

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application for a Zone Change From Urban Low Density Residential (LDR)/R-15 to LDR/R-10 and Preliminary Approval of a 18-Lot Major Subdivision of Single-Family Residential Lots on Two Tracts within the existing "Altamont" Subdivision.

Case File Nos:
Z0262-22-ZAP & Z0263-22-SL

(Prestige Care/Altamont)

A. SUMMARY

1. The applicant and owner is Prestige Care, Inc. Christopher Green, AICP, is the planner for the applicant. The subject property is a vacant corner lot northwest of SE Johnson Creek Blvd and SE Bristol Park Drive (lot located at 9000 Block of SE Bristol Park Drive, Happy Valley, OR 97086), within Clackamas County, and is inside both the Metropolitan Service District Boundary (MSDB) and the Portland Metropolitan Urban Growth Boundary (UGB). The legal description for the subject property is T1S, R2E, Section 28AD, Tax Lot 10200, W.M.
2. The subject property is an approximately 7.04 acre property identified as Tracts "I" and "K" of the Altamont Subdivision, Plat #3322 currently zoned Low Density Residential (R-15) (15,000 sq. ft. average lot size). The Comprehensive Plan Designation for the property is Low Density Residential.
3. On August 25, 2022, 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-15 to Urban Low Density Residential (R-10), and the applicant's proposal for preliminary approval for an 18-lot major subdivision consisting of lots ranging in size from 9,455 square feet to 16,240 square feet. A stormwater detention facility is proposed in "Tract A."
4. County staff recommended approval of the Zone Change from R-15 to R-10. County staff also recommended approval of the 18 lot major subdivision subject to conditions. The applicant, through its representative Christopher Green, stated that it had reviewed the Conditions of Approval proposed by County staff and did not dispute the proposed conditions.
5. Prior to ending the public hearing and closing the record, the Hearings Officer asked whether any of the parties or members of the audience wanted an opportunity to provide additional evidence, arguments, or testimony. After no one requested such an opportunity, the Hearings Officer asked whether the applicant wished to waive the period for submitting a final written argument, and the applicant, through its representative Christopher Green, affirmed it did. The Hearings Officer approved the zone change and subdivision proposal, subject to the conditions of approval included in this final order, consistent with the County's recommendation, and closed the record.

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B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the August 25, 2022 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 1-16, 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 and the County's Comprehensive Plan criteria.
3. Among other things, Mr. Blessing described the County's staff report, findings, and recommendations, providing a description of the vicinity of the subject property, the history of development of the Altamont subdivision, and particularly how this past history has affected the subject property. Mr. Blessing discussed the site plan submitted by the applicant, the location's access to public roads, public utilities, and the capacity of the property for the proposed subdivision. Mr. Blessing also discussed the appropriateness of the proposed zone change and the related staff analysis supporting recommending approval of the zoning change and preliminary approval of the proposed 18-lot major subdivision.
4. Chris Green, the Applicant's planner and representative at the hearing, stated that the Applicant concurs with the County staff report and proposed Conditions of Approval. Mr. Green reiterated that the R-10 zoning designation addresses requirements in the County ZDO for larger lots in this area while allowing for development on some of the steeper slopes. Mr. Green also pointed to the housing needs the development addresses, and the existing infrastructure to support it.

C. FACTS

1. The applicant is proposing an 18-lot subdivision in conjunction with a Zone Change from R-15 to R-10 on a roughly 7.04-acre property identified as Tracts "I" and "K" of the Altamont Subdivision, Plat #3322. The applicant's submitted narrative (Exhibit 2) as well as their supplemental density memorandum (Exhibit 9) and density calculation map (Exhibit 10) provide detailed history of land uses on the site. Staff provided a brief history on the subject property, followed by some project specific details and an overview of the topography and the general vicinity.
2. Staff's analysis of land use on the subject property generally aligns with the applicant's narrative(s). The original parcel(s) comprised 238 acres of a vacant, partially wooded hillside.

Initially, the developer received approval for a three-lot Partition in 1996 under Planning file Z0070-96-M, which established three large parcels that were to be developed at different phases for multiple residential uses. Prior to 1996, Johnson Creek Blvd did not connect through this site. Instead, it stopped at SE 92nd Ave.

3. In 1997, the original developer completed the initial phases of the Altamont Subdivision and Planned Unit Development (PUD), which received land use approval in 1994, under planning file Z0427-94-SL. Johnson Creek Blvd was extended past Hillgate Drive, and much of the infrastructure and local roads were constructed. The initial phases of “Altamont” recorded as plat #3322 in April of 1997, and the current lot configuration of Tracts “I” and “K” were established. The face of the plat conditioned that Tracts “I” and “J” are “conveyed to North Clackamas School District and North Clackamas Parks and Recreation District respectively at the time of plat recording...” (Exhibit 14 – See plat note/restriction 10, plat #3322). Additionally, Tract “K” was “retained by the developers” and eventually conveyed to North Clackamas School District (NCS D) by deed (Exhibit 14-See plat note/restriction 8, plat #3322).
4. Since 1997, NCS D found that the site location was not appropriate for a school. Thus, it was sold to the current owner in 2018, per deed 2018-029458. In the intervening years, prospective developers have made at least two Pre-Application conference requests to orient them with the redevelop potential of this former planned school site; ZPAC0039-14 and ZPAC0108-21. This subdivision application is being requested on the assumptions that 1) The PUD criteria (ZDO Sec. 1013) effective in 1994 has changed, and no longer requires that a PUD dedicate certain amount of lands for school use, and 2) since the planned school property has been disposed of by NCS D, it is no longer bound to the specifications of the Altamont PUD and can be developed as available residential land.
5. Staff notes that PUD standards have been amended since 1994, and there are currently no requirement in ZDO Sec. 1013 that warrant future school property be reserved. Lastly, since the subject property was considered in the original plat boundary, the applicant will need to demonstrate that sufficient density remains, and that 18 lots (assuming the zone change is approved) can not only meet the current density standards in ZDO Sec. 1012, but that the original number of dwelling units authorized by Altamont PUD is not exceeded. These items will be detailed in the findings section below, specifically in Sections 1012, 1013, and 1105.
6. The applicant is proposing 18 residential lots, ranging in size from 9,455 square feet to 16,240 square feet. Also, a large open space tract, referred to as Tract “A,” is proposed. Tract “A” will contain the project’s stormwater facility and steep slopes on the southern and western fringes of the property (Exhibit 2). The stormwater facility will treat and detain new impervious areas as a result of the subdivision. In terms of access, the applicant has proposed a private road called Emily Park Way, which will generally align with the public road to the east, also called Emily Park Way. Additionally, two private roads (labelled as *Private Street 1* and *Private Street 2*) will provide access to lots 1-12. Lots 13-18 will take access from SE Bristol Park Drive directly. No new access roads or driveways onto SE Johnson Creek Blvd. are permitted with this development. Each new private road shall have sidewalks on at least one side. SE Bristol Park Drive shall benefit from one-half street improvements, and will require sidewalk, landscape strip, curb, etc.

SE Johnson Creek Blvd already has adequate sidewalks and curbs, but the applicant shall be required to dedicate some additional right of way to meet current right of way requirements.

7. Finally, staff notes that Altamont Park is adjacent and northerly of the subject property. The applicant is proposing a roughly 3,143 square foot dedication of open space/park space to North Clackamas Parks and Recreation District (NCPRD). This small dedication will benefit Altamont Park, and in particular, create additional area to contain a portion of the existing paved trail loop that runs through the park. This small area also corresponds with the County's Open Space District, as mapped on Plan Map 4-6 (Exhibit 15). The applicant is also proposing a very short pedestrian connection between the northern terminus of proposed "private street 1" and the existing trail loop within Altamont Park. This will provide residents of the subdivision a direct access point to the park.
8. The majority of the site is a relatively flat, grassy field. The southern and western flanks of the subject property do contain steep slopes, which are essentially berms constructed with undocumented fill, which built up the flat portion of the lot in anticipation for development (Exhibit 3). The existing berms were also graded to accommodate Johnson Creek Blvd and other infrastructure and roads when this area was initially developed in the late 90s. The property is bordered by Altamont Park to the north, single family homes to the east and south, and multifamily homes to the west.
9. Staff did not receive any comments in opposition to the development. Staff received agency comments from Clackamas Fire District #1, Clackamas Water Environmental Services (WES), and County Transportation Development Engineering Division.
10. 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. Staff therefore reviewed the residential policy findings of the Comprehensive Plan (Ch. 4) first, followed by the proposed subdivision.

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. Z0262-2-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 originally submitted on May 25, 2022 and was deemed complete on June 23, 2022. Notice was sent out on July 20, 2022 for the August 25, 2022 hearing. The 120-day deadline established by state law for processing this application is October 21, 2022. **The Hearings Officer finds that the submittal requirements of Subsection 1202.02 are met, agreeing with, adopting, and/or modifying the indicated findings in boldface type as indicated.**

The first application considered in this report and recommendation is the requested zone change from R-10 to R-15. 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 making the following findings, **reviewed, modified, and/or adopted by the Hearings Officer as indicated in boldface type:**

SECTION I: CONDITION OF APPROVAL (Z0262-22-ZAP):

Change Zoning Designation from R-15 to R-10.

SECTION II: FINDINGS & CONCLUSIONS:

The first application considered in this report is the requested zone change from R-15 to R-10. 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 has 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-15 and is designated Urban Low Density Residential on the North Urban Land Use Plan of the County Comprehensive Plan (Exhibit 15). 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, with single family dwellings as the most prominent use noted therein. The proposed zone change shall be consistent with the Comprehensive Plan designation for the site, and staff will analyze the relevant residential plan criteria in Chapter 4 of the Comprehensive Plan (Plan).

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 foot 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 possible hazard on the site may be the presence of Wet Soils/High Water table (Exhibit 12). The applicant has submitted a detailed geotechnical report dated November 19, 2021/November 30, 2021 and prepared by NV5, noting that ground water was not encountered during the field explorations, though perched ground water may be present at some locations of the site (Exhibit 3). The requested zoning is for R-10 is still considered a “larger lot” designation, as noted above. **The Hearings Officer agrees with staff findings that the proposed lot sizes and proposed R-10 designation are adequate to satisfy this policy.***

- 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 applicant’s submittal package (Exhibit 2) has provided detailed slope analysis and a narrative describing the existing slopes. Overall, there are steep slopes on the western and southern fringes of the subject property. The applicant has proposed to contain the steep areas within a large open space tract, while allowing single family home development on the upper portion of the lot, which has less steep slopes. Staff finds that since there are some steep slopes on the subject property, the request to rezone the lot to R-10, a “larger lot” designation, is adequate to satisfy this policy. **The Hearings Officer agrees with staff findings that a “larger lot” designation is adequate to satisfy this policy.***

- 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.

*As noted above, the DOGAMI map (Exhibit 12) shows the presence of high water table. Furthermore, the Geotechnical Report indicates that soils may be unsuitable for infiltration, and drainage may be poor at this site (Exhibit 3). However, the Geotechnical Report does indicate that the proposed layout and lot design is sufficient for constructing 18 new dwellings and private roads. Since the applicant is only proposing the R-10 designation, a “larger lot” zoning designation, **staff finds this policy is satisfied. The Hearings Officer agrees with this staff finding, as the applicant is only proposing the R-10 “larger lot” designation.***

- D. Sub-Policy 4.R.3.2 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 Division staff have submitted comments and recommendations dated August 11, 2022 (Exhibit 8), indicating that the local transportation system capacity is adequate to serve the existing development. Specifically, the comments note "...there will not be a significant impact on the transportation system..." Details on traffic capacity will be addressed in ZDO Sec. 1202.03(C), below.

Clackamas Water Environmental Services (WES) is the domestic sanitary sewer service and storm water (surface management agency) provider for this area. The applicant has submitted a Preliminary Statement of Feasibility signed by Erik Bertram of WES on May 6, 2022 (Exhibit 5) indicating that the WES has adequate capacity in the sanitary sewerage collection and treatment system, as well as surface water treatment.

Sunrise Water Authority (SWA) is the public water purveyor for this parcel and has also signed a preliminary statement of feasibility dated April 8, 2022, indicating that water service is available (Exhibit 4).

The Hearings Officer agrees with staff findings that 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-10 zoning designation.

- E. Sub-Policy 4.R.3.3 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.

*Staff reviewed Tri-Met's transit system map and found that the nearest transit stops were the Max Green Line (a light rail transit stop) approximately $\frac{3}{4}$ miles west of the subject property, and bus route 19, over $\frac{1}{2}$ mile to the north (Exhibit 11). While these factors make smaller lot sizes unsuitable (R-8.5 or below), the applicant has only proposed to change the designation to R-10. Staff finds that the R-10 designation is still a "larger lot" designation, **and can satisfy this policy. The Hearings Officer agrees with this staff finding.***

- F. Policy 4.R.3.4 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 nearest commercial area, SE Johnson Creek Boulevard and SE 92nd Ave, is over $\frac{1}{2}$ mile west of the subject property. SE 82nd Ave, the nearest major shopping and job area, is roughly 1 mile west. While the exact "proximity" or distance to jobs, shopping and cultural activities is not explicitly defined, the SE 82nd and 92nd corridors, are major trip

*generators, and staff finds that the subject property may, in fact, be in proximity to these areas. **Staff finds that in regards to this policy, the subject property may be better suited for smaller lots. The Hearings Officer agrees with this staff finding.***

- G. Sub-Policy 4.R.3.5 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 applicant has not proposed a zoning designation of R-2.5 or R-5, and the subject property is not located in a Community/Design Plan subject to Chapter 10. **The Hearings Officer agrees with this staff finding that this policy is not applicable.***

- H. Sub-Policy 4.R.3.6 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 8,500 square feet or smaller.

*The applicant's narrative notes that land surrounding the subject property (except for Altamont Park directly north) are developed at a variety of densities, and the proposed lot sizes would be similar to surrounding residential patterns, while taking into account the topography of the site (Exhibit 2). Staff agrees that there are a variety of land use patterns including; multi-family apartment to the west, small Planned Unit Development (PUD)-scaled single family lots directly east of SE Bristol Park Drive, and larger single-family lots in all other directions and in proximity to the subject property. The proposed lot configuration will continue to be consistent with the "larger lot" sizes that make up most of the Altamont subdivision and PUD. Additionally, given there are some topographical and drainage considerations that may not be suitable for smaller lots, **staff finds the R-10 zoning district satisfies this policy. The Hearings Officer agrees with this staff finding, and notes that the proposed lot configuration will continue to be consistent with the "larger lot" sizes that make up most of the Altamont subdivision and PUD.***

- I. Sub-Policy 4.R.3.7 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.

*The subject property is already zoned R-15, and is not in a Future Urban area. The change in zoning from R-15 to R-10 is consistent with the above polices. **The Hearings Officer agrees with staff that this policy is not applicable.***

Given the topographic and drainage constraints, distance to transit and the fact that this areas was already zoned as a "large lot" designation of R-15, staff finds that changing the

designation to R-10 is still consistent with the polices above. While staff noted that policy 4.R.3.4 may indicate that smaller lot designations are appropriate, on balance, all of the other policies indicate that “large-lot” zoning is still appropriate. Since the R-10 Zoning designation is still considered a “large-lot” designation, and since the applicant has demonstrated that a majority of the policies above can continue to be met, the request to R-10 should be granted. Staff finds that the proposed R-10 Zoning Designation is consistent with these policies, and recommends the zoning be changed as requested. The Hearings Officer agrees with this analysis and finding by staff.

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.

Sanitary Sewer and Storm Water Management: As discussed previously, the subject property is located within Clackamas Water Environmental Services (WES) and Sunrise Water Authority (SWA). According to WES and SWA, sanitary sewer, water and stromwater capacity is adequate, or can be made adequate, to serve the proposed development and service is subject to their Rules and Regulations. WES has provided specific comments and recommended conditions of approval to comply with WES’ rules and regulations. There is no indication that the cumulative impact of the new zoning and existing zoning will adversely affect the implementation of existing capital improvement plans.

The Hearings Officer concurs with the staff finding that 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: transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:
 - 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).
 - c. 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.
 - d. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.

- e. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.
- f. 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.
- g. Notwithstanding Subsections 1202.03(C)(4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon

Finding: The proposed zone change application is subject to ZDO Section 1202.03(C) criteria and requires a determination that the transportation system is adequate and will remain adequate with approval of the zone change. The proposed subdivision is projected to generate approximately 208 average daily vehicle trips, with approximately 20 trips in the AM peak hour, approximately 21 trips in the PM peak hour. The applicant has provided a traffic memorandum by DKS Associates, dated April 18, 2022, to address the Transportation Planning Rule (TPR) findings for the proposed zone change, as required under ZDO Section 1202.03(C). TPR compliance through the Oregon Highway Plan (OHP), Policy 1F. Where there is a small increase between and adopted plan and an amendment, under the OHP the proposed development is deemed to not have a significant impact on the transportation system. The OHP establishes a threshold of 400 average daily trips to be considered a small increase. The subdivision is estimated to generate 208 average daily trips. Based on the ADT for the proposed development under the proposed zoning, there will not be a significant impact on the transportation system and the TPR is satisfied. Staff also notes that Oregon Dept. of Transportation (ODOT) receive copies of the traffic memo and all submittal requirements. No comments, questions, or concerns were raised by ODOT. Lastly, County Traffic and Transportation Engineering staff, pursuant to comments dated August 11, 2022 (Exhibit 8), have indicated that all requisite County Roadway Standards and methods for calculating v/c and LOS are addressed, and can be met.

Based upon the comments provided by the County Engineering Division staff, the Planning and Zoning Division staff finds that these criteria have been satisfied. The Hearings Officer concurs with this staff finding.

- 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: Although the applicant's traffic memorandum does not specifically address safety, the applicant has addressed this section in the submitted narrative, and notes that the new private roads will comply with all County development standards in ZDO Sec. 1007 for vehicular and pedestrian safety. Staff agrees. Since the new private roads will be accessing SE Bristol Park Drive, which is a low volume Local roadway designation, major concerns regarding crash data, speed, or sight distance, have not been identified. Given there are no major warrants to construct additional traffic calming measures or other standard infrastructure, staff finds this standard is met.

Based upon this discussion, the staff finds that this criterion will be satisfied. *The Hearings Officer concurs with this staff finding.*

5. On balance, the staff finds that the proposed zone change from R-15 to R-10 is appropriate for the subject property and should be approved. Staff recommends one condition of approval: Change the zoning of the entire subject property from R-15 to R-10

The Hearings Officer concludes that, as conditioned, the proposed zone change from R-15 to R-10 is appropriate for the subject property and should be approved.

Part II:

PRELIMINARY APPROVAL OF A MAJOR SUBDIVISION (FILE NO. Z0263-22-SL):

This application is subject to Sections 202, 315, 1001, 1002, 1003, 1006, 1007, 1011, 1012, 1013, 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/or adopted by the Hearings Officer:

SECTION I: CONDITIONS OF APPROVAL (Z0263-22-SL):

It is the recommendation of the Planning & Zoning Division to approve this application for a Major Subdivision, subject to the Conditions of Approval outlined below, **reviewed, modified, and/or adopted by the Hearings Officer as indicated in boldface type:**

1. **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 Clackamas Water Environmental Services (WES)
 - 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.
- v. This approval is subject to and inextricably linked with planning file numbers: Z0262-22-ZAP.

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) Clackamas Water Environmental Services (WES): Surface Water and Sewer:

- i. The proposed development is located within the service area of Water Environment Services (WES) and shall be subject to WES Rules and Regulations, and Standards (“WES RR&S”), in accordance with the following adopted ordinances:
 - a) Water Environment Services Rules and Regulations, July 2018, Ordinance No. 03-2018
 - b) Sanitary Sewer Standards, Clackamas County Service District No. 1, July 1, 2013.
 - c) Stormwater Standards, Clackamas County Service District No. 1, July 1, 2013.
- ii. Upon land use approval, the applicant shall procure the necessary plan approvals and permits in accordance with WES RR&S for sanitary sewer services and surface water management, including erosion control requirements. Civil engineering plans shall be designed in conformance with WES RR&S, submitted land use conditions of approval, and as directed by WES staff during the plan review process. A civil engineer licensed by the State of Oregon must stamp and sign the sanitary sewer and stormwater management plans and reports.
- iii. All plans and reports submitted to WES for review and approval shall be stamped and signed by a civil engineer licensed by the State of Oregon. The project construction, specifications, and testing must be completed under the direction of the project engineer.
- iv. The applicant shall include the following materials with their final plan review submittal to WES:
 - a) Two (2) sets of complete civil construction plans for all sanitary and stormwater improvements.

- b) Two (2) copies of the final storm report, including infiltration testing and downstream analysis.
 - c) One (1) geotechnical report
 - d) One (1) Natural Resource Assessment
 - e) \$800 minimum sanitary and stormwater management plan review fees
 - f) Erosion control site plans, permit application, and applicable permit fees
- v. Prior to WES sign-off of the final plat, the following shall apply:
- a) The sanitary and storm systems shall be substantially complete, as determined by WES, including but not limited to WES review of asbuilts and system inspections, or the developer shall provide a performance surety for the incomplete portion of the infrastructure.
 - b) WES shall review the final plat for consistency with the approved sanitary and stormwater plans.
 - c) Plat shall contain dedications for all public sanitary and storm drainage easements.
 - d) Offsite easements shall be obtained and recorded by the applicant
 - e) WES shall review HOA covenants, CC&Rs, private easements, and agreements pertaining to sanitary and stormwater improvements.
 - f) Applicable fees and charges shall be paid to WES.
 - g) Maintenance agreements shall be reference in the plat notes.
- vi. A Surface Water, Storm Drainage and Sanitary Sewer Easement located on the property and granted to Clackamas County Service District No. 1 is permanent and not extinguishable. No development shall encumber use or access to this easement by WES. (*Section 5.3.2*)
- vii. The proposed development shall be subject to applicable fees and charges, in accordance with WES RR&S. All fees and charges shall be paid before plat approval/prior to issuance of building permits, and are subject to change without notice to the applicant. All costs associated with the design, construction and testing of the sanitary sewer and storm system shall be provided by and at the sole expense of the applicant.

SANITARY SEWER CONDITIONS:

- viii. In accordance with Sanitary Standards, Section 3.2, all residential dwelling units with sewer drains within the boundaries of the proposed development shall be connected to the Public Sanitary Sewer System as part of an approved public sanitary sewer extension plan. Prior to plat approval, a separate and independent sanitary sewer service connection shall be provided to each lot, including any necessary easements.
 - a) All sanitary sewer service connections to the public mainline shall be made at a location that is acceptable to WES.

- ix. The developer shall provide service connections at their own expense and pay a \$125 fee per tap. WES shall inspect all public sanitary sewer service connections. The service connection lateral shall be constructed with the minimum following requirements:
- a) Only District personnel are authorized to make the tap and install an Inserta-Tee to the District's Public Sanitary Sewer Mainline. Taps should be scheduled with WES 48-hours in advance.
 - b) The service connection constructed from the public mainline to the edge of the property shall be laid at a minimum grade of 2% slope.
 - c) The minimum depth of the service connection shall be six feet (6') at the edge of the property line.
 - d) Any new connection to an existing manhole shall require re-channeling of the manhole
 - e) The installer shall excavate to, and completely expose the Public Sanitary Sewer Mainline at the designated point of connection as directed by the District. The District shall tap the Public Sanitary Sewer Mainline and install the Inserta-Tee connection fitting at the owner's expense. The installer will extend the service connection to the edge of ROW and backfill the trench.
 - f) Trench shoring is required. The contractor must have a trench dewatering mitigation plan for removal of water and disposal of sediment. If the installer fails to comply with all state and federal safety codes applicable to the work, the District shall not make the tap or perform any inspection and the tap will be rescheduled.
- x. An extension of the public sanitary sewer system shall be required in order to serve each lot of this development. A Public Sanitary Sewer Extension Permit shall be issued by the District in accordance with these Standards to construct or reconstruct any Public Sanitary Sewer appurtenances which are owned by, or intended to be conveyed to, the District. All other sanitary sewer piping not intended to be conveyed to the District shall be permitted by the Local Plumbing Authority.
- a) Section 4 of the WES RR&S establish minimum requirements for designing the District's Sanitary Sewer System. Any requests to modify current WES Design Standards shall be made in accordance with Sanitary Standards, Section 1.7.
 - b) The developer shall submit construction plans and specifications prepared by a professional Engineer to WES for review and approval, in accordance with Sanitary Standards, Section 4.3.
 - c) The developer shall be directly responsible for all administrative requirements including application for service, submittal of all required Plans, bonds and insurance, and payment of fees.
 - d) Upon completion of the construction of the public sanitary sewer main extension, in accordance with WES Sanitary Design Standards, WES will

accept title thereto and thereafter shall be owned, operated and maintained by WES. WES shall issue an acceptance letter specifying the date the warranty period will begin. No property owner shall connect to the public sanitary sewer system, until it is accepted in writing by WES.

- xi. An acceptable layout of sanitary sewer and stormwater mainlines, as determined by WES, shall be within the roadway or a public easement granted to WES. Minimum easement width is 15-feet for a single line, or 20-feet for combined sanitary and storm lines. A slope of one horizontal to one vertical from the sanitary sewer invert to ground surface will be used to determine easement width set in five foot (5') increments, as determined by WES.
- xii. The extension shall provide a minimum design slope of 2% for a dead-end section of mainline in order to meet self-cleaning standards, and 1% slope on downstream segments of the mainline. Minimum cover shall be 8-feet in roadways. Dead end lines shall terminate at a manhole.
- xiii. Service connections shall terminate with a clean out at the front edge of the Public Utility Easement (PUE) or the property line.

FOR SURFACE WATER:

- xiv. In accordance with Section 5 of the WES Stormwater Standards, WES shall review, approve and permit stormwater management plans for any development that creates or modifies 5,000 square feet or more of impervious surface area. Upon land use approval, the applicant shall submit a final Surface Water Management Plan (SWM Plan) to WES for review and approval. The SWM Plan shall include civil site plans and a storm drainage report stamped and signed by a licensed civil engineer in accordance with WES RRS, the submitted land use conditions of approval, and as directed by WES staff during the plan review process.
 - a) Section 5 describes the methods and criteria required for a comprehensive stormwater management plan. Any requests to modify current WES Design Standards shall be made in accordance with Stormwater Standards, Section 1.6.
- xv. The applicant's SWM Plan shall include the following elements and supporting documentation:
 - a) Civil site plans showing all proposed stormwater management improvements.
 - b) A drainage report with design calculations that demonstrate conformance to WES performance standards:
 - 1) **Water Quality Standard:** Capture and treat the first 1-inch of storm runoff from a 24-hour storm event using either vegetation (Appendix H) or a Basic Treatment proprietary device (Appendix F).
 - 2) **Infiltration Standard:** Capture and retain the first ½ inch of runoff in a 24-hour period through an approved infiltration system.
 - 3) **Detention/Flow Control Standard in Areas with Limited Downstream Capacity** (Section 5.4.4.3) – Additional flow control requirements are

necessary in areas with limited downstream capacity that cannot be upgraded, and are in addition to other water quality and infiltration requirements. Within these designated basins (see maps in Appendix G), reduce the 25-year post-developed runoff rate to a 2-year pre-developed discharge rate, AND, from the 2-year post-developed runoff rate to ½ of the 2-year pre-developed discharge rate.

- c) A drainage analysis of predevelopment and post-development conditions for all onsite permeable and impervious surface areas, all water entering the property from off-site, and all road frontage improvements.
 - d) Storm drainage detention calculations using the King County methodology (SBUH hydrograph).
 - e) A conveyance system sized for a minimum 25-year design storm.
 - f) An infiltration testing report to verify the feasibility of proposed infiltration systems. Infiltration test results must correspond to the infiltration facility location and depth (see: Appendix E).
 - g) An acceptable downstream point of discharge to convey stormwater runoff from the entire development boundary. The point of discharge shall follow the natural direction of flow to the local drainage, and minimize the amount of new public storm infrastructure.
 - h) A Downstream Conveyance Analysis that extends a minimum of 1500' downstream or to the point where the development contributes less than 15% of the upstream drainage area, whichever is greater. Analysis must include the entire drainage basin, assume no upstream detention, and must calculate the 25-year storm event for conveyance capacity requirements.
 - i) Grading plans shall clearly identify an overflow pathway system and 100-year conveyance for all storm structures, by which the storm/surface water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons in the event of any stormwater facility failure or bypass.
 - j) An Erosion Prevention and Sediment Control plan (see: WES SW Standards, Section 6).
 - k) Water quality resource protection and vegetated buffers (see: WES SW Standards, Section 4).
 - l) An operations and maintenance plan for the approved stormwater management system.
- xvi. The applicant's SWM Plan shall provide a design to mitigate the stormwater runoff from all onsite impervious surface areas, all permeable disturbed areas, all water entering the property from off-site, and all road improvements required by the local road authority.
- a) For single family and duplex residential subdivisions or partitions, stormwater quantity detention facilities shall be sized for the impervious areas to be

created by the subdivision or partitions, including all residences on individual lots at a rate of one ESU of impervious surface area per dwelling unit, plus all roads. If actual impervious area is to be greater than one ESU per dwelling unit, then the actual impervious numbers shall be used. Such facilities shall be constructed as a part of the subdivision or partition.

- b) All runoff intercepted by the storm facility (both impervious and pervious areas) must be included in the estimated runoff calcs.
 - c) Existing stormwater runoff from off-site upstream basin areas shall be collected and routed as a separate bypass system, or shall be mitigated onsite. No bypass flows shall pass through the stormwater facility and the unmitigated runoff shall rejoin the downstream drainage course. The stormwater bypass lines shall be sized based on peak flows for the 25-year, 24-hour storm event.
- xvii. A design modification request from the applicant to use the BMP Tool as an equivalent alternative to the required infiltration/retention standard was approved by WES on May 4, 2022. The following shall apply with the BMP Tool design submittal:
- a) All stormwater management facilities shall be designed with the continuous flow model of the Tool.
 - b) In addition to meeting the requirements of the continuous rainfall model (BMP Tool results), over-detention of the 25-year storm will also be required. The project engineer shall use the custom pond sizing routine in the tool and iterate the design until meeting both the continuous model requirements and the SBUH modeling for over-detention of the 25-year storm to the 2-year pre-developed rate. Use the B&C procedure for converting volumes to areas to input into the tool, and provide a stage-storage-flow curve and table.
 - c) Conveyance structures shall be designed per WES stormwater standard criteria. Submit detailed onsite conveyance analysis and sizing calculations for all storm pipes meeting the minimum 25-year SBUH storm design method or 10-year Rational Method.
 - d) The BMP Tool requires input of site specific soil types therefore provide an overlay of the soil classification map.
 - e) Provide individual plan view and cross section details for each proposed facility, including topo, spot elevations, detailed perf pipe, soil, rock, overflow and flow control elevations.
 - f) Storm plans shall include a typical landscape plan for the planters. Develop a table showing the square footage of the plant zone, number of each type of plant required, and individual plant species proposed for each planter. Include engineered media specifications from Appendix A of the Stormwater Standards to the landscape plans.
- xviii. A Downstream Conveyance Analysis shall be included in the SWM Plan. The analysis must extend a minimum of 1500' or to the point where the development contributes

less than 15% of the upstream drainage area, whichever is greater. The analysis shall be based on the entire drainage basin, including all future upstream development, and calculate the 25-year storm event for conveyance capacity requirements.

- a) Provide a standard capacity analysis chart and plan showing the downstream pipe layout to the extent of your analysis. Indicate pipe sizes and slopes on the map. Provide all applicable as-built drawings.
- xix. The property owners shall be responsible to perpetually inspect and maintain all stormwater management systems, in accordance with WES Rules, Section 12.10. A plan to perpetually inspect and maintain all stormwater management systems shall be submitted to WES prior to SWM Plan approval. Any operations and maintenance agreement shall be referenced in the Plat notes.
- a) Private runoff only: The HOA shall solely be responsible for the maintenance and operation of all stormwater facilities. The project engineer shall submit a Private Operations and Maintenance Plan that identifies the annual maintenance procedures and financial obligations of all stormwater facilities. The plan shall be submitted to WES prior to final plan approval.
 - b) Mix of public and private runoff managed on private property: Any facility that receives both public and private runoff shall be the maintenance responsibility of the adjacent property owners, unless a public maintenance agreement is arranged between the property owners and WES. Facilities must be designed to public standards and meet public maintenance access standards.
- xx. For publicly maintained stormwater facilities, the following shall apply:
- a) A 'Declaration and Maintenance Agreement for On Site Stormwater Facilities', which describes the perpetual maintenance of the stormwater facilities, shall be submitted to WES prior to final plan approval. The agreement shall be recorded with the plat.
 - b) All publicly maintained stormwater systems must be designed and constructed to public standards.
 - c) All stormwater facilities shall comply with maintenance access standards for publicly maintained facilities, in accordance with Appendix I.
 - d) Centralized stormwater facilities shall be located within a Tract to the homeowners association. All other facilities shall be located within a public right-of-way, a tract, or a storm drainage easement (SDE) granted to WES, as determined by WES.
 - e) The HOA shall be solely responsible for maintenance and associated costs for the surrounding vegetation, fencing, and landscaping. These responsibilities shall be documented in the CC&R's.
 - f) The developer shall maintain the stormwater facilities for a one-year warranty period; thereafter WES will be responsible for perpetual maintenance of the public stormwater facilities.

EROSION CONTROL:

- xxi. Per Stormwater Standards, Section 6.1, the owner or their agent, contractor, or employee shall properly install, operate and maintain both temporary and permanent Erosion Protection and Sediment Control (EPSC) practices to protect the environment during the useful life of the project. No visible or measurable erosion shall leave the property during development, construction, grading, filling, excavating, clearing, or other activity that accelerates erosion, as required by water quality standards set forth in OAR 340-41-445 thru 470.
- xxii. An EPSC Permit shall be required for development activities that result in land disturbance of 800 sq ft or greater. Before the start of any grading or construction activities, the applicant shall submit a Permit application and erosion control site plans to WES for review and approval, and pay applicable permit fees (\$460 + \$80/acre over 1 acre). EPSC site plans shall delineate the total area of disturbance and note the square footage. Site plans shall identify adequate EPSC techniques and methods as prescribed in the current WES Erosion Prevention Planning and Design Manual.
- xxiii. A DEQ 1200-CN Construction Stormwater (Erosion Control) Permit shall be required for development activities that result in land disturbance of 1 acre to less than 5 acres. The applicant shall submit a WES EPSC Permit application and DEQ 1200-CN template style erosion control plans to WES for review and approval, and pay applicable permit fees (\$460 + \$80/acre over 1 acre). Plans shall be consistent with the substantive requirements of DEQ's 1200-C permit site erosion prevention and sediment control plans.
- xxiv. Sites that result in land disturbance of 5 acres or greater shall obtain an Oregon DEQ 1200-C Construction Stormwater (Erosion Control) Permit from DEQ. WES EPSC Permit requirements and fees shall also apply.

PLAT REVIEW:

- xxv. The following statement shall be added to the Restrictions on the plat: "WATER ENVIRONMENT SERVICES (WES), ITS SUCCESSORS OR ASSIGNS IS HEREBY GRANTED THE RIGHT TO LAY DOWN, CONSTRUCT, RECONSTRUCT, REPLACE, OPERATE, INSPECT AND PERPETUALLY MAINTAIN SEWERS, WASTEWATER, STORM DRAINAGE OR SURFACE WATER PIPELINES, AND ALL RELATED FACILITIES. NO PERMANENT STRUCTURE SHALL BE ERECTED UPON SAID EASEMENT WITHOUT THE WRITTEN CONSENT OF WES. GRANTORS AGREE TO UNDERTAKE NO ACTIVITY THAT WOULD HARM OR IMPAIR THE PROPER FUNCTIONING OF THE SANITARY AND STORM SEWER SYSTEM."
- xxvi. The following easement designations and labels shall be used on the plat:
 - a) WES – CLACKAMAS WATER ENVIRONMENT SERVICES
 - b) SDE - STORM DRAINAGE EASEMENT GRANTED TO WES
 - c) SSE - SANITARY SEWER EASEMENT GRANTED TO WES
 - d) PSDE - PRIVATE STORM DRAINAGE EASEMENT

e) PSSE - PRIVATE SANITARY SEWER EASEMENT

D) Sunrise Water Authority (SWA)/Clackamas Fire Dist #1

- i. Applicant shall comply with all public standards set forth by SWA.
- ii. If Fire Flows cannot be met through the public water system, an approved alternative plans (e.g. sprinkler systems) must be authorized in writing by Clackamas Fire Dist #1.

2. **Conditions for Roads & Connectivity:**

A) Overview:

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

B) **Development Engineering Conditions:**

- i. **Prior to final plat approval:** a Development Permit is required from the Engineering Division for review and approval of frontage improvements, access and utilities. The Permit shall be obtained prior to commencement of site work and recording of the partition plat. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon, or plans acceptable to the Engineering Division, provide a performance guarantee equal to 125% of the estimated cost of the construction, and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit application.
- ii. **Prior to final plat approval:** all required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond. Performance bonds shall be in the amount of 125% of the approved engineer's cost estimate of the required improvements, and shall be accepted only when access has met minimum Substantial Completion requirements, per Roadway Standards Section 190.

- iii. All required street, street frontage and related improvements shall comply with the standards and requirements of the Clackamas County Zoning and Development Ordinance and the Clackamas County Roadway Standards unless otherwise noted herein.
- iv. The applicant shall dedicate additional right-of-way along the SE Johnson Creek Boulevard site frontage so that there is a minimum of 6 inches from the back of sidewalk to the right-of-way. The right-of-way centerline and half-width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
- v. The applicant shall grant an 8-foot wide public easement for signs, slope and public utilities along the entire SE Johnson Creek Boulevard and SE Bristol Park Drive right-of-way site frontage.
- vi. Prior to final plat approval, the applicant shall design and construct improvements along the entire site frontage of SE Bristol Park Drive to local road standards, consistent with Standard Drawing C110. These improvements shall consist of the following:
 - a) Up to a one half street improvement shall be constructed along the entire site frontage of SE Bristol Park Drive, with the pavement width a minimum of 16-feet from the right-of-way centerline. The existing paved width of SE Bristol Park Drive shall not be reduced. The structural section shall comply with Standard Drawing C100 for a local road.
 - b) The half street improvement design shall include cross sections every 25 feet per Roadway Standards Section 250.7.5.
 - c) Standard curb, or curb and gutter if curbline slope is less than one percent, per Standard Drawing S100 or S150, as applicable.
 - d) A 5-foot wide unobstructed sidewalk, constructed per Standard Drawing S960. The sidewalk shall transition to curb-tight and connect to existing sidewalk at the north end of the frontage on SE Bristol Park Drive.
 - e) A minimum 5-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees and groundcover shall be provided within the landscape strip along the entire site frontage.
 - f) Concrete driveway approaches shall be constructed for each lot, per Standard Drawing D650.
 - g) Dual concrete curb ramps shall be constructed at the SE Bristol Park Drive and SE Johnson Creek Boulevard intersection, per Oregon Standard Drawings, Series RD900.
 - h) Storm drainage facilities shall be constructed in conformance with Water Environment Services requirements and *Clackamas County Roadway Standards* Chapter 4.
- vii. Prior to final plat approval, the applicant shall design and construct improvements for the proposed internal private streets, as follows:

- a) The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement, and shall specify the lots served by the easement. The easement shall encompass the required improvements, including pavement, curbs and sidewalk.
- b) A minimum of 20 feet of legal access width shall be provided to each lot from the shared access.
- c) The intersection of new private road with SE Bristol Park Drive shall be constructed opposite and align with SE Emily Parkway. The intersection shall be constructed at a 90 degree angle, per Section 250.8.2 and 250.8.4 of the Roadway Standards. A minimum 50-foot long landing shall be constructed with an average grade of no more than 5 percent, per Roadway Standards Section 257.3.
- d) A minimum 20-foot wide, paved driving surface with curbs on both sides of the roadway shall be constructed. The minimum structural section for the private road improvements shall comply with Clackamas County Roadway Standards Drawing R100.
- e) A minimum 20-foot wide concrete driveway approach, consistent with Standard Drawing D650 shall be provided at the intersection of the private road with the SE Bristol Park Drive.
- f) A minimum 5-foot wide curb-tight sidewalk shall be constructed on one side of the private street within the plat, including SE Emily Park Way, Private Street 1 and Private Street 2, per Standard Drawing S960.
- g) Concrete driveway approaches for each lot where access is taken from the private road, per Standard Drawing D600 for lots with sidewalk, and D650 for lots without sidewalk.
- h) A curb ramp shall be provided at the ends of the sidewalk, and receiving ramps shall be provided in the sidewalk on the opposite side of the street, constructed per Oregon Standard Drawings, Series RD900.
- i) Drainage facilities in compliance with Water Environment Services Rules and Clackamas County Roadway Standards Chapter 4.
- j) Written verification must be received from the Fire District that adequate emergency service access is provided. The roadway shall accommodate minimum turning radii for a fire truck. A turnaround shall be constructed at the end of Private Street 1 and Private Street 2, per Standard Drawing C350. The turnaround wings shall not exceed 5 percent slope.
- k) Roadways with a paved width less than 26 feet shall be signed and/or striped "FIRE LANE NO PARKING." Installation of signs and/or striping shall be completed before recording the plat. The developer is responsible for replacing all signs damaged or removed during home and street construction.

viii. Primary Inspector:

- a) The applicant shall enter into a Developer/Engineer Agreement for primary inspection services per Section 180 of the Roadway Standards. This form will be provided to the applicant and shall be signed and returned to County Plans Reviewer.
- b) Prior to final plat, the applicant shall provide a Certificate of Compliance signed by the Engineer of Record stating all materials and improvements have been installed per approved plans and manufacture's specifications.
- ix. A Fire Access and water supply plan shall be provided for subdivisions, commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The applicant shall provide fire flow tests per NFPA 291 and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority.
- x. Following completion of site construction activities of subdivisions, buildings over 1000 square feet or when required by Clackamas Fire District #1, the applicant shall provide as-built Fire Access and Water Supply pdf plans to the local Fire District and the County. The pdf plans shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The plans shall include any supporting details of the access, circulation, water vaults, fire lines, valves, fdc, backflow devices, etc.
- xi. The applicant's attorney and/or surveyor or engineer shall provide written verification that all proposed lots have legal access and utility easements as required prior to recording of the plat.
- xii. The applicant shall submit, at time of initial paving, reproducible as-built plans for all improvements showing all construction changes, added and deleted items, location of utilities, etc. A professional engineer shall stamp as-built plans.
- xiii. All existing and proposed easements shall be shown on the final plat.
- xiv. Intersection Spacing and Access Control shall meet County Roadway Standards
- xv. Individual driveway access to SE Johnson Creek Blvd is prohibited.
- xvi. Pedestrian Accessway shall be contained with a minimum 15 foot easement and shall be at least 8 feet wide with a hard surface. Ownership and Maintenance of path shall be determined prior to plat approval

3. Conditions for Density

A) Density Summary

- i. Maximum density for the proposed subdivision equals 19
- ii. Minimum density for the proposed subdivision equals 15

4. 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 May 25, 2022 and August 15, 2022. 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 Roman Sierra in the Planning Division for obtaining street addresses: RSIERRA@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. **Prior to Final Plat Approval:** 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.
- vi. **IMPORTANT/ADVISORY:** County Engineering, Building Permits staff, Planning Staff, and WES Staff: Please ensure that construction follows the geotechnical recommendations noted below.
- vii. **IMPORTANT/ADVISORY:** This subdivision is Not a Planned Unit Development.

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-10 Zoning District, as outlined in Section 315 of this Ordinance.
- ii. **Prior to Final Plat Approval**, a plat note/plat restriction shall appear on the final plat with the following text:
 - a) “This subdivision is **not** a Planned Unit Development and **not** subject to ZDO Sec. 1013.”
- iii. The proposed subdivision shall comply with the applicable provisions of Section 1000 of this Ordinance, *Development Standards*, as outlined above.
- iv. Applicant shall convey the public park dedication to North Clackamas Parks and Recreation District (NCRPD) with the final plat recording.
- v. **Prior to permit approval of new dwellings, streets, and infrastructure;** development shall be reviewed subject to the specification set forth in the geotechnical investigation prepared by NV5 and dated November 19, 2021 and November 30, 2021.

- vi. Development on more than 30 percent of the subject property's steep slopes (slopes exceeding 20 percent) is prohibited.
 - a) If development on over 30 percent of the subject property's steep slopes is proposed, a Variance subject to ZDO Sec. 1002 and 1205 may be sought.
- vii. A nonprofit, incorporated homeowners association, or an acceptable alternative, is 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.
- viii. 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*.
- ix. 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 shall also contain provisions for public utility services such as water, electricity, communications, natural gas, storm drainage, sanitary sewer, emergency services, etc.
- d) New easements shall 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.

RESPONSES REQUESTED:

1. Sunrise Water Authority
2. Clackamas Water Environmental Services
3. Clackamas Fire District #1
4. County Engineering Div/CCSD#5. Lighting District
5. Property owners within 300 feet.
6. North Clackamas School District
7. Oregon Dept. of Transportation (ODOT)
8. Sunnyside-West Mt. Scott Citizen Planning Org. (CPO)
9. North Clackamas Parks and Rec. District (NCPRD)
10. Metro
11. City of Happy Valley

RESPONSES RECEIVED AND EXHIBITS: (See Exhibits 5, 7, 8)

1. Clackamas Water Environmental Services
2. Clackamas Fire District #1
3. County Transportation Engineering Division

SECTION II: FINDINGS (Z0263-22-SL):

This application is subject to Sections 202, 315, 1001, 1002, 1003, 1006, 1007, 1011 1012, 1013, 1017, 1105 and 1307 of the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Division has reviewed these sections of the ZDO in conjunction with this proposal and makes the following findings **reviewed, modified, and/or adopted by the Hearings Officer as indicated in boldface type:**

1. ZDO SECTION 315 AND 1000: DEVELOPMENT STANDARDS

315 URBAN LOW DENSITY RESIDENTIAL (R-10)

*ZDO Sec. 315 sets forth allowable uses as well as dimensional standards specifically listed in Tables 315-1 and 315-2. The proposed subdivision will have detached single family dwellings as the primary use on each lot, which is permitted outright in R-10 zoning district. Specific dimensional standards in Table 315-2 shall govern home site approvals when building permits are submitted. Staff did not identify any part of the configuration that could not comply with design standards in Table 315-2. In particular, lot sizes cannot be less than 8,000 square feet in the R-10 zoning district, and the smallest lot appears to be 9,455 square feet. **The Hearings Officer agrees with staff that a condition of approval is warranted to ensure that the subdivision meets applicable conditions set forth in ZDO Sec. 315.***

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 Hearings Officer concurs with staff that 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 Hearings Officer concurs with staff that 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:

Tract “A” shall preserve most of the steep slopes on the subject property. The applicant has indicated there may be site grading associated with the western fringes of lots 1-4. Otherwise development of slopes greater than 20 percent, and in particular the steep berms, shall be avoided. The Hearings Officer concurs with this finding by staff.

1. No partition or subdivision shall create any new lot or parcel which cannot be developed under the provisions of Subsection 1002.01.

The applicant’s submitted plan clearly shows that each lot can be developed, and in most, if not all cases, will avoid steep slopes. . The Hearings Officer concurs with this finding by staff.

2. Grading, stripping of vegetation, and lot coverage by structures and impervious surfaces shall be limited to no more than 30 percent of slopes 20 percent or greater. Variances to this standard may be granted pursuant to Section 1205, *Variances*. A variance shall not be granted unless the proposed development satisfies the following conditions:

- a. The proposed lot coverage shall not exceed the maximum lot coverage standard of the zoning district;
- b. The additional lot coverage, grading, or stripping shall not:
 - i. Decrease the stability of the slope;
 - ii. Appreciably increase erosion, sedimentation, or drainage flow from the property;
or
 - iii. Adversely impact high-priority open space as defined in Section 1011, *Open Space and Parks*.
- c. Measures shall be employed to minimize grading or filling to accomplish the development.
- d. Disturbed areas shall be compacted if necessary and re-vegetated as soon as practical and before the annual wet season.

As noted in the applicant’s narrative, Tract “A” will contain the majority of all steep slopes. The applicant has indicated that some grading may be needed for lots 1-4. These disturbances appear to be far less than 30 percent of total slopes greater than 20 percent on site. Nevertheless, staff recommends a condition of approval requiring that all site development of steep slopes shall not exceed 30 percent of total steep slopes on site. If this standard must be exceeded, a Variance subject to the criteria

above may be sought. The Hearings Officer concurs with staff that this standard can be met, and that a related condition of approval is warranted.

3. Buildings shall be clustered to reduce alteration of terrain and provide for preservation of natural features.

Buildings shall be constructed on the existing flat grade. The Hearings Officer concurs with staff that this standard is not applicable.

4. Creation of building sites through mass pad grading and successive padding or terracing of building sites shall be avoided.

According to the applicant's grading and erosion control plan, home sites will be placed on level slopes, and there is no indication of mass pad grading and successive padding. The Hearings Officer concurs in this finding.

5. Roads shall be of minimum width, with grades consistent with County specifications. One-way streets may be allowed.

Although there does not appear to be new roads cutting into steep slopes, the applicant has nonetheless proposed minimal widths to meet the County Roadway standards. The Hearings Officer concurs with staff that this criteria is met.

6. Re-vegetation of all graded areas shall be the responsibility of the developer and shall occur as soon as feasible following the final grading. Maintenance of the slopes shall be the responsibility of the developer until the property ownership is transferred

The Hearings Officer concurs with staff that per ORS 197.307, this criteria cannot be applied because it is not clear and objective.

- 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:

Staff has not identified specific areas where development shall occur on slopes exceeding 35 percent. Notwithstanding this finding, the applicant has already supplied a detailed geotechnical report that conforms to all of the standards in ZDO Sec. 1002.01(B). The Hearings Officer concurs with staff that this standard can be met.

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:

Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable. Notwithstanding, staff notes the site is currently a grassy field,

and there are no trees. The Hearings Officer concurs with this analysis and finding by staff.

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. The Hearings Officer concurs with staff that, 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 Hearings Officer concurs with staff that the subject property is located outside of the Deer and Elk Winter Range.

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 Hearings Officer concurs with staff that the subject property is located outside of the Mt. Hood Resource Protection Open Space.

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 Hearings Officer concurs with staff that the subject property does not contain a significant natural area.

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 with 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. **The Hearings Officer concurs with staff that this section is not applicable.***

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

*The DOGAMI map for the Lake Oswego and Gladstone Quadrangle shows that there are no landslide hazards in this area (Exhibit 12). **The Hearings Officer concurs with this finding by staff.***

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. **The Hearings Officer concurs with this finding by staff.***

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 does appear to be located in areas where wet soils/high water table may be present. The applicant has already submitted a detailed geotechnical report prepared by NV5 and dated November 19, 2021 and November 30, 2021 which sets forth very specific construction standards for new homes and roadways, appropriate for the site specific geological and hydrological conditions (Exhibit 3). The geotechnical report notes

*that direct infiltration of stormwater is not ideal, given that soils are generally impermeable, so the report also provides recommendations for storm water infrastructure. Staff recommends a condition of approval that new homes, roadways, and infrastructure conform to the aforementioned geotechnical report. **The Hearings Officer concurs with staff that this criteria can be met, and that a related condition of approval is warranted.***

- 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 map does indicate the presence of wet/high water table. **The Hearings Officer concurs with this finding by staff.***

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. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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

1006.01 GENERAL STANDARDS

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

1006.02 STREET LIGHTS

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

*The site is located inside the Portland Metropolitan UGB. **The Hearings Officer concurs with staff that, therefore, the standards of this Subsection apply, and concurs in the related requirements outlined above 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 Sunrise Water Authority (SWA). SWA has provided a signed preliminary statement of feasibility. However, no comments were issued by SWA

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 SWA, indicating that water service is available or can be made available. (Exhibit 4) This criteria can be met. SWA has not provided comments or recommended conditions of approval. Staff, therefore, recommends one condition, requiring the applicant to meet all requirements of SWA. **The Hearings Officer concurs staff that this 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 indicates water service is available, although it also indicates that fire flows are unknown at present. Clackamas Fire District #1 has indicated that public water is available and fire flows may be met upon review of their standards (Exhibit 7). A condition of approval is recommended, stating that if fire flows cannot be met, an approved alternative, such as fire sprinklers, must be authorized by Clackamas Fire Dist #1. **The Hearings Officer concurs staff that this this standard can be 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 April 28, 2022, and water system capacity is not needed to be reserved for the proposed subdivision (Exhibit 4). **The Hearings Officer concurs staff that this this criteria is met.***

C. Prior to final approval of any partition or subdivision, the applicant shall provide evidence that any wells in the tract subject to temporary or permanent abandonment under Oregon Revised Statutes (ORS) 537.665 have been properly abandoned.

*An applicable Condition of Approval is outlined above under Conditions of Approval. **This Condition of Approval was reviewed and adopted by the Hearings Officer.***

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 above under Conditions of Approval. **The applicable standards and related Conditions of Approval were reviewed and adopted by the Hearings Officer.***

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 Clackamas Water Environmental Services (WES). WES has provided comments and conditions dated July 26, 2022 (Exhibit 6) with the following comments:

- *Clackamas Water Environment Services (WES) is an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 for the purpose of providing regional sewerage works, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary or storm sewage within its boundaries.*
- *WES has adequate capacity for sanitary sewer collection and treatment to serve this property.*
- *Prior to WES plan approval, the developer must analyze the offsite downstream storm facility to verify condition and available capacity within the facility to serve as an acceptable point of discharge.*
- *Any sanitary sewer mainline extension should begin at an existing manhole. Prior to WES plan approval, the sanitary extension must utilize an existing manhole or the project engineer must provide adequate justification as to why the sewer extension does not utilize the existing manhole at intersection of Private Street 1 and SE Emily Park Way.*
- *With future development on the new parcels, System Development Charges (SDC's) will apply for sanitary sewer and surface water, in accordance with the prevailing rates in effect when building permit applications are submitted. Rate adjustments occur annually on July 1. WES will determine a final assignment of SDC's after review of the civil plans. Erosion control permit and fee shall also apply.*

Several conditions of approval have been included in WES's comments dated June 26, 2022. Staff recommends approval of all proposed conditions except those advisory in nature (e.g. fees and rates)

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 WES, indicating that sanitary sewer capacity is available as outlined above (Exhibit 5).

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, and the applicant has also submitted a detailed storm water plan within the submittal package. This criteria is not applicable.

3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve sanitary sewer system capacity for the development.

*The statement is dated May 6, 2022, and sanitary sewer system capacity is not needed to be reserved for the proposed subdivision (Exhibit 5) **The Hearings Officer adopts these findings by staff.***

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 above under Conditions of Approval. **This Condition of Approval was reviewed and adopted by the Hearings Officer.***

- 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 Clackamas Water Environmental Services (WES)

*Several conditions of approval have been included in WES's comments dated June 26, 2022 (Exhibit 6). Staff recommends approval of all proposed conditions as they relate to storm water and erosion control, except for any proposed conditions that are advisory in nature. **The proposed Conditions of Approval were reviewed and adopted by the Hearings Officer.***

- 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 WES, indicating that adequate surface water management, treatment and conveyance is available as outlined above. **The Hearings Officer concurs in this staff finding.***

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 and submitted the items noted above. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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 May 6, 2022, and surface water treatment and conveyance system capacity are not needed to be reserved for the proposed subdivision. **The Hearings Officer concurs in this staff finding.***

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

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

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. **The Hearings Officer concurs with staff that this this criteria is not applicable.***

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. **The Hearings Officer concurs with staff that this this criteria 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;

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable. Staff notes that under WES' ruled and regulations, this criteria will be met. . **The Hearings Officer concurs in this analysis by staff, and the finding that this criteria will 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, reseeding, and phasing of grading; and

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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.

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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. **The Hearings Officer concurs with staff that this criteria is not applicable. Furthermore, this requirement is not applicable due to ORS 197.307(4).***

- E. 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.

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. **The Hearings Officer concurs with this analysis by staff, and the related finding that, therefore, this criteria is not applicable.***

- F. 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. **The Hearings Officer concurs with staff that this criteria is not applicable.***

- G. 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.

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. **The Hearings Officer concurs with this analysis by staff, and the related finding that, therefore, this criteria is not applicable.***

- H. 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. WES will regulate erosion control measures. An applicable Condition of Approval is outlined above. **The Hearings Officer concurs with this analysis by staff and reviewed and adopts the proposed Condition of Approval.***

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. **The Hearings Officer concurs with staff that this this criteria is not applicable.***

1007 ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

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

*The applicant has proposed an 18-lot subdivision and zone change of a 7.04 acre property located on the north side of SE Johnson Creek Boulevard and west side of SE Bristol Park Drive. **The Hearings Officer concurs in this finding by staff.***

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

SE Johnson Creek Boulevard is designated a minor arterial roadway. The roadway is improved with an adequate paved width, including a bike lane. In addition the site frontage includes curb and curb-tight sidewalk. Although, the sidewalk is constructed curb-tight and does not include a landscape strip, it is adequate and provides adequate pedestrian access. The existing right-of-way does not encompass the entire sidewalk. The applicant will be required to dedicate additional right-of-way so there is a minimum of 6 inches between the right-of-way and back of sidewalk.

*SE Bristol Park Drive is classified as a local roadway (Comprehensive Plan map 5-2a). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for local roads. The standard right-of-way width for a local roadway is 54 feet. The existing right-of-way width of SE Bristol Park Drive varies from 52 to 40 feet. The applicant will be required to dedicate additional right-of-way as necessary to provide a 27-foot one half right-of-way width. **The Hearings Officer concurs with this analysis by staff.***

- 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.

*This standard requires adequate access control and spacing. There have been no spacing or access issues identified by County Engineering, ODOT, or any other party. Staff therefore recommends a condition of approval to ensure that these standards are met prior to plat approval. **The Hearings Officer concurs with staff that this this criteria 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).

*While the site is greater than 5 acres in size, it has not been identified on this map, likely due to its original intended use as a future school site. **The Hearings Officer concurs with staff that, therefore, this criteria is not applicable.***

3. Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors as deemed appropriate by the Department of Transportation and Development.

The Hearings Officer concurs with staff that this criteria is not clear and objective and therefore not applicable per ORS 197.307(4).

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 Hearings Officer concurs with staff that this criteria is not clear and objective and therefore not applicable per ORS 197.307(4).

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 Hearings Officer concurs with staff that this criteria is not clear and objective and therefore not applicable per ORS 197.307(4).

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 Hearings Officer concurs with staff that these standards can be met through the County Roadway standards. No access shall be permitted on SE Johnson Creek Blvd. The Hearings Officer concurs with staff that ZDO Sec. 1007.01(C)(10)(d) is not clear and objective and therefore is not applicable per ORS 197.307(4). The Hearings Officer concurs with staff that these criteria, if applicable, 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.

Intersections, street alignment, and centerline deflection angles shall comply with the County Roadway Standards, particularly Section 240. The Hearings Officer concurs with staff that this criteria 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 Hearings Officer concurs with staff that this criteria is not clear and objective and therefore not applicable per ORS 197.307(4).

- 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 Hearings Officer concurs with staff that this criteria is not clear and objective and therefore not applicable per ORS 197.307(4).

- 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 Hearings Officer concurs with staff that this criteria is not clear and objective and therefore not applicable per ORS 197.307(4).

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.

*Staff has not identified any design plans specified in Chapter 10. Staff notes the site location is outside of the Clackamas Regional Center boundary. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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

*It appears SE Johnson Creek Blvd is classified as “Community Street” per Plan Map 5-5. However, as discussed herein, the public road is already constructed with most of the amenities described above. Landscape strips are not required in this instance as the transportation amenities are sufficient. **The Hearings Officer concurs with staff that this criteria is met.***

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.

*This development is not located on Scenic Roads. **The Hearings Officer concurs with staff that this criteria is not applicable.***

4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, roads shall be designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:
 - a. On-street parking;
 - b. Street trees;
 - c. Street lighting;
 - d. Pedestrian amenities; and

- e. Truck routes shall be specified for deliveries to local businesses.

*The subject property is not located in centers, corridors, or station communities as identified on Plan Map 4-8. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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

- 1. When public access to adjoining property is required, this access shall be improved and dedicated to the County.

Normally, public street connections are required to connect adjoining developments. However, given the steep slopes adjoining SE Johnson Creek Blvd, Altamont Park to the north, and a private apartment complex to the west, no public or private roads need to be continued to adjoining properties.

- 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 Hearings Officer concurs with staff that this criteria is not clear and objective per ORS 197.307(4), and therefore not applicable.

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

The Hearings Officer concurs with staff that this criteria is not clear and objective per ORS 197.307(4), and therefore 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 Hearings Officer concurs with staff that this criteria is not specific to new private roads, but may be utilized when available.

- 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.

New County and Public roads are not proposed. The Hearings Officer concurs with staff that this criteria is not applicable.

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

This standard shall be applied as a condition of approval. The applicant's plan shall conform to roadside clear zone specifics listed in the County Roadway Standards. Staff notes that County Engineering staff has not provided specific comments on sight distance, but did not identify any specific sight distance issues or obstacles. The public road Bristol Park Drive is a low-volume public road with a "local" designation. The new proposed private Bristol Park Drive is not aligned at a skew width, and should be constructed directly across from the public Bristol Park Drive. The Hearings Officer concurs with staff that these standards can be met, and has reviewed and adopts the related condition of approval.

- 1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and

The Hearings Officer concurs with staff that, per ORS 197.307(4), this criteria is not clear and objective and, therefore, not applicable.

- 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 Hearings Officer concurs with staff that, per ORS 197.307(4), this criteria is not clear and objective and, therefore, not applicable.

- 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.

ZDO Sections 1007.02 (E) and 1007.04 require that subdivision applications improve the public roadway frontage and construct new public roads to current county standards, including paved width, curbs, sidewalks and street trees based on the roadway classification and approved roadway cross-sections as adopted in the Clackamas County Roadway Standards.

F. Road frontage improvements within the UGB and in Mt. Hood urban villages shall include:

1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;

The Hearings Officer concurs with staff that these standards are set forth specifically in the County Roadway Standards and can be met.

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

The Hearings Officer concurs with the staff finding that here are no transit lines or stops on or in the vicinity of this development.

4. Street trees as specified in Subsection 1007.06.

SE Johnson Creek Boulevard is designated a minor arterial roadway. The roadway is improved with an adequate paved width, including a bike lane. In addition the site frontage includes curb and curb-tight sidewalk. Although, the sidewalk is constructed curb-tight and does not include a landscape strip, it is adequate and provide adequate pedestrian access. The existing right-of-way does not encompass the entire sidewalk. The applicant will be required to dedicate additional right-of-way so there is a minimum of 6 inches between the right-of-way and back of sidewalk.

*The minimum improvements on the SE Bristol Park Drive frontage consistent with ZDO Section 1007 include, but are not necessarily limited to, up to a one half-street improvement, pavement widening as necessary to provide a minimum 16-foot one-half paved width to the curb, a 5-foot wide landscape strip with street trees, a 5-foot wide unobstructed sidewalk, and storm drainage facilities. The applicant's narrative indicates a proposed landscape strip and sidewalk, but preliminary plans identify a curb-tight sidewalk without a landscape strip. The application will be required to construct the standard frontage improvement along the entire site frontage of SE Bristol Park Drive. **The Hearings Officer concurs with this analysis by staff, and has reviewed and adopts the related conditions of approval.***

1007.03 PRIVATE ROADS AND ACCESS DRIVES

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

Access for the project site includes a new private road serving 13 lots, and 5 lots served by individual driveways onto SE Bristol Park Drive.

*Clackamas County's Roadway Standards include requirements for emergency vehicle access to residential subdivisions. Roads longer than 150 feet are required to provide a turnaround that can accommodate emergency services vehicles, as well as garbage and recycling trucks and other service and delivery vehicles. Both Private Street 1 and 2 are longer than 150 and require a turnaround. An off-set hammerhead turnaround is proposed at the end of SE Private Street 1. A turnaround is not identified on the preliminary plans at the end of proposed Private Street 2. An emergency vehicle turnaround will be required at the end of Private Street 2. Written verification from the Fire District verifying that the turnaround configuration is adequate and that emergency service access is or will be adequate for the proposed subdivision will be required. **The Hearings Officer concurs with this analysis by staff, finding that this criteria can be met and has reviewed and adopts the related conditions of approval.***

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;

*Flag pole strips are not used in this development. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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;

*Access for 13 of the proposed lots is from a private road that will intersect SE Bristol Park Drive opposite SE Emily Parkway. Clackamas County has adopted design and construction standards for private access roads, as provided in ZDO Sections 1007.02-03 and Roadway Standards Section 225.7. Private roads serving 4 or more lots are required to provide a minimum legal access width of 24 feet, and design and construct a minimum 20-foot wide paved road, with curbs and a 5-foot wide sidewalk on one side of the roadway, per Roadway Standards Drawing R100. The preliminary plans identify a 27-foot wide access easement on SE Emily Parkway (Private) and Private Street 1 and a 22-foot wide access easement on Private Street 2. Additional easement width will be required on Private Street 2 to meet the minimum standards and accommodated a 5-foot wide sidewalk on one side of the roadway. **The Hearings Officer concurs with this analysis by staff and has reviewed and adopts the related conditions of approval.***

3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;

Access easements or flag-pole strips are not proposed with this development.

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

The Hearings Officer concurs with staff that, per ORS 197.307(4), this standard is not clear and objective, and therefore, not applicable.

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).

This criteria is detailed above. The applicant shall be required to comply with sight distance and clear zone standards. The Hearings Officer concurs with staff that this criteria can be met, and has reviewed and adopted related conditions of approval proposed by staff.

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.

As discussed above, sidewalks shall be required for all proposed private roads, frontage improvements on Bristol Park Drive also include sidewalks, and a pedestrian connection to Altamont Park shall be required by condition of approval. The Hearings Officer concurs with staff that this criteria can be met, and has reviewed and adopted related conditions of approval proposed by staff.

- B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:

1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;

The Hearings Officer concurs with staff that this criteria is not clear and objective per ORS 197.307(4), and not applicable.

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;

The Hearings Officer concurs with staff that his criteria is not clear and objective per ORS 197.307(4), and not applicable.

3. Allow for unobstructed movements and access for transportation of disadvantaged persons; and

The Hearings Officer concurs with staff that this criteria is not clear and objective per ORS 197.307(4), and not applicable.

4. Be consistent with Chapters 5 and 10 of the Comprehensive Plan; Comprehensive Plan Maps 5-2a, *Planned Bikeway Network, Urban*, 5-2b, *Planned Bikeway Network, Rural*, and 5-3, *Essential Pedestrian Network*; North Clackamas Parks and Recreation District's (NCPRD) Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

As shown on Plan Map 5-3, SE Johnson Creek Blvd is already developed with bike lanes. The Hearings Officer concurs with this finding by staff.

- 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.

Sidewalks are proposed and required for all new private roads, as well as SE Bristol Park Drive. The Hearings Officer concurs with staff that this criteria can be met, and has reviewed and adopted related conditions of approval proposed by staff.

- 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.

Sidewalks are being constructed, as required. The Hearings Officer concurs with this finding by staff, and has reviewed and adopted related conditions of approval proposed by staff.

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

The Hearings Officer concurs with staff that this standard is not applicable.

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).

Sidewalks are being constructed. The Hearings Officer concurs with staff that this criteria can be met, and has reviewed and adopted related conditions of approval proposed by staff.

2. The street frontage(s) of a lot upon which a subdivision, partition, multifamily dwelling, three-family dwelling, attached single-family dwelling where three or more dwelling units are attached to one another, or a commercial, industrial, or institutional development is proposed; and

Sidewalks are being constructed. The Hearings Officer concurs with this finding by staff.

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

Sidewalks are already required because this request is for a subdivision. The Hearings Officer concurs with this finding by staff.

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.

Pedestrian pathways are not proposed nor required. The Hearings Officer concurs with the finding by staff that this criteria is not applicable.

- 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

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

The Hearings Officer concurs with staff that this criteria can be met, and has reviewed and adopted related conditions of approval proposed by staff.

2. 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.

Transit stops are not present in this location. The Hearings Officer concurs with staff that this criteria is not applicable.

3. 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 Hearings Officer concurs with staff that this criteria can be met.

4. Uses located in the Campus Industrial, Light Industrial, General Industrial, or Business Park District and containing over 5,000 square feet of office space shall comply with the requirements for Commercial and Institutional uses.

The Hearings Officer concurs with staff that this criteria is not applicable.

5. In Sunnyside Village, notwithstanding Table 1007-1 and Comprehensive Plan Figures X-SV-1, *Sunnyside Village Plan Connector Street with Planting Strips and Bike Lanes* and X-SV-2, *Sunnyside Village Plan Connector Street with Planting Strips*, a connector street requires nine-foot-wide sidewalks if commercial/retail is adjacent to the site.

The Hearings Officer concurs with staff that this criteria is not applicable.

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

1. Accessways shall be required where necessary to provide direct routes to destinations not otherwise provided by the road system and where topography permits. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is available off-site, the developer may be required to improve an accessway off-site up to 150 feet in length.

The Hearings Officer concurs with staff that this requirement is not applicable.

2. Accessways shall provide safe, convenient access to facilities generating substantial pedestrian or bicycle trips, such as an existing or planned transit stop, school, park, place of worship, daycare center, library, commercial area, or community center. Facilities such as these shall be accessible from dead-end streets, loops, or mid-block locations. Where required, accessways shall be constructed at intervals of no more than 330 feet, unless they are prevented by barriers such as topography, railroads, freeways, pre-existing development, or environmental constraints such as streams and wetlands.

*The applicant is providing an access way to Altamont Park at the terminus of Private Street 1. **The Hearings Officer concurs with staff that this criteria can be met.***

3. An accessway shall include at least a 15-foot-wide right-of-way and an eight-foot-wide hard surface. For safety, accessways should be as straight as practicable and visible from an adjacent use if practicable. Removable bollards or other large objects may be used to bar motor vehicular access.

*It appears the access easement already touches the property boundary, but the applicant shall ensure pedestrian access is contained in a minimum 15 right of way and eight-foot-wide hard surface. **The Hearings Officer concurs with staff that this criteria can be met.***

4. So that they may be safely used at night, accessways shall be illuminated by street lights or luminaires on shorter poles. Separate lighting shall not be required if existing lighting adequately illuminates the accessway.

*The subject property will be required to annex into the Clack. County Service District #5 (CCSD#5), and will have street lights. Given the very short distance of the accessway to Altamont Park, additional lighting may not be required. **The Hearings Officer concurs with this finding by staff.***

5. Fences are not required, but the height of a fence along an accessway shall not exceed six feet.

This criteria is optional, but shall not exceed six feet if used.

6. Ownership and maintenance responsibility for accessways shall be resolved during the development review and approval process.

*This requirement shall be noted in the conditions of approval section above. **The Hearings Officer concurs and has reviewed and adopts the related conditions of approval proposed by staff.***

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 subject property is not located on an existing or planned transit route. **The Hearings Officer concurs with staff that this criteria is not applicable.***

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:

*As discussed above, Street Trees shall be required for half street improvements on SE Bristol Park Drive. Streets are not required for the proposed private roads. Street trees are not needed on SE Johnson Creek Blvd, which is fully constructed, for reasons noted above. **The***

Hearings Officer concurs with staff that these criteria can be met, and has reviewed and adopted related conditions of approval.

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.

The Hearings Officer concurs with staff that this criteria is not applicable per ORS 197.307(4), as standards are not clear and objective.

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.

The applicant shall adhere to the approved street tree list (<https://www.clackamas.us/planning/clackamas-county-street-tree-list>). **The Hearings Officer concurs with staff that this this standard can be met.**

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.

The Hearings Officer concurs with staff that this this standard is not applicable per ORS 197.307(4), as standards are not clear and objective.

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.

The Hearings Officer concurs with staff that this this standard is not applicable per ORS 197.307(4), as standards are not clear and objective.

5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

The Hearings Officer concurs with staff that this this standard is not applicable per ORS 197.307(4), as standards are not clear and objective.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

This application is for a subdivision. The Hearings Officer agrees with the staff finding that this subsection applies.

- B. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner.

*ZDO subsection 1007.07 requires that roadways and intersections serving subdivisions have adequate capacity to handle the additional traffic generated by the development, and will continue to operate during the mid-day one hour peak and first and second hours of the PM peaks at acceptable volume to capacity (v/c) ratios. Under Roadway Section 295.2(b), the need for a traffic impact study (TIS) is at the discretion of the Road Official, and includes a guideline requiring a traffic impact study when a development generates 20 or more vehicle trips in any peak hour. The proposed subdivision is estimated to generate from 18 to 21 peak hour trips. Based on the existing roadway serving the site, a TIS was not required and the Engineering Division finds that the transportation system is adequate, per ZDO Section 1007.07. **The Hearings Officer concurs in this analysis by staff.***

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.

*Fee in Lieu of Construction is not available for subdivisions. **The Hearings Officer concurs with staff that this criteria is not applicable.***

1011 OPEN SPACE

1011.01 AREA OF APPLICATION

*Pursuant to ZDO Sec. 1101.01 (A) and Comprehensive Plan Map 4-6 (Exhibit 15), the subject property does contain a small sliver of Open Space at the northeast corner of the subject property, roughly corresponding to the area where the proposed Park dedication is located. **The Hearings Officer concurs with staff that, therefore, ZDO Sec. 1011 applies.***

1011.02 DEVELOPMENT STANDARDS AND LIMITATIONS

- A. Site planning and development shall avoid disturbance of identified open space resources, except as provided in Subsections 1011.02(B) and (C). Full use should be made of density transfers pursuant to Section 1012, Lot Size and Density, siting of structures and roads, and other appropriate means of designing the development around the open space.

*While the Plan Map 4-6 shows open space on this parcel, staff could not identify any high priority open space associated with wetlands, rivers, slopes exceeding 35 percent, etc. Therefore, this open space designation is not high priority, but rather, Secondary-priority, which will be described below. **The Hearings Officer concurs with this finding by staff.***

- B. High-priority open space shall be preserved outright, except:

*As noted above, the Open Space Overlay is only associated with Secondary priority open space. **The Hearings Officer concurs with this finding by staff.***

- C. Second-priority open space shall be preserved to the maximum extent possible making full use, as necessary, of techniques which reduce the need for land coverage, and disturbance of open space features. Various site plan and development options shall be identified and applied on a case-by-case basis pursuant to Section 1103, Open Space Review. Site plan and development techniques may include but are not limited to:

The Hearings Officer concurs with staff that this criteria is subjective. Therefore, pursuant to ORS 197.307(4), Second-priority open space cannot be applied.

- D. All open space requirements of Section 1011 shall be met using one or more of the following options: 1. Dedication to the public; 2. Placement under a legally responsible group, such as a homeowner's association; 3. Preservation through conservation easements but maintained by individual land owners; or 4. Some other suitable mechanism acceptable to the County.

The applicant has noted that the small area of Open Space is best suited for Altamont Park, and will also enclose the existing Park trail loop alignment. Thus, the open space will be dedicated to the NCPRD as public park land. A condition of approval is recommended to ensure that this small amount of open space is dedicated to NCPRD at the time of plat recording. The Hearings Officer concurs with staff that these criteria can be met, and has reviewed and adopted related conditions of approval.

1011.04 PARK AND EASEMENT DEDICATIONS

- A. The standards and requirements of Section 1011 shall be applied whenever land is to be dedicated for a park, recreation area, or easement.
- B. The park classifications and standards of Policies 1.1 through 1.5 in the Parks and Recreation section of Chapter 9, Open Space, Parks, and Historic Sites, of the Comprehensive Plan shall be followed in the dedication and development of parks and recreation areas.

The applicant has voluntarily chosen to dedicate the small amount of Open Space to NCRPD for use as a public park. However, this dedication is an option exercised by the applicant, not an explicit requirement of this subsection. Thus, the applicant need not follow these criteria specifically.

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. The Hearings Officer agrees with staff that, therefore, Section 1012 applies to this application.

1012.02 MINIMUM LOT SIZE EXCEPTIONS

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

The Hearings Officer concurs with the staff finding that no Exception can be applied to this proposal.

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.

The Hearings Officer concurs with the staff finding that, if the requested zone change is approved, then the applicant shall be subject to R-10 zoning district standards.

- 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.

The Hearings Officer concurs with the staff finding that, if the requested zone change is approved, the applicant shall be subject to the R-10 zoning district standards.

- 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.

The Hearings Officer concurs with the staff finding that there are no dwellings on the property at present.

- 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.

The Hearings Officer concurs with the staff finding that no such development exists on site. Therefore, 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-10 zoning district. The Hearings Officer concurs with the staff finding that this criteria is not applicable.

1012.05 MAXIMUM DENSITY

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

In normal circumstances, staff would prepare a full analysis of applicant's density calculations pursuant to the gross site area (GSA) of the subject property, with subtractions for roads, steep slopes, and other highly or moderately restricted areas. In the case of this development, however, Density has already been calculated pursuant to the original Altamont Subdivision approved under Planning File # Z0427-94-SL.

The applicant has prepared a detailed density analysis which establishes the remaining number of dwelling units permissible pursuant to the original maximum density approved with Z0427-94-SL (See Exhibit 9 and Exhibit 10)The applicant's Memo and density calculation map prepared by Rick Givens, Planning Consultant, confirm that there is a remaining density for at least 12 units. Staff reviewed these documents and agree, the remaining density is 12.

The applicant's memo also accounts for the increased number of units that would result if the proposed Zoning was changed to R-10. Based on the density calculations set forth on Page 49-50 of the original submitted application (Exhibit 2), the applicant has calculated that the number of units allowed if the zoning was R-10 would be 7.23 units greater than that of R-15. In sum, the

*applicant has demonstrated that a maximum density of 19 is allowed given the remaining number of units under, and the additional 7 units allowed with the Zone Change to R-10. **The Hearings Officer concurs with this analysis by staff, and the related staff finding that, since the applicant is only proposing 18 units, this standard is 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-10 Zoning District, where a minimum density standard applies.

- A. Calculate the land area of the subject property. The result is gross site area (GSA).
- B. Subtract the following land area from GSA to determine net acreage:

Minimum Density is calculated in a similar manner as the maximum density, except additional items are subtracted. The Net Site Area (NSA) is then multiplied by 80 percent, to establish the Minimum Density. As noted in the previous section, 19.23 is the maximum density. Multiplied by 80 percent, the Minimum Density is 15.34.

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

Minimum Density shall be rounded down, to 15.

- D. The result is minimum density.

In sum, minimum density equals 15. The Hearings Officer concurs in this finding by staff and has reviewed and adopted the condition of approval proposed by staff.

1013 PLANNED UNIT DEVELOPMENTS

1013.01 APPLICABILITY

Section 1013 applies to subdivisions, partitions, and replats as follows:

- A. A subdivision, partition, or replat may be developed as a planned unit development in residential, commercial, and industrial zoning districts, except the FU-10 District.

*This proposal is for an 18-lot subdivision. A Planned Unit Development (PUD) is permissible, if the applicant chooses. **However, the applicant has not elected to pursue a PUD.***

- B. In an Urban Low Density Residential, MRR, or HR District, a subdivision, partition, or Type II replat shall be developed as a planned unit development if the subject property is larger than one acre and at least 10 percent of the subject property is designated Open Space on Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map; X-MH-1, Resource Protection Open Space; XMH-2, Resource Protection Open Space; X-

MH-3, Resource Protection Open Space; or X-MH-5, Government Camp Village Plan
Resource Protection Open Space

The subject property is at least one acre, and Comprehensive Plan Map 4-6 shows open space on the subject property, but it is far less than 10 percent of the subject property. Therefore, a Planned Unit Development (PUD) is not an explicit requirement, and the applicant has not requested this development be reviewed under the PUD criteria.

Relationship to Altamont PUD:

*In the applicant's supplemental density memo (Exhibit 9), the relationship between the Altamont PUD and Tracts "I" and "K" is discussed in detail. The applicant opines that because Tracts I and K were set aside specifically for a public school property, and that no alternative scenarios were contemplated if the North Clackamas School District were to dispose of the property, the property should be permitted to be redeveloped and should not be included in the development standards of the Altamont PUD. **Staff Response:** First, staff notes the standards in ZDO Sec. 1013 have changed since 1994. In 1994, the standards for PUDs called for lands to be set aside for schools if over 250 dwellings were proposed. This can be reviewed in the prior land use permit, included as Exhibit 13. Since 1994, and as evident in the current standards of ZDO Sec. 1013, no such standards exist. The applicant has made a new application for the subject property, pursuant to current standards. Since the old PUD standards are not applicable with this request, and since the School District did not act on establishing a new school, staff finds that Tracts "I" and "K" can be replatted as typical vacant land, subject to current ZDO standards. Furthermore, since the only requirement of Tracts "I" and "K" were to serve as a future school site, and were not designated as residential lots, staff finds that the subject property is not tied to the Altamont PUD, as other residential lots would be.*

*In summary, staff concurs with the applicant. This current development shall not be approved as a PUD. **Staff recommends this development should not be subject to ZDO Sec. 1013.** A note on the final plat shall be included, stating that this subject is not a Planned Unit Development, and not subject to ZDO Sec. 1013. This requirement is detailed above in the conditions of approval. **The Hearings Officer concurs in this analysis and findings by staff, and has reviewed and adopted the related proposed conditions of approval.***

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-8.5/R-15 zoning District. **The Hearings Officer with the finding by staff that this criteria applies.***

1017.02 DEFINITIONS

The following definitions apply to Section 1017:

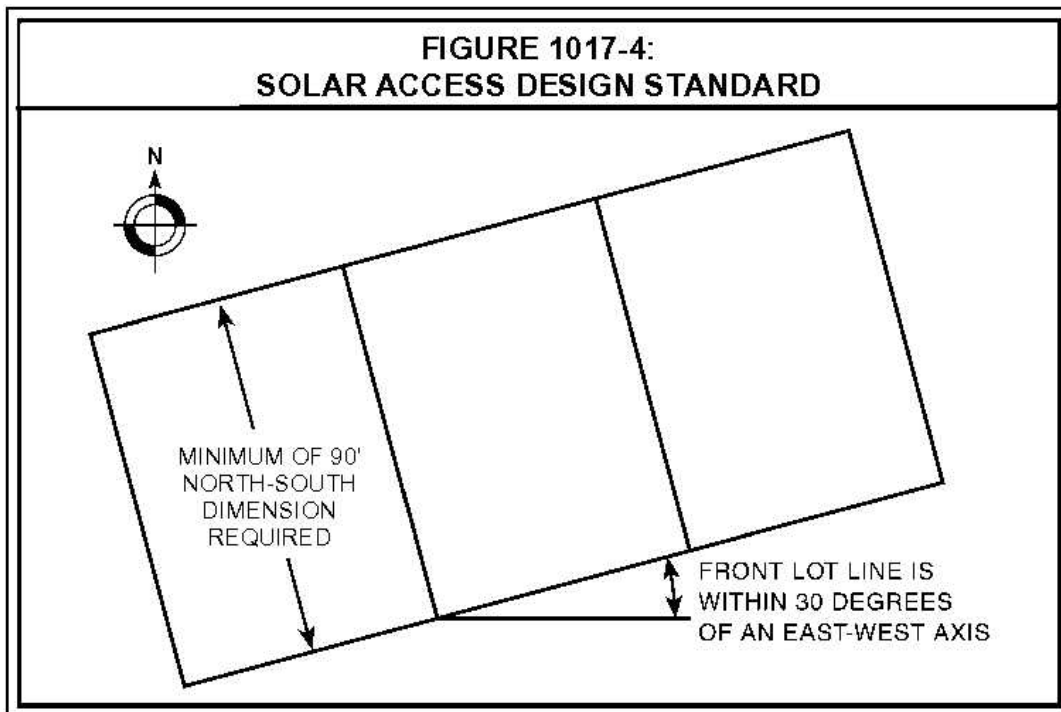
The criteria, requirements, standards and text of Section 1017 are subject to the definitions outlined in this Subsection.

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

The applicant is seeking an exception to these standards through ZDO Sec. 1017.04.



1017.04 EXCEPTIONS TO THE DESIGN STANDARD

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

- A) Density and Cost: If Subsection 1017.03 is applied, either the resulting density would be less than that proposed, the minimum density would be less than that required in Section 1012, Lot Size and Density, or on-site site development costs (e.g., grading, roads, and water, surface

water management and sanitary sewer systems) are at least five percent more per lot or parcel than if the standard is not applied due to one of the following conditions:

1. The subject property, or a portion of the subject property for which the exception is sought, has a natural grade that is sloped 20 percent or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey by a professional land surveyor registered in the State of Oregon.
2. The subject property includes a significant natural feature identified in the Comprehensive Plan, designated open space identified in the Comprehensive Plan, a highly or moderately restricted area identified in Subsection 1012.05, or a protected water resource and associated vegetated corridor regulated by the surface water management authority, that: a. Prevents given streets, lots, or parcels from being oriented for solar access; and b. Will remain undeveloped.
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.

*The applicant has cited the above criteria to establish that an exception is permissible. Staff agrees with each; It has been established that steep slopes exist on the subject property, that certain open space areas and natural areas prevents typical north/south alignments, and that the existing road patterns cannot be continued through the site in way that ensures compliance with solar access standards. **The Hearings Officer concurs with the finding by staff that this criteria is met.***

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. **The Hearings Officer concurs with this finding by staff.***

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. **The Hearings Officer concurs with this finding by staff.***

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 major subdivision that is being reviewed as a Type III application pursuant to Section 1307.

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

*The applicable standards pertaining to Section 1000 are outlined above under Conditions of Approval, while the applicable criteria are addressed in findings above. **The Hearings Officer concurs with this finding by staff, and has reviewed and adopts the related proposed conditions of approval.***

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

*The subject property is located in the Urban Low Density Residential District and has not designated the proposed subdivision as a zero-lot-line development. **The Hearings Officer concurs with the finding by staff that these standards are 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 requested with this proposal. **The Hearings Officer concurs with the finding by staff that this standard 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.
1. 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.

2. Membership in the homeowners association shall be mandatory for each lot or parcel owner.
3. The homeowners association shall be incorporated prior to recording of the final plat.
4. 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

*A homeowners association, or acceptable alternative, is required for the reasons outlined above. **The applicable standards of this Subsection are outlined above under Conditions of Approval, reviewed and adopted by the Hearings Officer.***

- 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 located in a future urban area, and placement of these items shall, as described above, be consistent with the orderly development of the subject property at urban densities.

1105.04 ADDITIONAL STANDARDS AND APPROVAL CRITERIA FOR REPLATS

- A. Replats reviewed as a Type II application pursuant to Section 1307 shall not be approved, unless:
 1. The gross site area of the affected plat is increased, or is of sufficient size to allow additional lots or parcels, or the zoning on the subject property has been changed since the existing plat was approved, permitting a greater density on all, or part, of the original platted area;
 2. The allowed density is recalculated pursuant to Section 1012, *Lot Size and Density*, on the basis of the gross site area of the original platted area and any additions to the gross site area, and, if applicable, on the basis of the new zoning;
 3. All existing lots or parcels within the plat that are not affected by the replat, including additional lots or parcels that may be created by subdivision or partition under existing zoning, are subtracted from the maximum density of the original plat area in determining allowed density for the replatted portion; and
 4. All open space requirements of the original plat, if applicable, are satisfied by the replatted subdivision or partition, or portion thereof.

As discussed in section 1013 above, the original number of units in the Altamont Plat boundary were taken into consideration. In total, 473 units were permitted in the original density. At present, only 461 units were used, leaving a remaining density of 12. Also noted in Section 1012, with the approval of a Zoning change to R-10, maximum density is increased to 19. The Hearings Officer concurs with the finding by staff that this standard is met.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

The applicable standards of this Subsection are outlined above under Conditions of Approval, reviewed and adopted by the Hearings Officer.

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:

- 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.

Through this land use permit decision, a preliminary plat is being approved, the standards for finalization of which through a final plat are outlined above under Conditions of Approval. The parcels involved with the proposed subdivision are not all larger than 80 acres.

E. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer hereby APPROVES Zone Change Application Z0262-22-ZAP and Subdivision Application Z0263-22-SL, subject to conditions of approval.

Dated: September 6, 2022



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.