

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Appeal of a Planning Director
Decision Approving an Application for
Design Review to Convert an Existing
Dwelling Into an Office Building to
Accommodate Existing Businesses

FINAL ORDER

Case File No: Z0121-24 Appeal
(ALJC Holdings LLC)

A. SUMMARY

1. The owner of the subject property is ALJC Holdings LLC. The applicant is Adam Lowery, manager and contact for ALJC Holdings LLC. The applicant requests design review approval to convert an existing dwelling into an office to be used as part of two existing businesses, Valleyscapes Landscape Solutions and Bridge City Concrete. As part of the request, the applicant will conduct associated site improvements, including a new parking lot layout, the addition of landscaping to screen and buffer adjacent uses, a new stormwater facility and other associated improvements.
2. The subject property consists of two tax lots comprising an approximately 1.91-acre parcel owned by ALJC Holdings LLC, located at 14577 and 14677 Anderson Road, Damascus, OR 97089, located at the intersection of SE Anderson Road and Hwy 212, also known as T2S, R2E, Section 08, Tax lots 0600 & 0700. The subject property is zoned Rural Commercial (RC) District and is improved with a single-family residential structure in addition to other accessory structures. The property is located within the Damascus CPO.
3. The original application for design review was received by the County March 21, 2024, but was deemed incomplete. The applicant submitted additional materials on various dates and the application was deemed complete on May 31, 2024. The subject property is located inside an urban growth boundary. The original 120-day deadline for final action on the application pursuant to ORS 215.427(1) was September 28, 2024. This deadline, however, was extended to February 19, 2025 at the request of the applicant in order to submit additional supporting materials.
4. On October 23, 2024, County Senior Planner Erik Forsell approved the application subject to a number of conditions of approval. On November 4, 2024, Gary Knepper, owner of an adjacent property, submitted an appeal of that decision citing "storm water and drainage issues."
5. On December 5, 2024, the Hearings Officer conducted a public hearing to receive testimony and evidence about the applicant's proposal for verification and/or alteration/change of a nonconforming use. Prior to ending the public hearing and closing the record, the Hearing Officer asked whether any of the parties or members of the audience wanted an opportunity to provide additional evidence, arguments, or testimony. At the request of the parties, the Hearings Officer agreed to hold the record open as follows: one week (until 4:00 pm Thursday December 12, 2024) for any party to submit additional written evidence, argument, or testimony, for an additional one week (until 4:00 pm Thursday December 19, 2024) for any party to submit rebuttal of new evidence submitted during the initial open record period, and for an additional one week (until 4:00 pm Thursday December 27, 2024) for the applicant to provide a final

responsive written statement, to include no new evidence. At the conclusion of the open record period, the Hearings Officer approved the application subject to Conditions of Approval.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the December 5, 2024 public hearing about this application and during a subsequent open record period, including submittals identified as Exhibits 1-23. 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.

Prehearing Submissions and Comments

2. This application was submitted on May 21, 2024, but was deemed incomplete. The applicant submitted additional application materials and a final application on May 29, 2024, that the County deemed complete on May 31, 2024. The subject property is located inside an urban growth boundary. The 120-day timeline for final action on the application pursuant to ORS 215.427(1) was determined as September 28, 2024. This deadline was extended by the applicant to February 19, 2025 to address certain issues related to the application.
3. Notice of the application was sent to applicable agencies and neighboring property owners as required. Comments received relating to the applicable approval criteria were addressed by staff in the October 23, 2024 Staff Report and Notice of Decision on a Type II Land Use Permit. Comments were received from members of the public, including by Diane Helm who submitted comments expressing concern regarding the impact of the Valleyscapes Landscape Solutions' traffic on the safety of the adjacent roads and intersections, particularly pointing to congestion at Highway 212 and Foster Road, and Highway 212 and Anderson Road and Sunnyside Road, asserting a traffic study should be required. Jennifer Riehl submitted written comments in advance of the hearing, stating she is a local resident who regularly shops at the Bi-Mart and other businesses in the strip mall near the proposal site. Ms. Riehl reports that landscaping trucks and trailers regularly drive through the Bi-Mart parking lot coming and going from the applicant's landscape business location, estimating that the landscape business uses approximately 30 vehicles from this location. Ms. Riehl expressed her concern over the additional traffic brought to the intersections of Sunnyside/Anderson/Hwy 212, describing this intersection as "dangerous." Ms. Riehl also reported that there are regularly several trucks parked at the proposal site that appear to be for a concrete business.
4. The appellant, Gary Knepper, also submitted comments in response to the application, asserting that the applicant's property continues to drain water onto his adjacent

property, referencing a different design review, and describing several issues related to open County code enforcement matters.¹ Mr. Knepper submitted photos showing water puddling next to a building.

5. Several outside agencies and County staff submitted comments in response to the application. Kenneth Kent, County Development Engineering, provided a June 20, 2024 review of the applicant's proposal and existing conditions at the site noting the project site is located on the west side of SE Anderson Road, north side of SE Chitwood Street, and south side of State Highway 212. Mr. Kent discusses a prior Design Review application submitted by the applicant that was approved under file Z02330-20 for an office building and warehouse on TL 23E08A 0600 only, noting that the building was constructed prior to satisfying the conditions of approval for access and frontage improvements. Mr. Kent noted that the current proposal incorporates TL 23E08A 00700, which contains an existing single-family residence. He also noted that the project site has frontage on State Highway 212, pointing out the application does not propose access from this roadway. In his comments, Mr. Kent provides a review of the applicable provisions of the Clackamas County Zoning and Development Ordinance (ZDO) Section 1007 pertaining to roads and connectivity, Section 1015 pertaining to parking and loading, and Clackamas County Roadway Standards, Chapter 4 pertaining to surface water management.
6. Mr. Kent discusses requirements for roadway frontage improvements, and recent amendments to ZDO Section 1007.04(C) that no longer require sidewalks for properties zoned Rural Commercial such as the subject property in this proposal. He points out, however, that the standard right-of-way width for a rural local roadway is 48 feet whereas the existing right-of-way width for SE Anderson Road is 40 feet. Therefore, Mr. Kent states that the applicant must dedicate approximately 4 feet of right-of-way along the entire site frontage of SE Anderson Road. Mr. Kent points to the proposed access from two driveways on SE Anderson Road, and one driveway from SE Chitwood, stating that minimum 28-foot wide by 20-foot-long paved approaches will be required, and beyond the paved approach, the on-site access and parking and circulation areas also require a paved surface. Mr. Kent points to the preliminary site plan indicating a gravel surface for a portion of the access from SE Chitwood Street, reiterating that paving of the access is required with a minimum of 18 feet in width for two-way travel.
7. Mr. Kent reports that the Clackamas County Engineering Division is the surface water management authority for the area including the subject site. He points out that the proposal will be required to comply with Chapter 4 of the Clackamas County Roadway Standards, including a storm water management plan to provide water quality, detention, and an outfall with capacity to handle storm water contribution from the site. With respect to traffic, Mr. Kent points to ZDO Subsection 1007.09 requirements that an adequate transportation system is in place concurrent with development. He states

¹ See County of Clackamas v. ALJC Holdings LLC, County File No. V0013021 (April 13, 2023) and County of Clackamas v. ALJC Holdings LLC, County File No. V0044620 (April 13, 2023). I disclosed at this public hearing that I also acted as Compliance Hearings Officer at the April 13, 2023 public hearings in these two code enforcement matters, issuing Continuing Orders requiring abatement of various solid waste, building code, and zoning ordinance violations, including requiring compliance with conditions of approval stated in Z0233-20-D and requiring submission of a complete and finished set of engineering documents for the stormwater system. The Continuing Orders also required the applicant to either cease certain commercial activities or submit a land use application and obtain land use approval for the activities.

that the roads serving the project site have adequate capacity, and the engineering staff finds that the roadways will continue to operate within standards with the additional traffic generated by the proposed development. Mr. Kent recommends a number of conditions of approval addressing a number of requirements, including requirements for the improvements he discussed, a roadside drainage ditch along the entire site frontage of SE Anderson Road, requirements for drainage facilities for the site and street improvements in conformance with Clackamas County Roadway Standards Chapter 4. The proposed conditions of approval also included provision and maintenance of adequate sight lines for a minimum intersection sight distance of 280 feet at the driveway intersection with SE Anderson Road. Further, Mr. Kent submitted a recommendation for a condition of approval requiring a performance surety bond based on an Engineer's cost estimate, among other things.

8. Mr. Kent submitted revised County DTD comments on October 3, 2024. These revised comments clarify that due to the recent amendments to the County ZDO Section 1007.04(C), and the proposal site's location in the Rural Commercial zoning district, sidewalks are not required for this proposal based on a rural cross section. In these comments, Mr. Kent provides discussion of the applicant's Transportation Impact Study (TIS) prepared by Lancaster Mobley, dated March 15, 2024 that evaluates the traffic impacts of the proposed development. He points to TIS findings that "the roads serving the project site will not exceed the volume to capacity standards and will have adequate capacity, with development of the proposed project." Mr. Kent points to the TIS identification of an elevated crash rate at the Hwy 212, Sunnyside Road/Anderson Road intersection, with a crash rate exceeding the 90th percentile rate for crashes at similar intersections, stating this warrants review for mitigation.
9. Mr. Kent's additional comments report that the County's Transportation System Plan includes a project that provides for right-in/right-out access at that intersection, and notes that ODOT has provided comments recommending a restriction of traffic movements on SE Anderson Road onto Hwy 212 to right-in/right-out. He also pointed to TIS data showing 20 p.m. peak hour site trips using the signal at Bi-Mart/Foster Rd. to make left turns onto westbound Highway 212, stating it appears the project site relies on access through this adjacent shopping center property and this design review approval does not authorize access of vehicles from the project site through the Bi-Mart shopping center property. Mr. Kent states that County DTD Engineering recommends requiring a raised "pork chop" with striping and signage, further stating that with this mitigation the transportation system serving the project would have adequate safe access. Mr. Kent expressed concerns that limiting left turns at Anderson would drive more traffic to the Bi-Mart driveway, including proposal site traffic use of the Bi-Mart parking lot, but noted the latter issue was a civil matter.
10. Mr. Kent's additional comments include revisions to the County DTD Engineering Department's recommended conditions of approval, adding requirements that the applicant grant an 8-foot wide easement along the entire SE Anderson Road right-of-way frontage for sign, slop and public utilities, and design and construct a raised pork chop at the SE Highway 212/SE Anderson Road intersection restricting access to right-in/right-out turning movements, meeting ODOT standards.
11. Melissa Gonzales-Gabriel, Associate Transportation Planner with the Oregon Department of Transportation, submitted a comment requesting a meeting with County staff regarding potential traffic concerns with this application. Specifically, Ms.

Gonzales-Gabriel requested a meeting to discuss traffic operations near the proposal site's frontage. On August 9, 2024 Ms. Gonzales-Gabriel submitted ODOT's written formal response to the application, noting that the site of the proposed land use is adjacent to Clackamas Highway (OR 212) and ODOT has permitting authority for the facility and an interest in ensuring that the proposed land use is compatible with its safe and efficient operation. ODOT's comments review a March 15, 2024 Transportation study completed by Lancaster Mobley for the applicant. ODOT points to findings that the study intersection of OR 212 & SE Sunnyside Road/SE Anderson Road has a crash rate that exceeds the 90th percentile rate identified by ODOT for similar types of intersection. He comments also note that Clackamas County's Transportation System Plan (TSP) identifies a project to improve safety at this intersection by limiting left-turn movements. ODOT recommends restricting traffic movements on SE Anderson onto OR 212 to right-in-right-out (RI/RO) to address the safety concerns at this location. Further, ODOT recommends the County require the applicant to install a "raised pork chop" supported with paved striping and signage, further stating that plan design, signage and striping will require ODOT review and approval. Ms. Gonzales-Gabriel's submitted comments included recommended conditions of approval, including requiring that the applicant restrict vehicular traffic movements on SE Anderson onto OR 212 to RI/RO, and certain permitting and signage/outdoor advertising requirements.

12. Christian Snuffin, PE, PTOE, County DTD Engineering, submitted written comments concerning the application addressing concerns about restricting left turning movements at the intersection of Anderson and OR 212 through the use of a raised island ("pork chop"), signing and markings, also noting that the designs for these items will be reviewed and approved by ODOT. Mr. Snuffin also pointed to other concerns related to site traffic using the nearby Bi Mart shopping center parking lot, noting this issue is a civil matter between the two property owners. However, Mr. Snuffin expressed his concern that limiting left turns at Anderson may drive more traffic to the Bi Mart shopping center driveway. With respect to the applicant's traffic study, Mr. Snuffin stated that the traffic study showed 20 p.m. peak hour site trips using the signal at Bi Mart/Foster Rd. to make left turns, noting that this is not legal as the applicant does not have an access easement. He further stated that although it is erroneous to show site trips at this intersection, reassigning these trips to Anderson Rd. would not result in appreciably different v/c values, nor change any of the County DTD Engineering findings. Mr. Snuffin also expressed concerns about the proposed access to Chitwood and potential use of that road by site traffic, stating that this road is narrow and posted for no trucks. Mr. Snuffin describes the road as not suitable nor intended for use by industrial traffic, recommending there be no direct access to Chitwood. Mr. Snuffin submitted additional comments concerning ODOT's recommendation regarding restricting turns to/from SE Anderson Road to right-in/right-out with a porkchop island, stating he supports this requirement on the basis of the safety of the intersection stating that 11 of the 30 crashes (nine resulting in injury) at this intersection over the previous five years of data involve vehicles making movements that would be eliminated.
13. Ben Schonberger, AICP, Senior Planner for Winter Brook Planning and the applicant's consultant, submitted comments regarding the proposed "pork chop" diverter and requirements for full sidewalk dedication on Hwy 212 along the site's frontage, and

regarding the right-of-way improvements. Mr. Schonberger provided brief discussion of the comments submitted by Mr. Knepper and a previously approved design submitted by the applicant that received approval and was also appealed by Mr. Knepper. Mr. Schonberger also submitted comments responsive to the comments submitted by ODOT

14. Jennifer Danziger, PE, Lancaster Mobley, conducted a transportation study (the "March 15, 2024 TS") for the proposed site changes for the applicant, noting that in 2020 the County approved a new commercial use and development of a new building on the south lot (TL 00600 only; County File No. Z0233-20-D), whereas the current application proposes to expand the prior approval to include the entire subject property. Ms. Danziger notes that no Transportation Impact Study (TIS) was submitted with the prior 2020 land use approval, and since this application seeks to expand the prior approval, County staff requested a transportation study. Ms. Danziger states that this TIS was scoped to examine existing conditions with and without the current site traffic to understand how the prior approval affected area operations and safety, noting that in addition to consulting with County staff, ODOT was also consulted.
15. The March 15, 2024 TS submitted by Ms. Danziger studies existing conditions, including various vicinity streets and intersections, particularly the SE Sunnyside Road, SE Foster Road, SE Anderson Road, SE Chitwood Road, and the OR 212 SE Sunnyside Road/SE Anderson Road intersection and the OR 212/SE Foster Road intersection. The study provides trip generation information for the proposal showing that 87 employees utilizing 27 trucks are expected to generate a total of 232 average weekday trips, including 99 morning peak hour and 58 evening peak hour trips. The study addressed trip distribution and assignment, as well as traffic volumes, and noted that: "Based on the existing traffic volumes, it appears that nearly half of the traffic exiting the site may travel through the shopping center to access the traffic signal at Foster Road."
16. The March 15, 2024 TS also conducted a crash history review, noting that intersections which experience crash rates in excess of 90th percentile crash rates should be "flagged for further analysis." The study pointed to the intersection of OR 212 & SE Sunnyside Road as having a crash rate that exceeds the 90th percentile rate identified by ODOT for similar types of intersections. Further, the study noted that the Happy Valley Transportation System Plan (TSP) includes planned connections from SE Sunnyside Road to SE Vogel Road and SE Foster Road, intended to reduce the long-term traffic demand on SE Sunnyside Road near OR 212. The study also pointed to a County project that would convert the OR 212/SE Sunnyside Road intersection to right-in/right-out/left-in, add eastbound through and southbound left-turn lane at OR 212/SE Foster Road intersection, and provide pedestrian and bicycle facilities, compatible with the Happy Valley TSP improvements.
17. The March 15, 2024 TS included left-turn lane warrants and preliminary traffic signal warrants for each of the applicable study intersections, providing detailed analysis. The March 15, 2024 TS also included sight distance analysis for all site access intersections along SE Anderson Road and SE Chitwood, finding all relevant sight lines will exceed the recommended intersection sight distance. The March 15, 2024 TS also included operational analysis for each of the study intersections, finding that the study intersections are congested but operate acceptably for the 2023 existing conditions with and without site traffic. Among other things, the March 15, 2024 TS concludes

that the left-turn warrants for the eastbound left-turn movement are not met for the study intersection of OR 212 & SE Sunnyside Road/SE Anderson Road.

18. Ms. Danziger also submitted written comments regarding the proposal and ODOT's recommendation regarding restricting turns to/from SE Anderson Road to right-in/right-out with a porkchop island on the basis of safety. In her comments, Ms. Danziger agrees ODOT's concern with this intersection is valid based on the crash history. She states, however, that "Using a porkchop to restrict movements is notoriously ineffective because determined drivers can still maneuver around the island and make a left-turn movement, particularly when exiting the side street." However, Ms. Danziger also asserts that most drivers would comply with the restriction. Ms. Danziger addresses use of the Bi Mart parking lot, stating that use of the parking lot is much easier than using the traffic signal while making a left-turn onto OR 212 and suggests that restricting the left-turn movement will likely result in more traffic traveling through the shopping center parking lot and more traffic travelling on SE Chitwood Road. Further, with respect to the Chitwood Road access, Ms. Danziger contends that allowing the Chitwood access would not substantially increase use of SE Chitwood Road, pointing out that traffic to/from the site can already use SE Chitwood Road via SE Anderson Road.
19. On October 23, 2024, Erik Forsell, Senior Planner and Planner of Record for this application, approved the application for Design Review subject to conditions of approval. On November 4, 2024, Mr. Gary Knepper filed this appeal, citing the reasons as: "storm water and drainage issues." On December 4, 2024, Mr. Knepper submitted additional written comments concerning his appeal. These comments reference the earlier appeal and public hearing, and the code enforcement actions and related public hearings, asserting that the applicant has yet to comply with the conditions of approval required by the earlier land use approval. Mr. Knepper asserts that the applicant has a chemical storage building only 86 feet from Mr. Knepper's well, and has allowed chemical spills on the subject property. Mr. Knepper also asserts that the applicant deliberately drains surface water onto Mr. Knepper's property causing standing water around his foundation. Mr. Knepper also provided two photographs showing two of the buildings on the subject property together with heavy equipment and a substantial amount of what appears temporary fencing or barrier materials stored outdoors.
20. On December 4, 2024, the applicant's consultant submitted copies of Statement of Feasibility Documents related to the applicant's proposal. These documents include a copy of an April 24, 2024 letter from Brian Lee, P.E., with PACE Engineers, Inc., to Mr. Ken Kent, Senior Planner, County DTD Engineering, requesting County stormwater feasibility approval for the project. The letter described the proposal site and existing conditions and development, as well as the proposed improvements. Mr. Lee's December 4, 2024 letter included a .pdf of the proposed site plan with the BMP facility marked, a site topographical survey, and a BMP calculation sheet. In his letter, Mr. Lee also describes the overall topography of the site, stating:

"The overall topography of the area is south to north, feeding the headwaters of Richardson Creek. The site is located at a local high point which drains to the north through an existing 12-inch storm drainage pipe to Oregon Route 212 (Hwy 212). The storm system in Hwy 212 appears to head southwest to the headwaters of Richardson

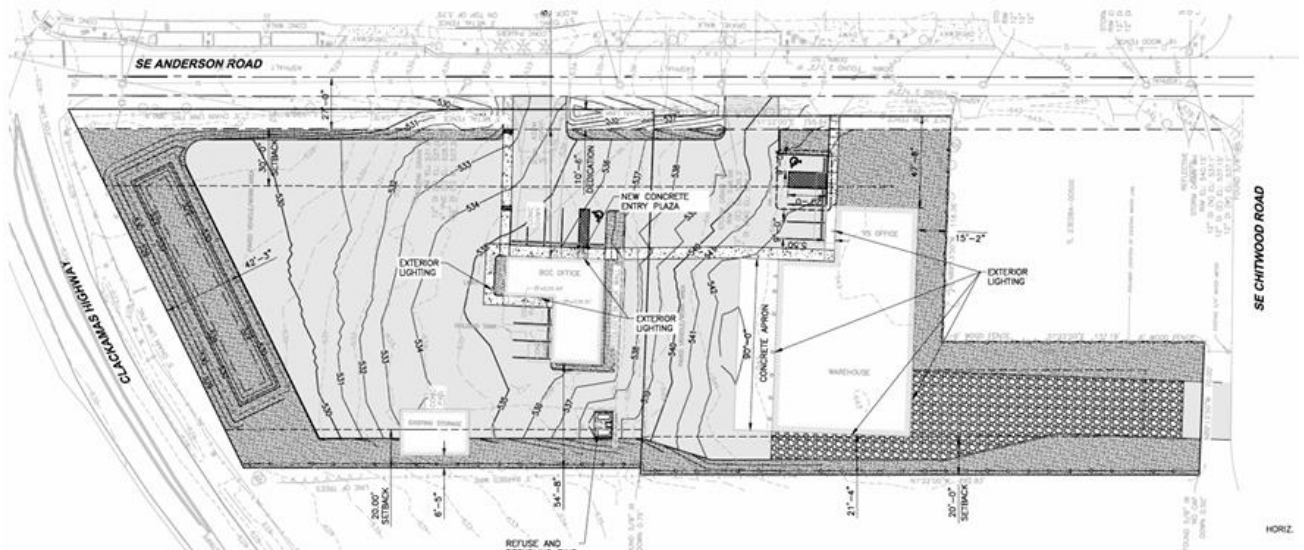
Creek. Due to the site being at a local high point, upstream drainage does not appear to be an issue.

The northeast (low point) corner of the site is adjacent to a 12" public storm drain on Anderson Road, which has sufficient depth to connect to the downstream end of the proposed detention pond. Runoff generated from the paved and hardscaped areas of the site is collected and routed to the proposed stormwater BMP facility via parking lot catch basins. Using published information for the soil properties, BMP sizing calculations were performed using the WES BMP Sizing Tool. According to the sizing tool results, the site requires a 2598 SF pond to manage water quality and flow control. The proposed facility will be positioned in the northeast corner of the site.

The current site drains overland to the north and northwest, primarily toward the street storm system in SE Anderson Road. Since the proposed BMP facility will be designed to discharge at a rate equal to or less than the existing conditions. The 12-inch line in Anderson Road appears to have been constructed as a half-street required of the adjacent retail development. Based on publicly available information, we believe the site can be served by the adjacent 12" storm line in Anderson Road without causing downstream capacity hazards."

December 5, 2024 Hearing

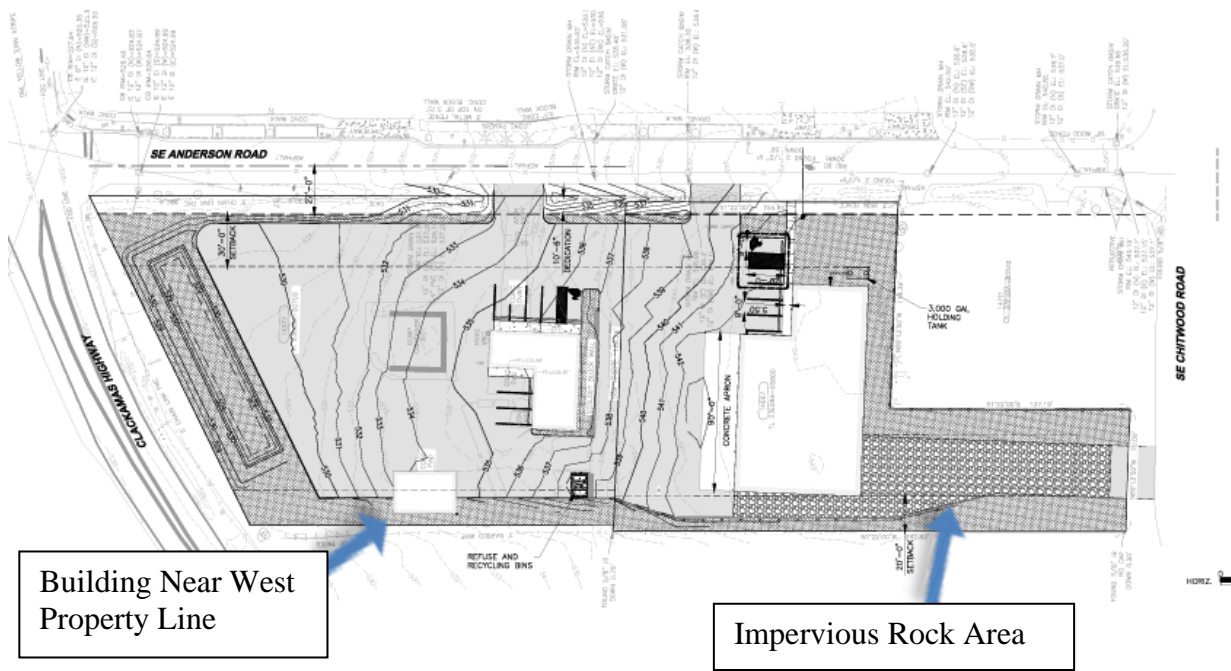
21. At the hearing, Erik Forsell, Senior Planner and Planner of Record for this application discussed the October 23, 2024 staff decision issued in this matter and related exhibits, providing a presentation and discussion of the application, the County's review of the application, approval of the application, and discussion of the appeal.
22. Mr. Forsell pointed to the application, noting the applicant is requesting approval to convert an existing single-family house to an office structure for use by an existing commercial landscaping business. Mr. Forsell explained that, as part of the request, the applicant proposes to upgrade the parking area, decommission a dumping area, install a new stormwater system, and provide other associated improvements such as new commercial approaches, walkways, sidewalks, screening and landscaping.
23. Mr. Forsell noted that the property directly adjacent to the south is in common ownership (23E08A 00600) and was approved for a design review (File No. Z0233-20-D). He explained that these adjacent lots are held in common ownership and the site has shared elements across the boundary line, essentially functioning as one cohesive unit or parcel of land, rather than separate lots with separate uses.
24. Mr. Forsell explained that the application was approved with conditions because the applicant provided substantial evidence and argument that demonstrated consistency with the applicable sections of the ZDO. He pointed to a number of standard conditions related to Design Review that were applied to this decision, including changes to the roadway network, including safety upgrades to the Highway, installation of a new engineered stormwater system, upgrades to parking, walkways, and lighting, and also upgrades to buffering and screening to adjacent properties.
25. Mr. Forsell pointed to certain details concerning the subject property, noting that it is zoned Rural Commercial (RC), has frontage along Clackamas Highway (Hwy 212) and SE Anderson Road, and the current use of the property is for a commercial landscaping and cement business, sharing this site plan (Sheet C8 of 15 – Water and Sewer Plan):



26. Mr. Forsell pointed to the appellant's appeal of the decision approving this application based on stormwater and drainage issues. Mr. Forsell noted that no specific code criteria were indicated in the appeal statement, but reported he received some additional information around 9:20 am that morning.
27. Mr. Forsell discussed the applicable criteria for Design Review in the RC zone for stormwater found at ZDO 1006.06 Surface Water Management and Erosion Control. Mr. Forsell reported there are no outside surface water management authorities for the site and therefore Clackamas County DTD Engineering is the authority and applies the *Clackamas County Roadway Standards* per ZDO 1006.06.B. Mr. Forsell pointed out that the applicant provided signed statements of feasibility from Clackamas County DTD Engineering. He also pointed out that an engineered stormwater report with recommendations for a new stormwater catchment and treatment system is proposed by the applicant. Further, Mr. Forsell reported that County Staff at DTD Engineering never indicated any issues with the stormwater management proposal, the storm report and system are an engineering design, and Planning staff believe that the applicant's stormwater management proposal satisfies ZDO 1006.06.
28. Mr. Forsell states that County Planning staff found that the applicant met the burden of providing that the proposed Design review application met the appropriate approval criteria found in the Development Standards ZDO 1000s and Design Review ZDO 1102. County Planning staff requested that the Hearings Officer affirm the Planning Director's decision to approve the Design Review application with the included conditions indicated in Exhibit 1.
29. Gary Knepper, the appellant, appeared and introduced Bruce Goldson, P.E. and land surveyor with Theta Engineering, who provided testimony in support of Mr. Knepper's appeal opposing approval of the application. Mr. Goldson testified that he reviewed the plans submitted by PACE Engineering, including the stormwater and hydrology report, describing them as unclear. Mr. Goldson asserts that the PACE Engineering reports lack infiltration tests or data concerning seasonal groundwater on the site, stating that the location has very poor infiltration and stormwater continues to discharge onto Mr. Knepper's property. Mr. Goldson points to Mr. Knepper's concerns regarding his well, describing it as a shallow well 70 feet from the property line. He explains that

Mr. Knepper's concerns regarding the surface water issues are exacerbated by concerns of contamination coming from the applicant's property and chemicals stored there. Mr. Goldson reports that these concerns are further exacerbated by grading work that has occurred on the site to within two feet of Mr. Knepper's property.

30. Mr. Goldson points to Sheet C8 of 15 – Water and Sewer Plan shared at the hearing by Mr. Forsell, pointing out that this plan does not show individual buildings on the site or how they will be connected to storm drains or rain drains or connected to a treatment facility, or otherwise how the drainage will be addressed. Further, he contends that Sheet C5 of 15 – Proposed Site Plan shown below fails to indicate contours for a large impervious rock area, asserting that water from the applicant's site flows towards SE Chitwood Road to the south. Mr. Goldson also contends that one of the existing buildings shown is only 6.5 feet from Mr. Knepper's property (which lies to the west) in violation of setback requirements:



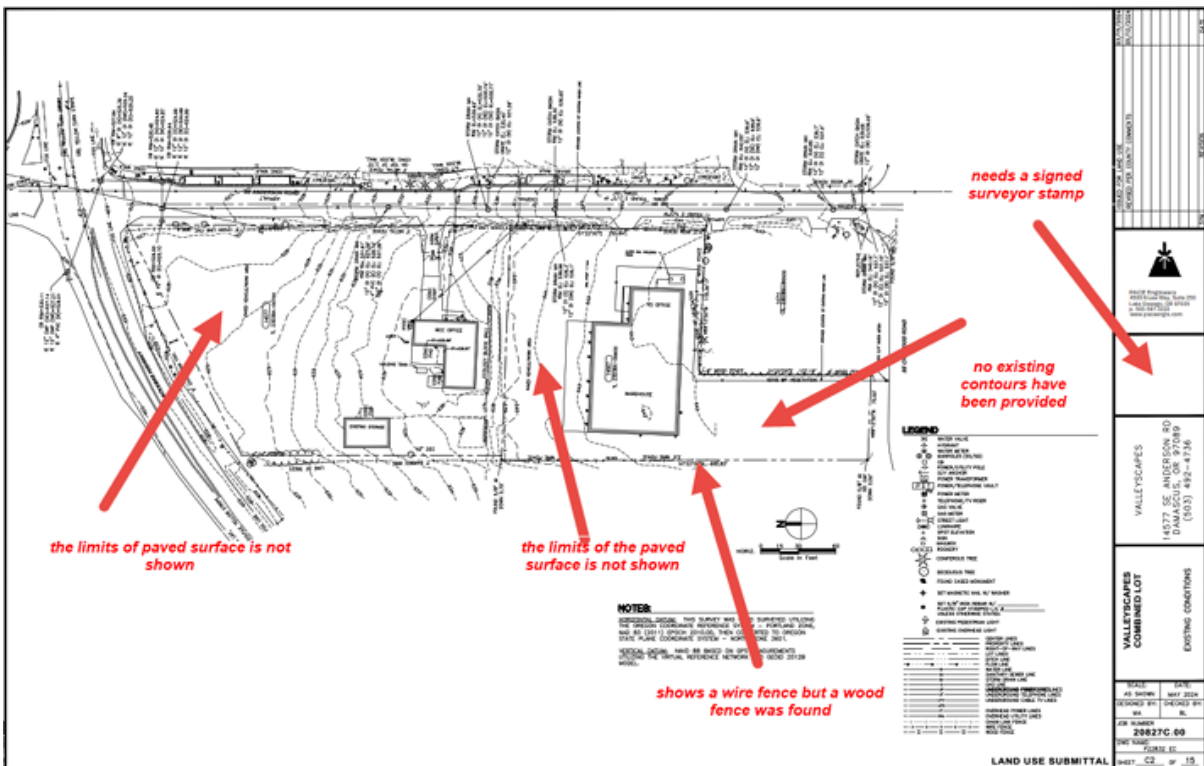
31. The appellant, Mr. Knepper, also provided testimony and argument opposing approval of the application. Mr. Knepper referenced information he submitted to County code enforcement that resulted in two public hearings concerning zoning, solid waste, and building code violations on the applicant's properties. Mr. Knepper references the previous land use approval obtained by the applicant, contending that approved plans for drainage and landscaping have yet to be completed, including French drains that have not installed. Mr. Knepper asserts that the applicant has placed a foot of gravel in the areas marked impervious rock and stores equipment and materials outside in these areas. Further, Mr. Knepper alleges that the applicant has allowed chemical spills on the ground on the site, including recently a "De-Icer" chemical labeled as a hazardous material, in addition to storing commercial vehicles, nursery stock and junk outside on the site. Mr. Knepper points to the applicant's actions in building on the site without permits and disagrees with the applicant continuing to obtain approvals without first completing the required drainage.

32. Adam Lowery, one of the owners of ALJC Holdings LLC, testified in support of approving the application. Mr. Lowery does not dispute there have been delays over the past four years in completing the drainage and other work required for the prior land use approval, pointing to the impacts of COVID, but contends that otherwise they are good neighbors and asserts they are proactively addressing the issues on the property.
33. Brian Lee, PE, is a civil engineer with PACE Engineering. Mr. Lee provided testimony in support of approving the application, reporting that with respect to infiltration and the low-quality soil at the site, the issue was addressed with an oversized detention pond. Mr. Lee explained that there will be connecting rain drains installed with the next level building and final design stages. Mr. Lee stated that the oversized pond is designed to address the drainage issues on the site and will prevent drainage to the adjacent property owned by Mr. Knepper. Mr. Lee also points to plans to construct a culvert to a roadside ditch as referenced in the County's staff report.
34. Ben Schoenberger of Winter Brook Planning points to relying on the expertise of County staff in originally approving the application. Mr. Schoenberger points to the requirements of ZDO 1006.06(C) and the preliminary statement of feasibility issued by Clackamas County, the relevant authority. He points to the expertise of Mr. Lee and PACE Engineering and their work with the County's experts, including Mr. Kent. Mr. Schoenberger asserts that approval of this application will also fix some of the existing code violation issues on the site, while addressing the stormwater issues on both of applicant's tax lots as a single unit will best address the surface water and drainage.
35. The Hearings Officer provided an opportunity for members of the public to provide testimony or comments, and no one requested this opportunity. At the request of the parties, the Hearings Officer kept the record open for additional written submittals, including also a rebuttal period, and a period for a final written statement by the applicant.

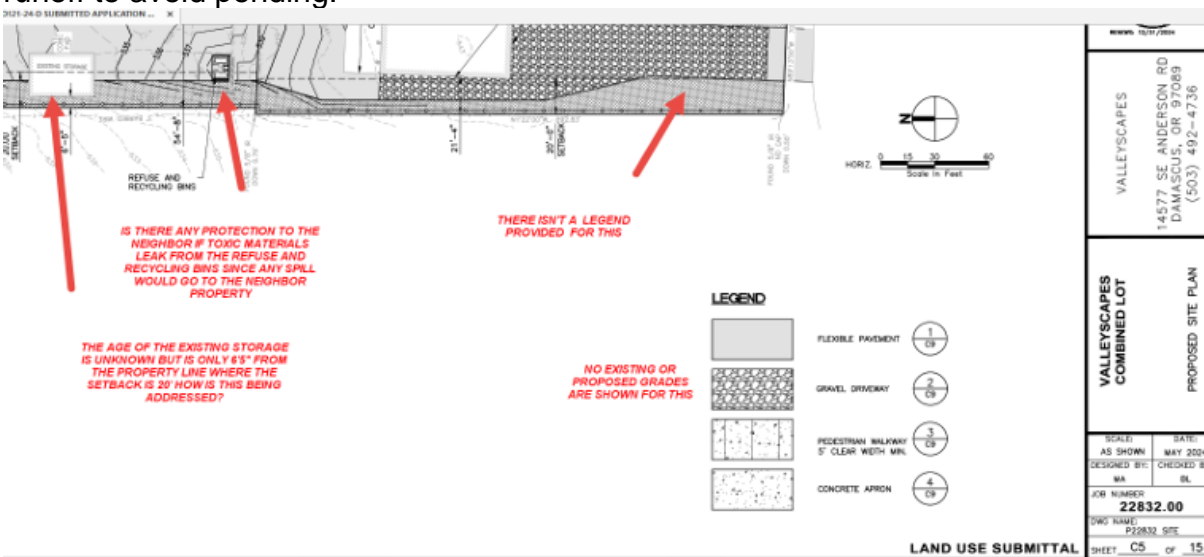
Open Record Period Submissions

36. The appellant submitted additional evidence and arguments opposed to approval of this application in the form of a December 9, 2024 letter prepared by Mr. Goldson, PE, with supporting documents. Mr. Goldson reports that he was a member of the Clackamas County design committee for several years and understands the design review process. Mr. Goldson points to Sheet C2 of 15 – Existing Conditions as lacking several details. Specifically, he asserts the application does not identify issues that need to be brought into compliance. Further, he reports that two renditions in the file are signed preliminary by the engineer with no stamp, with the actual time frame of the survey unknown, and are lacking the customary surveyor signature. Mr. Goldson asserts issues with a lack of description of certain exiting conditions, areas that only partially describe paved areas, and a description on a west boundary survey showing a wire fence that is actually a wood fence.

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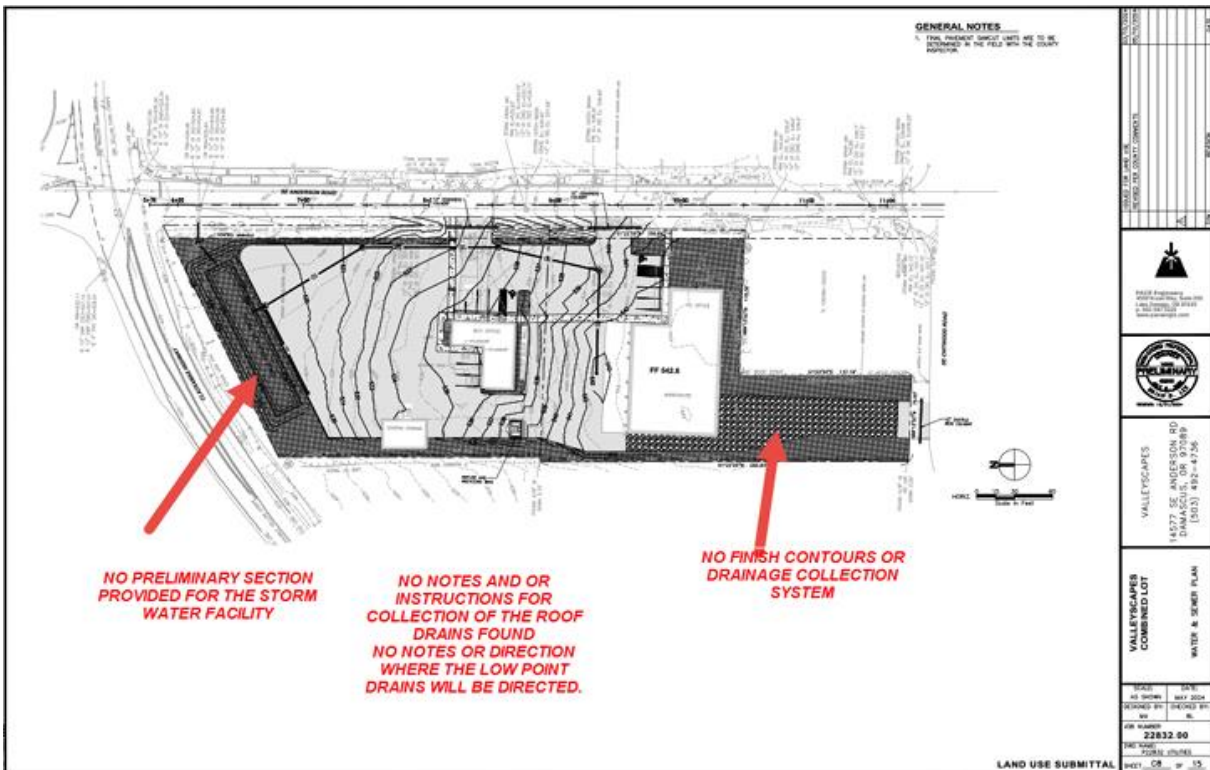


37. Mr. Goldson points to Sheet C5 – Proposed Site Plan as having areas where no key to development is provided on the legend and depicting a building not in compliance with current setbacks. Also, Mr. Goldson points to a refuse and recycling area shown in an area where the proposed contours slope to the west, asserting that if it leaks or spills occur then the overflow (which could contain toxic chemicals) would be directed to the west and towards Mr. Knepper’s well, citing ZDO 1021.03(A) general standards for concrete pads requiring that such a pad be designed to discharge surface water runoff to avoid ponding.



38. Mr. Goldson points to Sheet C8 – Water & Sewer Plan and contends it fails to show the feasibility for storm water collection of the south portion of the property. Mr. Goldson points out there are no notes or statements showing how the rain drains,

foundation drains, or low point drains will be connected to the storm system or whether it is an existing or proposed system. Further, he contends that the feasibility of the detention/infiltration system is in doubt due to the potential of high ground water and no actual infiltration rate nor cross sections of the storm facility. Mr. Goldson points to ZDO 1102 requirements for an existing conditions map, pointing to requirements that include a slope analysis, and also show noise sources, and sun and wind exposures, with none of these items shown.



39. Mr. Goldson reiterates that Mr. Knepper remains concerned about storm water and the applicant bringing the property into compliance with code and zoning ordinances. Mr. Goldson and Mr. Knepper assert that the application should be denied.
40. Ben Schonberger, AICP, of Winter Brook Consulting, and Brian Lee, PE, of PACE Engineering, jointly prepared and submitted a December 19, 2024 memorandum as rebuttal to the December 9, 2024 letter submitted by Mr. Goldson on behalf of the appellant, Mr. Knepper. They point to the subject of Mr. Knepper’s objections as primarily stormwater drainage, asserting that the only relevant related criterion that must be met for approval of the application is contained in ZDO 1006.06(C):
“Approval of a development shall be granted only if the appliance 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.”
41. Applicant’s December 19, 2024 rebuttal memo pointed out that Mr. Lee, a licensed P.E, produced a preliminary stormwater report and design and submitted it to the relevant authority, in this case Clackamas County. They further point out that Ken Kent, Senior Planner for Clackamas County Department of Transportation and Development

Engineering, reviewed the materials from PACE Engineering and signed the preliminary statement of feasibility. In addition, they point out that County staff cited this statement of feasibility in approving the application. Mr. Schonberger and Mr. Lee essentially contend that the land use hearings officer should accept this technical expertise and analysis.

42. The applicant's December 19, 2024 rebuttal memo also addresses several specific issues raised by Mr. Goldson. Mr. Schonberger and Mr. Lee's memo asserts that the appellant's contentions that the development standards to be brought into compliance is not identified are incorrect, pointing to page 9 of the staff decision which cites the applicable approval criteria. With respect to the paved area and fence, they assert that the locations of existing paved areas are labeled on the existing conditions plan, and the existing fence material (wire or wood) is not critical to any of the development standards. Further, Mr. Schonberger and Mr. Lee's memo points out that a 6-foot sight-obscuring fence is proposed on this property line in the proposed plans "both to placate this neighbor and to satisfy ZDO 1009.04 and 1009.07."
43. With respect to appellant's contentions regarding building within the setback, Mr. Schonberger and Mr. Lee's December 19, 2024 rebuttal memo points to the findings in the County's decision that this existing structure is legally nonconforming and was permitted under County building permit number B0214303. With respect to appellant's claims that Sheet C-8 does not show the feasibility of stormwater management on the south portion of the site, Mr. Schonberger and Mr. Lee's memo points to findings by County staff that it did. Further, they assert that the specific details appellant points to as missing are not part of a preliminary stormwater study but will be part of future detailed engineering plans and a final stormwater reported that will be required to meet County design criteria. With respect to cross-section drawings, Mr. Schonberger and Mr. Lee's December 19, 2024 rebuttal memo points to Mr. Goldson's statement that "it would be helpful to have" cross-section drawings, noting that the code does not require such drawings.
44. Mr. Schonberger and Mr. Lee's December 19, 2024 rebuttal memo also responds to Mr. Goldson's assertions that the application lacks existing conditions details. Specifically, they address appellant's points regarding ZDO 1102 requirements for an existing conditions map that includes a slope analysis, and also shows noise sources, and sun and wind exposures, stating that these elements are completeness items that were never identified by staff during that part of the review. Mr. Schonberger and Mr. Lee contend that County staff correctly determined either that these items were irrelevant to the proposed development or not necessary for approval. They note that in the staff decision, staff found that all the items needed to determine compliance are on the existing conditions map. Further, Mr. Schonberger and Mr. Lee argue that a slope analysis is pointless for a site where all of it is less than 20 percent slope. In addition, they argue that no noise sources are on or outside the property that could affect compliance with these standards or criteria, nor is sun or wind exposure relevant here.
45. Mr. Schonberger and Mr. Lee assert that the applicant has met all the standards and criteria in the County code for approval of this application. With regard to stormwater management, they assert the applicant has provided expert analysis about compliance with the County's standards. Further, they point out that a County engineer determined the stormwater analysis sufficient and issued a statement of feasibility without

conditions that was cited by County planning staff initially reviewing and approving this application. Mr. Schonberger and Mr. Lee assert that the appellant has not provided anything specific or relevant enough to deny this application, pointing to the relevant criteria which is to provide a signed statement of feasibility. The applicant did not submit an additional final written argument, submitting instead a written request to close the record.

C. DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. This application was processed as a Type II Permit, pursuant to Clackamas County Zoning and Development Ordinance (ZDO) Section 1307, approved by the Planning Director's designee, Senior Planner Erik Forsell, and this appeal followed. Table 1307-01 authorizes the hearings officer to hear appeals of planning director decisions. Pursuant to ORS 215.416(11)(a), an appeal of an administrative decision is reviewed as a *de novo* matter. The hearings officer is required to conduct an independent review of the record, is not bound by the prior decision of the planning director and does not defer to that decision in any way. The record of the initial proceedings shall, however, be made a part of the record of the appeal. New evidence may be introduced in an appeal, and new issues may be raised. The applicants must carry the burden of proof that the application complies with all applicable approval criteria in light of all relevant substantial evidence in the whole record, including any new evidence.

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections 202, 513, applicable portions of the 1000s (*Development Standards*), 1102 and 1307. 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 and/or in brackets. There are issues raised in this matter that are reviewed in additional detail within the relevant sections discussed below. However, there are issues raised by appellant and others that are not relevant approval criteria, including issues that are the subject of two code enforcement matters and assertions regarding civil matters such as trespassing.***

1. **Background/Overview of Applicant's Proposal:** The applicant is pursuing site redesign to better accommodate two existing businesses, a landscape business, *Valleyscape Solutions and Bridge City Concrete* located at 14667 and 14577 SE Anderson Road. In September of 2020, the County approved a change of use and design review for the southern adjacent property (TL 600) and County File Z0233-20-D to construct a new office building and warehouse structure. These two units of land are held in common ownership (23E08A 00600 and 00700) and operate as one site or parcel with shared elements. However, the application's focus is primarily on the northern lot (TL 700). The applicant's specific request is for design review approval to convert an existing residential structure into a commercial office building with associated improvements such as parking, stormwater facilities, and other elements customarily associated with a

commercial office building.

- ZDO Section 513, Rural Commercial (RC) Districts:** [*Hearings Officer*] ZDO 513 applies to property within the Rural Commercial (RC) zoning district, including the subject property. Uses permitted in the RC District are listed in Table 513-1: *Permitted Uses in the RTC and RC Districts*. In addition, uses similar to one or more of the listed uses for the applicable zoning district may be authorized pursuant to Section 106, *Authorizations of Similar Uses*.

FINDING: [*Hearings Officer*] The applicant’s proposed use is primarily an office for the purpose of supporting commercial construction and maintenance business with allowed accessory uses. Table 513-1 describes a variety of uses which allow the applicant’s businesses to operate on the proposal site as *primary uses*, as shown:

Table 513-1: Permitted Uses in the RTC and RC Districts

Use	RTC	RC
Accessory Uses, Customarily Permitted , such as amateur (Ham) radio antennas and towers, arbors, bicycle racks, carports, citizen band transmitters and antennas, cogeneration facilities, courtyards, decks, decorative ponds, driveways, electric vehicle charging stations, family child care homes, fountains, garages, garden sheds, gazebos, greenhouses, HVAC units, meeting facilities, outdoor kitchens, parking areas, patios, pergolas, pet enclosures, plazas, property maintenance and property management offices, recreational facilities (such as bicycle trails, children’s play structures, dance studios, exercise studios, playgrounds, putting greens, recreation and activity rooms, saunas, spas, sport courts, swimming pools, and walking trails), rainwater collection systems, satellite dishes, self-service laundry facilities, shops, solar energy systems, storage buildings/rooms, television antennas and receivers, transit amenities, trellises, and utility service equipment	A	A
Services, Commercial—Construction and Maintenance , including contractors engaged in construction and maintenance of buildings, electrical systems, and plumbing systems	P	P
Offices , including administrative, business, corporate, governmental, and professional offices. Examples include offices for the following: accounting services, architectural services, business management services, call centers, employment agencies, engineering services, governmental services, income tax services, insurance services, legal services, manufacturer’s representatives, office management services, property management services, real estate agencies, and travel agencies.	P	P

Dimensional standards in the RC zoning district are listed in Table 513-2: *Dimensional Standards in the RTC and RC Districts, Except in Government Camp*. Generally, there is no minimum lot size, with required minimum front setbacks of 30 feet, and minimum rear and side setbacks of 10 feet. However, if a lot line abuts a residential zoning district, the minimum is 20 feet, with certain exceptions. The maximum building floor space per commercial use outside an unincorporated community is 3,000 square feet.

The applicant states that the converted office structure will be used for the Bridge City Concrete business, which is a separate use from the previously approved Valleyscape business that was approved under County File Z023320 for the adjacent lot to the south

also owned by ALJC Holdings LLC (TL 00600). The converted office structure is an existing structure, with no expansion of its footprint proposed, and it meets the stated setback requirements for the RC zoning district. There is an existing storage building approximately 6.5 feet from the side property line, as asserted by the appellant Mr. Knepper and identified by Mr. Goldson. However, this is an existing 24 x 36 pole building structure (864 square feet) on the subject property that was permitted under County Building Permit No. B0214303 prior to the current application.

FINDING: [*Hearings Officer*] These dimensional criteria are met.

ZDO Section 1004, Historic Protection: The project site is relatively close to a historic feature. The property at 14711 SE Anderson Rd. (Tax lot: 23E08A 0500) is a County designated Historic Landmark and is also included in the National register of Historic Places (Damascus School, #80003304). The potential impacts and discussion of protecting that historic feature were included in the prior land use approval Z0223-20 (mentioned previously in this report). As part of the Hearing's Officer Decision approving that land use case, the applicant was required to provide a revised site plan and install landscaping, fencing and buffering as conditions of approval.

If during construction and site preparation, items that appear to be of archaeological or historical significance are discovered, the applicant shall contact the State Historic Preservation Office (SHPO) to report the discovery and request guidance.

As a condition of approval, staff will need to verify that the protective measures required by the previous land use decision are in place as stated by the applicant. This can be accomplished by the applicant providing photo evidence to staff or by a site visit to the site.

FINDING: These criteria can be met as conditioned. [*The Hearings Officer reviewed and agrees with the above discussion and concurs in this finding, adopting the related condition.*]

3. **ZDO Section 1005, Site and Building Design:**

Staff Finding: *It is important to note that the proposal is to convert an existing residential structure into an office structure – no expansion of footprint is proposed. The structure generally fits the character of the area, is suitable for the proposed use, and is not highly visible from the street. Requiring redevelopment of the site to strictly meet the site and building design standards in the ZDO is not practical according to the applicant and the applicant states that requiring them to do so would result in expensive redevelopment of the site that is not needed to accommodate the existing use and business.*

Staff believe that while this statement is likely true to some degree, it is also important to note that the code and comprehensive plan are clearly written in such a manner that commercially zoned properties with substandard development should be required to meet the current code or otherwise seek relief via a variance or in the case of this application the built-in modification standards of ZDO 1005.6. If all properties were to remain the same simply to avoid the code standards, there are either issues with the code

implementing measures and/or that the use (business) bears some burden of responsibility for meeting the code, which in this case means improvements to the site consistent with the ZDO 1005 standards.

In this case, the proposed and required improvements to the parking areas, stormwater functionality, and screening to adjacent, non-compatible uses, and improved safety measures at the intersection with the highway do provide some of the important code required upgrades that would otherwise not happen unless taken by the applicant's own volition.

Furthermore, the ZDO requires that new development and redevelopment in the RC, Rural Commercial zone is processed through a design review application. Discussion regarding consistency with the applicable development standards is a requirement for design review – that information is found below in this decision.

Rather than a line-by-line finding for each substandard, the decision describes the general consistency with the overarching subsections of ZDO 1005.

[Hearings Officer: The Hearings Officer concurs in the above analysis and approach to these issues as stated in this discussion taken from the original staff decision in this matter. As discussed further herein, the applicant is required to meet applicable criteria of this section, including providing the referenced improvements to parking areas, stormwater functionality, screening to adjacent non-compatible uses, frontage improvements that will include safety improvements to the intersection of SE Anderson and Hwy 212, and approvals from the Fire Marshall, prior to obtaining a new certificate of occupancy.]

ZDO Section 1005.02, Site and Building Design – General Site Design Standards

The following site design standards apply:

- A. Where feasible, cluster buildings within single and adjacent developments for efficient sharing of walkways, on-site vehicular circulation, connections to adjoining sites, parking, loading, transit-related facilities, plazas, recreation areas, and similar amenities.
- B. Where feasible, design the site so that the longest building elevations can be oriented within 20 degrees of true south in order to maximize the south-facing dimensions.

STAFF FINDING: *The proposal is to convert an existing structure to a new use and purpose. To cluster the development or reorient the structures on the site, it would require the applicant/owner to demolish and redevelop the site. The criteria above contain a statement, 'where feasible', the applicant suggests this is not a feasible criterion to meet without significant cost to the owner. Staff agree with this assertion and deem it appropriate not to require strict adherence to these criteria. **Strict adherence to these criteria is not feasible or practical. [The Hearings Officer concurs in this finding.]***

- C. Minimum setbacks may be reduced by up to 50 percent as needed to allow improved solar access when solar panels or other active or passive solar use is incorporated into the building plan.

STAFF FINDING: *Not applicable; the applicant is not requesting a reduction to the setbacks standards. [The Hearings Officer concurs.]*

- D. A continuous, interconnected on-site walkway system meeting the following standards shall be provided.

1. Walkways shall directly connect each building public entrance accessible to the public to the nearest sidewalk or pedestrian pathway, and to all adjacent streets, including streets that dead-end at the development or to which the development is not oriented.
2. Walkways shall connect each building to outdoor activity areas including parking lots, transit stops, children's play areas, and plazas.
3. Walkways shall be illuminated. Separate lighting shall not be required if existing lighting adequately illuminates the walkway.
4. Walkways shall be constructed with a well-drained, hard-surfaced material or porous pavement and shall be at least five feet in unobstructed width.

STAFF FINDING: The applicant's revised site plan submitted in response to an incomplete letter demonstrates that the proposed walkways connect building entrances to sidewalks, to the previously approved warehouse structure on the adjoining lot and to the frontage of SE Anderson Street. The walkway is made of differentiated material from the proposed asphalt parking areas and exterior wall mounted lighting will provide sufficient illumination to the walkway areas. As a condition of approval, the applicant shall demonstrate that the walkways are installed as proposed prior to final certificate or occupancy for the conversion of the dwelling to the new office structure.

These criteria can be met as conditioned. ***[The Hearings Officer concurs in this finding, adopting the related condition.]***

5. Standards for walkways through vehicular areas:
 - a. Walkways crossing driveways, parking areas, and loading areas shall be constructed to be clearly identifiable to motorists through the use of different paving material, raised elevation, warning signs, or other similar methods.
 - b. Where walkways are adjacent to driveways, they shall be separated by a raised curb, bollards, landscaping, or other physical barrier.
 - c. Inside the Portland Metropolitan Urban Growth Boundary (UGB), if the distance between the building public entrance and street is 75 feet or greater and located

adjacent to a driveway or in a parking lot, the walkway shall be raised, with curbs, a minimum four-foot-wide landscape strip and shade trees planted a maximum of 30 feet on center.

- d. The exclusive use of a painted crossing zone to make walkways identifiable to motorists may be used only for portions of walkways which are shorter than 30 feet and located across driveways, parking lots, or loading areas.
- e. 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.

STAFF FINDING: The applicant's plans and statement indicate that the walkways traversing the parking area will be constructed with concrete to clearly differentiate the walkway areas from the asphalt paving. The subject property is within the Portland Metro UGB; however, the distance between the building public entrance and the street is less than 75-feet according to the revised site plan submittal. There is insufficient detail in the submittal to determine if the walkways bordering the proposed striped and marked parking spaces contain the elements described at 1005.2.D.5.e above. Therefore, as a condition of approval, the applicant shall demonstrate prior to final certificate of occupancy for the conversion of the dwelling that the walkways in these areas are at least 7-feet wide or contain the other protective elements described.

These criteria can be met as conditioned. *[The Hearings Officer concurs in this finding, adopting the related condition.]*

- 6. ***The interconnected onsite walkway system shall connect to walkways in adjacent developments, or stub to the adjacent property line if the adjacent land is vacant or is developed without walkways.***
 - a. ***Walkway stubs shall be located in consideration of topography and eventual redevelopment of the adjacent property.***
 - b. ***Notwithstanding the remainder of Subsection 1005.02(D)(6), walkway linkages to adjacent development shall not be required within industrial developments, to industrial developments, or to vacant industrially zoned land.***

STAFF FINDING: *The interconnected walkway system provides access to the frontage to the east (SE Anderson Road) which connects sidewalks to the adjacent properties. The internal walkways provide linkages to the adjacent property (TL 00600) held in common ownership providing interconnection within the site as a whole.*

The provision of sidewalks to HWY 212 is impractical; there are no existing sidewalks within the frontage and the proposal is to place a large buffered

vegetated stormwater facility in this location. There are no plans for the installation of new sidewalks along the frontage of HWY 212 which further adds to the impracticality of installing walkways/sidewalks to the frontage of the highway.

These criteria are met. [The Hearings Officer concurs.]

- E. Inside the UGB, except for industrial developments, a minimum of 50 percent of the street frontage of the development site shall have buildings located at the minimum front setback line.***

FINDING: The applicant has requested a modification to this standard which is discussed later in this decision.

These criteria can be met as modified by request of the applicant. [The Hearings Officer concurs in this finding.]

- F. Inside the UGB, parking lots larger than three acres in size shall be built with major on-site vehicular circulation ways that include raised walkways with curbs, a minimum four-foot-wide landscape strip, and shade trees planted a maximum of 30 feet on center.***

- G. New retail, office, mixed use, multifamily, and institutional buildings located at a major transit stop shall be set back a maximum of 20 feet from at least one of the following: the major transit stop, the major transit street or an intersecting street, or a pedestrian plaza at the major transit stop or a street intersection.***

- H. New retail, office, mixed use, multifamily, and institutional buildings located at a major transit stop shall be set back a maximum of 20 feet from at least one of the following: the major transit stop, the major transit street or an intersecting street, or a pedestrian plaza at the major transit stop or a street intersection.***

FINDING: *Not applicable the subject site is not located on a major transit stop and the proposed parking areas on the site are not larger than 3 acres. [The Hearings Officer concurs.]*

- I. In the PMU District, there shall be no vehicular parking or circulation within the front setback area.***
- J. In the OC District, the design and siting of structures shall control public access points into office buildings, utilizing a central lobby design, entrance courtyard, internal pedestrian walkway or mall, or similar designs that protect business/professional uses from the disturbances of direct public access.***

FINDING: *Not applicable; the subject site is not within one of the zoning districts mentioned above. [The Hearings Officer concurs.]*

- K. Where a minimum floor area ratio (FAR) is required by the standards of the applicable zoning district, it shall be calculated as follows:***

FINDING: *Not applicable the subject site is not subject to Floor to Area ratio standards. [The Hearings Officer concurs.]*

L. The following standards apply in the HDR, RCHDR, and SHD Districts:

FINDING: *Not applicable; the subject site is not within one of the zoning districts mentioned above. [The Hearings Officer concurs.]*

ZDO Section 1005.03, Site and Building Design – Building Design

A. The following standards apply to building facades visible from a public or private street or accessway and to all building facades where the primary entrance is located.

- 1. Building facades shall be developed with architectural relief, variety and visual interest and shall avoid the effect of a single, long or massive wall with no relation to human size. Examples of elements that subdivide the wall: change in plane, texture, masonry pattern or color, or windows.**
- 2. Building facades shall have particular architectural emphasis at entrances and along sidewalks and walkways.**
- 3. Provide visual interest through use of articulation, placement and design of windows and entrances, building trim, detailing, ornamentation, planters, or modulating building masses.**
- 4. Utilize human scale, and proportion and rhythm in the design and placement of architectural features.**
- 5. Use architectural features which are consistent with the proposed use of the building, level and exposure to public view, exposure to natural elements, and ease of maintenance.**
- 6. When uses between ground-level spaces and upper stories differ, provide differentiation through use of bays or balconies for upper stories, and awnings, canopies, trim, and other similar treatments for lower levels.**

FINDING: *The proposal is to convert the dwelling into an office structure. The future office structure has preexisting and inherent architectural elements that generally meet the standards above. The structure has articulation, change in color from roof (blue metal) to wall (tan and white large lap siding) and there is a proposed concrete 'plaza entryway' that faces SE Anderson. The applicant has supplied images of the structure below that also provide visual evidence in the record to demonstrate the structure meets the criteria above.*

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Figure 6. Front, or east-facing, façade of existing structure



Figure 7. North-facing façade of existing structure

Additionally, the applicant makes an argument that since there is a request to modify ZDO 1005.02(E) which requires that the structures are located so that 50% of the structure area is constructed/placed at the minimum front setback line, the architectural features described above become impractical and unreasonable. The need and utility for retrofitting the structure to provide a variety of treatments to the façade to meet what are essentially architectural components that are intended to provide generally understood and accepted ‘structure on the street’ attributes becomes less pragmatic. Staff generally agree with this argument – the requirement to redesign the entire structure to emphasize architectural components that are largely not visible to the public does not appear to meet the intent of the code.

These criteria are met with the understanding that the modification to ZDO 1005.02.E is modified. [The Hearings Officer concurs in this finding, modifying the criteria of ZDO 1005.02 E. consistent with prior discussion approving repurposing of this existing structure.]

B. Requirements for building entries:

- 1. Public entries shall be clearly defined, highly visible, and sheltered with an overhang or other architectural feature, with a depth of at least four feet.**
- 2. Commercial, mixed-use and 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.**

FINDING: *The applicant is proposing to construct a new concrete entry plaza on the eastern portion of the future converted office structure according to the revised site plan. The area will be well lit and have a clearly defined public entry location to the site with parking providing direct access to the public entry area. The existing roof eaves extend two feet over the entrance area providing a covered entryway.*

As mentioned above, the applicant has requested to modify the requirements of ZDO 1005.02.E so by that reasoning they contend that strict adherence to the subcategories and standards found under that heading should also be modified (1005.03.B.2.)

These criteria are met. [The Hearings Officer concurs, consistent with earlier findings concerning conversion of an existing residential structure to use as a commercial office.]

C. The street-facing facade of commercial, mixed-use and institutional buildings sited to comply with 1005.02(E) shall meet the following requirements:

- 1. Facades of buildings shall have transparent windows, display windows, entry areas, or arcades occupying a minimum of 60 percent of the first floor linear frontage.**
- 2. Transparent windows shall occupy a minimum of 40 percent of the first floor linear frontage. Such windows shall be designed and placed for viewing access by pedestrians.**
- 3. For large-format retail buildings greater than 50,000 square feet, features to enhance the pedestrian environment, other than transparent windows, may be approved through design review. Such items may include, but are not limited to display cases, art, architectural features, wall articulation, landscaping, or seating, provided they are attractive to pedestrians, are built to human scale, and provide safety through informal surveillance.**

FINDING: *As mentioned above, the applicant has requested to modify the requirements of ZDO 1005.02.E so by that reasoning they contend that strict adherence to the subcategories and standards found under that heading should also be modified (1005.03.B.2.)*

Since the modification request removes the need to site the building within the minimum front setback area, the need for large glazing floor to ceiling windows is not necessitated by this

development proposal. ZDO 1005.03.C.3 above is not applicable because the proposal is not for a large format retail building.

These criteria are not applicable. [The Hearings Officer concurs.]

D. Requirements for roof design:

- 1. For buildings with pitched roofs:**
 - a. Eaves shall overhang at least 24 inches.**
 - b. Roof vents shall be placed on the roof plane opposite the primary street.**
- 2. For buildings, other than industrial buildings, with flat roofs or without visible roof surfaces, a cornice or other architectural treatment shall be used to provide visual interest at the top of the building.**

FINDING: *The applicant's submittal which includes pictures of the existing structure which demonstrate that the roof is compliant with these standards.*

These criteria are met. [The Hearings Officer concurs.]

E. Requirements for exterior building materials:

- 1. Use architectural style, concepts, colors, materials, and other features that are compatible with the neighborhood's intended visual identity.**
- 2. Building materials shall be durable and consistent with the proposed use of the building, level and exposure to public view, exposure to natural elements, and ease of maintenance.**
- 3. Walls shall be surfaced with brick, tile, masonry, stucco, stone or synthetic equivalent, pre-cast masonry, gypsum reinforced fiber concrete, wood lap siding, architecturally treated concrete, glass, wood, metal, or a combination of these materials.**
- 4. The surfaces of metal exterior building materials that are subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and the surfaces of metal exterior building materials with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion**

FINDING: *The applicant's submittal and drawing sets demonstrate consistency with the architectural standards mentioned above. The exterior of the structure is made of wood lap siding, and the roof material is a coated metal which is resistant to the elements, damage and wear and tear.*

These criteria are met. [The Hearings Officer concurs.]

F. Additional building design requirements for multifamily dwellings and middle housing, except middle housing developed pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters:

FINDING: *Not applicable; the proposed development is not middle housing. [The Hearings Officer concurs.]*

G. Requirements to increase safety and surveillance:

- 1. Locate buildings and windows to maximize potential for surveillance of entryways, walkways, and parking, recreation, and laundry areas.**
- 2. Provide adequate lighting for entryways, walkways, and parking, recreation, and laundry areas.**
- 3. Locate parking and automobile circulation areas to permit easy police patrol.**

4. Design landscaping to allow for surveillance opportunities.
5. Locate mailboxes where they are easily visible and accessible.
6. Limit fences, walls and, except for trees, landscaping between a parking lot and a street to a maximum of 30 inches in height.
7. Locate play areas for clear parental monitoring.

FINDING: *The site development proposal includes adequate lighting and additional wall mounted lighting; the nature of the development necessitates buffering and screening from incompatible uses rather than being highly visible. The need for buffering neighboring properties outweighs the criteria that provide for a highly visible site.*

These criteria are met. [The Hearings Officer concurs.]

H. Solar access requirements:

1. Except for uses with greater cooling needs than heating needs, such as many retail uses, concentrate window areas on the south side of buildings (within 20 degrees of due south) where there is good southern exposure.
2. Provide overhangs, balconies, or other shading devices to prevent excessive summer heat gains.
3. Use architectural features, shape of buildings, fences, natural landforms, berms, and vegetation to catch and direct summer breezes for natural cooling, and minimize effects of winter winds.

FINDING: *The proposed converted structure will have a minimum of 24-inch eaves which provide shade from excessive heat gain during the summer months. Since the structure is existing, any significant orientation changes are impractical to meet the strict criteria described at (1) and (3) above.*

These criteria are met. [The Hearings Officer concurs.]

- I. Requirements for compatibility with the intent of the design type or with the surrounding area.** For purposes of Subsection 1005.03(I), design types are Centers, Station Communities or Corridor Streets as identified on Comprehensive Plan Map IV-8, Urban Growth Concept; X-CRC-1, Clackamas Regional Center Area Design Plan, Regional Center, Corridors and Station Community; X-SC-1, Sunnyside Corridor Community Plan, Community Plan Area and Corridor Design Type Location; or X-MC-1, McLoughlin Corridor Design Plan, Design Plan Area. The intent of these design types is stated in Chapter 4 or 10 of the Comprehensive Plan.

FINDING: *Not applicable; the site is not within any of these identified areas. [The Hearings Officer concurs.]*

J. Requirements for screening mechanical equipment:

- 1. Rooftop mechanical equipment, except for solar energy systems, shall be screened from view by the use of parapet walls or a sight-obscuring enclosure around the equipment. The screen shall be constructed of one of the primary materials used on the primary facades, and shall be an integral part of the building's architectural design;**
- 2. Ground mounted mechanical equipment shall be located away from the intersection of two public streets, to the extent practicable, and shall be screened by ornamental fences, screening enclosures, or landscaping that blocks at least 80 percent of the view;**
- 3. Wall mounted mechanical equipment shall not be placed on the front of a building or on a facade that faces a street. Wall mounted mechanical equipment that extends six inches or more from the outer building wall shall be screened from view from the streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through one of the screening techniques used in Subsection 1005.03(J)(1) or (2).**

FINDING: *No wall mounted equipment is proposed. Rooftop equipment will be located 20 feet behind exterior parapet walls. Ground mounted equipment is proposed to be located more than 100-feet away from the intersection of two streets. As a condition of approval, the applicant shall install screening that meets the standards that meet subsection (2) above. The installation of the equipment shall be verified prior to final certificate of occupancy for the alteration of the residential structure.*

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting the related condition.]

K. Requirements for specialized structures in industrial zoning districts:

FINDING: *Not applicable; the site is not zoned for industrial use. [The Hearings Officer concurs.]*

L. Facades in the OA District: In the OA District, facades are subject to the following standards:

FINDING: *Not applicable; the site [is not] within an OA zoning district. [The Hearings Officer concurs in this finding as modified.]*

ZDO Section 1005.04, Site and Building Design – Outdoor Lighting

A. Outdoor lighting devices:

- 1. Shall be architecturally integrated with the character of the associated**

structures, site design, and landscape.

2. Shall not direct light skyward.
3. Shall direct downward and shield light; or direct light specifically toward walls, landscape elements, or other similar features, so that light is directed within the boundaries of the subject property;
4. Shall be suitable for the use they serve (e.g. bollard lights along walkways, pole mounted lights for parking lots).
5. Shall be compatible with the scale and intensity of uses they are serving. The height of pole-mounted fixtures shall not exceed 25 feet or the height of the tallest structure onsite, whichever is less; and
6. At entrances, shall be glare-free. Entrance lighting may not exceed a height of 12 feet and must be directed downward.

FINDING: *The applicant's revised site plan shows new and existing wall mounted lighting that appears to be architecturally integrated with the structures and site design. No new pole mounted lighting is proposed.*

These criteria are met. [The Hearings Officer concurs.]

ZDO Section 1005.05, Site and Building Design – Additional Requirements

FINDING: *The preapplication conference (ZPAC0057-23) stated that because of the small amount of site area and the conversion of an existing structure that only one (1) of the additional requirements stated in ZDO Section 1005.04 would apply. The site is approximately 1.16 acres or 50,500 square feet and therefore two (2) additional requirements would apply. The applicant states and staff notes that the proposal will meet:*

- ZDO 1005.05.G – Providing approximately 25% of the site in landscaping, exceeding the minimum of 15%
- ZDO 1005.05. J – Coordinated on-site storm water treatment with the regulating authority.

These criteria are met. [The Hearings Officer concurs.]

ZDO Section 1005.01, Purpose

Section 1005 is adopted to ensure sites are developed and buildings designed to:

- A. Efficiently utilize the land used in development, particularly urban land in centers, corridors, station communities and employment areas;
- B. Create lively, safe, attractive and walkable centers, corridors, station

communities, employment areas and neighborhoods;

- C. Support the use of non-auto modes of transportation, especially pedestrian trips to and between developments;
- D. Support community interaction by creating lively, safe and attractive public use spaces within developments and on the street;
- E. Reduce impacts of development on natural features and vegetation;
- F. Utilize opportunities arising from a site's configuration or natural features;
- G. Encourage use of green building technologies and green site development practices, energy conservation and use of renewable energy resources;
- H. Design illumination so that dark skies are maintained to the extent possible, balanced with the lighting needs of safe and functional developments; and
- I. Accommodate the needs of the users to be located in developments

ZDO Section 1005.06, Site and Building Design – Modifications

FINDING: *As mentioned previously in this decision, the applicant has requested modifications to ZDO 1005.02.E. The modification is to the site design standards that requires 50 percent of the street frontage of the site is occupied by buildings at the minimum setback line. That modification has somewhat of a 'crescendo effect' in which it negates other requirements of ZDO 1005 section.*

The minimum front setback of the RC zoning district is 30-feet and according to the applicant's submitted plans and narratives, the existing structure to be converted is setback approximately 67-feet from the property line. The applicant states that strict adherence with the standard would require demolishing an existing structure, moving it or enlarging the structure to meet the standard.

*The standards for modifications are that the development proposal will meet the purpose standards of ZDO 1005.01 **as well or better than** the listed requirement proposed for modification.*

FINDING: *The applicant asserts that only A, B, G and I above [referring to the purpose section of ZDO Section 1005] are applicable to the modification of ZDO 1005.02.E. Staff find that assertion is debatable in terms of applicability. Staff contends that D above also applies as the standard is related to locating the built environment close to the street which facilitates the 'creat(ion) of lively, safe and attractive public use spaces within developments and on the street.*

ZDO 1005.01.A – *Regardless, the applicant asserts that (A) is met because maintaining the location of the existing building more efficiently uses land within the development by*

not allocating vacant area to development. The applicant states that it is more efficient to retain an existing structure and retrofit it than to construct a new one to meet the standard.

Staff agrees with this statement – this criterion is met. [The Hearings Officer concurs.]

ZDO 1005.01.B – The applicant states that retaining the existing structure on the site and repurposing it promotes the attractiveness and safety of the neighborhood as well as requiring its removal, reconstruction or expansion. The applicant states that this would degrade the safety, surveillance and interactivity along SE Anderson. The applicant states that this is the case because deeper views would not be possible on the site with structures constructed at the minimum setback line.

Staff agree with this statement. Constructing new development along the frontage is likely **more** conducive to creating a lively and attractive area with more engagement with the public realm than reconstructing/repurposing an existing structure that is recessed on the site, largely hidden from view and does not provide interactivity or liveliness on the site. The placement of the structures at the minimum setback line enhances human scale and contributes to more interactive and lively corridors – SE Anderson Street and/or HWY 212 (Clackamas Highway).

However, the retention of the existing structure and providing upgrades to it and the site improve the aesthetics and functionality between the public and private realm as well. The site is an actively used landscaping and cement business, not a ‘main street boutique shop’ and there are significant differences between the intent of the code and the reality of the sites uses which is a reasonable argument in this application. **[The Hearings Officer concurs.]**

ZDO 1005.01.G – The applicant states that allowing the repurposing of an existing structure rather than demolishing and rebuilding a new structure to meet the standards is a far superior green building practice and saves on resources, energy and construction impacts.

Staff agree with this statement. [The Hearings Officer concurs]

ZDO 1005.01.I – The applicant states that allowing the user to develop the site as proposed is more functional to the user.

Staff agree with this statement. The user of the site has ownership in the adjoining lot, adjacent south and has gone through a previously approved design review process. The applicant knows how to operate their business and although there are some impact issues which should be mitigated to some extent by the required improvements on the site.

The user is a landscape/contracting company so the usage of the site is not something similar to a bank, office, or shop where some of the more standards requirements of the code make as much as sense as this modification allowance.

[The Hearings Officer reviewed and agrees with the above discussion and concurs in these findings. This is not an application to construct a new office. Rather, this application seeks to repurpose an existing single-family residential structure for use as an office, a primary use within this zone.]

4. ZDO Section 1006, Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control

ZDO Section 1006.01 – General Standards

- A. The location, design, installation, and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the rules and regulations of the surface water management regulatory authority.***
- B. All development that has a need for electricity, natural gas, and communications services shall install them pursuant to the requirements of the utility district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.***
- C. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.***
- D. Easements shall be provided along lot lines as deemed necessary by the County, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency.***

FINDING: *The applicant has stated that the proposed development will be constructed and developed in coordination with the utility providers. No easements have been identified as necessary for utility provision. The applicant has provided signed statements of feasibility for storm, water, and septic provision.*

These criteria are met. [The Hearings Officer concurs.]

ZDO Section 1006.02 – Street Lights

- A. Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development. A street light shall be installed where a new road intersects a County road right-of-way and, in the case of subdivisions, at every intersection within the subdivision.***
- B. Areas outside Clackamas County Service District No. 5 shall annex to the district through petition to the district.***

FINDING: *The subject property is within the UGB and shall install lighting as a condition of approval to satisfy these standards.*

These criteria can be met as conditioned. [The Hearings Officer concurs, adopted the related condition.]

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ZDO Section 1006.03 – Water Supply

FINDING: *The applicant has provided a signed statement of feasibility from the Sunrise Water Authority, indicating the site has adequate water supply and that there is an existing metered service on the site.*

The applicant has stated that there may be an existing well on the site.

As a condition of approval, the applicant shall abandon any existing wells on the site in accordance with the requirements of state law and the water district

These criteria can be met as conditioned. [The Hearings Officer concurs, adopted the related condition.]

ZDO Section 1006.04 and 1006.05 – Sanitary Sewer Service and Onsite Wastewater Treatment

FINDING: *The applicant has provided a statement of feasibility from the County Soils Department. The site is not within a sewer district and does not have the opportunity to annex into a district at this time. [The Hearings Officer concurs.]*

ZDO Section 1006.06– Surface Water Management and Erosion Control

FINDING: *The applicant has provided a signed statement of feasibility from County Engineering staff for storm water treatment and detention of all impervious surface areas on the site. The proposal is for a new vegetated stormwater facility on the north end of the site as shown on the applicant’s plans. The applicant has provided calculations demonstrating that the infiltration pond can fully accommodate a 10-year rain event and a 24-hour storm event.*

There are no identified waterways, streams, channels or other natural features that have been identified on available mapping on the site and the applicant does not plan on significantly altering the natural contour of the site – which could have a deleterious effect on the natural drainage route to the southern portion of the property.

Comments from neighbors indicated issues with stormwater ponding and water trespass onto adjoining property. The new stormwater system proposed with this land use application should help to alleviate and reduce storm runoff onto adjacent private properties as the new proposed system will be a significant upgrade to the site’s stormwater functionality. These criteria are met.

[The Hearings Officer: The appellant owns the adjacent property to the west of the proposal site. The appellant asserts that the applicant is allowing surface water runoff onto his adjacent property and contends that the applicant’s surface water management plan fails to adequately address this issue. Appellant’s engineer, Mr. Goldson, provided a review of the applicant’s surface water management plan. Mr. Goldson reports that the plans submitted by the applicant’s engineering firm are unclear, and do not show how the individual buildings on the site will connect to storm drains or rain drains to convey surface water to the proposed on-site treatment facility or otherwise. Mr. Goldson also points to a large rock area shown

on the drawings submitted with the application, asserting the drawings lack contours and the water from the site flows north towards Chitwood. Mr. Knepper, the appellant, points out that the applicant has yet to complete the conditions and requirements related to the prior land use approval, including placement of French drains to prevent surface water and chemicals from materials stored on the site from leaching onto his property and/or contaminating his well. The applicant does not dispute there have been delays in meeting the conditions and requirements for the prior approval, pointing to impacts from COVID, but asserts they are working to proactively address the issues.

The applicant's engineer, Mr. Lee, agrees that the ground at the site has low infiltration, stating that the design of the pond proposed for on-site surface water management and treatment is oversized to accommodate this issue. With respect to connections for rain drains, Mr. Lee states these details will take place at the next level with the building and final design stages. The applicant's consultant, Mr. Schonberger, points to the requirement of ZDO 1006.06 that the applicant provided a preliminary statement of feasibility from the applicable surface water management authority, in this case the Clackamas County DTD Engineering. He points to the review by the experienced engineering staff with Clackamas County DTD Engineering, including Mr. Kent, who reviewed the plans submitted by the applicant and issued the preliminary statement of feasibility.

ZDO 1006.06 sets forth the requirements for surface water management and erosion control. The applicant must provide positive drainage and adequate conveyance of surface water to an appropriate discharge point and meet certain detailed requirements related to a surface water management plan. To demonstrate compliance with ZDO 1006.06, the applicant must obtain a preliminary statement of feasibility from the applicable surface water management regulatory authority verifying 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." Here, the applicable surface water management authority is the Clackamas County Department of Transportation and Development (DTD). The applicant submitted a surface water management plan, as described by Mr. Lee, and the County DTD provided a statement of feasibility. The applicant's engineer, Mr. Lee, discussed the surface water management plan at the public hearing. He explained how the pond's design is oversized to accommodate the poor on-site infiltration (including the impervious surfaces and additional gravel placed on the site) and treat all of the surface water from the site. Mr. Lee explained the methods by which the surface water management plan will convey and drain all surface water for the property, and that the proposal will not result in increased runoff onto the appellant's property. I reviewed the submitted application and plans and noted that the plans do show contours for the entirety of the applicant's south property (the subject of this application) showing water will drain towards the southern location of the proposed pond, consistent with Mr. Lee's report. I find the applicant's engineer persuasive, as collaborated by the review of these surface water management and erosion control plans by County DTD engineering staff. The

applicant has provided the required statement of feasibility and has demonstrated the feasibility of the surface water management plan. The Hearings Officer finds these criteria are met as conditioned.]

5. ZDO Section 1007, Roads and Connectivity

FINDING: Planning staff note that significant requirements are set forth by ODOT and DTD engineering staff for the reconstruction of the intersection of SE Anderson and HWY 212 and that Planning staff largely defer to those comments, requirements and advisory notes. Coordination between the applicant, ODOT and Clackamas County engineering is of paramount importance for timely reconstruction of the right-of-way.

These criteria are met. [The Hearings Officer concurs, also adopting related advisory notes concerning these requirements.]

ZDO Section 1007.01 General Provisions

A. The location, alignment, design, grade, width, and capacity of all roads 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.

B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, detached single-family dwellings, and commercial, industrial, and institutional uses, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

FINDING: The subject property has frontage along HWY 212, an ODOT owned and maintained facility, and SE Anderson Road, a Clackamas County owned and maintained road. The frontage improvements have been coordinated with ODOT and County transportation planning staff. A dedication may be required to accommodate safety improvements along HWY 212 which have been made an advisory condition. A right of-way dedication of approximately 4-feet is required along the entire site of SE Anderson Road, a survey shall be prepared that demonstrates that the entire 24-foot wide of half right-of-way width is provided to the County as a condition of approval.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting the related conditions.]

C. New developments shall have access points connecting with existing roads.

FINDING: No new access points are proposed onto HWY 212 or SE Anderson Road, all accesses are existing.

These criteria are met.[The Hearings Officer concurs.]

- D. Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.**
- 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.**
- F. 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**
- 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.**

FINDING: *The proposed reconstruction of the frontage elements of both SE Anderson Road and HWY 212 is consistent with the roadway design standards and applicable sections of the Zoning and Development Ordinance. Those improvements shall be done under appropriate permitting and prior to the issuance of building permits.*

FINDING: *ODOT is requesting, and Clackamas County Development Engineering has supported restricted access onto HWY 212 because of safety considerations. There are serious safety concerns and known issues with traffic movements in this area. The traffic analysis shows that the crash data is at a relatively high rate along with a relatively high moderate/serious injury occurrence. ODOT and County staff coordinated on addressing the safety concerns. In addition, a comment from a neighbor indicated concern with the access from SE Anderson Road onto HWY 212 noting that they had witnessed several serious accidents at the intersection.*

The traffic analysis indicated that crashes at OR 212 and SE Sunnyside/SE Anderson Road were identified as having a crash rate of 0.627 compared to the 0.408 rate (90th percentile threshold) which places this particular area is the '90th percentile or higher crash rate for all state highways and roads of similar classification'. Those roads and highways, according to ODOT's analysis and procedures manual, should be 'flagged for additional analysis'. As a result, ODOT staff suggested reviewing the intersection for potential treatments that could improve safety to this intersection area and to provide some measure of increased safety considerations. ODOT staff reviewed the proposal, the intersection, traffic data and traffic study and had their technical team provide potential options for this intersection.

*ODOT's technical team and engineers proposed a new treatment at this intersection to reduce less safe turning movements. The new proposal for safety is a **modified pork chop treatment with restrictions to right in and out only from SE Anderson to HWY 212.***

Staff provided the applicant with this safety treatment proposal and allowed for response. The applicant appeared to provide some level of agreement with the treatment and acknowledged that the intersection is problematic.

As a result from significant deliberation and coordination between the County and ODOT, the restriction of turning movements at this intersection is deemed appropriate, has a nexus to the development proposal and is a proportional requirement of the applicant. As a condition of approval, based on safety considerations, the applicant shall construct all related improvements to restrict turning movements at the intersection of SE Anderson and HWY 212.

These criteria can be met as conditioned. [The Hearings Officer concurs in the above analysis and findings, adopting the related conditions. Public comments on this application were received from several local residents also drawing attention to safety concerns with this intersection.]

1007.02 Public and Private Roadways

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.

FINDING: As mentioned above, access is onto SE Anderson Road; additionally, the site has frontage along HWY 212. The applicant has coordinated with ODOT and Clackamas County staff on the construction of the frontage along HWY 212 and SE Anderson Road. Special considerations for turn moving safety were considered for the intersection of HWY 212 and SE Anderson Road, aforementioned above. The roadways (SE Anderson and HWY 212) are being developed to the appropriate classifications and Roadway Standards.

As part of this application and subsequent decision, the applicant is requesting to address prior conditions under the previous land use approval Z0233-20-D which in part conditioned that the south lot in adjoining ownership which is part of this application, construct urban level frontage improvements along SE Anderson Road (Tax Lot 23E08A 00600).

The standards have now changed, and SE Anderson Road is considered a rural road and to redress those prior conditions the applicant requested, and staff agreed that an appropriate mechanism would be to include those changes as part of this land use approval process.

As a condition of approval, the applicant shall construct the entirety of SE Anderson frontage to the rural standards including the portion under the previous land use approval Z0233-20-D. All necessary permits, right-of-way dedication, plans and inspections shall be conducted as required by Clackamas County Development Engineering.

These criteria can be met as conditioned. [The Hearings Officer concurs in the above analysis and findings, adopting the related conditions.]

B. The layout of new public and county roads shall provide for the continuation of roads within and between the development and adjoining developments when deemed necessary and feasible by the Department of Transportation and Development.

FINDING: Not applicable there is no new road proposed; all work will be reconstruction of existing frontages.

These criteria are met. [The Hearings Officer concurs.]

C. New county and public roads terminating in cul-de-sacs or other dead-end turnarounds are prohibited except where natural features (such as topography, streams, or wetlands), parks, dedicated open space, or existing development preclude road connections to adjacent properties, existing street stubs, or existing roads.

FINDING: Not applicable there is no new road proposed; all work will be reconstruction of existing frontages.

These criteria are met. [The Hearings Officer concurs.]

D. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:

- 1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and**
- 2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.**

FINDING: As part of permitting with ODOT and Clackamas County Development Engineering, the applicant will be required to demonstrate that an adequate sight distance is provided from the SE Anderson approach onto HWY 212.

These criteria are met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

E. 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.

FINDING: As a condition of approval, the applicant is required to dedicate sufficient frontage over to Clackamas County for SE Anderson Road and as necessary to the State of Oregon for the purposes of reconstructing the frontage along HWY 212.

These criteria are met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

F. Road frontage improvements within the UGB and in Government Camp, Rhododendron, and Wemme/Welches shall include:

FINDING: Not applicable; the subject property is not located within these areas. ***[The Hearings Officer concurs.]***

1007.03 Private Roads and Access Drives

A. ***Private roads and access drives shall be developed according to 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, except:***

- 1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district’s Fire Marshal;***
- 2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;***
- 3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;***
- 4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and***
- 5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.02(D).***

FINDING: There are no new private roads, flag poles or other private roads and drives proposed. An existing 24-foot-wide driveway is proposed to be modified to a commercial 28-foot-wide approach onto SE Anderson Road. As a condition of approval, the improved approach must be constructed to Roadway Standards and all necessary permits must be acquired.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

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1007.04 Pedestrian and Bicycle Facilities

- 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.**

FINDING: The rural cross section of SE Anderson Road does not require sidewalks. There are existing sidewalks on the other side of the street that were constructed during the time when Damascus was an incorporated city. The applicant is required to construct all frontage areas to the current standards through required permits.

These criteria are met. [The Hearings Officer concurs.]

- B. Pedestrian and Bicycle Facility Design:**

FINDING: The frontage along HWY 212 will include a new bike lane along the travel surface as part of the required improvements. No bike lanes or pedestrian amenities are required on SE Anderson Road. The new bicycle lane shall be constructed with ODOT permits and approval process.

These criteria are met. [The Hearings Officer concurs.]

- C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB), except if the subject property is in the AG/F, EFU, FF-10, RA-1, RA-2, RC, RI, RRF-5, or TBR District, 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.**

- D. Requirement for Sidewalk Construction: Within the UGB, except if the subject property is in the AG/F, EFU, FF-10, RA-1, RA-2, RC, RI, RRF-5, or TBR District, sidewalks shall be constructed, as required in Subsection 1007.04(F), for duplexes, detached single-family dwellings, townhouses where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.**

FINDING: Not applicable; the subject property is zoned RC. *[The Hearings Officer concurs.]*

- E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community, either a sidewalk or a pedestrian pathway shall be constructed on arterial or collector street frontage(s) of a lot upon which a**

subdivision, partition, multifamily dwelling, quadplex, triplex, townhouse where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed.

FINDING: Damascus is not a mapped 'unincorporated community'; these criteria are not applicable.

These criteria are not applicable. [The Hearings Officer concurs.]

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

FINDING: Not applicable; the subject property zoned RC and is not subject to these standards. **[The Hearings Officer concurs.]**

G. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local, connector, or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:

FINDING: Not applicable; DTD did not recommend a pedestrian pathway. **[The Hearings Officer concurs.]**

H. Sidewalk and Pedestrian Pathway Width: Sidewalks and pedestrian pathways shall be constructed to the minimum widths shown in Table 1007-1, Minimum Sidewalk and Pedestrian Pathway Width, and be consistent with applicable requirements of Chapters 5 and 10 of the Comprehensive Plan.

FINDING: Not applicable no pedestrian pathways or new sidewalks are required with this development proposal.

These criteria are met. [The Hearings Officer concurs.]

I. Accessways: Accessways shall comply with the following standards:

J. Accessways in Sunnyside Village.

FINDING: Not applicable; no access ways are required or warranted in this development proposal and the subject property is not within Sunnyside Village. **[The Hearings Officer concurs.]**

K. Bikeways:

FINDING: No bikeways or required as part of this proposal.

These criteria are met. [The Hearings Officer concurs.]

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L. Trails: Trail dedications or easements shall be provided and developed as shown on Comprehensive Plan Map IX-1, Open Space Network & Recreation Needs; the Facilities Plan (Figure 4.3) in NCPRD's Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

M. Trails and Pedestrian Connections in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.04(M) shall take precedence.

FINDING: Not applicable; no trails or pedestrian connections are required or warranted in this development proposal and the subject property is not within Sunnyside Village. **[The Hearings Officer concurs.]**

1007.05 Transit Amenities

FINDING: Not applicable; the subject property is not identified as a transit route and does not necessitate transit-related improvements. **[The Hearings Officer concurs.]**

1007.06 Street Trees

FINDING: To the extent that street tree requirements apply, those are reviewed and evaluated as part of ODOT's dedication and frontage improvement requirements for HWY 212. No street trees are required for the frontage along SE Anderson.

These criteria are met. [The Hearings Officer concurs.]

1007.07 Transportation Facilities Concurrency

FINDING: The subject site is zoned rural commercial and is required to request design review approval for the proposed work and establishment of the business operations. Therefore, this land use application is subject to transportation facilities for concurrency based on the capacity of the adjoining network and the safety thereof.

The traffic analysis provided by the applicant's consultants demonstrates that the business operations do not cause the study intersections to exceed volume/capacity (V/C), the County's established metric for intersection failure.

While the transportation impacts to V/C were calculated to be .97, this did not surpass the identified threshold of .99. As determined by the traffic analysis, safety remains a principle concern with the intersection of SE Anderson and HWY 212. Findings were included above about ODOT's requested conditions for a restricted turn movement from this intersection to support safety and reduce potential turning conflicts at the intersection.

As a condition of approval, the applicant shall have the engineer of record provide a certificate of completion verifying that all of the requirements of ODOT and Clackamas County have been completed and inspected.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions of approval and related Advisory Notes. The

Hearings Officer also again notes submitted comments by local residents regarding safety concerns with this intersection.]

1007.08 Fee in Lieu of Construction

FINDING: Not applicable; no fee-in-lieu has been requested or is warranted. **[The Hearings Officer concurs.]**

1007.09 Streets and Sidewalks in Sunnyside Village and Vacations

1007.10 Vacations

FINDING: Not applicable; the site is not within Sunnyside village nor are right-of-way or easement vacations requested. **[The Hearings Officer concurs.]**

6. ZDO Section 1009, Landscaping

1009.01 General Provisions

FINDING: The applicant team has consulted with a landscape architect to create a landscape plan that demonstrates consistency with the general provisions of the landscaping section of the development standards. The plan includes using native plants appropriate for the area, maintaining large trees, and placing landscaping in appropriate locations relative to sidewalks, planter strips and around the proposed structure. As a condition of approval, all landscaping must be installed prior to the issuance of a final certificate of occupancy.

These criteria can be met as conditioned. **[The Hearings Officer concurs, adopting related conditions.]**

1009.02 Minimum Area Standards

FINDING: The RC base zone requires a landscaped area of 15% of the total site area (post right-of-way dedication). The applicant has stated that roughly 25% of the site will either be landscaped or remain largely undisturbed.

Landscaping implies actively managed and altered for the purposes of meeting and objective, in this application, compliance with the ZDO. Regardless, when evaluating the entire site including future improved landscaping, some turf lawn, recreational areas, and the remaining native area, that the site well exceeds the required minimum area standards required in ZDO 1009.02.

These criteria are met. **[The Hearings Officer concurs.]**

1009.03 Surface Parking and Loading Area Landscaping

Surface parking and loading areas shall be landscaped as follows:

A. Surface parking areas that include more than 15 parking spaces shall comply with the following landscaping requirements:

1. **Twenty-five square feet of landscaping per parking space, excluding perimeter parking spaces, shall be provided, except that the standard shall be reduced to 20 square feet for each parking space developed entirely with porous pavement.**
2. **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, unless all parking spaces are developed entirely with porous pavement. Additional swales beyond the minimum requirement are allowed.**
3. **Interior landscaping not developed as swales pursuant to Subsection 1009.03(A)(2) shall comply with the following standards:**
4. **Interior landscaped areas, including swales, shall include a minimum of one tree located every eight interior parking spaces, or fraction thereof, except in the OA, VA, VCS, and VO Districts, where a minimum of one tree shall be located every six interior parking spaces.**

FINDING: *The proposed parking area is 9 parking spaces so sub (1) through (4) above do not apply.*

These criteria are not applicable. [The Hearings Officer concurs.]

B. Perimeter landscaping requirements for surface parking and loading areas adjacent to abutting lots or rights-of-way are as follows

1. ***A landscaping strip with a minimum width of five feet shall be provided adjacent to the perimeter of the surface parking or loading area, except:***
 - a. ***In the OA, VA, VCS, and VO Districts, the minimum width shall be 10 feet;***
 - b. ***In the BP and LI Districts, the minimum width shall be 15 feet abutting a front lot line; and***
 - c. ***In the GI District, the minimum width shall be 10 feet abutting a front lot line.***
2. ***The required landscaping strips shall comply with the following standards:***
 - a. ***Sufficient low shrubs shall be planted to form a continuous screen three feet high and 95 percent opaque, year-round; or a three-foot-high masonry wall or berm may be substituted for the shrubs. When applied along front lot lines, the screen or wall is to be placed along the interior side of the landscaping strip and shall be 30 inches high instead of three feet high.***
 - b. ***In addition, one tree is required for every 30 linear feet of***

landscaping strip, or as otherwise required to provide a tree canopy over the landscaping strip.

- c. Ground cover plants must fully cover the remainder of the landscaped area.**

FINDING: *The applicant's landscaping plan demonstrates compliance with the 5-foot minimum width landscaping strip and will contain a continuous 30–36-inch evergreen hedge with a tree at least every 30 linear feet along the landscape strip. As a condition of approval, the applicant must install all landscaping shown in the landscaping plan and the indicated in the supporting narrative prior to issuance of a final certificate of occupancy.*

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

1009.04 Screening and Buffering

A. Screening shall be used to eliminate or reduce the visual impacts of the following:

- 1. Service areas and facilities, such as loading areas and receptacles for solid waste or recyclable materials;**
- 2. Storage areas;**
- 3. Ground-mounted rainwater collection facilities with a storage capacity of more than 100 gallons;**
- 4. Parking lots within or adjacent to an Urban Low Density Residential, VR-5/7, VR-4/5, RA-1, RA-2, RR, RRFF-5, FF-10, FU-10, or HR District; and**
- 5. Any other area or use, as required by this Ordinance.**

B. Screening shall be accomplished by the use of sight-obscuring evergreen plantings, vegetated earth berms, masonry walls, sight-obscuring fences, proper siting of disruptive elements, building placement, or other design techniques.

C. Screening shall be required to substantially block any view of material or equipment from any point located on a street or accessway adjacent to the subject property. 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.

FINDING: *The applicant states that a 6-foot fence along the entirety of the western property line which combined with evergreen plantings will obscure views from adjoining residentially zoned properties. The sight obscuring plantings and sight*

obscuring fencing must be installed and inspected prior to final certificate of occupancy. As noted by the previous land use decision and comments received by neighbors screening and buffering are of high importance to reduce impacts to adjoining uses. The screening and landscaping must be installed prior to final occupancy of the proposed office structure conversion.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

D. Buffering shall be used to mitigate adverse visual impacts, dust, noise, or pollution, and to provide for compatibility between dissimilar adjoining uses. Special consideration shall be given to buffering between residential uses and commercial or industrial uses, and in visually sensitive areas.

FINDING: The subject property adjoins residential zone property and given the intensity of the use and prior complaints from the neighbors, buffering adverse impacts should be of high importance. The applicant's landscape plan meets 1009.04.E.3 for buffering standards. As a condition of approval the landscaping, fencing and other screening and buffering measures shall be completed prior to the final certificate of occupancy for the conversion of the office structure.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

1009.06 Landscape Strips

C. In all other zoning districts, except SCMU, a landscaping strip a minimum of five feet wide shall be provided abutting front lot lines. (See Subsection 1005.09(L) for additional SCMU landscaping requirements.)

FINDING: The applicant's site plan demonstrates that a 5-foot front landscape strip is provided as part of the planted stormwater swale area. As a condition of approval, the landscaping must be installed prior to the issuance of a final certificate of occupancy.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

1009.07 Fences and Walls

FINDING: The applicant is proposing fencing as part of the screening and buffering requirements described above. The fences and walls will be complimentary to the development and their principle purpose is to screen and buffer from non-compatible adjacent uses.

These criteria are met. [The Hearings Officer concurs.]

1009.10 Planting and Maintenance

FINDING: The majority of the standards found in sub (1009.10.A through L as well as N and O) are planting requirements related to materials, spacing standards, plant

types and generally accepted landscaping best management practices that will be made conditions of approval. **[The Hearings Officer concurs, adopting related conditions.]**

M. Irrigation of plants shall be required, except in wooded areas, wetlands, and in river and stream buffers. The irrigation system shall be automatic, except that hose bibs and manually operated methods of irrigation may be permitted in small landscaped areas close to buildings. Automatic irrigation systems are subject to the following standards:

- 1. An automatic irrigation controller shall be required for irrigation scheduling.**
- 2. The system shall be designed to prevent runoff, low head drainage, overspray, or other similar conditions where irrigation water flows onto non-targeted areas, such as adjacent property, non-irrigated areas, hardscapes, roadways, or structures.**
- 3. In mulched planting areas, the use of low volume irrigation is required to maximize water infiltration into the root zone.**
- 4. Narrow or irregularly shaped areas, including turf lawn, less than eight feet in width in any direction shall be irrigated with subsurface or low volume irrigation.**
- 5. Overhead sprinkler irrigation is prohibited within two feet of any impervious surface unless:**
 - a. The landscaped area is adjacent to permeable surfacing and no runoff occurs; or**
 - b. The adjacent impervious surfaces are designed and constructed to drain entirely to landscaping; or**
 - c. The irrigation designer specifies an alternative design or technology that complies with Subsection 1009.10(M)(2).**

FINDING: The installation of an automatic irrigation system meeting the standards above has been made a condition of approval to be verified prior to issuance of final certificate of occupancy for the proposed structure.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

7. ZDO Section 1010, Signs

FINDING: The applicant has not requested any signage be reviewed as part of this design review application. Any future proposed signage shall be in compliance with the applicable sections of ZDO Section 1010 and any building or trade permitting requirements. **[The Hearings Officer concurs.]**

ZDO Section 1011, Open Space and Parks

ZDO Section 1012, Lot Size and Density

ZDO Section 1013, PUDs

FINDING: *The above sections (ZDO 1011-1013) have no applicability to this design review application and therefore are omitted from this staff report. [The Hearings Officer concurs.]*

ZDO Section 1015, Parking and Loading

1015.01 General Standards

FINDING: *The subject site is inside the UGB and is required to install asphalt parking areas. Additionally, other maneuvering and design standards are set forth by DTD engineering and have been included as advisory notes to this staff report.*

As a condition of approval, the parking, loading and maneuvering areas must be fully completed, installed, striped and inspected for compliance prior to issuance of a final certificate of occupancy.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

1015.02 Motor Vehicle Parking Area Standards

A. Off-street parking areas shall be designed to meet the following requirements:

- 1. Off-street motor vehicle parking areas shall be provided in defined areas of the subject property. No area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose and has required maneuvering area for vehicles. Required backing and maneuvering areas shall be located entirely onsite***
- 2. Automobile parking spaces shall be a minimum of 8.5 feet wide and 16 feet long, except that parallel spaces shall be a minimum of 8.5 feet wide and 22 feet long.***
- 3. A minimum of 25 percent of required parking spaces shall be no larger than 8.5 feet wide and 16 feet long.***
- 4. Parking areas shall comply with minimum dimensions for curb length, stall depth, and aisle width established by the Clackamas County Roadway Standards; these dimensions are based on the orientation (e.g., 45-degree, 90-degree), length, and width of the spaces.***

FINDING: *The parking layout is a clearly defined portion of the development, accessory to the proposed structure with adequate maneuvering ability. The applicant*

is proposing a total of thirteen (13) spaces, two (2) of which are ADA spaces. A minimum of 9 spaces is required for the office and warehouse use per Table 1015-1 which requires 2.7 spaces per 1,000 square feet of office space and 0.3 spaces per 1,000 square feet of warehouse space.

The proposed parking layout meets the parking area standards above. Additionally, as mentioned above, DTD engineering will also review the parking area subject to the roadway standards described at 1015.02.A.4 – this has been included as an advisory note.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions and referenced advisory note.]

- 5. Double-loaded, 90-degree angle parking bays shall be utilized where possible.**
- 6. A minimum of one parking space or five percent of the required spaces, whichever is greater, shall be marked and signed for use as carpool/vanpool spaces. These spaces shall be the closest employee automobile parking spaces to the building entrances normally used by employees, but shall not take priority over any spaces required for individuals with disabilities.**

FINDING: The primary parking area is a 90-degree single loaded layout; the location of the structures and the amount of required parking does not necessitate the need for a double loaded layout. A carpool parking space is not shown on the plans and at least one space must be marked and provided for on the plans. The applicant, as a condition of approval, shall indicate on future plan sets the required carpool/vanpool parking location.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

- 7. In parking lots greater than one acre, major onsite circulation drive aisles and lanes crossing to adjacent developments shall not have parking spaces accessing directly onto them.**
- 8. Where feasible, shared driveway entrances, shared parking and maneuvering areas, and interior driveways between adjacent parking lots shall be required.**
- 9. Except for parallel spaces, parking spaces heading into landscaped areas or along the perimeter of a parking lot shall be provided with a sturdy tire stop 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 property line.**

FINDING: The parking area is less than one acre in size. The parking and drive areas are shared between the two lots that are in common ownership. The head in parking

spaces are designed with wheel stops and will be well within 5' interior of property lines.

These criteria are met. [The Hearings Officer concurs.]

10. For parking spaces heading into a landscaped area, the area in front of the tire stop that is included in the parking space dimension may be landscaped instead of paved or graveled according to the following standards:

- a. Landscaping shall be ground cover plants only;**
- b. The area in front of the tire stop that is included in the parking space dimension shall be in addition to the required minimum dimension for a landscape planter; and**
- c. The landscaped area in front of the tire stop may count toward overall site landscaping requirements established in Table 1009-1, Minimum Landscaped Area. However, it may not count toward perimeter landscaping requirements established in Section 1009.03(B)(1).**

FINDING: *The applicant has indicated that the full depth of the parking spaces will be paved with adequate room for vehicles to park without intruding into the provided landscaped area.*

These criteria are met. [The Hearings Officer concurs.]

B. Parking Minimums: *The minimum number of parking spaces listed in Tables 1015-1, Automobile Parking Space Requirements, and 1015-2, Minimum Automobile Parking Space Requirements for Dwellings, applies unless modified in Subsection 1015.02(D).*

- 1. In case of expansion of a building or use that, prior to the expansion, does not meet the minimum parking space requirements in Table 1015-1 or 1015-2, the following provisions shall apply:**
 - a. The minimum number of additional parking spaces required shall be based only on the floor area or capacity added and not the area or capacity existing prior to the expansion.**
 - b. If the enlargement covers any of the pre-expansion parking spaces, lost parking spaces shall be replaced, in addition to any required additional spaces.**
- 2. In the event more than one use occupies a single structure or parcel, the total minimum requirement for parking shall be the sum of the minimum requirements of the several uses computed separately**

FINDING: The applicant is required to place 9 parking spaces minimum for an office/warehouse use according to Table 1015-1; this is based on the 1,000 sq./ft. of area per use.

Table 1015-1: Automobile Parking Space Requirements¹

Land Use Category	Minimum Parking Spaces	Maximum Parking Spaces (Urban Zone A)	Maximum Parking Spaces (Urban Zone B)
Office Uses (includes Office Park, "Flex-Space", Government Office and Miscellaneous Services)	2.7	3.4	4.1

The applicant is proposing to provide 13 parking spaces in total, which meets the minimum requirements.

These criteria are met. [The Hearings Officer concurs.]

C. Parking Maximums:

1. **Within the UGB, the parking maximums listed for Urban Zone A in Table 1015-1 and Note 4 of Table 1015-2 apply when an area has 20-minute peak hour transit service within one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit.**
2. **Within the UGB, areas not meeting the requirements of Subsection 1015.02(C)(1), are subject to the parking maximums listed in Table 1015-1, Urban Zone B.**
3. **In case of expansion of a building or use with more parking spaces than the maximum allowed by Table 1015-1:**
 - a. **Existing parking spaces may be retained, replaced, or eliminated, provided that after the expansion, the total number of remaining spaces complies with the minimum parking space requirement of Table 1015-1 for the entire development; and**
 - b. **Additional parking spaces are allowed only if required to comply with the minimum parking space requirement of Table 1015-1 for the entire development after the expansion.**

FINDING: The subject property is within the UGB; therefore, the parking maximum standards apply at this time. There are no maximum parking standards for warehouses that are under 150,000 square feet of floor area. **[The Hearings Officer concurs.]**

1015.03 Bicycle Parking Standards

A. Bicycle parking areas shall meet the following on-site locational requirements:

1. ***Bicycle parking racks shall be located in proximity to an entrance but shall not conflict with pedestrian needs.***
2. ***At least 75 percent of the bicycle parking spaces shall be located within 50 feet of a public entrance to the building.***
3. ***Bicycle parking may be provided within a building, if the location is easily accessible for bicycles.***
4. ***Bicycle parking for multiple uses, or a facility with multiple structures, may be clustered in one or several locations within 50 feet of each building's entrance.***
5. ***If the bicycle parking is not easily visible from the street or main building entrance, then a sign must be posted near the building entrance indicating the location of the parking facilities.***

FINDING: *The applicant was required to place two staple bike racks as part of the prior land use decision near the warehouse structure, these meet the standards required for this development.*

These criteria are met. [The Hearings Officer concurs.]

B. Bicycle parking shall be designed to meet the following requirements:

1. ***When more than seven bicycle parking spaces are required, a minimum of 50 percent of the spaces shall be covered. All of the required bicycle spaces for schools, park-and-ride lots, congregate housing facilities, quadplexes, and multifamily dwellings shall be covered.***
2. ***Cover for bicycle parking may be provided by building or roof overhangs, awnings, bicycle lockers, bicycle storage within buildings, or freestanding shelters.***
3. ***When more than 15 covered bicycle parking spaces are required, 50 percent 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.***
4. ***Required bicycle parking spaces shall be illuminated.***
5. ***Required bicycle parking areas shall be clearly marked and reserved for bicycle parking only.***
6. ***Bicycle parking space dimensions and standards:***

FINDING: *The prior land use decision for the warehouse required the installation of bicycle spaces according to that plan set and narrative. Those parking spaces were approved as part of the land use decision and the construction of the new structure.*

These criteria are met. [The Hearings Officer concurs.]

1015.43 Off-Street Loading Standards

FINDING: A large portion of the site is dedicated to the staging, maneuvering and use of fleet vehicles associated with the businesses. There are a number of loading berth sized areas present on the site as they are inherent to the development operations.

These criteria are met. [The Hearings Officer concurs.]

8. ZDO Section 1021, Solid Waste and Recyclable Material Collection

1021.03 General Standards

A. Pads: Compactors, containers, and drop boxes shall be located on a level Portland Cement concrete pad, a minimum four inches thick, at ground level or other location compatible with the local collection service franchisee's equipment at the time of construction. The pad shall be designed to discharge surface water runoff to avoid ponding.

FINDING: The applicant has stated that the existing trash facilities meet current standards and were reviewed during the previous land use decision. The applicant will be required to bring all pads to this standard.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

B. Recycling and Solid Waste Service Areas:

FINDING: The proposed enclosure appears to meet the above standards according to the applicant's plans and submittal. The recycling and solid waste containers will be located in the same enclosure, and both will be fitted with weather-resistant lids. The preliminary proposal (site plan) was approved by Clackamas Fire District 1.

These criteria are met. [The Hearings Officer concurs.]

C. Special Wastes or Recyclable Materials:

FINDING: The proposed use at the site is a landscaping an office use – no special or hazardous wastes are anticipated with this type of use. The applicant previously had a 'dump pit' for landscaping materials that is proposed for removal and will be paved over. Any special wastes or recyclable materials that need special consideration, storage or transfer shall meet all applicable local, state and federal regulations. A neighbor commented that the applicant may have been dumping hazardous materials or not properly storing special or hazardous materials. The applicant shall ensure that all waste is stored and disposed with according to County, State and Federal regulations.

These criteria can be met as conditioned. [The Hearings Officer concurs, adopting related conditions.]

1021.04 Enclosure and Gate Standards

1021.05 Receptacle Standards

FINDING: The proposed enclosure will be constructed of wood with an 8-foot-wide opening for the bins and a 3-foot opening for staff to access the enclosure. A 4-inch-high concrete bumper is proposed for installation to protect the inside of the enclosure from damage.

These criteria are met. [The Hearings Officer concurs.]

1021.06 Vehicle Access

FINDING: A 28-foot-wide driveway to the approach onto the highway is proposed. The driveway is paved with less than a 3% average grade. The parking and driveway layout allows for adequate maneuvering for a truck to turn around on site and exit the property in a forward motion. The applicant has stated that they site is currently serviced with a trash provider and no issues have been identified with that current functionality.

These criteria are met. [The Hearings Officer concurs.]

1021.07 No Parking Signs

FINDING: The applicant states that 'No Parking' signs will be mounted on the exterior of the enclosure and will be clearly visible.

These criteria are met. [The Hearings Officer concurs.]

ZDO Section 1102, Design Review

FINDING: The subject property is zoned RC which requires design review for development in the zone. The applicant has supplied the following documents to satisfy the submittal requirements of design review:

- Narrative in response to code criteria
- An existing conditions plan
- Vicinity map
- Site plan
- Architectural drawings
- Landscape plans
- Preliminary statements of feasibility
- Civil Drawings

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1102.03 Approval Criteria

Design review requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. The proposed development shall be subject to Section 1000, Development Standards, and the standards of the applicable zoning district.
- B. As part of design review in the PMU and RCO Districts, a master plan shall be required if the proposed development does not meet the minimum floor area ratio for the entire site (where phased compliance is permitted by Table 510-2, Dimensional Standards in the Urban Commercial and Mixed-Use Zoning Districts) or if compliance with Table 510-3: Site-Specific Requirements for the PMU District, is not being achieved for the entire PMU site. The master plan shall demonstrate that it is feasible to achieve full compliance with a future phase of development that is not reliant upon adding additional stories to existing or proposed structures or demolishing structures built after the PMU or RCO District was applied to the subject property.
- C. As part of design review of development of any portion of the OA District, a master plan shall be required for the subject property and all contiguous lots with a Comprehensive Plan land use designation of Office Apartment. The master plan shall include a plan for consolidation of motor vehicle accesses for the entire Office Apartment site that complies with the access targets of Comprehensive Plan Map X-SC-5, Sunnyside Corridor Community Plan Sunnyside Road Access Management Targets.

FINDING: As discussed in this decision above, the applicant has either met the standards of Section 1000 and if not explicitly met conditions are applied to ensure compliance with the standards.

The subject property is not within the PM and RCO districts or any portion of the OA district.

These criteria are met. [The Hearings Officer concurs, adopting related conditions.]

D. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer APPROVES application Z0121-24 for design review approval to convert an existing dwelling into an office building to better accommodate existing commercial businesses on the property and to conduct associated site improvements, including paving, stormwater facilities and other work to bring the site into compliance with current development standards, subject to the following conditions of approval:

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E. CONDITIONS OF APPROVAL

The Clackamas County Land Use and Zoning staff recommended approval of this application subject to the following conditions (consistent with the original October 23, 2024 decision in Z0121-24 approving this application for design review approval) reviewed, adopted and/or modified by the Hearings Officer as denoted by boldface type in italics:

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.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on 3/21/2024 and 6/5/2024. 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 these documents 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. (ZDO 1120.05)
3. All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*. (ZDO 1007.01.A)
 - a. The applicant shall grant an 8-foot-wide easement for sign, slope and public utilities along the entire SE Anderson Road right-of-way frontage. (ZDO 1007.01.B)
 - b. The applicant shall dedicate approximately 4 feet of additional right-of-way along the entire site frontage of SE Anderson Road site frontage and verify by a professional survey that a 24-foot wide, one-half right-of-way width exists. (ZDO 1007.01.B)
4. Drainage facilities for the site and street improvements shall be constructed in conformance with Clackamas County Roadway Standards Chapter 4. (ZDO 1006.06.B)
 - a. Provide a stormwater Management Plan. The proposal must be in conformance with the rules and regulations of Clackamas County Roadway Standards, Chapter 4. (ZDO 1006.06.I)
5. 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.

6. The previous conditions under Z0233-20 for frontage improvements along SE Anderson Road are superseded by this land use decision and conditions. That frontage work shall be to rural local roadway standards, consistent with Standard Drawing C110. (ZDO 1007.02.F)
7. Previous conditions for screening and protecting the Historic Site shall be verified with photos and/or a staff site visit for the previous Design Review decision Z0233-20.
8. The applicant shall ensure that all waste is stored and disposed with according to County, State and Federal regulations. (ZDO 1021.03.C)

Prior to any earth disturbing activity and building permit issuance, the applicant/property owner shall complete/provide the following to the Clackamas County Engineering Office:

1. The applicant 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.
 - a. An erosion control permit from DTD Engineering is required for site work related to the construction of the parking and maneuvering area. (ZDO 1006.06)
 - b. A set of 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.
2. Written approval from ODOT for access and work within the SE Highway 212 right-of-way, including an ODOT State Highway Approach Permit and Indenture of Access.
3. Written approval from the Clackamas Fire District #1 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.
4. Written approval from Sunrise Water Authority 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.
5. 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 Development Engineering Office and obtain written approval, in the form of a Development Permit.

Prior to issuance of final occupancy (Certificate of Occupancy) the applicant/property owner shall complete the following:

1. The applicant shall design and construct safety improvements at the intersection of SE Anderson and HWY 212. **(Also refer to ODOT advisory notes, it is the applicant's responsibility to coordinate with ODOT and County Engineering on HWY 212 improvements)** These improvements shall consist of the following:
 - a. The applicant shall design and construct a raised pork chop at the SE Highway 212/SE Anderson Road intersection restricting access to right in/right-out turning movements. The pork chop design shall include striping and signing to ODOT standards.
 - b. Dedicate right-of-way to ODOT as necessary to accommodate any needed improvements associated with the 'pork chop design'.
 - c. The applicant shall grant a minimum 8-foot-wide public easement for signs, slope and public utilities along the entire Hwy 212 site frontage.
 - d. All traffic control devices on private property, located where private driveway intersect Hwy 212, shall be installed and maintained by the applicant, and shall meet standards set forth in the Manual on Uniform Traffic Control.
2. The applicant shall design and construct on-site parking and maneuvering areas as follows (ZDO 1015):
 - a. Adequate on-site circulation shall be provided for the parking and maneuvering of all vehicles anticipated to use the site. All parking and maneuvering areas shall be paved and constructed per Standard Drawing R100.
 - b. Parking spaces shall meet minimum dimensional requirements of ZDO Section 1015, and Roadway Standards Drawing P100 or P200, as applicable. The plans shall list the number of parking spaces required and the number of parking spaces provided.
 - c. Minimum drive aisle width when not adjacent to parking spaces shall be no less than 18 feet.
 - d. 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.
 - e. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks),

including off-tracking, on the site plan to ensure adequate turning radii are provided.

- f. 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.
 - g. The applicant shall provide and maintain adequate sight lines for minimum intersection sight distance of 280 feet at the driveway intersection with SE Anderson Road.
3. The applicant shall design and construct improvements along the entire site frontage of SE Anderson Road to rural local roadway standards, consistent with Standard Drawing C110. These improvements shall consist of the following:
- a. 5-foot-wide gravel shoulder, per Rodway Standards Drawing C130.
 - b. Roadside drainage ditch, per Rodway Standards Drawing C130.
 - c. A minimum 28-foot-wide concrete driveway approach, per Standard Drawing D500.
 - d. Drainage facilities for the site and street improvements shall be constructed in conformance with Clackamas County Roadway Standards Chapter 4.
4. Substantial Completion shall be met, per Roadway Standards Section 190.2. For any other unfinished improvements required by conditions of approval, a performance surety shall be provided per Roadway Standards Section 190.3, based on an Engineer's cost estimate. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.
5. Provide written approval from the Clackamas RFPD #1 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. (ZDO 1006)
6. Provide written approval from the Sunrise Water Authority for adequate water supply. Approval should be in the form of utility plans approved by the water district representative. (ZDO 1006)
7. The developer shall either submit a signed maintenance contract for a 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. (ZDO 1009.10.F)

8. All landscaping on site must be installed and inspected prior to the issuance of a final certificate of occupancy (ZDO 1009).
9. The trash enclosure and associated screening and fencing must be installed and inspected prior to the issuance of a final certificate of occupancy (ZDO 1000.04)
10. All on-site walkways and lighting shall be installed and inspected prior to issuance of final certificate of occupancy (ZDO 1005)
11. The parking, loading and maneuvering areas must be fully completed, installed, striped and inspected for compliance prior to issuance of a final certificate of occupancy. (ZDO 1015) 12. The bicycle parking areas shall be installed, including all elements described in the narrative and plan prior to issuance of a final certificate of occupancy. (ZDO 1015.03)
12. The bicycle parking areas shall be installed, including all the elements described in the narrative and plan prior to the issuance of a final certificate of occupancy. (ZDO 1015.03)
13. All required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond per Roadway Standards Section 190.
14. 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 manufacturer's specifications.
15. Pursuant to 1006.03, the developer shall abandon any existing wells on the site in accordance with the requirements of state law and the water district. (ZDO 1006.03)

Dated: January 14, 2025



Carl D. Cox
Clackamas County Hearings Officer

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 the requirements of other agencies/departments. As such, they may be required by these other agencies/departments in order to complete your proposed development.

1. Oregon Department of Transportation has reviewed the proposal and has provided the following advisory notes. It is important that the applicant coordinate with ODOT staff to ensure compliance with these requirements.

Contact the ODOT Development Review Planner (Melissa Gonzalez, melissa.gonzales@odot.oregon.gov) for further coordination or questions regarding ODOT comments and requirements during the land use process.

State Highway Frontage Improvements

- a) The applicant shall restrict vehicular traffic movements on SE Anderson onto OR 212 to Right in/Right out only.
- b) Right of way shall be donated to ODOT as necessary to accommodate the planned cross section on the ODOT owned facility. The donation deed must be to the State of Oregon – Oregon Department of Transportation and shall be recorded with the County. The property owner must be the signatory for the deed and will be responsible for a certified environmental assessment of the site before the property is transferred to ODOT. The ODOT District Contact will assist in coordinating the transfer. ODOT should verify with the local jurisdiction that this requirement has been fulfilled prior to final permitting.

Note: All public frontage improvements on State owned facilities must be within State owned right of way. Donation of additional property to ODOT may be necessary to construct required improvements.

Permits and Agreements to Work in State Highway Right of Way

- c) An ODOT Miscellaneous Permit must be obtained for all work in the State highway. When the total value of improvements within the State highway is estimated to be \$100,000 or more, a Cooperative Improvement Agreement (CIA) with ODOT is required. A CIA will address the transfer of the improvements to ODOT and any associated technical and administrative costs for projects that meet this improvement threshold. Agreements shall address the work standards that must be followed, maintenance responsibilities, and compliance with ORS 276.071, which includes State of Oregon prevailing wage requirements.

Note: If a CIA is required, it may take 6 months or longer to process.

- d) The applicant must obtain an ODOT Miscellaneous Permit to place trees in the State right of way. Tree placement must be consistent with the ODOT Highway Design Manual section 406.1.

If the proposed tree placement does not meet ODOT Highway Design Manual criteria, a Design Exception must be prepared by an Oregon-registered Professional Engineer (P.E.) for review by the Region 1 Technical Center. The preparation of a Design Exception request does not guarantee its ultimate approval.

Note: It may take 6 months or longer to process a Design Exception.

- e) An ODOT Miscellaneous Permit is required for new or modified connections to State highway drainage facilities. Connections will only be considered if the site's drainage naturally enters the State highway drainage facility. The applicant must provide the ODOT District with a preliminary drainage plan showing impacts to the State highway drainage facility.

A drainage study prepared by an Oregon-registered Professional Engineer (P.E.) is usually required by ODOT if:

1. Modification to site development or State highway facility trigger the need for treatment, detention and drainage modifications per both local and state standards; or
2. Total peak runoff entering the State highway drainage facility is more significant than 1.77 cubic feet per second; or
3. The improvements increase the impervious surface area to greater than 10,758 square feet.

Note: If a drainage study is required, it shall be prepared to meet the requirements of the ODOT Hydraulics Manual. The applicant is advised that ODOT standards may differ from the local jurisdiction.

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.