

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an application by the City of Sandy for)	<u>FINAL ORDER</u>
approval of upgrades to the existing water treatment)	File Nos. Z0273-25
plant located northeast of 53415 E. Highway 26,)	and Z0274-25
in unincorporated Clackamas County, Oregon)	(Alder Creek Treatment Plant)

A. SUMMARY

1. The applicant, City of Sandy (the “City”), requests conditional use approval to upgrade the existing water treatment plant on a 2.12-acre parcel located approximately 2,000 feet southeast of the site at 53415 E. Highway 26, known as tax lot 03900, Township 2 South, Range 6 East, of the Willamette Meridian, Clackamas County; also known as County assessor parcel number 00703867 (the “site”). The site and abutting properties to the east, west, and south are zoned TBR (Timber). Properties to the north are zoned RRFF-5 (Rural Residential Farm Forest, five-acre minimum lot size).

2. In 1977 the County approved a 3,440 square foot water treatment facility, a helicopter pond used for fire suppression, and off street parking area for 12-15 vehicles on the site (File CU-112-77). In 2004 the County approved a conditional use land division creating a 2.12 acre parcel for the water treatment facility. (File Z0551-04 and Partition Plat 2006-032).

3. With this application the City proposes rehabilitation of the raw water pump station, new membrane filtration containers, new finished water pumps, upgrades to the backwash storage pond, and new chemical feed equipment, housed in an existing building (File No. Z0273-25).

4. The applicant also request approval of a variance to the front setback for an underground tank and a three-sided cover structure (File No. Z0274-25). Those proposed improvements are still located on the subject site, but closer to the property boundaries than the setbacks and fuel-free break area would support without a variance.

5. Hearings Officer Joe Turner (the "hearings officer") held an online public hearing about the application. County staff recommended that the hearings officer approve the application, subject to conditions. See the Staff Report and Recommendation to the Hearings Officer dated October 15, 2025, (the “Staff Report”). The applicant accepted the findings and conditions of approval as recommended by County staff, without exceptions. No one else testified orally or in writing.

6. Based on the findings provided or incorporated herein, the hearings officer finds that the applicant sustained the burden of proof that the proposed use does or can comply with the relevant approval standards of the Clackamas County Zoning and Development Ordinance (the “ZDO”), provided the applicant complies with conditions of

approval recommended by County staff or warranted by the facts and law to ensure the proposed use does comply in fact with those standards. Therefore the hearings officer approves the application subject to the conditions at the end of this final order based on the findings and conclusions incorporated herein.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at the public hearing about this application on October 23, 2025. All exhibits and records of testimony are filed at Clackamas County Department of Transportation and Development. 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 following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Joy Fields summarized the Staff Report and her PowerPoint presentation. The applicant is requesting conditional use approval for upgrades to the existing water treatment plant on the site. The applicant also requests approval of a variance to the 20-foot front setback requirement for an underground tank and a three-sided cover structure. The underground tank is exempt from setback requirements but the above-ground structure is subject to setback requirements.

3. Consultants Adam O'Dell and Matt Hastie and City of Sandy Public Works Director AJ Thorne appeared on behalf of the applicant, City of Sandy.

a. Mr. O'Dell summarized his PowerPoint presentation outlining the history of the treatment facility and the proposed upgrades. He noted that the site is currently developed with a titration building and a backwash pond. With this project the applicant proposed to upgrade the backwash pond. The applicant proposed to rehabilitate the raw water pump station, install new membrane filtration containers, new finished water pumps, upgrades to the backwash storage pond, and new chemical feed equipment, which will be housed in the existing building. The applicant will also install a new generator. The applicant must keep the existing water treatment system online while the new facilities are constructed, which limits the applicant's ability to meet setback requirements.

b. Mr. Thorne testified that the existing backwash pond has not been used for fire fighting in the past but it is available for that purpose, if needed.

c. Mr. Hastie testified that they cannot locate the new equipment and structures further from the road due to the location of the existing structures. Weyerhaeuser and the City of Sandy are the only users of the road that provides access to the site.

4. At the end of the public hearing, the hearings officer closed the record and announced his intention to approve the application subject to the findings and conditions in the Staff Report.

C. DISCUSSION

The hearings officer adopts the following findings as his own.

1. ZDO Section 406 Timber (TBR)

Section 406 regulates the Timber District, which includes the subject property at the Sandy water treatment facility. Table 406-1 identifies Water intake facilities, related treatment facilities, pumping stations, and distribution lines as a conditional use subject to 406.05(A)(1) & (6). Therefore, the upgrades to the water treatment facility is a conditional use in the underlying zoning district.

This criterion is met.

406.05(A)(1): General Criteria

1. *The use may be allowed provided that:*
 - a. *The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and*
 - b. *The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.*

Finding: The applicant is proposing to upgrade the existing facility. As the applicant states in the application:

Currently the facility does not pose any significant impact on adjacent farms or forests. The expansion will increase the reliability of the water treatment facility but not alter the nature of the use or the impacts it will have on adjacent properties. The improvements will include the addition of a new structure with three open walls, regrading of the site, and removal of some trees.

The improvements to the site will also not increase the fire hazard of fire protection costs. As noted in the original approval of the water treatment facility (CU-112-77), the holding pond on the site can be used for helicopter fire suppression equipment which has long term benefit to fighting potential fires in the area. The expansion of the facility will include upgrades to the holding pond. In addition, the project will results in the removal of some trees which will help reduce fire risks. As described in more detail below, the development also will comply with the County's

required fire siting standards, including fuel-free break standards. Therefore, this standard is met.”

(Exhibit 2a at 101)¹

The original location of the facility was chosen for its minimal impact to the surrounding forest. Expansion of the facility will not increase these impacts. The site area is not proposed to be expanded and visitation and vehicle trips to the site and not expected to increase. No additional roads or other improvements to facilitate development of the site are proposed on adjacent properties.”

(Id. at 103)

“The water treatment facility was originally approved under CU-112-77 (Exhibit E), which found that the subject property was suitable for a water treatment facility. The original staff report noted that the use of the property would, “appear to have minimal impact on the area as it is isolated and will not interfere with the reforestation of the surrounding clear-cut area.” The location of the use is also ideal for the gravity flow from the source of the water supply to the treatment facility. The findings of the original staff report are still relevant to the proposed expansion of the facility. Adequate access already exists for the facility.”

(Id. at 144)

The applicant did not identify what farm and forest practices are taking place on the adjacent properties. However, the use is existing and the applicant notes that the upgrades will not expand the use or increase the number of visitors or vehicles accessing the site. Additionally, the applicant identifies that the use will not interfere with the reforestation of the surrounding clear-cut area. Therefore, the hearings officer concurs that no impacts to farm or forest practices will occur with this upgrade to the existing water treatment facility because the upgrades will not cause an increase in visitors or vehicle traffic.

With the maintenance and upgrades to the backwash storage pond, and the addition of an open sided structure, these improvements will not increase fire risk or the risk to fire fighters. **This criterion is met.**

406.05(A)(6)

A land division for the use may be approved pursuant to Subsection 406.09(D).

Finding: The land division for the use was approved in 2004 and implemented in 2006. The applicant is not proposing a land division with this proposal. **This criterion is not applicable.**

2. ZDO SECTION 1203 CONDITIONAL USES

¹ The hearings officer refers to the .pdf page number of cited documents

1203.01 PURPOSE AND APPLICABILITY

Section 1203 is adopted to provide standards, criteria, and procedures under which a conditional use may be approved.

Finding: The applicant submitted a conditional use application because some of the parking spaces approved in the 1977 Conditional Use approval will be removed through the upgrades to the site and, so a modification pursuant to ZDO 1309 was not a feasible pathway for this proposal. **This criterion is met.**

1203.02: SUBMITTAL REQUIREMENTS

Finding: This application includes a site plan, application fee, and a completed land use application form application addressing the criteria in ZDO Section 1203. The applications, Z0273-25, and Z0274-25 were submitted on July 2, 2025, with additional application materials submitted on July 3, 2025, August 15, 2025, and September 4, 2025. The application was deemed complete on September 4, 2025, after receiving a signed form indicating the applicant provided all of the missing information.

The applicant provided preliminary statements of feasibility for water and surface water management. No preliminary statement of feasibility was received from the septic and onsite wastewater program. However, the applicant noted in findings for ZDO 1007.07 that the site is not permanently staffed and that the improvements will not change staffing levels at the site. **This criterion is met.**

1203.03: GENERAL APPROVAL CRITERIA

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

Finding: The hearings officer agrees with the applicant's finding included below.

The applicant states:

The proposal is for improvements to a water treatment facility in the Timber (TBR) District. According to Table 406-1: Permitted Uses in the TBR District, a water treatment facility is listed as a conditional use, subject to ZDO 406.05(A)(1) & (6). This proposal includes an expansion of the facility which was originally approved as a conditional use in 1977 (Exhibit E, CU-112-77). Therefore, this standard is met.

(Exhibit 2a at 143)

This criterion is met.

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

Finding: As noted in the section "A. Summary" of this Final Order section, the subject property was created through a conditional use land division for the water treatment

facility approved in 2004. That land use decision found the size, shape, location, and existence of the water treatment facility, approved in 1977, to be suitable for the water treatment facility. The site's existing water treatment facility was placed due the location being downslope of the water source. Therefore, the shape, size, topography, location, and existing improvements show the site is suitable.

Additionally, the applicant states:

The water treatment facility was originally approved under CU-112-77 (Exhibit E), which found that the subject property was suitable for a water treatment facility. The original staff report noted that the use of the property would, "appear to have minimal impact on the area as it is isolated and will not interfere with the reforestation of the surrounding clear-cut area." The location of the use is also ideal for the gravity flow from the source of the water supply to the treatment facility.

The findings of the original staff report are still relevant to the proposed expansion of the facility. Adequate access already exists for the facility. Due to its isolation, there will be minimal impact to natural features or surrounding properties. In addition, this application demonstrates that the facility will meet screening and buffering requirements associated with the residential zone to the north and that the operation of the facility will continue to have minimal impacts on traffic, lighting, aesthetic and other conditions for surrounding uses and properties, given the characteristics of the use and of the surrounding properties.

(Id. at 144)

The applicant is requesting a variance to the front setback for a three-sided cover structure associated with an underground tank. Those proposed improvements are still located on the subject site, but closer to the property boundaries than the setbacks and fuel-free break area would support without a variance. Redesigning the improvements to be at the northern portion of the site would put those structures closer to residentially zoned lots as well as potentially require removal of the existing structure on the site which is needed to maintain water treatment during construction of the proposed modifications. Having greater distance between the proposed utility facility and residential lots adds to the screening and buffering of dissimilar uses and supports ZDO 1009.04. Therefore, the hearings officer finds that with a variance approval and compliance with the fuel-free break standards, the site can be suitable for the proposed use. **This criterion can be met as conditioned.**

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

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

- A. *Subsection 1007.07 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

B. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

1. *Development that is located:*
 - a. *In the Light Industrial, General Industrial, or Business Park District; and*
 - b. *North of the Clackamas River; and*
 - c. *West of Highway 224 (south of Highway 212) or 152nd Drive (north of Highway 212); and*
 - d. *South of Sunnyside Road (east of 82nd Avenue) or Harmony Road (west of 82nd Avenue) or Railroad Avenue (west of Harmony Road); and*
 - e. *East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).*
2. *Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;*
3. *Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;*
4. *Mass transit facilities, such as light rail transit stations and park-and-ride lots;*
5. *Home occupations to host events, which are approved pursuant to Section 806; and*
6. *Development in Government Camp that is otherwise consistent with the Comprehensive Plan land use plan designations and zoning for Government Camp.*

Finding: The proposed use is an unmanned utility facility. ZDO 202 defines a utility facility as:

UTILITY FACILITY: A building, structure, or any constructed portion of a system that provides for the production, transmission, conveyance, delivery, or furnishing of heat, light, power, gas, water, sanitary sewer, stormwater, telephone, cable television, internet, or other similar service. Utility facility does not include wireless telecommunication facility.

The water treatment facility meets that definition.

The applicant states in reference to ZDO 1007.07:

The application is for improvements to the existing water treatment facility which was originally approved in 1977 (Exhibit F, CU-112-77). The facility can be described as a primarily unmanned utility facility as employees are only present on the site at periodic times for servicing. There will be no increase in the number of motor vehicle trips to the facility as a result of the improvements. As a result, there will be no impacts on the function of roads that provide a connection to the easement/unpaved road that serves this facility. Therefore, this application is exempt from Subsection (B) above by virtue of meeting subsection (3).

(Exhibit 2a at 121)

Therefore, the hearings officer considers this to be an unmanned utility facility. **This criterion is met.**

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

Finding: The applicant does not identify the surrounding area or identify the primary uses allowed within that area in the findings for this criteria.

The applicant states:

The existing water treatment facility was approved in 1977 under CU-122-77 (Exhibit E). The facility has not altered the character of the surrounding area as it is highly isolated and surrounded by trees and vegetation. Expanding the facility to improve capacity and reliability of the facility will not alter the nature of the use of the facility or the surrounding area. Therefore, this standard is met.

(Exhibit 2a at 144)

In other areas of the application the applicant states:

The site is bordered on the east, west and south by other TBR zoned properties which do not require screening or buffering. To the north of the property, existing trees and a berm that is approximately 11 feet tall and 20 to 60 feet wide with existing large trees on top of the berm provide sufficient screening from the residential uses to the north. From the private accessway the facility itself is not visible due to the existing trees and vegetation. Furthermore, the facility is not visible from the residential properties to the north or from the road that serves them as illustrated in Exhibit C.

(Id. at 128)

Furthermore, this edge of the property is adjacent to a TBR-zoned property with no homes, businesses, or visitors beyond timber harvesting workers.

(*Id.* at 129)

Based on the narrative, photos, and plans included in the application, the hearings officer agrees that the expansion of the proposed water treatment plant will not limit, impair, or preclude the use of surrounding properties from rural residential or farm and forest uses that are the primary uses in the RRF-5 zone for the properties to the north and the farm and forest uses in the TBR zone for the properties to the east, west, and south. **This criterion is met.**

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

Finding: The applicant identified that the use meets the Clackamas County Comprehensive Plan Chapter 7 Public Facility Goals:

- *Provide for the location and development of drinking water facilities to support existing and future land development.*
- *Protect the quantity and quality of drinking water supplies.*
- *Coordinate the location and size of drinking water facilities with appropriate water purveyors.*

The hearings officer agrees that the proposal supports the Public Facilities Goals. In addition, this land use review process ensures that the Forest Policies in Chapter 4 are met by ensuring the site is suitable for the proposed use and that conflicting uses are mitigated through feasible conditions of approval. **This criterion is met.**

1203.03 F: *The proposed use complies with any applicable requirements of the zoning district and any overlay zoning district(s) in which the subject property is located, Section 800, Special Use Requirements, and Section 1000, Development Standards.*

Finding:

3. SECTION 800 SPECIAL USE REQUIREMENTS

Finding: There are no sections in the 800s that apply to water treatment facilities.

4. SECTION 1000 DEVELOPMENT STANDARDS

Finding: As stated in ZDO 1001 “*Section 1000 applies to all development, as identified in Table 1001-1, Applicability of Section 1000.*”

Utility facilities, are an institutional use and are subject to the following:

Table 1001-1 Applicability of Section 1000.

Type of Development	1002 Protection of Natural Features	1003 Hazards to Safety	1004 Historic Protection	1005 Site and Building Design	1006 Utilities, etc	1007 Roads & Connectivity	1009 Land-scaping	1010 Signs	1011 Open Space and Parks	1012 Lot Size and Density	1013 Planned Unit Developments	1015 Parking and Loading	1017 Solar Access	1021 Solid Waste & Recyclable Material Collection
Partitions														
Subdivisions	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	
Replats														
Institutional	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓
Commercial ²	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓
Industrial														

5. ZDO SECTION 1002, PROTECTION OF NATURAL FEATURES

Finding: The subject site contains no slopes greater than 20 percent and no known river or stream features regulated by the ZDO. The site does contain a water feature on the statewide wetland inventory. The Department of State Lands reviewed the proposal for impacts to that water feature and found that a state permit is not necessary for the proposed project because the project avoids impacts to the jurisdictional wetlands, waterways, or other water. The site contains a significant clump of trees on the eastern portion of the site and no development is proposed in that location of the site, leaving the wooded area undisturbed. **These criteria are met.**

6. ZDO SECTION 1003, HAZARDS TO SAFETY

Finding: The subject site contains no mapped: mass movement hazards, special flood hazard areas, or soil hazard areas. The site is outside the Urban Growth Boundary and it has unknown wildfire risk since the Oregon Wildfire Risk maps produced by ODF and Oregon State University has been repealed by the passage of 2025 Senate Bill 83. There are no steep slopes on the site. **These criteria are not applicable.**

7. ZDO SECTION 1004, HISTORIC PROTECTION

Finding: The site is not designated a Historic Landmark, and is not located in a Historic District or Historic Corridor. Therefore there are no known historic resources on the subject site. **These criteria are not applicable.**

8. ZDO SECTION 1005, SITE AND BUILDING DESIGN

1005.02 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 so that the longest building elevations can be oriented within 20 degrees of true south in order to maximize the south-facing dimensions.*

- 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.*

Finding: The applicant states:

The project involves the expansion of the existing water treatment facility by adding a water pump station, LPMF system, and other improvements that will increase the efficiency and reliability of the facility. The additions to the site are the minimum necessary to improve the capacity of the facility. The existing vehicle areas and walkways will be improved for employees that visit the facility. The facility will not be open or accessible to the public. Additional pedestrian, parking, or transit-related improvements are not necessary or desirable for this property.

The new canopy structure will be directly to the south of the existing treatment facility. Which allows for convenient access from the existing building and parking area to new facilities and helps ensure minimum expansion to other parts of the site that contain trees and other natural features. Therefore, this standard is met.

(Exhibit 2a at 110)

The project is an expansion of an existing facility. The location of the existing water treatment building will not change. In addition, these standards are intended to apply primarily to occupied residential buildings or commercial businesses to increase availability of sunlight. The existing and proposed new structures will be used only intermittently when visited by the staff that operate the facility. Therefore, this standard does not apply.

(Id. at 110)

The hearings officer find that the proposed site development will cluster buildings within the developed portion of the site for efficient sharing of walkways, and on-site vehicular circulation. The site is a rural Timber zoned property with no commercial, industrial, or other institutional uses in the area; thus connections to adjoining sites, parking, loading, transit-related facilities, plazas, recreation areas, and similar amenities are not needed because these amenities are not available in the area. The existing water treatment facility has the longest building in the plan and is oriented to maximize the south-facing dimensions. No solar panels or other active or passive solar use is incorporated into the building plan because the existing use is a utility facility and the proposed upgrades are equipment and new structures to cover equipment that are not in need of passive solar use. **These criteria are met.**

- 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.*
- 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.*
- 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.*

Finding: The applicant states:

As shown in the Site Plan (Exhibit A, Sheet A1), a walkway is provided from the parking area to the new structure and new equipment proposed for the site. The sheet keynote #2 identifies a gravel surface that runs along the east side of the canopy structure and between the generator and water pump station. The walkway does not cross a driveway, parking space, or other vehicle areas. No changes to the layout of the site or existing parking area are proposed and no new walkways are necessary to adequately service the facility. The existing parking provides direct access to the existing building on the site. Employees who visit the site will have adequate access to the facility and its equipment. There will be no public access to the site. Therefore, this standard is met.

(Exhibit 2a at 112)

The application materials confirm that a walkway is proposed on the northern edge of the parking lot and connects the parking lot to the entrance of the building. It does not appear that the walkway proposed around the primary water treatment facility building will extend or connect to the generator, or new equipment and cover structure. However, no public entrance is applicable, and the staff visiting the site will be parking in the provided parking spaces, so walkways to the access easement are not appropriate or needed, and there are no outdoor activity areas transit stops, children's play areas, or plazas. **These criteria are met.**

- 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.*
- 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, and institutional buildings located on major transit streets shall have at least one public entrance facing a major transit street, or street intersecting a major transit street.*
- 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.*

- 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.*
- K. Where a minimum floor area ratio (FAR) is required by the standards of the applicable zoning district, it shall be calculated as follows:*
- L. The following standards apply in the HDR, RCHDR, and SHD Districts:...*

Finding: The subject site is located outside the UGB, in an area without major transit, and no street frontage. The site is in the TBR District that has no minimum FAR. Although the water treatment facility is considered an institutional use, the public does not visit or enter the utility facility for public health and safety reasons. **These criteria are not applicable.**

1005.03 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.*

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.*

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 window, 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.*

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*

Finding: The site is accessed through an access easement serving two properties. The public will not be using the access because the utility facility is not open to the public. Adjacent properties sharing the access easement are zoned Timber and are actively timbered. Therefore, there will be no building facades visible from a public or private street or accessway and no building facades where the primary entrance is used by the public. This application is not subject to ZDO 1005.02(E) because the site is located outside of the UGB.

The applicant states:

The existing structure on the site was originally approved under a Conditional Use application in 1977 (Exhibit E, CU-122-77) and will not be altered with this project. Due to the location of the property in a densely wooded area, none of the structure facades are visible from the

nearest public or private street or accessway and the facility will not be open to or accessible by the public. The property is accessible via an unimproved driveway. As shown in the site photographs (Exhibit C, Pic D and Pic E), the approach to the facility is heavily vegetated and the front façades of the proposed new building and the existing building are not visible until one reaches the property.

(Exhibit 2a at 113)

The existing use of the building is a water treatment facility which is a public utility which is not open to the public and will only be visited by City employees who make periodic trips to the site. The façade of the existing building faces a private easement on the southern parcel. No changes are proposed to the façade of the existing building. The main façade of the proposed new building will face the interior of the site where the parking and circulation area is located. This façade will be open, as will two other sides of the building.”

(Id. at 114)

The hearings officer concurs with the applicant that these standards are met. **These criteria are met.**

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.*

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: The proposed use is not a middle housing type and the architectural style, concepts, colors, materials, and other features that are compatible with the rural nature of the area and the proposed institutional use.

The applicant states:

No changes to the existing primary structure are proposed. The building materials, color, and overall style will remain the same. This structure is not visible from the public right-of-way or adjacent residential uses to the north. The new canopy design over the water treatment system room includes a gray standing seam metal roof structure spanning the LPMF system. The walls on the east, south and west elevations of the canopy structure are screen walls composed of 1" deep either perforated (upper portion) or opaque curved rib gray/blue metal panels (lower portion). A secondary standing seam gray metal roof covers the pump equipment at the northwest corner. These materials will be treated to inhibit rust or corrosion to ensure the longevity of the structure. The site is not accessible to the general public.

(Exhibit 2a at 115)

As discussed earlier, there is no public view of the site. Therefore, the building materials chosen are durable and consistent with the proposed use of the building as indicated by the applicant. The building materials are consistent with the level and exposure to public view because there is no public view. The hearings officer finds that the materials are consistent with the exposure to natural elements, and ease of maintenance. **These criteria are met.**

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 mail boxes 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 lighting plan and circulation plan provided by the applicant demonstrates that there will be lighting to support safety at the site.

Additionally, the applicant states:

The property is located in an isolated and densely wooded area. A 6' fence with barbed wire on top surrounds the treatment facility. A gate prevents unauthorized vehicles from entering the site. Additionally, existing trees

and topography protect the property from wildlife and the public from entering the facility. As a result, the majority of the specific strategies listed under this list of requirements (e.g., #1, 3, 4, 5, 6 and 7) are not applicable to this project. As shown in the site lighting study (Exhibit A, Sheet A7), the site will be sufficiently lit for employees to visit the facility and for site surveillance. Therefore, this standard is met.

(Exhibit 2a at 116)

These criteria are met.

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.*

I. Requirements for compatibility with the intent of the design type or with the surrounding area

J. Requirements for screening mechanical equipment:

K. Requirements for specialized structures in industrial zoning districts

Finding: The proposed upgrades include an open cover structure, equipment, and underground tanks. As noted above, the existing water treatment building is not being impacted by these upgrades. The surrounding area is in forestry and rural residential use with no specific design dominating the surrounding area. The upgrades do not include mechanical equipment on the roof of any of the buildings. All of the structures in the upgrade are specialized structures and the underlying zone is not industrial. **These criteria are not applicable.**

1005.03 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 building facades will be visible from the shared accessway. Therefore, the proposed development is subject to these criteria. However, modifications to these standards are warranted pursuant to ZDO 1005.06, as the site is located in a rural area, surrounded by trees with no public access. The access road only serves the site and the abutting Weyerhaeuser property. The modification criteria are addressed below. **These criteria are met pursuant to the approved modification.**

1005.04 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.*

B. The following are exempt from Subsection 1005.04(A):

1. *Temporary lights used for holiday decorations;*

2. *Street lights regulated in Section 1006, Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control; and*
3. *Lighting associated with outdoor recreation uses such as ball fields or tennis courts.*

Finding: The applicant's lighting study (Exhibit 2a at 13) shows lighting for the entrances, parking lots, and driveway within the boundaries of the site. The lighting specifications included in the application show the lights used will be shielded and directed downwards. The lighting proposed meets the lighting requirements of 1005. **These criteria are met.**

1005.05 ADDITIONAL REQUIREMENTS

Development shall comply with a minimum of one of the following techniques per 20,000 square feet of site area. Regardless of site size, a minimum of one and a maximum of five techniques are required. Partial site area numbers shall be rounded.

- A. *Install a solar energy system in the development.*
- B. *Use passive solar heating or cooling techniques to reduce energy consumption.*

Examples of techniques:

1. *Modulate building masses to maximize solar access.*
 2. *For developments with more than one structure, locate taller structures to minimize negative impacts on solar access for the development site and adjacent sites.*
 3. *Locate buildings to maximize windbreaks.*
 4. *Locate structures and landscaping to avoid winter shading on the south side and optimize summer shading on the west and southwest sides of buildings.*
 5. *Utilize deciduous trees to provide summer shade and allow winter sun.*
 6. *Utilize deciduous vines on fences, trellises, and arbors to provide summer shade.*
 7. *Locate and form berms to protect buildings and exterior use spaces against winter winds or utilize dense evergreens or conifers to screen winter wind and protect against hostile winter elements.*
 8. *Provide skylights or clerestory windows to provide natural lighting, and/or solar heating of interior spaces.*
- C. *Use highly reflective (high albedo) materials on roof surfaces.*

- D. *Place major outdoor use areas such as plazas, playgrounds, gardens, etc. on the south side of buildings.*
- E. *Construct a minimum of 75 percent of walkway area of porous pavement.*
- F. *Construct a minimum of 75 percent of all parking spaces with porous pavement.*
- G. *Provide additional landscaping area at least 10 percent above the requirement for the site pursuant to Table 1009-1, Minimum Landscaped Area. For example, if the minimum area requirement is 20 percent, then 22 percent shall be provided. Credit shall be given for green roofs or other areas of vegetation that exceed the minimum area requirements.*
- H. *Include additional swales in development landscaping, pursuant to Section 1009, Landscaping. Credit shall be given for additional swale(s) that exceed the requirements of Subsection 1009.04(A)(2) by at least 10 percent of area. For example, if 1009.04(A)(2) requires 200 square feet of swale area, then an additional 20 square feet of swale area would be required.*
- I. *Collect rainwater from roofs and/or other impervious surfaces and use it for irrigation.*
- J. *Apply other techniques for onsite storm water treatment identified by the surface water management regulatory authority.*
- K. *Lay out sites and locate buildings and on-site vehicular circulation to create functional open areas such as plazas, courtyards, outdoor recreation areas, miniparks, and accessways that are open to the general public.*

Finding: The application materials show that the building proposed to cover the equipment will include skylights. The applicant also provided a stormwater treatment plan that applies techniques for onsite stormwater treatment. **These criteria are met.**

1005.06 MODIFICATIONS

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

The hearings officer finds that a modification is warranted to ZDO 1005.03(A). The modification is consistent with ZDO 1005.01, because the modifications will reduce the development's impacts on natural features and vegetation by limiting the footprint of the structure through the simplistic building design. The remaining criteria that apply to this application are met, based on the findings above.

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

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, utility service lines 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: As conditioned these criteria are met.

1006.02 STREET LIGHTS

Street lights are required for all development inside the Portland Metropolitan Urban Growth Boundary. The following standards apply:

...

Finding: The site is located outside the Portland Metropolitan Urban Growth Boundary. Therefore, no street lights are required. **These criteria are met.**

1006.03 WATER SUPPLY

- A. *Development which has a need for, or will be provided with, public or community water service shall install water service facilities and grant necessary easements pursuant to the requirements of the district or company serving the development.*
- B. *Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.*
 - 1. *The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be*

made available through improvements completed by the developer or the system owner.

- 2. If the statement indicates that water service is adequate with the exception of fire flows, the applicant shall provide a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.*
 - 3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve water system capacity for the development.*
- C. Prior to final approval of a partition or subdivision, the applicant shall provide evidence that any wells in the tract subject to temporary or permanent abandonment under Oregon Revised Statutes (ORS) 537.665 have been properly abandoned.*
- D. The following standards apply inside the Portland Metropolitan Urban Growth Boundary, Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:*
- 1. Land divisions or other development requiring water service shall not be approved, except as provided in Subsection 1006.03(D)(4), unless they can be served by a public water system in compliance with drinking water standards as determined by the Oregon Health Authority.*
 - 2. Development requiring water service within the boundaries of a water service system, created pursuant to ORS chapters 264, 450, or 451, shall receive service from this system.*
 - 3. New public water systems shall not be created unless formed pursuant to ORS chapters 264, 450, or 451.*
 - 4. A lot of record not located within the approved boundaries of a public water system may be served by an alternative water source.*

Finding: The development proposes upgrades to an existing water treatment facility. The applicant provided a preliminary statement of feasibility from the City of Sandy's water system that it is feasible to meet the water requirements for the site. No land division is proposed and no new water system is being created. **These criteria are met.**

1006.04 SANITARY SEWER SERVICE

Finding: The site is outside of all sanitary sewer districts and is not able to be served by a sanitary sewer service. **These criteria are not applicable.**

1006.05 ONSITE WASTEWATER TREATMENT

- A. *All development that requires onsite wastewater treatment shall receive approval for the system from the County prior to submittal of a land use application for development. Onsite wastewater treatment systems shall be installed pursuant to: Oregon Revised Statutes 454.605 through 454.745; Oregon Administrative Rules chapter 340, divisions 71 and 73; and the policies of the County.*
- B. *Inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village, all land divisions or other development that requires onsite wastewater treatment shall be prohibited except for:*
- C. *Notwithstanding Subsection 1006.05(B), development of triplexes, quadplexes, townhouses, or cottage clusters in the VR-4/5, VR-5/7, R-5, R-7, R-8.5, R-10, R15, R-20, or R-30 Districts and development of affordable housing subject to Section 846, Affordable Housing, is prohibited if the development requires onsite wastewater treatment.*

Finding: The site is located outside of the UGB and already has an existing septic system to serve the existing water treatment facility. The development is not for triplexes, quadplexes, townhouses, or cottage clusters in a residential zone. The applicants are correct that the Clackamas County Septic and Onsite Wastewater Program does not provide preliminary statements of feasibility. The Program does provide authorization notices for situations where the use or intensity of the use is changing to ensure the existing system is adequate for the new use. In the application, the applicant indicated that the number of employees would not increase with the water treatment facility upgrades, and that no staff work out of the treatment facility on a permanent basis. The narrative does indicate that the septic drain field will be relocated in the future and the property owner has applied for a site evaluation through permit number SE021325. **As conditioned these criteria can be met.**

1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL

The following surface water management and erosion control standards apply:

- A. *Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.*
- B. *The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the Clackamas County Roadway Standards apply.*
- C. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that*

adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.

- 1. The surface water management regulatory authority may require a preliminary surface water management plan and report, natural resource assessment, and buffer analysis prior to signing the preliminary statement of feasibility.*
 - 2. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*
- D. Development shall be planned, designed, constructed, and maintained to:*
- 1. Protect and preserve existing natural drainage channels to the maximum practicable extent;*
 - 2. Protect development from flood hazards;*
 - 3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;*
 - 4. Ensure that waters drained from the development are substantially free of pollutants, including sedimentary materials, through such construction and drainage techniques as sedimentation ponds, reseeding, and phasing of grading; and*
 - 5. Ensure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development.*
- E. Where culverts cannot provide sufficient capacity without significant environmental degradation, the County may require the watercourse to be bridged or spanned.*
- F. If a development, or any part thereof, is traversed by any watercourse, channel, stream, creek, gulch, or other natural drainage channel, adequate easements for surface water management purposes shall be provided to the surface water management regulatory authority.*
- G. Channel obstructions are not allowed, except as approved for the creation of detention, retention, or hydropower facilities approved under this Ordinance. Fences with swing gates may be utilized.*
- H. The natural drainage pattern shall not be substantially altered at the periphery of the subject property. Greatly accelerated release of stored water is prohibited. Flow shall not be diverted to lands that*

have not previously encountered overland flow from the same upland source unless adjacent downstream owners agree.

- I. *A surface water management and erosion control plan is required for significant residential, commercial, industrial, and institutional development. The plan shall include:*
 1. *The methods to be used to minimize the amount of runoff siltation and pollution created from the development both during and after construction; and*
 2. *Other elements required by the surface water management authority.*

Finding: The site is located outside surface water management districts and thus the Clackamas County Transportation and Engineering Program is the surface water management agency. The applicant provided a stormwater management plan in the application. As indicated by the preliminary statements of feasibility signed by the Clackamas County Transportation and Engineering Program on September 3, 2025, the onsite surface water treatment requirements for the proposed use can be met (Exhibit 2c at 8). The storm drainage facilities for the proposed development will be reviewed with the Development Permit. **As conditioned these criteria are met.**

10. 1007 ROADS AND CONNECTIVITY

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: No new roads are proposed. The existing access will need to meet the requirements of the Clackamas County Roadway Standards and be adequate for fire and emergency access. **These criteria are met as conditioned.**

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

1. *Intersection spacing and access control shall be based on Subsection 3.08.110(E) of the Metro Code (Regional Transportation Functional Plan); Chapters 5 and 10 of the Comprehensive Plan; and the Clackamas County Roadway Standards.*
2. *For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, Potentially Buildable Residential Sites > 5 Acres in UGB, the applicant shall provide a conceptual map of new streets for the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets; demonstrate opportunities to extend and connect new streets to existing streets, and provide direct public right-of-way routes. Closed-end street designs shall be limited to circumstances in which barriers prevent full street extensions. Closed-end streets shall not exceed 200 feet in length and shall serve no more than 25 dwelling units. Subsequent development on the site shall conform to the conceptual street map, unless a new map is approved pursuant to Subsection 1007.01(C)(2).*
3. *Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors.*
4. *Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other vehicles, pedestrians, and bicyclists.*
5. *Joint access and circulation drives utilizing reciprocal easements shall be utilized as deemed necessary by the Department of Transportation and Development. In the NC District, joint street access for adjacent commercial developments shall be required.*
6. *In the SCMU District, driveways shall be spaced no closer to one another than 35 feet, measured from the outer edge of the curb cut, unless compliance with this standard would preclude adequate access to the subject property as a result of existing off-site development or compliance with the Clackamas County Roadway Standards.*
7. *In the VA District, no direct motor vehicle access is permitted on Sunnyside Road.*

Finding: The site is not in the NC, VA, or SCMU District and is not located in a station community. Joint access is not proposed. The driveway serving the site currently exists and the application materials do not propose to alter the location of the driveway.

Comments provided by the Transportation and Engineering Program staff are included as Exhibit 6. The access from Hwy 26 onto the existing access easement was reviewed by ODOT and they noted that if the Transportation and Engineering Program requires upgrades to the driveway, a right of way permit, or miscellaneous permit will be needed from ODOT. **As conditioned these criteria are met.**

8. *Inside the Portland Metropolitan Urban Growth Boundary:*

- a. *The development shall have no more than the minimum number of driveways required by the Department of Transportation and Development on all arterial and collector streets.*
- b. *For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.*
- c. *Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.*
- d. *Driveways shall be located so as to maximize the number of allowed on-street parking spaces, the number of street trees, and optimum street tree spacing.*
- 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*

Finding: The development does not propose the construction of any new roads. The public road adjacent to the site does not serve a transit service route. The site is outside the UGB and the driveway currently exists and will be reviewed for adequacy, safety, and compliance with the Comprehensive Plan and Roadway Standards through a Development Permit from Clackamas County Department of Transportation and Development. **As conditioned these criteria are met.**

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.*
- B. *The layout of new public and county roads...*
- C. *New county and public roads terminating in cul-de-sacs or other dead-end turnarounds are prohibited....*

Finding: The site is not identified as a scenic road in Comprehensive Plan Map 5-1; and is not included on Map IV-8. The site is not located in a center, corridor or station community; and is outside of the area included on Map 5-5. No new public or county roads are proposed. The site is not located in: Government Camp; the Sunnyside Corridor; the Sunnyside Village; the Regional Center, or Mount Hood Resource Protection Area. Therefore there are no specific design standards for the road that is adjacent to the site beyond the provisions in the Roadway Standards for access.

ZDO 202 includes the following definitions of public and private roads –

ROAD, PRIVATE: A private way created by deed or easement to provide vehicular ingress to, or egress from, three or more lots or parcels.

ROAD, PUBLIC: A public way dedicated or deeded for public use but not accepted into the County road maintenance system, intended primarily for vehicular circulation and access to abut-ting properties.

The access to the subject site is not a public or private road by definition. **These criteria are not applicable.**

- 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.*
- 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: The proposal includes expansions and upgrades to an existing institutional development. The 40-foot access easement, recorded in document number 2005-046645, indicates that the site takes access off of US Highway 26. Access onto US Hwy 26 is controlled and managed by the Oregon Department of Transportation (ODOT). No new

developments, subdivisions, or partitions are proposed through this application. **This criterion can be met as conditioned.**

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

Finding: The proposal includes expanding an existing institutional development on a property outside of the UGB and the site is not in Government Camp, Rhododendron, or Wemme/Welches. **This criterion is not applicable.**

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;*
- 2. Where the number of lots served exceeds three,;*
- 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: ZDO 202 provides: “ACCESS DRIVE: A private way, with a travel surface generally no more than 12 feet in width, created by deed or easement to provide vehicular ingress to, or egress from not more than two lots or parcels.” Therefore, the driveway serving the existing water treatment facility is considered an access drive. The site is not a flag lot with a flag pole access drive and only two lots are being served by the access drive. The access drive to the site is an easement that crosses Timber zoned property. Therefore, the 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. Comments from ODOT and the Transportation and Engineering Program indicated the intersection of the access drive with Hwy 26 was adequate for the upgrades to the existing facility. Additional access improvements will be

evaluated through the Transportation and Engineering Development Permit. **As conditioned these criteria can be met.**

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.*
- B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:...*
- C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB).*
- D. Requirement for Sidewalk Construction: Within the UGB,...*
- E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community,....*
- F. Sidewalk Location: Sidewalks required by Subsection 1007.04(C) or (D)...*
- G. Pedestrian Pathways: Within the UGB....*

Finding: The project is located outside the Urban Growth Boundary, is zoned TBR and is not located inside an unincorporated community, there is no requirement for pedestrian and bicycle facilities, or sidewalks, to be designed and constructed because the access drive is not considered a local road and is not included in the Comprehensive Plan cross sections. **These criteria are not applicable.**

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

- A. Subsection 1007.07 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*
- B. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*
 - ...*
 - 3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;*

Finding: the proposed use is not a design review, subdivision, or partition. Although the water treatment facility upgrades are being reviewed as a conditional use, the facility is an

unmanned utility facility and will remain an unmanned utility facility after the upgrades. 1007.01 is addressed above in relation to 1203.03(C). **These criteria are not applicable.**

11. 1009 LANDSCAPING

1009.01 GENERAL PROVISIONS

- A. *Landscaping materials shall be selected and sited to produce a hardy and low-maintenance landscaped area with an emphasis on fast-growing plants. Selection shall include consideration of soil type and depth, spacing, exposure to sun and wind, slope and contours of the subject property, building walls and overhangs, and compatibility with existing vegetation to be preserved. Notwithstanding the requirement for hardiness, annuals are permitted as provided in Subsection 1009.01(B).*
- B. *A variety of plants, intermixed throughout landscaped areas, shall be provided, as follows:*
 - 1. *Evergreen and deciduous;*
 - 2. *Trees, shrubs, and groundcover;*
 - 3. *Plants of varying textures;*
 - 4. *Plants of varying widths and heights at maturity; and*
 - 5. *Plants with seasonal color interest (e.g., foliage, flowering perennials, annuals).*
- C. *The planting of invasive non-native or noxious vegetation shall be prohibited, and existing invasive non-native or noxious vegetation shall be removed.*
- D. *Landscaped areas shall not be used for other purposes, such as storage or display of automobiles, equipment, merchandise, or materials.*
- E. *Landscaping of the unimproved area between a lot line and the improved portion of an adjacent road right-of-way shall be required when there are no immediate plans to develop or otherwise disturb the unimproved area, and one or more of the following apply:*
 - 1. *The subject property is located inside the Portland Metropolitan Urban Growth Boundary;*
 - 2. *Landscaping is necessary to present an appearance consistent with the proposed development as viewed from the road;*
 - 3. *Landscaping is necessary to reduce dust, noise, erosion, or fire hazard; or*

4. *The road is designated as a scenic road on Comprehensive Plan Map 5-1, Scenic Roads*

- F. Landscaping shall be used to highlight public entrances to buildings. If—due to the depth of a front setback, a required walkway, or both—there is insufficient area to permit a typical, in-ground landscaping bed between a public entrance and a front lot line, this requirement may be met with trellises, hanging baskets, or planters, any of which shall include plants.*
- G. Where feasible, landscaping shall be required adjacent to walkways and other areas intended for pedestrian use.*
- H. Existing significant plants, terrain, and other natural features shall be incorporated into the landscaping design and development if such features are required to be retained by other provisions of this Ordinance or if otherwise feasible.*

Finding: The subject site is outside the Portland Metropolitan Urban Growth Boundary and the applicant is proposing to use existing vegetation including the berm on the northern edge of the site and the wooded area on the eastern portion of the site to meet the landscape, screening, and buffering requirements. The adjacent access easement is not a Scenic Road. The proposed development is consistent with the development patterns of the area and the existing landscaping screens views of the existing water treatment facility from the rural residential uses to the north of the site. The applicant provided a grading plan that shows the location of existing trees in relation to the proposed upgrades (Exhibit 2a at 8). There is no public access to the water treatment facility and thus no public entrance to the building. Existing plants and natural features are being retained on the eastern portion of the site and the existing trees and vegetated berms along the northern property boundary are being retained. **These criteria are met.**

1009.02 MINIMUM AREA STANDARDS

- A. Table 1009-1, Minimum Landscaped Area, establishes the minimum percentage of the area of the subject property that shall be landscaped.*

Finding: The proposed use is a conditional use in the Timber District so Table 1009-1 has no minimum requirements for landscaped area. **These criteria are not applicable.**

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

Finding: The proposed use includes only five (5) parking spaces on the south side of the existing building. The surface parking area is not adjacent to abutting lots or rights-of-way. Therefore, landscaping is not needed in or around the surface parking areas. **These criteria are not applicable.**

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 proposed development includes upgrades to an existing water treatment facility. There are existing residential uses on the properties to the northwest and northeast. Therefore, screening through the use of the existing vegetated berm, as proposed in the application materials, will screen the conditional use from adjacent rural residential properties. **These criteria are met.**

- 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.*
- E. *Buffering shall be accomplished by one of the following: 1. A landscaping strip with a minimum width of 15 feet and planted with: a. A minimum of one row of deciduous and evergreen trees staggered*

and spaced a maximum of 30 feet apart; b. A perennial, evergreen planting with sufficient foliage to obscure vision and which will grow to form a continuous hedge a minimum of six feet in height within two years of planting; and c. Low-growing evergreen shrubs and evergreen ground cover covering the balance of the area;

Finding: The proposed upgrades to the existing institutional development includes the creation of additional square footage as equipment is installed and protected by a cover structure. The property to the west, closest to the new structural development, is zoned Timber and appears to be in a state of reforestation based on the 2025 aerial images. The existing wooded area buffers the proposed use from the properties to the east. The fuel-free break areas required for new structures in the Timber District regulates the spacing between vegetation. Therefore, screening and buffering along the western property boundary is not required to ensure compliance with the fuel-free break standards. The hearings officer finds the existing vegetation onsite is sufficient to meet the landscaping needs including the screening and buffering requirements. **These criteria are met.**

1009.07 FENCES AND WALLS

A. Fences and walls shall be of a material, color, and design complementary to the development.

Finding: The applicant states:

An existing fence surrounds the property on all sides of the property with a gate at the driveway access. The fence is 6' in height, made of chain-link, with three barb wires across the top. The height and style of the fence is the minimum necessary to protect the facility from trespass from the public and wildlife. The fence was first constructed with the original conditional use approval in 1977 (Exhibit F, CU-112-77) and will not be altered with this proposal.

(Exhibit 2a at 130).

The hearings officer finds that the existing fence installed for a conditional use established in 1977 is, by default, complementary to the development. The site is not located in the BP, LI, or GI District. **These criteria are met.**

1009.08 RECREATIONAL AREAS AND FACILITIES

Finding: The applicant is not proposing the development of duplexes, triplexes, quadplexes, or multifamily dwellings in the MR-1, MR-2, or HDR Districts. **These criteria are not applicable.**

1009.09 EROSION CONTROL

A. Graded areas shall be re-vegetated with suitable plants to ensure erosion control.

- B. Netting shall be provided, where necessary, on sloped areas while ground cover is being established.*

Finding: As noted above, the Clackamas County Transportation and Engineering Program is the Surface Water Management authority for the site and will review and approve an erosion control plan for the site prior to ground disturbing activities. **These criteria are met as conditioned.**

1009.10 PLANTING AND MAINTENANCE

- A. Impervious weed barriers (e.g., plastic sheeting) are prohibited.*
- B. Plants shall not cause a hazard. Plants over walkways, sidewalks, pedestrian pathways, and seating areas shall be pruned to maintain a minimum of eight feet below the lowest hanging branches. Plants over streets, bikeways, accessways, and other vehicular use areas shall be pruned to maintain a minimum of 15 feet below the lowest hanging branches.*
- C. Plants shall be of a type that, at maturity, typically does not interfere with above or below-ground utilities or paved surfaces.*
- D. Plants shall be installed to current nursery industry standards.*
- E. Plants shall be properly guyed and staked to current nursery industry standards as necessary. Stakes and guys shall not interfere with vehicular or pedestrian traffic, shall be loosened as needed to prevent girdling of trunks, and shall be removed as soon as sufficient trunk strength develops, typically one year after planting.*
- F. Landscaping materials shall be guaranteed for a period of one year from the date of installation. The developer shall either submit a signed maintenance contract for the one-year period or provide a performance surety pursuant to Section 1311, Completion of Improvements, Sureties, and Maintenance, covering the landscape maintenance costs for the one-year period.*
- G. Plants shall be suited to the conditions under which they will be growing. As an example, plants to be grown in exposed, windy areas that will not be irrigated shall be sufficiently hardy to thrive under these conditions. Plants shall have vigorous root systems, and be sound, healthy, and free from defects and diseases.*
- H. When planted, deciduous trees shall be fully branched, have a minimum caliper of two inches, and have a minimum height of eight feet.*
- I. When planted, evergreen trees shall be fully branched, have a minimum height of eight feet, and have only one leader.*

- J. Shrubs shall be supplied in minimum one-gallon containers or eight-inch burlap balls with a minimum spread of 12 inches.
- K. Ground cover shall be planted a maximum of 30 inches on center with a maximum of 30 inches between rows. Rows of plants shall be staggered. Ground cover shall be supplied in minimum four-inch containers, except that the minimum shall be reduced to two and one-quarter inches or equivalent if the ground cover is planted a minimum of 18 inches on center.
- L. Plants shall be spaced so that ground coverage three years after planting is expected to be 90 percent, except where pedestrian amenities, rainwater collection systems, or outdoor recreational areas count as landscaping pursuant to Subsection 1009.02. Areas under tree drip lines count as ground coverage.

Finding: Because existing vegetation is proposed to meet the landscaping needs, irrigation and maintenance of new landscaping material is not needed. **These criteria are inapplicable.**

12. 1010 SIGNS

Finding: The applicant included no sign designs or specifications. In the narrative they state “*The only signage included in this application is signage that is necessary for the safety and operations of the facility and signage that is required by law. Therefore, these standards do not apply.*” The hearings officer agrees that the material warnings and other signage required by law for water treatment facilities are not subject to ZDO 1010. **These criteria are met.**

13. 1011 OPEN SPACE AND PARKS

Finding: As noted by the applicant, the site is identified as Forest Use in the Mt. Hood Corridor Plan Map IV-7. The subject site has no Open Space Designation in the map and thus has no Open Space Designation in the Comprehensive Plan. **These criteria are not applicable.**

14. 1015 PARKING AND LOADING

1015.01 GENERAL STANDARDS

- A. Inside the Portland Metropolitan Urban Growth Boundary (UGB),...
- B. Outside the UGB, areas used for parking, loading, and maneuvering of vehicles shall be surfaced with screened gravel or better, and shall provide for suitable drainage.

- C. *Parking and loading requirements for uses and structures not specifically listed in Tables 1015-1, Automobile Parking Space Requirements; 1015-2, Minimum Automobile Parking Space Requirements for Dwellings; 1015-3, Minimum Required Bicycle Parking Spaces; and 1015-4, Minimum Required Off-Street Loading Berths shall be subject to the requirements for the most similar use.*
- D. *Motor vehicle parking, bicycle parking, and loading areas shall be separated from one another.*
- E. *Required parking spaces and loading berths shall not be:*
 - a. *Rented, leased, or assigned to any other person or organization, except as provided for under Subsection 1015.02(D)(3)(a) for shared parking or Subsection 1015.04(C) for shared loading berths.*
 - b. *Used for storing or accumulating goods or storing a commercial or recreational vehicle, camper, or boat, rendering the space(s) useless for parking or loading operations.*
 - c. *Occupied by the conducting of any business activity, except for permitted temporary uses (e.g., farmers' markets).*

Finding: The site is outside the Portland Metropolitan Urban Growth Boundary (UGB) and the parking, loading, and maneuvering areas will be hard surfaced as verified through a Development Permit with the Clackamas County Transportation and Engineering Program. The site plan submitted in the application showed that the parking, in the spaces shown would still enable adequate vehicle circulation. **These criteria are met as conditioned.**

1015.02 MOTOR VEHICLE PARKING AREA STANDARDS

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

Finding: The submitted site plan shows the parking space dimensions, surface material and number requirements are met and will be verified through a Development Permit with the Clackamas County Transportation and Engineering Program. The site plan showed no tire stops to prevent the cars from blocking the walkway. The applicant showed that there was adequate maneuvering areas for vehicles with the parking spaces located next to the building. **As conditioned these criteria are met.**

- 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)*

Finding: The land use types in Table 1015-2 do not identify the unmanned utility facility as a use. Therefore, the closest use is “Government Miscellaneous” use that requires 2.7 spaces for every 1,000 square feet of leasable area. However, there is no area that is leasable because it is only usable for the water treatment facility. The primary water treatment building is existing and the five parking spaces that were developed with the

original approval have served that use for over 30 years. No additional staff or visitors are anticipated from the upgrades to the equipment therefore, no additional parking spaces beyond the existing five are needed. **These criteria are met.**

1015.03 BICYCLE PARKING STANDARDS

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

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

Finding: Utility facilities are not identified in Table 1015-3 as having a minimum number of Bicycle Parking Spaces. **These criteria are not applicable.**

1015.04 OFF-STREET LOADING STANDARDS

Finding: Table 1015-4, Minimum Required Off-Street Loading Berths, does not identify a minimum number required for an unmanned utility facility. In this particular development the existing water treatment plant is being upgraded and the primary building is remaining with no change to the footprint of outside of the structure. the Aerial image of the existing structure shows an overhead door located to the west of the proposed parking spaces. No changes to the existing loading area are proposed or approved through this review. Table 1015-4 does not identify a minimum number of loading docks required for institutional uses that are utility facilities. **These criteria are not applicable.**

15. 1021 SOLID WASTE AND RECYCLABLE MATERIAL COLLECTION

Finding: As discussed above, staff visit the site, but do not have offices on site. The water treatment facility is existing and there is currently no trash service based on the application materials. Therefore, there is little to no solid waste and recycling anticipated from the proposed upgrades.

The applicant states:

*The site is not accessible by the public or garbage trucks. Any trash or waste that is generated on site is stored within existing enclosed buildings and is then transported to a secondary location. No trash enclosure is located on the property. Therefore, these standards do not apply. **These criteria are not applicable.***

16. 1203.05 APPROVAL PERIOD AND TIME EXTENSION

A. *Approval of a conditional use 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.*

1. *Implemented means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:*
 - a. *A building permit for a new primary structure that was part of the conditional use approval; or*
 - b. *A permit issued by the County for parking lot or road improvements required by the conditional use approval.*
- B. *If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension.*

Finding: This is informational only.

17. 1203.06 DISCONTINUATION

If a conditional use is implemented pursuant to Subsection 1203.05 and later discontinued for a period of more than five consecutive years, the conditional use shall become void.

Finding: This is informational only.

18. ZDO SECTION 1205 VARIANCES

1205.01 PURPOSE AND APPLICABILITY

Section 1205 is adopted to provide standards, criteria, and procedures under which a variance to a dimensional standard of this Ordinance may be approved. However, a variance is prohibited to the following dimensional standards:

- A. *The minimum lot size standards in the RA-2, RR, FU-10, EFU, TBR, and AG/F Districts;*
- B. *The two-acre minimum lot size standard in the RRFF-5 District and the two-acre minimum lot size standard for planned unit developments in the FF-10 District;*
- C. *The 20-acre minimum lot size standard inside the Portland Metropolitan Urban Growth Boundary in the RA-1, RA-2, RRFF-5, FF-10, RC, and RI Districts.*

- D. *The fuel-free break standards of Subsection 406.08;*
- E. *The maximum building floor space standards in the HC, HD, HL, HR, MRR, RTC, RC, and RI Districts;*
- F. *Dimensional standards established in Sections 703 through 710, 712, and 713.*

Finding: The applicant is not requesting a variance to a minimum lot size, the fuel-free break standards, maximum building floor space, or any of the dimensional standards in the 700s Section. **This criterion is met.**

1205.02 APPROVAL CRITERIA

A variance to a dimensional standard of this Ordinance requires review as a Type II application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

- A. *If the proposed variance is to any of the following standards, it shall not reduce the minimum by more than 10 percent; however, the 10-percent limit does not apply to the partition of a lot of record that is divided by a public road:*
 - 1. *Minimum lot size;*
 - 2. *Minimum average lot size; and*
 - 3. *District land area.*

Finding: The applicant is not requesting a variance to a minimum lot size, the minimum average lot size or the district land area. **This criterion is not applicable.**

- B. *Compliance with the applicable dimensional standard of this Ordinance would create a hardship due to one or more of the following conditions:*
 - 1. *The physical characteristics of the land, improvements, or uses are not typical of the area. When the requested variance is needed to correct an existing violation of this Ordinance, that violation shall not be considered as a condition "not typical of the area".*
 - 2. *The subject property cannot be developed to an extent comparable with other similar properties in the area if the standard is satisfied.*
 - 3. *The subject property is an Urban Low Density Residential, RA-1, RREF-5, FF-10, or HR District, the requested variance is to the minimum lot size standard, and more than 50 percent of the lots of record that are within one-half mile of the subject property and located in the same zoning district as the subject property are smaller than the minimum lot size standard.*

4. *Compliance with the standard would eliminate a significant natural feature of the subject property.*
5. *Compliance with the standard would reduce or impair the use of solar potential on the subject property or adjacent properties.*

Finding: The applicant identified that the hardship is due to the existing use that is not typical of the area. There is no existing violation on the site related to the front setbacks, which are the standards proposed for reduction through this variance application.

The applicant states:

The applicant is requesting a variance on the grounds that the physical characteristics of the land, improvements, and land use are not typical of the area. The proposal is for improvements to the City of Sandy's Alder Creek water treatment plant. This is a public utility that is not typical of the surrounding land uses, which consists of residential uses to the north, and timber for the remainder of the land. Upgrades to the site are essential for the City's ability to efficiently provide safe and clean water to residents. The location of this facility was originally chosen to maximize its efficiency for gravity flow while also having minimal impact on the surrounding area. Physical constraints of the site are present such as the size of the property and the location of the existing facility. Nonetheless, the improvements to the facility are vital for the City of Sandy. The site also contains a backwash pond, originally constructed with the water treatment facility which further constrains the site and is not a typical site feature to the area. Taking into account the unique nature of this land use, its location in a heavily forested and remote area, and the addition of essential improvements to a public utility, there is clear evidence of hardship as a result of the ZDO requirements. Therefore, a variance from these standards is necessary to properly develop the site and avoid impacts to adjacent properties or the City's water system.

(Exhibit 2b at 3).

The hearings officer concurs that the water treatment facility originally approved in 1977, is not a typical use of the area and that meeting the 30 foot setback for an underground tank, water pipes, and an open sided cover for equipment creates a hardship for the proposed upgrades due to the unique use and constraints of the site. **This criterion is met.**

C. *Strict adherence to the dimensional standard is unnecessary because the proposed variance from the standard will reasonably satisfy all the following objectives:*

1. *Will not adversely affect the function or appearance of the development and use on the subject property;*

2. *Will not impose limitations on other properties and uses in the area, including uses that would be allowed on vacant or underdeveloped properties; and*
3. *Will result in the minimum variance needed to alleviate the hardship.*

Finding: The applicant identified that the proposed variance will allow the improvements to the facility within the confines of existing infrastructure at the site, and state that,

The pump station facility is in an isolated and heavily wooded area that is not visible from any public or private street or adjacent residential parcels. A variance from the front setback will allow for the efficient development of necessary improvements to the facility. No limitations on other adjacent properties and uses will result from this variance. It will simply allow the new canopy structure and equipment to be located slightly closer to the front property line. The site is located at the end of the existing road so a reduction in setback will not impact current users, future users, or impact future road expansions.

(Exhibit 2a at 147).

ZDO 202 defines the front lot line as: “Any boundary line separating a lot from a County, public, state, or private road, or from an access drive.” Therefore, although access to the site is an access drive serving only two lots, the front setback is measured from the access easement. With the limited use of the access and the fact that the development closest to the access easement will be underground, the hearings officer find that the variance will not impose limitations on other properties and uses in the area, including uses that would be allowed on vacant or underdeveloped TBR zoned properties.

The proposed setback for the new canopy structure is 24.5 feet and the other development is underground. Therefore, the requested variance is the minimum necessary for the efficient use of the site and will not adversely affect the function or appearance of the development and use on the site. **This criterion is met.**

D. The proposed variance is consistent with the applicable goals and policies of the Comprehensive Plan.

Finding: The water treatment facility is a public facility and service considered in Chapter 7 of the Clackamas County Comprehensive Plan.

The applicant states:

The request for expansion of the facility is also aligned with the current Comprehensive Plan. The project is aligned with the following Public Facility goals of the Comprehensive Plan:

- *Provide for the location and development of sanitary sewage treatment, collection and reuse facilities to support existing and future land use development in all urban areas of the County.*
- *Provide for the location and development of drinking water*

facilities to support existing and future land development.

- *Protect the quantity and quality of drinking water supplies.*
- *Coordinate the location and size of drinking water facilities with appropriate water purveyors.”*

(Exhibit 2a at 145).

The hearings officer concurs that the upgrades to the existing water treatment facility will protect the quantity and quality of drinking water supplies. Therefore, the variance is consistent with the goals and policies of the Comprehensive Plan. **This criterion is met.**

1205.03 APPROVAL PERIOD AND TIME EXTENSION

A. Approval of a variance 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.

- 1. For a variance directly related to an application for a partition or subdivision, implemented means that the final plat of the partition or subdivision shall be recorded with the County Clerk.*
- 2. For any other variance, implemented means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved variance, implemented means all other necessary County development permits (e.g., grading permit, building permit for an accessory structure) shall be obtained and maintained. A major development permit is:*
 - a. A building or manufactured dwelling placement permit for a new primary structure that was part of the variance approval; or*
 - b. A permit issued by the County for parking lot or road improvements that were part of the variance approval.*

B. If the approval of a variance is not implemented within the initial approval period established by Subsection 1205.03(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension.

Finding: This criterion is informational only.

D. CONCLUSION

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that File No. Z0273-25 and Z0274-25 (Alder Creek Treatment Plant) should be approved, because the application does or can comply with applicable

standards of the Clackamas County ZDO, provided it is subject to conditions that ensure timely compliance in fact with the ZDO and relevant Comprehensive Plan Policies.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves Z0273-25 and Z0274-25 (Alder Creek Treatment Plant) subject to the following conditions:

Conditions of Approval:

1. Approval of this land use permit is based on the submitted written narrative and plans filed with the County on July 2, 2025, and additional documents for on July 3rd, August 15th, August 21st and September 4, 2025. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. The conditional use approval is valid for four (4) years from the date of the final written decision (ZDO 1203.05). During this four year period, the approval shall be implemented, or the approval will become void. “Implemented” means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - a. A building permit for a new primary structure that was part of the conditional use approval; or
 - b. A permit issued by the County Engineering Division for work in the right of way or road improvements required by the conditional use approval.

If the approval of a conditional use is not implemented within the initial approval period established by Subsection 1203.05(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension. [ZDO 1203.05]

3. If a conditional use is implemented pursuant to Subsection 1203.05 and later discontinued for a period of more than five consecutive years, the conditional use shall become void. [ZDO 1203.06]
4. The following fire fuel break standards shall be required. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner. **Prior to Planning and Zoning approval of an onsite wastewater treatment, or building, permit for the structures authorized by this land use permit,** the

applicant shall submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards. A copy of the Fuel-Free Break Standards Compliance Form may be obtained from Planning and Zoning. In addition an easement of 10 feet shall be obtained from the property to the west to ensure that the owner has the perpetual ability to maintain the primary safety zone. A signed agreement and fuel-free break maintenance easement must demonstrate the ability to control the fuel-free break standards inside the 30' radius on both the site and the property to the west so that the property owner has the ability for compliance with the maintenance of the fuel-free fire break area around the proposed structure. [ZDO 406.08.A]

- a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs, and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1.
 - b. Fuel Free Break compliance easement for primary fuel free break is needed for the area on property to the west. Evidence of this recorded easement shall be submitted to the Planning and Zoning program for the file.
5. The Septic and Onsite Wastewater program shall approve any modification to the existing septic system. Evidence of this approval shall be submitted to the Planning and Zoning program for the file. [ZDO 1006.05]
 6. Coordinated installation of necessary water, septic, and surface water management facilities is required with consistency to the regulations of the management authority. [ZDO 1006.01]
 7. Any driveway entrance improvements at the intersection with Hwy 26 will require coordination with ODOT and may require a right of way an ODOT Miscellaneous Permit from ODOT. Contact the ODOT District 2C Maintenance Office (D2CAP@odot.oregon.gov) prior to any work in the Hwy 26 right of way. [ZDO 1007.01(E)]
 8. 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.[ZDO 1005.02(D)(5)(e)]

Development Engineering Recommended Conditions of Approval:

9. All frontage improvements in, or adjacent to Clackamas County right-of-way, or on-site, shall be in compliance with *Clackamas County Roadway Standards*.
10. **Prior to initiation of construction**: the applicant shall obtain a Development Permit from Clackamas County Development Engineering prior to the initiation of any construction activities associated with the project.
11. **Prior to Certificate of Occupancy**: all required improvements shall be constructed and inspected, or financially guaranteed, and Substantial Completion requirements are met, per Roadway Standards Section 190.
12. The applicant shall design and construct on-site parking and maneuvering areas, prior to Certificate of Occupancy, as follows:
 - a. All roads used to access the parking spaces shall be surfaced with screened gravel or better. Roads and parking areas shall be constructed with a minimum structural section per Standard Drawing R100.
 - b. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the site. Loading spaces shall be identified on the plans and shall be afforded adequate maneuvering room. Truck turning templates shall be provided demonstrate that anticipated vehicles can adequately maneuver in and out of the site and the roll-up doors for each building, as well as the loading zones.
 - c. Parking spaces shall meet minimum *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided.
 - d. Parking spaces shall be adequately delineated. For paved surfaces, parking spaces shall be striped. For a gravel surface, tire stops or a similar physical feature shall be provided to delineate each gravel parking space in accordance with *ZDO* subsection 1015.
 - e. The applicant shall address storm drainage for the site improvements per *Clackamas County Roadway Standards*, Chapter 4. Positive drainage must be provided for surface water to an acceptable outfall. Erosion control measures shall be installed and maintained throughout the construction process.
13. Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - f. Written approval from the Hoodland Fire District #74 for the planned access, circulation, fire lanes. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - g. A set of site improvement construction plans for review, in conformance with *Clackamas County Roadway Standards* Section 140 and obtain written approval, in the form of a Development Permit.

- i. The permit will be for driveway, drainage, parking and maneuvering area, and other site improvements.
- ii. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.

14. Primary Inspector:

- a. 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.
- b. Prior to Certificate of Occupancy, the applicant shall provide a Certificate of Compliance signed by the Engineer of Record stating all materials and improvements have been installed per approved plans and manufacture's specifications.

DATED this 10th day of November 2025.



Joe Turner, Esq., AICP
Clackamas County Land Use Hearings Officer

APPEAL RIGHTS

ZDO 1307.14(D)(6) 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 an 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 will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).