

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application for a Zone Change From Urban Low Density Residential (R-10-10,000 sq. ft. average lot size) to Urban Low Density Residential (R-7- 7,000 sq. ft. average lot size) and Preliminary Approval of a 7-Lot Subdivision.

Case File Nos:
Z0015-21-ZAP & Z0016-21-SS

(Fultz Subdivision)

A. SUMMARY

1. The applicant is Troy Fultz, and the owners are Troy and Randy Fultz.
2. The subject properties (two adjacent lots) are located at 3110 SE Concord Rd. and 16103 SE Southview Ave., Milwaukie, OR 97267, respectively, within Clackamas County, inside the urban growth boundary. The legal descriptions are T2S, R1E, Section 12CD, Tax Lot 00200, W.M., and T2S, R1E, Section 12DC, Tax Lot 01500 W.M. Each of the subject properties has an existing home that will be retained, with the proposal creating five additional new lots of new home sites. The subject properties together comprise an approximately 1.68 acre parcel, with each currently zoned Urban Low Density Residential 10-Acre (R-10). The Comprehensive Plan Designation for the property is Low Density Residential.
3. On March 18, 2021, Hearings Officer Carl Cox (the “Hearings Officer”) conducted a public hearing to receive testimony and evidence about the applicant’s proposal to change the zoning designation for the property from Urban Low Density Residential R-10 to Urban Low Density Residential (R-7), and the applicant’s proposal for preliminary approval for a 7-lot subdivision.
4. County staff recommended approval of the Zone Change from R-10 to R-7. County staff also recommended approval of the seven (7) lot subdivision subject to conditions. The Hearings Officer approved the zone change and subdivision proposal, subject to the conditions of approval included in this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the March 18, 2021 public hearing about this application. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform due to the corona virus. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County’s staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, County Planner Ben Blessing summarized the County’s review of the application and presented the County’s staff report and findings, with a PowerPoint presentation, related Exhibits 1-15, and the County’s recommendation of approval for both the zoning change application and the applicant’s proposed subdivision. Mr. Blessing noted that

the zoning change is consistent with the County's Zoning and Development Ordinance Section 1202.03(A) and the County's Comprehensive Plan criteria from the Residential section of Chapter 4. Among other things, Mr. Blessing noted that a Traffic Impact Study was not required due to the small size of the proposed development (five new homes). Mr. Blessing also noted that among the staff recommendations is a condition of approval to require the applicant to provide a Geotechnical Report, prepared by a qualified engineer specializing in soils and geological hazards and, if warranted, recommendations for homesite construction, prior to final plat approval. Mr. Blessing further noted that the property is located within the service area of Oak Lodge Water Services, and the applicant had applied for and obtained a preliminary statement of feasibility statement that sanitary sewer capacity, adequate surface water treatment, and water service, were available or could be made available through improvements completed by the developer, to serve the proposed development.

3. The applicant agrees with the County's staff report and recommendations, and did not dispute any of the County's recommended or proposed conditions of approval.
4. Rafe Vaughn, a neighbor who resides on SE Pinot Rd (adjacent to the subject property) expressed concerns on behalf of himself and his neighbors with respect to the proposal and its impact on the neighborhood. Specifically, Mr. Vaughn raised questions concerning the water and drainage issues and how these would be mitigated, the plan for retaining trees on the property, whether a sidewalk would be extended through the new subdivision, and how construction activity would be managed.
5. Mr. Blessing directly responded to Mr. Vaughn's stated concerns, as well as those raised by Mr. Vaughn in a March 4, 2021 letter to the County, providing information about the County's application and review process, plans for addressing drainage on the property, and tree retention (noting that Oregon law controls some of these issues), among other things.
6. Markus Mead, Development Review Specialist with Oak Lodge Water Services District, provided additional clarification concerning plans to address water and drainage issues associated with the property, agreeing with the County's staff report's recommendations and also noting that the developer would address these issues.
7. Scott Walker, of WDY Engineering, also agreed with the recommendations of the County's staff report, as did Jonny Gish, County DTD engineer, who also supported the County's recommended approval of the applications.
8. Adam Weiner a neighbor who lives off SE Westview Ave, submitted a letter in opposition to the proposal, asserting a lack of adequate study of the adequacy of the traffic system and water drainage issues associated with extending Merlot Rd and building five additional houses. Further, Mr. Weiner's letter expressed his dismay at the fact that many of the old trees on the subject property would be removed.
9. The Hearings Officer indicated that he would approve both the application for a zone change and the application for preliminary approval of the seven-lot subdivision, subject to the conditions recommended by the County. The Hearings Officer closed the record at the conclusion of the public hearing.

C. FACTS

1. The applicant's subdivision proposal includes a total of seven (7) new lots ranging in size from 6,784 sq. ft. to 16,005 sq. ft. The large 16,005 square foot lot will contain the existing

circa-1958 dwelling addressed on SE Concord Road (Lot 1). The circa-2015 dwelling addressed on SE Southview Ave will be contained on lot 5. Stormwater detention will occur beneath the 22' wide access driveway labeled as Tract "A". Lots 2 and 3 will take access from Tract "A". The other lots that will have new home sites, lot 4 and lots 6-7, will take access from an extension of SE Merlot Road. Lot 5 will also take access from SE Merlot Road. Currently, SE Merlot Road is a roughly 43' wide road that is stubbed at the western property line of the subject property. The extension of SE Merlot road will require a roughly 233' long dedication, which will connect to SE Southview Ave. Staff also notes that sidewalks are proposed on the entire southerly side of SE Merlot Road, and then along the length of the subject property fronting on Southview Ave. (Exhibits 1, 2)

2. Approval of the subdivision application is dependent upon approval of the zone change request due to the lot sizing and density requirements for the proposed single-family dwellings. Therefore, staff reviewed the residential policy findings of the Comprehensive Plan (Ch. 4) as well as the Sunnyside Corridor Community plan (Ch. 10) first, followed by the proposed subdivision. (Exhibit 1)
3. The gross site area of both properties is approximately 1.68 acres (73,181 sq. ft). The site is presently developed two single family residences as noted above. The site contains several mature coniferous and deciduous trees. The applicant's plan set (Submitted on 01/20/2021) show several trees being retained on site, while some being removed to accommodate the development. (Exhibit 2)
4. Staff received two letters of concern from neighbors. The first letter from Rafe Vaughn dated March 4, 2021 posed several questions such as: How will storm water be managed? What will happen to trees encroaching on neighboring properties? Will sidewalks be extended? What, if any, parking is proposed? How will construction traffic be mitigated? How long will construction take? Construction work hours? and Where will utilities be pulled from? Staff provided the submitted plan set to the neighbors, and many of these questions are answered by the plan set and Mr. Blessing's summary in the staff report, as well as by reviewing Transportation Engineering comments. In particular, staff addressed sidewalks and stormwater management. In terms of tree encroachment, staff noted that the applicant will need to resolve any encroachments with neighbors directly as the County's ZDO does not regulate tree encroachments. In terms of Construction hours, time frame, and mitigation, staff noted that the County Code (not the County ZDO) regulates noise. Furthermore, the County Engineering Division will require the applicant to have a construction entrance plan, and staff advised the neighbors to contact County Engineering to determine what type of measures are in place to mitigate construction impacts. (Exhibits 1, 4, 7).
5. The second letter of concern received by staff included comments from Adam Weiner dated March 4, 2021. This letter objects to the development for three reasons: 1) Traffic impacts have not been adequately analyzed, 2) Storm water drainage and treatment has not been adequately analyzed, and 3) The County ZDO standards on tree preservation do not sufficiently protect mature trees. Traffic impacts were analyzed by staff in the transportation section (ZDO Sec. 1007). Staff noted that the addition of 5 new single family homes does not produce enough daily trips to require a Traffic Impact Study (TIS). In terms of stormwater management, the applicant provided plans to Oak Lodge Water Services District (OLWSD) and they signed a preliminary statement of feasibility as well as comments, noting that this project can comply with OLWSD standards for stormwater management. Staff provided additional findings in ZDO Sec. 1006.06(H) regarding treatment of onsite storm water. In

terms of the County ZDO standards for tree removal, staff addressed those requirements in discussion of ZDO Sec. 1002. (Exhibits 1, 5, 6, 7)

6. The property is level and mass site grading is not proposed or necessary to develop the site as proposed. There are no environmental overlays or significant natural resources within, or in close proximity to the subject property. (Exhibits 1, 2)

D. DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. These applications are being processed as Type III procedure, pursuant to Clackamas County Zoning and Development Ordinance (ZDO) Section 1307. The Type III procedure is quasi-judicial in nature, and involves land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

County staff reviewed the applications and provided a staff report with supporting exhibits identifying the applicable standards and proposing findings and conditions sufficient to support the County's recommended approval of the applications. The hearings officer finds that the staff report accurately identifies the applicable standards and contains sufficient findings that the applications comply or can comply with the applicable standards, as detailed below:

Part I:

ZONE CHANGE REQUEST (FILE NO. Z0015-21-ZAP):

This application includes a completed land use application form, site plan, and responses addressing the approval criteria in Section 1202 of the ZDO. The application also includes a description of the proposed use and vicinity map drawn to scale that includes the required information. Thus, all the submittal requirements under Subsection 1202.02 are included in the application. The application was submitted on January 20, 2021 and was deemed complete on January 28, 2021. Notice was sent out on February 10, 2021 for the March 18, 2021 hearing. The 120-day deadline established by state law for processing this application is May 28, 2021. **The hearings officer finds that the submittal requirements of Subsection 1202.02 are met, adopting the indicated findings in boldface type.**

The first application considered in this report and recommendation is the requested zone change from R-10 to R-7. Section 1202 of the Clackamas County Zoning and Development Ordinance lists four general criteria that must be addressed in order to allow this zone change. The Planning and Zoning Division staff reviewed this request with respect to these criteria below.

1. Subsec. 1202.03(A) requires that approval of the request is consistent with the Comprehensive Plan.

*Finding: The subject property is presently zoned R-10 and is designated Urban Low Density Residential on the North Urban Land Use Plan of the County Comprehensive Plan. The applicant is proposing a zone change from the current R-10 to an R-7 designation. The Urban Low Density Residential Plan designation and the development and use of land in each zone is governed by Section 315 of the ZDO allowing for the same list of uses with single family dwellings the most prominent. **The proposed zone change is consistent with the Comprehensive Plan designation for the site.***

Chapter 4, Land Use, of the Comprehensive Plan, and specifically the Residential section of Chapter 4, Policy 4.R.2 provides for Immediate Urban Low Density Residential Areas to include zoning districts of 2,500 to 30,000 square feet lot sizes (R-2.5 to R-30 zones). Sub-Policies 4.R.2.1 through 4.R.2.7 describe the factors used to guide the determination of the most appropriate zoning classification for a specific site. It is important to note that these sub-policies are not individual approval criteria, but are seven issues to consider in a balancing test to determine the appropriate zoning designation to apply. The applicable Comprehensive Plan policies of Chapter 4 are addressed below:

- A. Sub-Policy 4.R.2.1(a), states that land with soils subject to slippage, compaction or high shrink-swell characteristics shall be zoned for larger lots (the staff notes that “larger lots” include the R-10 to R-30 Urban Low Density Residential designations and “smaller lots” include the R-2.5 to R-8.5 designations).

Finding: According to the Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletin No, 99 Geologic Hazards Map, Lake Oswego and Gladstone Quadrangle, The only hazard areas are “wet soils” (Exhibit 15) described below
The “smaller lots” category of zoning designations, including the R-7 zoning district, is consistent with this factor.

- B. Sub-Policy 4.R.2.1(b), states that land with slopes less than 20% shall be considered for the R-2.5 through R-8.5 zoning districts, and land with slopes of 20% and over shall be considered for the R-10 through R-30 zoning districts.

Finding: The topographic contours available in County GIS data, as well as the aforementioned DOGAMI Map, indicates that the site has less than 10 percent slopes (Exhibit 15).

The proposed R-7 designation is appropriate for the subject property and consistent with this factor given the topographical characteristics of the subject property.

- C. Sub-Policy 4.R.2.1(c), states that land with hydrological conditions, such as flooding, high water table or poor drainage shall be zoned for larger lots.

*Upon review of the FEMA flood insurance rate maps, the State Wetlands Inventory Maps (Exhibit 11), and the DOGAMI maps, **the site does contain “Wet Soils”**, but there is no indication that this area is prone to flooding. (Exhibit 15) While this policy may present some difficulty due to high water table, staff finds that overall, construction, grading, and erosion control measures can be met without causing adverse impacts to the surrounding*

properties or proposed homes sites. A condition of approval, requiring a geotechnical investigation, will be recommended below, in Section 1003.

Therefore, the proposed R-7, “smaller lot” zoning designation is consistent with this sub-policy.

- D. Sub-Policy 4.R.2.2 requires consideration of the capacity of facilities such as streets, sewers, water, and storm drainage systems.

With respect to the capacity of the local transportation system, the County Engineering Div. staff have submitted comments and recommendations dated March 2, 2021, indicating that the local transportation system capacity is adequate to serve the existing development and proposed development of the site (Exhibit 7). A traffic impact study was not required by the County Traffic Engineer for this relatively small subdivision proposal.

Oak Lodge Water Services District (OLWSD) is the domestic water, sanitary sewer service and stormwater (surface management agency) provider for this area. The applicant has submitted a Preliminary Statement of Feasibility signed by Markus Mead of OLWSD on August 20, 2020 indicating that the OLWSD has adequate capacity in the sanitary sewerage collection and treatment system, as well as adequate water supply to accommodate the proposed development and that service is either available, or can be made available to serve the project through improvements constructed by the applicant. (Exhibit 3)

OLWSD is also the surface water management services provider and regulatory agency for this area. The preliminary statement of feasibility also indicates adequate surface water treatment and conveyance is available to serve the proposed development, or can be made available through improvements to be completed by the developer. (Exhibit 3)

In conclusion, the transportation, sewer, water and storm drainage facilities are adequate, or can be made adequate through improvements made by the developer of the subdivision, to support the proposed development of the property under the proposed R-7 zoning designation.

- E. Sub-Policy 4.R.2.3 refers to availability of transit and states that land within walking distance (approximately one-quarter mile) of a transit stop should be zoned for smaller lots implemented by the R-2.5 through R-8.5 zoning districts.

This factor encourages lands within a short walking distance of a transit stop to be zoned for smaller lots. Per Clackamas County’s Comprehensive Plan map 5-8a and Tri-Met’s online transit mapping programming, Tri-Met route no. 99 and 33 runs along SE McLoughlin Blvd (Exhibit 12). The nearest bus stop is conveniently located on SE McLoughlin Blvd and SE Concord Ave, which would require a walking distance of approximately 1,400 feet or roughly ¼ mile from the proposed subdivision. (Exhibit 12)

The proposed R-7 zoning designation is consistent with this factor and given the short walking distances to the transit stop.

- F. Policy 4.R.2.4 refers to proximity to jobs, shopping and cultural activities and states that areas in close proximity to such trip generators shall be considered for smaller lots implemented by the R-2.5 through R-8.5 zoning districts.

The subject property is located approximately 1/4 mile west of SE McLoughlin Blvd. (Exhibit 9). Furthermore, Comprehensive Plan Map 4-8 shows SE McLoughline Blvd as a "Corridor Street" (Exhibit 9), which supports multiple commercial uses such as retail, services, places of worship, etc.

The subject property is within close proximity to jobs, shopping and cultural activities; therefore, a "smaller lot" designation such as the proposed R-7 district, is appropriate.

- G. Sub-Policy 4.R.2.5 refers to the locational factors for 2,500 and 5,000 s.f. lots. The location of R-2.5 and R-5 zoning designations may be permitted in Corridor design type areas and where permitted by Community and Design Plans subject to Chapter 10 of the Plan.

The subject property is not within a Community Plan area. This criteria is not applicable.

- H. Sub-Policy 4.R.2.6 refers to the need for neighborhood preservation and variety. This sub-policy states that areas that have historically developed on large lots where little vacant land exists should remain zoned consistent with the existing development pattern. Otherwise, unless physical or service problems indicate to the contrary, areas of vacant land shall be zoned for lots of 7,000 square feet or smaller.

The subject property is primarily bordered by the R-7 zoning designation, and several lots within the immediate vicinity are between 5,600 sq. ft. to 8,000 sq. ft. This can be referenced in the County's GIS zoning layer (Exhibit 10). A few parcels, directly east and south, have larger lot sizes and continue to be zoned R-10. However, there is not a significant amount of large vacant lots that adjoin the property. For example, the adjoining properties directly west of the subject property are zoned R-7 or R-8.5, and are considered "small lots" with no lot exceeding 8,000 sq. ft. There also appears to be several lots that can be "redeveloped" further either under current zoning standards or through a zone change to small lot zoning. The remaining lots that are zoned R-10 are generally about 10,000 sq. feet in size. On Balance however, the predominant zoning in the immediate vicinity is R-7, and at least half of the adjoining lot sizes are considered "Small lots". This proposal fits in to the historic lot sizes and development pattern surrounding the property. Large lot zoning districts such as, R-10, or R-15 are not the predominate zoning patter surrounding the subject property.

The proposed R-7 designation is consistent with this factor.

- I. Sub-Policy 4.R.2.7 refers to achieving a density average of 7,500 square feet or less per lot in low density Future Urban areas when conversion to immediate urban low density

residential occurs, the R-10 zoning designation shall be limited to areas with slopes of 20% or greater. Flexible-lot-size land divisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 s.f. or more to protect neighborhood character, while taking full advantage of allowed densities.

Staff finds that this subsection is not applicable because 1) the R-10 zoning designation is not proposed and 2) surrounding lots are not over 20,000 sq. ft.

This criteria is not applicable.

On balance, consideration of Policies 4.R.2.1 to 4.R.2.7 leads to the conclusion that the R-7 designation is the most appropriate zoning designation for the subject property, and is consistent with the surrounding land use patterns.

2. Subsection 1202.03(B) of the ZDO states that if a development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of the service provider's existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.
 - a. Sanitary Sewer and Storm Water Management: As discussed previously, the subject property is located within *Oak Lodge Water Services District (OLWSD)*. According to the OLWSD, sanitary sewer, water and stormwater capacity is adequate, or can be made adequate, to serve the proposed development and service is subject to the OLWSD Rules and Regulations.

Sanitary Sewer, storm water, and water supply is available or can be made available subject to several conditions of approval below.

3. Subsection 1202.03(C) of the ZDO requires the following: The transportation system is adequate, as defined in subsection 1007.07(B) and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from subsection 1202.03(C). For purposes of this criterion, the following factors are applicable:
 - a. Adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluation Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area.
 - b. The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012- 0060). It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate; and
 - c. Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).

- d. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
- e. Determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
- f. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.

Finding: ZDO subsection 1007.07 requires that roadways and intersections serving subdivisions have adequate capacity to handle the additional traffic generated by the development. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards. Based on the proposed subdivision, factoring in two existing home and 5 new homes, the anticipated traffic from the proposed development is expected to generate less than twenty vehicular trips in any peak hour. Per Roadway Standards Section 295.2, a traffic study is not required for developments that generate less than 20 peak hour trips. Staff finds that the transportation system is adequate and will continue to be adequate.

As discussed earlier, the applicant has not submitted a Traffic Impact Study and none was required by the County Traffic Engineer for this small development proposal. The County Traffic Engineering Sec. has concluded, prior to the filing of the application that the proposed applications would not result in the degradation of the level of service in the influence area intersections to a point where they would be considered to be operating at an inadequate level of service.

The County Engineering Div. staff has submitted comments concerning this proposal and the adequacy of the transportation system dated March 2, 2021. (Exhibit 7) These are incorporated herein by reference. The Engineering staff has concluded that transportation system capacity in the area will be adequate to serve the proposed development if the zone change is approved. The Clackamas Fire District #1 has also provided comments, noting that development of the subject property is feasible and can meet CFD#1 standards (Exhibit 8)

Based upon the comments provided by the County Engineering Division staff and the County Roadway standards, the hearings officer finds that these criteria have been satisfied.

- 4. Subsection 1202.03(D) of the ZDO requires that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

Finding: The County Engineering Division has submitted comments and recommendations dated March 2, 2021 and discussed previously addressing this criteria. Based upon the preliminary plan for the subdivision, the County Engineering staff have found that, with the imposition of conditions of approval, the safety of the existing and proposed transportation system will be adequate.

Based upon this discussion, the hearings officer finds that this criterion will be satisfied.

On balance, the staff finds that the proposed zone change from R-10 to R-7 is appropriate for the subject property and should be approved. Staff recommends one condition of approval: Change the subject zoning from R-10 to R-7. This is detailed in the proposed conditions of approval. **The hearings officer concludes that, as conditioned, the proposed zone changed from FU-10 to R-7 is appropriate for the subject property and should be approved.**

Part II:

PRELIMINARY APPROVAL OF A MINOR SUBDIVISION (FILE NO. Z0016-21-SS):

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 findings reviewed within this section and subject to conditions of approval detailed in the staff report. The applicant accepted those findings and conditions, without exceptions. The hearings officer finds that the staff report accurately identifies the applicable standards for this application and contains sufficient findings that the application does or can comply with the applicable standards. The Planning Division has reviewed these sections of the ZDO in conjunction with this proposal and makes the following findings, reviewed, modified, and adopted by the hearings officer:

1. 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.

The proposed subdivision is new development and, therefore, subject to the Purpose of this Section.

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 standards pertaining to Section 1000 are outlined above under Conditions of Approval, while 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. As shown on the DOGAMI map, no part of the subject property has slopes exceeding 10 percent. **This criterion is not applicable.***

- B. 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 in Section 1002.01 above, the site does not have slopes exceeding 10 percent. **This subsection does not apply either.***

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 subject property, 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:

As described in the “Background” section above, the site does contain a number of mature trees. Based on the applicant’s plan set, some trees may be retained after construction, while many shall be removed to accommodate the proposed development.

Staff notes that this criteria contains subjective criteria, particularly with 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.” Staff does not have a “clear and objective” method to determine what constitutes which trees shall be preserved and where. Therefore, pursuant to Oregon Revised Statutes (ORS) 197.307, this policy does not apply.

*Staff, however, still recommends an advisory condition requiring a tree removal and protection plan. **The hearings officer adopts and incorporates an advisory condition requiring a tree removal and protection plan.***

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 subject property 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 subject property is located outside of the Deer and Elk Winter Range. **Therefore, these standards do 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 subject property is located outside of the Mt. Hood Resource Protection Open Space. **Therefore, these standards do 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 subject property does not contain a significant natural area. Therefore, these standards do 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.

Staff will review the below hazard types, and prepare findings associated to any hazard areas found.

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.

- E. 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 15). 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 Sec. 703. (Exhibit 15) **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.

*The proposed subdivision is located in "soil hazard areas" comprised of Wet/high water table. The applicant has not included a geotechnical report. Given the potential of wet soils/high water table, staff recommends a condition of approval requiring a geotechnical investigation be prepared for home site and, if necessary, roadway construction. The geotechnical investigation shall be prepared by a qualified geotechnical engineer and shall provide recommendations on home site construction (footing depth/width, drainage requirements, foundation depth, etc.), if warranted by existing site conditions. **This requirement is detailed in the conditions of approval.***

- 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.

As discussed above, the DOGAMI only indicates the presence of wet/high water table (Exhibit 15).

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 criterion is not applicable.***

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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 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 outlined under 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.

The water supply for the proposed subdivision will be provided by Oak Lodge Water Services District (OLWSD). OLWSD has provided a preliminary statement of feasibility, and recommended conditions of approval noting that these standards can be met.

- 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 3). **These criteria can be 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 subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

*The statement notes that adequate fire flows are included. **This standard 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 August 13, 2020, and water system capacity is not needed to be reserved for the proposed subdivision (Exhibit 3). **This criterion 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.

An applicable Condition of Approval is outlined under Conditions of Approval.

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

The applicable standards of this Subsection are outlined under Conditions of Approval.

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.

Sanitary sewer for the proposed subdivision will be provided by Oak Lodge Water Services District (OLWSD). OLWSD has provided comments and conditions dated March 4, 2021 (Exhibit 6) with the following comments:

- *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.*

*Several conditions of approval have been included in OLWSD's comments dated March 4, 2021. Staff recommends approval of all proposed conditions as they relate to sewerage systems. **These criteria can be met.***

- 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 3).

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 criterion 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 August 13, 2020, and sanitary sewer system capacity is not needed to be reserved 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.

An applicable Condition of Approval is outlined under Conditions of Approval.

- 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.

The surface water management regulatory authority for the proposed subdivision is Oak Lodge Water Services District (OLWSD). OLWSD has not provided any comments other than those listed above in subsection 1006.04.

*Several conditions of approval have been included in OLWSD's comments dated March 4, 2021. Staff recommends approval of all proposed conditions as they relate to storm water and erosion control. **These criteria can be met.***

- 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, 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.

*The applicant has already signed the statement of feasibility. **This criterion is not applicable (prelim).***

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 August 13, 2020, and surface water treatment and conveyance system capacity are not needed to be reserved 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;

*All impervious surfaces noted by the surface management agency shall be detained and conveyed subject to the standards of OLWSD. There are no known drainage channels on the site that need protection. **This criterion is met.***

Protect development from flood hazards;

*As discussed above, this area has not been mapped as being within the Special Flood Hazard Area (SFHA) nor has there been any identified historical flooding events on the subject property. **This criterion is not applicable.***

2. 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 plans to treat, detain, and convey all new impervious runoff subject to standards set forth by OLWSD standards. **These criteria can be met.***

3. 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

Water treatment will occur in a storm water detention facility located in Tract "A". This facility shall be required to properly treat the pollutants noted above, as required by OLWSD.

4. 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 shall be required for all construction. Furthermore, since the site is flat, and all runoff is being treated, erosive waters should be adequately conveyed, assuming all of the standards of OLWSD are met. **This standard can be met.***

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

*A watercourse is not present on the subject property. **This criterion 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 property conveyance of surface water. **This criterion 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.

*Channel obstructions are not proposed. **This criterion is not applicable.***

- H. The natural drainage pattern shall not be substantially altered at the periphery of the subject property. Greatly accelerated release of stored water is prohibited. Flow shall not be diverted to lands that have not previously encountered overland flow from the same upland source unless adjacent downstream owners agree.

*Notes from neighboring property owners express concern that stormwater control is not adequate for this site due to existing drainage patterns of the area. Staff notes that apart from treatment and detention requirements required by OLWSD, a condition is recommended that [water flow] shall not be diverted to lands that have not previously encountered overland flow from the same upland source unless adjacent downstream owners agree. This condition is a proposed condition of approval. **These 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. An applicable Condition of Approval is proposed. **These criteria can be met.***

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.

*An Exception to Preliminary statements of Feasibility is not needed since the applicant submitted the property statements. **This criterion 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 applicant is proposing the extension of SE Merlot Rd to connect to SE Southview Ave, an existing local street. **This standard is met.***

- 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.

*The proposed development has frontage on SE Concord Rd, SE Southview Ave and SE Merlot Rd. The applicant will be required to dedicate sufficient right-of-way and design and construction frontage improvements along all frontages per the Clackamas County Comprehensive Plan and the Clackamas County Roadway Standards. **This standard can be met.***

- 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.

*The applicant has proposed the extension of SE Merlot Rd to connect with SE Southview Ave. Parcels 4-7 will have access to SE Merlot Rd. Parcels 2 and 3 are proposed to have a shared access to SE Merlot Rd. Parcel 1 has existing access to SE Concord Rd. Section 220.1 of the Roadway Standards allows less restrictions for lower speed Collector Street. The applicant will be required to provide a vehicular turnaround onsite to ensure vehicles are entering SE Concord Rd in a forward motion. **This standard can be met.***

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 proposed development is not identified on Comprehensive Plan Map 5-6, Potentially Buildable Residential Site >5 acres in UGB. **This standard does not apply.***

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.

SE Concord Rd has a posted speed limit of 30 MPH and is classified on Comprehensive Plan Map 5-4a Road Functional Classification (Urban) as an Urban Collector. Clackamas County Roadway Standards Section 220 allows access to lower speed Collector Streets that meets minimum spacing requirements per Table 2-1.

*The existing accesses for tax lot 200 along SE Concord Rd is greater than 150-foot measured from centerline-to-centerline from existing access and public roads along SE Concord Rd. **This standard is met.***

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.

*The applicant will be required to provide an on-site vehicle turnaround to prevent vehicles backing onto SE Concord Rd. **This standard can be met.***

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 is proposing a shared access for parcels 2 and 3 to the extension of SE Merlot Rd. The applicant will be required to provide a minimum 12-foot wide paved surface centered within a 20-foot wide access and utility easement. A Road Maintenance agreement will be required for the shared access implementing ORS 105.170-105.185 and recorded with the final plat. **This standard can be met.***

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

- c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.
- d. Driveways shall be located so as to maximize the number of allowed on-street parking spaces, the number of street trees, and optimum street tree spacing.

The applicant is proposing only one access per parcel, with one existing access to SE Concord Rd, an Urban Collector, to remain. Clackamas County Roadway Standards Section 220 allows access to lower speed Collector Streets that meets minimum spacing requirements per Table 2-1.

*SE Concord Rd has a posted speed of 30 MPH with existing spacing of greater than the required 150-foot measured centerline-to-centerline from existing accesses including public roads along SE Concord Rd. **This standard can be 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 applicant will be required to design and construct the extension of SE Merlot Rd, a County maintained road, to SE Southview Ave to align with the existing centerline with minimum curb-line radius set forth in section 250.8.1 Table 2-15. **This standard can be 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.

*The applicant will be required to provide frontage improvement along all frontages throughout the proposed development. **This standard can be met.***

- 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.

*The proposed development is not located along a transit service that is existing or planned. **This standard does not apply.***

- 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.

*The applicant will be required to provide ADA compliant sidewalk and approaches where an existing sidewalk is not present or proposed to be constructed. **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 proposed development has frontage along SE Concord Rd which is identified on Clackamas County Comprehensive Plan Map 5-2a, Planned Bikeway Network Urban. SE Concord has an existing striped bikeway and curb. The applicant will be required to design and construct an ADA compliant sidewalk connecting to the existing sidewalk to the south. **This standard can be met.***

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.

*SE Concord Rd is identified on Comprehensive Plan Map 5-5 as an Urban Road. **This standard does not apply.***

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 proposed development does not have frontage along any roads identified on Comprehensive Plan Map 5-1, Scenic Roads. **This standard does not apply.***

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 proposed development is located within the Neighborhood district of Comprehensive Plan Map IV-8, Urban Growth Concept. The applicant will be required to design and construct frontage improvements along all frontages within the development. **This standard can be met.***

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 proposed development is not located within centers, corridor or station communities identified on Comprehensive Plan Map IV-8. **This standard does not apply.***

- 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.

*The applicant has proposed the connection of two existing County roads, SE Pinot Rd and SE Southview Ave. **This standard is met.***

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.

*The proposed development is not adjacent to any undeveloped property. **This standard does not apply.***

3. These standards may be deviated from when the County finds that safe and efficient alternate designs would better accommodate:

*No Deviation has been identified. **This criterion is not applicable.***

4. 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;
 - a. 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;
 - b. Preservation of existing significant trees and native vegetation;
 - c. Preservation of natural terrain and other natural landscape features;
 - d. Achievement of maximum solar benefit for new development through orientation and block sizing;
 - e. Existing forest or agricultural uses;
 - f. Existing development;
 - g. Scenic qualities;
 - h. Planned unit developments;
 - i. Local access streets less than 200 feet in length which are not extendible; and
 - j. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.

The proposed development will be required to design and construction stormwater improvements per Oak Lodge Water Services District (OLWSD) and Clackamas County Roadway Standards Chapter 4 requirements along County right-of-way.

Onsite stormwater requirements will be designed, constructed and inspected per OLWSD

This standard can be met.

- 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.

The applicant is not proposing any public cul-de-sacs or dead-ends turnarounds.

This standard does not apply.

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

The applicant will be required to provide intersection sight distance at the intersection of SE Merlot Rd and SE Southview Ave. SE Southview Ave has a posted speed of 25 MPH, which requires a minimum of 280-feet of intersection sight distance.

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 will be required to provide signage and/or intersection sight distance easements to prevent visibility constraints at the intersection of SE Southview Ave and SE Merlot Rd.

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 applicant will be required to dedicate right-of-way and design and construct frontage improvements along all frontages within the proposed development required by the Clackamas County Comprehensive Plan and the Roadway Standards.

This standard can be met.

- 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;

2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;
3. Transit amenities as specified in Subsection 1007.05; and
4. Street trees as specified in Subsection 1007.06.

The applicant will be required to design and construct frontage improvements along all frontages within the proposed development required by the Clackamas County Comprehensive Plan and the Roadway Standards.

This standard can be met.

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;

The applicant has proposed a shared private access for parcel 2 and 3. The applicant will be required to provide a minimum 12-foot wide paved driveway centered within a 20-foot wide access and utility easement for private accesses serving less than 4 parcels.

This standard can be met.

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;

The applicant has proposed a shared private access for parcel 2 and 3 and a 22-foot access and utility easement.

This standard has been met.

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).

The applicant will be required to provide intersection sight distance at the intersection of the private access and SE Merlot Rd per Section 240 of the Clackamas County Roadway Standards.

This standard can be met.

1007.04 PEDESTRIAN AND BICYCLE FACILITIES

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

The applicant will be required to provide frontage improvement requirements along all frontages per Clackamas County Comprehensive Plan.

The applicant will be required to provide an ADA complaint approach where the new sidewalk does not connect to an existing sidewalk.

This standard can be met.

- 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.

SE Concord Rd is identified on Comprehensive Plan Map 5-2a, Planned Bikeway Network and Map 5-3, Essential Pedestrian Network. The applicant will be required to design and construct a sidewalk along SE Concord Rd that connects to the existing sidewalk to the south and extends to the northern property line.

This standard can be 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.

The applicant will be required to provide pedestrian and bicycle facilities along all frontages of the proposed development.

This standard can 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 dwellings where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.
- 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.
- 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).

The applicant has proposed a sidewalk connection at the southern existing sidewalk and sidewalk extension through SE Merlot and south along SE Southview Ave frontage.

This standard is met.

- G. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:
1. The site has topographic or natural feature constraints that make standard sidewalk construction unusually problematic;
 2. No sidewalk exists adjacent to the site;
 3. Redevelopment potential along the road is limited; or
 4. The road is identified for a pedestrian pathway by the River Forest Neighborhood Plan adopted by the City of Lake Oswego.

The applicant has not proposed a Pedestrian Pathway.

This standard does not apply.

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

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

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

6. Sidewalks and pedestrian pathways at transit stops shall be a minimum of eight feet wide for a distance of 20 feet centered on the transit shelter or transit stop sign.
7. A sidewalk set back from the curb by at least five feet may be one foot narrower (but not less than five feet) than the standard listed above. This five-foot separation strip shall be landscaped and shall be maintained by the adjacent property owner. The landscape strip may contain fixed objects provided that sight distance and roadside clear zone standards are satisfied pursuant to the Clackamas County Roadway Standards.

The applicant has proposed to connect to the existing and continue the curb-tight sidewalk along the extension of SE Merlot Rd and SE Southview Ave.

This standard has been met.

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

The applicant is not proposing any accessways. The applicant has proposed the extension of SE Merlot Rd to intersect with SE Southview Ave.

This standard does not apply.

- J. Accessways in Sunnyside Village: The following standards apply in Sunnyside Village. Where these standards conflict with Subsection 1007.04(I), Subsection 1007.04(J) shall take precedence.

The proposed development is not located within Sunnyside Village.

This standard does not apply.

- K. Bikeways: Bikeways shall be required as follows:

8. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be included in the reconstruction or new construction of any street if a bikeway is indicated in Chapters 5 and 10 of the Comprehensive Plan and on Comprehensive Plan Map 5-2a or 5-2b; NCPRD's Park and Recreation Master Plan; or Metro's Regional Trails and Greenways Map.

*The proposed development has frontage along SE Concord Rd, which identified on the Comprehensive Plan Map 5-2a, Urban Planned Bikeway. SE Concord has an existing striped bikeway along the entire frontage of the proposed development. **This standard is 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 proposed development is not located along an existing or planned transit route. **This standard does not apply.***

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:

*The applicant will be required to provide street trees behind the curb-tight sidewalk along SE Merlot Rd and SE Southview Ave. **This standard can be met.***

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.

*These standards shall be required for street tree design and placement. Any deviations to the standards mentioned above shall be made in writing to the Engineering Division and Planning Division. **These standards can be met.***

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

*The applicant is proposing a 7-lot subdivision with the retention of two existing homes and the creation of 5 new parcels. The proposed development is not anticipated to generate more than 20 peak hour trips. Review of the remaining standards in Sec. 1007.07 do not need to be addressed. **This standard does not apply.***

1007.08 FEE IN LIEU OF CONSTRUCTION

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.

- A. 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

SE Southview Ave is an urban local road and not identified on Comprehensive Plan Map 5-3, Essential Pedestrian Network. The applicant may be offered FILO for improvements along SE Southview Ave.

- B. The fee in lieu of construction may be paid if the road frontage improvements are located on a road that is identified on Comprehensive Plan Map 5-3; payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; and at least one of the following criteria is met:

1. The improvements are included in the Five-Year Capital Improvement Program;
2. The improvements are located on a road where significant topographical or natural feature constraints exist; or
3. The improvements are located on a local, connector, or collector road where a sidewalk or pathway does not exist within 200 feet of the required improvements.

SE Concord Rd is identified on the Comprehensive Plan Map 5-3, Essential Pedestrian Network and on the 20-year Capital Project list on Table 5-3a. There is existing sidewalk on the adjacent lot to the south of tax lot 200.

1007.09 STREETS AND SIDEWALKS IN SUNNYSIDE VILLAGE

The following standards apply in Sunnyside Village. Where these standards conflict with other provisions in Section 1007, Subsection 1007.09 shall take precedence.

*The proposed development is not located within Sunnyside Village. **This standard does not apply.***

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 that is not located in the AG/F, EFU or TBR zoning district. 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).

*No Exception can be applied to this proposal. **These standards can be met.***

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.

*If the requested zone change is approved, the applicant shall be subject to the R-7 zoning district standards. Density shall be calculated using the R-7 zoning district's DLA, which is 7,000 sq. ft. . **These standards can be met.***

- 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.

*If the requested zone change is approved, the applicant shall be subject to the R-7 zoning district standards. While 7,000 sq. ft. is the size required to calculate density, actual lot sizes in the R-7 zoning district may be as small as 80 percent of the DLA or 5,600 sq. ft. This standard is set forth ZDO Sec. 315, Table 315-2. Staff notes that the applicant has not proposed any lot sizes below 5,600 sq. ft. **These standards can be met.***

- C. If the subject property 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 are two single-family dwelling on site that will be retained. These two existing homes shall count towards the maximum and minimum density standards of Sec. 1012. **These standards can be met.***

- 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).

*Detached single-family dwellings are primary uses in the R-7 zoning district. **This criterion 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.

The DLA for the R-7 zoning district is 7,000. As such, the proposed subdivision is limited to the maximum density calculated below.

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

GSA equals 73,181 sq. ft.

- 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:

The subject property is located in the R-7 District.

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

No New Road (NR) is being subtracted. See Subsection 1012.05(B)(1)(b), below.

- 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;

Right-of-way is required by condition to be dedicated in the form of a strip of land located adjacent to SE Concord Road, and Southview Ave. These areas of dedication are not being subtracted in the calculation of maximum density.

Furthermore, although SE Merlot Road will be extended to connect with SE Southview Ave, this is a required dedication. Staff notes that the existing stub of SE Merlot will connect to another 20 foot right-of-way known as CO 79-22879 as shown on the County's Tax Assessor's maps (Exhibits 13 and 14). Since the road is required to connect with two existing rights-of-way, County staff notes that new road (NR) need not be subtracted. If NR was to be subtracted, the applicant is

only dedicating roughly 8,000 square feet of right of way. This subtraction would not reduce the number of lots proposed in the applicant's plan set which only shows seven (7) lots. **These standards can be met.**

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:

The subject property is not located in the HR or MRR zoning district.

- a. Slopes greater than 50 percent;

Developed areas of slopes greater than 50 percent equals 0.

- b. Mass movement hazards regulated by Section 1003, *Hazards to Safety*;

Developed areas of mass movement hazards regulated by Section 1003 equals 0.

- c. The floodway of the Floodplain Management District regulated by Section 703, *Floodplain Management District*;

Developed areas of floodway regulated by Section 703 equals 0.

- d. The Willamette River and the required buffer area regulated by Section 705, *Willamette River Greenway*;

Developed areas of the Willamette River and required buffers regulated by Section 705 equals 0.

- e. Habitat Conservation Areas regulated by Section 706, *Habitat Conservation Area District (HCAD)*; and

Developed areas of Habitat Conservation Areas regulated by Section 706 equals 0.

- f. Water Quality Resource Areas regulated by Section 709, *Water Quality Resource Area District*; and

Developed areas of Water Quality Resource Areas regulated by Section 709 equals 0.

The total developed area of HRA equals 0.

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.:

The subject property is not located in the HR or MRR zoning district.

- a. Slopes equal to or greater than 20 percent and less than or equal to 50 percent; and

Fifty percent of developed areas of slopes equal to or greater than 20 percent and less than or equal to 50 percent equals 0.

- b. Areas outside the floodway but within the Floodplain Management District regulated by Section 703.

Fifty percent of developed areas outside the floodway but within the Floodplain Management District equals 0.

The total developed area of MRA equals 0.

- 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:

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

$$\{73,181 - [0 + 0 + (0 \times 0.5)]\} / 7,000 = 10.45. \text{ In turn, Base Density equals 10.}$$

The partial figure of 10.45 is being rounded down to the whole number of 10.

- D. The result is maximum density, except that the result shall be reduced as necessary to:

*In sum, maximum density equals 10. This will be detailed above in the conditions of approval section. **These criteria can be 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 subject property is located in the R-7 Zoning District, where a minimum density standard applies.

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

As discussed above GSA equals 73,181. Per ZDO Sec. 1012.08(C)(1), when calculating the Minimum density, all proposed dedications, either strips of land or new road, must be subtracted. Staff calculates the dedication for SE Concord Road at 1,200 sq. ft., SE Southview Ave at 800 sq. ft., and as mentioned above, the dedication for SE Merlot Road is 8,000 square feet. In total, 10,000 square feet is to be subtracted from the GSA which reduces the number to 63,181 sq. ft. for a Net Site Area. Multiply the result of net site area (NA) by 80 percent. The calculation is as follows: is $\{63,181 \times .80 = 50,545\}$. Divide

*the result by DLA (7,000 sq. ft.) for a minimum density of 7.22 or a **minimum density of 7.***

- B. Any partial figure of one-half or greater shall be rounded up to the next whole number.

The partial figure of 7.22 is being rounded down to the whole number of 7.

- C. The result is minimum density.

*In sum, minimum density equals 7. This shall be required as a condition of approval above. Staff notes that future development (partition or replat) of lots may be feasible given that maximum density is 10. Applicant is advised to ensure that easements and home site layouts can accommodate future roads and infrastructure, if the applicant chooses to replat or partition any lot in the future. This is proposed as an advisory condition. **These criteria can be met.***

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. This criterion applies.

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

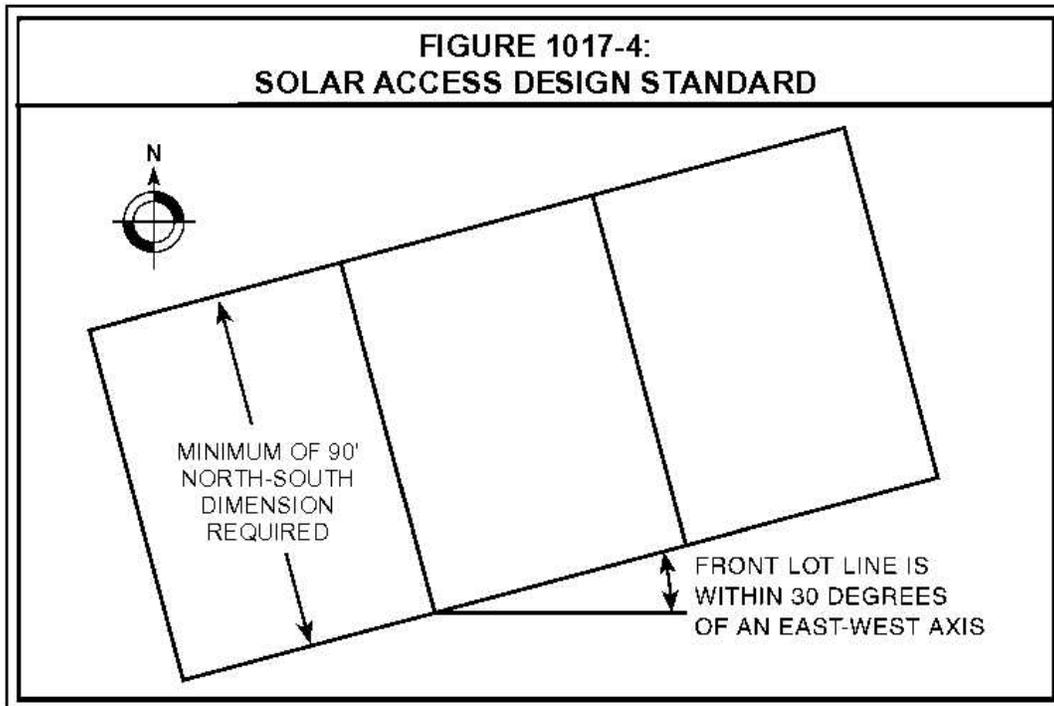
Except as established by Subsection 1017.04, a minimum of 70 percent of the lots or parcels in the subdivision, partition, or Type II replat shall:

- 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

Lot 1 and lots 5-7 can meet this standard since each lot has a north-south dimension over 100 feet. However, Lots 2-4 do not meet this standard since the north south dimension is only 74'. Four out of seven lots is only 57 percent. An exception subject to 1017.04 is required, and detailed below.

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

*The applicant's plan shows that the lot was originally created at an approximately 23 degree angle. Thus, each lot is within 30 degrees of a true east-west axis. **This standard is 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:
3. Existing road patterns must be continued through the subject property 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.

SE Merlot Road is required to connect with Southview Ave. Given the orientation of SE Merlot Road with the existing parcel configuration, it would not be feasible to meet minimum

*density standards that can meet the solar standards. If the existing house on tax lot 200 was demolished, it may be feasible to widen Lot 2, but that would likely result in tree removal, and would result in encroachments of the district setbacks in conjunction with the house located on tax lot 200. Merlot road is required to be aligned in direction that only provides proper lot depth to tax lot 21E12DC01500 (house addressed off of SE Southview Ave). Staff finds that an exception to the solar standards can be granted under both subsections. **These standards can be met or an exception can be made.***

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 II 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 above under Conditions of Approval, while the applicable criteria are addressed in findings above.

- 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.

A zero-lot-line development is not being proposed. This criterion 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 subject property, 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 criterion 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 noted that both the private easement serving lots 2 and 3 and the storm treatment facility will be contained in Tract "A". Therefore a Homeowners Association (HOA) is required. The standards for an HOA shall be described above in the conditions of approval. If Oak Lodge Water Services and County Engineering requirements can be satisfied via a shared access and utility easement, an HOA will not be required. These standards are detailed above in the Conditions of Approval.

- E. If the subject property 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 subject property at urban densities.

The subject property is not located in a future urban area. This criterion is not applicable.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

The applicable standards of this Subsection are outlined above under Conditions of Approval.

1105.07 FINAL PLAT REVIEW

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 under Conditions of Approval. The parcels involved with the proposed subdivision are all smaller than 80 acres.

E. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer hereby APPROVES Zone Change Application Z0015-21-ZAP and Subdivision Application Z0016-21-SS, subject to the following conditions of approval:

F. CONDITIONS OF APPROVAL

1. Conditions for Protection of Natural Features

A) Soil Hazard Areas:

- i. Applicant shall provide Geotechnical Report, prepared by a qualified engineer specializing soils and geological hazards, **prior to final plat approval.**
- ii. The Geotechnical Report shall provide recommendations for home site construction, if special construction methods are warranted.

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. Advisory: 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) Oak Lodge Water Services District (OLWSD): Sanitary Sewer, Stormwater, Domestic Water Supply (Markus Mead; permits@olwsd.org)

- i. The proposed development is located within the service area of Oak Lodge Water Services for sanitary sewer, water and surfacewater and shall be subject to the Oak Lodge Rules and Regulations and Design and Construction Standards for applicable utilities.
- ii. Property owner shall apply for an erosion and sediment control permit from OLWSD.
- iii. Property owner shall apply for a Site Development permit from OLWSD.
- iv. 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.
- v. 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 installed prior to plat approval.
- vi. Depending upon engineering design, the property owner may need to complete a public sanitary sewer and potable water main line extension. Public main lines shall be contained in a public right-of-way or public easement per Oak Lodge Water Services standards.
- vii. Depending on design, property owner may be required to 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.
- viii. Stormwater treatment including water quality and quantity is required. All water for all new or altered impervious surfaces is to be treated including all private and public water for any street improvements.
- ix. Property owner shall be responsible for the maintenance of any stormwater facilities constructed in the public right-of-way.
- x. **County Surface Water Requirement:** 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 (ZDO Sec. 1006.06(H)).

3. Conditions for Roads & Connectivity:

A) Overview:

Hearings Officer Final Order
Z0015-21-ZAP and Z0016-21-SS
Fultz Subdivision

- 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) General Provisions:

i. **Prior to site improvements:**

- a. The applicant shall obtain a Development Permit from the Engineering Department for review and approval of frontage improvements and sight distance requirements. 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 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.
- b. The applicant shall provide a performance guarantee equal to 125% of the estimated construction costs for work within the existing County right-of-way.

ii. **Prior to Development Permit issuance:**

- a. The applicant shall enter into a Developer/Engineer Agreement for primary inspection services. This form will be provided to the applicant and shall be signed and returned to County Plans Reviewer.
- b. The applicant shall provide written approval from the Clackamas Fire Marshal for onsite circulation, access and fire suppression.
- c. The applicant shall provide utility connection permits from Oak Lodge Sanitary and Water District. All utility connection and extension shall be shown on the approved plans.

iii. Prior to Substantial Completion:

- a. The applicant shall provide a Certificate of Compliance signed by the Engineer of Record stating all materials and improvements have been installed per approved plans.
- b. The applicant shall submit electronic as-built plans showing all improvements and construction changes, added and deleted items and location of utilities. The Engineer of record shall stamp and sign as-built plans.

iv. Prior to final plat approval:

- a. The applicant shall meet the requirements for Substantial Completion Section 190 of the Clackamas County Roadway Standards.
- b. The applicant shall dedicate a minimum 44-foot full width right-of-way to Clackamas County for the extension of SE Merlot Rd.
- c. Dedicate sufficient right-of-way for a minimum 27-foot half-street from centerline along SE Southview Ave and 30-foot half-street right-of-way along SE Concord Rd. The County right-of-way shall be verified by a professional surveyor to the satisfaction of DTD Engineering and the Survey Department.
- d. All existing and proposed easements shall be shown on final plat.
- e. The applicant shall dedicate an 8-foot wide public utility, signs and sidewalk easement along the entire frontage of SE Concord Rd, SE Merlot Rd and SE Southview Ave.
- f. The applicant shall annex into street lighting district CCSD #5 and submit an assessment area to pay for the operation of the street lighting.
- g. The applicant shall provide a road maintenance agreement for the shared private road implementing ORS 105.170 – 105.185. This agreement shall include any and all signings and postings and be recorded with the plat.

C) Public & Private Roadways:

- i. The applicant shall design the extension of SE Merlot Rd to align with the existing centerline.
- ii. The applicant shall design and construct full frontage improvements for the extension of SE Merlot Rd per Figure 5-1d:
 - a. Minimum 32-feet of pavement
 - b. 6-inch curb
 - c. 5-foot curb-tight ADA compliant sidewalk on both sides
 - d. Dual ADA compliant curb ramp at SE corner of SE Merlot Rd and SE Southview Ave
 - e. Street trees behind the sidewalk

- f. Street lighting per CCSD #5
- g. Drainage facilities in compliance with WES/CCSD#1 requirements and Clackamas County *Roadway Standards* Chapter 4
- iii. The applicant shall design and construct half-street improvements along the entire frontage of SE Southview Ave per Figure 5-1d:
 - a. Minimum 16-foot of pavement (with inbound and outbound tapers)
 - b. 6-inch curb
 - c. 5-foot curb-tight ADA compliant sidewalk
 - d. Street trees behind the sidewalk
 - e. Street lighting per CCSD #5
 - f. Drainage facilities in compliance with WES/CCSD#1 requirements and Clackamas County *Roadway Standards* Chapter 4
- iv. The applicant shall design and construction a 5-foot ADA compliant sidewalk on SE Concord Rd. The new sidewalk shall connect to the existing sidewalk to the south and extend along the entire frontage of SE Concord Rd.
- v. The applicant shall provide an onsite vehicular turnaround for parcel 1 per Standard Detail C220.
- vi. The applicant shall design and construct a minimum 20-foot radius curb at the SE corner of the intersection of SE Merlot Rd and SE Southview Ave per *Roadway Standards* Section 250.8 Table 2-15.
- vii. Provide stop sign, stop bar and street signs at the SE corner of the intersection of SE Merlot Rd and SE Southview Ave and the NW corner of the intersection of SE Merlot and SE Pinot Rd. Street signage shall meet Standard Details T100, T130, T150 and T250.
- viii. The applicant shall provide and maintain minimum intersection sight distances at SE Merlot Rd and SE Southview Ave. Intersection sight distance shall restrict plantings at maturity, retaining wall, embankments, trees, fences or any other objects that obstruct vehicular sight distance. Minimum required intersection sight distance is 280 feet north and south bound along SE Southview Ave.
- ix. All off-site utility connection and extensions shall adhere to Chapter 7 of the *Roadway Standards* for pavement restoration requirements.

D) Private Roads & Access Drives:

- i. Entrance Permit for individual driveways accesses shall be obtained prior to building permits issuance for each lot
- ii. The applicant shall provide a minimum 20-foot wide access and utility easement for the shared driveway approach for lot 2 and 3 per Standard Detail D600.
- iii. The shared private road shall be constructed to Standard Drawing R100 requirements and centered within the shared access and utility easement.

- iv. Provide Fire Truck Turnaround at the end of the shared private access per Standard Detail C350.

4. **Conditions for Density**

A) Density Summary

- i. Maximum density for the proposed subdivision equals 10
- ii. Minimum density for the proposed subdivision equals 7
- iii. This development has proposed 7 lots. No additional lots are permitted unless authorized through a subsequent modification or new subdivision.

B) Advisory Condition:

- i. In future, if the applicant chooses to partition or replat any lots to utilize the maximum density, applicant is advised to ensure that roadway easements and infrastructure easements are sufficiently wide and are delineated on the final plat. Home site placement should also have proper setbacks from future access easements, if any.

5. **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 January 20, 2021, plan set dated November 9-12 and written narrative dated January 15, 2021. 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. **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.
- v. **Advisory Condition:** the applicant is advised to submit a tree removal/preservation plan and tree protection plan, assuming trees are being retained on the subject property.

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 Zoning District, 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.
 - e) **Prior to plat approval**, applicant shall submit a draft copy of the Covenants, Conditions and Restrictions (CC&Rs) to the Planning and Zoning Division to confirm that the above requirements are set forth in said CC&Rs.
- iv. If Oak Lodge Water Services District (OLWSD) and County Engineering requirements can be satisfied via a shared access and utility easement, a Homeowners Association (HOA) will not be required.
- v. 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*.
- vi. 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: March 30, 2021



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision is "final" for purposes of a LUBA appeal as of the date of the decision appearing by my signature.