



City of Canby

Staff Report File #: MOD 24-02 & PLA 24-01 Canby South Modified Project (Sequoia Logistics Center)

STAFF REPORT DATE: June 4, 2024
DIRECTOR DECISION DATE: June 4, 2024
STAFF: Ryan Potter, AICP, Planning Manager

Applicant Request

The project applicant, VLMK Engineering + Design, on behalf of Trammell Crow Portland Development, requests Planning Director approval to modify an existing Site and Design Review approval for a light industrial building on a 47.86-acre property in the southern portion of the Canby Pioneer Industrial Park.

Originally approved as a “high-cube e-commerce” warehouse/distribution facility, the Modified Project is a speculative development; no specific building tenants are identified at this time. However, the Modified Project is substantially similar in design and generally intended for a similar range of uses (see Project Description section, below, for additional information).

Like the Approved Project, the Modified Project requires a Major Variance for exterior walls that would be taller than explicitly allowed by the City’s Municipal Code. A Property Line Adjustment is also requested to accommodate the consolidation of two tax lots.

Approval of the Modified Project involves approval of an Intermediate Modification application, which would authorize changes to the previously approved land use applications, along with a new Property Line Adjustment application.

Director Decision

Based on the applications submitted and the facts, findings, and conclusions of this Staff Report, the City of Canby Planning Director **Approves** Applications MOD 24-02 and PLA 24-01 pursuant to the Conditions of Approval identified in Section V of this Staff Report.

Vicinity Map



Property/Owner Information

Address:	2121 SE Township Road
Location:	South of S Township Road between S Sequoia Parkway (to the west) and S Mulino Road (to the east)
Tax Lots:	41E0300100 and 41E0300103
Property Size:	47.86 acres
Comprehensive Plan:	LI – Light Industrial
Current Zoning:	M-1 – Light Industrial; I-O – Canby Industrial Area Overlay Zone
Owner:	Amazon.com Services, LLC
Applicant:	Greg Blefgen, VLMK Engineering + Design
Developer:	Trammell Crow Portland Development, Inc.
Application Types:	Intermediate Modification (MOD) to Site and Design Review (DR) and Major Variance (VAR)
City File Numbers:	MOD 24-02 and PLA 24-01 (previously DR 21-01 and VAR 21-01)

Attachments to this Staff Report

- A. Land Use Applications
- B. Application Narrative and Criteria Response
- C. Drawing Set
- D. Pre-Application Conference Minutes
- E. Preliminary Stormwater Report
- F. Geotechnical Report
- G. Traffic Analysis Letter
- H. Materials for Approved Project
- I. Agency and Service Provider Comments

Definitions

The following definitions are important for understanding the content of this Staff Report, as much of the analysis refers to—and compares—two separate but related versions of the proposed project:

- **“Approved Project.”** This was the project approved in June 2021.
- **“Modified Project.”** This is the project currently proposed and analyzed in this Staff Report, which is a modified version of the Approved Project.
- **“Amazon Project.”** An intermediate version of the project, aimed at accommodating an Amazon Robotic Sorting Center, was proposed in late 2021. However, this application was later withdrawn and therefore it has no bearing on the analysis in this Staff Report.

Existing Conditions

The Modified Project would be constructed on a 47.86-acre roughly-rectangular property that is comprised of two separate tax lots (20.54 and 27.32 acres, respectively). The property, which is zoned for M-1 Light Industrial uses, has historically been used for agricultural purposes and is almost entirely vacant and flat; no structures are located onsite. With the exception of a small cluster of trees adjacent to S Township Road near the property's northwest corner, it is devoid of natural vegetation.

The subject property fronts directly onto three public streets: S Township Road on the north, S Mulino Road on the east, and S Sequoia Parkway on the west. The property's southwestern corner is adjacent to a functioning railroad spur, which travels in a diagonal northwest-southeast direction and under S Sequoia Parkway which bridges over it via an overpass.

The subject property is located in the Canby Pioneer Industrial Park and is generally surrounded by other parcels zoned M-1, Light Industrial. These parcels contain a mix of light industrial uses, agricultural uses, vacant land, and a few homes that are mostly associated with adjacent farms. To the east and northeast across S Mulino Road is farmland that is located outside of the City and zoned by Clackamas County for Exclusive Farmland Use (EFU). The Timber Park single-family residential subdivision is located to the southwest of the subject property across the rail spur and S Sequoia Parkway. To the immediate south across the rail spur is the recently completed Lampros Steel facility.

Project History

The project site has been contemplated for several potential projects. Below is a timeline of the last three projects:

January 2021	Original submittal ¹ for Approved Project
July 2021	Planning Commission approval of Approved Project
December 2021	Original submittal for Amazon Project
June 2022	First one-year extension granted for Approved Project
August 2022	Amazon Project put on hold (later canceled)
June 2023	Second one-year extension granted for Approved Project
February 2024	Original submittal of Modified Project

Per Subsection 16.89.090 of the Canby Municipal Code allows for modifications of previously approved projects. Accordingly, the Approved Project and its land use approval extensions are relevant to analysis of the Modified Project.

¹ All land use applications processed by the City for the project site have involved an original application submittal and subsequent submittals of supplemental information.

Project Description

Like the Approved Project, the Modified Project is a concrete tilt-up warehouse/distribution facility that has been designed to accommodate “e-commerce” distribution uses. Unlike the Approved Project, there is no specific building tenant in mind, so the proposed building is designed to accommodate the business operations of a range of potential end users.

The proposed building would be a total of 778,720 square feet. This “shell” space is capable of being demised into separate tenant spaces, including ancillary office space for the tenant(s). The building would be sited in the middle of the subject property, surrounded by 787 automobile parking spaces, 238 trailer parking spaces, an internal circulation loop/maneuvering area for trucks, landscaping, and vegetated stormwater basins. The building would include 145 loading docks. Because the number of future tenants and the design of interior tenant improvements is unknown at this time, the floor area of ancillary office space is also unknown. The applicant team anticipates office spaces will be less than five percent of the building’s overall footprint.

The proposed building’s primary façades would face S Township Road and S Mulino Road, with sidewalks connecting the building to both streets. Building entrances and related sidewalk connections are located at all four building corners to facilitate future building tenants potentially inhabiting their own quadrants of the building.

The proposed facility would be accessed from three vehicular access points on S Township Road and two access points on S Mulino Road. The project would not include access points on either S Sequoia Parkway or the adjacent railroad spur. Public street improvements would be constructed on all three of the adjacent streets.

Differences Compared to Approved Project

Pages 3-5 in the applicant’s narrative (see Attachment B to this Staff Report) identify the specific design changes between the Approved Project and the Modified Project. In summary:

- A building footprint that is 12,400 square feet smaller; reduced from 791,120 to 778,720 square feet, or 1.6 percent.
- The provided surface parking would be reorganized, although parking would still be located around the perimeter of the project site.
- The building would shift 60 feet to the north.
- Instead of one primary office entrance facing S Township Road aimed at facilitating a single building tenant, as under the Approved Project, the Modified Project has four building entrances, one at each building corner. These entrances feature additional expanses of glazing (doors and windows) that were not part of the Approved Project.
- The number of loading berths would increase (124 in the Approved Project; 145 in the Modified Project).
- Other minor changes as described in the applicant narrative.

Speculative Development and the Land Use Process

Unlike most light industrial projects constructed in Canby in recent years which have been built to suit specific businesses and their operations, the Modified Project is a speculative development. This means that no specific building tenants are identified at this time and the proposed building has been designed as a “shell” with the flexibility to be used for a range of light industrial uses and/or separated into multiple tenant spaces.

Having a previously approved project, a slightly different design, and a 100% speculative project, the project applicant had two options for seeking City approval of the Modified Project. These options were:

- **Intermediate Modification – Type II Land Use Process.** Per Subsection 16.89.040 of the Municipal Code, this option allows the applicant to follow a less onerous land use approval process with a Planning Director decision and no Planning Commission hearing.

However, per Subsection 16.89.090, an intermediate modification requires that the modification not result in “a substantial impact to an approved site plan, land use decision, or condition of approval.” The Planning Director interprets this to mean that the proposed project design and the proposed land use are both substantially similar to those of the previously approved project. In this case, the Modified Project, even if developed speculatively, needed to be limited to warehouse/distribution uses similar to those contemplated in the original Planning Commission decision.

- **Major Modification/New Site and Design Review Application – Type III Land Use Process.** This option would require the full noticing and Planning Commission hearing of a Type III land use decision, replicating the original land use process for the Approved Project.

The benefit of this option is this level of review would allow the City to analyze the impacts of a wider range of industrial uses in the proposed building, including “worst case scenario” analysis for traffic, parking, lighting, and noise. Thus, a wider range of uses would be covered by the land use approval, if approved by the Planning Commission.

As explained above, both options have benefits and drawbacks to the applicant. In this case, the project applicant chose the former, an Intermediate Modification request. Accordingly, this Staff Report contemplates a range of end-user land uses similar to those originally contemplated for the Approved Project. Section V of this Staff Report identifies conditions of approval aimed at ensuring that the building and its tenants are consistent with this approach. More intense uses would require additional analysis.

Although the Modified Project has been processed under a Type II process, due to the size and scope of the project, a pre-application conference and a neighborhood meeting were both required by Planning Staff.

Major Variance

As under the Approved Project, the proposed building under the Modified Project is greater in height (up to 52 feet 10 inches; varies by building elevation) than allowed by the subject property’s zoning, which only allows a maximum height of 45 feet. The project applicant’s original submittal materials describe their rationale for needing and requesting the additional eight feet in height (see Variance Narrative, dated April 20, 2021). This rationale revolves around the warehouse’s planned use of “high cube” racking systems associated with e-commerce distribution uses, which are designed to maximize storage space and facilitate emerging technologies for accessing and managing those systems. In this case, the warehouse is designed to accommodate 40 feet of clear interior height for racking.

Analysis and Findings

I. Applicable Criteria

Applicable criteria used in evaluating this application are listed in the following sections of the City of Canby's Land Development and Planning Ordinance:

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.32 M-1 Light Industrial Zone
- 16.35 Canby Industrial Area Overlay Zone
- 16.42 Signs
- 16.43 Outdoor Lighting Standards
- 16.46 Access Limitations on Project Density
- 16.49 Site and Design Review
- 16.53 Variances
- 16.58 Lot Line Adjustment
- 16.86 Street Alignments
- 16.88 General Standards and Procedures
- 16.89 Application and Review Procedures (including 16.89.090, *Modifications*)
- 16.120 Parks, Open Space, and Recreation Land – General Provisions

II. Facts and Findings

The following analysis evaluates the Modified Project's conformance with applicable approval criteria and other municipal code sections, as listed above in Section I. Sections of the Canby Municipal Code (CMC) are analyzed in the order that they appear in the code.

Planning Staff note that, due to the many similarities between the Approved Project and the Modified Project, much of the analysis from the Staff Report for the Approved Project is repeated here. Where impacts are different, the difference is disclosed and evaluated.

Section 16.08.070: *Illegally Created Lots*

This section of the CMC establishes that in no case shall a lot created in violation of State statute or City ordinance be considered as a lot of record for development purposes, until such violation has been legally remedied.

Finding 1: The originally submitted application materials for the Approved Project indicated that the subject property was two legal lots consistent with Clackamas County tax lot lines. A Lot Line Adjustment (LLA) application was submitted requesting that the line between the two tax lots be adjusted to reflect the phasing line of the Approved Project.

However, after Planning Staff requested additional documentation related to the legal status of the affected lots, correspondence between the Clackamas County Surveyor and the Canby Planning Director revealed that a property division created by deed in 1999 did not include a plat approval for the two tax lots. The chain of property divisions in the County's records indicate that the property is a legal lot of record for development purposes, but also indicate that it is comprised of one lot rather than two lots.

Despite this fact, the Modified Project includes a Property Line Adjustment to facilitate any plat changes (if any) required to build on the subject property. For consistency with property line adjustment criteria, see analysis below under Chapter 16.58.

For the above reason, Planning Staff finds this request is consistent with applicable provisions of the CMC.

Section 16.08.150: Traffic Impact Study

This section of the CMC outlines requirements for studying the transportation impacts of a proposed project. The section outlines how a traffic study is scoped and what the study must include.

Finding 2: At the pre-application conference held for the Approved Project on November 19, 2020, City Staff determined that a full Transportation Impact Analysis (TIA)² was required. Discussion at the pre-application conference included potential traffic impacts of the project in the subject property’s immediate vicinity and in the larger community.

The TIA was prepared for the Approved Project by DKS Associates in March 2021. Using existing traffic data and projections for the generation of new vehicle trips by the Approved Project, the TIA analyzes impacts of the Approved Project on the area’s circulation network, including roadways and 11 intersections. The report’s methodology and assumptions are identified in the TIA. The TIA analyzed two project scenarios, which both include the initial project phase (Phase I) and the future expansion (Phase II):

1. An “as proposed” scenario for a high-cube fulfillment center warehouse.
2. A “high intensity” scenario representing a more intense distribution use.

In March 2024, a Traffic Analysis Letter (TAL) was prepared by DKS to evaluate the impact of the Modified Project on the transportation analysis in the TIA. The TAL includes a revised trip generation analysis and discusses how the changes to the project (minor reduction in building size, relocation of parking, and modified access/circulation) generally have a negligible impact on the adequacy of the previously conducted analysis.

The table below shows the estimated trip generation projected for both scenarios studied for the Approved Project, along with that projected for the Modified Project.

Scenario		Peak Hour Trips		Total Daily Trips
		AM	PM	
Approved Project	As Proposed	118	126	1,432
	High Intensity	194	324	1,600
Modified Project		191	319	1,575

As shown in the table, the reduced building footprint of the Modified Project would be expected to result in a modest reduction in project-related trip generation (1,575 vs. 1,600 daily trips). Therefore, there would be a reduced impact compared to the

² Alternatively called a Traffic Impact Study (TIS).

Approved Project. However, the 1,600 daily trips remain “vested” from the prior project approval.

The Modified Project, like the Approved Project, would generate a substantial number of vehicular trips that would use the City’s street network. Approximately 12.5 percent of total daily trips would be expected to be truck trips. The remaining trips would be passenger vehicle trips, which capture the arrivals and departures of the proposed facility’s employees.

With or without the Modified Project, two area intersections would have operations exceeding adopted mobility standards. As summarized in the executive summary for the Approved Project’s TIA (see Page 3 of that document), the following intersections would have volume-to-capacity (v/c) ratios above the mobility standard in 2026 (when both phases are assumed to be operational):

- Highway 99E at Pine Street (PM Peak Hour)
- Highway 99E at Haines Road (AM and PM Peak Hour)

Note that in the TIA and Staff Report for the Approved Project, a third intersection (Highway 99E at Ivy Street) was also identified as operating above mobility standards during the PM Peak Hour. However, due to the use of updated traffic count data collected since 2020 and signal timing optimization, Highway 99E at Ivy Street is observed to see slightly improved operations that are not in exceedance of mobility standards.

While the Modified Project alone would not trigger future unacceptable v/c ratios at the two intersections listed above, operation of the project would contribute to the exceedance of adopted standards.

As summarized below, the TIA for the Approved Project evaluated how roadway improvements could mitigate the impacts of the project in combination with impacts generated by other land uses.³ Improvements at both intersections would require collaboration with the Oregon Department of Transportation (ODOT).

- **Highway 99E at Pine Street.** This intersection does have future improvements identified in the City’s TSP and therefore system development charge (SDC) funds contributed by the proposed project would help facilitate construction of those improvements. Upon their implementation, they would cause the intersection to no longer exceed adopted standards.
- **Highway 99E at Haines Road.** There are no identified improvements for this intersection in the TSP, in part because it is outside the City’s jurisdiction. The intersection is considering failing under existing conditions and is expected to get worse with further development in the area.

In response to analysis in the TIA related to these intersections, DKS performed a supplementary analysis at the City’s request related to programmatic solutions along Highway 99E. The analysis identifies a fee-in-lieu contribution for system-wide improvement benefiting the overall highway corridor, to compensate for intersections

³ The TIA for the Approved Project also discussed Highway 99E at Ivy Street in this manner but for reasons explained above, this is no longer applicable; see paragraph beginning with “Note that...”.

affected by the project where no capacity improvements are currently planned. The planned Walnut Road Extension/Industrial Connector Road project would be the beneficiary of the in-lieu contribution, since that project would provide a new connection between the highway and the Canby Pioneer Industrial Park, and because the new connection would “spread the load” of trips coming to and from the park. The supplementary analysis performed by DKS found that an estimated contribution of \$547,500⁴ toward the Walnut Road Extension would be proportional to the proposed project’s impacts at Highway 99E/Haines Road and Highway 99E/Ivy Street.

Section V of this Staff Report includes a condition of approval with the mitigation strategy outlined above. Because the Modified Project is a fully speculative project with as-yet unknown tenants, Section V also contains a set of conditions aimed at ensuring that future tenants of the building do not cumulatively exceed the total number of trips evaluated in the Traffic Analysis Letter. Conditions of Approval #5 through #12 require the applicant to provide materials to the City so that the City’s Traffic Engineer may evaluate the traffic impacts of each project tenant in comparison to the established trip cap. As identified in Condition of Approval #10, tenant improvements for uses that will exceed the trip cap (194 AM peak hour, 324 PM peak hour and 1,600 total daily trips) will not receive building permits without additional land use review.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC.

Section 16.08.160: Safety and Functionality Standards

The City will not issue any development permits unless the proposed development complies with the City’s basic transportation safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. At the time of development permit application submittal, the applicant shall demonstrate that the property has or will have the following:

- A. Adequate street drainage;
- B. Provides safe access and clear vision at intersections;
- C. Public utilities are available and adequate to serve the project;
- D. Access onto a public street with the minimum paved widths as stated in Subsection E below.
- E. Adequate frontage improvements as follows:
 - a. For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site’s frontage.
 - b. For collector and arterial streets, a minimum paved width of 20 feet along the site’s frontage.
 - c. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site’s frontage.

⁴ A difference of \$300 compared to the fee identified for the Approved Project.

- F. Compliance with mobility standards identified in the Transportation System Plan (TSP). If a mobility deficiency already exists, the development shall not create further deficiencies. (Ord 1340, 2011)

Finding 3: The adequacy of public utilities and public improvements to serve the proposed project was discussed at two pre-application conferences: one held for the Approved Project on November 19, 2020, and one held for the Modified Project on November 14, 2023. Furthermore, comments and conditions of approval related to infrastructure were received from service providers for both iterations of the project.

While electrical, gas, water, and sanitary sewer service are capable of serving the project site, street improvements and utility extensions of infrastructure would be required. Drawing C2.0, *Preliminary Utility Plan*, in the applicant's drawing set show proposed utility connections and extensions. See Section V of this Staff Report for conditions of approval related to public utilities.

The subject property fronts onto three existing public streets, which are all designated as Collector streets by the City's TSP: S Township Road, S Mulino Road, and S Sequoia Parkway. All three would require half-street and frontage improvements, including right-of-way dedication on S Township Road and S Mulino Road. With these improvements, circulation to, from, and in the general vicinity of the project site would be consistent with the City's TSP.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC.

Chapter 16.10: Off-Street Parking and Loading

This chapter of the CMC identifies requirements for vehicular parking, bicycle parking, and loading facilities when new development occurs. As identified in Section 16.10.050, warehousing uses are required to provide two off-street parking spaces per 1,000 gross square feet of office space plus one space per 1,000 gross square feet of non-office space.

Finding 4: In the original project submittal for the Modified Project, the project applicant asserted that the City's applicable parking standard overestimates the parking demand generated by an e-commerce distribution facility. The applicant's own findings for this conclusion are found in the application materials for the Approved Project (see Attachment H to this Staff Report), the Project Narrative for the Modified Project (received February 13, 2024), and the Completeness Response for the Modified Project (dated March 15, 2024). However, in response to comments from the City's transportation consultant (DKS Associates) and its Public Works Department, one proposed driveway on S Township Road was removed and the applicant team redesigned the adjacent parking to reflect this change. The resulting parking count for the Modified Project is 787 spaces.

The table below identifies the amount of parking required by the CMC and the amount of parking provided by the Modified Project. The amount of eventual office space within the building is unknown at this time, but the project applicant's parking analysis assumes that office space will occupy approximately five percent of the building's interior. Therefore, the table below assumes the same.

Use	Proposed Square Feet ⁵	Development Standard	Required Spaces	Provided Spaces
Office	38,936	2 spaces/1,000 square feet	40	787
Warehouse	739,784	1 space/1,000 square feet	740	
Total	778,720	N/A	780	787

As shown above, the Modified Project would provide seven more parking spaces than required by Chapter 16.10.

Non-truck passenger vehicle parking proposed for the project site is largely concentrated in two locations: 1) a main parking lot between SE Township Road and the front façade of the proposed building, and 2) a parking lot behind the building at the project site’s southern edge. As required by the City’s Public Works Standards, bays of parking spaces are separated by landscaped islands.

Parking Exception

Subsection 16.10.10 of this chapter states that parking count exceptions are permitted as follows:

“A lesser number of spaces may be permitted by the Planning Commission based on clear and objective findings that a lesser number of parking spaces will be sufficient to carry out the objective of this section.”

As stated above, the applicant’s submittal materials included items aimed at documenting a parking demand for the project that is less than required by the CMC (see the Staff Report for the Approved Project in Attachment H). Accordingly, the Approved Project was approved by the Planning Commission with an exception from parking standards. However, the final parking layout for the Modified Project does not require a parking exception. Therefore, Subsection 16.10.10 does not apply to the Modified Project.

Loading Berths

The development’s proposed number of loading berths (145 total berths⁶) is well above that required for industrial uses of 60,000 or more square feet (a minimum of three).

Subsection 16.10.060 requires that loading facilities be screened from “public view, from public streets, and adjacent properties.” Proposed loading berths and trailer parking areas would be located to the west (facing S Sequoia Parkway) and east (facing S Mulino Road) of the building. Like the Approved Project, the Modified Project would feature landscaped setbacks on both these frontages, with dense evergreen plantings and a six-foot sight-obscuring fence. As shown in the submitted landscape plan, landscaping along the western and eastern frontages would be layered, including ground cover, shrubs, and trees.

⁵ Assumes five percent of the total building footprint will be built out with ancillary office space.

⁶ Includes 141 berths at dock-height and 4 at-grade berths.

Because S Sequoia Parkway bridges over the railroad adjacent to the subject property's southwestern corner, the roadway is elevated in this location and provides unavoidable public views into the truck court/trailer parking area, particularly from vehicles as they travel over the overpass. However, the proposed project features some of its densest landscape buffer along this frontage, along with a vegetated stormwater retention basin and a landscaped strip between the trailer parking and perimeter loop drive. These project features would screen loading areas to the extent feasible.

Parking Lots and Access

Planning Staff find that the proposed parking lots and site access are generally consistent with Subsection 16.10.070 of the CMC, including the following items:

- Parking areas and driveways would be paved surfaces.
- No parking spaces would back directly onto public streets.
- Accessible parking would be provided as required. ADA-compliant sidewalk ramps would be constructed on both sides of each driveway.
- Sidewalks would extend directly from the ground floor entrance of the building to the public right-of-way, with pedestrian pathways leading directly to both S Township Road and S Mulino Road.
- Sidewalks would be constructed on all three public frontages.
- For truck egress/ingress points, the project applicant has requested widened driveways (50 and 60 feet wide) exceeding the maximum width of 36 feet identified in the code. The proposed driveway widths are consistent with truck driveways approved for other recent projects in the industrial park.
- Curb cuts onto public streets would be well above the minimum five feet from adjacent property lines, with the exception of the driveway at the southeastern corner of the subject property at S Mulino Road. Due to the width of this driveway, it's large curb return radius requires that the curb cut begin at the property line. However, the alignment of the driveway has been shifted away from the property line to the extent feasible while still allowing for direct access to the internal circulation loop from S Mulino Road and around the back of the building. Despite the curb cut beginning at the property line, the large curb radius of this driveway does allow for over five feet of sidewalk, a sidewalk ramp, and landscaping.
- Although the final plan set for the Modified Project does not include notation related to compact parking, the project applicant has clarified with Planning Staff (verbally and via email) that the Modified Project will not feature any compact parking spaces.

Bicycle Parking

For industrial park uses, Subsection 16.10.100 of the CMC requires a minimum of two bicycle parking spaces per development, or 0.1 space per 1,000 square feet, whichever is greater. Office space requires a minimum of 1 space per 1,000 square feet. The Modified Project therefore requires 113 total bicycle parking, as identified in the table below, which must be "in well-lit, secure locations within fifty (50) feet of the main entrance to a building."

Use	Proposed Square Feet ⁷	Development Standard	Required Spaces	Provided Spaces
Office	38,936	1 space/1,000 square feet	39	113
Warehouse	739,784	0.1 space/1,000 square feet	74	
Total	778,720	N/A	113	113

The proposed site plan currently shows bike racks outside the building entrances. Correspondence between the project applicant and Planning Staff confirms that the applicant proposes to install 113 bicycle parking spaces, including 89 inside the building and 24 outside on racks. A condition of approval has been identified in Section V of this Staff Report requiring that site plan materials identify all bicycle parking (see Condition of Approval #39). The same condition allows a portion of the proposed bicycle parking to be deferred to future buildout of tenant spaces if supported by narrative submitted to Planning Staff.

Conclusion

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC.

Chapter 16.32: M-1 Light Industrial Zone

Lists of allowable uses and development standards for those uses are generally found in the respective chapters for each zone. The project site is zoned M-1, Light Industrial.

Finding 5: As listed in Section 16.32.010 of the CMC, uses permitted outright in the M-1 Zone include a broad range of manufacturing, processing, distribution, and storage uses. The proposed facility is consistent with this range of allowable uses.

Because the proposed project is a speculative development, the exact number and types of tenants that would occupy the proposed building is unknown. However, the building typology proposed (large, open-plan, concrete tilt-up light industrial space with loading docks) is consistent with the land uses envisioned for the M-1 Zone and would accommodate the types of businesses found elsewhere in the Canby Pioneer Industrial Park, albeit on a larger scale. Future owners and/or tenants would be subject to the provisions of the code related to permitted and prohibited land uses. Existing City and County review processes, including business license approvals, site plan release letters for tenant improvements, and certificate of occupancy approvals, would ensure that the individual use is allowed in the M-1 Zone.

If in the future an occupant or use is proposed for the project site that is inconsistent with the project analyzed in this Staff Report—even if generally an allowable land use—a subsequent land use decision may be necessary to properly evaluate project impacts. This was true for the Approved Project but is doubly important for the Modified Project because the premise of the latter is that it is substantially similar to the former. The Intermediate Modification land use process bypasses a second land use hearing under the assumption that impacts have already been contemplated during the first Planning

⁷ Assumes five percent of the total building footprint will be built out with ancillary office space.

Commission approval. Conditions of Approval #1 through #16, as shown in Section V of this Staff Report memorialize this concept.

The proposed project is generally consistent with the development standards required of land uses in the M-1 Zone, as summarized below:

- At almost 48 acres, the subject property is well above the 5,000-square-foot minimum lot area.
- The property's minimum lot width (approximately 1,200 feet) and street frontages are well above the minimum of 50 feet.
- No yard setbacks or lot coverage maximums apply.
- No outside storage areas would abut a residential zone.

As discussed above under Project Description, the proposed building would be taller than the maximum height of 45 feet allowed in the M-1 zone. Drawing A200 in the drawing set (see Attachment C to this Staff Report) is an exhibit showing the proposed building elevations. To accommodate the conceptual e-commerce distribution use proposed for the project, which typically uses automated storage and retrieval systems, the proposed building features 40 feet of clear interior height for racking. This results in a building with variable perimeter wall heights. At their tallest, these would 52 feet high. Accordingly, the project applicant applied for (and received) a Major Variance permitting this exceedance of standards. The Approved Project included building heights up to 52 feet, 10 inches; therefore, this maximum height is vested for the Modified Project.⁸

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC, with the exception of the height variance described above and analyzed under Chapter 16.53, Variances, below.

Chapter 16.35: Canby Industrial Area Overlay (I-O) Zone

The Industrial Area Overlay (I-O) Zone allows land uses which are permitted by the underlying zone districts but identifies a number of additional standards and regulations that apply to development in the industrial park.

Finding 6: As indicated above, the Modified Project is generally consistent with the range of land uses permitted in the M-1 Zone. However, the project is speculative and therefore the exact mix of tenants is unknown at this time. The project's consistency with individual provisions of Chapter 16.35 are summarized in the bullets below:

- **Conditional Uses.** This chapter of the CMC identifies a number of project aspects that require a project in the industrial park to obtain a conditional use permit (CUP). The proposed project would not fall under any of these categories. The project would not be expected to employ less than three employees per developed acre (see Page 53 of the applicant narrative in Attachment B). It would

⁸ The provided building elevation exhibit for the Modified Project (Sheet A200 in the applicant submittal) does not identify dimensions for the full structural height of the building. Therefore, a condition of approval (#38) has been identified in Section V of this Staff Report to require that these dimensions be shown at the site plan review state of the project.

not be expected to create over 60 acres occupied by a “single use or business” as the industrial park does not currently feature other e-commerce uses.⁹

Furthermore, the project would not feature retail or commercial uses (unless ancillary to the primary use) and would not require an “H” occupancy under the Oregon Structural Specialty Code, which relates to business operations that generate physical and/or health hazards.

- **Prohibited Uses.** A number of prohibited uses are identified, including animal rendering plants, race tracks, landfills, nuclear power plants, and incinerators. However, e-commerce warehouse and distribution uses are not listed as prohibited.

Development standards and the project’s consistency with those standards are summarized in the bullets below:

- **Lot Area and Frontage.** The I-O Zone has no minimum lot area, minimum lot width/frontage requirements, or maximum lot coverage.
- **Setbacks/Yard Requirements.** For buildings over 25 feet in height, the I-O Zone requires a 35 foot minimum setback from the street. Parking and internal drives, except curb-cuts and entrance drives, are prohibited within that setback. Interior and rear yards are required to be a minimum of 10 feet wide. These setbacks are met by the Modified Project.
- **Building Height.** As discussed above under Chapter 16.32, the proposed building is taller than the maximum allowed height of 45 feet. As shown in the applicant’s design drawings, the height at each point along the building perimeter varies by building elevation due to variations in the ground plane and articulation on the building’s facades, including parapet heights. The proposed project does not meet this criterion without approval of the requested Major Variance.
- **Building Orientation.** As required, the building provides at least “one public entrance facing the street” with a direct pedestrian connection. This is achieved by the proposed building’s orientation to S Township Road and S Mulino Road, and its two direct pedestrian connections to the public realm on these same streets.
- **Building Design.** The proposed building would be of concrete tilt-up construction, which is consistent with the overlay zone’s prohibition of metal building exteriors. As required, the site’s truck loading/storage areas will be screened by plantings and site-obscuring fences.

Chapter 16.35 provides a design review matrix specific to the I-O Zone that substitutes for the matrix used for projects elsewhere in Canby. Projects must meet the minimum acceptable score unless Planning Staff determines that certain provisions do not apply. The applicant’s self-assessment of consistency with the design review matrix (see Page

⁹ The building is not guaranteed to be inhabited by e-commerce uses, but it has been designed to accommodate these types of uses and the applicant team has indicated that e-commerce is one of the primary sectors they plan to market the building to.

60 of the applicant's narrative) indicates that the project meets minimum scores for each category.

- **Parking:** Planning Staff acknowledge that the criterion related to placement of parking “to the side or rear of buildings as viewed from the public right-of-way” is a difficult one to score, since passenger vehicle parking for this type of use is only one aspect of a site's paved surfaces. Since arguably the most unattractive type of parking—truck/trailer parking and loading zones—is proposed to be located 100% to the “side or rear of buildings” (as the S Township Road frontage is most like a “front”) this offsets the visual impact of the project's passenger vehicle parking being located along the public right-of-way (near Township). Therefore, Staff concur that the middle score of one point is appropriate. Similarly, because the proposed project includes 101% of the required number of parking spaces, the maximum score of two points (which is intended to reward projects with less parking) is the most appropriate for this criterion.
- **Transportation/Circulation:** Staff concurs with the project applicant's assessment related to the number of pedestrian connections to the public realm. However, the submitted site plans and project renderings do not demonstrate that pedestrian pathways through the site (i.e., where they cross drive aisles) are designed to be raised or made of “brick/paver.” Condition of Approval #40 is identified in Section V of this Staff Report to require that the final site plan reflect the two self-assessed points for pedestrian pathway design.
- **Landscaping:** The project applicant's submittal materials do not demonstrate that the project provides an outdoor amenity such as “water features, plazas, seating areas, and similar features” proportional to the size of the project; only a small pair of benches is shown.

Upon discussion with Planning Staff, the project applicant chose to install onsite landscaping with 25 to 50 percent of trees “installed at 3 inch caliper” as an alternative method of achieving the minimum score in this section of the design review matrix. Section V of this Staff Report includes a condition requiring that tree sizing be confirmed at site plan review (see Condition of Approval #33).

- **Building Appearance and Orientation:** Staff concurs with the project applicant's assessment in this area. Building articulation and detailing, largely concentrated on the Township and Mulino-facing façades, has been incorporated to the extent feasible for this type and scale of building.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC with the aforementioned exception of building height. Approval of the requested variance remedies this exceedance.

Chapter 16.42: Signs

This chapter of the CMC identifies standards for the location, number, size, and design of signage.

Finding 7: The Modified Project is speculative and no specific signs are proposed at this time. Therefore, approval of the proposed land use and building does not extend to future signage. Chapter 16.42 identifies requirements that will apply to signs proposed for the project at a future date.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC.

Chapter 16.43: Outdoor Lighting Standards

The purpose of this chapter is to provide regulations for outdoor lighting that will minimize glare and light trespass, among other goals. The chapter identifies requirements related to the placement, shielding, height, and intensity of outdoor light fixtures. Because of the subject property's context, it is in Lighting Zone 2, as defined by Chapter 16.43. This zone is considered the "default condition for commercial and industrial districts in urban areas."

Finding 8: The proposed building and its surrounding site elements (parking, circulation, loading/unloading areas, etc.) would be lighted for security and visibility at night. Because the project site is currently vacant, this would represent a significant change in nighttime illumination compared to existing conditions. The subject property is surrounded by a range of uses that include residential uses, including rural residential uses in the unincorporated County and in the Timber Park subdivision to the west. As in most residential areas, residents in the vicinity are sensitive to light overspill and trespass. Planning Staff note that, in recent years, residents in the surrounding area have expressed concerns about light emitted from existing industrial uses nearby in the industrial park.

The application submittal includes a photometric study that identifies locations of exterior light fixtures and demonstrates that the potential for light overspill from onsite fixtures would be limited due to the building's substantial setbacks from the perimeter of the project site.¹⁰ As shown on the submitted exhibit, the amount of downward-aimed illumination (measured in foot-candles) generated by the proposed parking and building lighting would be largely zero at the property boundaries. Pole lights would be shielded.

Planning Staff acknowledge that the vehicular truck and passenger car access points along S Township Road would generate light and glare from vehicles, which may affect existing residential uses across that roadway. Overall, nighttime illumination in the general vicinity would increase under the Modified Project but is not expected to violate regulations identified in Chapter 16.43.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC.

Chapter 16.46: Access Limitations on Project Density

This chapter addresses the number of street access points required compared to the level of development proposed, along with minimum dimensions of private drives.

Finding 9: As the Modified Project does not create new parcels, introduce new public streets, or involve residential development, many of the provisions of this chapter do not apply. However, Subsection 16.46.030 identifies spacing requirements specific to driveways on collector roadways. Driveways must be at least 100 feet from an intersecting street and also 100 feet from each other. As shown in the submitted drawings, the spacing of the proposed driveways far exceeds these requirements.

¹⁰ Note that only illumination from onsite fixtures is measured by this exhibit. Required street lights are shown but not included in the foot-candle calculations.

For the above reasons, Planning Staff finds this request is consistent with applicable provisions of the CMC.

Chapter 16.49: Site and Design Review Criteria

Section 16.49 of the Zoning Code provides review criteria to be used in the design review process:

In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

1. The proposed site development, including the site plan, architecture, landscaping and graphic design, is in conformance with the standards of this and other applicable city ordinances insofar as the location, height and appearance of the proposed development are involved; and
2. The proposed design of the development is compatible with the design of other developments in the same general vicinity; and
3. The location, design, size, color and materials of the exterior of all structures and signs are compatible with the proposed development and appropriate to the design character of other structures in the same vicinity.
4. The proposed development incorporates the use of Low Impact Development (LID) best management practices whenever feasible based on site and soil conditions. LID best management practices include, but are not limited to, minimizing impervious surfaces, designing on-site LID stormwater management facilities, and retaining native vegetation.
5. The Board shall, in making its determination of compliance with this Ordinances, shall use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible with the standards of Table 16.49.040 if the following conditions are met: a. The development accumulates a minimum of 60 percent of the total possible number of points from the list of design criteria in Table 16.49.040; and b. At least 10 percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040.
6. Street lights installation may be required on any public street or roadway as part of the Design Review Application.

Finding 10: Planning Staff finds that the Modified Project, including its site plan, architecture, and landscaping, is generally compatible with the surrounding context of the project site, which is located in an established industrial park. However, the proposed building would be the largest structure in Canby and therefore is at a development scale not seen elsewhere in the city. Furthermore, the surrounding vicinity does contain residential and agricultural uses; introduction of the project in its context would represent a significant change in visual appearance and character in the area. As documented throughout this Staff Report, the building's proposed height exceeds City requirements.

Specific subsections of Section 16.49 are analyzed below. Planning Staff note that the impacts discussed below are substantially similar between the Approved Project and the Modified Project.

- **LID Best Management Practices.** The Modified Project features onsite storm water facilities. Most of the LID best management practices listed above (e.g., minimizing impervious surfaces and retaining native vegetation) are not feasible due to the nature of the proposed project (a warehouse/distribution facility requiring large maneuvering, loading, and circulation areas for trucks) and the site's existing conditions (lacking native vegetation). However, impervious surfaces have been minimized to the extent feasible.
- **Site Design Review Matrix.** The site and design review matrix provided in Subsection 16.49.040 applies to most locations in the City but is superseded by a more specific matrix for projects in the I-O Overlay Zone (Canby Pioneer Industrial Park). For an analysis of the proposed project's achievement of criteria in this matrix, see "Section 16.35: Canby Industrial Area Overlay (I-O) Zone", above.
- **Bicycle and Pedestrian Facilities.** The submitted materials generally demonstrate compliance with standards related to pedestrian facilities. Three direct pedestrian connections between the building and the public street are provided (one to S Township Road, two to S Mulino Road). As discussed above, the Modified Project includes bicycle parking as required.
- **Landscaping.** The Landscape Plan submitted by the project applicant shows a landscape concept that includes a mix of trees, shrubs, ground covers, and other plantings. These have been designed in part to screen and soften the visual impact of the facility, including its parking and truck maneuvering areas. The main parking lot at the building entrance would be planted with shade trees.

As shown on Page G000 of the submitted drawing set (see Attachment C to this Staff Report), the percentage of the project site that would be landscaped would meet the minimum requirements. Requirements for parking lot landscaping and trees would also be met.

- **Revegetation in Unlandscaped Areas.** Subsection 16.49.130 aims to address erosion control issues when areas not planned for landscaping are intended to allow native plants to re-establish themselves. There are no areas of the project site not planned for hardscape or landscaping. Also, unlike the Approved Project, the Modified Project does not reserve a vacant area for a future project phase. Therefore, no revegetation of native plants or erosion control planting of vacant areas is necessary.

As outlined in Subsection 16.49.130, plant materials are required to be watered at intervals sufficient to assure survival and growth for a minimum of two growing seasons.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC to the extent feasible.

Chapter 16.53: Variances

This chapter of the CMC defines "minor" and "major" variances. As minor variances are limited to ten percent reductions in setbacks, other variances from approval criteria are considered major variances.

The Planning Commission is authorized to approve variances owing to “special and unique circumstances” related to a specific piece of property. In granting a variance, the commission may attach conditions which it finds necessary to protect the best interests of the surrounding neighborhood.

A variance may be granted only upon determination that all the following conditions are present:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the city and within the same zone. These exceptional or extraordinary circumstances result from tract size or shape, topography or other circumstances over which the owners of the property have no control. Actions of previous owners do not constitute other exceptional or extraordinary circumstances.
2. The variance is necessary to assure that the applicant maintains substantially the same property rights as are possessed by the owners of other property in the city and within the same zone.
3. Granting of this variance will not be materially detrimental to the intent or purposes of the city's Comprehensive Plan or the Land Development and Planning Ordinance.
4. Granting of this variance will not be materially detrimental to other property within the same vicinity.
5. The variance requested is the minimum variance which will alleviate the hardship.
6. The exceptional or unique conditions of the property which necessitate the issuance of a variance were not caused by the applicant, or the applicant's employees or relatives.

Finding 11: The project applicant's narrative describes their rationale for the variance request related to maximum building height, which revolves around a need to accommodate the type of “high cube” racking systems used by the building's potential e-commerce users.

Planning Staff generally concur with the applicant's findings supporting their request for a Major Variance, including the following:

- The *exceptional circumstances* related to the subject property are associated with its size. The large (approximately 50-acre) property is large enough to accommodate a regional-scale distribution center but the City's code does not permit a building tall enough to accommodate the racking systems used by such a distribution center. Smaller parcels in the M-1 zone would presumably not require a similarly tall racking system as the economic benefits of automated storage and retrieval systems are lessened at smaller scales.
- The proposed building height would only marginally increase the project's owner's *property rights* beyond those possessed by owners of other properties in the same zone. Without the added height, warehouse and distribution uses would still be allowed on the subject property, therefore the property's value and utility doesn't dramatically increase with the higher building height alone.
- Planning Staff concur with the project applicant that the CMC does not explicitly state the *intent or purpose* of the 45-foot height limit identified in the CMC. However, presumably it is to control the scale and massing of new buildings so

that they are not *materially detrimental to other properties* in the vicinity. Impacts of taller buildings can include shade, shadow, and lighting impacts, as well as adverse impacts to long-distance vistas in an area or across a site.

Because the building's distance from surrounding land uses, roadways, and property lines is substantially greater than required, Planning Staff believe that the materially detrimental impact of the additional building height would be marginal. Hypothetically, a shorter (consistent with height requirements) warehouse could be much closer to the project site's perimeter and would have greater impacts on long-distance views across the project site. Because the building is sited in the middle of the subject property, its shade and shadow impacts on surrounding uses would be essentially the same at either height (45 feet versus the proposed range of 44 feet to 52 feet, 10 inches).

Planning Staff note that the finding provided by the applicant team related to "materially detrimental" impacts to surrounding properties is not adequate. However, Planning Staff have conducted their own analysis as described above.

- The variance request is generally the *minimum variance* which will alleviate the hardship since the proposed increase in height is only large enough to create 40 feet of clear interior height for racking systems. The Approved Project demonstrated this by showing how most of the points along the perimeter wall would be below the maximum allowed 45 feet and only the rear (southern) elevation would reach 52 feet, 10 inches from the horizontal ground plane. The elevations for the Modified Project do not provide the same exterior building height dimensions. However, the height, size and massing of the two project variations is similar. Condition of Approval #38 requires more specific building heights to be identified at the site plan stage.
- Because the project applicant is responding to regional market conditions that have generated a need for e-commerce uses and their associated building technologies, the identified hardship was not fully *caused or created* by the project applicant. While the speculative nature of the Modified Project (compared to the Approved Project) does somewhat diminish this rationale (as future tenants are not guaranteed to be e-commerce uses), the project applicant aims to accommodate e-commerce building users, even if other substantially similar light industrial uses may inhabit the building.

For the above reasons, the Planning Director finds that the Modified Project, like the Approved Project, meets the variance approval criteria to the extent feasible and approves the requested Major Variance.

Chapter 16.58: Lot Line Adjustment

This chapter tasks the City Planner and/or City Engineer with reviewing proposed lot line adjustments and determining whether the following criteria are met. Note that the proposed lot consolidation is considered a lot line "adjustment" in the City's code and applications. Individual findings for the Modified Project are provided below for the four applicable criteria:

- A. Each of the remaining parcels and any structures located thereon shall be in full compliance with all regulations of this title, including the setback requirements of Division III. Except, however, that lot line adjustments are permitted on

nonconforming lots and lots with nonconforming structures provided that the nonconforming lots and structures will be no less in conformity as a result of the lot line adjustment.

Finding 12: The proposed building would straddle the existing property line between the two existing affected parcels. Therefore, a lot consolidation is required to accommodate construction of the Modified Project. With approval of the lot consolidation, the consolidated property and its buildings would be consistent with applicable building setbacks.

- B. No new lots or parcels will be created as a result of the lot line adjustment without receiving approval as a partition or subdivision.

Finding 13: The proposed lot consolidation would not create new lots or parcels, it would only remove an existing lot line.

- C. If the City Planner or City Engineer deems it necessary to assure the accuracy of recorded information, a survey may be required of the applicant. Such a survey will be at the applicant's cost.

Finding 14: At this time, Planning Staff see no reason to require a survey beyond that required by Clackamas County.

- D. Lot line adjustments shall not be permitted where the result will be the creation of additional building sites in known hazardous locations or where the appropriate development or extension of public facilities will be impaired as a result.

Finding 15: Neither of the two existing parcels are in known hazardous locations. As discussed in the pre-application conferences for the project, existing public facilities and utilities are adequate to provide service to the consolidated project site.

For the above reasons, Planning Staff finds that this request is consistent with applicable provisions of the CMC to the extent feasible.

Chapter 16.86: Street Alignments

This chapter of the CMC requires that adequate space be provided for the planned expansion, extension, or realignment of public streets consistent with Canby's TSP and Public Works Design Standards. The chapter also emphasizes that the street network in Canby is intended to be organized on a "connected grid pattern of local, collector, and arterial streets."

Finding 16: Because the subject property fronts onto three existing public streets and the Modified Project is proposed to gain access from two of these facilities (S Township Road and S Mulino Road), half-street improvements on all three are required. Section V of this Staff Report lists conditions of approval related to public improvements.

Dedication of right-of-way is required along S Township Road and S Mulino Road to accommodate half-street improvements meeting the City's Collector street standard. This is reflected in the applicant's drawing set. Although the paved surface of S Sequoia Parkway has already been improved consistent with the Collector standard (including dedication of required right-of-way), construction of improvements behind the curb line (i.e., sidewalks and landscaping) are required. Overall, these improvements will implement the community-wide street connectivity described in Subsection 16.86.060, which relies on streets such Township, Mulino, and Sequoia to connect various parts of the community.

For the above reasons, Planning Staff finds this request, as conditioned, is consistent with applicable provisions of the CMC.

Chapter 16.89: Application and Review Procedures

Section 16.89.90 of Chapter 16.89, *Application and Review Procedures*, of the Canby Municipal Code (CMC) outlines criteria for processing modifications to previously approved land use applications. The section identifies three types of modifications:

- A. **Minor Modification.** Minor modifications have a negligible impact on an approved site plan, land use decision, or condition of approval. The Planning Director will review all minor modifications under the Type I process.
- B. **Intermediate Modification.** Intermediate modifications are those that do not fit the definitions in 16.89.090(A) or (C). The Planning Director will review intermediate modifications under the Type II process. If the Planning Director approves an intermediate modification, notice of the decision will be made in accordance with the Type II process. The individuals noticed may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date. Any additional costs of such hearings shall be paid by the modification applicant. Hearing notice shall follow the requirements of the procedure type of the original application.
- C. **Major Modification.** Any modification that would result in a substantial impact to an approved site plan, land use decision, or condition of approval is a major modification. Major modifications shall be processed using the procedure type of the original application.

Finding 17: As shown above, the three types of modifications are not explicitly defined. However, because the Modified Project would not result in a change of use, general scale of use, or a significant change in layout of the site's design or circulation, Planning Staff concluded that the impact of the modification would not warrant analysis as a Major Modification. This decision was based on the premise that, while future building tenants could be uses other than the narrowly defined "e-commerce warehouse" use category, they would be substantially similar uses with substantially similar impacts, such as normal warehousing/distribution (not related to e-commerce) or another indoor-only light industrial use.

Because the Modified Project would slightly alter the building footprint, building placement, and site plan of the project compared to that of the Approved Project, Planning Staff believe that it is appropriate to reassess the project's compliance with approval criteria identified for the original land use approval. For this reason, the Planning Director has determined that the proposed modification shall be reviewed under the Type II process for Intermediate Modifications, which includes public notice to surrounding property owners and the opportunity for appeal.

Chapter 16.120: Parks, Open Space, and Recreational Land

This section of the CMC requires dedication of parkland or payment of system development charges (SDCs) to compensate for the increased demand for recreational amenities generated by new land uses.

Finding 18: Like the Approved Project, the Modified Project does not dedicate public park space. The City will provide the applicant with an itemized summary of applicable SDCs.

For the above reasons, Planning Staff finds this request is consistent with applicable provisions of the CMC.

III. **Public and Agency Comments**

Notice of this application and the opportunity to provide comment was forwarded to property owners and residents within a 100-foot radius and to applicable public agencies. At the time of this writing, no public comments were received. Agency and service provider comments are summarized below.

A. Public Comments:

- None for the Modified Project.
- For the Approved Project, written public comments were received in 2021 from Patricia Perkins, Dan and Cyndi Haider, and James Walton. These comments can be found in Attachment J to this Staff Report.

B. Agency and Service Provider Comments:

- **Jerry Benson, Astound Broadband** (April 10, 2024). Astound commented that they have both underground fiber and coax cable available on the south side to SE Township Road, along with underground coax cable on the north side of Township and the east side of S Mulino Road.
- **Kenneth Kent, Development Engineering, Clackamas County** (April 18, 2024). Clackamas County Engineering provided comments that primarily pertain to S Mulino Road, which is currently under the County's jurisdiction.
- **Melissa Gonzalez-Gabriel, Transportation Planner, Oregon Department of Transportation** (April 19, 2024). ODOT commented that they had reviewed the traffic memorandum prepared by DKS and had no concerns with the Modified Project. This comment letter indicates that it had not seen the modified traffic analysis. DKS followed up with the reviewer and provided the final traffic analysis. Upon their review of the DKS memo, the County indicated to DKS that no additional comments or conditions were necessary (see Attachment I to this Staff Report).
- **Joshua Muravez, Canby Utility Electrical** (April 24, 2024). Canby Utility commented on their need to know when the proposed building is leased to specific tenants, so that Canby Utility can assess the electrical load of the incoming land uses. Canby Utility also indicated that their infrastructure is unable to serve a data center, server farm, or any land use with similar electricity needs.
- **Ronda Rozzell, et al, City of Canby Public Works** (April 24, 2024). Canby Public works provided aggregated comments related to stormwater, sewer service, streets, and street trees.
- **Christian Snuffin, PE, PTOE, Transportation Engineering, Clackamas County** (May 8, 2024). Clackamas County Transportation Engineering confirmed that the TAL prepared by DKS was sufficient for their review of the Modified Project.

Note that agency and service provider comments were also received for the Approved Project. Those are included in Attachment H to this Staff Report.

IV. Conclusion

Staff has reviewed the applicant's narrative and submitted application materials and finds that the applications listed above conform to the applicable review criteria and standards, subject to the conditions of approval identified in Section V of this Staff Report. The Planning Director **Approves** Intermediate Modification MOD 24-02 and Property Line Adjustment PLA 24-01 subject to the identified conditions of approval.

V. Conditions of Approval

Conditions Related to Project Scope:

1. The project shall substantially comply with the submitted narrative and plans. Analysis conducted by City Staff and the City's traffic engineer/consultant assumed a high-cube fulfillment center warehouse use. Any significant deviation from submitted plans may require additional land use review. (Planning)
2. The Type II Intermediate Modification approval runs with the land and is binding on the project applicant and its successors. (Planning)
3. The applicant's initial building permit will be for a shell building only, exclusive of the buildout of tenant improvements (TIs). (Planning)
4. High Cube High Intensity use and Warehouse (ITE 150) will be used for calculating the Transportation SDC. The project's fee-in-lieu assessment was established by the City traffic engineer per the DKS Technical Memorandum dated March 19, 2024. The SDC and the fee-in-lieu will be based on the current adopted Canby fee schedule and fee-in-lieu summary in effect when they are due and paid at the time of building shell permit approval. (Planning)
5. To ensure compliance with the project's approved/vested traffic trips and uses, the City or its traffic engineer will review the proposed trips and use of a prospective occupant for all or a portion of the building (tenant), as outlined below. (Planning)

Proposed Tenant Trip Review

6. Prior to undergoing plan check for a permit to construct TIs, the project applicant will submit to Canby or its traffic engineer a narrative summarizing the proposed Tenant's proposed use and projected traffic generation. (Planning)
7. The City traffic engineer will use the latest edition of ITE Trip Generation Manual (currently the 11th Edition) and the most appropriate ITE land use code for estimating the trip generation per the tenant's specified Use. (Planning)
8. The maximum trip allocation for the site is documented in Table 1 from the approved Canby South TIS and DR 21-01 (Findings, Conclusions & Final Order dated July 12, 2021), and includes a 791,120 square foot building with a "High-Intensity Fulfillment Center" use generating 194 a.m. peak hour trips (includes 17 trucks), 324 p.m. peak hour trips (includes 14 trucks), and 1,600 daily trips (includes 200 trucks). (Planning)

TABLE 1: PROJECT APPROVED TRIPS									
LAND USE	UNITS (KSF GFA)	VEHICLE TYPE	DAILY TRIPS	AM PEAK			PM PEAK		
				IN	OUT	TOTAL	IN	OUT	TOTAL
High Intensity Fulfillment Center	791.12	passenger car	1,400	175	2	177	130	180	310
		truck	200	9	8	17	6	8	14
		Total Approved Trips	-	-	1,600	184	10	194	136

9. If a tenant's projected total trips combined with the projected total trips previously approved for other tenants in the project are less than the totals from Table 1 (or its subsequent update), Canby will determine that the trip review for the proposed tenant has been completed and approved and that Canby will release the tenant improvement building permits as otherwise required. (Planning)
10. If the traffic engineer determines that a tenant's projected total trips combined with the projected total trips previously approved for other tenants in the project will exceed the totals from Table 1 (or its subsequent update), a tenant improvement permit cannot be issued for such tenant's TIs by the City without further Type II or III land use review and approval as determined by Planning Staff. If the tenant's proposed trip generation in excess of the totals in Table 1 (or its subsequent update) are approved, Canby may elect to recalculate the associated Transportation SDC and fee-in-lieu assessment accordingly and such additional fees shall be due upon TI permit issuance. (Planning)
11. The trip review process described above shall continue through the initial lease-up of the building, until it is 100% occupied. The trip review process will not apply to subsequent building tenants. (Planning)
12. Canby shall respond to the project applicant's submittal for proposed tenant trips review within 21 days. The associated fees shall not exceed \$5,000. (Planning)

Proposed Tenant Use Review

13. Prior to undergoing plan check for a permit to construct TIs, the project applicant shall submit to the City a request for confirmation that the tenant's uses are permitted under Canby's code and is in substantial compliance with the submitted narrative and plans, utilizing a Type I Basic Zoning Letter request process. The request shall include a narrative summarizing Tenant's proposed areas of occupancy within the building and identifying Tenant's uses in relation to those permitted under Section 16.32 and prohibited under Section 16.35.045. (Planning)
14. If a tenant's primary uses are permitted by code and are in substantial compliance with the submitted narrative, plans, and conditions of approval, the City shall deem the tenant's uses approved for building occupancy and the City will release the tenant improvement building permits as otherwise required. The tenant's uses shall be considered in substantial compliance with the submitted narrative, plans, and conditions of approval if the uses: 1) are permitted under 16.32.010,

Subsections Q, T, U, or X);¹¹ are approved under the proposed tenant trip review above; 3) are not prohibited under 16.35.045; and 4) do not generate any of the following operational impacts on neighboring properties or public service provision (including utilities such as water, sewer, and electricity) beyond what could be generated under an e-commerce/ high cube distribution center use: a) dissemination of dusts, gas, smoke, fumes, odors, atmospheric pollutants, or noise, b) danger by reason of fire, explosion or other physical hazard, c) unusual traffic hazard or parking need beyond what is provided on site, or d) outdoor equipment, tanks, or inventory storage. If the City does not find the uses to be in substantial compliance, it will specify what type of land use modification will be needed based on Canby Municipal Code 16.89.090. (Planning)

15. If, after reviewing a tenant's uses, the City requires more information to determine if the tenant's uses are permitted under code and in substantial compliance, with the submitted narrative and plans it shall respond accordingly, and the project applicant shall utilize a Type I Expansive Zoning Letter request process, which will determine if the proposed tenant is consistent with the Modified Project or if additional modification land use approval is required. (Planning)
16. The City shall respond to the project applicant's submittal within 21 days. The associated fees will be based on the current adopted City fee for Zoning Letters under Resolution No. 1389, which is currently \$200 for a basic zoning letter and \$1,000 for an expansive letter. (Planning)

Public and Utility Improvements:

17. Public improvements shall comply with all applicable City of Canby Public Works Design Standards. Identified street improvements and right-of-way dedications must be designed and constructed (or bonded) to the satisfaction of the City Engineer. (Public Works/City Engineer)
18. Half-street improvements on S Township Road shall reflect a Collector street classification and shall include 37 feet of right-of-way and 25 feet of paved half-street. The existing right-of-way is 30 feet wide; therefore an additional 22 feet shall be dedicated. Frontage improvements shall include curb and gutter, sidewalks, street lighting, street trees, and stormwater improvements consistent with the DKS memo dated April 24, 2024. (Public Works/City Engineer)
19. Half-street improvements on S Mulino Road shall also reflect a Collector street classification and shall include 37 feet of right-of-way and 25 feet of paved half-street. Right-of-way shall be dedicated consistent with these improvements. Frontage improvements shall include curb and gutter, sidewalks, street lighting, street trees, and stormwater improvements consistent with the DKS memo dated April 24, 2024 (see Attachment G to this Staff Report) and the Clackamas County letter dated April 18, 2024 (see Attachment I to this Staff Report). (Public Works/City Engineer)

¹¹ The land uses identified in this subsection of the code are as follows: Q. Transfer and storage company; T. Warehouse; U. Wholesale distribution, including warehouse and storage; and X. Business or professional office, when related and incidental to primary industrial uses of the area.

20. For improvements on S Mulino Road, the project applicant shall follow the procedures and permitting processes identified by Clackamas County in their comment letter dated April 24, 2024. (Clackamas County)
21. Frontage improvements on S Sequoia Parkway shall include a 12-foot pedestrian zone including a six-foot-wide sidewalk with a half-foot setback from the ROW line behind a five-foot-wide landscape street with a half-foot curb. Adequate right-of-way exists for this half-street. (Public Works/City Engineer)
22. Consistent with the memorandum submitted to the City by DKS Associates on April 19, 2021 and updated by the DKS memo dated April 24, 2024, the project applicant shall pay a fee of \$547,500 to the City in lieu of the project's share of highway and intersection impacts that cannot be mitigated due to improvements at those locations that are infeasible or unplanned. This in-lieu fee shall be used for the City's Walnut Street Extension/Industrial Connector Road project, which is identified in the City's TSP and will mitigate system-wide congestion along Highway 99E corridor. (Planning)
23. The applicant shall install signage at the exiting truck driveways directing truck drivers to use the established Sequoia Parkway route to Highway 99E and restricting trucks from using Haines Road. (Public Works/City Engineer)
24. Sanitary sewer service shall be connected into the S Sequoia Parkway 12-inch Main Line, which requires the project to have its own pump station. The station must be a private facility, operated and maintained by the property owner. Alternatively, a gravity sewer is available in S Mulino Road which would need to be extended from the adjacent pump station south of the project site. (City Engineer)
25. Water and electric service shall be extended to serve the facility to the satisfaction of the City Engineer and Canby Utility. Water services shall be constructed in conformance with Canby Utility requirements. (Public Works/City Engineer)
26. Access driveways for use by trucks shall be industrial type with large-radius curb returns to account for truck traffic. All driveways shall have an industrial driveway approach consisting of 8-inch minimum concrete thickness with reinforcements or mesh welded wire fabric. (City Engineer)
27. Driveways widths shall be a maximum of 40-feet wide as per City of Canby Municipal Code unless specifically allowed by the City Engineer. (City Engineer)
28. All private storm drainage shall be disposed of onsite. A final drainage report shall be submitted with the final construction plans.

The applicant shall demonstrate how the storm runoff generated from the new impervious surfaces will be disposed. If drywells (UIC) are used as a means to discharge storm runoff, they must meet the following criteria:

- a. The UIC structures' location shall meet at least of the two conditions:
 - i. The vertical separation distance between the UIC and seasonal high groundwater is more than 2.5 feet, or
 - ii. The horizontal separation distance between the UIC and any water well is a minimum of 267 feet in accordance with the City of Canby Stormwater

Master Plan, Appendix “C”, *Groundwater Protectiveness Demonstration and Risk Prioritization for Underground Injection Control Devices.*

The storm water drainage report and design methodology shall be in conformance with the requirements as stated in Chapter 4 of the City of Canby Public Works Design Standards dated December 2019. (Public Works/City Engineer)

29. Any existing domestic or irrigation wells shall be abandoned in conformance with OAR 690-220-0030. A copy of an Oregon Water Rights Department (OWRD) abandonment certificate shall be submitted to the City. (City Engineer)
30. Any existing onsite sewage disposal system shall be abandoned in conformance with DEQ and Clackamas County Water Environmental Services (WES) regulations. A copy of the septic tank removal certificate shall be submitted to the City. (City Engineer)
31. Water services and fire protection shall be constructed in conformance with Canby Utility and Canby Fire requirements, including requirements identified by Fire Inspector Jim Walker and Division Chief Matt English in their memorandum prepared for the Approved Project dated May 21, 2021 and Canby Fire’s “Conditions of Construction” document received by the City on May 7, 2024. (Canby Fire)
32. The project applicant shall coordinate with Canby Fire to identify appropriate locations for fire hydrants. Prior to site plan approval, the project applicant shall provide an updated site plan identifying hydrant locations to the satisfaction of Canby Fire. (Canby Fire)

Project Design/Site Plan Approval:

33. Consistent with the project applicant’s own scoring of their conformance with the Industrial Overlay Design Review Matrix related to landscaping (as modified by discussions with Planning Staff), between 25 and 50 percent of trees planted on the project site shall be of three-inch caliper. Conformance with this condition shall be evaluated by Planning Staff prior to completion of Site Plan Review for the first phase of development. (Planning)
34. The applicant shall work with Canby Utility and the Canby Public Works Department in order to provide the appropriate connections to all required utilities prior to site plan approval. (Public Works)
35. The developer/builder of the proposed buildings shall consult with Canby Disposal regarding final architectural plans and design considerations for solid waste pickup. (Canby Disposal)
36. All landscaping must meet the requirements of Chapter 16.49 for longevity, planting types, irrigation requirements and general coverage. (Planning)
37. All proposed lighting shall meet the standards described in Chapter 16.43 and must have cut-off shielding and be installed as described in the submitted lighting plan. (Planning)
38. The final site plan submitted to the City issuance shall include dimensions for the structural height of the building, including elevation drawings showing the full building height at each building corner and any other high point, such as locations where building articulation extends above the primary wall plane. (Planning)

39. The final site plan submitted to the City shall explicitly quantify the number of bicycle parking spaces shown on the plan, including those planned to be located inside the building. The number of spaces shall be equal to or greater than 113, as required by the Canby Municipal Code.

If any portion of the bicycle parking is planned to be deferred to future buildout of a specific tenant space, the project applicant shall provide the City with narrative accompanying the initial site plan submittal detailing how this deferment will be structured, including timing. (Planning)

40. The final site plan submitted to the City shall show one of the following in areas where pedestrian pathways cross parking lots and drive aisles:
1. Raised pedestrian pathways made of brick/pavers and/or concrete.
 2. Pathways constructed with stamped, epoxy-painted asphalt.

If neither of these options is feasible at all such locations, the project applicant shall provide Planning Staff with written narrative outlining why that is true. (Planning)

41. System Development Charges (SDCs) shall be paid prior to submittal of the Type I site plan application. These will be paid at the current established rates at the time of payment. (Planning)
42. A pre-construction meeting is required prior to site plan approval. (Planning)

Building Permits:

43. Pursuant to Subsection 16.49.060 of the Canby Municipal Code, Site and Design Review approvals shall be void after twelve (12) months unless: A building permit has been issued and substantial construction pursuant thereto has taken place, as defined by the state Uniform Building Code; or the Planning Department finds that there have been no changes in any Ordinances, standards, regulations or other conditions affecting the previously approved project so as to warrant its resubmittal. (Ord. 848, Part III, Section 4, 1091). (Planning)
44. An erosion control and a grading permit will be required from the City of Canby prior to any on-site disturbance, and Canby pre-construction and Clackamas County approval is required prior to commencement of grading. (Planning)
45. The project applicant shall apply for a City of Canby Site Plan Permit, Clackamas County Building permits (including grading permits), and a City of Canby Erosion Control Permit prior to project construction. (Planning/Public Works)
46. Clackamas County Building Services will provide structural, electrical, plumbing, and mechanical plan review and inspection services. (Clackamas County Building Services)
47. Construction plans shall be designed and stamped by a Professional Engineer registered in the State of Oregon. (City Engineer)
48. Prior to occupancy, sight distance at all access points will need to be verified, documented, and stamped by a registered professional Civil or Traffic Engineer licensed in the State of Oregon. (Public Works)
49. The applicant shall submit signage applications to the City for any future signs. Proposed signs shall conform to provisions of Chapter 16.42 of the CMC and shall

secure a building permit from Clackamas County Building Services prior to their installation if applicable. (Planning)

50. The design engineer shall submit to the City of Canby for review and approval at the time of final construction plan approval a final storm drainage analysis and report applicable to the defined development area detailing how storm water disposal from both the building and the parking areas is being handled. Any drainage plan shall conform to an acceptable methodology for meeting adopted storm drainage design standards as indicated in the Public Works design standards. (Public Works/City Engineer)

Prior to Occupancy:

51. A narrative with accompanying materials shall be provided during the final certificate of occupancy process that demonstrates how the project is consistent with the conditions of approval stated in this Staff Report. (Planning)
52. Prior to occupancy, all landscaping plant material indicated on the submitted landscape plan shall either be installed and irrigated as proposed, or sufficient security (bonding, escrow, etc.) shall be provided pursuant to the provisions of CMC 16.49.100 (B). (Planning)
53. Prior to occupancy, all parking striping, wheel stops, bike parking, ADA space requirements and signage shall be installed. (Planning)
54. Prior to occupancy, all pedestrian infrastructure including sidewalks, pathways and striping shall be installed. (Planning)

Noise:

55. Construction and operation of the project shall comply with Chapter 9.48, *Noise Control*, of the Canby Municipal Code, including the identified limitations on hours of noise generation. Noise in excess of that explicitly allowed by the code will require approval of a variance by City Council. (Planning)