

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

Regarding an application by Portland Leeds Living, LLC to ) **FINAL ORDER**  
subdivide a 19.55-acre parcel into 169 residential lots in the )  
R-7 and R-10 zones at 10750 SE 70<sup>th</sup> Avenue and 7290 SE ) **Z0489-23-SL**  
King Road in unincorporated Clackamas County, Oregon ) **(Monroe Park)**

**A. SUMMARY**

1. Portland Leeds Living, LLC (the “applicant”) requests approval to divide a 19.55-acre parcel into 169 townhouse lots and one single family dwelling and tracts for open space and stormwater.

a. The development is located at 10750 SE 70<sup>th</sup> Avenue and 7290 SE King Road; also known as tax lots 400 and 4900, Section 32BA and Tax Lot 4400, Section 32AB, Township 1 South, Range 2 East, of the Willamette Meridian, Clackamas County (the “site”).

b. SE Monroe Street bisects the site from east to west. The northern portion of the site, tax lots 400 and 4400, abuts SE King Road on the north and SE Monroe Street on the south. The southern portion of the site, Tax Lot 4900, abuts SE Monroe Street on the north and SE 72<sup>nd</sup> Avenue on the east.

c. The northern portion of the site and abutting properties to the east and west are zoned R-7 (Urban Low Density Residential, 7,000 square foot minimum lot size). Properties west of SE 70<sup>th</sup> Avenue are zoned R-10 (Urban Low Density Residential, 10,000 square foot minimum lot size). The southern portion of the site and abutting properties to the west and south are zoned R-10. Other abutting properties east of the southern portion of the site, south of SE Thompson Road, are zoned R-8.5 (Urban Low Density Residential, 8,500 square foot minimum lot size) and OSM (Open Space Management).

2. The site contains a large pond/wetland in the southern portion which will be retained in open space Tract D. There is a steep bank in the northern sector of the site, with slopes exceeding 50% in some areas. Slopes also exceed 20 percent in several areas along the perimeter of the northern sector of the site. The applicant proposed to retain much of the steep bank in an open space tract. Lots 77-87 and lots 91-92 contain areas of steep slope which the applicant proposed to grade to accommodate dwellings.

3. The site was historically used for nursey and agriculture production, commonly known as the Joe Koida Florist. The applicant proposed to remove all of the existing structures on the site and subdivide the remainder of the site into 168 lots for single-family attached (townhouse) dwelling units and one lot for a single-family detached dwelling.

4. The applicant proposed the following right-of-way dedications and road improvements:

a. The applicant will dedicate right of way as necessary and construct half-width frontage improvements along the site's SE King Road frontage and portions of the site's SE Monroe Street and SE 72<sup>nd</sup> Avenue frontages.

i. The Clackamas County Development Agency plans to improve SE Monroe Street and SE 72<sup>nd</sup> Avenue as part of the Monroe Street Neighborhood Improvements project (Monroe Project), a "preferred project" on the County's Capital Improvement Plan. The project will improve the sections of SE Monroe Street and the northern portion of SE 72<sup>nd</sup> Avenue abutting the site, including a multi-use path along the south side of SE Monroe Street west of SE 72<sup>nd</sup> Avenue, the west side of SE 72<sup>nd</sup> Avenue, and on the north side of SE Monroe Street, east of SE 72<sup>nd</sup> Avenue, and a mini-roundabout at the intersection of SE 72<sup>nd</sup> Avenue and SE 72<sup>nd</sup> Avenue.

ii. The applicant will construct half-width frontage improvements on the remainder of the site's SE 72<sup>nd</sup> Avenue frontage.

b. The applicant will extend a new public street, proposed Street A, into the northern portion of the site, forming a looped street with two intersections on SE Monroe Street.

c. The applicant will extend private streets into the site including: proposed Street E, south from SE King Road, Streets B and D extending north from Street A, and Street C between SE Monroe Street and Street A.

d. The applicant will provide a pedestrian accessway between the northern terminus of Streets D and E. The applicant will also extend an emergency vehicle access and pedestrian path into the site from SE Jack Road which abuts the east boundary of the site.

d. The applicant proposed two options for vehicular access to lots 144-155, which front on SE 72<sup>nd</sup> Avenue: allowing direct driveway access onto SE 72<sup>nd</sup> Avenue as permitted by the Code, or via an alley along the rear of the lots in order to avoid driveways onto SE 72<sup>nd</sup> Avenue, that could conflict with the multi-use path which the "Monroe Project" will create on the west side of SE 72<sup>nd</sup> Avenue.

5. Clackamas River Water District (CRW) will provide domestic water to the site. Clackamas Water Environmental Services (WES) will provide storm and sanitary sewer services. The applicant proposed to collect storm water runoff from impervious surfaces on the site, convey it to one of two on-site facilities for detention, treatment, and discharge via infiltration.

6. Hearings Officer Joe Turner (the "hearings officer") conducted a public hearing to receive testimony and evidence about the application. County staff recommended that the hearings officer approve the application subject to conditions. See the Staff Report and Recommendation to the Hearings Officer dated May 16, 2024 (the "Staff Report"), as modified at the hearing.<sup>1</sup> The applicant accepted those findings and conditions, as modified, without exceptions. Nine persons testified in opposition to or with questions and concerns about the proposed development. The principal contested issues in the case include the following:

- a. Whether the County provided adequate notice of the hearing;
- b. Whether the applicant can be required to redesign the site to address additional policy goals raised by opponents;
- c. Whether the proposed development will have prohibited impacts on open space and wildlife habitat;
- d. Whether adequate utilities are available to serve the proposed development;
- e. Whether traffic from the development will exceed the capacity of area roads or create a hazard;
- f. Whether the proposed development provides adequate parking;
- g. Whether the applicant is required to provide access to SE Jack Road east of the site;
- h. Whether the proposed development density and townhomes are allowed by the Code;
- i. Whether alleged impacts to the value of surrounding properties are relevant to the applicable approval criteria for this development; and
- j. Whether the applicant is required to fence or buffer the site to protect the privacy of adjacent properties.

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

## **B. HEARING AND RECORD HIGHLIGHTS**

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<sup>1</sup> The Staff Report reversed the dates of the hearing and the Staff Report. The County issued the Staff Report on May 16 and scheduled the hearing for May 23, 2024.

1. The hearings officer received testimony at a public hearing about this application, on May 23, 2024. All Exhibits and records of testimony are filed at Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Ben Blessing summarized the Staff Report, the applicable approval criteria, and his PowerPoint presentation (Exhibit 14).

a. He noted that the site is currently developed with greenhouses and other agricultural facilities related to the existing florist facility. The applicant proposed to remove all of the existing structures and divide the site into 168 townhouse lots and one lot for a single family detached dwelling pursuant to the Middle Housing standards of ZDO 845.

b. The applicant will retain the pond/wetland and the majority of the steep slopes on the site in proposed open space tract Tracts B and D. The applicant will develop stormwater facilities within Tracts A and C.

c. The applicant will construct sidewalks on both sides of all public streets within the site and those portions of public frontage roads that are not part of the “Monroe Project.” The applicant will construct sidewalks on one side of the proposed private streets. Sidewalks are not required on the proposed alleys. The applicant will also provide an emergency vehicle and pedestrian access between the site and the western terminus of SE Jack Road east of the site. Public vehicular access to SE Jack Road is prohibited. The applicant will construct a pedestrian connection through Tract B to facilitate north-south pedestrian circulation through the site. This connection will require a stairway to overcome the steep slopes within Tract B.

d. The Clackamas County Development Agency will be improving SE Monroe Street and SE 72<sup>nd</sup> Avenue as part of the Monroe Street Neighborhood Improvements project (“Monroe Project”). The project includes a multi-use path along the south side of SE Monroe Street and the west side of SE 72<sup>nd</sup> Avenue, and on the north side of SE Monroe Street, east of SE 72<sup>nd</sup> Avenue. Proposed lots 144-155 front on SE 72<sup>nd</sup> Avenue. SE 72<sup>nd</sup> Avenue is a local roadway where driveway access is allowed. However, Driveway access to these lots from SE 72<sup>nd</sup> Avenue would conflict with the planned multi-use path. Therefore, the applicant proposed two options for vehicular access to lots 144-155; via an alley on the rear of these lots or with direct driveway access to SE 72<sup>nd</sup> Avenue. Mr. Blessing recommended the hearings officer approve both access options as the applicant and the County Development Agency are currently negotiating over this issue.

e. The applicant proposed to develop the site in four phases, with the goal to develop Phases 1 and 2 in 2025-26 and phases 3 and 4 in 2027.

f. The applicant is not requesting a zone change. The reference to a zone change on page 60 of the Staff Report was a typographical error and should be deleted.

g. He noted that school capacity and police coverage are not relevant to the applicable approval criteria for this development. The County provided the School District with notice of this development but they did not submit any comments.

h. The County mailed notice of the application and hearing to the owners of properties located within 300 feet of the site and posted notice on its website. Mr. Spencer's property is located just beyond the 300-foot radius.

i. The applicant will preserve open space on the site; the existing pond and associated upland areas in proposed Tract D.

j. The Code allows buildings up to a maximum 35 feet high in the R-7 and R-10 zones. The County will ensure compliance with height limits through the building permit review process.

k. The applicant is not required to fence the site as the site and all abutting properties are zoned for residential development.

l. There are no plans to install sidewalks or other improvements on SE 70<sup>th</sup> or 74<sup>th</sup> Avenues, beyond those proposed by this development and the Monroe Project. The Monroe Project is not expected to divert traffic onto SE 74<sup>th</sup> Avenue.

m. WES and CRW reviewed the proposed development and determined that stormwater, sanitary sewer, and potable water services are adequate to serve the proposed development.

n. State law requires that the County allow townhomes on this site.

o. SE Mceachron Avenue, noted in proposed condition 2.a.xii, is an unimproved right-of-way south of the site.

p. The right-of-way for SE Jack Road abuts the site. The applicant will construct the proposed emergency access and pedestrian connection within the existing right-of-way. Based on County maps, there is adequate right-of-way to construct these improvements without impacting Ms. Avila's property.

3. AKS planning consultant Chris Goodell and traffic engineer Daniel Stumpf appeared on behalf of the applicant, Portland Leeds Living, LLC, and summarized the proposed development.

a. Mr. Goodell summarized the proposed development and responded to neighbor's concerns.

i. He noted that SE Monroe Street bisects the site from east to west. The site consists of three tax lots, two of which are located north of Monroe and one to the south. The site contains steep slopes in the northern portion and a pond in the southern portion, both of which the applicant will retain in proposed open space tracts.

ii. He requested the hearings officer modify proposed condition 2.a.xii to require the applicant to extend SE 72<sup>nd</sup> Avenue to the south boundary of the site rather than to the SE Mceachron Avenue right-of-way.

iii. The County's planned TSP update provides residents an opportunity to get involved in transportation planning and submit suggestions for needed road improvements in the area.

iv. The proposed townhomes are allowed by the "middle housing" provisions of state law and the ZDO. The County undertook a public process to update the ZDO to implement the "middle housing" requirements. This development complies with the standards of the ZDO.

v. This development will preserve 7.3-acres, 38-percent of the site, as open space or stormwater tracts. The applicant will provide additional landscaping in individual yards and planter strips, which will reduce the potential "heat island" effect of this development.

vi. Existing utilities have adequate capacity to serve the proposed development, based on the service provider letters from the applicable utility providers.

vii. The Code encourages the extension of existing dead-end streets in order to provide cross-circulation. In this case the County agreed to limit the extension of SE Jack Road to emergency vehicles and pedestrians.

viii. The proposed development is at a lower elevation than surrounding properties, which will provide some screening and limit impacts on the privacy of adjacent residents.

ix. Roads in the area have sufficient capacity to accommodate the additional traffic generated by this development. The applicant's traffic analysis demonstrates that all affected intersections will continue to operate at acceptable volume to capacity ("v/c") ratios and Levels Of Service ("LOS") as defined by the Code and none of the intersections exceeded the County's adopted crash rate.

x. The applicant will coordinate with the County regarding the design of frontage improvements for this site, consistent with the planned Monroe Project.

xi. The School District will review population projections and adjust staffing, capacity, and attendance boundaries as necessary to accommodate increased attendance.

b. Mr. Stumpf responded to traffic issues.

i. Based on ODOT crash history, the crash rate at all intersections within the scope of the traffic impact analysis was well below the County's action level. All affected intersections are projected to operate at acceptable v/c and LOS.

ii. SE 70<sup>th</sup> Avenue intersects SE King Road on the outside of a curve, which ensures that adequate sight distance is available. However, overgrown vegetation currently limits sight distance. The County Roads section can remove the vegetation to restore adequate sight distance.

iii. The applicant did not review the intersection of SE 74<sup>th</sup> Avenue and King Road, as that intersection is beyond the scope of the required analysis as defined by the Code. All of the other intersections on SE King Road that were reviewed in the traffic study were well within the County's capacity limits. Therefore, the intersection of SE 74<sup>th</sup> Avenue and King Road will likely meet capacity standards as well.

4. Shawn Ingersoll argued that, although "high density housing" is needed, it is inappropriate for this site and would be detrimental to the surrounding neighborhood.

a. He argued that development should be required to meet the following policy objectives:

i. Development should support wildlife habitat and corridors. He has observed a wide range of wildlife including eagles, owls, hawks, coyotes, butterflies, and deer on the site and surrounding area.

ii. Development should support heat and pollution reduction through the use of native plants and vegetation while minimizing the amount of impervious surface area created and restoring land to its natural state. This site was once a wetland.

iii. Development should protect and respect the existing character of the neighborhood. The area surrounding the site primarily developed with low density single-family detached homes.

iv. Existing infrastructure, including utilities and roadways, should be sufficient to support development. The City of Milwaukie recently modified the intersection of SE Linwood Avenue and SE Monroe Street west of the site to address a high number of traffic collisions at this intersection. Instead of installing a four-way stop, the City installed raised islands to prevent vehicles from crossing SE Linwood Avenue. This barrier has directed additional traffic into the surrounding neighborhoods and many drivers travel at high speeds, creating a hazard for residents, including children, who live, walk, and bike on these streets. The high density development proposed on this site will exacerbate the existing traffic issues.

b. The proposed development does not support any of these points and therefore, should be denied. The applicant should be required to redesign the development to protect wildlife, be consistent with the neighborhood, and support the reduction of heat and pollution. There are other locations that are much more appropriate for this type of high density development. Low density housing development is also necessary.

c. He has seen many accidents at the intersection of SE 70<sup>th</sup> Avenue and SE King Road over the years, with vehicles frequently going through people's backyards.

d. Driveways of lots fronting streets within the site will severely limit opportunities for on-street parking, which will encourage residents and their guests to park on existing streets in the area, especially SE Jack Road.

e. Former ZDO 301.01 notes that the purpose of the low density zoning is to (a) "provide and protect residential land for families who desire to live in low density environments." (b) "protect the character of existing low density neighborhoods," (c) "provide for development with carrying capacity for hillsides and environmentally sensitive areas." This development should be required to implement those purposes.

5. Kathleen McNeal agreed with Mr. Ingersoll's testimony. The County recently paved SE 70<sup>th</sup> Avenue, which encouraged drivers to use it as a high-speed cut-through route. This development will generate additional traffic on that road. She questioned the type of improvements the County has planned for this roadway as part of the Monroe Project. The existing intersection of SE 70<sup>th</sup> Avenue and SE King Road is not a good access point. The Monroe/Linwood intersection "is a mess."

6. Kyle Linneman argued that residents and guests of the proposed development are likely to use the proposed pedestrian connection to SE Jack Road to park on SE Jack Road and access the site. There is significant demand for on-street parking on SE Jack Road under existing conditions and this development will exacerbate that problem. There are no sidewalks on SE 74<sup>th</sup> Avenue. The proposed development will increase traffic on this street, exacerbating the existing hazard for pedestrians on this roadway. The Lot Whitman school is located at the southern terminus of SE 74<sup>th</sup> Avenue at SE Thompson



Road. The crosswalk on SE Thompson Road dead-ends into a resident's yard. There are no pedestrian crossings on SE King Road between SE Bell and SE 82<sup>nd</sup> Avenues.

7. Chelsea Avila questioned whether the applicant will install a fence or landscape buffer to prevent residents from looking into her backyard, which abuts the site. There are five existing homes on SE Jack Road and the amount of on-street parking is insufficient for existing residents and their guests. This development, with a pedestrian access so SE Jack Road, will significantly increase parking demand as residents of the site can park on SE Jack Road and use the pedestrian access to walk to their homes. She testified that her son was nearly struck by vehicles while walking to the bus stop on several occasions. The additional traffic generated by this development will increase the risk of such accidents. She questioned how the applicant will ensure the stability of her property during grading on the site. She questioned whether the traffic study reviewed SE 74<sup>th</sup> Avenue when students were being released from school. She argued that portions of the existing cul-de-sac on SE Jack Road are located on her property and the planned emergency access connection may impact her property.

8. Katrina Otnes argued that the streets in this area were not designed for the volume of traffic generated by the proposed development. The proposed development will impact the privacy and quiet of the existing neighborhood. It will also exceed the capacity of schools serving the site. She questioned the height of homes on the site.

9. Tom Spencer testified that he did not receive notice of the hearing. He expressed concerns with increased traffic, parking demand, impacts to the existing neighborhood and the creation of a heat island in the neighborhood. The applicant should be required to provide more open space on the site to mitigate the impact of the development.

10. Grace Lovan argued police coverage in the area is inadequate.

11. County engineer Ken Kent noted that the County is currently starting the process of updating its transportation system plan. The County will review the need for additional road improvements through that process. SE 70<sup>th</sup> Avenue is designated a connector road that is intended to carry higher volumes of traffic, because it provides a connection between Monroe Street, a collector roadway, and SE King Road, an arterial. This development and the Monroe Project will construct sidewalks and other road improvements on streets abutting the site and the Monroe Project will continue those improvements to the east and west. Neighbors can work with the County Traffic Safety Section regarding on-street parking restrictions on SE Jack Road. Given the width of this roadway, parking should be limited to one side of the road. This development will provide opportunities for on-street parking on both sides of the public street within the site, but driveways serving the proposed lots will limit the amount of parking available. The applicant's traffic study was not required to review SE 74<sup>th</sup> Avenue, as that roadway is beyond the scope required by the Code.

12. Gretchen Lawrence noted that SE 74<sup>th</sup> Avenue provides the main route to school for children residing in this neighborhood. Many students walk to school on this road. It also provides access to the I-205 freeway and other destinations.

13. Matt Cabral testified that the intersection of SE Thompson Road and SE 72<sup>nd</sup> Avenue “has been a problem for years” with numerous crashes and vehicles speeding through the area. His residence is located on the northeast corner of this intersection, which is a blind corner. His family has had several near misses as they pull out of their driveway. Increased traffic from this development will increase the risk of accidents. Residents have received conflicting information from the County regarding the types of vehicles that will be permitted on these roads.

14. At the conclusion of the public hearing, the hearings officer held the record open for three weeks, subject to the following schedule:

a. For one week, until 4:00 p.m. on May 30, 2024, for all parties to submit additional testimony and evidence;

b. For an additional week, until 4:00 p.m. on June 6, 2024, for all parties to respond to the whatever was submitted during the first weeks; and

c. For a third week, until 4:00 p.m. on June 13, 2024, for the applicant to submit a final argument.

15. Exhibit 15, comments from Clackamas Fire District #1, was the only new evidence submitted during the open record period.

## **C. FINDINGS**

### **Notice**

The hearings officer finds that the County provided adequate notice of the hearing. The County mailed notice of this application to the applicant, the neighborhood association, property owners within 300 feet of the site, and other agencies on April 3, 2024, as required by ZDO 1307.11(A) (Exhibit 2 at 1). As Mr. Blessing noted, Mr. Spencer’s property is outside of the 300-foot radius notice area.

The hearings officer finds that the public had an adequate opportunity to review and respond to the proposed development, consistent with the limitations of the Code. The neighborhood was well represented at the hearing. Residents of the neighborhood testified clearly and succinctly regarding issues of concern to them. The hearings officer held the record open after the hearing to allow the public the opportunity to submit additional testimony and evidence.

### **Development Impacts**

Mr. Ingersoll argued that this development should be denied based on impacts to wildlife, habitat and corridors, heat islands and pollution, the character of the neighborhood, etc. However these are not applicable approval criteria for this development. While these are relevant planning considerations, they must be balanced with other public needs and goals including housing at all price levels, reducing sprawl, protecting farmland, etc. The Board considered all of these issues and struck a balance when it adopted the Code. The hearings officer has no authority to reconsider that balance in this proceeding.

Former ZDO 301.01, cited by Mr. Ingersoll, was deleted from the Code and no longer applies. Even if it did apply, purpose statements are not applicable approval standards with which the applicant is required to demonstrate compliance. The goals set out in the purpose statements are achieved through compliance with the implementing regulations and approval criteria. The purpose statements themselves are not relevant unless they include specific approval criteria or the implementing regulations that follow are ambiguous, and resort to the purpose statements is necessary to determine the context and meaning of ambiguous terms. *See, e.g., Beck v. City of Tillamook*, 18 Or LUBA 587 (1990) (Purpose statement stating only general objectives is not an approval criterion).

### **Open space and habitat**

Clearing and development on this site will eliminate habitat for wildlife, including birds, deer, and coyotes. But the County Code does not prohibit such an effect. To the contrary, it is an inevitable consequence of concentrating new development in the urban area. None of the animals observed on this site are listed as endangered or threatened. They are commonly observed in the area. Their presence is less likely after the site is developed, but that is to be expected. The applicant is preserving 7.3-acres (roughly 38-percent of the site), including the pond/wetland, as open space that will continue to provide habitat for wildlife.

### **Utilities**

Adequate utilities are available to serve the site, based on the service provider letters from the relevant agencies. (See Exhibit 2 at 67 and 670, and Exhibit 16). The Code does not require review of school and police services.

### **Roads and Traffic**

Roads in the area have adequate capacity to accommodate additional traffic generated by the proposed development, based on the applicant's transportation impact analysis (Exhibit 2a). All affected intersections are projected to continue operating within the LOS and Volume to Capacity (V/C) Ratios adopted in ZDO 1007.07(C) and Table 5-2 of the Comprehensive Plan. This development will increase the volume of traffic on streets in the area. That increased traffic will be perceptible to area residents. However, County engineering staff determined, based on the applicant's traffic impact study (Exhibit 2a) that it will not exceed the capacity of streets nor create a hazard. There is no substantial evidence to the contrary. Neighbor's unsupported concerns about increased traffic are not substantial evidence sufficient to overcome the expert testimony of the traffic engineers for the County and the applicant.

The additional traffic generated by this subdivision may pose an increased risk for drivers, cyclists, and pedestrians in the area. Higher vehicular traffic volume creates a marginally higher risk for pedestrians and bicyclists. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling or walking in the neighborhood. However, those risks are consistent with the location of the site in the urban area where County plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit and other applicable traffic regulations. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. If necessary, the County can address issues of speeding by providing increased enforcement of traffic laws on all streets in the area, or installing traffic controls on area roads, if warranted based on actual traffic conditions. Area residents can petition the County to install traffic calming measures on area streets. However, speeding is an existing problem, which the applicant cannot be required to remedy.

The Institute of Transportation Engineers (ITE) Traffic Access and Impact Studies for Site Development – A Recommended Practice states that accident rates vary, but any intersection with more than one accident per million entering vehicles is worthy of additional analysis. The applicant’s traffic study (Exhibit 2a) analyzed the crash history based on data obtained from the Oregon Department of Transportation (ODOT) for the period January 2017 to December 2021. The study confirmed that the crash rate for most of the study intersections did not exceed one crash per million entering vehicles and that no further analysis was warranted. The crash rate at the intersections of SE Johnson Creek Boulevard at OR 213 and SE King Road at OR 213 exceeded this crash rate. However, recent or planned improvements to these intersections are expected to alleviate the high crash rates at these intersections.

The applicant cannot be required to construct offsite sidewalks, crosswalks, or other improvements in the area. The need for such improvements is one that exists generally along streets in the area, and is a need to which all adjoining properties contribute, not just the development proposed in this case. The County cannot require this applicant to bear the cost of such additional improvements, because the costs would exceed the roughly proportional impact of the proposed development and it is a need to which all of the properties in the area contribute. As staff noted at the hearing, the County is currently in the process of updating its Transportation System Plan (TSP). Residents can contact the County to participate in this planning process and suggest road improvements they believe should be included in future projects.

### **Monroe/Linwood intersection**

Recent changes to the intersection of SE Monroe Street and SE Linwood Avenue are not relevant to this application. The recent changes to this intersection are an existing condition which the applicant has no authority to change.

### **Parking**

The proposed development complies with the parking requirements of the Code. ZDO Table 1015-2 requires one parking space per townhouse dwelling. For homes with garages, additional driveway parking will be available in the required 20-foot garage setback. There are limited opportunities for on-street parking within the site as parking is prohibited on the proposed private roads and driveways serving the proposed townhome lots will limit opportunities for on-street parking on proposed Street A. However, the Code does not impose minimum on-street parking requirements. ZDO 1007.01(C)(8)(d) requires that driveways must be located so as to maximize opportunities for on-street parking and parking will be available on the south side of the east-west segment of proposed Street A. The limited parking opportunities on the site may encourage residents and guests of the site to park on streets surrounding the site. The hearings officer understands that this additional demand for on-street parking will impact existing residents. However, the Code does not authorize the hearings officer to require additional parking. Parking on public streets is available to any member of the public for any legal use. On-street parking is not reserved for the owners of adjacent properties. It is available to all members of the public on a first come/first served basis.

### **SE Jack Road Connection**

As further discussed below, the County requires the extension of cross-streets to provide through street connections with a maximum block length of 530 feet. Accessways are required where street extensions are not feasible. The extension of SE Jack Road is necessary to meet this requirement. SE Jack Road was clearly designed and constructed for extension into this site, as a public right of way stubbed to the boundary of the site. However, the applicant requested, and the County approved, a Design Modification request to limit the SE Jack Road extension to emergency vehicles, pedestrians, and bicycles, with no public vehicular access.

Absent an easement or similar authority, the applicant has no right to enter or impact adjacent properties. All improvements and utility connections must occur on the site or within existing rights-of-way, or easements and the applicant must design and conduct grading activities to maintain the stability of adjacent properties. Based on County maps, it is feasible to construct the proposed emergency vehicle/pedestrian connection to SE Jack Road within the existing right-of-way.

### **Density and Townhomes**

State law requires that the County allow townhomes and other types of “middle housing” in all single-family residential zones. As set out in the density findings below, the density proposed on this site is consistent the R-7 and R-10 zoning that applies to this site as modified by ZDO 845.

Even if the subdivision will have an adverse impact on property values --- and there is no substantial evidence to that effect in the record --- protection of property values and consistency with adjoining development are not relevant to the applicable State or County standards. The hearings officer must base the decision on the laws of the Clackamas County and the State of Oregon. If adjacent property owners believe that the value of their

property has been reduced, they may request that the county assessor modify the assessed value of their property.

### **Fencing**

The applicant is not required to install fencing, landscaping, or other buffering to screen the development from adjacent properties. ZDO 1009.04 establishes standards for landscaping and screening. Screening and buffering are not required to screen residential development. The applicant or future residents may choose to construct fences to screen the site or individual lots from abutting properties, but the Code does not require that the applicant provide such screening in this case. As the applicant noted, the site is at a lower elevation than abutting properties to the east, which will provide some screening between the site and adjacent properties.

### **Monroe Project**

Several neighbors had questions and concerns regarding the Monroe Project. However, this is not the proper forum to address those concerns. That is a separate County project that will proceed independently of this development. Residents should direct their questions and concerns to the Clackamas County Development Agency.

## **ZDO SECTION 315 and 1000: DEVELOPMENT STANDARDS**

### **315 Urban Low density residential (R-7 and R-10)**

*ZDO Section 315 controls land uses within the Urban Low Density Residential zoning districts including the R-7 and R-10 zoning districts. Townhouses are a permitted use in the R-7 and R-10 zones, subject to the provisions of ZDO 845. (See ZDO Table 315-1). The applicant is requesting a subdivision for townhouses pursuant to footnote 4, Table 315-2, which reads as follows:*

*“For townhouses developed pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters, there is no minimum lot size and the DLA<sup>2</sup> shall be one-quarter of the DLA in the applicable zoning district.”*

*Although townhouses will need to be constructed pursuant to ZDO Section 845, a subdivision proposal may be approved for townhouses if the applicant can comply with the aforementioned standards and all other applicable ZDO criteria. A condition of approval will require that future townhouses comply with all relevant provisions of ZDO Section 845, and others, as applicable. Since no minimum lot size is required for townhouses, lots range in size from 1,840 square feet to over 3,000 square feet, with lots 40 and 143 being larger corner lots (Exhibit 2c). One single family residence is proposed on lot 78 (Exhibit 2h). The single family lot is 7,855 square feet in area, meeting the*

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<sup>2</sup> DLA = District Land Area

*minimum lot size standard in Table 315-2. The applicant has provided general building footprint outlines on the preliminary plans. The applicant proposed to group townhouses in buildings of two, three, and four (Exhibit 2c). ZDO Section 202 defines “townhouse” as follows:*

*“A dwelling unit that shares at least one wall, or portion thereof, with another townhouse and is located on a separate lot of record from any other dwelling that is not an accessory dwelling unit.”*

*As designed, each proposed lot will contain a dwelling unit sharing at least one wall. Dimensional standards appear to be met, but the applicant is advised that dwelling units must comply with ZDO Section 845 and 315, prior to any building permit approval. The proposed subdivision plan is large in scale, but can meet minimal dimensional standards noted above. Conditions of approval are recommended, requiring compliance with specific standards in ZDO Sections 845 and 315, prior to building permit approval. **This criteria is met as conditioned.***

## **1001 GENERAL PROVISIONS**

### **1001.01 PURPOSE**

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

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

*ZDO 1001.01 sets out the purpose statements for the Development Standards of Section 1000. However, as discussed above, purpose statements are not applicable approval standards with which the applicant is required to demonstrate compliance.*

### **1001.02 APPLICABILITY**

- A. Except where a different applicability standard is set forth elsewhere in Section 1000, Section 1000 applies to partitions; subdivisions; replats; institutional, commercial, and industrial

developments; manufactured dwelling parks; condominiums; multifamily dwellings; two- and three-family dwellings; and attached single-family dwellings where three or more dwelling units are attached to one another. Notwithstanding this provision, level one through three mobile vending units are not subject to Section 1000, except as set forth in Section 837, *Mobile Vending Units*. In addition, Section 1009, *Landscaping*, does not apply to partitions, subdivisions, and replats.

*The proposed development is a subdivision. Therefore Section 1000 applies to this proposal. The applicable standards pertaining to Section 1000 are outlined 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:

*Some of the steep slopes on the site are more than 20 percent and equal to 35 percent (see Exhibit 2i). Therefore, this development is subject to Subsection A.*

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

*By demonstrating compliance with ZDO Subsection 1002.01 (A) and (B) this standard can be met.*

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.

*The applicant's density plan (Exhibit 2i) shows over 50 percent of slopes greater than 20 percent being developed. Furthermore, the applicant's narrative (Exhibit 2g) provides no calculations or other evidence to demonstrate this standard can be met. There is general reference to the steep slopes being created as a result of artificial fill. However, the ZDO does not define specific slope types nor does it eliminate this criteria if soils are non-native fill. This subsection provides for variances to this standard, subject to ZDO Section 1205, Variances, and the specifics noted above. If the applicant can demonstrate the above standards can be met, and a Variance is granted pursuant to ZDO Section 1205, this standard can be met. The applicant must obtain a Variance, a Type II land use action, prior to plat approval. This is included as a condition of approval.*

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

*Per ORS 197.307, this criteria cannot be applied because it is not clear and objective.*

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

*Per ORS 197.307, this criteria cannot be applied because it is not clear and objective.*

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

*The pedestrian accessways shall be of minimum width, which is generally not less than eight feet as described in ZDO Subsection 1007.*

- 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

*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:

*Development is proposed on Steep Slopes exceeding 35% (see Exhibit 2i). Therefore Subsection B applies.*

1. Compliance with Subsections 1002.01(A)(1) through 6) shall be required.

*Compliance with Subsection 1002.01(A)(1) through (6) can be met, where applicable, provided the applicant obtains a type II Variance pursuant to ZDO Section 1205.*

2. An engineering geologic study approved by the County shall establish that the site is stable for the proposed development, and any conditions and recommendations based on the study shall be incorporated into the plans and construction of the development. The study shall include the items listed in Subsection 1003.02(B)(2).

*An Engineering geologic study prepared by Geopacific and dated December 14, 2023, (Exhibit 2b) contains all necessary items listed in Subsection 1003.02(B)(2). The geotechnical report makes the following statement: “Our site investigation indicates that the proposed construction is geotechnically feasible, provided that the recommendations of this report are incorporated into the design and construction phases of the project.” There are several recommendation areas including; Site preparation, engineered fill, keyways and benching for engineered fill on slopes, excavating and utility trench backfill, erosion control, wet weather earthwork, spread foundations, concrete slab-on-grade, permanent below-grade foundation walls, footings and roof drains, seismic design, and soil liquefaction. All recommendations shall be implemented by the applicant. Moreover, the geotechnical report provides a “Checklist of Recommended Geotechnical Testing and Observation.” The applicant shall provide documentation to the planning record that all eight checklist items have been completed. In addition, the applicant shall implement all recommendations noted above during site construction.*

3. Access to the site shall be approved by the County and the affected fire district, pursuant to the engineering geologic study and associated conditions. Review shall be required, if construction of such access requires cut

and fill, blasting, tree cutting, retaining walls, or other terrain alterations which detract from the natural scenic quality of the site.

*This section is met with conditions of approval.*

4. The design of structures and re-vegetation plans shall ensure preservation or rapid reestablishment of the scenic quality of the site.

*This section is met with conditions of approval.*

5. A plan for surface water management and erosion control shall be approved pursuant to Subsection 1006.06.

*This section is met with conditions of approval.*

6. When a building is proposed, at least one of the following conditions shall apply:
  - a. It is not feasible to either transfer the density (in the case of residential development) or to develop on a portion of the subject property that is less sloped; or
  - b. Unique characteristics of the subject property, such as, but not limited to, vistas or solar exposure, could be better utilized by the proposed siting of structures with less or equal overall disturbance of the subject property than would occur otherwise under the provisions of this Ordinance.

*Per ORS 197.307, this criteria cannot be applied because it is not clear and objective.*

#### 1002.03 TREES AND WOODED AREAS

- C. 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.*

#### 1002.04 RIVER AND STREAM CORRIDORS

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

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

#### 1002.05 DEER AND ELK WINTER RANGE

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

*Per ORS 197.307, this criteria cannot be applied because it is not clear and objective.*

#### 1002.06 MOUNT HOOD RESOURCE PROTECTION OPEN SPACE

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

*The subject property is located outside of the Mt. Hood Resource Protection Open Space. Therefore, this section is inapplicable.*

#### 1002.07 SIGNIFICANT NATURAL AREAS

- A. Five significant natural areas are identified as unique/natural features on Comprehensive Plan Map III-2, *Scenic & Distinctive Resource Areas*. These areas are more specifically referred to as Williams Lake Bog, the land at Marmot, Multorpor Bog, Delphridge, and Wilhoit Springs. In these significant natural areas, the following shall be restricted, to the extent necessary to protect the unique or fragile character or features that are the basis for the unique/natural feature designation: building and road construction, filling and excavation, paving, and tree removal. Restrictions may be modified pursuant to Subsection 1011.03.

*The subject property does not contain a significant natural area. Therefore, this section is inapplicable.*

### **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.

#### **1003.02 STANDARDS FOR MASS MOVEMENT HAZARD AREAS**

- A. No development or grading shall be allowed in areas of land movement, slump or earth flow, or mud or debris flow, unless approved in a Type II application pursuant to Section 1307, Procedures. Unless the criteria for such development as listed in Subsection 1003.02(B) are satisfied in the review of another approved Type II application pursuant to Section 1307, a mass movement hazard area development permit is required for development in areas of land movement, slump or earth flow, or mud or debris flow.
- 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.

*DOGAMI Bulletin 99 and accompanying maps, as well as recent DOGAMI "SLIDO" data show no such areas on the subject property. The geotechnical study prepared by Geopacific and dated December 14, 2023, notes a possible landslide scarp near the northeast property line, but did not provide any specific recommendations for construction in this area (Exhibit 2b). This criteria is not applicable.*

#### **1003.03 STANDARDS FOR FLOOD HAZARD AREAS**

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

*Per ORS 197.307, this criteria cannot be applied because it is not clear and objective.*

#### 1003.04 STANDARDS FOR SOIL HAZARD AREAS

- B. 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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

#### 1003.05 STANDARDS FOR FIRE HAZARD AREAS

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

*Per ORS 197.307, this criteria cannot be applied because it is not clear and objective.*

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

#### 1006.01 GENERAL STANDARDS

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

#### 1006.02 STREET LIGHTS

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

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

#### 1006.03 WATER SUPPLY

- A. All development which has a need for, or will be provided with, public or community water service shall install water service facilities and grant necessary easements pursuant to

the requirements of the district or company serving the development.

*Clackamas River Water District (CRW) will provide water supply for the proposed subdivision. CRW has provided detailed comments dated May 6, 2024, requesting several district standards be applied as conditions of approval pursuant to this subsection (Exhibit 4). All applicable conditions requirements of the district, and are listed in the conditions of approval section.*

- 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 CRW, indicating that water service is available or can be made available, including fire flows. This criteria is met.*

- 2. If the statement indicates that water service is adequate with the exception of fire flows, the applicant shall provide a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

*This criteria is not applicable as adequate fire flows are included in the water service, as noted above.*

- 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 June 15, 2023, and water system capacity is not needed to be reserved for the proposed subdivision. This criteria is met.*

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

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

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

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

#### 1006.04 SANITARY SEWER SERVICE

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

*Clackamas Water Environmental Services (WES) will provide sanitary sewer for the proposed subdivision. WES has signed a preliminary statement of feasibility and provided comments dated April 25, 2023 as follows (Exhibit 3):*

- *Clackamas Water Environment Services (“WES” or “District”) is an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 for the purpose of providing regional sewer-age works, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary or storm sewage within its boundaries.*
- *The applicant has obtained a WES Service Provider Letter that demonstrates the proposed development is viable in accordance with District Rules and Standards. Receipt of the Service Provider Letter does not imply that all District requirements have been met or guarantee that land use approval for the development will be granted.*

*Exhibit 3 recommends several conditions of approval be applied pursuant to this subsection. Where applicable, these conditions have been added to the conditions of approval section above. This criteria can be met.*

- B. Approval of a development that requires sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider.



1. The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.

*The applicant has submitted a preliminary statement of feasibility from WES, indicating that sanitary sewer capacity is available as outlined above (Exhibit 2).*

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 conditioned as noted above. 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 30, 2023, and sanitary sewer system capacity is not needed to be reserved for the proposed subdivision (Exhibit 2).*

#### 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.

*This criteria is outlined in the Conditions of Approval section.*

- 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)*

*As discussed above, WES has supplied comments dated April 25, 2023, detailing several conditions of approval. Again, staff has applied those recommended conditions, where applicable, to the Conditions of Approval section above. This criteria can be met.*

- C. Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.

*The applicant has submitted a preliminary statement of feasibility from WES dated May 30, 2023. One comment was added to the statement as follows: "Applicant must identify the emergency overflow pathway from the northern pond. If adequate pathway is not available, the pond must be designed to retain and infiltrate the 100-year, 24-hr storm event." This criteria is met.*

4. 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. This criteria is not applicable.*

5. 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 30, 2023, and surface water treatment and conveyance system capacity are not needed to be reserved for the proposed subdivision (Exhibit 2).*

- 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. This criteria is not applicable.*

2. Protect development from flood hazards;

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable.*

3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable.*

4. Ensure that waters drained from the development are substantially free of pollutants, including sedimentary materials, through such construction and drainage techniques as sedimentation ponds, reseeding, and phasing of grading; and

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable.*

5. Ensure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development.

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable.*

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

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable.*

- F. If a development, or any part thereof, is traversed by any watercourse, channel, stream, creek, gulch, or other natural drainage channel, adequate easements for surface water management purposes shall be provided to the surface water management regulatory authority.

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable. Staff notes that the site is not traversed by any such features.*

- G. Channel obstructions are not allowed, except as approved for the creation of detention, retention, or hydropower facilities approved under this Ordinance. Fences with swing gates may be utilized.

*The applicant is not proposing channel obstructions.*

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

*ORS 197.307(4) requires a local governments to apply only clear and objective development standards. This criteria is not applicable.*

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

*A surface water management and erosion control plan is required for the proposed subdivision as discussed above. WES will regulate erosion control measures. An applicable Condition of Approval is outlined above.*

#### 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 statements. 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 a 169-lot subdivision of a 19.55 acre site, with frontage on the south side of SE King Road, the north and south sides of SE Monroe Street between SE 70<sup>th</sup> Avenue and SE 72<sup>nd</sup> Avenue, the west side of SE 72<sup>nd</sup> Avenue, and the east side of a portion of SE 70<sup>th</sup> Avenue. The proposed subdivision includes development of future townhouses and one single family dwelling. The “Roads and Connectivity” findings below are based, in part, on comments received from the County Development Engineering Division dated May 13, 2024 (Exhibit 8).*

- 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 King Road is designated a minor arterial roadway. SE Monroe Street is designated a collector roadway up to SE 72<sup>nd</sup> Avenue, and then becomes a connector roadway. SE 70<sup>th</sup> Avenue and SE 72<sup>nd</sup> Avenue are designated local roadways. (Reference Comprehensive Plan Map 5-4a, see Exhibit 10 ).*

*The Clackamas County Development Agency will be improving SE Monroe Street and SE 72<sup>nd</sup> Avenue as part of the Monroe Street Neighborhood Improvements project (Monroe Project). The project includes a multi-use path along the south side of SE Monroe Street and on the west side of SE 72<sup>nd</sup> Avenue, and on the north side of SE Monroe Street, east of SE 72<sup>nd</sup> Avenue. In addition, a mini-roundabout will be constructed at the SE Monroe Street and SE 72<sup>nd</sup> Avenue intersection, and sidewalk will be constructed on the north side of SE Monroe Street, east of SE 72<sup>nd</sup> Avenue. The applicant has shown the proposed Monroe Street Neighborhood Improvements on the preliminary subdivision plan, and have adjusted their design accordingly.*

*The Monroe Project will construct improvements along the primary east/west route between SE Linwood Avenue and SE 82<sup>nd</sup> Avenue. Based on the volume of traffic carried by the road currently, and the relationship of the roadway segment between two minor arterial roadways, the route functions as a collector roadway. However, the adopted function classification of both SE 72<sup>nd</sup> Avenue and SE Thompson Road is a local roadway.*

*In preliminary discussions with the applicant and County Development Agency staff, concerns were raised regarding conflicts created by multiple driveways serving 20 to 25-foot wide townhome lots for pedestrians and bikes using the multi-use path. The applicant has indicated that construction of rear access for the lots along SE 72<sup>nd</sup> Avenue might be an option, if an agreement can be reached with the Development Agency related to construction of utility connections in SE 72<sup>nd</sup> Avenue and to offset costs associated with constructing a private access road behind the lots. The applicant has included a site plan labeled Option 2, showing an access plan to provide rear access for the proposed lots along SE 72<sup>nd</sup> Avenue. However, Option 1 with direct access to SE 72<sup>nd</sup> Avenue is still included for consideration as part of this subdivision. The conditions of approval will include standards for both options.*

*The Development Agency has recently notified the applicant that it may require the establishment of an access restriction on the west side of SE 72<sup>nd</sup> Avenue as part of the Monroe Project. The access restriction would be generally from the mini-roundabout to approximately Lots 151-155.*

*Based on preliminary discussions available at this time, the access restriction would not allow Alley F onto SE 72<sup>nd</sup> Avenue as proposed at Lot 143. If Option 2 is necessary, a shared access road/alley would need to be provided at the south end of SE 72<sup>nd</sup> near SE Thompson Road. The applicant's Option 2 access plan, as currently submitted, is not feasible if an access restriction is applied along SE 72<sup>nd</sup> Avenue, and an alternate access scenario would need to be proposed and evaluated.*

- C. New developments shall have access points connecting with existing private, public, county, or state roads.
  - 1. Intersection spacing and access control shall be based on Subsection 3.08.110(E) of the Metro Code (*Regional Transportation Functional Plan*); Chapters 5 and 10 of the Comprehensive Plan; and the Clackamas County Roadway Standards.

*The proposed private Street E access to SE King Road at the west boundary of the site provides adequate access spacing from SE Cook Street to the east. However, the current striping is not appropriate for westbound left turns from SE King Road into private Street E. The applicant will be required to restripe SE King Road to provide a two-way left turn lane on this portion of SE King Road. All other access points shall be controlled by the standards noted above.*

*The Clackamas County 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. A turnaround will be required at or near the end of proposed private roads and alleys per Roadway Standards Drawing C350. Written verification from the Fire District indicating that emergency service access is or will be adequate for the proposed subdivision will be required.*

- 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 site is not a “[s]ite identified on Comprehensive Plan Map 5-6...” Therefore, this section is inapplicable.*

- 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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable. Notwithstanding this finding, the applicant must still provide easements for any shared roadways or utilities as discussed below, and in Section 1105, below.*

6. In the SCMU District, driveways shall be spaced no closer to one another than 35 feet, measured from the outer edge of the curb cut, unless compliance with this standard would preclude adequate access to the subject property as a result of existing off-site development or compliance with the Clackamas County Roadway Standards.

*The site is not in the SCMU District. Therefore, this section is inapplicable.*

7. In the VA District, no direct motor vehicle access is permitted on Sunnyside Road.

*The site is not in the VA District. Therefore, this section is inapplicable.*

8. Inside the Portland Metropolitan Urban Growth Boundary:
  - a. The development shall have no more than the minimum number of driveways required by the Department of



Transportation and Development on all arterial and collector streets.

- b. For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.
- c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.
- d. Driveways shall be located so as to maximize the number of allowed on-street parking spaces, the number of street trees, and optimum street tree spacing.

*The proposed subdivision includes townhome lots fronting on the south side of SE Monroe Street between SE 70<sup>th</sup> Avenue and SE 72<sup>nd</sup> Avenue. Per ZDO Section 1007.01(C)(8) and Roadway Standards Section 220.4(a), access is required to be provided from the lower functional classification roadway. Under this provision, proposed Lots 143 through 169 will not be permitted driveway access onto SE Monroe Avenue, and will be required to take access from SE 72<sup>nd</sup> Avenue. The applicant has proposed an alley access (Alley F) to meet this requirements. Based on the local road functional classification from SE 72<sup>nd</sup> Avenue individual driveway access is permitted.*

- 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.

*Compliance with Development Engineering comments dated May 13, (Exhibit 8) and applicable conditions of approval herein, the applicant can meet these provisions.*

- 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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

- 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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

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

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

#### 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.

*An undeveloped portion of public right-of-way for SE Mceachron Avenue, abuts the southeast corner of the project site. This right-of-way is part of an alignment that is identified in the Clackamas Regional Center Plan (Map 10-CRC-4, see Exhibit 12) as a future road and multi-use path. The multi-use path is also identified on the Planned Bikeway Network (Map 5-2a), and the 20-year Capital Improvement Plan (Map 5-11a, see Exhibit 9). As required by ZDO Section 1007.02(E) and 1007.04 (K), right-of-way dedication and construction of a public street, with bike facilities will be required from the SE 72<sup>nd</sup> Avenue/SE Thompson Road intersection to the southern project boundary of the site. Properties to the east and south of this proposed right-of-way have development potential. Therefore, a three-quarter width right-of-way will be required. The applicant will be required to dedicate a 40-foot wide public roadway, and construct a minimum 24-foot wide road, with curbs, five-foot landscape strip on the west side, and a ten-foot wide multi-use path on the west side of the roadway. Proposed condition of approval 2.a.xii should be modified to that effect.*

- 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.

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

*As noted above, right-of-way dedication and construction of a public street, with bike facilities will be required from the SE 72<sup>nd</sup> Avenue/SE Thompson Road intersection to the southern project boundary. Properties to the east and south of this proposed right-of-way have development potential. Therefore, a three-quarter width right-of-way will be required. The applicant will be required to dedicate a 40-foot wide public roadway, and construct a minimum 24-foot wide road, with curbs, five-foot landscape strip on the west side, and a ten-foot wide multi-use path on the west side of the roadway.*

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

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

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

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

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

*Public Street A is the only new public road proposed. Public Street A is looped and will not terminate in a cul-de-sac or other dead end turnaround. This criteria is met.*

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

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is 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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable.*

- D. 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.

*SE King Road is classified as a minor arterial 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 arterial roadways. The standard right-of-way width for a three-lane, arterial roadway is 80 feet. The existing right-of-way width of SE King Street appears to be approximately 80 feet, but with the existing improvements on the north side of SE King Road, additional right-of-way will be needed to accommodate the required frontage improvements. As shown on the application plans, an additional five feet of right-of-way dedication is proposed and appears to meet the minimum requirement.*

*The portion of SE Monroe Street between SE 70<sup>th</sup> Avenue and SE 72<sup>nd</sup> Avenue is classified as a collector roadway (Comprehensive Plan Map 5-4a). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for collector roadways. The standard right-of-way width for a two-lane collector roadway is 54 feet. The existing right-of-way width of SE Monroe Street is approximately 30 feet. To meet the minimum standard and accommodate required improvements, the applicant has proposed to dedicate eight feet of right-of-way on the north side and 17 feet on the south side of SE Monroe Street, for a total width of 55 feet.*

*SE 70<sup>th</sup> Avenue and SE 72<sup>nd</sup> Avenue are classified as a local roadways (Comprehensive Plan map 5-4a). 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 roadways. The standard right-of-way width for an urban local roadway is 54 feet. The existing right-of-way width of SE 70<sup>th</sup> Avenue is approximately 50 feet, requiring a dedication of approximately two feet of additional right-of-way to provide a 27-foot one half right-of-way width. The existing right-of-way width of SE 72<sup>nd</sup> Avenue is approximately 50 feet, requiring a dedication of*

*approximately two feet of additional right-of-way to provide a 27-foot one half right-of-way width.*

- E. Road frontage improvements within the UGB and in Mt. Hood urban villages shall include:
  - 1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;
  - 2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;
  - 3. Transit amenities as specified in Subsection 1007.05; and
  - 4. Street trees as specified in Subsection 1007.06.

*The minimum improvements on the SE King Road 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 27-foot one-half paved width to the curb, a five-foot wide landscape strip with street trees, a five-foot wide unobstructed sidewalk, and storm drainage facilities.*

*The minimum improvements on the SE Monroe Street frontage consistent with ZDO Section 1007 include, but are not necessarily limited to, up to a one half-street improvement along the frontage, pavement widening as necessary to provide a minimum 18-foot one-half paved width to the curb, a five-foot wide landscape strip with street trees, a five-foot wide unobstructed sidewalk, and storm drainage facilities. The Monroe Street Project will construct full street improvement on the SE Monroe Street frontage, except for the section between SE 70<sup>th</sup> Avenue and the min-roundabout at SE 72<sup>nd</sup> Avenue. The applicant will be required to complete this section of roadway by constructing a five-foot wide landscape strip and a five-foot wide sidewalk.*

*The portion of SE Monroe Street east of 72<sup>nd</sup> Avenue is designated a connector roadway and will be improved by the Monroe Street project, including road paving, curbs and a multi-use path along the project site frontage.*

*The minimum improvements on the SE 70<sup>th</sup> Avenue 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 five-foot wide landscape strip with street trees, a five-foot wide unobstructed sidewalk, and storm drainage facilities. SE 70<sup>th</sup> Avenue was recently improved with curbs on both sides and a sidewalk on the west side of the roadway. The applicant will be*

*required to construct a five-foot wide landscape street, and a five-foot wide sidewalk along the SE 70<sup>th</sup> Avenue frontage.*

*The minimum improvements on the SE 72<sup>nd</sup> Avenue 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 five-foot wide landscape strip with street trees, a five-foot wide unobstructed sidewalk, and storm drainage facilities. The Monroe Street project will complete full street improvements along the subdivision site frontage of SE 72<sup>nd</sup> Avenue.*

*Street A, a new looped public local roadway, will provide access to the proposed lots on the north side of SE Monroe Street. The standard right-of-way width for a public local roadway is 54 feet. The minimum improvements for a local roadway, consistent with ZDO Section 1007 include, but are not necessarily limited to 32-foot wide paved roadway, six-inch curbs, a five-foot wide landscape strips with street trees, five-foot wide unobstructed sidewalks, and storm drainage facilities. The applicant's preliminary plans appear to be consistent with these standards.*

#### 1007.03 PRIVATE ROADS AND ACCESS DRIVES

- F. Private roads and access drives shall be developed according to classifications and guidelines listed in Section 1007, Comprehensive Plan Figures 5-1 through 5-3, *Typical Roadway Cross Sections*, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards, except:
1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district’s Fire Marshal;
  2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;
  3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;

4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is 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).

*The proposed subdivision includes proposed private streets B, C, D, and E, and Alley F, and Alley "G" under Option 2. Clackamas County has adopted design and construction standards for private roads, as provided in ZDO Sections 1007.02-03 and Roadway Standards Section 225.7. Private roads serving four or more dwelling units are required to construct a roadway with a minimum travel width of 20 feet, within a five-foot wide sidewalk on one side of the road. A minimum 30-foot wide access easement is necessary to provide a minimum of two feet from the roadway improvement to a property line. The proposed private access road meets the minimum standards, per Roadway Standards Drawing R100*

#### 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.

*Pedestrian and bicycle facilities are required. Sidewalks are required on public and private streets. Additionally, the Monroe Project calls for a multi-use path. Requirements for a pedestrian path/accessway are noted below. Compliance with recommended conditions of approval will ensure these facilities are adequately constructed.*

- B. Pedestrian and Bicycle Facility Design: Pedestrian and bicycle facilities shall be designed to:
  1. Minimize conflicts among automobiles, trucks, pedestrians, and bicyclists;

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

*The proposal includes pedestrian and bicycle facilities which are consistent with this standard. This criteria can be met.*

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

*The applicant is proposing sidewalk and pedestrian facilities to comply with these standards. Accessways are discussed below. These standards can be met.*

- D. Requirement for Sidewalk Construction: Within the UGB, sidewalks shall be constructed, as required in Subsection 1007.04(F), for two-family dwellings, detached single-family dwellings, attached single-family dwellings where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.



*Sidewalks are required for all public road frontages. This standard can be met.*

- 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 subject property is not located in an unincorporated community. 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:
    - e. The road is not a through road;
    - f. The road is 350 feet or less in length and cannot be extended; or
    - g. In consideration of the factors listed in Subsection 1007.02(B)(3).

*The public loop road (Street A) includes proposed sidewalks on both sides of the road. Monroe Street between SE 70<sup>th</sup> and SE 72<sup>nd</sup> requires sidewalks on both sides of road. Half-street improvements are required on SE 72<sup>nd</sup> Avenue, SE 70<sup>th</sup> Avenue, SE King Road, and the balance of SE Monroe Street. The private roads are not through roads, and may have a sidewalk on one side.*

- G. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local, connector, 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:...

*Pedestrian pathways are not proposed as an alternative to sidewalks. This criterion is inapplicable.*

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**

<b>Street Type</b>	<b>Residential Sidewalk</b>	<b>Commercial or Institutional Sidewalk</b>	<b>Industrial Sidewalk</b>
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.
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.

*SE King Road carries Tri-Met Bus route 33. However, no stops are located on the subject property and no additional bus stop locations have been requested.*

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 applicant's design can comply with the standards set forth in table 1007-1. Conditions of approval are warranted to ensure sidewalks are constructed to these standards.*

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.
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.
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.
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.
5. Fences are not required, but the height of a fence along an accessway shall not exceed six feet.
6. Ownership and maintenance responsibility for accessways shall be resolved during the development review and approval process.

*Roadway Standard Section 220.5, as well as Comprehensive Plan Policy 5.R5 require that development that will be constructing new roads, either provide a through connection so that there is a maximum block length of 530 feet, or if not feasible, provide an accessway for a pedestrian, bicycle or emergency access connection. The current block lengths of the neighborhood bounded by SE King Road, SE Monroe Street, SE 70<sup>th</sup>*

*Avenue, and 74<sup>th</sup> Avenue, exceed the block length standard. During pre-application review of the proposed subdivision, connections between SE King Road and SE Monroe Street, and from end of SE Jack Road , were identified as a requirement, in order to meet the block length standard.*

*The applicant submitted a Design Modification request that proposed private road access onto SE King Road, with a pedestrian connection south to the remainder of the site. The applicant proposed a pedestrian connection in place of a road connection between proposed Public Street A and SE Jack Road . Engineering and Planning staff reviewed the Design Modification and granted approval allowing a pedestrian and bicycle connection through the project site from SE Monroe Street and SE King Road; based on the steep slope in the northern portion of the project site, a full road connection is not feasible from SE King Road south through the site and a pedestrian and bicycle accessway is an acceptable alternative. Based on the proximity of SE Jack Road to SE Monroe and proposed Public Street A, a pedestrian and bike access was deemed adequate in lieu of a full street connection.*

*Per ZDO Section 1007.04(I)(3) an eight-foot concrete pathway width is required. A minimum 15-foot wide public pedestrian access easement will be required over Tract “B”, and over Private Street D, providing a connection to Public Street A. Maintenance provisions for the public pedestrian access will be required through the CC&Rs.*

*Pursuant to Subsection 3 through 5, bollards (or locked gates if emergency access will be proposed along Jack Road easement) shall be required to prohibit vehicular access, except emergency vehicles. Accessways shall be adequately illuminated. If fences are proposed, they shall not exceed six feet in height.*

*These standards are detailed in the conditions of approval.*

#### 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.

*Per ORS 197.307, local governments cannot apply subjective standards. Therefore, this standard is not applicable. Staff notes that SE King Ave contains Route 33, a Tri-Met bus route. Tri-Met was sent notice of this project. No comments were made.*

## 1007.06 STREET TREES

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

*Street trees are required on all public roads subject to these standards. However, ZDO Section 1007.06(A)(1), (3), and (5) are not applicable per ORS 197.307(4). County Development Engineering notes that these standards can be met through conditions of approval.*

## 1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

*Since a subdivision is proposed, this section applies.*

- B. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:
1. Development that is located:
    - a. In the Light Industrial, General Industrial, or Business Park District; and
    - b. North of the Clackamas River; and
    - c. West of Highway 224 (south of Highway 212) or 152<sup>nd</sup> Drive (north of Highway 212); and
    - d. South of Sunnyside Road (east of 82<sup>nd</sup> Avenue) or Harmony Road (west of 82<sup>nd</sup> Avenue) or Railroad Avenue (west of Harmony Road); and
    - e. East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).
  2. Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;
  3. Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;
  4. Mass transit facilities, such as light rail transit stations and park-and-ride lots;
  5. Home occupations to host events, which are approved pursuant to Section 806; and

6. Development in Government Camp that is otherwise consistent with the Comprehensive Plan land use plan designations and zoning for Government Camp.

*No part of this project is exempt from Section 1007.07.*

- C. As used in Subsection 1007.07(B), 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. Notwithstanding the definitions of “urban” and “rural” in Chapter 5, Transportation System Plan, of the Comprehensive Plan, Highway 212 shall be evaluated under Table 5-2a, if the subject property is inside the Portland Metropolitan Urban Growth Boundary.

*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. Roadway Standards Section 295.2 requires a traffic impact study (TIS) when a development will generate 20 or more trips in any peak hour. The proposed subdivision is estimated to generate 1,150 average daily trips, with 78 AM peak hour and 90 PM peak hour trips. The applicant has provided a Traffic Impact Study (TIS) by Lancaster Mobley, dated December 7, 2023, (Exhibit 2a). The TIS finds that the intersections within the influence area of the proposed subdivision can accommodate the additional vehicle trips generated by the proposed subdivision, and will operate within adopted mobility standards. No traffic mitigation measures are proposed. County Traffic Engineering has reviewed the TIS and concurs with the report findings.*

- D. For the purpose of calculating capacity as required by Subsections 1007.07(B) and (C), the following standards shall apply:
  1. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
  2. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.

- E. As used in Subsection 1007.07(B), timely means:

1. For facilities under the jurisdiction of the County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued;
2. For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Program (STIP) and scheduled to be under construction within four years of the date land use approval is issued;
3. For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction's capital improvement plan, fully funded, and scheduled to be under construction within three years of the date land use approval is issued.
4. Alternatively, timely means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative...

*Subsection 1007.07(E)(4) requires the applicant complete the necessary improvements. However, there are no additional facilities are required.*

F. As used in Subsection 1007.07(E), necessary improvements are:

1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C).
  - a. A 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.

*Given the scope of the proposed subdivision a traffic impact study was required. As noted in Subsection C, no additional improvements have been identified.*

***This criteria is met***

## **1012 LOT SIZE AND DENSITY**



#### 1012.01 APPLICABILITY

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

A. Subdivisions;

B. Partitions;

*The applicant is proposing a subdivision that is not located in the AG/F, EFU or TBR zoning district. Therefore, Section 1012 applies to this application.*

#### 1012.02 MINIMUM LOT SIZE EXCEPTIONS

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

*No Exception can be applied to this proposal.*

#### 1012.04 GENERAL DENSITY PROVISIONS

A. Density is a measurement of the number of dwelling units in relationship to a specified amount of land. In the context of a partition, subdivision, replat, or manufactured home park, density typically relates to potential dwelling units in the form of lots, parcels, or manufactured home park spaces. Density often is expressed as dwelling units per acre; however, this Ordinance implements density standards in many zoning districts by assigning a district land area (DLA), which is the starting point for determining the maximum number of dwelling units allowed on a particular site. In general, the DLA is the minimum lot area required per dwelling unit; however, the DLA is subject to adjustment for density bonuses, restricted area development limitations, and limits on the extent of new road area that must be subtracted.

B. The DLA and the minimum lot size standard applicable to a particular zoning district are seldom the same. Often this is because the maximum density derived from the DLA standard is calculated over the entire site prior to any platting of new lots or parcels. The minimum lot size

standard then typically permits flexibility in determining where on the site the allowed dwelling units will be developed. For example, some lots may be relatively large while others are smaller, or open space tracts may be platted while all lot sizes are relatively small. Regardless of allowed flexible sizing of individual lots or parcels, however, the maximum density allowed for the entire site remains the same.

*The applicant shall be subject to R-7 and 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.

*No dwellings are present on the subject property.*

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

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

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

*There are not existing detached single-family dwellings on the site and such dwellings are allowed in the R-7 and R-10 zones. 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.

- A. Calculate the land area of the subject property. The result is gross site area (GSA).
- B. Subtract the following from GSA to determine net site area (NSA). In the event of an overlap between categories requiring a subtraction, the area of overlap shall be classified in the most restrictive category.
  1. The land area of new county, public, or private roads (NR) in the HR, MRR, Urban Low Density Residential, VR-4/5, VR-5/7, and VTH Districts, except:
    - b. If NR exceeds 15 percent of the GSA, only 15 percent of the GSA shall be subtracted.
    - c. No subtraction shall be made for strips of land adjacent to existing road rights-of-way when such strips are required to be dedicated as a condition of approval; .
  2. In a zoning district other than HR and MRR, any land area of the GSA in the following highly restricted areas (HRA), except that no subtraction shall be made for HRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas:
  3. In a zoning district other than HR and MRR, fifty percent of the land area of any portions of the GSA in the following moderately restricted areas (MRA), except that no subtraction shall be made for MRA that will remain undeveloped, in which case density

accruing to these areas may be transferred to unrestricted areas.:

- C. Divide the NSA by the DLA of the applicable zoning district. The result is base density (BD). The calculations that result in a determination of BD are represented by the following formula:  $\{GSA - [NR + HRA + (MRA \times 0.5)]\} / DLA = BD^*$

*The applicant has prepared a detailed density calculation, Exhibit 2i. With 1/4 of the base density of R-10 equaling 2,500 and 1/4 of the base density of R-7 equaling 1,750, total maximum density of the subject property is 352. 193 units are permitted in the R-7 zone and 159 units are permitted in the R-10 zone. The hearings officer concurs with the applicant's density calculations. This criteria 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:

- 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:
1. New county, public, or private roads and strips of land dedicated adjacent to existing road rights-of-way;
  2. Slopes equal to or greater than 20 percent;
  3. Mass movement hazards regulated by Section 1003, Hazards to Safety;
  4. Areas in the Floodplain Management District regulated by Section 703, Floodplain Management District;
  5. The Willamette River and the required buffer area regulated by Section 705, Willamette River Greenway;
  6. Habitat Conservation Areas (HCA) regulated by Section 706, Habitat Conservation Area District (HCAD), provided that the HCA, or portion thereof, to

be subtracted is protected from development by a restrictive covenant or a public dedication, and provided that the subject property was inside the Portland Metropolitan Urban Growth Boundary on January 1, 2002;

7. Water Quality Resource Areas regulated by Section 709, Water Quality Resource Area District (WQRAD); and
8. Land to be dedicated to the public for park or open space use.

*For minimum density, townhouses are not calculated pursuant to one-quarter the DLA, The one-quarter DLA is additional density allowed pursuant to middle housing regulations adopted on July 1, 2022, and not required to be calculated to obtain minimum density. Minimum density is calculated pursuant typical DLA for the R-7 and R-10 zoning district.*

C. In the RCHDR District, the minimum density is 30 dwelling units per net acre. Otherwise, divide by the district land area of the applicable zoning district and multiply the result:

1. By 80 percent in Urban Low Density Residential Districts. However, partitions in these districts have no minimum density requirement provided that a master plan demonstrates that the minimum density for the entire property can be met through future land division;

*The applicant's calculations for minimum density appear to be incorrect in the R-10 zoning district. The applicant has subtracted the pond/vegetated corridor. As noted above, ZDO Section 709 does not apply in this case, as water quality buffers are regulated by WES. Therefore, staff calculates roughly 110,000 square feet of highly restrictive area must not be included in the calculations. Additionally, the applicant has distinguished between moderate and highly restrictive for slopes over 20%. For the minimum density calculation, no distinction is required. All told, staff calculates minimum density in the R-10 zone as follows:*

*422,122 (GSA) - 39,571 (new road), ~40,000 (Slopes >20%)=342,551. Divide by DLA or 10,000= 34.25. Multiple by 80 percent (0.80)=27.4.*

*The applicant's calculations for minimum density in the R-7 zoning district again distinguish between moderately and highly restrictive slopes, which is not required. Also, the applicant limits the new road (NR) subtraction to 15%. This is only applicable in the*

maximum density calculation. Thus, Staff calculates minimum density in the R-7 zone as follows:

$426,017 \text{ (GSA)} - 101,998 \text{ (new road)}, -43,624 \text{ (Slopes } < 20\%) = 280,395$ . Divide by DLA or 7,000 = 40.05. Multiple by 80 percent (0.80) = 32.04

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

27.4 and 32.04 are being rounded down. Total minimum density is therefore 59 lots.

## **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.

*Pursuant to ZDO Section 1001, Table 1001-1, Solar Access standards are not applicable.*

## **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, this proposal is subject to Section 1105.*

#### **1105.02 GENERAL SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, REPLATS, AND MIDDLE HOUSING LAND DIVISIONS**

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

1105.03 ADDITIONAL SUBMITTAL REQUIREMENTS FOR  
SUBDIVISIONS, PARTITIONS, AND REPLATS

*Subsection A relates to density, which has been addressed in Section 1012. Subsection B relates to Solar Access standards which are not applicable. The applicant submitted a “phasing plan and schedule” as required by Subsection 1105.05(C).*

1105.05 APPROVAL CRITERIA FOR SUBDIVISIONS,  
PARTITIONS, AND REPLATS

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

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

*The subject property is located in the Urban Low Density Residential District and is not designated as a zero-lot-line development. 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:
1. The total number of lots in all recorded phases of the subdivision shall not exceed the maximum density allowed pursuant to Section 1012, Lot Size and Density, for the gross site area included in all such phases.

2. If one or more open space tracts are required as a condition of subdivision approval, the first phase shall include all required open space tracts for the entire subdivision.
3. Future phases shall be shown upon the initial and subsequent final plats as a “Tract Reserved for Future Development.”
4. As deemed necessary by the County or special districts, dedication of rights-of-way or easements into or through future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

*The applicant is proposing a phasing plan (See Exhibit 2h). Phase 1 includes lots 1-65. Plat recording is anticipated in 2025. Phase 2 includes lots 66-127 and plat recording is anticipated in 2026. Phase 3 includes lots 128 through 162. Phase 4 includes lots 163-169. Phases 3 and 4 are anticipated to be recorded in 2027. The total number of lots proposed will not exceed the maximum density. All open space tracts shall be required for the first phase of subdivision. Subsection 4 relates to required dedications and easements. It will be necessary to dedicate public rights of way, particularly for roadways such as SE Monroe Street and SE 72<sup>nd</sup> Avenue during the first phase of the plat. Moreover, easements required by special districts may be applied to all portions of the subject property during the first phase. In summary, given the large size and complexity of the subdivision, the hearings officer approves the phasing plan (Exhibit 2h) subject to the four criteria listed above. These standards can be met. Access to the lots south of Monroe may be affected if a deed restriction is applied to SE 72<sup>nd</sup> Avenue. A land use modification or new subdivision for phases 3 and 4 may be required if the proposed access and roadways change.*

- 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 to own and maintain the common areas and facilities, including, but not limited to, open space and private roads. The applicable standards of this Subsection are outlined under Conditions of Approval.*

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

*The subject property is not located in a future urban area. Therefore, this section does not apply.*

#### 1105.09 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.

*Since the applicant is proposing a phasing plan, the approval period shall be subject to subsection C, below. This criteria is not applicable.*

- B. If a final plat is not recorded within the initial approval period established by Subsection 1105.09(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*, except for a replat reviewed as a Type I application pursuant to Section 1307, which may not be approved for a time extension.

*Since the applicant is proposing a phasing plan, the approval period shall be subject to subsection C, below. This criteria is not applicable.*

- C. If a phasing plan and schedule are approved pursuant to Subsection 1105.05(C), the following shall apply in lieu of Subsections 1105.09(A) and (B):
  - 1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.
  - 2. The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.
  - 3. Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.
  - 4. If a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved pursuant to Section 1310.
  - 5. In no case shall a phasing schedule or any time extensions permit the recording of any phase more than 10 years after the date of preliminary plat approval.

*Since a phasing plan is being approved, the applicable standards of Subsection C are outlined under Conditions of Approval.*

#### 1105.11 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 under Conditions of Approval. The parcels involved with the proposed subdivision are not all larger than 80 acres.*

#### **D. CONCLUSION**

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that Case No. Z0489-23-SL (Monroe Park) should be approved, because the application does or can comply with applicable standards of the Clackamas County ZDO, provided it is subject to conditions that ensure timely compliance in fact with the ZDO and relevant Comprehensive Plan Policies addressed herein or incorporated by reference in the Staff Report.

#### **E. DECISION**

1. Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves Z0489-23-SL (Monroe Park) subject to the following conditions:

#### **CONDITIONS OF APPROVAL**

#### **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.

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 (WES-Planning@clackamas.us, 503-742-4567):

- i. **Authority (Rules, Section 2):** The proposed development is located within the service area of Clackamas Water Environment Services (WES) and shall be subject to Water Environment Services Rules and Regulations, 2023, Ordinance No. 02-2023. These Rules and Regulations shall apply to any property that discharges or requests to discharge, via connection request, development permit, or change in use, to the District's public sanitary sewer system or public stormwater system, to groundwater, or to surface waters within District boundaries. The District shall have the authority to administer all the requirements, regulations, and provisions set forth in the following Standards.

- a) Water Environment Services Sanitary Standards, April 2023
- b) Water Environment Services Stormwater Standards, April 2023
- c) Water Environment Services Buffer Standards, April 2023
- ii. **Connection Permit Required (Rules, Section 4.2):** A permit shall be required to connect to the District system, including, but not limited to a Service Connection, pipes, pollution reduction manholes, and detention facilities, whether constructed or natural. Before connecting to the District system, a permit authorizing such connection shall first be secured in writing from the District and all applicable fees paid.
- iii. **Plat Approval:** The Applicant shall submit a preliminary plat to the local planning authority, who will coordinate plat review with the District. Prior to WES signing off on the plat approval, any sanitary or storm systems required by WES Standards shall be substantially complete as determined by WES, or the Applicant shall obtain a performance surety for all sanitary and stormwater improvements on the approved plan. Substantial completion requires WES review of asbuilt drawings and system inspections.
  - a) See Appendix A for Plat Review and Approval criteria
- iv. **Public Easements:**
  - a) Existing Surface Water, Storm Drainage, and Sanitary Sewer Easements located on the site and granted to WES/CCSD#1 are permanent and not extinguishable. No development shall encumber the use or access to these easements by WES.
    - 1) Note: the applicant's preliminary plans do not accurately show all existing SS and SW assets on tax lot 4900.
  - b) The applicant shall demonstrate how vehicular access will be provided to District staff to allow for system maintenance of existing sanitary sewer and stormwater management assets, specifically on tax lot 4900 and currently accessed through the nursery parking lot.
  - c) The existing 15-inch storm main located on tax lot 4900 (from SE Thompson Rd) shall not be located within the footprint of the stormwater facility proposed on Tract C.
  - d) All new Surface Water, Storm Drainage, and Sanitary Sewer Easements shall be reviewed and approved prior to final Plan approval. All easements shall be granted to "Water Environment Services" and shall be recorded via plat map or deed instrument.

- e) Public Easements shall have a minimum width of 15-feet. Public Sanitary Sewers with more than 8-feet of cover or combined with public storm sewers shall require wider easements, which will be determined by the District. A slope of one horizontal to one vertical from the invert of the Sanitary Sewer Mainline to ground surface will be used to determine easement width. Easements that combine both mainline sanitary sewers and storm sewers shall have a minimum width of 20-feet
- v. Advisory: Rates, Charges, and Billings (Rules, Section 5): Note, these are not development standards. Please reference Exhibit 3.
- vi. **Use of Public Sanitary Sewers (Rules, Section 6.3):** Before connecting to the public sewerage system, a permit authorizing such connection shall first be secured in writing from the District and fees paid. The owner of any building situated within the District and proximate to any street or sewer easement in which there is a public sanitary sewer of the District may request permission, at owner's expense, to connect said building directly to the public sanitary sewer in accordance with the provisions of these Rules and Regulations.
- vii. **Development Policy (Section 3.2):** All buildings with sewer drains within the boundaries of the proposed development shall be connected to the Public Sanitary Sewer System as part of a plan approved by the District.
- viii. Sewer Extension Permit (Section 4.1):
  - a) Prior to the commencement of construction of any Public Sanitary Sewer System, a valid Sewer Extension Permit shall be issued by the District in accordance with these Standards. An Extension Permit is required 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.
  - b) The Developer's Engineer shall submit a signed Sanitary Sewer Engineering Agreement which outlines the responsibilities of the Developer and Developer's Engineer, with regard to surveying, costing, design, inspection, testing, certification, and as-built requirements of the District for acceptance of the proposed Sewer Extension Permit project.
  - c) See **Section 4.2** for Project Construction requirements, **Section 4.3** for Acceptance and Warranty process, and **Section 4.3.3** for Service Connection drawing requirements.

- ix. Sanitary Sewer Design (Section 5)
  - a) **Minimum Slope Design (Section 5.2.3):** Newly constructed mainlines in the Public Sanitary Sewer System shall be designed with the minimum slope of 0.0100-ft/ft (1.0%), except for dead-end lines, for which the District requires a minimum slope of 0.0200-ft/ft (2.0%).
  - b) **Alignment (Section 5.2.5):** All pipe shall be laid on a straight line and grade. All Public Sanitary Sewer Extensions shall be located within the public Right-of-Way or in a Public Sanitary Sewer Easement as determined by the District.
  - c) **Minimum Cover of Mainline (Section 5.2.11):** Public Sanitary Sewer Mainlines shall be placed with a minimum cover of 8-feet in roadways and 6-feet of cover in Public Sanitary Sewer Easements.
  - d) **Line and Grade (Section 6.3.5):** Sanitary sewer pipe shall be laid in full lengths as manufactured and shall be laid on a constant grade and in a straight alignment from manhole to manhole, or cleanout. The vertical variation of the grade line shall not create standing water in a pipe that exceeds ½-inch in height.
  - e) **Slope of Manhole Channel (Section 5.3.2):** The drop across a standard 48-inch manhole shall be two-tenths (0.20-ft) of a foot.
  - f) C900 or C905 PVC shall be used for mainline pipes where needed for added strength, as determined by the District and which may include pipes passing under or through retaining walls. The same material type shall be installed in the entire run from the downstream to the upstream manhole.
- x. **Manhole Installation (Section 6.3.12):** Manholes added over an existing mainline shall have a base which achieves watertight connections to the existing pipe type. Manholes and adjoining pipe shall be watertight. Any noticeable infiltration shall be repaired, in a means and method approved by the District.
- xi. **Separate Service Connections (Section 5.4.7):** A separate and independent Service Connection shall be provided for each tax lot, parcel of property, or lot of record.
- xii. **Service Connections (Section 5.4)**
  - a) Each residential single-family lot shall be served by a single 4-inch diameter Service Connection. The diameter of the Service Connection for lots other than residential single family shall be served by a minimum 4-inch diameter pipe, or large if deemed necessary by

Oregon Plumbing Specialty Code or permitted at the sole discretion of the District.

- b) Service Connections installed with a new public mainline shall be made by means of a manufactured tee. Service Connections into an existing Public Sanitary Sewer Mainline shall be made with installation of an Inserta Tee, and a \$125 tap-in fee shall apply.
- c) The Service Connection shall be at least 6-feet deep at the property line crossing. No Service Connection shall be laid on a grade of less than 2-percent.
- d) Tees for service connection shall be located no closer than 5-feet to manholes.
- e) Sanitary laterals shall be marked by a “SS” curb stamp, as shown on Detail SAN-019.

xiii. **Applicability (Section 2.3):** All new Development and Redevelopment activities that result in 5,000-sf or greater of new or replaced impervious surface area, cumulative over the last 3 years, are subject to the requirements of these Standards for all newly proposed and replaced impervious surface areas within the overall project boundary.

xiv. **Stormwater Minimum Requirements (Section 2.3):**

- a) Upon land use approval, the Applicant shall submit civil site plans, a stormwater report, and supporting documentation to WES as specified in these standards for plan review and approval. The Applicant shall demonstrate the stormwater management facilities (SMF) meet the technical standards found in the Stormwater Standards, including sizing methods and calculations. See Appendix A for submittal requirements.
- b) Prior to plat approval, the applicant shall construct the approved stormwater management system and said system shall be inspected by WES staff.
- c) The applicant shall execute and record an Operations and Maintenance (O&M) Plan for any stormwater facilities on private property to ensure the long-term functionality of the SMF.

xv. **Stormwater Management Performance Standards (Section 6.1):**

Projects subject to stormwater review shall provide SMFs that meet District water quality and flow control performance standards:

- a) Sites that can fully infiltrate the 10-year, 24-hour design storm:



- 1) When a SMF is designed to fully infiltrate the 10-year, 24-hour Design Storm (using a single event model), the facility is assumed to meet the flow control performance standard. Emergency overflow pathway requirements shall apply (Section 6.1.3).
  - 2) When a rain garden, planter, swale, or pond is designed to fully infiltrate the 10-year, 24-hour Design Storm, the facility is also assumed to meet the water quality performance standard. UIC facilities, such as drywells, infiltration trenches, and infiltration chambers may require upstream water quality treatment to meet the water quality performance standards.
  - 3) When a UIC facility is designed to infiltrate the 10-year 24-hour Design Storm, the Applicant shall demonstrate the proposed UICs will be rule authorized under Oregon Administrative Rules (OAR) 340-44-008 or will obtain a DEQ-issued UIC Permit.
- b) Sites that cannot fully infiltrate the 10-year, 24-hour design storm:
- 1) Flow control facilities designed with partial or no infiltration shall include an underdrain, control structure, and overflow system to manage the release rates from the facility. Release rates from the facility shall meet the flow control performance standard in Section 6.1.2.
  - 2) **Flow Control:** Using a continuous flow model, flow control facilities shall be designed so that the duration of peak flow rates from Post-Development Conditions shall be less than or equal to the duration of peak flow rates from pre-development conditions for all peak flows between 42 percent of the 2-year peak flow rate up to the 10-year peak flow rate.
    - A. WES has developed a BMP Sizing Tool to assist developers in meeting flow duration matching requirements customized to Clackamas County conditions. The Tool sizes facilities so that post-development peak flow durations will match the pre-development peak flow durations ranging from 42% of the 2-year to the 10-year flows, as determined by HSPF continuous rainfall model simulation.
    - B. Because of known downstream flooding issues, in addition to meeting the requirements of the continuous rainfall model (BMP Tool results), over-detention of the 25-year storm shall also be required. In designated basins with limited downstream conveyance capacity, flow control shall be designed to reduce the 25-year, 24-hour, post-developed runoff rate to the 2-year, 24-hour pre-developed discharge rate.

- 3) **Water Quality:** Water quality facilities shall be designed to capture and treat the first 1-inch of stormwater runoff from a 24-hour storm event. The water quality facility shall use either an approved vegetated SMF or an approved Proprietary Stormwater Treatment Device (See Section 6.5.10).
- xvi. **Infiltration (Section 6.2.1):** The Applicant shall conduct infiltration testing and establish a design infiltration rate, as described in Section 6.2.1 and Appendix A. SMFs shall be designed with an infiltration component, unless otherwise stipulated by the design professional.
- xvii. **BMP Sizing Tool** - The following shall apply for any SMF designed with the BMP Sizing Tool:
- a) A BMP Sizing Tool Report shall be submitted with the Stormwater Report. Orifice sizes for SMFs shall be specified by the BMP Sizing Tool results.
  - b) Publicly maintained stormwater facilities shall be designed with the custom pond sizing feature of the BMP Tool.
  - c) A separate sizing analysis shall to be performed on each Drainage Management Area (DMA). The engineer shall verify each DMA aligns with the final grading plans.
- xviii. **General Facility Design Requirements (Section 6.4):** The following general design requirements shall apply to all SMFs. Additional facility specific design criteria shall apply, in accordance with Section 6.5.
- a) Drainage basin maps shall identify runoff within and upstream of the development. Design of surface water and stormwater systems must include provisions to control runoff from impervious and pervious areas within and upstream of the development without exceeding capacities of available facilities and downstream drainageways.
  - b) Stormwater management facilities shall be accurately sized for the total impervious area resulting from the proposed development, including all onsite structures and hardscape and any offsite road improvements required by the local road authority.
  - c) Provide individual plan view and cross section details for each proposed facility. Cross section shall detail all elevations in the flow control as well as elevations of each layer of rock, soil, above ground storage, perf pipe, etc. Show a specific detail for the chamber system with all elevations labeled.

- d) The developer shall identify the amount of impervious surface area (sq ft) that was assigned to each lot and used in the sizing of any shared stormwater management facility. The square footage shall be identified in the engineer's storm report and on each service connection drawing.
- e) The minimum setback for a stormwater facility shall be 5 feet from a property line. Note: District Buffer Standards may have additional design requirements for vegetated facilities and buffer areas.
- f) Piped storm drainage systems shall generally be located in the Public ROW. Public storm drainage system facilities not located in the Public ROW shall be located within an easement granted to the District.
- g) Storm laterals shall be marked with a "ST" stamped in top of curb (Detail SWM-43).
- h) Stormwater Facility Signage: All vegetated and porous SMFs, including permeable surfaces such as pervious pavement shall have at least one informational sign that is clearly visible and legible to the public. At a minimum, signs shall provide description of the facility and its purpose, and contact information for maintenance complaints.
- i) Soil Mixes: Facilities that include soil, such as swales, planters, curb extensions, and basins, shall use the Blended Soil Specification for Vegetated Stormwater Systems from the most currently adopted City of Portland's Standard Construction Specifications in section 0104.14(d), titled Stormwater Facility Blended Soil.
- j) Public Maintenance Access: Publicly maintained stormwater facilities and structures shall provide an access road designed and constructed for the intended use and purpose for accessing and maintaining the proposed SMFs. Public maintenance access roads shall be designed and constructed to the minimum standards as specified in Table 8.

xix. **Stormwater Management Facility Planting Plan (Section 6.4.5 and Appendix A and B):** The SWM Plan shall provide planting information for each vegetated SMF based on requirements of the Standards, including:

- a) Vegetation shall be installed such that 100 percent vegetative cover is achieved through a mix of herbaceous, groundcover, and shrubs at the end of the 2-year warranty period, prior to acceptance.
- b) Landscape plans for publicly maintained SMFs shall be prepared by a registered Landscape Architect.

- c) Landscape plans and specifications shall comply with the submittal requirements of Appendix A.
  - d) Trees shall not be allowed in SMFs located within the public ROW.
  - e) Plans shall identify the temporary irrigation strategy to be used during the plant establishment period.
- xx. **Points of Discharge (Section 7.2.1):** The Applicant shall identify a proposed point of discharge. Any connection to a public or private piped downstream storm drainage system shall be approved by the District.
  - xxi. **Downstream Analysis (Section 7.2.4):** A Qualitative and quantitative downstream analysis shall be required for any project that discharges stormwater runoff to a natural or manmade storm drainage system. If the proposed stormwater management system is designed to fully infiltrate the design storm as specified in Chapter 6, then the Applicant is exempt from the downstream analysis requirements but must still address the 100-year emergency overflow pathway requirement in Section 6.1.3.
  - xii. **Emergency Overflow Pathway (Section 6.1.3):** For all projects with SMFs, a 100-year overland emergency overflow pathway shall be identified and/or designed that allows runoff from large storm events to discharge without risk of injury or property damage.
  - xxiii. **Inlets and Catch Basins (Section 7.6.5)**
    - a) Inlets shall be designed to completely intercept the design storm gutter flow with no greater than 250 feet between inlets.
    - b) Grates shall, as far as practical, be designed to avoid failure due to accumulation of debris. Catch Basin Curb Inlet (Standard Drawing SWM-15) shall be used at low point areas to prevent clogging and flow bypass of the storm system. SWM-14 shall be used under other typical situations.
      - 1. All catch basins shall be constructed with an 18-inch minimum sump.
  - xxiv. **Outfalls (Section 7.9):** Outfalls from drainage facilities shall be designed with adequate energy dissipaters to minimize downstream damage and erosion. Storm drain lines shall enter a creek or drainage channel at 90 degrees or less to the direction of the flow. Rock protection at outfalls shall be designed in accordance with information listed in Table 14.
  - xxv. **Erosion Prevention and Sediment Control Permits (Section 8.2.3):** An EPSC Permit shall be required prior to placement of fill, site clearing, or

land disturbances, including but not limited to grubbing, clearing or removal of ground vegetation, grading, excavation, or other activities, any of which results in the disturbance or exposure of soils covering an area of 800 sf or greater.

- a) See Section 8.4 and Appendix A for EPSC Plan submittal requirements.
- b) See Section 8.6 for approved Best Management Practices, including base measures.

xxvi. **NPDES 1200-CN and 1200-C Permit (Section 8.2.4):** In addition to the District EPSC Permit, a NPDES 1200-CN permit shall be required for projects disturbing one acre up to less than 5 acres of disturbance. The 1200-CN shall be issued by the District along with the local permit. For disturbances of 5 acres or greater, a District EPSC Permit and a DEQ 1200-C permit shall be required. The local District permit shall be issued by the District. The 1200-C permit will be obtained directly from DEQ.

xxvii. **Operations and Maintenance Plans (Section 9.2):** An O&M Plan shall be required for all permanent SMFs in accordance with the plan elements noted in **Section 9.2.2** and the facility design and maintenance specifications in **Appendix B**. The O&M Plan and associated agreements, covenants, and easements shall be reviewed prior to District approval of the SWM Plan. Any facility that receives both public and private runoff shall be the private maintenance responsibility of the adjacent property owners, unless a public maintenance agreement is arranged between the property owners and WES.

xxviii. **Publicly Maintained Facilities (Section 9.4):** All SMFs to be maintained by the District shall require an O&M Plan approved by the District, and the applicant shall enter into a public maintenance agreement with the District

- a) Maintenance responsibilities shall be transferred to the District following the warranty period. During the 2-year warranty period, the Applicant shall be responsible for all maintenance and documentation requirements outlined within the O&M Plan.
- b) All publicly owned SMFs shall be located in the Public ROW or separate tract with adequate maintenance access with an easement granting rights to the District.
- c) A Maintenance Fee shall be distributed proportionally among the Owners that use the facility for stormwater management, currently set at \$3 per month per lot.

d) The HOA shall have sole responsibility for maintenance and associated costs for the surrounding fencing and landscaping, which must be documented in the HOA CC&R's.

xxix. **Vegetated Buffer Requirements (Rules 8.1)** Water Quality Resource Areas (WQRAs) shall be required for all new developments and redevelopments that are bounded by or contain water resources, which include perennial and intermittent streams and wetlands. No person shall undertake development activities on a parcel in the District that contains water resources without first obtaining WQRA approval from the District.

a) Note: Clackamas County Planning Division serves as WES' agent to administer these standards.

xxx. **Boundary Verification (Section 3.2.1):** All parcels containing a water resource or within 200 feet of a water resource located on an adjacent parcel shall submit to the District for a WQRA Boundary Verification prior to any development activity.

a) See Buffer Standards Appendix A: Submittal Requirements

xxxi. **WQRA Development Permit (Section 3.2.1):** Any parcel with a WQRA shall submit to the District for a WQRA Development Permit prior to any development activities, in accordance with the approval criteria listed in Section 3.2.1.

a) See Buffer Standards Appendix A: Submittal Requirements

xxxii. **Partitions and Subdivisions (Section 3.2.3):** A partition or subdivision of property that contains a WQRA shall require that the WQRA and associated buffer be platted as a tract rather than as part of any lot. The tract shall be protected from development by restrictive covenant, public dedication or other District approved equivalent.

xxxiii. **Mitigation Required (Section 3.3):** Any impacts to the WQRA shall be mitigated, in accordance with Table 2 – WQRA Conditions and Mitigation Requirements, and Appendix B – Planting Guide for Buffers.

D) Clackamas River Water District (CRW); Anthony Steele- [ASteele@crwater.com](mailto:ASteele@crwater.com)

i. Water Distribution Requirements:

a. The proposed development lies within CRW's service boundaries and shall be subject to the following requirements:

1) CRW Rules and Regulations, April 1996, Resolution No. 2-99

2) CRW Standard Specifications for Development, May 2021

- 3) CRW SDC, Miscellaneous Fees and Charges for Services, latest edition.
- b) All water improvements designed and constructed by the Applicant to serve the proposed development must meet all CRW standards, must be reviewed and approved by CRW prior to issuance of a Clackamas County Development Permit, and must consider the following:
  - c) The available water system capacity to the site is limited to the size, pressure, and volume within an existing or future water main serving the property. Where the requested demand exceeds the water main capacity, the Applicant is responsible for the total costs of a water main enlargement or extension required to meet the demand.
  - d) The Applicant is responsible for all costs associated with design, construction and testing to provide adequate domestic water and fire service to the development.
  - e) All public water system improvements required for this development, including side branch waterlines, fire hydrants, meters, fire services, and other appurtenances, shall be donated to CRW.
  - f) CRW shall have the sole authority for determining the existing water system capacity to serve the development.
  - g) Fire protection:
    - 1) Additional fire hydrants proposed for the development on existing or new waterlines shall be reviewed and approved by CRW.
    - 2) Water service solely for private fire protection to a customer-owned fire sprinkler system is classified as a fire service connection (restricted water use).
    - 3) Fire services, including those serving private fire sprinkler systems, shall be installed where required and shall be provided, owned, maintained, and tested by the customer. All fire services shall be metered and protected from backflow.
  - h) This development will be required to construct the following to provide adequate water and fireflow protection:
    - 1) Minimum looped 8-inch waterline within public Street "A", private Street "D", and Street "E" to SE King Rd;
    - 2) Minimum 8-inch waterline along proposed SE 72<sup>nd</sup> Ave (Extension) to allow for future connection to SE Maplehurst Rd;

- 3) Minimum 6-inch waterline (if no public hydrants) within public waterline easement along proposed private Street “C”, looped through to SE Monroe St.
  - 4) Minimum 6-inch waterlines (if no public hydrants) on proposed dead-end lines (Private Street “B” and the easterly portion of Street “E”)
- i) CRW has previously provided hydraulic modeling Flow Availability Estimates for the proposed Koida Development within Lots 400 and 4400. This data included predicted available flows from the existing water mains located within SE Monroe St, SE King Rd and throughout the development.
    - 1) **Advisory:** For additional Flow Availability Estimate requests, please visit: <https://crwater.com/flow-availability-request/>.
  - j) CRW reserves the right to require a water main replacement if a development or redevelopment does not meet current water system standards or would demand more capacity for consumption or fire suppression than existing water mains could adequately supply. The cost of any mainline replacement required to serve the development or redevelopment shall be borne entirely by the Applicant.
  - k) The average CRW system pressure range at this location is approximately 71-89 psi. Where static pressure in water supply piping exceeds 80 psi, an approved pressure regulator shall be provided, installed, and maintained by the Customer to reduce the pressure in accordance with Oregon Plumbing Specialty Code.
  - l) Per Section 8 of CRW’s Rules and Regulations, the following will be required when the County Development Permit is issued for the parcel or per ZDO1006.05.F:
    - 1) Domestic service will require review and approval by Clackamas River Water to ensure adequate sizing based on site demand.
    - 2) *“Water service will be provided only from pipes or mains located within public streets, alleys or rights-of-way, or within easements furnished CRW, and to property or premises with frontage to such mains...”*
      - A. Service connections shall be located within a property’s frontage on which said property has ingress/egress.
      - B. Meters shall be located within the public right-of-way or within an easement benefiting CRW. Location of meter to be coordinated at the time of construction plan review.



- 3) *“Each dwelling or building will be provided with its own water service connection and meter ...”* The development will be required to provide each new lot with a new water service connection from the existing or newly constructed waterlines within the public right-of-way or utility easement.
- m) Underground waterlines shall not be placed underneath concrete structures, such as stairwells and retaining walls, that would inhibit direct access to waterlines via excavation.
- ii. Service Connection and System Development Charges:
  - a) Service Connection:
    - 1) To request new water services, visit CRW’s website at <https://crwater.com/connect-service/> for service request information, forms, and examples.
    - 2) A Water Service Application will only be issued after all required forms, site plans, proof of active building or plumbing permits, and any other required information have been submitted.
    - 3) Required deposits, fees, and charges will be collected in full only after an approved Water Service Application has been submitted.
    - 4) When a lot or parcel of land is provided with a service connection and the parcel is subdivided, the service connection shall be considered as belonging to the lot or parcel of land which it directly enters.
    - 5) All domestic and private mains must be installed entirely on the lot for which it serves. Services and private mains will not be allowed to cross property lines or to be placed in a private utility easement unless an exemption has been granted by the CRW Board of Commissioners.
    - 6) Irrigation meters (e.g. for stormwater facilities) will require premise isolation (backflow protection at the property line), at a level of protection as determined by CRW, and in accordance with OAR 333-061-0070/0071 and all applicable plumbing codes.
    - 7) Before a structure is demolished the owner or agent shall notify CRW within three business days to have the water meter temporarily pulled. If requested CRW will reestablish the meter for site use once the site has been cleared of debris.
    - 8) The Customer shall pay for the abandonment of the existing water service connection if it is deemed no longer necessary to serve the property.

- b) **Advisory:** System Development Charges (SDCs): Note, SDCs are not development standards and cannot be applied through this section. They are requirements of CRW. Please reference comments from CRW dated May 6, 2024, for details on SDCs (exhibit 4).
- c) District Approvals:
  - 1) Water improvement drawings shall be prepared by an Oregon Professional Engineer and submitted to CRW for approval.
  - 2) The Developer will be required to pay a time-and-materials deposit to the District for Plan Check and Inspection prior to review of any construction plans. The developer will be reimbursed for any unused deposit amount or billed for any additional expenses due.
  - 3) Upon completion of construction plan review, additional requirements may be set forth by the District.
- d) Clackamas County Development Permit:
  - 1) It will be the developer's responsibility to acquire any necessary easements for water facilities that shall be provided and designated on the final plat, as deemed necessary by the District. These easements must have functional access to public right of way and be properly recorded.
    - A. Required easement language on final plat: “Clackamas River Water (CRW), its successors and assigns, is hereby granted a permanent non-exclusive easement for the construction, reconstruction, upgrade, replacement, repair, maintenance, and inspection of waterline facilities and related appurtenances, in, under, upon, and across the waterline easement area designated on this plat, including removal of trees and shrubs interfering with these purposes. Neither Grantor nor its successors in title shall erect any permanent structure upon said easement without written consent of CRW. Grantors agree to undertake no activity that would harm or impair the proper functioning of the waterline and appurtenances.”
  - 2) Fire and domestic water services, as approved with this land use application, are intended specifically for the lot(s) being developed and are not intended to serve additional parcels or structures which may be created in the future. In the event that the parcels and/or lots are further divided to create additional parcels or lots, the owner is required to provide separate fire and domestic water services per CRW Rules and Regulations.
  - 3) Any fire suppression related improvements will require review and approval of Clackamas County Fire District #1 to ensure proper fire coverage and fire service connection installation in accordance

with applicable regulations along with the appropriate backflow prevention assembly and flow detector.

**2. Conditions for Roads & Connectivity ([Engineering@clackamas.us](mailto:Engineering@clackamas.us)):**

**A) 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. The applicant shall verify the half right-of-way width along the entire site frontage of SE King Road. Additional right-of-way shall be dedicated to accommodate the required frontage improvement on SE King Road, providing a minimum of 6-inches from the right-of-way to the back of sidewalk. The right-of-way centerline and half-width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
- iv. The applicant shall dedicate additional right-of-way along the entire site frontage of SE Monroe Street, including 17 feet on the south side, and 8 feet on the north side, and verify that there is a total right-of-way width of 55 feet. The right-of-way centerline and half-width shall be verified by a professional survey pursuant to DTD Engineering and County Surveyor standards.
- v. A note shall be placed on the plat indicating no access to SE Monroe Street along the frontage of Lots 128-143, and 163-169.
- vii. The applicant shall grant an 8-foot wide public easement for signs, slope and public utilities along the entire site frontage of SE King Road, SE

Monroe Street, SE 70<sup>th</sup> Avenue, SE 72<sup>nd</sup> Avenue, and both side of Public Street A.

- vii. Prior to final plat approval, the applicant shall design and construct improvements along the entire site frontage of SE King Road to arterial roadway standards, consistent with Standard Drawing C140. These improvements shall consist of the following:
- a) Up to a minimum 27-foot wide one half street improvement shall be constructed along the entire site frontage of SE King Road. The structural section shall comply with Standard Drawing C100 for an arterial roadway.
  - b) The half street improvement design shall include cross sections every 25 feet per Roadway Standards Section 250.7.5. The design shall demonstrate that the new curb line and cross slope to the existing centerline allow for construction of a curb on the opposite side of the road with cross slopes that meet minimum standards.
  - c) Tapers shall be provided beyond the site frontage, per Section 250.6.4 of the Clackamas County Roadway Standards.
  - d) Standard 6-inch curb, or curb and gutter if curblin slope is less than one percent, constructed per Standard Drawing S100/S150.
  - e) A five-foot wide unobstructed sidewalk, constructed per Standard Drawing S960.
  - f) A minimum five-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.
  - g) Concrete curb ramp at the east and west ends of the sidewalk, constructed per Oregon Standard Drawings, Series RD900.
  - h) SE King Road shall be re-striped to modify the eastbound left turn lane for SE Cook Court, to provide a continuous center turn lane. A striping plan shall be provided, including striping, pavement markings and delineators, to comply with County Roadway Standards.
  - i) Drainage facilities in conformance with Water Environment Services requirements and *Clackamas County Roadway Standards* Chapter 4.
- viii. Prior to final plat approval, the applicant shall design and construct improvements along the north side of SE Monroe Street between the mini-roundabout at SE 72<sup>nd</sup> Avenue, west to SE 70<sup>th</sup> Avenue. These improvements shall consist of the following:

- a) A five-foot wide unobstructed sidewalk, constructed per Standard Drawing S960.
  - b) A minimum five-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.
  - c) Dual curb ramps shall be constructed at the SE 70<sup>th</sup> Avenue intersection, per Oregon Standard Drawings, Series RD900.
- ix. **Prior to final plat approval (Option 1)**, the applicant shall design and construct improvements along the entire site frontage of SE 72<sup>nd</sup> Avenue. These improvements shall consist of the following:
- a) Concrete driveway approaches shall be constructed for each driveway, per Standard Drawing D650.
  - b) Driveways shall have a minimum separation from a property line of two feet, unless a shared access easement is provided.
  - c) Driveway wings shall not overlap, and there shall be a minimum full height curb section two feet in length between driveway wings.
- x. Prior to final plat approval, the applicant shall design and construct improvements for the proposed internal Public Street A to local roadway standards, consistent with Standard Drawing C110. These improvements shall consist of the following:
- a) A minimum 54 foot wide public right-of-way shall be dedicated. The right-of-way centerline and half-width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments. Centerline monuments shall be provided per Roadway Standards Section 150.3.
  - b) A minimum paved width of 32 feet, curb to curb, with a structural section per Standard Drawing C100 for a local roadway.
  - c) Standard curb, or curb and gutter if curblin slope is less than one percent, constructed per Standard Drawing S100/S150
  - d) A five-foot wide unobstructed sidewalk, constructed per Standard Drawing S960.
  - e) A minimum five-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees shall be provided within the landscape strip along the entire site frontage at 25-40-foot spacing, based on tree species.

- f) The horizontal curves/partial bulbs shall be constructed consistent with Standard Drawing C400.
  - g) Concrete driveway approaches shall be constructed, per Standard Drawing D650. Driveways shall have a minimum separation of two feet from a property line, unless a shared access easement is provided. Driveway wings shall not overlap, and there shall be a minimum full height curb section two feet in length between driveway wings.
  - h) Dual concrete curb ramps shall be constructed at the intersection with SE Monroe Street, and at the Horizontal curves/Partial Bulbs of Street A, per Oregon Standard Drawings, Series RD900.
  - i) A street name sign shall be provided at the intersection of Street A and SE Monroe Street.
  - j) Drainage facilities in conformance with Water Environment Services requirements and *Clackamas County Roadway Standards* Chapter 4.
- xi. Prior to final plat approval, a pedestrian and bicycle accessway shall be constructed between the end of SE Jack Street and Public Street A. These improvements shall consist of the following:
- a) A minimum 15 foot wide, public pedestrian and bicycle access easement shall be provided.
  - b) A minimum 8-foot wide, concrete sidewalk shall be constructed per Drawing S960.
  - c) If emergency access is required through the accessway, a minimum sidewalk width of 12 feet is required. For emergency access, a mountable curb shall be constructed at the intersection with Public Street A.
  - d) Locking bollards shall be provided at each end of the accessway.
  - e) A curb ramp shall be constructed at SE Jack Street, per Oregon Standard Drawings, Series RD900.
  - f) Maintenance provisions for the accessway shall be provided by the homeowners association.
  - g) Any fences constructed along the accessway shall not exceed six feet.
  - h) 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.

- xii. **Prior to final plat approval**, the applicant shall design and construct improvements for the extension of SE 72<sup>nd</sup> Avenue to local roadway standards, consistent with Standard Drawing C110. The applicant shall extend SE 72<sup>nd</sup> Avenue to the south boundary of the site and consist of the following:
- a) A minimum 40 foot wide public right-of-way shall be dedicated. The right-of-way centerline and half-width shall be verified by a professional survey to meet DTD Engineering and County Surveyor standards. Centerline monuments shall be provided per Roadway Standards Section 150.3.
  - b) A minimum three-quarter street, paved width of 24 feet, curb to curb, with a structural section per Standard Drawing C100 for a local roadway.
  - c) Standard curb, or curb and gutter if curblin slope is less than one percent, constructed per Standard Drawing S100/S150
  - d) A 10-foot wide, concrete multi-use path, constructed per Standard Drawing S960.
  - e) A minimum five-foot wide landscape strip shall be provided between the path and curb. Street trees shall be provided within the landscape strip along the entire site frontage at 25-40-foot spacing, based on tree species.
  - f) Concrete driveway approaches shall be constructed, per Standard Drawing D650. Driveways shall have a minimum separation of two feet from a property line, unless a shared access easement is provided. Driveway wings shall not overlap, and there shall be a minimum full height curb section two feet in length between driveway wings.
  - g) A curb ramp shall be constructed at the south end of the multi-use path, per Oregon Standard Drawings, Series RD900.
  - h) A street name sign and stop sign shall be provided at the intersection of SE 72<sup>nd</sup> Avenue extension with SE Thompson.
  - i) A temporary emergency vehicle turnaround shall be provided at or near the end of the SE 72<sup>nd</sup> Avenue, per Drawing C350.
  - j) Drainage facilities in conformance with Water Environment Services requirements and *Clackamas County Roadway Standards* Chapter 4.
- xiii. The applicant shall design and construct improvements for the new private roadways, Street B, C, D and E, which will consist of:
- a) The private road improvements shall be located within a minimum 27-foot wide, private access and utility easement that encompasses the required improvements. The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement.
  - b) A minimum paved width of 20 feet shall be provided, with a street section no less than Standard Drawing R100. A minimum paved width

of 26 feet shall be provided adjacent to fire hydrants for a minimum length of 40 feet.

- c) Standard curb, or curb and gutter if curblin slope is less than one percent, or mountable curb per Drawing S180.
- d) A five-foot wide unobstructed curb-tight sidewalk shall be construct on a minimum of one side of the private roads within the plat. The sidewalk on Street C, D and E, and on Tract B shall be included in a public pedestrian and bicycle easement. The pedestrian pathway/stairs extending between Street D and Street E shall be a minimum of 8 feet in width. Maintenance provisions for the public sidewalks shall be provided by the homeowners association.
- e) Curb ramps shall be provided at or near the end of sidewalk, and where a crossing is needed at turnaround, constructed per ODOT Standard Drawings.
- f) The private road improvements shall be located within a private access and utility easement that encompasses the required improvements. The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement.
- g) A minimum 20-foot wide, concrete driveway approach shall be constructed at the intersection of the private road with a public roadway, per Standard Drawing D650.
- h) Concrete driveway approaches for each lot where access is taken from the private road, per Standard Drawing D600
- i) Drainage facilities in compliance with Water Environment Services Rules and Regulations, and Clackamas County Roadway Standards Chapter 4.
- j) A turnaround shall be constructed at the end of the private roads, per Drawing C350.
- k) Written verification must be received from the Fire District that the roadway will support a fire apparatus, that a sufficient turnaround exists or will be constructed, that corner radii are acceptable, and that vertical and horizontal clearances are acceptable.
- l) Where the private road is less than 26 feet in width, there shall be no parking on both sides of the, and Road shall be signed and/or striped "FIRE LANE NO PARKING". A road width of at least 26 feet allows parking on one side of the road. Installation of signs and/or striping shall be completed prior to recording the plat. The developer is responsible for replacing all signs damaged or removed during home and street construction.
- m) Provide a stop sign and street name sign at the intersection of the Private Street E and SE King Road.
- n) A road maintenance agreement for the shared private road implementing ORS 105.170 - 105.185 must be recorded with the plat.
- o) 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.

- xiv. **Option 1 Alley F** - Prior to final plat approval, the applicant shall design and construct improvements for private Alley F, which will consist of:
- a) The private alley improvements shall be located within a minimum 22-foot wide, private access and utility easement that encompasses the required improvements. The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement.
  - b) A minimum paved width of 18 feet shall be provided, with a street section no less than Standard Drawing R100.
  - c) A minimum 20-foot wide, concrete driveway approach shall be constructed at the intersection of the private road with a public roadway, per Standard Drawing D650.
  - d) Standard curb, or curb and gutter if curblin slope is less than one percent, or mountable curb per Drawing S180.
  - e) Concrete driveway approaches for each lot where access is taken from the private road, per Standard Drawing D650.
  - f) A conceptually townhouse plan shall be provided demonstration adequate passenger vehicle turning movement in and out of garages/parking spaces.
  - g) Drainage facilities in compliance with Water Environment Services Rules and Regulations, and Clackamas County Roadway Standards Chapter 4.
  - h) A turnaround shall be constructed at the end of the private road, per Drawing C350.
  - i) Written verification must be received from the Fire District that the roadway will support a fire apparatus, that a sufficient turnaround exists or will be constructed, that corner radii are acceptable, and that vertical and horizontal clearances are acceptable.
  - j) Where the private road is less than 26 feet in width, there shall be no parking on both sides of the, and Road shall be signed and/or striped "FIRE LANE NO PARKING". A road width of at least 26 feet allows parking on one side of the road. Installation of signs and/or striping shall be completed prior to recording the plat. The developer is responsible for replacing all signs damaged or removed during home and street construction.
  - k) Provide a stop sign and street name sign at the intersection of the private road and SE Monroe Street.
  - l) A road maintenance agreement for the shared private road implementing ORS 105.170 - 105.185 must be recorded with the plat.
  - m) 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.

- xv. **Option 2 Alley F and G (Without Access Restriction on SE 72<sup>nd</sup> Ave -**  
Prior to final plat approval, the applicant shall design and construct improvements for private Alley F and G, which will consist of:
- a) The private alley improvements shall be located within a minimum 22-foot wide, private access and utility easement that encompasses the required improvements. The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement.
  - b) A minimum paved width of 18 feet shall be provided, with a street section no less than Standard Drawing R100.
  - c) A minimum 20-foot wide, concrete driveway approach shall be constructed at the intersection of the private road with a public roadway, per Standard Drawing D650.
  - d) Standard curb, or curb and gutter if curblin slope is less than one percent, or mountable curb per Drawing S180.
  - e) A turnaround shall be constructed at the west end Alley F and the south end of Alley G, per Drawing C350.
  - f) The alley connection to SE Monroe Street between Lots 131 and 132 shall be emergency access only is required by the Fire Marshal. A locking gate or removable bollards shall be installed at the end of the alley access. Mountable curb shall be constructed on SE Monroe Street
  - g) Concrete driveway approaches for each lot where access is taken from the private road, per Standard Drawing D650.
  - h) A conceptually townhouse plan shall be provided demonstration adequate passenger vehicle turning movement in and out of garages/parking spaces.
  - i) Drainage facilities in compliance with Water Environment Services Rules and Regulations, and Clackamas County Roadway Standards Chapter 4.
  - j) Written verification must be received from the Fire District that the roadway will support a fire apparatus, that a sufficient turnaround exists or will be constructed, that corner radii are acceptable, and that vertical and horizontal clearances are acceptable.
  - k) Where the private road is less than 26 feet in width, there shall be no parking on both sides of the, and Road shall be signed and/or striped "FIRE LANE NO PARKING". A road width of at least 26 feet allows parking on one side of the road. Installation of signs and/or striping shall be completed prior to recording the plat. The developer is responsible for replacing all signs damaged or removed during home and street construction.

- l) Provide a stop sign and street name sign at the intersection of the private road and SE 72<sup>nd</sup> Avenue.
- m) A road maintenance agreement for the shared private road implementing ORS 105.170 - 105.185 must be recorded with the plat.
- xvi. Intersection sight distance shall be provided at all intersections with public roads, per Roadway Standards Section 240. Plan and profile survey data, demonstrating sight lines and compliance with minimum intersection sight distance shall be provide prior to final plat approval.
- xvii. 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.
- xviii. 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.
- xix. 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.
- xx. All existing and proposed easements shall be shown on the final plat.
- xxi. If temporary turnarounds are required at phase lines, they shall be installed and delineated pursuant to the *Clackamas County Roadway Standards*.

### 3. Conditions for Density

#### A) Density Summary

- i. Maximum density for the proposed subdivision equals 352
- ii. Minimum density for the proposed subdivision equals 59

### 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 Dec. 18, 2023 and Resubmitted March 5, 2024. 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](mailto:RSIERRA@clackamas.us)
- iii. **Advisory:** Portions of SE McEachern Avenue south of SE Thompson Road must be renamed/renumbered to SE 72<sup>nd</sup> Avenue, to comply with the County's street naming and addressing regulations. Staff identifies one parcel currently address on SE McEachern, tax lot 12E32DB05200. Other parcels on SE McEachern are not yet addressed.
- iv. **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

B) Steep Slope Conditions:

- i. **Prior to plat approval,** a variance pursuant to ZDO Sec. 1205, Variances, and ZDO Subsection 1002.01(2), shall be granted for development on slopes exceeding 20%

C) Geotechnical Report Requirements:

- i. Site shall be design pursuant to the recommendations set forth in the engineering geologic study prepared by Geopacific and dated December 14, 2023 (Ex. 2b)
- ii. Applicant shall provide documentation that all eight items on the "Checklist of Recommended Geotechnical Testing and Observation" have been completed. (Provide testing reports, meeting minutes, photos, etc.)

D) General Approval Criteria

- i. The proposed subdivision — including all, parcels, lots, tracts, easements, future structures, etc., potentially contained therein — shall comply with all applicable provisions of the R-7 and R-10 Zoning District, as outlined in Section 315 of this Ordinance.
- ii. Future townhouses are subject to ZDO Sec. 845. All building permit applications for townhouses must comply with ZDO Sec. 845.

- iii. The proposed subdivision shall comply with the applicable provisions of Section 1000 of this Ordinance, *Development Standards*, as outlined above.
- iv. 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.
- v. Phasing Plan on Exhibit 2h shall be subject to the following:
  - a) The total number of lots in all recorded phases of the subdivision shall not exceed the maximum density allowed pursuant to Section 1012, Lot Size and Density, for the gross site area included in all such phases.
  - b) If one or more open space tracts are required as a condition of subdivision approval, the first phase shall include all required open space tracts for the entire subdivision.
  - c) Future phases shall be shown upon the initial and subsequent final plats as a “Tract Reserved for Future Development.”
  - d) As deemed necessary by the County or special districts, dedication of rights-of-way or easements into or through future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

- vi. Approval Period for Phasing Plan (Exhibit 2h)
  - a) Preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.
  - b) The phasing shall provide preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.
  - c) Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.
  - d) If a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved pursuant to Section 1310.
  - e) In no case shall a phasing schedule or any time extensions permit the recording of any phase more than 10 years after the date of preliminary plat approval.
  
- vii. 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.

DATED this 9th day of July 2024.



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

**APPEAL RIGHTS**

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