

HEARINGS OFFICER CERTIFICATE OF MAILING

FILE #: Z0481-20-SL

I certify that on the date set forth below I mailed a copy of the above HEARINGS OFFICER FINAL ORDER by first class mail to the following participants at the address shown:

ICON CONSTRUCTION & DEVELOPMENT, LLC MARK HANDRIS 1969 WILLAMETTE FALLS DR WEST LINN, OR 97068	JAMES MANNING 14277 S DONAVAN RD OREGON CITY, OR 97045
RICK GIVENS PLANNING CONSULTANT 18680 SUNBLAZE DRIVE OREGON CITY, OR 97045	OAK GROVE COMMUNITY COUNCIL JOSEPH EDGE*
CLACKAMAS FIRE*	NORTH CLACKAMAS SCHOOL DISTRICT*
OAK LODGE WATER DISTRICT*	NORTH CLACKAMAS URBAN WC*

*EMAILED

The original of this decision has been filed with the Planning Division, Clackamas County Department of Transportation and Development.

DATED this 3RD day of FEBRUARY, 2021


Permits Specialist

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

Regarding an application by Mark Handris for a 20-) **FINAL ORDER**
lot major subdivision of a 2.22-acre parcel located)
in the R-7 and MR-1 zones at 2316 SE Courtney)
Avenue in unincorporated Clackamas County, Oregon) **Z0481-20-SL (Reese Place)**

A. SUMMARY

1. Mark Handris (the “applicant”) requests approval of a 20-lot subdivision on a 2.22-acre site located at 2316 SE Courtney Avenue; also known as tax lots 1400 and 1500, Section 01, Township 2 South, Range 1 East, of the Willamette Meridian, Clackamas County (the “site”). The northern portion of the site (tax lot 1500) and abutting properties to the north, northwest, and east are zoned MR-1 (Medium Density Residential). The southern portion of the site (tax lot 1400) and abutting properties to the south and southwest are zoned R-7 (Urban Low Density Residential, 7000 square foot minimum lot size).

2. The site is currently developed with a single-family residence and associated accessory structures. The applicant proposed to remove all of the existing structures and subdivide the site into 20 lots, including; 14 lots ranging in size from 2,013 square feet to 3,451 square feet for attached dwelling units in the northern, MR-1 zoned, portion of the site and six lots ranging in size from 7,027 square feet to 7,688 square feet for single-family detached dwelling units in the southern, R-7 zoned, portion of the site.

3. The applicant proposed to dedicate right of way as necessary and construct half-width frontage improvements along the site’s SE Courtney Avenue and SE Linden Lane frontages. Oak Lodge Water Services District (“OLWSD”) will provide domestic water, storm and sanitary sewer services to the site. The applicant proposed to collect storm water runoff from impervious surfaces on the site, convey it to an on-site facility for detention and treatment. The applicant will also provide water quality filter strips along portions of the site’s SE Courtney Avenue and SE Linden Lane frontages. The applicant will release treated stormwater at less than predevelopment rates to the existing storm sewer line in SE Courtney Avenue, in compliance with OLSD regulations.

4. Hearings Officer Joe Turner (the "hearings officer") conducted a public hearing to receive testimony and evidence about the application. County staff recommended the hearings officer approve the application subject to conditions, as modified at the hearing, see the Staff Report to the Hearings Officer dated January 20, 2021 (the "Staff Report"). The applicant accepted those findings and conditions, as modified, without exceptions. No one else testified orally or in writing other than service providers.

5. Based on the findings provided or incorporated herein, the hearings officer approves the application subject to the conditions at the conclusion of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at a public hearing about this application, on January 28, 2021. 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 Ben Blessing summarized the Staff Report, the applicable approval criteria, and his PowerPoint presentation (Exhibit 12). He agreed with Mr. Givens' request to modify condition 3.H.ii in the Staff Report.

3. Planner Rick Givens testified on behalf of the applicant, Mark Handris. He accepted the findings and conditions in the Staff Report with two corrections.

a. He noted that the applicant will only extend the proposed north-south private street to intersect SE Courtney Avenue if the Fire District requires this connection for emergency access. Otherwise the applicant will terminate the north-south section of the private street south of SE Courtney Avenue.

b. He requested the hearings officer modify condition 3.H.ii in the Staff Report, adding the phrase, "or language acceptable to the County surveyor's office" at the end of the condition.

c. He waived the applicant's right to submit a final written argument.

4. County engineering planner Ken Kent agreed with the applicant's proposal to terminate the north-south private road south of SE Courtney Avenue, unless required by the Fire District. The County would prefer that this development not provide direct access to SE Courtney Avenue.

5. No one else testified about this application and the applicant waived his right to submit a written final written argument. Therefore, the hearings officer closed the public record at the end of the hearing and announced his intention to approve the application subject to the recommended conditions of approval, as modified at the hearing.

C. FINDINGS

This application is subject to Sections 202, 315, 1001, 1002, 1003, 1006, 1007, 1012, 1017, 1105 and 1307 of the Clackamas County Zoning and Development Ordinance (ZDO). County staff recommended approval of the application, based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified

at the hearing. The applicant accepted those findings and conditions, as modified, without exceptions. The hearings officer finds that the Staff Report accurately identifies all the applicable standards for the application and contains sufficient findings showing the application does or can comply with those standards subject to conditions of approval. The hearings officer adopts the following findings. (Code criteria are set out in normal font. The hearings officer's Findings are in italics).

I. ZDO SECTION 1000: DEVELOPMENT STANDARDS

1001 GENERAL PROVISIONS

1001.01 PURPOSE

Section 1000, Development Standards, is adopted to implement policies in the Comprehensive Plan that are applicable to new development and thereby ensure that land is:

- A. Used efficiently to support broad-based economic development and the adequacy of housing and public services;
- B. Developed in an environmentally sustainable and aesthetically appealing manner;
- C. Supplied with public facilities sufficient to meet demand; and
- D. Served by a safe, convenient, multimodal, and interconnected transportation system.

ZDO 1001.01 is a purpose statement, not an approval criteria . The goals set out in purpose statements are achieved through compliance with the implementing regulations and approval criteria. The purpose statements themselves are not relevant unless they include specific approval criteria or the implementing regulations that follow are ambiguous, and resort to the purpose statements is necessary to determine the context and meaning of ambiguous terms. See, e.g., Beck v. City of Tillamook, 18 Or LUBA 587 (1990) (Purpose statement stating general objectives only is not an approval criteria).

1001.02 APPLICABILITY

- A. Except where a different applicability standard is set forth elsewhere in Section 1000, Section 1000 applies to partitions; subdivisions; replats; institutional, commercial, and industrial developments; manufactured dwelling parks; condominiums; multifamily dwellings; two- and three-family dwellings; and attached single-family dwellings where three or more dwelling units are attached to one another. Notwithstanding this provision, level one through three mobile vending units are not subject to Section 1000, except as set forth in Section 837, Mobile Vending Units.

In addition, Section 1009, Landscaping, does not apply to partitions, subdivisions, and replats.

The proposed development is a subdivision. Therefore Section 1000 applies to this proposal. The applicable criteria are addressed in findings below.

1002 PROTECTION OF NATURAL FEATURES

1002.01 HILLSIDES

- A. Development on slopes greater than or equal to 20 percent and less than or equal to 35 percent—except that for residential development in the RR, MRR, and HR Districts, the upper limit is 25 percent—shall require review of a Type I application pursuant to Section 1307, Procedures, and shall be subject to the following standards:

The proposed subdivision does not involve development on slopes greater than or equal to 20 percent. The site is flat, and steep slopes are not present in this area. This criteria is not applicable.

- A. Development on slopes greater than 35 percent—and residential development on slopes greater than 25 percent in the RR, MRR, and HR Districts—shall require review of a Type II application pursuant to Section 1307 and shall be subject to the following standards:

As noted above, the site is flat. This subsection does not apply.

1002.03 TREES AND WOODED AREAS

- A. Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible. The preservation of these natural features shall be balanced with the needs of the development, but shall not preclude development of the site, or require a reduction in the number of lots or dwelling units that would otherwise be permitted. Site planning and design techniques which address incorporation of trees and wooded areas in the development plan include, but are not limited to, the following:

ORS 197.307(4) (Exhibit 10) prohibits the County, with certain exceptions, from adopting or applying standards, conditions, and procedures regulating housing, including needed housing, that are not clear and objective. ORS 197.307(6) authorizes the County to adopt and apply alternative subjective standards, conditions, and procedures regulating the appearance or aesthetics of residential development, provided such subjective standards, conditions, and procedures are offered as an alternative to the objective standards, conditions, and procedures required by subsection (4).

In this case, ZDO 1002.03 contains subjective language, particularly the following: “significant clumps or groves or trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible.” The Code does not provide a “clear and objective” method to determine which trees shall be preserved and where. Therefore, pursuant to Oregon Revised Statutes (ORS) 197.307(4), the County is prohibited from applying this policy.

The applicant’s tree removal plan still intends to preserve some trees, particularly on lots 18, 19, and 20 (Exhibit 2). Therefore, the hearings officer includes an advisory condition noting that best practices for tree protection be used during construction of this site.

1002.04 RIVER AND STREAM CORRIDORS

The following standards shall apply to land that is outside both the Metropolitan Service District Boundary (MSDB) and the Portland Metropolitan Urban Growth Boundary (UGB).

The site is located inside of both the MSDB and Portland Metropolitan UGB. Therefore, these standards do not apply.

1002.05 DEER AND ELK WINTER RANGE

Development in deer and elk winter range below 3,000 feet in elevation, as identified on Comprehensive Plan Map III-2, Scenic and Distinctive Resource Areas, shall be designed to minimize adverse wildlife impacts.

The site is located outside of the Deer and Elk Winter Range. This criteria does not apply.

1002.06 MOUNT HOOD RESOURCE PROTECTION OPEN SPACE

Development in areas shown as Resource Protection Open Space on Comprehensive Plan Maps X-MH-1 through X-MH-3, Resource Protection Open Space, proposed in or within 100 feet of natural wetlands shall be designed to:

The site is located outside of the Mt. Hood Resource Protection Open Space. This criteria does not apply.

1002.07 SIGNIFICANT NATURAL AREAS

- A. Five significant natural areas are identified as unique/natural features on Comprehensive Plan Map III-2, Scenic & Distinctive Resource Areas. These areas are more specifically referred to as Williams Lake Bog, the land at Marmot, Multorpor Bog, Delphridge, and Wilhoit Springs. In these significant natural areas, the following shall be restricted, to the extent necessary to protect the unique or fragile character or features that

are the basis for the unique/natural feature designation: building and road construction, filling and excavation, paving, and tree removal. Restrictions may be modified pursuant to Subsection 1011.03.

The site does not contain a significant natural area. This criteria does not apply.

1003 HAZARDS TO SAFETY

1003.01 PURPOSE

- A. To protect lives and property from natural or man-induced geologic or hydrologic hazards and disasters.
- B. To protect property from damage due to soil hazards.
- C. To protect lives and property from forest and brush fires.
- D. To avoid financial loss resulting from development in hazard areas.

Purpose statements are not applicable approval criteria as discussed above.

1003.02 STANDARDS FOR MASS MOVEMENT HAZARD AREAS

- A. An engineering geologic study shall be required for development proposed on slopes of twenty (20) percent or greater. The study shall include items under subsection 1003.02B 2.

The proposed subdivision is not located in mass movement hazard area. This section is not applicable.

- B. The principal source of information for determining mass movement hazards is the State Department of Geology and Mineral Industries (DOGAMI) Bulletin 99 and accompanying maps. Approved site specific engineering geologic studies shall be used to identify the extent and severity of the hazardous conditions on the site, and to update the mass movement hazards data base.

The DOGAMI map for the Lake Oswego and Gladstone Quadrangle show that there are no landslide hazards in this area (Exhibit 8). This section is not applicable.

1003.03 STANDARDS FOR FLOOD HAZARD AREAS

- A. Development proposed in flood hazard areas, in addition to provisions of Section 703, shall be limited to the extent that:

The DOGAMI map for the Lake Oswego and Gladstone Quadrangle show that there are no flood hazards in this area, and this area is not located within the Special Flood

Hazard Area (SFHA), and not subject to ZDO Section 703 (Exhibit 8). This section is not applicable.

1003.04 STANDARDS FOR SOIL HAZARD AREAS

- A. Appropriate siting and design safeguards shall insure structural stability and proper drainage of foundation and crawl space areas for development on land with any of the following soil conditions: Wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock.
- B. The principal source of information for determining soil hazards is the State DOGAMI Bulletin 99 and accompanying maps. Approved site specific soil studies shall be used to identify the extent and severity of the hazardous conditions on the site, and to update the soil hazards data base accordingly.

The DOGAMI map indicates the presence of wet/high water table on the site (Exhibit 8). The applicant notes that roof drains and proper storm water conveyance and treatment will properly address this concern. However, the hearings officer finds that siting and design safeguards for the proposed structures should also be in place. Therefore, a condition of approval is warranted requiring preparation of a geotechnical investigation or soil study prior to the issuance of any building permit in this subdivision. The geotechnical investigation or soil study shall make recommendations for construction (crawl space depth, foundation width, etc.) and the applicant should be required to comply with such recommendations, if any. The applicable standards of this Subsection are outlined in the Conditions of Approval.

1003.05 STANDARDS FOR FIRE HAZARD AREAS

- A. Development in areas with the potential for forest or brush fires shall be designed:

The proposed subdivision is not located in a Fire Hazard Area. This criteria is not applicable.

1006 UTILITIES, STREET LIGHTS, WATER SUPPLY, SEWAGE DISPOSAL, SURFACE WATER MANAGEMENT, AND EROSION CONTROL

1006.01 GENERAL STANDARDS

The proposed subdivision will be served by a variety of utility and infrastructure services that are subject to this Subsection, the applicable standards of which are outlined above under Conditions of Approval, and addressed in more detail below.

1006.02 STREET LIGHTS

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

The site is located inside the Portland Metropolitan UGB. Therefore, the standards of this Subsection apply, and are included as Conditions of Approval.

1006.03 WATER SUPPLY

- A. All 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.

OLWSD will provide public water for the proposed subdivision. By letter dated December 29, 2020 (Exhibit 5), OLWSD has provided comments and conditions pursuant to the standards of this Section, with comments as follows:

As a condition of land use application approval, OLWSD requests the property owner be required to comply with the following requirements and to procure the necessary approvals and/or permits from the OLWSD in accordance with the OLWSD code, regulations or policies:

- The proposed development is located within the service area of Oak Lodge Water Services for sanitary sewer, water and surface water and shall be subject to the Oak Lodge Rules and Regulations and Design and Construction Standards for applicable utilities.
- Property owner shall apply for an erosion and sediment control permit from OLWSD.
- Property owner shall apply for a Site Development permit from OLWSD.
- Sanitary sewer and/or water SDCs will be assessed. The application will be reviewed by the rules, regulations and design and construction standards in effect on the date of complete application to OLWSD; not Land Use application.
- All fees and charges shall be paid before the Site Development permit is issued or plat approval. All costs associated with the design, construction and testing of any applicable utility shall be proved by and at the sole expense of the owner and performed prior to plat approval.
- Property owner shall grant a public easement to Oak Lodge Water Services District for sanitary sewer and water utility lines. The easement shall be a minimum width of 20 feet. The easement shall extend to the southern property boundary and provide for utility extension for service provision to tax lot 1400 to the south.

- Property owner shall be responsible for the maintenance of any stormwater facilities conducted in the public right-of-way.

The hearings officer adopts and incorporates these conditions of approval into this Final Order.

- 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.

The applicant has submitted a preliminary statement of feasibility from OLWSD, indicating that water service is available or can be made available (Exhibit 4). This criteria is met.

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 site that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

The statement indicates fire flows are adequate. This criteria is met.

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.

The statement is dated November 10, 2020, and reservation of water system capacity is not required for the proposed subdivision. This criteria is met.

- C. Prior to final approval of any 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.

A Condition of Approval to that effect is included in this Final Order.

- 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. New 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.

The site is located inside the Portland Metropolitan Urban Growth Boundary. Therefore, this Subsection applies to this development and the applicable standards of the Subsection are included in the Conditions of Approval.

- F. The following standards apply outside the Portland Metropolitan Urban Growth Boundary, Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:

The site is located inside the Portland Metropolitan Urban Growth Boundary. Therefore, this Subsection is inapplicable.

1006.04 SANITARY SEWER SERVICE

- A. All development that has a need for sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development.

OLWSD will provide sanitary sewer for the proposed subdivision. By letter dated December 29, 2020 (Exhibit 5), OLWSD has provided comments and conditions noting that Sanitary Sewer can be provided subject to conditions of approval. The hearings officer adopts and incorporates these conditions of approval into this Final Order.

- B. Approval of a development that requires sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider.
 1. The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.

The applicant has submitted a preliminary statement of feasibility from OLWSD, indicating that sanitary sewer capacity is available as outlined above (Exhibit 4).

2. The service provider may require preliminary sanitary sewer system plans and calculations for the proposed development prior to signing a preliminary statement of feasibility.

The preliminary statement of feasibility has already been signed. This criteria is not applicable.

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 sanitary sewer system capacity for the development.

The statement is dated November 10, 2020, and it is not necessary to reserve sanitary sewer system capacity for the proposed subdivision.

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.

The applicant proposed to collect stormwater runoff from all of the listed locations and convey it to a stormwater facility within proposed Tract B for treatment and detention. The applicant will discharge treated stormwater to the existing public storm sewer system in SE Courtney Avenue. Conditions of Approval included in this Final Order will ensure compliance with this criteria.

- 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.

OLWSD is the surface water management regulatory authority for the proposed subdivision and the conditions of approval recommended by OLWSD and included in this Final Order will ensure compliance with the District's requirements.

- 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.

The applicant has submitted a preliminary statement of feasibility from OLWSD (Exhibit 4), indicating that adequate surface water management, treatment and conveyance is available as outlined above.

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.

OLWSD has already signed the statement of feasibility. This criteria is not applicable (Exhibit 4).

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.

The statement is dated November 10, 2020, and there is no need to reserve surface water treatment and conveyance system capacity for the proposed subdivision.

D. Development shall be planned, designed, constructed, and maintained to:

1. Protect and preserve existing natural drainage channels to the maximum practicable extent;

As discussed in the applicant's storm water report (Exhibit 3), existing and proposed drainage patterns flow to a public sewer system in SE Courtney Avenue, which will flow to an unnamed open channel to the west of the site. There will be no change to natural drainage channels. This criteria is met.

2. Protect development from flood hazards;

As discussed above, the site is not located in a mapped Special Flood Hazard Area (SFHA) nor has there been any identified historical flooding events on the site. The applicant plans to convey all of the impervious run-off to an existing storm system that eventually discharges into an unnamed open channel. No Flood Hazards have been identified. This criteria is met.

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;

As noted above, the applicant will treat, detain, and convey all new impervious runoff subject to standards set forth by OLWSD. This criteria can be met.

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, reseeded, and phasing of grading; and

The applicant will treat surface water runoff in a storm water detention facility located in Tract "B" as well as in five-foot wide water quality trenches along the site's SE Courtney Avenue and SE Linden Lane street frontage. These facilities shall be required to properly treat the pollutants noted above, as required by OLWSD.

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.

An Erosion and Sediment Control plan will be required for all construction. Furthermore, since the site is flat, and all runoff will be collected, detained, conveyed, and discharged consistent with OLWSD standards, this development will not increase the risk of erosion. As conditioned, this standard is met.

- E. Where culverts cannot provide sufficient capacity without significant environmental degradation, the County may require the watercourse to be bridged or spanned.

There are no watercourses present on the site. This criteria is not applicable.

- 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.

This development is not traversed by a watercourse. OLWSD will require easements necessary for the proper conveyance of surface water. This criteria is not applicable.

- 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.

No channel obstructions are proposed. This criteria is not applicable.

- H. The natural drainage pattern shall not be substantially altered at the periphery of the site. 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.

As noted above, the applicant will collect surface water from all new impervious surfaces on the site and convey it to a stormwater facility in proposed Tract B for treatment and detention. The applicant will discharge treated stormwater to the existing public storm sewer system in SE Courtney Avenue at less than pre-development rates. This will ensure

that this development will not increase the rate of runoff or discharge runoff onto adjacent properties. Adopted Conditions of Approval will ensure compliance. This criteria can be met.

- 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.

A surface water management and erosion control plan is required for the proposed subdivision as discussed above. OLWSD will regulate erosion control measures. A Condition of Approval to that effect is included in this Final Order.

1006.07 PRELIMINARY STATEMENTS OF FEASIBILITY EXCEPTIONS

- A. A land use application shall be deemed complete and may be approved without the submittal of one or more of the preliminary statements of feasibility required by Subsections 1006.03, 1006.04, and 1006.06 if the applicant demonstrates that a good faith attempt has been made to obtain the statement(s). At a minimum, demonstration of a good faith attempt shall require the applicant to submit the following:
 1. A statement signed by the applicant indicating that the service provider or surface water management authority has not responded to a request for a preliminary statement of feasibility or has refused to issue one. When the refusal to issue a preliminary statement of feasibility is based upon a finding that adequate service cannot be provided, such refusal shall not qualify for an exception under this subsection; and
 2. A copy of a letter delivered to the service provider or surface water management authority clearly requesting a preliminary statement of feasibility. The letter shall be dated no less than 30 days prior to the submittal of the land use application.

The applicant submitted all required preliminary statements of feasibility. An exception is not required and this criteria is not applicable.

1007 ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

- A. The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.

The Department of Transportation & Development has provided comments and conditions dated January 14, 2021, pursuant to the standards of this Section (Exhibit 6), with general comments as follows:

The applicant has proposed a 20-lot subdivision of a 2.22 acre property located on the south side of SE Courtney Avenue and west side of SE Linden Lane. Access is proposed with a new private road from SE Linden Lane and SE Courtney Avenue.

...

Oak Lodge Water Services (OLWSD) is the surface water management authority for the area including the subject site. The proposal must be in conformance with the rules and regulations of Oak Lodge Water Services and Clackamas County Zoning and Roadway Standards Chapter 4. Positive drainage must be provided to an existing storm drainage system capable of accommodating the estimated contribution.

- B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

SE Courtney Avenue is classified as a Collector Roadway and SE Linden Lane is classified as a Local Roadway (Comprehensive Plan map 5-1d). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for collector and local roads. ZDO Section 1007 requires that subdivision applicants improve new roadways and any existing road frontage to current County standards. The existing right-of-way width of SE Courtney Avenue is 60 feet, which meets the minimum standard for a collector roadway. The required right-of-way width for SE Linden Lane is 54 feet. The half right-of-way width along site frontage is 25 feet in width. Therefore, pursuant to ZDO Section 1007, the applicant will be required to dedicate approximately two feet of additional public right-of-way along the site's entire SE Linden Lane frontage to provide 27 feet of half right-of-way width. This requirement is included in the conditions of approval.

- C. New developments shall have access points connecting with existing private, public, county, or state 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.

Intersection spacing and access control can be met, as discussed in more detail below.

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).

The site is not identified on this map nor is it greater than five acres. This criteria is not applicable.

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 as deemed appropriate by the Department of Transportation and Development.
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.

The applicant proposed to provide driveway access to SE Linden Lane and private street connections to SE Courtney Avenue and SE Linden Lane. However, as noted during the pre-application meeting dated September 16, 2020, the County's access and spacing

standards for collector roadways prohibit access to SE Courtney Lane. Section 220.4(a) states that developments “[s]hall first take access to the lower functional classified roadway unless evidence or an engineering study establishes that access(es) to the higher functional classified roadway are needed for safety, circulation, to address topography or environmental constraints, or are otherwise a benefit to the public.”

The applicant submitted a Design Modification request to allow the private road access to SE Courtney Avenue. Engineering staff reviewed the requested modification and denied the request, determining that there would be adequate access and circulation from SE Linden Lane. In addition, the proposed access would not meet spacing standards from nearby existing driveways on SE Courtney Avenue. Therefore, the applicant should be required to terminate the pavement section for the north-south private road south of SE Courtney Avenue, unless the Fire District requires this road connection for emergency vehicle access, in which case the emergency access shall be gated. The applicant shall extend the sidewalk on one side of the private road to connect with the sidewalk on the south side of SE Courtney Avenue. A condition of approval is warranted to that effect.

6. 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.

Unless the Fire District requires an emergency access onto SE Courtney Avenue, no driveways will access this collector street. This standard is met.

- b. For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.

As discussed above, with the potential exception of the emergency access drive, all driveways will be located on SE Linden Lane, the lower functional classification local road, or the proposed private road. As conditioned, this standard is met.

- c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.

A condition of approval is warranted requiring that all driveway entrances meet the minimum width requirements of the Clackamas County Roadway Standards. As conditioned, this standard is met.

- 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.

The applicant proposed to provide shared driveway approaches located on the property lines of Lots 2-5. The driveway serving Lot 1 is located on the south boundary of the lot

in order to maximize separation from the SE Courtney Avenue intersection. The proposed driveways will maximize on-street parking and the number and spacing of street trees, to the extent feasible given the narrow width of these lots. The applicant should be required to locate the driveways serving proposed Lots 19 and 20 consistent with this requirement. As conditioned, this standard is met.

- 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.

The proposed private road will intersect SE Linden Lane at a perpendicular, 90 degree angle. This criteria is met.

- 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.

Clackamas County has adopted design and construction standards for private roads, as provided in ZDO Sections 1007.02-03 and Roadway Standards Section 225.7. Private roads serving urban subdivisions are required to design and construct a minimum 20-foot wide paved road, with curbs on both sides of the roadway and a five-foot wide unobstructed sidewalk on one side. The applicant has proposed a 24-foot wide road within a 31-foot wide tract, with a sidewalk along the frontage of Lots 5-10. Additional sidewalk will be required to extend to the west end of the access road along either the frontage of Lots 15 and 16 or Lot 14, so that sidewalk is provide on one side of the entire private road.

- 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.

There is no transit services available on SE Linden or SE Courtney Ave. This criteria is not applicable.

- G. The needs of all modes of transportation shall be balanced to provide for safe and efficient flow of traffic. Where practical, pedestrian crossing lengths shall be minimized and the road system shall be designed to provide frequent pedestrian connections.

As discussed above, sidewalks shall be constructed on all street frontages. County Engineering has not identified that a pedestrian connection is warranted. This standard can be 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.

1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.

The site is not located along streets with identified design standards set forth in chapter 10 of the comprehensive plan. The nearest street with specific design standards is the McLoughlin Boulevard corridor. This criteria is not applicable.

2. Development along streets identified as Regional or Community Boulevards on Comprehensive Plan Map 5-5, Metro Regional Street Design Classifications, shall provide pedestrian, bicycle, transit, and visual amenities in the public right-of-way. Such amenities may include, but are not limited to, the following: street trees, landscaping, kiosks, outdoor lighting, outdoor seating, bike racks, bus shelters, other transit amenities, pedestrian spaces and access to the boulevard, landscaped medians, noise and pollution control measures, other environmentally sensitive uses, aesthetically designed lights, bridges, signs, and turn bays as appropriate rather than continuous turn lanes.

The site is not located on a Regional or Community Boulevard. This criteria is not applicable.

3. Development adjacent to scenic roads identified on Comprehensive Plan Map 5-1, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:
 - a. Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and
 - b. Turnouts shall be provided at viewpoints or for recreational needs.

The site is not located on a scenic road. This criteria is not applicable.

4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, Urban Growth Concept, roads shall be designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:

- a. On-street parking;
- b. Street trees;
- c. Street lighting;
- d. Pedestrian amenities; and
- e. Truck routes shall be specified for deliveries to local businesses.

The site is not located in a center, corridor, or station community. This criteria is not applicable.

5. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, on local streets within the Portland Metropolitan Urban Growth Boundary (UGB), and in unincorporated communities, when conflicts exist between the dimensional requirements for vehicles and those for pedestrians, pedestrians shall be afforded additional consideration in order to increase safety and walkability. In industrial areas, the needs of vehicles shall take precedence.

The site is not located in a center, corridor, or station community. This criteria is not applicable.

- B. The layout of new public and county roads shall provide for the continuation of roads within and between the development and adjoining developments when deemed necessary and feasible by the Department of Transportation and Development.
 1. When public access to adjoining property is required, this access shall be improved and dedicated to the County.

There are no street stubs abutting the site that can be extended into or through the site and the abutting properties to the south and west are developed with single family residential homes; no public access is required to these properties. As discussed above, the ZDO and County Roadway Standards require access off of the lowest functional classification street. Thus, a connection to SE Courtney Road is not permitted, with the exception of an emergency vehicle access if required by the Fire District, and all access will be from SE Linden Lane and the Private Road (Tract A).

2. Street stubs shall be provided to allow for future access to adjacent undeveloped property as deemed necessary by the Department of Transportation and Development.

Adjacent properties are all developed with single family residential homes. This criteria is not applicable.

3. These standards may be deviated from when the County finds that safe and efficient alternate designs would better accommodate:
 - a. Sustainable development features such as “Green Streets” as described in Metro’s Green Streets: Innovative Solutions for Stormwater and Street Crossings (2002), which shall be allowed within the UGB and in unincorporated communities;
 - b. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;
 - c. Preservation of existing significant trees and native vegetation;
 - d. Preservation of natural terrain and other natural landscape features;
 - e. Achievement of maximum solar benefit for new development through orientation and block sizing;
 - f. Existing forest or agricultural uses;
 - g. Existing development;
 - h. Scenic qualities;
 - i. Planned unit developments;
 - j. Local access streets less than 200 feet in length which are not extendible; and
 - k. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.

No deviations are requested or warranted. This criteria is not applicable.

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

No new dead-end county or public roads are proposed. As discussed above, adjoining properties are fully developed, and the continuation of a public road is not possible given the existing development. Thus, the proposed turnaround on the applicant’s site plan is appropriate.

- 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.

The applicant states that “[N]o plantings other than those permitted within clear zones, will be installed...”, and that sight distance can be met. The County can ensure compliance with this standard through the final review process. This standard can be met.

- 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 as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

The minimum improvements on the SE Courtney Avenue frontage consistent with ZDO Section 1007 include, but are not necessarily limited to, up to a one half-street improvement consisting of: pavement widening as necessary to provide a minimum 18-foot one-half paved width to the curb, a five-foot wide landscape strip with street trees, a five-foot wide unobstructed sidewalk, and storm drainage facilities. Minimum improvements on the SE Linden Lane frontage include, but are not necessarily limited to, dedication of additional right-of-way as necessary to provide a 27-foot half-width right-of-way and up to a one half-street improvement consisting of: pavement widening as necessary to provide a minimum 16-foot one-half paved width to the curb, a five-foot wide landscape strip with street trees, a five-foot wide unobstructed sidewalk, and storm drainage facilities. The applicant's plans are generally consistent with these requirements. Conditions of approval are included to ensure compliance with these standards.

- F. Road frontage improvements within the UGB and in Mt. Hood urban villages shall include:
1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;

The site is located within the UGB. Therefore, compliance with these standards is required and conditions of approval are included to that effect. These standards can be met as conditioned.

2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;

The applicant is proposing sidewalks along the private road, SE Courtney Avenue, and SE Linden Lane, as well as a bike lane along the site's SE Courtney Avenue frontage. These improvements are required by the conditions of approval. These standards can be met as conditioned.

3. Transit amenities as specified in Subsection 1007.05; and

As discussed above, transit amenities are not required on either SE Courtney Avenue or SE Linden Lane. This standard is inapplicable.

4. Street trees as specified in Subsection 1007.06.

As discussed above, street trees are required in the landscape strip on both SE Courtney Avenue and SE Linden Lane. These standards can be met and as set forth in the conditions of approval.

1007.03 PRIVATE ROADS AND ACCESS DRIVES

- A. Private roads and access drives shall be developed according to classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, Typical Roadway Cross Sections, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards, except:

1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district's Fire Marshal;

Each lot of the proposed subdivision will be served by a private road within a tract, or take direct access onto a local road. Access easements and flagpoles are not required or proposed.

2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;

3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;
4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and
5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.02(D).

Clackamas County has adopted design and construction standards for private roads, as provided in ZDO Sections 1007.02-03 and Roadway Standards Section 225.7. Private roads serving urban subdivisions are required to design and construct a minimum 20-foot wide paved road, with curbs on both sides of the roadway and a five-foot wide unobstructed sidewalk on one side. The applicant has proposed a 24-foot wide road within a 31-foot wide tract, with a sidewalk along the frontage of Lots 5-10. Additional sidewalk will be required to extend to the west end of the access road along either the frontage of Lots 15 and 16 or Lot 14, so that sidewalk is provide on one side of the entire private road. This criteria can be met, and is detailed above in the conditions of approval.

Clackamas County's Roadway Standards include requirements for emergency vehicle access to residential subdivisions. Private roadways longer than 150 feet are required to provide an emergency services turnaround. The proposed private roadway design accommodates an emergency services turnaround, per Clackamas Roadway Standards, Drawing C350. In addition, a gated emergency access can be provided in lieu of a full access to SE Courtney Avenue, if required by the Fire District. Written verification from the Fire District that adequate emergency service access is available for the proposed subdivision will be required.

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:

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

As discussed above, the applicant will construct sidewalks along the site's SE Courtney Avenue and SE Linden Lane frontages and on one side of the proposed private roadway. In addition, the applicant will maintain the existing bike lane along the site's SE Courtney Avenue frontage, as required on the roadway cross-section and map 5-1d. These facilities will fulfill the requirements of this subsection. As conditioned, these standards are met.

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

As discussed throughout this report, the applicant will install sidewalks on SE Courtney Avenue, SE Linden Lane, and one side of the private road, providing ample connections to the existing pedestrian networks. The conditions of approval require that the applicant construct these facilities. As conditioned, this criteria is be met.

- D. Requirement for Sidewalk Construction: Within the UGB, sidewalks shall be constructed, as required in Subsection 1007.04(F), for two-family dwellings, detached single-family dwellings, attached single-family

dwelling units where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.

This subsection, which applies to the construction of individual structures and the placement of manufactured dwellings, is not applicable to this subdivision application. The applicant will construct all required sidewalks as part of the subdivision.

- E. Sidewalks or Pedestrian Pathways in Unincorporated Communities: In an unincorporated community, either a sidewalk or a pedestrian pathway shall be constructed on arterial or collector street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed.

The site is not located in an unincorporated community. This criteria is inapplicable.

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

- 1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:
 - a. The road is not a through road;
 - b. The road is 350 feet or less in length and cannot be extended; or
 - c. In consideration of the factors listed in Subsection 1007.02(B)(3).
- 2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and

Local or collector road street frontage(s) of a lot upon which a two-family dwelling, a detached single-family dwelling, an attached single-family dwelling where two dwelling units are attached to one another, or a manufactured dwelling is proposed. This requirement shall be imposed as a condition on the issuance of a conditional use permit, building permit, or manufactured dwelling placement permit, but

- a. The requirement shall be waived if the dwelling is a replacement for one destroyed by an unplanned fire or natural disaster; and
- b. The sidewalk requirement shall apply to no more than two street frontages for a single lot.

As discussed above, the applicant is required to construct sidewalks on the site's frontages on SE Courtney and SE Linden Lane, as well as one side of the private road. These standards are met as conditioned.

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

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

Street Type	Residential Sidewalk	Commercial or Institutional Sidewalk	Industrial Sidewalk
Local	5 feet	7 feet	5 feet
Connector	5 feet	7 feet	5 feet
Collector	5 feet	8 feet	5 feet
Arterial	6 feet	8 feet	6 feet

1. The entire required width of sidewalks and pedestrian pathways shall be unobstructed.

As discussed above, and in the applicant's submitted narrative, sidewalks will be at least five feet wide and unobstructed. This standard can be met.

1007.05 TRANSIT AMENITIES

All residential, commercial, institutional, and industrial developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development. The design shall not be limited to streets, but shall ensure that pedestrian/bikeway facilities and other transit-supportive features such as shelters, bus pull-outs, park-and-ride spaces, and signing will be provided. The designs shall comply with Tri-Met standards and specifications.

The site is not located on an existing and planned transit route. Therefore, this section is inapplicable.

1007.06 STREET TREES

- A. Within the Portland Metropolitan Urban Growth Boundary, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:
1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case basis. Exemptions may be granted, for example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees.
 2. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development.
 3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.
 4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.
 5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

Street trees are required on all public roads of this subdivision (SE Courtney Avenue and SE Linden Lane) except where such street trees will limit site distance or some other safety element of the exiting transportation system. The applicant proposed to provide street trees on the sections of these streets abutting the site. These standards are met as conditioned.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

This application is for a major subdivision. This standard applies.

- 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:

ZDO subsection 1007.09 requires that roadways and intersections serving subdivisions have adequate capacity to handle the additional traffic generated by the development and will continue to operate during the mid-day one hour peak and first and second hours of the PM peaks at acceptable volume to capacity (v/c) ratios, below the maximums which are 0.90 and 0.99 respectively. The proposed subdivision is projected to generate 190 total new daily vehicle trips. The development will result in approximately 15 AM peak hour and 20 PM peak hour trips. Traffic studies are not required for developments that generate fewer than 20 peak hour trips. Engineering staff finds that the capacity of the roadways and intersections serving the project site will operate within the volume to capacity ratios. No mitigation measures are recommended for traffic impacts. Therefore, the hearings officer finds that the application complies with the County's transportation concurrency requirements. This standard is met.

1007.08 FEE IN LIEU OF CONSTRUCTION

- A. For all or part of the road frontage improvements required by Section 1007; located within the Portland Metropolitan Urban Growth Boundary (UGB) and required for a partition, a two- or three-family dwelling (where no more than one such dwelling is proposed), an attached or detached single-family dwelling, or a manufactured dwelling; the developer may elect to pay a fee in lieu of construction as follows.
- B. The fee in lieu of construction may be paid if the road frontage improvements are located on a local, connector, or collector road that is not identified on Comprehensive Plan Map 5-3, Essential Pedestrian Network, and payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; or

This proposal is for a major subdivision. Fee in Lieu of Construction is not permissible for this type of development, nor has the applicant requested the Fee in Lieu of Construction option. This criteria is not applicable.

1012 LOT SIZE AND DENSITY

1012.01 APPLICABILITY

Section 1012 applies to the following land use permit applications in any zoning district that has a minimum lot size standard, district land area standard, or minimum density standard, except AG/F, EFU, and TBR:

- A. Subdivisions;

B. Partitions;

The applicant is proposing a subdivision in the R-7 (tax lot 1400) and MR-1 (tax lot 1500) zoning districts, both of which have a minimum density standard. Therefore, Section 1012 applies to this application.

1012.02 MINIMUM LOT SIZE EXCEPTIONS

In subdivisions, partitions, and replats, lots and parcels shall comply with the minimum lot size standards, if any, of the applicable zoning district, except as established by Subsections 1012.02(A) through (H).

The proposed lots comply with the minimum lot size standards of the R-7 and MR-1 zones, as applicable. This standard is inapplicable.

1012.04 GENERAL DENSITY PROVISIONS

- A. Density is a measurement of the number of dwelling units in relationship to a specified amount of land. In the context of a partition, subdivision, replat, or manufactured home park, density typically relates to potential dwelling units in the form of lots, parcels, or manufactured home park spaces. Density often is expressed as dwelling units per acre; however, this Ordinance implements density standards in many zoning districts by assigning a district land area (DLA), which is the starting point for determining the maximum number of dwelling units allowed on a particular site. In general, the DLA is the minimum lot area required per dwelling unit; however, the DLA is subject to adjustment for density bonuses, restricted area development limitations, and limits on the extent of new road area that must be subtracted.
- B. The DLA and the minimum lot size standard applicable to a particular zoning district are seldom the same. Often this is because the maximum density derived from the DLA standard is calculated over the entire site prior to any platting of new lots or parcels. The minimum lot size standard then typically permits flexibility in determining where on the site the allowed dwelling units will be developed. For example, some lots may be relatively large while others are smaller, or open space tracts may be platted while all lot sizes are relatively small. Regardless of allowed flexible sizing of individual lots or parcels, however, the maximum density allowed for the entire site remains the same.

No findings are required for these general explanatory code provisions.

ZDO Section 315, Table 315-1, footnote 11 provides:

For an attached single-family dwelling, the minimum lot size is 3,630 square feet in the MR-1 District and 2,420 square feet in the MR-2

District unless, as part of an application filed pursuant to Section 1105, Subdivisions, Partitions, Replats, Condominium Plats, and Vacations of Recorded Plats, new lots or parcels are proposed for attached single-family dwellings. In that case, there is no minimum lot size provided that the density of the entire development complies with the maximum density standards of Subsection 1012.05.

The applicant is proposing lots for single-family attached dwellings in the MR-1 zoned portion of the site, tax lot 1500. Therefore, there is no minimum lot size, provided that the density of the entire development complies with the maximum density standards of Subsection 1012.05. Density is analyzed in the findings below.

- C. If the site is currently developed with one or more dwelling units that will be retained, such dwelling units shall be included in demonstrating compliance with the maximum and minimum density standards of Section 1012. Notwithstanding this provision, accessory dwelling units and temporary dwellings approved pursuant to Section 1204, Temporary Permits, are not included in demonstrating compliance with the density standards, provided that these dwellings will continue to comply with the requirements for accessory dwelling units or temporary dwellings, respectively.

There is one existing single-family dwelling on site that will be demolished. Therefore, this criterion is inapplicable.

- D. If a subdivision, partition, or replat is proposed on property currently developed with two-family, three-family, or multifamily dwellings (or with a current design review approval for such development), maximum and minimum density shall be calculated separately for each proposed lot or parcel, except in a planned unit development or a development of two- or three- family dwellings approved pursuant to Subsection 1012.07, in which case maximum and minimum density shall be calculated for the entire property proposed for development prior to the creation of new lots or parcels.

No such development exists on site. This standard is not applicable.

- E. In a zoning district that does not allow new detached single-family dwellings, a lot created for a nonconforming detached single-family dwelling shall not be included in the gross site area used to calculate minimum and maximum density for the remaining lot(s).

No lot is being created for a nonconforming single-family home. The existing house will be demolished. This criteria is not applicable.

1012.05 MAXIMUM DENSITY

If this Ordinance establishes a district land area (DLA) for the applicable zoning district, the proposed development shall be limited to a maximum density. Except as necessary to implement a minimum lot size exception granted pursuant to Subsection 1012.02 or as established by Subsections 1012.06 and 1012.07, maximum density shall be calculated as follows.

Since this proposal involves two separate zoning districts, tax lot 1400 in the R-7 zone, and 2) tax lot 1500 in the MR-1 zone, density must be calculated separately for each tax lot.

Tax Lot 1400 (R-7) Zoning portion: *The DLA for the R-7 zoning district is 7,000 (ZDO Table 315-2). As such, the proposed subdivision is limited to the maximum density calculated below.*

A. Calculate the land area of the site. The result is gross site area (GSA).

The GSA for tax lot 1400 equals 44,240 square feet.

B. Subtract the following from GSA to determine net site area (NSA). In the event of an overlap between categories requiring a subtraction, the area of overlap shall be classified in the most restrictive category.

1. The land area of new county, public, or private roads (NR) in the HR, MRR, Urban Low Density Residential, VR-4/5, VR-5/7, and VTH Districts, except:

Tax lot 1400 is located in the Urban Low Density Residential (R-7) District. Therefore, this portion of the development is subject to this subsection. Tax lot 1400 includes 331 square feet of private road (proposed Reese Lane) and 290 square feet of right-of-way dedication for SE Linden Lane. Therefore, NR equals 621 square feet (331 + 290 = 621).

- a. If NR exceeds 15 percent of the GSA, only 15 percent of the GSA shall be subtracted.

NR (621 square feet) is less than 15 percent of the GSA (6,636 square feet). Therefore, the value for NR equals 621 for calculation of maximum density.

- b. No subtraction shall be made for strips of land adjacent to existing road rights-of-way when such strips are required to be dedicated as a condition of approval;

The applicant is required to dedicate right-of-way in the form of a strip of land located adjacent to SE Courtney Avenue and SE Linden Lane. These areas of dedication are not being subtracted in the calculation of maximum density.

2. In a zoning district other than HR and MRR, any land area of the GSA in the following highly restricted areas (HRA), except that no

subtraction shall be made for HRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas:

- a. Slopes greater than 50 percent;
- b. Mass movement hazards regulated by Section 1003, Hazards to Safety;
- c. The floodway of the Floodplain Management District regulated by Section 703, Floodplain Management District;
- d. The Willamette River and the required buffer area regulated by Section 705, Willamette River Greenway;
- e. Habitat Conservation Areas regulated by Section 706, Habitat Conservation Area District (HCAD); and
- f. Water Quality Resource Areas regulated by Section 709, Water Quality Resource Area District; and

The site is not located in the HR or MRR zoning district. However, no subtractions are required as the site does not contain any of the highly restricted areas listed in this subsection.

3. In a zoning district other than HR and MRR, fifty percent of the land area of any portions of the GSA in the following moderately restricted areas (MRA), except that no subtraction shall be made for MRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas.:
 - a. Slopes equal to or greater than 20 percent and less than or equal to 50 percent; and
 - b. Areas outside the floodway but within the Floodplain Management District regulated by Section 703.

The site is not located in the HR or MRR zoning district. However, no subtractions are required as the site does not contain any of the moderately restricted areas listed in this subsection.

- C. Divide the NSA by the DLA of the applicable zoning district. The result is base density (BD). The calculations that result in a determination of BD are represented by the following formula:

$$\{GSA - [NR + HRA + (MRA \times 0.5)]\} / DLA = BD$$

For the R-7 zoned portion of the site (tax lot 1500) Base Density = $\{44,240 - [621 + 0 + (0 \times 0.5)]\} / 7,000 = 6.23$.

- D. In the MRR District, the calculation in Subsection 1012.05(C) shall be done separately for each proposed unit size category identified in Table 317-3. This requires the applicant to identify the square footage of the NSA that is attributed to each unit size category. The results of each separate calculation shall be added to determine BD.

The site is not located in the MRR District. Therefore, this standard is inapplicable.

- E. Add any applicable density bonuses to BD. Bonus density shall be allowed subject to the following criteria:

This development does not qualify for any of the listed density bonuses. Therefore, this standard is inapplicable.

- F. Any partial figure of one-half or greater shall be rounded up to the next whole number, except partial figures shall be rounded down for a subdivision, partition, or replat of 10 lots or fewer in an Urban Low Density Residential, VR-4/5, or VR-5/7 District.

The partial figure of 6.27 is rounded down to the whole number of 6. The maximum density for tax lot 1400 is six lots.

Tax Lot 1500 (MR-1) portion: *The same exhaustive calculation is not necessary for MR-1 zoning district because; 1) there are no subtractions for New Road (NR) in the MR-1 zoning district per 1012.05(B)(1), and 2) as discussed above in the R-7 max density calculations, there are no subtractions for highly or moderately restricted areas on this tax lot. As such, Gross site area (GSA) is 52,272 square feet. The DLA for the MR-1 zoning district is 3,630 per ZDO Section 315, Table 315-4. Thus, GSA (52,272)/ DLA (3,630) = 14.4 and the maximum density for tax lot 1500 is 14 lots.*

- G. The result is maximum density, except that the result shall be reduced as necessary to:
1. Comply with the minimum lot size standards, if any, of the applicable zoning district, as modified by Subsection 1012.02;
 2. Ensure that, in an R-2.5 District, the density of the developed portion of the subject property does not exceed one dwelling unit per 2,420 square feet of land area; and
 3. Ensure that, in all other Urban Low Density Residential Districts, the density of the developed portion of the subject property does not exceed one dwelling unit per 3,630 square feet of land area.

No reductions are warranted pursuant to this subsection. Therefore, the maximum density for tax lot 1400 is 6 lots and the maximum density for tax lot 1500 is 14 lots. As conditioned, the maximum density requirements are met.

1012.08 MINIMUM DENSITY

A minimum density standard applies in the Urban Low Density Residential, HDR, MR-1, MR-2, PMD, RCHDR, SHD, and VA Districts. Minimum density shall be calculated as follows:

The site is located in the Urban Low Density Residential (tax lot 1400) and MR-1 (tax lot 1500) Districts. Therefore, this development is subject to the minimum density standard.

A. Calculate the land area of the site. The result is gross site area (GSA).

As discussed above GSA equals 44,240 square feet for the R-7 portion and 52,272 square feet for the MR-1 portion.

B. Subtract the following land area from GSA to determine net acreage:

1. New county, public, or private roads and strips of land dedicated adjacent to existing road rights-of-way;
2. Slopes equal to or greater than 20 percent;
3. Mass movement hazards regulated by Section 1003, Hazards to Safety;
4. Areas in the Floodplain Management District regulated by Section 703, Floodplain Management District;
5. The Willamette River and the required buffer area regulated by Section 705, Willamette River Greenway;
6. Habitat Conservation Areas (HCA) regulated by Section 706, Habitat Conservation Area District (HCAD), provided that the HCA, or portion thereof, to be subtracted is protected from development by a restrictive covenant or a public dedication, and provided that the subject property was inside the Portland Metropolitan Urban Growth Boundary on January 1, 2002;
7. Water Quality Resource Areas regulated by Section 709, Water Quality Resource Area District (WQRAD); and
8. Land to be dedicated to the public for park or open space use.

The site does not contain any restricted areas listed in ZDO 10212.08(B)(2)-(7) nor did the applicant propose to dedicate land for parks or open space, ZDO 10212.08(B)(8). Therefore, no deductions are required for these subsections. Deductions are required for

the area of the public right-of-way dedication on SE Linden Lane and the proposed private street, ZDO 10212.08(B)(1).

In the case of the R-7 portion, deductions are required for 290 square feet of right-of-way for SE Linden Lane and 331 square feet of private road, resulting in 43,619 square feet of net site area (NSA).¹

In the case of the MR-1 portion, deductions are required for 349.5 square feet of right-of-way for SE Linden Lane and 13,394 square feet of private road, resulting in 38,528.5 square feet of net site area (NSA).²

- C. In the RCHDR District, the minimum density is 30 dwelling units per net acre. Otherwise, divide by the district land area of the applicable zoning district and multiply the result:
1. By 80 percent in Urban Low Density Residential Districts. However, partitions in these districts have no minimum density requirement provided that a master plan demonstrates that the minimum density for the entire property can be met through future land division;

*The minimum density for the R-7 (Urban Low Density Residential District) portion of the site is: [(43,619 square feet of net site area) * (80-percent)] / 7,000 square feet/lot DLA = 4.98 lots.*

2. By 80 percent in the PMD and MR-1 Districts, except in the case of a manufactured home park where the result shall be multiplied by 50 percent;

*The minimum density for the MR-1 portion of the site is: [(38,529 square feet of net site area) * (80-percent)] / 3,630 square feet/lot DLA = 8.5 lots.*

3. By 90 percent in the MR-2, HDR, and SHD Districts; or
4. By 50 percent in the VA District.

The site is not located in the VA, MR-2, HDR, or SHD Districts. Therefore, ZDO 1012.08(C)(3) and (4) are inapplicable.

- D. Any partial figure of one-half or greater shall be rounded up to the next whole number.
- E. The result is minimum density.

¹ 44,240 square feet of GSA - 290 square feet of right-of-way- 331 square feet of private road = 43,619 square feet of NSA.

² 52,272 square feet of GSA - 349.5 square feet of right-of-way - 13,394 square feet of private road = 38,528.5 square feet of NSA.

The minimum density for the R-7 zoned portion of the site is five lots, rounding up from 4.98. The minimum density for the MR-1 zoned portion of the site is nine lots, rounding up from 8.5.

1017 SOLAR ACCESS FOR LAND DIVISIONS AND REPLATS

1017.01 APPLICABILITY

Section 1017 applies to subdivisions, partitions, and Type II replats in the VR-4/5, VR-5/7, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-30 Districts.

The applicant is proposing a subdivision in the R-7 District. Solar Access does not apply in the MR-1 zoning district. Therefore, Section 1017 applies only to the R-7 portion of this plat, tax lot 1400.

1017.02 DEFINITIONS

The following definitions apply to Section 1017:

The criteria, requirements, standards and text of Section 1017 are subject to the definitions outlined in this Subsection.

1017.03 DESIGN STANDARD

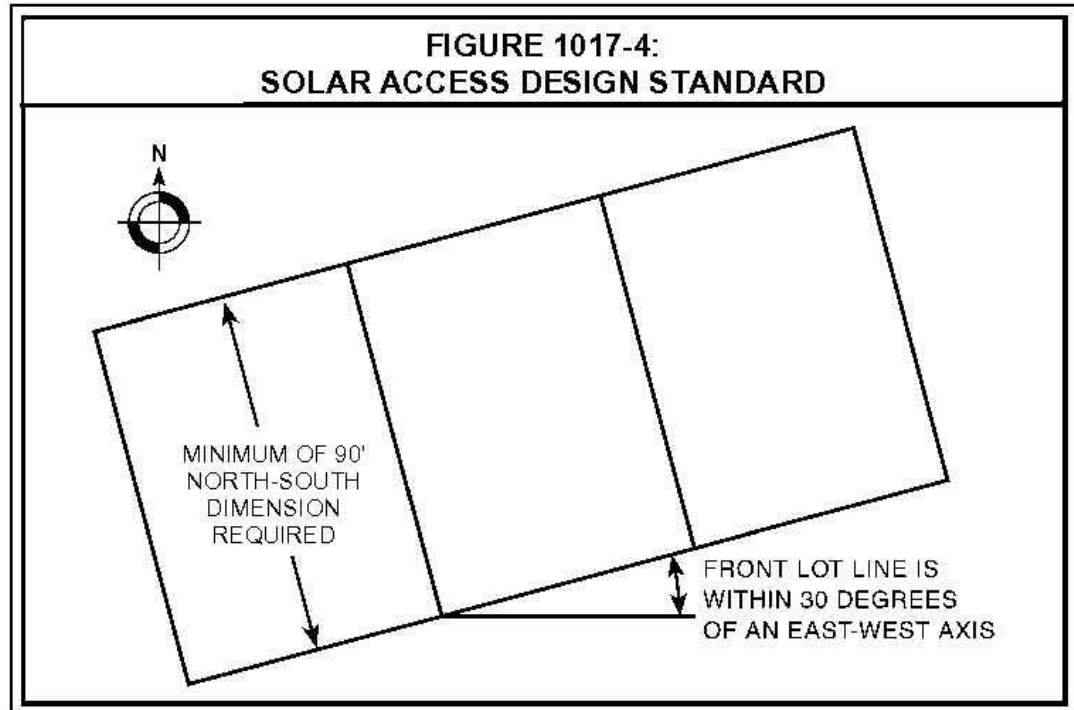
Except as established by Subsection 1017.04, a minimum of 70 percent of the lots or parcels in the subdivision, partition, or Type II replat shall:

- A. Have a minimum north-south dimension of 90 feet. Undevelopable area, other than a required setback area, may be included in the north-south dimension if it abuts either of the lot lines used in calculating north-south dimension; and

As discussed by the applicant, only four out of six of the proposed R-7 lots (66 percent) can meet this standard (Lots 15-18). The applicant has requested an exception under Subsection 1017.04 for lots 19 and 20 (See Below). This criteria is not met.

- B. Have a front lot line that is oriented within 30 degrees of a true east-west axis. (See Figure 1017-4.)

Once again, as discussed by the applicant, only four out of six of the proposed R-7 lots (66 percent) can meet this standard (Lots 15-18). The applicant has requested an exception under Subsection 1017.04 below for lots 19 and 20. This criteria is not met.



1017.04 EXCEPTIONS TO THE DESIGN STANDARD

The minimum percentage of lots or parcels that must comply with Subsection 1017.03 shall be reduced to the minimum extent necessary if one or more of the following site characteristics apply:

A. Density and Cost: If Subsection 1017.03 is applied, either the resulting density would be less than that proposed, the minimum density would be less than that required in Section 1012, Lot Size and Density, or on-site site development costs (e.g., grading, roads, and water, surface water management and sanitary sewer systems) are at least five percent more per lot or parcel than if the standard is not applied due to one of the following conditions:

1. The site, or a portion of the site for which the exception is sought, has a natural grade that is sloped 20 percent or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey by a professional land surveyor registered in the State of Oregon.

The applicant has not selected this criteria and the site is flat. This subsection is not applicable.

2. The site includes a significant natural feature identified in the Comprehensive Plan, designated open space identified in the Comprehensive Plan, a highly or moderately restricted area identified

in Subsection 1012.05, or a protected water resource and associated vegetated corridor regulated by the surface water management authority, that:

- a. Prevents given streets, lots, or parcels from being oriented for solar access; and
- b. Will remain undeveloped.

The applicant has not selected this criteria and no significant natural features are present. This subsection is not applicable.

3. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or planned roads in a way that prevents given streets, lots, or parcels from being oriented for solar access.
4. An existing public easement or right-of-way prevents given streets, lots, or parcels from being oriented for solar access.

The applicant requests an exception under the subsection because “there is insufficient room on an east-west axis to orient lots 19 and 20 toward Reese Lane (Tract A).” The hearings officer agrees. Given the short run of SE Reese Lane (Tract A) and the proximity to SE Linden Lane, full east-west orientation may cause constraints to the roadway system, particularly where SE Reese Lane (Tract A) intersects SE Linden Lane. This standard is met and an exception to the solar access standards is warranted for lots 19 and 20.

- B. Development Amenities: If Subsection 1017.03 is applied to a given lot or parcel, significant development amenities that would otherwise benefit the lot or parcel will be lost or impaired. Evidence that a significant diminution in the market value of the lot or parcel would result from having the lot or parcel comply with Subsection 1017.03 is relevant to whether a significant development amenity is lost or impaired.

The applicant is not requesting an exception under this subsection.

- C. Existing Shade: As demonstrated by a scaled tree survey or an aerial photograph, trees a minimum of 30 feet tall, and more than six inches in diameter at a point four feet above grade, have a crown cover over at least 80 percent of a given lot or parcel, and at least 50 percent of the crown cover will remain after development of the lot or parcel.

The applicant is not requesting an exception under this subsection.

II. ZDO SECTION 1100: DEVELOPMENT REVIEW PROCESS

1105 SUBDIVISIONS, PARTITIONS, REPLATS, CONDOMINIUM PLATS & VACATIONS OF RECORDED PLATS

1105.01 PURPOSE AND APPLICABILITY

Section 1105 is adopted to provide standards, criteria, and procedures under which a subdivision, partition, replat, condominium plat, or vacation of a recorded plat may be approved, except:

The proposed development is a subdivision. Therefore, Section 1105 and its associated Purpose applies to this proposal.

1105.02 SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

The applicant has provided the requisite submittal materials to proceed with review of the proposed subdivision.

1105.03 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

A major subdivision requires review as a Type III application pursuant to Section 1307, Procedures. A minor subdivision or a partition requires review as a Type II application pursuant to Section 1307. A replat that proposes to increase the number of lots or parcels in the recorded subdivision or partition plat requires review as a Type II application pursuant to Section 1307. Otherwise, a replat requires review as a Type I application pursuant to Section 1307. A subdivision, partition, or replat shall be subject to the following standards and criteria:

The applicant has proposed a subdivision that is being reviewed as a Type III application pursuant to Section 1307.

- A. The proposed subdivision, partition, or replat shall comply with the applicable provisions of the section of this Ordinance that regulates the subject zoning district and Section 1000, Development Standards.

The applicable standards pertaining to Section 1000 are outlined in the Conditions of Approval, while the applicable criteria are addressed in findings in this Final Order.

- B. In an Urban Low Density Residential District, the applicant may designate the proposed subdivision, partition, or replat as a zero-lot-line development. In a zero-lot-line development, there are no minimum rear and side setbacks for single-family dwellings, manufactured homes, and structures accessory to single-family dwellings and manufactured homes, except from rear and side lot lines on the perimeter of the final plat.

The applicant has not designated the proposed subdivision as a zero-lot-line development. This criteria is not applicable.

- C. As part of preliminary plat approval for a subdivision, approval of a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the site, may be granted in consideration of such factors as the size of the proposed subdivision, complexity of development issues, required improvements, and other factors deemed relevant. If a phasing plan and schedule is approved, such approval shall be subject to the following:

A phasing plan is not proposed. This criteria is not applicable.

- D. A nonprofit, incorporated homeowners association, or an acceptable alternative, shall be required for ownership of, improving, operating, and maintaining common areas and facilities, including, but not limited to, open space, private roads, access drives, parking areas, and recreational uses, and for snow removal and storage in Government Camp.

The applicant has stated that a homeowners association (HOA) will be established to provide maintenance for Tracts A and B and membership in the HOA shall be mandatory. A homeowners association, or acceptable alternative, is required for the reasons outlined above. As conditioned, this criterion is met.

- E. If the site is in a future urban area, as defined by Chapter 4 of the Comprehensive Plan, the location of proposed easements, road dedications, structures, wells, and on-site wastewater treatment systems shall be consistent with the orderly future development of the site at urban densities.

The site is not located in a Future Urban Area. This criteria is not applicable.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

The applicable standards of this Subsection are outlined in the Conditions of Approval.

1105.07 FINAL PLAT REVIEW

- A. If a preliminary plat is approved, finalizing the approval requires the completion of a final plat, except that a final plat is not required for a partition or partition replat in which all parcels are larger than 80 acres. The applicant shall comply with the following:

This Final Order approves a preliminary plat, the standards for finalization of which through a final plat are outlined in the Conditions of Approval. The parcels involved with the proposed subdivision are all smaller than 80 acres.

D. CONCLUSION

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that Case No. Z0481-20-SL (Reese Place) 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 addressed herein or incorporated by reference in the Staff Report.

E. DECISION

1. Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves Z0481-20-SL (Reese Place) subject to the following conditions:

CONDITIONS OF APPROVAL

1. Conditions for Protection of Natural Features

A) Soil Hazard Areas:

- i. Appropriate siting and design safeguards shall be implemented to ensure structural stability and proper drainage of foundation and crawl space areas, as follows:
 - a) A site specific soil study or geotechnical report that provides recommendations for construction standards (if any) for all proposed dwellings in the subdivision is required.

2. Conditions for Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management & Erosion Control

A) General Standards:

- i. The location, design, installation, and maintenance of all utility lines and facilities shall be carried consistent with the rules and regulations of the surface water management regulatory authority, which is Oak Lodge Water Services District (OLWSD).
- ii. Utilities for electricity, natural gas, and communications services shall be installed pursuant to the requirements of the utility district(s) or company(ies) serving the proposed subdivision. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.
- iii. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.

- iv. 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.

B) Street Lights:

- i. Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development. A street light shall be installed where a new road intersects a County road right-of-way and, in the case of subdivisions, at every intersection within the subdivision.
- ii. Areas outside Clackamas County Service District No. 5 shall annex to the district through petition to the district.
- iii. The applicant shall contact Wendi Coryell of the County Engineering Division (503-742-4657) to make arrangements for any required street lighting. The applicant shall also arrange for the formation of an assessment area to pay for operation and maintenance of existing and/or new lighting.

C) Water Supply, Sanitary Sewer and Storm/Surface Water:

- i. Standards for Provision of Water Supply, Sanitary Sewer, and Storm Water are provided by OLWSD. **Prior to final plat approval**, applicant shall ensure the following standards are met:
 - a) Oak Lodge Water Services for sanitary sewer, water and surface water and shall be subject to the Oak Lodge Rules and Regulations and Design and Construction Standards for applicable utilities.
 - b) Property owner shall apply for an erosion and sediment control permit from OLWSD.
 - c) Property owner shall apply for a Site Development permit from OLWSD.
 - d) Sanitary sewer and/or water SDCs will be assessed. The application will be reviewed by the rules, regulations and design and construction standards in effect on the date of complete application to OLWSD; not Land Use application.
 - e) All fees and charges shall be paid before the Site Development permit is issued or plat approval. All costs associated with the design, construction and testing of any applicable utility shall be proved by and at the sole expense of the owner and performed prior to plat approval.

- f) Property owner shall grant a public easement to Oak Lodge Water Services District for sanitary sewer and water utility lines. The easement shall be a minimum width of 20 feet. The easement shall extend to the southern property boundary and provide for utility extension for service provision to tax lot 1400 to the south.
- g) Property owner shall be responsible for the maintenance of any stormwater facilities conducted in the public right-of-way.
- ii. 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.
- iii. Greatly accelerated release of stored water is prohibited.

3. Conditions for Roads & Connectivity:

A) Overview:

- i. The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Roadway Standards. Additional requirements beyond those stated in the conditions of approval may be required once plans have been submitted and reviewed. The applicant may discuss the requirements of the project with staff at any time.
- ii. The requirements specifically required by the Comprehensive Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the County Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

B) Prior to final plat approval: a Development Permit is required from the Engineering Division for review and approval of frontage improvements, access and utilities. The Permit shall be obtained prior to commencement of site work and recording of the partition plat. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon, or plans acceptable to the Engineering Division, provide a performance

guarantee equal to 125% of the estimated cost of the construction, and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit application.

- C) **Prior to final plat approval:** all required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond. Performance bonds shall be in the amount of 125% of the approved engineer's cost estimate of the required improvements, and shall be accepted only when access has met minimum Substantial Completion requirements, per Roadway Standards Section 190.
- D) All required street, street frontage and related improvements shall comply with the standards and requirements of the Clackamas County Zoning and Development Ordinance and the Clackamas County Roadway Standards unless otherwise noted herein.
- E) The applicant shall verify that there is a 30-foot wide one half right-of-way width along the entire site frontage of SE Courtney Avenue, and if necessary shall dedicate additional right-of-way to provide the minimum width. The applicant shall dedicate approximately two feet of additional right-of-way along the entire site frontage of the SE Linden Lane to provide a minimum 27-foot one half width right of way. The right-of-way centerline and half-width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
- F) The applicant shall grant an eight-foot wide public easement for signs and public utilities along the entire SE Courtney Avenue and SE Linden Lane right-of-way frontage.
- G) **Prior to final plat approval,** the applicant shall design and construct improvements along the entire site frontage of SE Courtney Avenue to collector roadway standards, consistent with Standard Drawing C130. These improvements shall consist of the following:
 - i. Up to a minimum 18-foot wide one half street improvement from right-of-way centerline to the curb. The structural section shall comply with Standard Drawing C100 for a collector roadway.
 - ii. The half street improvement design shall include cross sections every 25 feet per Roadway Standards Section 250.7.5. The design shall demonstrate that the new curb line and cross slope to the existing centerline allow for construction of a curb on the opposite side of the road with cross slopes that meet minimum standards.

- iii. Inbound and outbound tapers shall be provided beyond the site frontage, per Section 250.6.4 of the Clackamas County Roadway Standards.
- iv. Standard curb, or curb and gutter if curblin slope is less than one percent.
- v. A five-foot wide unobstructed sidewalk, constructed per Standard Drawing S960.
- vi. A minimum five-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees shall be provided within the landscape strip along the entire site frontage at 25-40-foot spacing, based on tree species.
- vii. Twenty-foot radius curb at the intersection of SE Courtney Avenue and SE Linden Lane, per Clackamas County Roadway Standards Table 2-7.
- viii. Dual curb ramps at the corner of SE Courtney Avenue and SE Linden Lane. A concrete curb ramp shall be constructed at the west end of the sidewalk on SE Courtney Avenue. Curb ramps shall be constructed per Oregon Standard Drawings.
- ix. If required by the Fire District, a minimum 20-foot wide, gated emergency vehicle access shall be constructed on to SE Courtney Avenue. The approach shall be constructed with mountable curb, per Standard Drawing S180. The emergency vehicle access shall be approved by the fire marshal.
- x. Drainage facilities in conformance with Oak Lodge Water Services requirements and Clackamas County Roadway Standards Chapter 4. Maintenance provisions for water quality facilities, such as planters or swales within and serving the public right-of-way, shall be addressed through a maintenance agreement.

H) Prior to final plat approval, the applicant shall design and construct improvements along the entire site frontage of SE Linden Lane to local roadway standards, consistent with Standard Drawing C110. These improvements shall consist of the following:

- i. Up to a minimum 16-foot wide one half street improvement. The structural section shall comply with Standard Drawing C100 for a local roadway.
- ii. The half street improvement design shall include cross sections every 25 feet per Roadway Standards Section 250.7.5. The design shall demonstrate that the new curb line and cross slope to the existing centerline allow for construction of a curb on the opposite side of the road with cross slopes that meet minimum standards, or language acceptable to the County surveyor's office.

- iii. Inbound and outbound tapers shall be provided beyond the site frontage, per Section 250.6.4 of the Clackamas County Roadway Standards.
 - iv. Standard curb, or curb and gutter if curblin slope is less than one percent. Where a water quality planter is located adjacent to the curb and there is on-street parking, there shall be a minimum 18-inch wide concrete step out area between the back of curb and the planter.
 - v. A five-foot wide unobstructed sidewalk, constructed per Standard Drawing S960.
 - vi. A minimum five-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees shall be provided within the landscape strip along the entire site frontage at 25-40-foot spacing, based on tree species.
 - vii. Concrete driveway approaches shall be constructed, per Standard Drawing D650. The driveways serving proposed Lots 19 and 20 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, as required by ZDO 1007.01.(C)(6)(d).
 - viii. A concrete curb ramp shall be constructed at the south end of the sidewalk on SE Linden Lane, constructed per Oregon Standard Drawings.
 - ix. Drainage facilities in conformance with Oak Lodge Water Services requirements and Clackamas County Roadway Standards Chapter 4. Maintenance provisions for water quality facilities, such as planters or swales within and serving the public right-of-way, shall be addressed through a maintenance agreement.
- D) The applicant shall design and construct improvements for the new private roadway, which will consist of:
- i. The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement, and shall specify the lot served by the easement. The easement shall encompass the required improvements.
 - ii. A minimum 20-foot wide, paved driving surface with curbs on both sides of the roadway shall be constructed. The minimum structural section for the new private road improvements shall comply with Clackamas County Roadway Standards Drawing R100.
 - iii. A minimum 28-foot wide concrete driveway approach, consistent with Standard Drawing D650 shall be provided at the intersection of the private road with the SE Linden Lane. Unless the Fire District requires emergency vehicle access to SE Courtney Avenue, the pavement for the north-south

private street shall terminate south of SE Courtney Avenue. The sidewalk shall continue and connect with the sidewalk on the site's SE Courtney Avenue frontage.

- iv. A minimum five-foot wide curb-tight sidewalk shall be constructed on one side of the roadway. A curb ramp shall be provided at the corner of Lot 6. The sidewalk shall extend to the west end of road located, either along the frontage of Lots 15 and 16 or Lot 14. Where a crossing is required to provide a continuous pedestrian path, ADA ramps shall be provided.
 - v. Concrete driveway approaches for each lot where access is taken from the private road, per Standard Drawing D600.
 - vi. A curb ramp shall be provided at the south end of the sidewalk, constructed per ODOT Standard Drawings.
 - vii. Drainage facilities in compliance with Oak Lodge Water Services Rules and Clackamas County Roadway Standards Chapter 4.
 - viii. Written verification must be received from the Fire District that adequate emergency service access is provided. The roadway shall accommodate minimum turning radii for a fire truck. If garbage and recycling services require on-site access, a turnaround shall be provided, per Standard Drawing C350, or as approved by the Engineering Division.
 - ix. Roadways with a paved width less than 26 feet shall be signed and/or striped "FIRE LANE NO PARKING." Installation of signs and/or striping shall be completed before recording the plat. The developer is responsible for replacing all signs damaged or removed during home and street construction.
 - x. Adequate intersection sight distance at the new private road intersection with SE Linden Lane shall be provided. No plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance shall be 280 feet to the north and south.
 - xi. A road maintenance agreement for the shared private road implementing ORS 105.170 - 105.185 shall be recorded with the plat.
- J) A Fire Access and water supply plan shall be provided for subdivisions, commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The applicant shall provide fire flow tests per NFPA 291 and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority.

- K) Following completion of site construction activities of subdivisions, buildings over 1000 square feet or when required by Clackamas Fire District #1, the applicant shall provide as-built Fire Access and Water Supply pdf plans to the local Fire District and the County. The pdf plans shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The plans shall include any supporting details of the access, circulation, water vaults, fire lines, valves, fdc, backflow devices, etc.
- L) The applicant's attorney and/or surveyor or engineer shall provide written verification that all proposed lots have legal access and utility easements as required prior to recording of the plat.
- M) The applicant shall submit, at time of initial paving, reproducible as-built plans for all improvements showing all construction changes, added and deleted items, location of utilities, etc. A professional engineer shall stamp as-built plans.
- N) All existing and proposed easements shall be shown on the final plat.

4. Conditions for Density

A) Density Summary

- i. Maximum density for the proposed subdivision equals 6 for the R-7 Zoning District (Tax Lot 1400) and 14 for the MR-1 Zoning District (Tax Lot 1500).
- ii. Minimum density for the proposed subdivision equals five for the R-7 Zoning District (Tax Lot 1400) and nine for the MR-1 Zoning District (Tax Lot 1500).

5. Conditions for Solar Access

- A) Lots 15-18 shall be designed to comply with solar access standards.

6. Conditions for Land Divisions

A) General Conditions:

- i. Approval of this land use permit is based on the submitted written narrative and plan(s) submitted 11/23/2020. No work shall occur under this permit beyond that specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- ii. **Advisory Condition:** Applicant shall comply with Chapter 7.05 of the County Code for road naming and addressing requirements. Applicant can contact Liz Dance in the Planning Division for obtaining street addresses: LDance@clackamas.us

- iii. The service of a certified surveyor and/or engineer is required to satisfy these conditions. The County recommends you obtain a project manager to assist in obtaining the necessary permits to implement this project.
- iv. Development on the Tax Lot 1500 (MR-1 Zoning District) requires Design Review approval prior to any construction activities.
- v. **Advisory Condition:** The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project.
- vi. **Advisory Condition:** Applicant is advised to preserve trees where feasible, and employ protection measures to ensure that existing mature trees are not damaged during construction.
- vii. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

B) General Approval Criteria:

- i. The proposed subdivision — including all, parcels, lots, tracts, easements, future structures, etc., potentially contained therein — shall comply with all applicable provisions of the R-7 and MR-1 Zoning District(s), as outlined in Section 315 of this Ordinance.
- ii. The proposed subdivision shall comply with the applicable provisions of Section 1000 of this Ordinance, Development Standards, as outlined above.
- iii. A nonprofit, incorporated homeowners association, or an acceptable alternative, is be required for ownership of, improving, operating, and maintaining common areas and facilities, including, but not limited to, open space, private roads, access drives, parking areas, and recreational uses, and for snow removal and storage in Government Camp, as follows:
 - a) The homeowners association shall continue in perpetuity unless the requirement is modified pursuant to either Section 1309, Modification, or

the approval of a new land use permit application provided for by this Ordinance.

- b) Membership in the homeowners association shall be mandatory for each lot or parcel owner.
- c) The homeowners association shall be incorporated prior to recording of the final plat.
- d) Acceptable alternatives to a homeowners association may include, but are not limited to, ownership of common areas or facilities by the government or a nonprofit conservation organization.

iv. Approval Period and Time Extension:

- a) Approval of a preliminary plat 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 final plat shall be recorded with the County Clerk, or the approval will become void.
- b) If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension.

v. Final Plat Review:

- a) The form and content of the final plat shall comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and Oregon Revised Statutes Chapters 92, 94, 100, and 209.
- b) The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved preliminary plat and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, Completion of Improvements, Sureties, and Maintenance, the Planning Director shall sign the plat.
- c) Any private access easements should also contain provisions for public utility services such as water, electricity, communications, natural gas, storm drainage, sanitary sewer, emergency services, etc.

- d) New easements should include a statement that the easements are for the lots or parcels shown and any future divisions thereof.
- e) Easements created for access to parcels that can be redeveloped or further divided shall contain language that would allow the access and utilities easement(s) used by any additional development or parcels created in future. Any private easements should also contain provisions for public utility services such as water, electricity, communications, gas, storm drainage, sanitary sewer, etc.

DATED this 3rd day of February 2021.

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read 'Joe Turner'.

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

APPEAL RIGHTS

ZDO 1307.10.F provides that the Land Use Hearings Officer’s decision is the County’s final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules adopted by LUBA describe when and how any appeal must be filed. Presently, ORS 197.830(9) requires that any appeal to LUBA “[s]hall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.”