIA did not adequately address traffic from SE Harold Ave. and the assertion that more traffic generated by the site would use SE Harold Ave. than the streets studied. Ms. Cleek argues that the TIA appropriately addressed anticipated traffic generated by the development, its distributions, and the roadways that would be significantly impacted. Ms. Cleek asserts that Global Transportation Engineering (the Applicant's traffic engineers) developed the TIA based on Methodology Memos that were provided to both ODOT and Clackamas County. Ms. Cleek notes that these documents provide the Applicant with an approach to addressing project impacts to the transportation network, and allowed the agencies to add additional requirements to the TIA, which Ms. Cleek described as standard practice for ODOT and Clackamas County. Ms. Cleek contends that "[t]he TIA appropriately evaluated the intersections of significance to the transportation network. Volumes anticipated to impact Harold are minimal and do not [warrant] additional evaluation."
80. Ms. Cleek also responded to comments submitted by Ms. Jones and Mr. Dreger stating that the high crash patterns on Vineyard are of particular concern. Ms. Cleek argues that the TIA appropriately evaluated the crash data at the study intersections, and asserts just because this intersection is on the ODOT SPIS list does not mean that traffic added by an area development is required to mitigate it, or that additional traffic generated by the site increases crashes. Rather, she notes that the listing identifies the need for evaluation, contending that the intersection and available data were evaluated for both crash patterns and increased impacts due to the anticipated development traffic, and also included evaluation based on ODOT analysis procedures. Ms. Cleek points out that the "crash history is extensively discussed in the Project TIA on pages 7 and 8, including drug use as a factor."
81. Ms. Cleek responded to comments submitted by Ms. Jones and Mr. Dreger asserting that the traffic counts in the TIA are inaccurate due to using COVID-19 data. Ms. Cleek contends that the data is not inaccurate, as adjustments were made based on accepted practices developed by ODOT to correct traffic count data during the COVID-19 pandemic. She points to the description of these adjustments in the TIA on page 10, paragraph 2. Ms. Cleek states that this is an approach accepted by the County for correcting such data. Ms. Cleek also responded to comments submitted by Ms. Jones and Mr. Dreger asserting that comparing the trips generated by the project to those of the previous school use is faulty, as evidenced by the large increase in on-site parking. Ms. Cleek argues that the TIA does not compare trip generation for the proposed use with those of the prior school use. Rather, she notes that the reference in the TIA is that the proposed use is anticipated to generate trips from the surrounding neighborhoods, similar to the prior school use. Ms. Cleek also references that County staff had indicated early in the application process that the school use had been discontinued for too long to provide comparisons to the proposed use, and no comparisons were used in the application package. Ms. Cleek states that, similarly, comparisons were not made for parking needs or trips generated.

82. Ms. Cleek also responded to comments made by Melissa Lord, County Planner, at the hearing, that there are inconsistencies with the development plans provided regarding adding landscaping to the adjacent Walmart property to the south. Ms. Cleek explained that in a previous plan submittal addressing conditions of approval, the base layer was not updated to exclude any work on the Walmart property. Ms. Cleek provided a new version of this drawing that has removed all landscaping on the Walmart site [Exhibit B, updated plan Sheet L3.01]. Ms. Cleek also addressed comments made Ms. Lord at the hearing that there are inconsistencies with the development plans regarding the pedestrian walkway through the parking lot. Ms. Cleek explained here that plans were submitted to meet conditions of approval, that did not have an updated base layer. Ms. Cleek provided a new version of the trash enclosure exhibit showing the pedestrian walkway through the parking lot. [Exhibit C].

### ***Second Open Record Period***

83. The County received one additional submission during the second 7-day open-record period ending 4:00 pm October 12, 2023, consisting of additional written comments made by Ms. Jones and Mr. Dreger in support of the off-site mitigation recommended by Mr. Farley. Ms. Jones and Mr. Dreger make several statements or assertions that introduce new evidence and are not considered here. They also rebut Mr. Beckwith's comments concerning reaching out to ODOT and County staff as to the TIA study methodology. Ms. Jones and Mr. Dreger point out that ODOT responded in Exhibit 9, stating "ODOT has no issues or concerns with the project moving forward." Further, Ms. Jones and Mr. Dreger rebut Ms. Cleek's statement that traffic impacts to SE Harold Ave. are expected to be minimal and do not warrant further evaluation, essentially contending the statement is not supported by actual traffic counts or specific research.

### ***Third Open Record Period for Applicant's Final Written Statement***

84. Ms. Cleek submitted a final written statement on behalf of the Applicant, in response to the additional written comments submitted by the Appellant on October 5, 2023, in regard to the appeal of the Staff Decision approving the Design Review for the Oak Lodge Library and Community Center. In this written statement, Ms. Cleek notes her earlier discussion stating no nexus exists between the standards in the ZDO (specifically Section 1007 of the code) and requirements for off-site sidewalk improvements on Concord Road. Ms. Cleek points out that this statement was reiterated by County Engineer Mr. Kenneth Kent at the public hearing for this appeal. Ms. Cleek notes that in his most recent comments, the Appellant asserts that the authority for requiring these improvements comes from two other sources: the County's Comprehensive Plan and the County's Roadway Standards.
85. Ms. Cleek agrees that the County's Comprehensive Plan includes references to the traffic impacts and connectivity, but contends this is a high-level document used to inform the development codes that apply to the site. She describes the Comprehensive Plan as setting forth a vision for the County's future which is used to create or amend the County's development codes, but is not an applicable code itself. Ms. Cleek points out that the County's approval of this Design review did not include any approval criteria requiring the Applicant to show compliance with the goals and policies of the Comprehensive Plan, pointing to staff findings that the proposed project met all of the applicable standards of the

ZDO and asserting that “therefore it can be conjectured that the project meets the overarching policies of the Comprehensive Plan.”

86. Ms. Cleek addresses two standards of the County roadway Standards applicable to Appellant’s argument. First, Ms. Cleek points to the following provision:

*“Section 120 – Development Related Improvements. In certain instances, the provisions of the ZDO may require a developer to make improvements and/or dedicate right-of-way for the improvement of roadways in connection with a development that has received land use approval. The ZDO and subsequent land use conditions of approval shall dictate the nature and extent of those improvements. When improvements are made, they shall be compliant with these Standards and the roadway cross sectional elements of the Comprehensive Plan and the ZDO.”*

Ms. Cleek asserts that the substandard improvement proposed by Mr. Farley would be a stop-gap approach to providing a sidewalk along Concord, pointing out it would put bicycles on the roadway with motor vehicles, noting currently pedestrians can use the bicycle lane. Ms. Cleek contends that the Appellant’s approach does not provide for balance of accommodating modes and opens the County and Applicant to liability by not improving the facility to County roadway Standards.

87. Ms. Cleek also address Section 225.4 Off-Site Access Standards, which provides:

*“On a case-by-case basis, the county may require construction of improvements within existing off-site (beyond a development site’s frontage) public rights-of-way in order to provide adequate safe access to newly created lots or parcels or for other development. If Engineering determines that off-site roadway improvements are necessary to achieve minimally adequate and safe traffic flow, such improvements may be required before Engineering can recommend approval of a proposed development.”*

Ms. Cleek points out that the County has assessed and required as conditions of approval in the Design review improvements along SE Concord Rd. and SE Spaulding Ct. frontages to facilitate traffic flow. She notes that Section 225.4 provides the County with authority to require additional improvements appropriate for achieving adequate and safe traffic flow, but such improvements are not mandatory and the County must balance the needs of all modes and evaluate current conditions and needs. Ms. Cleek points to Appellant’s assertion that young children will walk to the library and community center, noting this may not be the case and arguing that parents drive or travel with their children to such venues. Further Ms. Cleek argues that completing this small section of substandard sidewalk along SE Concord does not solve systemic connection issues along SE Oatfield Rd., SE Concord Rd., or within the neighborhood. Ms. Cleek points out that County staff approved the Design Review with the improvements noted, as determined by Engineering Staff. Ms. Cleek contends that such off-site improvements were not determined by County Engineering required to achieve adequate and safe traffic flow on SE Concord St. and this standard has been satisfied.

### **C. FINDINGS AND DISCUSSION**

This matter involves the appeal of a Planning Director decision approving a land use application for a Design Review 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 additional vehicle parking, a 2-acre park with outdoor play equipment and green space.

The applicants received a conditional approval of a Conditional Use permit, which was reviewed under land use file no. Z0020-23. This Design Review land use application is a separate land use application for the same project. This appeal is of the County's approval of the Design Review land use application. This application was initially processed by the County under ZDO Section 1307 as a land use permit under the required Type II procedure for a Design Review permit whereby the Planning Director is the initial decision review authority, and the Hearings Officer is the appeal review authority.<sup>2</sup> The Planning Director<sup>3</sup> approved the application and this appeal followed. The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. The appeal discussed below is reviewed subject to the appeal procedures contained in ZDO 1307.13. These procedures provide for de novo review of the application whereby all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. The record of the initial proceedings shall, however, be made a part of the record of the appeal. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony.

The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision. *These findings and conclusions were reviewed, modified, and/or adopted by the Hearings Officer, with additional discussion, comments, and changes denoted by boldface type in italics.*

- 1. PROJECT OVERVIEW:** Current proposal is for a design review land use permit to build a new public library, a public park, renovate existing structure to be used as a community center and redesign the two parking lots that serve the site.

**Background:** 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").

Following that conditional use permit, the Applicant submitted another 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

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<sup>2</sup> See Table 1307-1: Land Use Permits by Procedure Type.

<sup>3</sup> ZDO 1307.3(B) provides that the Planning Director includes "Any County staff member authorized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by the [ZDO]." County Planner Melissa Lord acted in this capacity.

parking, a park with outdoor play equipment and green space. On June 14, 2023 the applicants received approval with conditions of a conditional use permit to redevelop the site with a Community Center located within the existing school building, a new Public Library in a proposed new building, and an outdoor public park. This conditional use permit is referenced as application number Z0020-23. This Design Review application relates to the conditional uses proposed under file Z0020-23.

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

The project was presented to the Design Review Committee (DRC) on Tuesday, July 25, 2023. The DRC recommended that the application be approved, with conditions. This is discussed further in the staff decision.

**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.

**Staff Finding:** 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.

**Hearings Officer:** *The Hearings Officer concurs in this staff finding. Comments were submitted concerning a drainage or outfall pipe located on the subject property; however, this feature is not a “wetlands” nor a “natural area” within the meaning of ZDO Section 1011 or similar provisions.*

## **2. SECTION 1102 – DESIGN REVIEW**

### *Subsection 1102.01 Applicability*

**Finding:** Clackamas County’s Zoning and Development Ordinance (ZDO) determines development types for which design review is required. ZDO Subsection 1102.01(D) states that design review is required for institutional uses in the Urban Low Density Residential District. Institutional Uses are defined in Section 202 and include municipal and civic buildings, senior and community centers, and libraries. The proposed development is for a public library and community center located in the R7 and R8.5 zoning districts, and thus design review is required for the project. This criteria is met.

**Hearings Officer:** *The Hearings Officer concurs in this staff finding.*

### *Subsection 1102.02 Submittal Requirements*

***Staff Finding:*** Clackamas County’s Zoning and Development Ordinance determines the submittal requirements necessary for design review. The Applicant submitted a set of information consistent with the submittal requirements of the Zoning and Development Ordinance which county staff deemed complete on May 23, 2023. The standard is met.

***Hearings Officer:*** *The Hearings Officer concurs in this staff finding.*

*Subsection 1102.03 Approval Criteria*

***Staff Finding:*** Clackamas County’s Zoning and Development Ordinance determines that projects which require design review are subject to the standards of the underlying zoning district as well as to Section 1000 “Development Standards”. The analysis of the proposal, per those sections of the Clackamas County ZDO, follow in subsequent sections.

***Hearings Officer:*** *The Hearings Officer concurs with staff that these standards apply.*

*Subsection 1102.04 Design Review Committee*

***Staff Finding:*** The Planning Director forwarded the application to the Design Review Committee (DRC) for review and recommendation prior to rendering a decision. The DRC held a public meeting on July 25, 2023 online using the Zoom platform. Staff found that the application warranted a review by the DRC due to the size of the project, including mass of buildings, site area, landscaping, and parking requirements, the visual significance, and the impact on neighboring properties.

The DRC motioned to recommend approval of the land use application with the following conditions:

- Document the historic Concord School building prior to making changes to the façade
- Have the project reviewed by the County’s Historic Review Board
- Provide an 8-foot wide pedestrian connection from the sidewalk on Concord Rd to the primary entrances to the community center and the library

The DRC voted unanimously to recommend approval with conditions. Staff discusses the Historic Review Board (HRB) and ZDO Section 707 further in this decision; due to the inapplicability of Section 707 to this particular project, the HRB will not review this application however staff has added an Advisory note addressing the desire to document the historic significance of the former Concord School building.

**3. Section 315 – High Density Residential (HDR) district and Section 702 – Open Space Management (OSM) district**

*Subsection 315.03 Uses Permitted (Table 315-1); Subsection 702.03, 702.04 and 702.05 Primary, Accessory and Conditional Uses Permitted*

Clackamas County’s ZDO determines uses that are permitted primary, permitted accessory, conditionally permitted, or not allowed in each zoning district.

***Staff Finding:*** The proposed public library is located in the R7 and OSM zoning districts. The community center is located in the R7 and R8.5 zoning district.

The North Clackamas Parks and Recreation District is a public entity. Table 315-1 specifies that “government uses” is a conditional use, therefore a conditional use permit is necessary. A conditional use permit was obtained as land use file number Z0020-23 and approved with conditions. The recreation facilities, such as classes and sport club activities, are a permitted use in the zoning district.

Section 702 of the ZDO controls land uses in the OSM district. The parking lot that supports this use is located on the portion of the property in the OSM district. Pursuant to Subsection 702.05(A) and (F), a parking lot accessory to indoor recreation facilities, meeting rooms, and other similar uses are a conditional use. The parking lots supporting the public recreation use and supporting staff offices are customarily accessory to the use and therefore can be allowed with a conditional use permit.

The uses proposed with this development required the review and approval of a conditional use permit and a design review permit. This criteria is met.

***Hearings Officer:*** *The Hearings Officer concurs in this staff finding that this criteria is met.*

*Subsection 315.04 Dimensional and Building Standards; Subsection 702.06 Development Standards*

***Staff Finding:*** Pursuant to subsection 702.06, the OSM district requires that all principal and accessory buildings must be located a minimum of 10 feet from any lot in a residential zoning district. The proposed library is designed to be located on the zoning line between the OSM and the R7 zone; therefore, this standard does not apply to the proposed building as it relates to the R7 zone on this tract. The adjacent R8.5 zoned property, 3727 SE Spaulding Ave., is approximately 80 feet from the proposed library. This standard is met.

***Hearings Officer:*** *The Hearings Officer concurs in this staff finding.*

Subsection 315.04 and Table 315-2, the table below demonstrates how the Applicant’s proposal complies with the dimensional standards of the R7 and R8.5 districts.

	<b>Ordinance Standard</b>	<b>Demonstrated Dimension</b>	<b>Complies With Standard</b>
<b>Minimum Front Setback</b>	15 feet	5’6” (Spaulding Ave)	Complies, with condition of approval*
<b>Maximum Building Height</b>	35 feet	30’7” (Library) 38’7” (Community Center)	Complies**



<b>Maximum Lot Coverage</b>	50%	44%	Complies
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\*The current front setback from SE Spaulding Ave. to the proposed library is 5-feet 6-inches which does not meet the minimum 15-foot setback standard of the R7 and R8.5 district. The Applicant is requesting a right-of-way vacation of SE Spaulding Ave., which would change the location of the front yard line on Spaulding Ave and move it farther away from the proposed building site. The front setback is measured as the shortest horizontal distance between a structure and the front lot line. If the proposed vacation is approved, as conditioned, the front setback will be a minimum of 15 feet. Preliminary discussions with the Applicant show a proposed emergency vehicle turnaround that will be visually *distinct* from the primary driving surface by the use of different surface material and a raised/roll-up curb. The delineation between the primary driving surface and the turnaround for emergency vehicles will be the area which the front setback is calculated from.

The project site includes frontage on the SE Spaulding Ave. right-of-way, which extends approximately 95 feet into the project site in the shape of a half cul-de-sac bulb. The current improvements at the terminus of SE Spaulding Ave. are generally undefined and include paving that has mostly served as parking and access for the former Concord School. As required by Conditional Use Z0020-23, a public turnaround is required at the terminus of SE Spaulding Ave. Based on the intended limited use of SE Spaulding Avenue, construction of a standard cul-de-sac is not recommended.

The preliminary plans include a configuration with a passenger vehicle turnaround within the right-of-way, as well as an emergency vehicle turnaround that extends into the site, outside the right-of-way. The County’s Development Engineering staff has discussed various configurations with applicant. The Applicant has indicated their intent to request a right-of-way vacation of the entire cul-de-sac, and then rededicate right-of-way to encompass the planned improvements. The improvements within the right-of-way 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 hammerhead turnaround area for emergency vehicles utilizing a portion of the parking lot driveway aisle for one turnaround wing, and a portion of the site that extends outside the public right-of-way at the westerly end of SE Spaulding Ave. for the other turnaround wing. Delineation of the public turnaround will be required. In addition, an easement for the emergency vehicle turnaround will be required on-site, with striping and signage as necessary.

The clear delineation between the standard, public driving surface and the emergency vehicle turnaround will demark the location of where the front setback will be calculated from. As conditioned, the minimum front setback can be met.

***Hearings Officer: The Hearings Officer concurs in the above analysis and discussion, and the staff finding that, as conditioned, the minimum front setback can be met.***

\*\*Maximum building height of the existing/former Concord School building, which will be used as a Community Center, exceeds the maximum building height in the R7 and R8.5

districts. However, this building was built prior to the adoption of the zoning regulations, and the proposal does not involve changing the height of the building. Therefore, the nonconforming building height is acceptable. The new library that is proposed must and does, comply with the current standard.

Modifications to the standards in Table 315-2 are established by Sections 800, Special Use Requirements; 904, Height Exceptions; 1012, Lot Size and Density; 1107, Property Line Adjustments; and 1205, Variances. Standards of Sections 800, 904, 1012, and 1107 are not applicable to this development; as such, modifications can be made through Section 1205, the Variances.

The site is developed as zoning lot. The project narrative states that the “area of the R7 and R8.5 districts combined is 65,082 sq. ft. In this area the total proposed building coverage is 28,940 sq. ft. or 44%.”

***Hearings Officer: The Hearings Officer concurs in the above analysis and discussion,***

**4. Section 1002 and 1003 - Protection of Natural Features, Hazards to Safety**

Section 1002 addresses the protection of various natural features including hillsides, the excessive removal of trees prior to development, the protection of trees and wooded areas through development, river and stream corridors, the winter ranges of deer and elk populations, certain open spaces near Mount Hood, significant natural areas, and significant landforms and vegetation. Section 1003 addresses various hazards to safety including flood, soils, fire, and mass movement areas.

***Staff Finding: The standards in these sections are not applicable to this development.***

***Hearings Officer: The Hearings Officer concurs.***

**5. Section 1004 – Historic Protection**

Section 1004 addresses standards related to historic preservation.

***Staff Finding: The existing building that will be used for the new community center, formerly the Concord School, was built in the 1930s. A school has operated on this site since 1890 and continued to exist until 2014. The former school building is eligible to be on the National Register of Historic Places but is not listed. Additionally, the building has not been designated as a Clackamas County Historic Landmark, a Historic District, or a Historic Corridor, as defined in ZDO Section 707. Therefore, the standards in Section 1004 and 707 do not apply.***

***Hearings Officer: The Hearings Officer concurs that these standards do not apply, but directs the Applicant’s attention to recommendations made by the Design Review Committee in Advisory Note 2.***

**6. Section 1005 – Site and Building Design**

Section 1005 addresses the development of sites and design of buildings so as to efficiently utilize land, create lively, safe, and walkable centers, support the use of non-auto modes of transportation, reduce impact of development of natural features, utilize opportunities arising from a site's configuration, design illumination so dark skies are maintained when possible and accommodate the needs of users of developments. It applies to institutional, commercial, and industrial development; multifamily dwellings; and developments of more than one, two- or three-family dwelling.

*Subsection 1005.02 – General Site Design Standards* establishes standards for the sites of commercial, industrial, and multifamily developments and addresses standards for the placement and orientation of buildings, on-site pedestrian circulation, the placement and orientation of building entrances, and other use- and zone-specific standards.

***Staff Finding:*** The proposed site layout effectively clusters buildings and lends itself to efficient walkway sharing and site circulation for pedestrians visiting the property. The design includes an interconnected on-site walkway system with concrete pedestrian pathways of varying widths (between 5 feet, 8 inches to 8 feet) throughout the site which connects the subject property to adjacent developments. The concrete walkways connect to each building public entrance and to the adjacent streets, including one pedestrian connection to the northwest corner of the site to SE Olive Ave, and another connection to the northern portion of the site where the onsite walkway connects to an existing pedestrian sidewalk leading to SE Sunset Ct (reference permanent 6-foot wide pedestrian easement through Lot 8 of Sunset West Subdivision).

The Applicant provided a lighting plan and fixture schedule demonstrating that the walkways will be illuminated; bollard style lighting will be used to illuminate the onsite pathway network, including the path that encompasses the park area.

The parking area at the end of Spaulding Ave includes a 7 foot 7 inch wide walkway bordering the parking spaces. A painted, striped crosswalk across Spaulding Ave links this parking area to the pedestrian pathway accessing the community center.

The parking area accessible from Concord Rd includes a 6 foot wide sidewalk connecting to the existing sidewalk network adjacent to Concord Rd and borders the parking spaces of this main parking lot. This walkway has a raised curb separating the parking area and this walkway.

The main parking lot consists of 158 parking stalls and includes one swale, as required by Subsection 1009.03. A community center and public library typically attracts families; ensuring that there is safe parking lot circulation is a priority. As designed, there is a lack of pedestrian safety from the opposite end of the parking lot to the community center and library plaza. The parking lot design poses a safety hazard to the primary users of the site due to the lack of connectivity between the rows of parking and the rest of the site. In order to address the purpose of Section 1005, specifically subsection 1005.01(B, D, and I) pertaining to safety, walkability, and accommodation, the Applicant shall include at least one walkway through the main Concord Rd. parking lot, subject to meeting the standards of subsection 1005.02(D)(5). The walkway must connect the back of the parking lot to the primary

building entrances/public plaza. The Design Review Committee (DRC) voted to recommend that a pedestrian walkway be added to the site design to meet the purpose and standards of ZDO Section 1005. On July 31, 2023 the Applicant provided an updated site plan in response to the DRC's recommendation which included a walkway through the Concord Rd. parking lot, meeting these standards. Walkways bordering parking spaces shall be at least seven feet wide or a minimum of five feet wide when concrete bumpers, bollards, curbing, landscaping, or other similar improvements are provided which prevent parked vehicles or opening doors from obstructing the walkway. The site plan, as submitted on July 31, 2023, demonstrates a 5-foot wide walkway through the parking lot, to comply with this standard. Tire stops must be at least four inches high and located two feet within the space to prevent any portion of a car within the lot from extending over the walkway.

Subsection 1005.02(E) requires that a minimum of 50% of the street frontage of the development site shall have buildings located at the minimum front yard depth line. If a development has frontage on more than one street, Subsection 1005.02(E) must be met on only on the longest frontage. The longest frontage of the subject property is SE Concord Rd. The Applicant requests a design modification to this standard pursuant to Section 1005.06. The request is granted, and is discussed later in this decision.

The primary public entrance to the library is located to the side of the building and is accessible from Concord Rd. by a concrete walkway that is 6 feet wide. Pursuant to Subsection 1005.02(E)(2), the primary entrance to a building can be located on the side provided that the walkway connecting it to the street is at least 8 feet wide. The library entrance area will be developed with a plaza, covered entry, and faces the parking lot. As required by the ZDO, and as recommended by the DRC, a condition of approval is necessary to ensure compliance with this criterion.

***Hearings Officer:*** *The Hearings Officer concurs in the above discussion and analysis, finding a condition of approval is necessary to ensure compliance with this criterion. Public comments were submitted advocating for fewer parking spaces in order to preserve as much of the open green space on the subject property as possible. As discussed in Section 1015 – Parking and Loading, I found persuasive Ms. Cleek's description of how the number of parking spaces for the project was determined for the combined library, community center, and office space uses associated with this proposal.*

***Staff Finding:*** Subsections F through L are not applicable to this development.

***Hearings Officer:*** *The Hearings Officer concurs.*

Subsection 1005.03 – Building Design provides standards for building facades, entrances roof design, exterior building materials, the screening of mechanical equipment, and other use- and zone-specific standards.

***Staff Finding:*** Building facades are designed with windows and changes in plane to provide architectural relief. The primary library entrance is located under an overhang that is approximately 10 feet deep. The building entrance is emphasized by the overhang, and is visible from the main parking lot area accessed off of Concord Rd. The proposed ADA

accessible entry vestibule on the south side of the community center (existing structure) is located under a covered awning and has a storefront window system.

The public entrances of the buildings are clearly defined and sheltered. Pursuant to Section 1005.03(B)(2), institutional buildings sited to comply with 1005.02(E) shall have public entries that face streets and are open to the public during all business hours. The north side of the library faces Spaulding Ave and does not have a public entrance, as required by subsection 1005.03(B)(2). The primary library entrance does not face Concord Rd. either. A modification pursuant to subsection 1005.06 is requested and is discussed further in this report, below. The façade of the community center (existing former school building) that faces Concord Rd. is not proposed to be modified; it was designed and built prior to the establishment of the current design standards and need not be modified to comply. If changes are proposed to this façade in the future, they will be reviewed for compliance with this Section at that time.

Pursuant to Subsection 1005.03(C), street-facing façade of the library shall have transparent windows, display windows, entry areas, or arcades occupying a minimum of 60% of the first floor linear frontage. Transparent windows shall occupy a minimum of 40% of the first floor linear frontage and shall be designed and placed for viewing access by pedestrians. On the Spaulding Ave. frontage, the building façade consist of approximately 67% windows. Roof equipment will be screened by a parapet wall.

The proposed library building will include brick veneer siding that will complement the existing building and will have metal accents. Details are provided in the supplemental project narrative provided on May 23, 2023. The U.S. National Park Service (NPS) provides standards for rehabilitation of historic properties; since the subject property is not a nationally or locally recognized historic site, staff used the standards of the NPS as a reference and for guidance, only. Creating a false-sense of historical features is not recommended; instead, new development can complement historic buildings and should not mock or mimic them. As designed, the brick color and texture on the proposed library will complement the former Concord School building, but will not be an exact match. Staff supports this decision and finds that this will further enhance the historic value of the Concord School and will not present a sense of false historicism of the library.

Subsection 1005.03(G) requires that the design increase the safety and surveillance on the site. The public plaza to the west of the library is visible from the windows of the library. The plaza area will include a 9-foot tall pole-mounted light to adequately illuminate the passive recreation area. The Spaulding Ave parking lot may be visible through the windows of the library. *Rhaphiolepis x delacourii* 'Georgia Petite', Georgia Petite Indian Hawthorn, and the Elf Dwarf Mountain Laurel, *Kalmia latifolia* 'Elf', will not grow taller than 4 feet in height, which will allow the continued surveillance of the parking area from the library.

Subsection 1005.03(G)(6) limits fences, walls and, except for trees, landscaping between a parking lot and a street to a maximum of 30 inches in height. The landscaping plan includes a variety of plant species to be located between the main parking lot and Concord Rd. However, when left to grow naturally, four of the the plant species chosen exceed the maximum 30-inch growth height allowed by the ZDO. The four plant species include:

*Potentilla fruticosa*, Red Ace Potentilla, can grow 2 to 4 feet in height; *Nandina domestica*, Moon Bay Heavenly Bamboo, grows 3 feet tall; *Cistus obtusifolia*, Rock Rose, can grow 3 feet tall; and, *Potentilla fruticosa 'Red Ace'*, Red Ace Potentilla, can grow 3 feet tall. If approved, a condition of approval is warranted to ensure that the landscaping on the north side of the library does not exceed 30 inches in height to ensure adequate visibility of the parking lot from Concord Rd.

The new rooftop equipment on the library will be placed into a recessed well that will be screened by a parapet to ensure that none of the equipment is visible, as demonstrated on the plans submitted, including Sheet A3.10. The Applicant's narrative states that "new mechanical units will be added to the community center roof that will be smaller than the existing units and will be pushed back from the roof edge as far as possible to obscure them from sight. Two new ground-mounted mechanical units will be placed on the east side (rear) of the community center and will be partially screened by the new trash enclosure and existing building." Subsection 1005.03(J) requires that ground-mounted mechanical equipment be screened by ornamental fences, screening enclosures, or landscaping that blocks at least 80% of the view. Staff finds that the proposed trash enclosure will screen the majority of the new mechanical units shown on Sheet CC A0.81 from Concord Rd.

***Hearings Officer:*** *The Hearings Officer concurs in the above discussion and adopts the related conditions of approval.*

***Staff Finding:*** Subsections I, K and L are not applicable to this development.

***Hearings Officer:*** *The Hearings Officer concurs.*

*Subsection 1005.04 – Outdoor Lighting* provides standards to ensure that onsite lighting is compatible with the site and surrounding uses while preventing light trespass and pollution.

***Staff Finding:*** The proposal includes bollard lighting around walkways, pole-mounted lighting near the vehicle and bicycle parking areas, and recessed ceiling-mounted fixtures at the library. The luminaire schedule provided demonstrates that the proposed lighting fixtures will direct light downward, not skyward. The pole-mounted lights will not exceed 20 feet in height which is within the maximum height allowed by the ZDO. This criterion is met as proposed.

*Subsection 1005.05 – Additional Requirements* requires projects to employ one additional design element per 20,000 square feet of site area. Regardless of site size, a minimum of one and a maximum of five techniques are required.

***Staff Finding:*** Section 1005.05 requires applicants to employ one "Additional Requirement" for every 20,000 square feet of site area. The development proposal includes more than 200,000 square feet of site area, and so five design techniques are required. The Applicant is proposing the following techniques:

*A:* Install a solar energy system in the development

*B:* Use passive solar heating or cooling techniques to reduce energy consumption

*C:* Use highly reflective (high albedo) materials on roof surfaces

G: Provide additional landscaping area at least 10 percent above the requirements for the site pursuant to Table 1009-1

K: Lay out sites and locate buildings and on-site vehicular circulation to create functional open areas such as plazas, courtyards, outdoor recreation areas, miniparks, and accessways that are open to the general public.

***Staff Finding:*** Staff concurs with the findings made in the submitted application materials received May 23, 2023. This standard is met.

***Hearings Officer:*** *The Hearings Officer concurs that this standard is met.*

*Subsection 1005.06 Modifications.* Modification of any standard identified in Subsections 1005.02 and 1005.03 may be approved as part of design review if the proposed modification will result in a development that achieves the purposes stated in Subsection 1005.01 as well or better than the requirement listed.

***Staff Finding:*** The Applicant has requested staff to consider a modification to Subsection 1005.03(B)(2) and 1005.02(E).

Subsection 1005.03(B)(2) of the ZDO states “institutional buildings sited to comply with 1005.02(E) shall have public entries that face streets and are open to the public during all business hours.” The north side of the library faces Spaulding Ave and does not have a public entrance. On May 23, 2023 the Applicant provided a written request to modify this standard. Generally, the design was intended to discourage the public from entering the site from Spaulding Ave due to it being a quiet, residential street. The goal is to limit traffic through Spaulding Ave. to maintain the privacy calmness and residential nature of the street. This issue was discussed at the Design Review Committee (DRC) meeting as well. The public entrance of the library is sited to face a public plaza and, as conditioned, will have an 8-foot wide walkway from Concord Rd to access the main library entrance.

Subsection 1005.02(E) requires that a minimum of 50% of the street frontage of the development site shall have buildings located at the minimum front yard depth line. If a development has frontage on more than one street, Subsection 1005.02(E) must be met on only on the longest frontage. The longest frontage of the subject property is SE Concord Rd. The Applicant requests a design modification to this standard for two primary reasons: the first is to maintain the historic nature of the site as viewed from Concord Rd., and the second is to minimize the traffic flow through Spaulding Ave. The design will involve tucking the new library in behind the existing building, which will maintain the prominence of the existing building, the former Concord School, which has been a part of the visual identify of the neighborhood for nearly 100 years.

***Staff Finding:*** Based upon the Applicant’s submitted materials and discussion during the DRC meeting, staff grants the modification requests.

***Hearings Officer:*** *The Hearings Officer concurs, approving these modification requests.*

**7. Section 1006 – Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control.**

Section 1006 addresses the provision of appropriate infrastructure for utilities, water supply, and sewage disposal, as well as the management of surface water and site erosion.

- A. *1006.02 Street Lights.* Street lights are required for all development inside the Portland Metropolitan Urban Growth Boundary.

***Staff Finding:*** Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development. A condition of approval is warranted to ensure compliance with this criterion.

***Hearings Officer:*** *The Hearings Officer concurs, adopting the condition of approval.*

- B. *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).

***Staff Finding:*** A preliminary statement of feasibility from Oak Lodge Water Services District (OLWSD) was provided by the Applicant and confirmed that there is adequate sewer and water services for the proposed use. Oak Lodge reviewed the application and provided feedback on the proposed design review application; their comments are provided in the Advisory Notes section of this decision. As a condition of land use application approval, the property owner be required to comply with the following requirements and to procure the necessary approvals and/or permits from the OLWSD in accordance with the OLWSD code, regulations or policies. As conditioned, this section can be met.

***Hearings Officer:*** *The Hearings Officer concurs that this section can be met as conditioned.*

- B. *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.

***Staff Finding:*** Oak Lodge Water Services District (OLWSD) is the surface water management authority for the area including the subject site. A preliminary statement of feasibility from Oak Lodge Water Services District was provided by the Applicant and confirmed that adequate surface management, treatment, and conveyance is available to serve the development or can be made available. OLWSD reviewed the application and their comments are provided in the Advisory Notes section of this decision. As a condition of land use application approval, the property owner be required to comply with the following requirements and to procure the necessary approvals and/or permits from the OLWSD in accordance with the OLWSD code, regulations or policies. As conditioned, this section can be met.

***Hearings Officer:*** *The Hearings Officer concurs that this section can be met, adopting the related condition of approval.*

## **8. Section 1007 - Roads and Connectivity**

*Subsection 1007.01 – General Provisions*

*Subsection 1007.02 – Public and Private Roadways*

*Subsection 1007.03 – Private Roads and Access Drive*

*Subsection 1007.04 – Pedestrian and Bicycle Facilities*

A-C: General Standards, Design and Requirements

D-G: Location and Construction of Sidewalks and Pedestrian Paths

H: Sidewalk and Pedestrian Path Width

I-N: Accessways, Bikeways, Trails, Bike/Pedestrian Circulation

A. *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.

***Staff 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 [*varies*] 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 a condition of approval from land use file Z0020-23, 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. As conditioned, this section can be met.

***Appellant:*** *In his September 27, 2023 memorandum, Mr. Farley discusses the applicable criteria from the County's ZDO Section 1007 – Roads and Connectivity. He points to the provisions of ZDO Section 1007.01(B) and to its stated requirements for right-of-way dedications and improvement for the proposed development consistent with the Roads and Connectivity Section, the County's Transportation System Plan (Comprehensive Plan Chapter 5), and the applicable Community Plans and Design Plans (Comprehensive Plan Chapter 10). Mr. Farley cites the County's Transportation System Plan (TSP) six goals intended to guide transportation-related decisions:*

- ***Goal 1: Provide a transportation system that optimizes benefits to the environment, the economy and the community.***
- ***Goal 2: Plan the transportation system to create a prosperous and adaptable economy and further the economic well-being of business and residents of the County.***
- ***Goal 3: Tailor transportation solutions to suit the diversity of local communities.***
- ***Goal 4: Promote a transportation system that maintains or improves our safety, health, and security.***
- ***Goal 5: Provide an equitable transportation system.***
- ***Goal 6: Promote a fiscally responsible approach to protect and improve the existing transportation system and implement a cost-effective system to meet future needs.***

*Mr. Farley points to Section 5.R. within the County's TSP, citing several policies to assist County staff concerning when to require roadway improvements to serve developments, including:*

- 5.R.1 Require new development to be served by adequate transportation facilities and access points that are designed and constructed to safely accommodate all modes of travel.*
- 5.R.2 For new developments and land division, require right-of-way dedication, on-site frontage improvements to the applicable standards as shown in the Roadway Cross Sections (Figures 5-1a through 5-1f and Figures 5-2a through 5-2f) and the County Roadway Standards, and off-site improvements necessary to safely handle expected traffic generated by the development and travel by active modes. When roadway standards are adopted by the County in Special Transportation Plans, those standards shall apply.*
- 5.R.3 Assess anticipated off-site traffic impacts caused by new developments. The developer may be required to participate financially or otherwise in the provision of off-site improvements, dedications or other requirements.*

*In his September 27, 2023 memorandum, Mr. Farley contends that: "Since the proposed developed is not currently served by adequate pedestrian facilities east of the site, that the library and community center are expected to generate pedestrian traffic from the immediate neighborhoods (as stated in the applicants Traffic Impact Analysis and the previous Trip Generation section), and that the development will generate significant off-site impacts with the addition of 216 PM peak hour trips and 2,053 Average Daily Trips, the policies listed above from the County's TSP support staff conditioning the project with off-site improvements to ensure adequate facilities to safely handle the expected traffic generated by the development as well as travel by active modes."*

*Applicant: Ms. Cleek addressed this argument by the Appellant, noting that Mr. Farley only points to the general standards of ZDO 1007. Ms. Cleek points to the specific provisions within ZDO 1007.07 Transportation Facilities Concurrency as determining whether the capacity of the transportation facilities are adequate based on the improvements identified in the transportation impact study. Ms. Cleek further points out that the general provisions of ZDO Section 1007.01 cited by Mr. Farley do not specifically address off-site connectivity for pedestrians. Ms. Cleek points to ZDO Section 1007.04 Pedestrian and Bicycle Facilities, and specifically to subsection (F)(2), which indicates that the only location upon which the sidewalks for an institutional development are required is on the street frontage upon which the institutional development is proposed. Ms. Cleek also points to Mr. Kent's testimony at the hearing that there is no nexus or requirement in ZDO Section 1007 for the Applicant to improve the frontages of properties the Applicant does not currently own or control. Ms. Cleek does not dispute that the County's Comprehensive Plan includes references to the traffic impacts and connectivity, but contends this is a high-level document used to inform the development codes that apply to the site. Ms. Cleek asserts that the County's Comprehensive Plan is not an applicable code itself, but rather is a vision statement. Ms. Cleek further points out that the County's application review process did not include any approval criteria requiring the Applicant to show compliance with*

*the goals and policies of the Comprehensive Plan, pointing to staff findings that the proposed project met all of the applicable standards of the ZDO and asserting that “therefore it can be conjectured that the project meets the overarching policies of the Comprehensive Plan.”*

***Hearings Officer:** The Hearings Officer concurs that the standards of Section 1007.01 (A and B) can be met as conditioned. The text of Sections 1007.01(A and B) Roads and Connectivity are set forth by County staff in the discussion of this section and require right-of-way dedications and improvements consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. I disagree with the Appellant’s assertion that the policies he cited support conditioning the project with off-site improvements. The provisions here require frontage improvements to the site, including upgrading roads adjacent to the development with half-street improvements meeting current County standards (including pedestrian sidewalks, bike lanes, crosswalks, etc.), and require necessary improvements to ensure the adequacy of the transportation facilities for motor vehicles as evaluated by a transportation impact study.*

*The specific implementing provisions for Section 1007.01(A, B, C, D, E, F and G) are contained in Section 1007.07 Transportation Facilities Concurrency, which applies to development applications for design review per Section 1007.07(A). Section 1007(B)’s requirement that approval shall be granted only if the capacity of the transportation facilities is adequate or will be made adequate in a timely manner states the requirement for traffic studies and mitigation of impacts from proposed development. Section 1007.07(C) defines “adequate” to mean: “As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluations Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area.” In other words, Section 1007.07 only requires the evaluation of adequacy of transportation facilities for motor vehicles.*

*Likewise, the remaining sections of ZDO 1007.07 are implementing provisions applying to evaluating the adequacy of transportation systems for motor vehicles. Section 1007.07(D) provides standards for calculating capacity and impact area. Section 1007.07(E) defines the meaning of “timely” as used in Subsection 1007.07(B). Relevant here, Section 1007.07(F) defines the meaning of “necessary improvements” as: “Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C)” which as noted only applies to motor vehicles. Section 1007.07(G) is the provision requiring that motor vehicle capacity methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon. In other words, the Applicant’s TIA must meet these standards in addition to meeting County requirements, as discussed by Mr. Beckwith and referenced by Mr. Kent and Ms. Cleek.*

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

***Staff Finding:*** The frontage of SE Concord Road is improved with bike lanes, pull-out areas previously used by buses, 6-inch curb and 7.5-foot wide curb-tight sidewalk, which is not consistent with the standard cross section, per Roadway Standards Drawing C140. 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. In discussion with the applicant, they have indicated their intention to remove and replace the existing curb, eliminate the former bus pull-out area, and construct a landscape strip adjacent to the existing sidewalk.

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.

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, consistent with pavement marking and sign standards, per Roadway Standards Sections 271.1 and 281.1. A condition of approval of land use application Z0020-23 requires that 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.

- C. *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.

***Staff 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 *[that]* 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, which extends approximately 95 feet into the project site in the shape of a half cul-de-sac bulb. The current improvements at the terminus of SE Spaulding Avenue are generally undefined and include paving that has mostly served as parking and access for the former Concord School. As required by Conditional Use Z0020-23, a public turnaround is required at the terminus of SE Spaulding Avenue. Based on the intended limited use of SE Spaulding Avenue, construction of a standard cul-de-sac is not recommended.

The preliminary plans include a configuration with a passenger vehicle turnaround within the right-of-way, as well as an emergency vehicle turnaround that extends into the site, outside the right-of-way. Engineering staff has discussed various configurations with applicant. The Applicant has indicated their intent to request a right-of-way vacation of the entire cul-de-sac, and then re-dedicate right-of-way to encompass the planned improvements. The improvements within the right-of-way 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 hammerhead turnaround area for emergency vehicles utilizing a portion of the parking lot driveway aisle for one turnaround wing, and a portion of the site that extends outside the public right-of-way at the westerly end of SE Spaulding Avenue for the other turnaround wing. Delineation of the public turnaround will be required. In addition, an easement for the emergency vehicle turnaround will be required on-site, with striping and signage as necessary.

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. A smaller parking lot with 6 parking spaces is proposed off of the terminus of SE Spaulding Avenue. The Applicant will be required to provide adequate on-site circulation for all vehicles anticipated to use the site. As part of the Development Permit for this project, the Applicant will be required to identify intended vehicle dimensions and turning radii, and to verify adequate on-site maneuvering. Vehicle parking spaces and bicycle parking spaces will be required to meet minimum ZDO Section 1015 and Roadway Standards Drawings P100/200 dimensional requirements. The preliminary plans for the proposed parking lot on the SE Concord Road frontage appear to be consistent with ZDO Section 1015 and Roadway Standards Drawing P100 and P200.

As conditioned, this criterion can be met.

***Appellant: Mr. Farley points to the provisions of ZDO Section 1007.01(E) and to his assessment that “the roadway east of the subject property does not adequately nor safely accommodate pedestrians” and the analysis showing that the proposed development is expected to generate pedestrian traffic from the immediate neighborhoods, and contends that this criterion is not currently met for the project as conditioned.***

*In his September 27, 2023 memorandum, Mr. Farley also points to the provisions of ZDO Section 1007.01(F) and to its requirements that: “Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for the separation of motor vehicles, bicycle, and pedestrian traffic, and other modes as appropriate.” Mr. Farley cites the description in the existing conditions section of his Traffic Impact Analysis memorandum that Oatfield Road to the east of the subject property is served by transit (TriMet Line #32) yet no separated facility is provided for pedestrians to walk to/from Oatfield Road and any pedestrian traffic must share the bike lane or vehicle travel lane when walking between SE Harold Avenue and the transit stop. Mr. Farley contends that, therefore, this criterion is not met for the project as conditioned.*

*Further, Mr. Farley points to the provisions of ZDO Section 1007.01(G), pointing to its requirements that: “The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossing lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.” Mr. Farley points to findings that vehicular travel lanes and bike lanes are provided east of the site on SE Concord Road, but no pedestrian facilities are provided east of SE Harold Avenue, asserting that the needs of pedestrians are not currently balanced with other modes. Mr. Farley contends that, therefore, as conditioned this criterion is not met for the project.*

*Applicant: Ms. Cleek points to the staff decision addressing ZDO Sections 1007.01 (C and D) and agrees that, based on an estimated trip generation of 2,053 vehicles per day, improvement of the SE Concord Road frontage is warranted. However, Ms. Cleek contends that once these frontage improvements are conditioned the approval criteria of this section are met. Ms. Cleek also points to staff analysis for ZDO Sections 1007.02(F) and 1007.04(C) reaching the same conclusions. Ms. Cleek notes that the Applicant is proposing to improve the street frontages on both SE Concord Rd. and SE Spaulding Ct. with pedestrian amenities meeting the County’s roadway standards, as well as upgrading the existing mid-block crosswalk on SE Concord Rd. Further, Ms. Cleek asserts that these required improvements are proportional to the amount of development proposed and will sufficiently mitigate the project’s impacts to the transportation system. Ms. Cleek contends that the Appellant’s arguments about proportionality do not take into account the cost of the improvements already proposed. She points out that in addition to the described pedestrian facilities, the Applicant is also constructing full half-street improvements to SE Concord Rd. and fully reconstructing the terminus of SE Spaulding Ct., and a right-turn only lane at the intersection of SE McLoughlin Blvd. and SE Risley Ave. Further, Ms. Cleek asserts that there is no nexus in ZDO Section 1007 that would require the Applicant to improve frontages of property it doesn’t own or control, and points to similar statements made by Mr. Kent at the hearing. Ms. Cleek also makes the argument that an on-street pedestrian connection to SE Oatfield Rd. would not alleviate connectivity issues as SE Oatfield Rd. also lacks robust pedestrian infrastructure.*

***Hearings Officer:*** *The Hearings Officer concurs with staff that, as conditioned, the criteria of ZDO Sections 1007.01 (C, D, and E) can be met. My analysis here is similar to the analysis and discussion of Sections 1007.01(A and B) above.*

*I disagree with the Appellant's assertion that the policies he cited support conditioning the project with off-site improvements. As noted, the provisions here require frontage improvements to the site, including upgrading roads adjacent to the development with half-street improvements meeting current County standards (including pedestrian sidewalks, bike lanes, crosswalks, etc.), and require necessary improvements to ensure the adequacy of the transportation facilities for motor vehicles as evaluated by a transportation impact study.*

*The specific implementing provisions for Sections 1007.01(A, B, C, D, E, F and G) are contained in Section 1007.07 Transportation Facilities Concurrency, which applies to development applications for design review per Section 1007.07(A). Section 1007(B)'s requirement that approval shall be granted only if the capacity of the transportation facilities is adequate or will be made adequate in a timely manner states the requirement for traffic studies and mitigation of impacts from proposed development. Section 1007.07(C) defines "adequate" to mean: "As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluations Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area." In other words, Section 1007.07 only requires the evaluation of adequacy of transportation facilities for motor vehicles. Likewise, the remaining sections of ZDO 1007.07 are implementing provisions applying to evaluating the adequacy of transportation systems for motor vehicles. Section 1007.07(D) provides standards for calculating capacity and impact area. Section 1007.07(E) defines the meaning of "timely" as used in Subsection 1007.07(B). Relevant here, Section 1007.07(F) defines the meaning of "necessary improvements" as: "Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C)" which as noted only applies to motor vehicles. Section 1007.07(G) is the provision requiring that motor vehicle capacity methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.*

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

***Staff Finding:*** The Traffic Impact Analysis provided by the Applicant in the associated conditional use permit, file Z0020-23, 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. Compliance with this section was reviewed in land use file Z0020-23.



*Appellant: In his September 27, 2023 memorandum, Mr. Farley points to the provisions of ZDO Section 1007.02, which provide criteria for public and private roadways, requiring that: “A. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.” Mr. Farley points to Chapter 5 of the County’s Comprehensive Plan identifying the segment of SE Concord Road between McLoughlin Boulevard and SE Oatfield Road as a Minor Arterial. Mr. Farley states that a “typical Urban Minor Arterial cross section should provide a vehicular travel lane, a bikeway facility and a pedestrian facility on each side of the street (Figure 5-1b).” Mr. Farley describes this section of SE Concord Road as within the McLoughlin Corridor Design Plan (Map 10-MC-1). Mr. Farley further describes this plan as identifying goals for McLoughlin and its connecting streets as including “creating a high-quality pedestrian environment, convenient access to transit, and a mix of land uses that implement the Corridor design type while also enhancing pedestrian safety, especially pedestrian crossings near schools.” He points to Policy 10.PP.4 within this section, which provides that “Commercial development shall integrate with adjacent neighborhoods by providing, at minimum, excellent pedestrian access.” Mr. Farley contends that SE Concord Road does not provide a high-quality pedestrian environment, does not provide convenient access to transit on Oatfield Road, and accordingly, this criterion is not met for the project as conditioned.*

*Mr. Farley points directly to the provisions of ZDO Section 1007.02(E) requiring that: “New developments, subdivisions, and partitions may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. He notes that this criterion allows County staff to require improvements to existing rights-of-way. Mr. Farley points again to policies in ZDO Section 1007.01(B) and Chapter 5 of the Comprehensive Plan “requiring new developments to construct off-site improvements necessary to safely handle expected traffic generated by the development and travel by active modes (Policy 5.R.2).” Mr. Farley contends that “the proposed library and community center are currently conditioned to dedicate a minimal amount of right-of-way and have not been conditioned to complete a significant gap in the sidewalk network, which would be necessary to handle the expected traffic generated by the project (including those choosing to use active modes). Accordingly, this criterion is not met.”*

*Applicant: Ms. Cleek asserts that there is no nexus between the standards in the ZDO (specifically Section 1007) and requirements for off-site improvements on SE Concord Rd. Ms. Cleek points to similar statements by Mr. Kent at the hearing. Ms. Cleek also has made the argument that the County’s Comprehensive Plan includes references to the traffic impacts and connectivity, but contends this is a high-level document used to inform the development codes that apply to the site. Ms. Cleek asserts that the County’s Comprehensive Plan is not an applicable code itself, but rather is a vision statement.*

***Hearings Officer: The Hearings Officer concurs with staff that these standards can be met. My analysis here is similar to the analysis and discussion of Section 1007.01(A, B, C, D, E, F, and G) above. As stated in the sections above, I disagree with the Appellant's assertion that the policies he cited support conditioning the project with off-site improvements. As noted, the provisions here require frontage improvements to the site, including upgrading roads adjacent to the development with half-street improvements meeting current County standards (including pedestrian sidewalks, bike lanes, crosswalks, etc.), and require necessary improvements to ensure the adequacy of the transportation facilities for motor vehicles as evaluated by a transportation impact study.***

***The specific implementing provisions for Sections 1007.02(A, B, C, D, E, and F) are contained in Section 1007.07 Transportation Facilities Concurrency, which applies to development applications for design review per Section 1007.07(A). Section 1007(B)'s requirement that approval shall be granted only if the capacity of the transportation facilities is adequate or will be made adequate in a timely manner states the requirement for traffic studies and mitigation of impacts from proposed development. Section 1007.07(C) defines "adequate" to mean: "As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluations Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area." In other words, Section 1007.07 only requires the evaluation of adequacy of transportation facilities for motor vehicles. Likewise, the remaining sections of ZDO 1007.07 are implementing provisions applying to evaluating the adequacy of transportation systems for motor vehicles. Section 1007.07(D) provides standards for calculating capacity and impact area. Section 1007.07(E) defines the meaning of "timely" as used in Subsection 1007.07(B). Relevant here, Section 1007.07(F) defines the meaning of "necessary improvements" as: "Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C)" which as noted only applies to motor vehicles. Section 1007.07(G) is the provision requiring that motor vehicle capacity methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.***

***With respect to Section 1007.02(E), the section specifically pointed to by Mr. Farley, this section requires dedication of land for right-of-way purposes and construction of road frontage improvements to County standards, as the County has required here. As referred to in other sections, Mr. Kent points out that the County has not adopted standards or requirements for off-site connectivity. Mr. Kent states that for the County to determine that off-site pedestrian connections could be required, the County would have to adopt a code standard that specified when at what level those improvements could be required. I agree that the County has not adopted such code standards.***

- E. 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.

***Staff Finding:*** Section 1007.02(F) specifies that developments improve the roadway frontage of the project site to current urban roadway standards. In addition, Section 1007.04(C) requires pedestrian and bicycles facilities along the frontage of institutional developments. 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.

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.

The frontage of SE Concord Road is currently improved with bike lanes, pull-out areas, 6-inch curb and 7.5-foot wide curb-tight sidewalk, which is not consistent with the standard cross section, per Roadway Standards Drawing C140. 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. In discussion with the applicant, they have indicated their intention to remove and replace the existing curb, eliminate the former bus pull-out area, and construct a landscape strip adjacent to the existing sidewalk. As conditioned, this criterion can be met.

***Appellant: Mr. Farley points to ZDO Section 1007.04's criteria for pedestrian and bicycle facilities, including the following provisions:***

***A. General Standards: Pedestrian and bicycle facilities shall be developed according to the classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, Typical Roadway Cross Sections, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.***

*Mr. Farley notes that SE Concord Road is classified as a Minor Arterial in the County's Comprehensive Plan (Map 5-4a) and should have the roadway cross section that includes pedestrian facilities as detailed in Figure 5-1b.*

*B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:*

- 1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;*
- 2. Provide safe, convenient, and an appropriate level of access to various parts of the development and to locations such as schools, employment centers, shopping areas, adjacent developments, recreational areas and open space, and transit corridors;*
- 3. Allow for unobstructed movements and access for transportation of disadvantaged persons; and*
- 4. Be consistent with Chapters 5 and 10 of the Comprehensive Plan; Comprehensive Plan Maps 5-2a, Planned Bikeway Network, Urban, 5-2b, Planned Bikeway Network, Rural, and 5-3, Essential Pedestrian Network; North Clackamas Parks and Recreational District's (NCPRD) Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.*

*Mr. Farley notes here that SE Concord Road between McLoughlin Bloulevard and Oatfield Road is identified as an Arterial in the Essential Pedestrian Network (Map 5-3 in the County's Comprehensive Plan). Mr. Farley asserts: "Since there are no sidewalks east of SE Harold Avenue, the project fails to have pedestrian facilities that minimize conflicts between users, provide safe and convenient connections, or allow for unobstructed access for disadvantaged persons."*

*C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Growth Boundary (UGB), sidewalks, pedestrian pathways, and accessways shall be constructed as required in Subsection 1007.04 for subdivisions, partitions, multifamily dwellings, triplexes, quadplexes, cottage clusters, townhouses where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, development of such facilities shall be required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet.*

*Mr. Farley points out that the subject site for the proposed library and community center (which is an institutional development) is within the Portland Metropolitan UGB, the proposed addition to the property exceeds 999 square feet and likely exceeds 10 percent of the assessed value of the existing structure. Mr. Farley contends that: "Accordingly, pedestrian facilities shall be constructed."*

*F. Sidewalk Location: Sidewalks required by Subsection 1007.04(C) or (D) shall be constructed on:*

- 1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:
  - a. The road is not a through road;*
  - b. The road is 350 feet or less in length and cannot be extended; or**

*c. In consideration of the factors listed in Subsection 1007.02(B)(3);*

*2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, triplex, quadplex, townhouse where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and...*

*Mr. Farley notes that sidewalks are required along the frontage of the site per Subsection (F)(2) and along any part of the roadway that is reconstructed. He contends, however: "While this language establishes the statutory minimum for improvements, it does not expressly prohibit County staff from asking for additional improvements to satisfy policy identified in Chapter 5 of the Comprehensive Plan. There is no language in the section that states the County "may not" or "shall not" require sidewalk or other improvements outside of the site frontage."*

*Applicant: Ms. Cleek asserts that there is no nexus between the standards in the ZDO (specifically Section 1007) and requirements for off-site improvements on SE Concord Rd. Ms. Cleek points to similar statements by Mr. Kent at the hearing. Ms. Cleek also has made the argument that the County's Comprehensive Plan includes references to the traffic impacts and connectivity, but contends this is a high-level document used to inform the development codes that apply to the site. Ms. Cleek asserts that the County's Comprehensive Plan is not an applicable code itself, but rather is a vision statement.*

*Ms. Cleek also points to the specific code standards contained in ZDO Section 1007.04 Pedestrian and Bicycle Facilities, and specifically to subsection (F)(2), which indicates that the only location upon which the sidewalks for an institutional development are required is on the street frontage upon which the institutional development is proposed. Further, Ms. Cleek points to the section of the staff decision issued by the County addressing ZDO Section 1007.01 (C and D) Roads and Connectivity, and containing specific provisions pertaining to pedestrian, bicycle, and vehicle access, safety, and traffic flow. She notes that, based on an estimated trip generation of 2,053 vehicles per day, improvement of the SE Concord Rd. frontage is warranted, but contends that once these improvements are conditioned the approval criteria of this section is met. Ms. Cleek also points to County staff analysis for ZDO Sections 1007.02(F) and 1007.04 (C) Road Frontage Improvements and Pedestrian and Bicycle Facilities reaching the same conclusions.*

*Hearings Officer: The Hearings Officer concurs with staff findings that, as conditioned, the requirements of ZDO 1007.02(F) and 1007.04(C) can be met. My analysis here is similar to the analysis and discussion of Section 1007.01(A, B, C, D, E, F, and G) above. As stated in the sections above, I disagree with the Appellant's assertion that the policies he cited support conditioning the project with off-site improvements. As noted, the provisions here require frontage improvements to the site, including upgrading roads adjacent to the development with half-street improvements meeting current County standards (including pedestrian sidewalks, bike lanes, crosswalks, etc.), and require necessary improvements to ensure the adequacy of the transportation facilities for motor vehicles as evaluated by a transportation impact study.*

***The specific implementing provisions for Sections 1007.02(A, B, C, D, E, and F) and ZDO Section 1007.04's criteria for pedestrian and bicycle facilities are contained in Section 1007.07 Transportation Facilities Concurrency, which applies to development applications for design review per Section 1007.07(A). Further, as pointed out by Ms. Cleek, the provisions of ZDO 1007.04 specify that sidewalks required by Subsection 1007.04(C) or (D) shall be constructed on the street frontage upon which the institutional development is proposed.***

F. *Subsection 1007.05 – Transit Amenities*

***Staff 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 associated conditional use permit, file Z0020-23, and this design review application and was provided with the opportunity to provide comments. The County did not receive a response from Tri-Met for land use file Z0020-23 and has not yet received comments for this design review application.

***Hearings Officer: The Hearings Officer concurs in these staff findings.***

G. *Subsection 1007.06(A) – Street Trees* addresses requirements for street trees within the Portland Metropolitan Urban Growth Boundary, in the Clackamas Regional Center Area, in the Business Park zoning district, and in Sunnyside Village.

***Staff 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. Street trees are required along the Concord Rd frontage. The Applicant did not request the County to review a species of tree(s) that was not already provided on the County-approved list. Since no alternative species were reviewed during this application, the Applicant shall provide street trees that are from the County-approved list of street trees.

***Hearings Officer: The Hearings Officer concurs in these staff findings, noting that the Applicant submitted an updated Landscaping Plan.***

H. *Subsection 1007.07 – Transportation Facilities Concurrency*

***Staff Finding:*** This criterion has been reviewed during the associated land use permit, conditional use file number Z0020-23 and described in the Hearings Officer decision for land use file Z0020-23. 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 proposed library and community center will result in a total of 93 morning peak hour trips, 216 evening peak hour trips, and 2,053 weekday daily trips. The Applicant provided a Transportation Impact Analysis

(TIA) by Global Transportation Engineering, dated March 3, 2023 as part of the conditional use application, evaluating a number of intersections in the vicinity of the project site, addressing trip generation, on-site circulation and intersection sight distance.

The TIA finds that with the proposed use, roadways and intersections within the influence area of the site will operate with adequate capacity and safety, except for the SE Risley Avenue/SE McLoughlin Boulevard (OR 99E). 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 had proposed mitigation to add right turn lanes on the eastbound and westbound approaches on SE Risley Avenue. County Engineering and ODOT coordinated review of the intersection and proposed mitigation and determined that the TIA had evaluated the intersection with single lane approaches, when in fact, the existing width provides for separate right turns. The recommended TIA mitigation to add right turn lane striping would not effectively change the operational characteristics of the intersection, and therefore, operates within mobility standards. Clackamas County Traffic and Development Engineering staff find that the capacity of the transportation is adequate. This criterion is met.

***Appellant: The Appellant, Mr. Farley is a PE licensed traffic engineer, with the qualifications to conduct the TIA required by ZDO Section 1007. Mr. Farley submitted a September 27, 2023 memorandum he prepared to support his appeal of the County's approval of application Z0083-23-D. In his memorandum, Mr. Farley focuses on pedestrian facilities in the vicinity of the subject site, pointing particularly at significant gaps in sidewalks. Mr. Farley highlights the fact that SE Concord Rd. has no sidewalks on either side east of SE Harold Ave. (only a marked bike lane) all the way to SE Oatfield Rd., a distance of roughly 450 feet, forcing pedestrians to walk in the bike lane. Mr. Farley provides significant detail concerning the need for improved pedestrian facilities in the area, providing analysis of intersections, vehicle speeds, and the comfort and safety of pedestrians.***

***Mr. Farley's memorandum provides a review of the County's current Transportation System Plan (Chapter 5 of the County's Comprehensive Plan), noting the plan was adopted in 2013 and describes over 300 needed roadway projects, including multiple projects in the vicinity of the site. Those projects include: Project #1061 (completion of gaps in pedestrian facilities on SE Concord Road from SE River Road to SE Oatfield Road); Project #1062 (addition of turn lanes at major intersections on SE Concord Road from SE River Road to SE Oatfield Road); Project #1070 (safety audit/transportation safety review of Oatfield Road from Jennings Avenue to Lake Road); Project #3065 (completion of gaps in pedestrian facilities along SE Oatfield Road between Milwaukie and Gladstone); and, Project #3069 (completion of gaps in pedestrian facilities along SE Risley Avenue between Arista Drive and Hager Road).***

***Mr. Farley points to the Applicant's TIA stating that the project will generate an additional 2,053 daily vehicle trips to this location, likening the impact to that of a new 200-lot subdivision. Mr. Farley contends that the impacts required by the County in its approval of this application do not adequately address these impacts, and asserts that***

*the Applicant should be required to do more than the proposed street and frontage improvements. Mr. Farley points to the impacts to pedestrians from these additional vehicle trips, and asserts that the Applicant should be required to complete gaps in pedestrian facilities to mitigate these impacts. In particular, Mr. Farley suggests that the Applicant be required to complete the sidewalk connection on one side of SE Concorde Rd. to SE Outfield Dr., at least by putting a sidewalk on the existing bike lane, or pay a fee in lieu to fund these needed area projects.*

*Applicant: As reviewed above, Ms. Cleek asserts that there is no nexus between the standards in the ZDO (specifically Section 1007) and requirements for off-site improvements on SE Concord Rd. Ms. Cleek points to similar statements by Mr. Kent at the hearing, and argues that while the County's Comprehensive Plan includes references to the traffic impacts and connectivity this is a high-level document used to inform the development codes that apply to the site. Ms. Cleek asserts that the County's Comprehensive Plan is not an applicable code itself, but rather is a vision statement.*

*Ms. Cleek also points to the specific code standards contained in ZDO Section 1007.04 Pedestrian and Bicycle Facilities, and specifically to subsection (F)(2), which indicates that the only location upon which the sidewalks for an institutional development are required is on the street frontage upon which the institutional development is proposed. Further, Ms. Cleek points to the section of the staff decision issued by the County addressing ZDO Section 1007.01 (C and D) Roads and Connectivity, and containing specific provisions pertaining to pedestrian, bicycle, and vehicle access, safety, and traffic flow. She notes that, based on an estimated trip generation of 2,053 vehicles per day, improvement of the SE Concord Rd. frontage is warranted, but contends that once these improvements are conditioned the approval criteria of this section is met. Ms. Cleek also points to County staff analysis for ZDO Sections 1007.02(F) and 1007.04 (C) Road Frontage Improvements and Pedestrian and Bicycle Facilities reaching the same conclusions.*

*Ms. Cleek further argues that the substandard improvement proposed by Mr. Farley would be a "stop-gap approach" and not a solution, would put bicycles on the roadway with motor vehicles, and could open the County and Applicant to liability by making improvements that do not meet County standards*

*Hearings Officer: The Hearings Officer concurs with staff that the standards of ZDO 1007.07 are met. My analysis here is similar to the analysis and discussion of Section 1007.01(A, B, C, D, E, F, and G) above. As stated in the sections above, I disagree with the Appellant's assertions that the policies he cited support conditioning the project with off-site improvements. As noted, the provisions here require frontage improvements to the site, including upgrading roads adjacent to the development with half-street improvements meeting current County standards (including pedestrian sidewalks, bike lanes, crosswalks, etc.), and require necessary improvements to ensure the adequacy of the transportation facilities for motor vehicles as evaluated by a transportation impact study, and consistent with the mitigation recommendations from that study.*



*The specific implementing provisions for Sections 1007.02(A, B, C, D, E, and F) are contained in Section 1007.07 Transportation Facilities Concurrency, which applies to development applications for design review per Section 1007.07(A). Section 1007(B)'s requirement that approval shall be granted only if the capacity of the transportation facilities is adequate or will be made adequate in a timely manner states the requirement for traffic studies and mitigation of impacts from proposed development. Section 1007.07(C) defines "adequate" to mean: "As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluations Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area." In other words, Section 1007.07 only requires the evaluation of adequacy of transportation facilities for motor vehicles. Likewise, the remaining sections of ZDO 1007.07 are implementing provisions applying to evaluating the adequacy of transportation systems for motor vehicles. Section 1007.07(D) provides standards for calculating capacity and impact area. Section 1007.07(E) defines the meaning of "timely" as used in Subsection 1007.07(B). Relevant here, Section 1007.07(F) defines the meaning of "necessary improvements" as: "Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C)" which as noted only applies to motor vehicles. Section 1007.07(G) is the provision requiring that motor vehicle capacity methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon. The Applicant's traffic engineer, Mr. Beckwith is also a PE licensed traffic engineer, with the qualifications to conduct the TIA required by ZDO Section 1007. Mr. Beckwith pointed out that both County Engineering and ODOT were provided with methodology memos in advance of developing the TIAs, and the study areas and intersections were developed through this collaborative process. I find that the TIA conducted by Mr. Beckwith meets the relevant requirements and the mitigation provided is roughly proportional to the identified impacts.*

*I noted here that the fee in lieu of construction referenced by Mr. Farley refers to fees collected from developers in lieu of constructing the improvements required by Section 1007. These fees are deposited in a "Sidewalk Improvement Fund" that is spent by the County on sidewalk or pedestrian pathway construction on roads within the UGB. This option is not available to the Applicant per ZDO 1007.08, and the Applicant is required to construct the full frontage improvements.*

*I am persuaded by Mr. Farley that all of the pedestrian improvements he cited are needed. I was taken aback by the length of time (decades) that sidewalk connection and improvement projects in this area have remained on County lists of needed improvements. I also found the supporting statements submitted by Mr. Farley's area neighbors persuasive concerning the needs for these pedestrian improvements and the lack of safety for pedestrians in the vicinity. However, the Applicant cannot be required to make these off-site improvements.*

## 9. Section 1009 – Landscaping

Section 1009 seeks to ensure that sites are design with appropriately selected, designed, installed, and maintained landscape materials and that landscaped areas are used for appropriate purposes.

***Staff Finding:*** Pursuant to Table 1009-1, the minimum required landscaped area in the R7 and R8.5 zone is 25% for conditional uses. Within the 65,082 square feet of site rea in the R7 or R8.5 districts, the Applicant states that a total of 26,333 square feet, or 40%, will be landscaped.

25 square feet of landscaping per parking space, excluding perimeter parking spaces, shall be provided. The Applicant proposes to provide 158 parking spaces in the main parking lot off of Concord Rd. Therefore, 3,950 square feet of interior landscaping is required. This standard is met.

Subsection 1009.03 relates to the landscaping of surface and loading areas. One landscape swale located between two rows of parking spaces, as shown in Figure 1009-1, is required for every six rows of parking spaces. The Applicant proposes one 4-foot wide swale across the entire length of the longest row of parking spaces. Interior landscaping not developed as swales pursuant to Subsection 1009.03(A)(2) shall comply with the standards of subsection 1009.03(A)(3). The Applicant has demonstrated compliance with this subsection. Interior landscaped areas, including swales, shall include a minimum of one tree located every eight interior parking spaces, and the Applicant proposes to meet this standard by providing a tree at this rate.

1009.04 service areas and facilities, such as receptacles for solid waste or recyclable materials, shall be screened to reduce or eliminate visual impacts. Parking lots in R7 and R8.5 are also required to be screened. The Applicant has demonstrated that the two parking lots are adequately screened with landscaping.

A condition of approval of associated land use file Z0020-23 requires compliance with the screening and buffering techniques listed in ZDO Subsection 1009.04(B through E) to mitigate the impacts of the proposed institutional uses to the residential use to the east, located at 3901 SE Concord Road. Screening shall be used to eliminate or reduce the visual impacts of service areas and facilities, such as receptacles for solid waste or recyclable materials. Screening from walkways is required only for receptacles for solid waste or recyclable materials. A sight-obscuring fence at least six feet in height and up to a maximum of 10 feet in height shall be required around the material or equipment. The application materials describe that the trash enclosure will have a 6-foot high chain link fence with two sets of double-swing gates. The gates will face 3901 SE Concord Rd, and so staff has requested that the Applicant provide the door schedule for the trash enclosure gates to verify that they are “sight-obscuring”. The Applicant provided additional information pertaining to the trash enclosure details at the Design Review Committee (DRC) meeting, and subsequently provided it to Planning staff by email, demonstrating that the trash enclosure will be a 6-foot high black chain link fence and gate with brown vinyl slats. This detail demonstrates that the enclosure is sight-obscuring and will ensure that the solid waste and recycle receptacles are screened.

Buffering is required to mitigate adverse impacts from dissimilar uses and is required between the subject property and 3901 SE Concord Rd. Subsection 1009.04(E) provides a list of ways this standard can be met. The Applicant provided an updated screening diagram at the DRC meeting, and subsequently provided it to Planning staff by email, demonstrating the area between 3901 SE Concord Rd and the subject property that needs to include buffering. This area identified does not currently include vegetation or buffering techniques on the subject property. A condition of approval is necessary to ensure compliance with the buffering criteria.

1009.06(C) Landscaping strip a minimum of five feet wide shall be provided abutting front lot lines. “If—due to the depth of a front setback and the need to accommodate a required walkway, required pedestrian amenities, or both—there is insufficient area to permit a five-foot-wide landscaping strip, the landscaping strip may be reduced in width or the landscaping requirement may be met with a linear arrangement of trellises, hanging baskets, or planters, any of which shall include plants”. A public sidewalk is proposed to connect from the Spaulding Ave. parking lot, across the vehicular entrance to the parking lot, and across the drive aisle from the Spaulding Ave right-of-way (or the portion of the public drive surface on the to-be vacated right-of-way). On the east side of the drive aisle, closer to the community center, the Applicant proposes landscaping that is more than 5 feet in width. This standard is met.

The Oregon White Oak tree, *Quercus crysolepsis*, proposed on the planting plan must have a minimum tree caliper of 2-inches at the time of planting to comply with Subsection 1009.10(H). A condition of approval is recommended to ensure compliance with this criterion.

Landscaping must be guaranteed for one year from the date of installation; a maintenance contract or a performance surety were not provided with the application materials. This standard can be met with a condition of approval.

***Hearings Officer: The Hearings Officer concurs that these standards can be met with conditions of approval.***

## **10. Section 1010 – Signs**

The provisions of Section 1010 are intended to maintain a safe and pleasing environment for the people of Clackamas County by regulating the size, height, number, location, type, structure, design, lighting, and maintenance of signs.

***Staff Finding:*** The proposal is for an institutional use in a residential zoning district within the UGB; therefore, subsection 1010.08(A) applies. One freestanding and one building sign shall be permitted upon the premises; each sign is limited to a maximum of 32 square feet (per side). Each building, the library and the community center, may each have one building sign due to the “premises” being defined by the two different uses, pursuant to ZDO Section 202. The maximum top-of-sign height is 5 feet for a freestanding sign. Signs may be illuminated by internal or external lighting, subject to Subsection 1010.02(I) and must be located behind the front property line. The Applicant proposes that there will be a building

sign on the community center and one on the library. Existing Concord School site sign will be removed.

The proposed monument sign located at the parking lot entrance off of Concord Rd will be setback from the property line by 4 feet. It will be 4 feet in height, 30 square feet in area and will be internally lit; a condition of approval is necessary to ensure this criteria is met. As conditioned, the monument sign complies with the sign criteria.

The library wall-mounted sign and the community center building sign proposed meet the size limitations of this section. As conditioned, this criterion is met.

***Hearings Officer:*** *The Hearings Officer concurs that this standards is met as conditioned.*

## **11. Section 1011 – Open Space and Parks**

Section 1011 applies to areas generally indicated as Open Space on Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map, or on the Mt. Hood Community Plan Map.

***Staff Finding:*** The subject property is designated as Public and Community Use Open Space (PCU) in the Comprehensive Plan. However, the property does not include slopes greater than 20%, bodies of water or wetlands, flood or landslide hazards, distinctive or unique natural areas, or areas of serious natural hazard. Therefore, this section is not applicable to the subject property.

***Hearings Officer:*** *The Hearings Officer concurs that this section is not applicable.*

## **12. Section 1015 – Parking and Loading**

Section 1015 is designed to ensure that developments in Clackamas County provide sufficient and properly designed parking for motor vehicles and bicycles as well as appropriate off-street loading areas.

***Staff 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  $\frac{3}{4}$  mile of a rail transit stop or  $\frac{1}{2}$  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.

<b>Proposed Use</b>	<b>Area (square feet)</b>	<b>Vehicle Parking Ratio Maximum (per 1,000 square feet)</b>	<b>Maximum Vehicle Spaces Permitted</b>	<b>Complies</b>
<b>Recreation Facilities</b>	25,642	5.4	139	Yes
<b>Office Use</b>	19,058	3.4	65	Yes
<b>Library</b>	15,141	None	None	Yes
<b>Park</b>	1.94 acres	None	None	Yes
<b>Total</b>	-	-	None	Yes

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.

The minimum required bicycle parking spaces are determined based upon the standards of Table 1015-3. The information provided by the Applicant at the Design Review Committee (DRC) meeting and subsequently email to Planning staff details the minimum number of bicycle parking spaces required. Based upon the calculations provided by the applicant, a minimum of 36.99 bicycle spaces are required; this is rounded up to 37. The Applicant proposes to provide 50 spaces: 30 outside and 20 inside. Pursuant to Subsection 1015.03(B), a minimum of 50% of the bicycle spaces shall be covered. The Applicant proposes to provide a bicycle storage room within the community center building, near the primary entrance, however a floor plan was not submitted with adequate detail to verify compliance with this subsection. When more than 15 covered bicycle parking spaces are required, 50% of the required covered spaces shall be enclosed and offer a high level of security, e.g., bicycle lockers or a locked cage or room with locking facilities inside, to provide safe long-term parking. A condition of approval is required to ensure compliance. As conditioned, this standard can be met.

The bicycle parking is illuminated, as demonstrated in the photometric plan.

***Hearings Officer:*** *The Hearings Officer concurs in the above discussion and analysis, finding a condition of approval is necessary to ensure compliance with these standards. Public comments were submitted advocating for fewer parking spaces in order to preserve as much of the open green space on the subject property as possible. I found persuasive Ms. Cleek's description of how the number of parking spaces for the project was determined for the combined library, community center, and office space uses associated with this proposal. I agree that the provided parking must adequately serve these proposed uses so as not to cause significant spillover and impacts to the surrounding neighborhood.*

### **13. Section 1021 – Refuse and Recycling Standards For Commercial, Industrial, and Multi-Family Developments**

Section 1021 applies to multifamily dwellings, institutional, commercial, and industrial developments. It provides standards for the design, placement, and accessibility of trash enclosures.

***Staff Finding:*** The trash enclosure will be located behind the community center, where the receptacles have historically been located. It will be on a 6-inch thick concrete pad which exceeds the minimum 4-inch standard. The enclosure will be made of a 6-foot high chain link fence with vinyl slats which necessitates there being a two- to four-inch high bumper curb at ground level located 12 inches inside the perimeter walls of the enclosure or fencing to prevent damage from container impacts. The bumper curb is shown on the submitted plan drawings. The standards of subsection 1021.05(A) for containers are met as proposed.

Subsection 1021.07 states that "no parking" signs must be placed in a prominent location on the enclosure or shelter and painted on the pavement in front of the enclosure or shelter to provide unobstructed and safe access for servicing receptacles. No information pertaining to the signage plan was proposed; however, this can be met with a condition of approval.

***Hearings Officer:*** *The Hearings Officer concurs with staff findings that the standards of subsection 1021.05(A) are met as proposed, and the standards of subsection 1021.07 can be met as conditioned.*

#### **D. 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 Appellant, Applicant/NCPRD, County staff, members of the public, 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 new evidence and materials submitted during the first open record period, rebuttal materials submitted during the second open record period, and the Applicant's written response. Upon review, I find the following conditions are designed to ensure that the requirements of this Design Review permit are met, adopting the following, with changes to proposed conditions of approval indicated by bold italicized text and/or strike through:**

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 parentheses. The Clackamas County Land Use and Zoning staff recommended approval of this permit application for a variance subject to the following conditions, consistent with the original June 16, 2022 decision approving this application, reviewed, adopted and/or modified by the Hearings Officer as denoted by boldface type in italics:

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on March 6, 2023 and additional materials submitted on May 23, July 20, July 24, July 26, and July 31, 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. Approval of design review is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. 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 development, or if no major development permits are required to complete the development contemplated by the design review approval, 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 design review approval; or
- b. A permit issued by the County for parking lot or road improvements required by the design review approval.

If the design review approval is not implemented within the initial approval period established by Subsection 1102.05(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension.

3. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time. Failure to fulfill any conditions within the time limitations provided shall be grounds for the Planning Director to initiate revocation of the approved land use permit pursuant to Subsection 1307.17(L). [Subsection 1307.15]
4. The development shall copy with the approval and conditions set forth in land use application file number Z0020-23.

5. Prior to issuance of a building permit the applicant/property owner shall provide the Planning Division with the following:
  - a. Updated trash enclosure drawing to demonstrate compliance with the signage standards of Subsection 1021.07. "No parking" signs must be placed in a prominent location on the enclosure or shelter and painted on the pavement in front of the enclosure or shelter to provide unobstructed and safe access for servicing receptacles. The Applicant shall coordinate with Clackamas County Sustainability & Solid Waste staff to finalize plans that comply with design standards and to ensure compliance with the standards of ZDO 1021.
  - b. Updated landscaping plan that shows:
    - i. The minimum tree caliper for deciduous trees will be 2-inches at the time of planting. [Subsection 1009.10(H)]
    - ii. Buffering between the subject property and 3901 SE Concord Rd. in the specific location identified on the plans that were provided at the Design Review Committee meeting [1009.04(E)]
  - c. Updated floor plan of the community center showing the location of the interior bicycle parking, including the detail of the number of bicycle parking spaces, the access from the public plaza outside to the bicycle parking room. [1015.03(B)]
  - d. Interior bicycle parking plan demonstrating:
    - i. A high-level of security by providing either: bicycle lockers or a locked cage or room with locking facilities inside.
    - ii. Compliance with the dimensions and standards of Subsection 1015.03(B)(6)
6. Prior to issuance of a building permit the applicant/property owner shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.
7. Prior to issuance of a building permit the applicant/property owner shall submit to Clackamas County Engineering Office:
  - a. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
  - b. Written approval from Oak Lodge Water Service for adequate water supply source to serve the development. The approval shall be in the form of utility plans stamped and signed by the Water District representative.
  - c. Written approval from Oak Lodge Water Service for surface water management facilities, surface water detention facilities, and erosion control measures.
  - d. A set of street and site improvement construction plans, including a striping and signing plan, for review, in conformance with Clackamas County Roadway Standards Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.



8. Prior to Final Certificate of Occupancy for either the library and/or the community center building(s):
- a. Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development.
  - b. When planted, deciduous trees shall be fully branched, have a minimum caliper of two inches, and have a minimum height of eight feet. [Section 1009.10(H)]
  - c. Shrubs shall be supplied in minimum one-gallon containers or eight-inch burlap balls with a minimum spread of 12 inches. [Section 1009.10(J)]
  - d. Ground cover shall be planted a maximum of 30 inches on center with a maximum of 30 inches between rows. Rows of plants shall be staggered. Ground cover shall be supplied in minimum four-inch containers, except that the minimum shall be reduced to two and one-quarter inches or equivalent if the ground cover is planted a minimum of 18 inches on center. Plants shall be spaced so that ground coverage 3 years after planting is expected to be 90%. [Section 1009.10(K and L)]
  - e. Landscaping shall be planted/installed according to the landscaping plan (as required by condition of approval 5(b)).
  - f. Landscaping materials shall be guaranteed for a period of one year from the date of installation. The developer shall either submit a signed maintenance contract for the one-year period or provide a performance surety pursuant to Section 1311, Completion of Improvements, Sureties, and Maintenance, covering the landscape maintenance costs for the one-year period. [Subsection 1009.10(F)]
  - g. All required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond. Performance bonds shall be in the amount of 125% of the approved engineer's cost estimate of the required improvements, and shall be accepted only when access has met minimum Substantial Completion requirements, per Roadway Standards Section 190.
  - h. The Applicant shall dedicate right-of-way along the entire site frontage of SE Concord Road 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 as necessary to encompass the required sidewalk, with the right-of-way located a minimum of 6 inches behind the sidewalk.
  - i. The Applicant shall grant an 8-foot wide public easement for signs, slope and public utilities along the entire SE Concord Road site frontage and the south side of SE Spaulding Avenue site frontage.
  - j. The Applicant shall request vacation of the SE Spaulding Court right-of-way frontage of the project site, per ORS 368.326-368.426. Following vacation, the Applicant shall dedicate public right-of-way at the terminus of SE Spaulding Avenue, encompassing the required improvements, providing a minimum of 6-inches behind the sidewalk and a minimum of 5 feet from face of curb where there is no sidewalk.
  - k. 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. 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. The structural section shall comply with Standard Drawing C100 for an arterial roadway.
  - ii. Standard 6-inch curb shall be constructed, per Standard Drawing S100.
  - iii. A minimum 5-foot wide landscape strip with street trees and groundcover shall be constructed, per Standard Drawings L100 and L200, consistent with Roadway Standards Section 255, and in compliance with ZDO Section 1007.06.
  - iv. A 7-foot wide unobstructed sidewalk, per Standard Drawing S960 shall be constructed along the entire site frontage. At the east and west ends for the site frontage, the sidewalk shall transition to curb-tight to match existing sidewalk, per ODOT Standard Drawing RD722.
  - v. Minimum 24-foot wide concrete driveway approaches shall be constructed, per Drawing D650.
  - vi. The midblock crosswalk shall be upgraded to current standards and ADA accessibility, including signs, pavement markings and lighting per Roadway Standards 271.1 and 281.1.
- l. 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.
- m. Improvement of the terminus of SE Spaulding Court shall be provided to local roadway standards, as follows:
- i. A minimum 30-foot wide paved surface (curb to curb), shall be constructed, per Standard Drawing C100 for a local roadway.
  - ii. Tapers to tie into the existing SE Spaulding Avenue improvements shall be provided beyond the site frontage, per Section 250.6.4 of the Clackamas County Roadway Standards.
  - iii. 6-inch curbs on both sides for the road, shall be constructed per Standard Drawing S100. A mountable curb shall be constructed, per Standard Drawing S180 at the westerly end of the public portion of SE Spaulding Court to delineate the boundary between the public turnaround and the emergency vehicle turnaround.
  - iv. A minimum 5-foot wide sidewalk shall be constructed on the northerly side of the right-of-way frontage, per Standards Drawing S960.
  - v. An ADA curb ramp shall be constructed at the northeast end of the sidewalk.
  - vi. A passenger vehicle turnaround shall be constructed within the public right-of-way, per Standard Drawing C220.
  - vii. An emergency vehicle turnaround shall be provided at the Terminus of SE Spaulding Court, per Standards Drawing C350. Where the turnaround extends outside the public right-of-way, an emergency vehicle access easement shall be provided. The turnaround area shall be signed/stripped no

- parking. A mountable curb shall delineate the public portion of westerly leg of the turnaround.
- n. A minimum 5-foot wide, ADA accessible walkway shall be provided to the existing sidewalk at the end of SE Olive Avenue.
  - o. The Applicant shall design and construct on-site parking and maneuvering areas as follows:
    - i. The Applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the site.
    - ii. Parking spaces shall meet minimum *ZDO* section 1015 and Roadway Standards, Standard Drawings P100 and P220 dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The Applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans.
    - iii. All curbs shall typically be type "C", or curb and gutter if curb line slope is less than one percent, if they carry, direct or channel surface water. Alternative curbs will be considered when it is determined by the Clackamas County Department of Transportation and Development that type "C" curbs or curb and gutter are not appropriate. Extruded curbs for carrying, directing or channeling surface water, or used as a vehicle wheel stop, shall not be allowed.
    - iv. The paths traced by the extremities of trucks and emergency vehicles shall be demonstrated.
    - v. Where the on-site ADA walkways intersects the public sidewalk, there shall be a minimum 5x5 foot wide landing.
  - p. All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
  - q. A Fire Access and water supply plan shall be provided for subdivisions, commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The Applicant shall provide fire flow tests per NFPA 291 and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority.
  - r. Following completion of site construction activities of subdivisions, buildings over 1000 square feet or when required by Clackamas Fire District #1, the Applicant shall provide as-built Fire Access and Water Supply pdf plans to the local Fire District and the County. The pdf plans shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The plans shall include any supporting details of the access, circulation, water vaults, fire lines, valves, fdc, backflow devices, etc.

- s. Primary Inspector:
  - i. The Applicant shall enter into a Developer/Engineer Agreement for primary inspection services per Section 180 of the Roadway Standards. This form will be provided to the Applicant and shall be signed and returned to County Plans Reviewer.
  - ii. Prior to Certificate of Occupancy, the Applicant shall provide a Certificate of Compliance signed by the Engineer of Record stating all materials and improvements have been installed per approved plans and manufacture's specifications.
- 9. The development will be subject to the requirements of the utility districts and other partner divisions and agencies, including Oak Lodge Water Services and Clackamas County Service District No. 5. Responses from these agencies are provided in the Advisory Notes section of this report. Compliance with these rules and regulations are identified through the standards of ZDO 1006.
- 10. All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with Clackamas County Roadway Standards.
- 11. A minimum 8 foot wide walkway must connect from the sidewalk on Concord Rd. to the library main entrance. [1005.02(E)(2)]
- 12. Illuminated Signs: Internally illuminated signs, or external lights used to illuminate signs, shall be placed, shielded, or deflected so they do not shine into dwellings or impair the vision of the driver of any vehicle. The light intensity of an illuminated sign shall conform to or be less than the accepted standards of the sign industry, as provided by the Oregon Electric Sign Association. Except for an electronic message center sign approved pursuant to Subsection 1010.14, no sign or illuminating devices shall have blinking, flashing, or fluttering lights. [1010.02(I)]
- 13. The planting and maintenance of the landscaping shall follow the standards of Section 1009.10.
  - a. Landscaping, except for trees, between a parking lot and a street is limited to a maximum of 30 inches in height. The landscaping plan includes a variety of plant species to be located between the main parking lot and Concord Rd. when left to grow naturally can exceed the maximum 30-inch growth height allowed by the ZDO. The landscaping between the Concord Rd. parking lot and Concord Rd shall not exceed 30 inches in height in order to ensure adequate visibility of the parking lot from Concord Rd. [1005.03(G)(6)]
- 14. A minimum 15-foot front setback is required from the proposed library to the Spaulding Ave property line in the R8.5 and R7 districts. The front setback is measured as the shortest horizontal distance between a structure and the front lot line. If the proposed Spaulding Ave. vacation is approved, the front setback will be calculated from the edge of the primary drive surface, where the emergency vehicle turnaround begins. The emergency vehicle turnaround shall be a distinctly different surface materials or design (e.g. by using a mountable curb) to delineate the two drive surfaces and distinguish the park to the roadway that is integral to the regular vehicle circulation and the area that is for an emergency vehicle turnaround. The minimum 15-foot setback will be measured from that point of delineation.

15. A minimum 5-foot wide walkway through the primary parking lot shall be provided. Tire stops must be at least four inches high and located two feet within the space to prevent any portion of a car within the lot from extending over the walkway. [Section 1005.02(D)]
16. Street trees are required along the Concord Rd frontage, and the species must chosen from the County-approved list of street trees. [1007.06]

#### **E. DECISION**

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer APPROVES application Z0083-23-D for a Design Review permit to construct a new 15,360 square foot public library, to renovate an existing building (formerly the Concord School) into a community center, and to construct certain site improvements, subject to conditions of approval.

Dated: November 8, 2023



Carl D. Cox  
Clackamas County Hearings Officer

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#### **F. ADVISORY NOTES**

*Advisory notes are not a part of the decision on this land use permit. The items listed below are not conditions of land use approval and are not subject to appeal. They are advisory and informational only but may represent requirements of other agencies/departments. As such, they may be required by these other agencies/departments in order to complete your proposed development.*

1. Street lighting is required by ZDO Section 1006.02(G) for all development within the Urban Growth Boundary.

Street lighting does not exist on the SE Concord Rd., SE Olive Ave. or Spaulding Ave. frontage thus new street lighting will be required.

**Where installation is required** Portland General Electric's (PGE's) policy requires the street lighting design layout meet the recommended maintained illuminance values in the current version of ANSI/IES RP-8 American National Standard Practice for roadway lighting. They also require the project supply the photo metrics. **Contact PGE project coordinators for plan review requirements at 503-323-6700.** They will set up a project in their system and will help you with their plan process. This should be done prior to submitting the Development Permit plan to Clackamas County. Once plan review is completed by both PGE and Service District No. 5, the Applicant and/or developer is notified of the final plan approval and may request final payment for the street lighting plan.

Street lighting operation and maintenance is funded by a yearly special assessment on the property tax statement of all benefited properties within the assessment areas of the service

district. New assessment areas are formed in response to development requirements and by petition of property owners wishing the benefit of street lighting for their properties.

The property owner shall submit a request in writing for the formation of an assessment area, which will include any new tax lots created by this partition, to help pay for the operation and maintenance of lighting. This should be completed and submitted when applying for a Development Permit. The current rate of assessment for street lighting in this residential area is \$1.16 per frontage foot per tax lot each year.

Please contact Wendi Coryell at 503-742-4657 with any questions.

2. The Design Review Committee (DRC) members voted unanimously to recommend the Applicant obtain documentation of the former Concord School building prior to any changes due to its historical significance in the area. The DRC members recommended that photos and any other documentation that the State Historic Preservation Office may require to document the historical significance of the structure.

It is recommended that the Applicant complete this task and provide the photos and other documentation to Clackamas County Planning Division staff to keep on file.

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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.