

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Appeal of a Planning Director Decision Approving a 10-Lot Minor Subdivision and Planned Unit Development (PUD). This Appeal Impacts the Following Additional Files: Z0207-22, Z0208-22; Z0209-22 (Habitat Conservation Area “HCA” Permits).

Case File Nos:
Z0206-22-SS, et al, Appeal

(DevNW: Roots & Webster)

A. SUMMARY

1. The applicant is Emily Reiman, CEO of DevNW, the owner of the subject property. The site address for the property is 16124 SE Webster Road, Milwaukie, OR 97267, within Clackamas County. The legal description for the subject property is T2S, R2E, Section 08DC, Tax Lot 09600, W.M. The Comprehensive Plan Designation for the property is R-10 (Urban Low Density Residential). This location is within both the Metropolitan Service District Boundary (MSDB) and the Portland Metropolitan Urban Growth Boundary (UGB). This application was deemed complete on May 31, 2022. This application is subject to a 120-day deadline pursuant to ORS 215.427(1), requiring final action by no later than September 28, 2022.
2. The subject property is roughly 2.47 acres in size, with Kellogg Creek flowing southwest, adjacent to the southernmost property line. Environment and natural hazard concerns are addressed in detail through a series of Habitat Conservation Area (HCA) land use permits, reviewed under files Z0207-22, Z0208-22, and Z0209-22, each of which were separately approved. To summarize, the applicant’s proposal includes containing the HCA, water quality buffers, floodplain, and open space within Tract “A,” the proposed open space tract, consistent with the approved HCA permits. Subsequent to those approvals, the applicant’s proposal for this 10-lot short subdivision and Planned Unit Development (PUD) was approved by the Planning Director. This hearing concerns the appeal of the Planning Director decision approving the 10-lot short subdivision and PUD.
3. The proposed subdivision consists of 10 new residential lots that will accommodate new single family dwellings. Given the large amount of Open Space and other environmental overlays on the subject property, a Planned Unit Development (PUD) is required. This will provide flexibility in lot sizes and dimensional standards, while preserving the sensitive areas within Tract “A”. The property owner, DevNW, is a non-profit organization, operating under the Community Land Trust (CLT) model, offering affordable home prices. This approach will enable 10 affordable new single family homes, as defined by local, state, federal agencies, rather than being purchased at real market rates. Access will be off of Roots road, via a private road (Tract “B”), that will serve all 10 lots.
4. On August 25, 2022, Hearings Officer Carl Cox (the “Hearings Officer”) conducted a public hearing to receive testimony and evidence about this appeal, challenging the County Planning

Director's approval of this application for land use approval to develop the subject property with a 10-lot short subdivision and PUD.

5. County staff recommended approval of the 10-lot short subdivision and PUD subject to conditions, consistent with the approval by the County Planning Director. The applicant does not dispute the proposed conditions.
6. Prior to ending the public hearing and closing the record, the Hearings Officer asked whether any of the parties or members of the audience wanted an opportunity to provide additional evidence, arguments, or testimony. The appellant referenced written materials he wished to submit to the record that day, affirming that the materials would be submitted by 4:00 pm. The County similarly asked to submit a copy of materials shared at the hearing (the PowerPoint presentation) by 4:00 pm. The applicant requested an opportunity to review and respond to any such additional materials, and submit a final written statement. The Hearings Officer agreed to hold the record open for all parties until 4:00 pm that day, and until 4:00 pm on September 1, 2022 for the applicant to submit a responsive written statement. The Hearings Officer approved the zone change and subdivision proposal, subject to the conditions of approval included in this final order, consistent with the County's recommendation, and closed the record.

B. HEARING, RECORD HIGHLIGHTS, AND POST-HEARING SUBMITTALS

1. The Hearings Officer received testimony and evidence at the August 25, 2022 public hearing about this application. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform due to the corona virus. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County's staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, County Planner Ben Blessing summarized the County's review of the application and presented the County's staff report, findings, and recommendations, with a PowerPoint presentation (Exhibit 14), related Exhibits 1-11, and the County's approval of the Applicant's proposed 10-lot short subdivision and PUD. Mr. Blessing stated that approval of the application is consistent with the County's Zoning and Development Ordinance Section (ZDO) and the County's Comprehensive Plan criteria, and staff continue to recommend approval as stated.
3. Among other things, Mr. Blessing provided a description of the vicinity of the subject property at the intersection of SE Webster Road and SE Roots Road, just north of Gladstone. Mr. Blessing also pointed to the presence of a portion of Kellogg Creek and its associated floodplain area, shown on the applicant's site plan as "Tract A", providing a description and detail concerning how this will remain an open space area. Mr. Blessing also referenced several related underlying permit applications that were approved prior to this subdivision and Planned Unit Development (PUD) application and are not part of this appeal, including a Habitat Conservation Area (HCA)

Development Permit, a Map Verification, and a Construction Management Plan (Files Z0207-22-HDA, Z0208-22-HMV, and Z0209-22-CMP)). Mr. Blessing discussed “Tract A” and the HCA concerning the associated special flood hazard and how this area is not affected by the applicant’s proposal.

4. Mr. Blessing discussed the site plan submitted by the applicant, the location’s access to public roads, public utilities, the capacity of the property for the proposed subdivision, and the site’s location on a Transit Line. Mr. Blessing also discussed the related staff review and analysis supporting recommending approval of the proposed 10-lot subdivision and PUD. Mr. Blessing noted that the proposed subdivision will use the Community Land Trust model (CLT) and shall provide affordable home ownership. Mr. Blessing referred to the proposal’s PUD as providing flexibility in lot sizes, allowing smaller lots than are generally permitted in the R-10 Zone while preserving environmentally sensitive and natural hazard areas within “Tract A.” Mr. Blessing provided additional discussion concerning the HCA are contained within “Tract A” and referenced a detailed environmental report supplied by the applicant that modifies the HCA boundary pursuant to ZDO Se. 706.09(3), showing a slide of the modified boundary, discussing requirements that the applicant avoid disturbance within the HCA boundary, and avoid WES Buffers and the Special Flood Hazard Area (also known as the “100 year floodplain.”)
5. Mr. Blessing explained how the proposal includes a private road in “Tract B” that will serve new lots, and this private road will have required sidewalks on one side. He also pointed out that full frontage improvements including curbs, sidewalk, and landscape strip are required along SE Roots Road. Mr. Blessing pointed out that SE Webster Road will only require right of way dedication, pointing to analysis by staff concerning the proportionality of these improvements to the projected costs.
6. Mr. Blessing pointed to the appeal and noted that no specific reasons for the appeal were provided and no specific ZDO criteria were identified by the appellant. Mr. Blessing referenced the Appellant’s statement that formation of a Citizen Planning Organization is being explored to have a community voice, and that there are unanswered questions about the proposed development.
7. The County received several written comments in response to the notice of land use action it issued, including agency comments solicited from Clackamas Water Environmental Services (WES), Clackamas River Water District (CRWD), and Clackamas County Engineering, reviewed and included in proposed findings and recommended conditions of approval.
8. Among the written comments the County received was a June 17, 2022 email from Brian and Kevin Johnson, who reside on SE Webster Road near the proposal site, expressing concern with the chance that development of the site could result in additional water flowing into Kellogg Creek. In their email, Brian and Kevin Johnson expressed opposition to the proposal citing this concern. They report that properties downstream from Kellogg Creek already flood during large rain events, assert that WES and the County are already aware of the problem, and contend that approval of this proposal will possibly make the problem worse. Brian and Kevin Johnson also expressed concern that the new proposed houses would be allowed five feet from the creek, citing past development along Kellogg Creek.

9. Tom FitzGerald and Nancy Tcheou, who reside on SE Webster Road near the proposal site, also submitted June 19, 2022 written comments (received by the County on June 22, 2022) in response to the notice of land use application, asking several questions and expressing several concerns with the proposal. They agree with the applicant's goal to address the housing shortage and needs of families for affordable housing, but question the safety of developing 10 family housing units on what they describe as "one of the busiest junctions in Milwaukie." Mr. FitzGerald and Ms. Tcheou describe the corner of Roots and SE Webster as a busy junction with no sidewalks, no streetlights, and a high level of speeding, drag racing (street racing) and car-related accidents. They assert that "it is a junction more and more motorists are using to travel between I-205 and 99E."
10. Mr. FitzGerald and Ms. Tcheou directly question the safety of this location for a development of 10 family housing units, and the children the proposal would bring to this site. Mr. FitzGerald and Ms. Tcheou point to two other CLT developments by the developer DevNW, with one located at the end of a dead-end street, and the other located in a low traffic, quiet neighborhood location. They contrast those quieter locations with the site of this proposal, pointing to the proposal's site plan showing the entry to the proposed subdivision will be located only about 200 yards from the stop sign for Roost Road, where they assert speeding motorists "launch" their cars throughout the day. Mr. FitzGerald and Ms. Tcheou ask about the findings from any traffic surveys or work from the County's Engineering Department to address these safety issues. Mr. FitzGerald and Ms. Tcheou are very concerned for the safety of any children who were to reside in a home built on this site. Mr. FitzGerald and Ms. Tcheou also have several questions, including whether the developed DevNW will remain responsible or liable for safety, or permit residents to build fences.
11. Bruce Fontaine resides in the Roots/Webster neighborhood, and submitted a June 24, 2022 email to the County asking several questions and expressing several concerns about the proposal. Mr. Fontaine expressed concerns with increased traffic loads on both Roots and Webster, asking whether traffic mitigations will be required to minimize impacts to the existing neighborhood and address speeding and noise nuisances. Mr. Fontaine asked whether ingress/egress will be limited to Roots Road, and how the impact of the proposal to the neighborhood would be considered. Mr. Fontaine also had questions concerning the relationships between the landowner (DevNW), the new homeowners and the homeowner's association, and the existing residents of the neighborhood, suggesting an informational presentation from the application (DevNW) to the neighborhood.
12. On August 1, 2022, shortly after the County approved this application, Mr. FitzGerald submitted an appeal. As discussed by Mr. Blessing, Mr. FitzGerald's appeal did not provide detail concerning the basis for the appeal, but instead stated that formation of a Citizen Planning Organization was being explored to have a community voice, and that there were unanswered questions about the proposed development.
13. At the hearing, Mr. FitzGerald provided testimony concerning his appeal, referencing the June 19, 2022 written comments he submitted with Ms. Tcheou and providing testimony concerning his personal knowledge and observations of the three-way stop at the intersections of Roots and Webster to Jennings. Mr. FitzGerald clarified that he is not seeking to stop the development; rather, he wants to ensure that neighborhood concerns regarding the safety of this location are

addressed. Mr. FitzGerald describes the speeding and accidents as an incredible issue, emphasizing the safety issues facing pedestrians and children exacerbated by a lack of streetlights and sidewalks. Mr. FitzGerald provided anecdotes of a neighbor's fence at the corner of this intersection being damaged in accidents, a power pole being damaged, and car parts and broken plastic in the street. Mr. FitzGerald also provided anecdotes of neighborhood concerns with respect to children walking along these roads, and efforts made to help the children safely get to school. Mr. FitzGerald asserts that the traffic and speeding through this intersection is actually getting worse with drivers cutting through from I-205 to 99, and drivers avoiding tolls will also make this worse, pointing to the need for additional infrastructure such as streetlights and a traffic signal, or possibly speed bumps or other efforts to slow traffic.

14. Emily Reiman is the CEO of the applicant, DevNW. Ms. Reiman provided testimony in support of the applicant's proposal, pointing to the need for affordable housing, and how DevNW looks to develop sites to provide neighborhood and community for residents. Ms. Reiman provided some discussion of the Community Land Trust Model being used with this proposal, with DevNW staying involved in the development, building needed maintenance reserves to assist homeowners in keeping their homes up. Ms. Reiman stated that the homeowners within the proposed development can choose to building fences, provided the fences meet code requirements, etc. She also stated that DevNW will support traffic and other safety improvements.
15. Kenneth Kent, County Development Engineering, provided testimony concerning County requirements for a small subdivision such as this proposal. He pointed to the capacity of existing roadway infrastructure, stating that County Engineering is familiar with the Roots/Webster intersection, and has plans for a future traffic signal at this intersection. Mr. Kent discussed threshold requirements for traffic studies, explaining that the threshold for studies is development expected to generate 20 or more peak hour trips. Mr. Kent stated that this proposal is expected to generate below this 20 peak hour threshold and therefore, no study was required of the applicant. Mr. Kent discussed larger scale opportunities to impact traffic safety at this intersection through the County and its Traffic Commission, and pointed to improvements, including sidewalks, that are among the proposed requirements for this proposal.
16. On August 25, 2022, shortly after the hearing, the appellant Mr. FitzGerald submitted several pages of Clackamas County Crime and Traffic Data, providing data concerning all calls from January 1, 2020 to August 10, 2022 within a 0.25 mile radius of Roots Road and Webster Road, identified by call type and grouping. This data reflected 174 total traffic calls for this defined area within that period, with 119 Traffic Stops calls, 26 Traffic Disorder calls, 19 Traffic Crash calls, and 10 Hazard Calls. Among the 105 Crime calls were 5 Hit & Run calls. The date was also broken out by calendar year, showing 48 Crime calls and 58 Traffic calls in 2020, 37 Crime calls and 64 Traffic calls in 2021, and 20 Crime calls and 52 Traffic calls through August in 2022.
17. Mr. Bruce Fontaine did not provide testimony at the hearing, but submitted a written statement the day of the hearing for consideration. Mr. Fontaine clarified that he is not attempting to stop this project, but has concerns with respect to the County's Notice of Decision. He also pointed to certain Conditions of Approval, asking for clarification. Mr. Fontaine provided some background for the site, reporting that a previous owner of record for the subject property was assessed fines related to unlawful tree canopy and log removal around the year 2000, with no subsequent

development at that time. He further pointed to discussion in the Project Overview of the County's long-term capital improvement plan to add a traffic signal, asserting this needs to be made a priority due to the projected increase in traffic.

18. Mr. Fontaine generally questioned the references to ORS 197.307(4) in deeming certain standards not clear and objective, asking for review of those sections. Mr. Fontaine also pointed out that by deeming that Webster Road frontage improvements costs not "roughly proportional" [in the County's imposed cost to proportional benefit to property owner analysis] this frontage may remain unimproved and not improve the safety, aesthetics and livability of the neighborhood. He pointed to related traffic concerns, asserting that "[c]urrent traffic loads are compromising neighborhood safety for pedestrians and bicyclists" and pointing to findings in the staff report concerning adequate line of sight, acceptable volume to capacity (v/c) ratios, and asking whether potential I205 tolling, and related diverting of traffic loads, was considered.
19. Mr. Fontaine expressed frustration at the speed this application was processed, asserting that: "To my knowledge, DevNW has not made any attempt at outreach or education. The neighborhood would very likely be more inclined to understand this project had that been done." Mr. Fontaine further states his option that the proposal with its recommended conditions of approval "will not enhance quality of life but actually reduce it along with overall safety for pedestrians and traffic hazards on an increasingly loaded Roots and Webster Roads."
20. Ms. Reiman on behalf of the applicant provided a written responsive statement, directly answering a number of the questions posed by Mr. Fontaine. The response noted that DevNW was working on incorporating HCAD Conditions of Approval within its contract documents, and also that GSI Builders Inc., the General Contractor for the project, will continue managing the CMP with periodic site inspections, monitored by the County. Ms. Fontaine notes that both DevNW and the General Contractor will have designated project managers. Ms. Reiman references Mr. Fontaine's assertions regarding past development activity on the site by a previous property owner, noting these activities took place prior to DevNW ownership, but also pointing out that the notes from this document indicate that the work completed on site was lawful as it was found to be "incidental, and accessory to the primary residential use, which would be allowed outright without permits." Ms. Reiman also points to page 26 item 1002.02 of document Z0206-22-SS which states that: "There is no record of excessive tree removal on site."
21. In her response, Ms. Reiman addressed concerns regarding providing opportunities for neighborhood involvement and building good relationships with neighbors, responding that "DevNW has expressed many times that we are not opposed to meeting with a CPO if and when one is formed at some point in the future." She asserts that DevNW has promptly responded to all outreach initiated by neighbors, including the appellant. Ms. Reiman also addressed the statement requesting clarification of the underlying analysis by County staff of the proportionality of requiring full frontage improvements along the entire frontages for the subject property for this relatively small subdivision. Ms. Reiman points to the County's own detailed explanation of proportionality, but also contends that: "The impact of this development is small relative to the overall volume and nature of the traffic at this intersection."

22. Similarly, with respect to concerns expressed about traffic impacts, Ms. Reiman asserts that: “The proposed development is proportionally insignificant to the total volume of traffic at this intersection. She points to page 46, item D of the County’s decision and the statement that: “Engineering staff finds that the capacity of the roadways and intersections will operate within the volume to capacity ratios.” Ms. Reiman notes that it appears the issue being raised is not directly related to this proposal, but is the need to improve the condition of the existing infrastructure at this location. She points out that DevNW is required to participate in improving this infrastructure and has dedicated parts of the subject property for future traffic controls and lance changes to accommodate traffic.
23. Ms. Reiman addresses assertions regarding the impact to the neighborhood and quality of life there, noting that the County has plans for a signalized intersection at Roots and Webster separate from this project. She also dispute statements that the project will reduce quality of life along with overall safety for pedestrians and traffic hazards, stating: “Generally, undeveloped parcels encourage negligent behavior, and improving the frontage and adding residents to this lot will have a positive impact on behavior at the intersection.” Ms. Reiman points to the single site access as also exceeding minimum setback requirements, and safer than the multiple individual driveways of nearby residential development.

C. FINDINGS AND DISCUSSION

This case involves the appeal of a Planning Director decision approving an application for a 10-lot short subdivision and Planned Unit Development (PUD). The application was initially processed by the County under ZDO Section 1307 as a land use permit for a “short” or small subdivision with a Planned Unit Development (PUD), a Type II procedure whereby the Planning Director is the initial decision review authority, and the Hearings Officer is the appeal review authority.¹ The Planning Director² approved the application and this appeal followed.

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. The appeal discussed below is reviewed subject to the appeal procedures contained in ZDO 1307.13. These procedures provide for de novo review of the application whereby all issues of law and fact are heard anew, and no issue of law or fact decided by the lower-level review authority is binding on the parties in the hearing. The record of the initial proceedings shall, however, be made a part of the record of the appeal. New parties may participate, and any party may present new evidence and legal argument by written or oral testimony.

This application is subject to Sections 202, 315, 1001, 1002, 1003, 1006, 1007, 1011 1012, 1013, 1017, 1105 and 1307 of the Clackamas County Zoning and Development Ordinance (ZDO), and the County’s Comprehensive Plan. The Planning Division has reviewed these sections of the ZDO in conjunction with this proposal and makes the following proposed findings, conclusions, and related conditions of approval reviewed below. The findings below identify the standards and criteria that are

¹ See Table 1307-1: Land Use Permits by Procedure Type.

² ZDO 1307.3(B) provides that the Planning Director includes “Any County staff member authroized by the Planning Director to fulfill the responsibilities assigned to the Planning Director by the [ZDO].” Senior Planner Ben Blessing.

relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the recommended decision.

SECTION I: CONDITIONS OF APPROVAL:

The conditions listed are proposed by staff as necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parentheses. *The Hearings Officer reviewed, adopted, and/or modified (as denoted by boldface type in italics) each of these proposed 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. If required, the property shall annex into Clackamas County Service District No. 5, and shall be subject to that district's rules and regulations.
- ii. Street lighting shall be determined by CCSD#5 staff. Contact Wendi Coryell: wendicor@clackamas.us

C) Geotechnical Report:

- i. A geotechnical report outlining any special construction standards needed for home site foundations and roadways, is advised.
- ii. If ground water is discovered within 1.5 feet of the surface, a geotechnical report shall be required prior to home site construction.

D) Water Supply-Clackamas River Water District; Betty Johnson, 503-723-2571:

Water Distribution Design & Infrastructure Requirements:

- i. The proposed development lies within the service boundaries of the Clackamas River Water (CRW) prior to receiving water service and shall be subject to CRW Rules and Regulations and Standards, in accordance with the following:
 - a) Clackamas River Water Rules and Regulations, April 1996, Resolution No. 2-99
 - b) Clackamas River Water, Standard Specifications for Development, May 2021
 - c) Clackamas River Water, Updating SDC Methodology, Ordinance No. 02-2021
- ii. All water improvements designed and constructed by the Applicant to serve the proposed development must meet all standards and specifications of CRW; must be reviewed and approved by Clackamas River Water (Engineering) prior to issuance of a Clackamas County Development Permit, and must consider the following:
 - a) All costs associated with the design, construction and testing Applicant shall install at their expense all improvements necessary to provide water service to their development.
 - b) The size of a water main available to the site is limited to the size, pressure and volume within an existing or future water main serving the property. Where the 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 capacity.
 - c) This development will be required to construct approximately 400-linear feet of 8-inch waterline and associated appurtenances from the existing 12-in main located in SE Webster Rd through the development, looping to the 6-inch main located in SE Roots Rd to provide adequate water quality and fireflow protection.
 - d) All domestic and fire services, 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.
 - e) All side branch waterlines to become the jurisdiction of CRW for fire hydrants, meters and fire services.
 - f) Intersection roadwork within SE Webster Rd and SE Roots Rd will require the relocation of the existing hydrant as part of the development. Hydrant relocation will be finalized once the County furnishes street improvements plans for this intersection. Any Additional fire hydrants on existing or new waterlines will be reviewed by CRW for available capacity and location.
 - g) Water service solely for private fire protection purposes to a customer owned fire sprinkler system are classified as a fire service connection (restricted water use).
 - h) Private fire sprinkler systems shall be installed where required and shall be provided by, owned, maintained, and tested by the customer. All fire services shall be metered and protected from backflow.

- i) As required by OAR 333-61-0050 waterlines parallel with sanitary sewer lines must maintain a 10-foot minimum separation.
- iii. The development shall provide a minimum 20-foot public waterline easement along the southern property line of Lot 8 and within Tract “B”. Additional easement is required at the southwest corner of Lot 1 to serve the proposed public hydrant. The Planned Unit Development or equivalent shall maintain all required easements
- iv. At no time, will CRW approve plans that include hardscape landscaping (except grass or shallow root plantings) or structures (such as walls, drainage systems, or permanent structures of any type) placed within easements.
- v. Any block wall or other fence shall be designed and constructed around the outside of the easement(s), to allow the District direct access to vault(s) and inlet piping from the adjacent right-of-way.
- vi. No fencing or gates shall be erected that will impede the reading or maintenance of domestic or fire meters. Keys or independent lock accommodations for gates necessary for site security shall be provided to CRW that will or could block access to waterline easements and obstruct access to water meters.
- vii. The average waterline system pressure located at the hydrant within the southeast corner of the intersection of SE Webster Rd and SE Roots Rd is approximately 70-78psi.

Service Connection and System Development Charges:

Service Connection

- viii. All fees and charges shall be paid in full after a Building or Plumbing Permit from Clackamas County and a CRW Water Service Application has been issued.
- ix. Per Section 8 of the CRW’s Rules and Regulations the following will be required when the Clackamas County Development Permit is issued for the parcel or per ZDO1006.05.F:
 - a) This development will be required to separate the existing onsite water system between the proposed lots.
 - b) Coordinate the separation of domestic water and fire systems with CRW Engineering. Per the proposed partition layout the following service connections will belong to the following Lots:
 - 1) Domestic service will require review and approval of 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...”* Water service for partitions and subdivisions shall be provided according to the provisions of ORS 92.090.

- 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 newly constructed waterlines within the public waterline easement per CRW standards.
- c) 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.
- d) 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.
- e) The Customer shall pay for the abandonment of the existing water service connections along SE Roots Rd.

System Development Charges (SDC):

- x. SDC’s are based on the water meter size and will be collected in accordance with the current CRW Water Rate Schedule when Clackamas County issues a Building Permit and the owner/builder requests a CRW Water Service Application. SDC rate adjustments occur annually on July 1st.
- xi. SDC credit will be applied to the existing meter along SE Roots Rd and the developer can assign this credit to any lot within the proposed subdivision.
- xii. The 2022-2023 Water Rate, Connection & System Development Charges:

Meter	MCE Factor (3/4" Equiv.)	2022 SDC Reimbursement	2022 SDC Improvement	Total SDC Charges
3/4"	1.00	\$3,889	\$5,705	\$9,594
1"	1.67	\$6,483	\$9,508	\$15,991
1 1/2"	3.33	\$12,966	\$19,020	\$31,986
2"	5.33	\$20,746	\$30,427	\$51,173
3"	10.60	\$41,492	\$60,854	\$102,346
4"	16.67	\$64,832	\$95,084	\$159,916
6"	33.33	\$129,663	\$190,170	\$319,833
8"	53.33	\$207,461	\$304,271	\$511,732
10"	76.67	\$298,226	\$437,389	\$735,615
12"	112.50	\$437,614	\$641,822	\$1,079,436

- xiii. The SDC will be collected when a lot has been issued a Building Permit from Clackamas County and a CRW Water Service Application has been requested by the owner/builder.

District Approvals:

- xiv. All water infrastructure shall meet the standards of the Clackamas River Water and be reviewed and approved by the Clackamas River Water (Engineering Department) prior to issuance of a Clackamas County Development Permit.
- xv. Professionally engineered waterline plans reviewed and approved by Clackamas River Water.

- xvi. The Developer will be required to pay a time and materials deposit to the District for a Plan Check and Inspection fee prior to review any construction plans. Any unused portion will be reimbursed or if any monies are due, the developer will be billed.
- xvii. Upon construction, plan review there may be additional requirements as set forth by the Water District.

Clackamas County Development Permit:

- xviii. 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 Water District. These easements must have functional access to public right of way and be properly recorded.
- xix. Fire and domestic water services as approved with this land use application, are intended specifically for the lot 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's "Rules and Regulations".
- xx. Future fire 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.

E) Sewer, Surface Water - Clackamas WES; Erik Carr-Bertram, 503-936-3666:

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

specifications, and testing must be completed under the direction of the project engineer.

- iv. The applicant shall provide the following materials with their final plan review submittal to WES. All materials must be submitted directly to the WES office.
 - a) Two (2) hard copy sets of complete civil construction plans for all sanitary and stormwater improvements.
 - b) Two (2) hard copies of the final storm report, including infiltration testing and downstream analysis.
 - c) One (1) Natural Resource Assessment, including wetland delineation
 - d) \$800 minimum sanitary and stormwater management plan review fees
 - e) Erosion control permit application (available on WES website) and permit fee
- v. A Surface Water, Storm Drainage and Sanitary Sewer Easement granted to Clackamas County Service District No. 1 for sanitary infrastructure along Kellogg Creek is permanent and not extinguishable. No development shall encumber use or access to this easement by WES.
- vi. The proposed development shall be subject to applicable fees and charges, in accordance with WES RR&S. All fees and charges shall be paid before plat approval, and are subject to change without notice to the applicant. All costs associated with the design, construction and testing of the sanitary sewer and storm system shall be provided by and at the sole expense of the applicant.

For Sanitary Sewer, the following conditions shall apply:

- vii. In accordance with Sanitary Standards, Section 3.2, all residential dwelling units with sewer drains within the boundaries of the proposed development shall be connected to the Public Sanitary Sewer System as part of an approved public sanitary sewer extension plan.
- viii. Prior to the commencement of construction of any Public Sanitary Sewer System, a valid Public Sanitary 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.
 - a) Section 4 of the WES RR&S establish minimum requirements for designing the District's Sanitary Sewer System. Any requests to modify current WES Design Standards shall be made in accordance with Sanitary Standards, Section 1.7.
 - b) The developer shall submit construction plans and specifications prepared by a professional Engineer to WES for review and approval, in accordance with Sanitary Standards, Section 4.3.

- c) The developer shall be directly responsible for all administrative requirements including application for service, submittal of all required Plans, bonds and insurance, and payment of fees.
 - d) Upon completion of the construction of the public sanitary sewer main extension, in accordance with WES Sanitary Design Standards, WES will accept title thereto and thereafter shall be owned, operated and maintained by WES. WES shall issue an acceptance letter specifying the date the warranty period will begin. No property owner shall connect to the public sanitary sewer system, until it is accepted in writing by WES.
- ix. An acceptable layout of sanitary sewer and stormwater mainlines, as determined by WES, shall be within the public right-of-way or a public easement granted to WES.
 - a) The sanitary mainlines shall be located within the development's private shared roadway, or the applicant shall provide adequate justification as to the necessity of locating the mainline within the backyards of Lots 1 and 2.
 - b) Minimum easement width is 15-feet for a single line, or 20-feet for combined sanitary and storm lines. A slope of one horizontal to one vertical from the sanitary sewer invert to ground surface will be used to determine easement width set in five foot (5') increments, as determined by WES. No future development shall encumber WES' access to this easement.
 - x. The extension shall provide a minimum design slope of 2% for a dead-end section of mainline in order to meet self-cleaning standards, and 1% slope on downstream segments of the mainline. Minimum cover shall be 8-feet in roadways. Dead end lines shall terminate at a manhole.
 - xi. A separate and independent sanitary sewer service connection shall be provided for each lot or parcel of property being served. Service connections shall terminate with a clean out at the front edge of the Public Utility Easement (PUE) or the property line.
 - a) Shared service connections are not allowed (see Lots 8 and 9).
 - xii. The developer shall verify the existing sanitary service connection on line UK8 (1+26) has been adequately de-commissioned with a mechanical plug encased in grout to ensure no infiltration can enter the mainline.

For Surface Water, the following conditions shall apply:

- xiii. In accordance with Section 5 of the WES Stormwater Standards, WES shall review, approve and permit stormwater management plans for any development that creates or modifies 5,000 square feet or more of impervious surface area. The applicant shall submit a Surface Water Management Plan (SWM Plan) to WES for review and approval. The SWM Plan shall include drainage plans, drainage reports, and design flow calculations stamped and signed by a licensed civil engineer in accordance with WES RRS, submitted conditions of approval, and as directed by WES staff during the plan review process.
 - a) Section 5 describes the methods and criteria required for a comprehensive stormwater management plan. Any requests to modify current WES Design

Standards shall be made in accordance with Stormwater Standards, Section 1.6.

- xiv. The applicant's final SWM Plan shall include the following elements and supporting documentation:
- a) Civil site plans showing existing storm facilities and proposed stormwater management improvements.
 - b) A drainage report with design calculations that demonstrate conformance to WES performance standards:
 - 1) **Water Quality Standard:** Capture and treat the first 1-inch of storm runoff from a 24-hour storm event using either vegetation (Appendix H) or a Basic Treatment proprietary device (Appendix F).
 - 2) **Infiltration Standard:** Capture and retain the first ½ inch of runoff in a 24-hour period through an approved infiltration system.
 - 3) **Detention/Flow Control Standard in Areas with Limited Downstream Capacity** (Section 5.4.4.3) – Additional flow control requirements are necessary in areas with limited downstream capacity that cannot be upgraded, and are in addition to other water quality and infiltration requirements. Within these designated basins (see maps in Appendix G), reduce the 25-year post-developed runoff rate to a 2-year pre-developed discharge rate, AND, from the 2-year post-developed runoff rate to ½ of the 2-year pre-developed discharge rate.
 - c) A drainage analysis of predevelopment and post-development conditions for all onsite permeable and impervious surface areas, all water entering the property from off-site, and all road frontage improvements.
 - d) Storm drainage detention calculations using the King County methodology (SBUH hydrograph).
 - e) A conveyance system sized for a minimum 25-year design storm.
 - f) An infiltration testing report to verify the feasibility of proposed infiltration systems. Infiltration test results must correspond to the infiltration facility location and depth (see: Appendix E).
 - g) An acceptable downstream point of discharge to convey stormwater runoff from the entire development boundary. The point of discharge shall follow the natural direction of flow to the local drainage, and minimize the amount of new public storm infrastructure.
 - h) A Downstream Conveyance Analysis that extends a minimum of 1500' downstream or to the point where the development contributes less than 15% of the upstream drainage area, whichever is greater. Analysis must include the entire drainage basin, assume no upstream detention, and must calculate the 25-year storm event for conveyance capacity requirements.

- i) Grading plans shall clearly identify an overflow pathway system and 100-year conveyance for all storm structures, by which the storm/surface water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons in the event of any stormwater facility failure or bypass.
 - j) An Erosion Prevention and Sediment Control plan (see: WES SW Standards, Section 6).
 - k) Water quality resource protection and vegetated buffers (see: WES SW Standards, Section 4).
 - l) An operations and maintenance plan for the approved stormwater management system.
- xv. The applicant's SWM Plan shall provide a design to mitigate the stormwater runoff from all onsite impervious surface areas, all permeable disturbed areas, all water entering the property from off-site, and all road improvements required by the local road authority.
 - a) For single family and duplex residential subdivisions or partitions, stormwater quantity detention facilities shall be sized for the impervious areas to be created by the subdivision or partitions, including all residences on individual lots at a rate of one ESU of impervious surface area per dwelling unit, plus all roads. If actual impervious area is to be greater than one ESU per dwelling unit, then the actual impervious numbers shall be used. Such facilities shall be constructed as a part of the subdivision or partition.
 - b) All runoff intercepted by the pond (both impervious and pervious areas) must be included in the estimated runoff calculations.
 - c) On a case by case basis and at the sole discretion of the District, the District may allow the applicant to provide additional storage and flow control of an equal off site area to compensate for runoff that cannot be routed to the new stormwater facility due to topographic constraints.
- xvi. The maximum distance between storm catch basins is 250-feet, therefore an extension of the storm line in Roots Road shall be required.
- xvii. Storm service connection laterals shall be provided to convey the stormwater runoff and foundation drains for every proposed lot within the development.
- xviii. Infiltration facilities shall provide a 3-foot minimum vertical separation from the maximum seasonal groundwater elevation to the bottom elevation of the infiltration facility. (Appendix H)
- xix. The property owners shall be responsible to perpetually inspect and maintain all stormwater management systems, in accordance with WES Rules, Section 12.10. A plan to perpetually inspect and maintain all stormwater management systems shall be submitted to WES prior to SWM Plan approval. Any operations and maintenance plan shall be referenced in the Plat notes.

- a) Mix of public and private runoff managed on private property: Any facility that receives both public and private runoff shall be the maintenance responsibility of the adjacent property owners, unless a public maintenance agreement is arranged between the property owners and WES. If the developer chooses not to use the public maintenance agreement, then the homeowners will be responsible for storm system maintenance, and this responsibility must be documented in a private maintenance agreement and recorded with the plat.
- xx. For publicly maintained stormwater facilities, the following shall apply:
- a) WES shall maintain the subdivision's stormwater system in exchange for a monthly fee of \$3 per lot.
 - b) A 'Declaration and Maintenance Agreement for On Site Stormwater Facilities', which describes the perpetual maintenance of the stormwater facilities, shall be submitted to WES prior to final plan approval. The agreement shall be recorded with the plat.
 - c) All publicly maintained stormwater systems must be designed and constructed to public standards.
 - d) All stormwater facilities shall comply with maintenance access standards for publicly maintained facilities, in accordance with Appendix I.
 - e) Centralized stormwater facilities shall be located within a Tract to the HOA or CLT. All other facilities shall be located within a public right-of-way, a tract, or a storm drainage easement (SDE) granted to WES, as determined by WES.
 - f) The HOA/CLT shall be solely responsible for maintenance and associated costs for the surrounding vegetation, fencing, and landscaping. These responsibilities shall be documented in the CC&R's.
 - g) The developer shall maintain the stormwater facilities for a one-year warranty period; thereafter WES will be responsible for perpetual maintenance of the public stormwater facilities.

For Erosion Control, the following conditions shall apply:

- xxi. Per Stormwater Standards, Section 6.1, the owner or their agent, contractor, or employee shall properly install, operate and maintain both temporary and permanent Erosion Protection and Sediment Control (EPSC) practices to protect the environment during the useful life of the project. No visible or measurable erosion shall leave the property during development, construction, grading, filling, excavating, clearing, or other activity that accelerates erosion, as required by water quality standards set forth in OAR 340-41-445 thru 470.
- xxii. A DEQ 1200-CN Construction Stormwater (Erosion Control) Permit shall be required for development activities that result in land disturbance of 1 acre to less than 5 acres. Before the start of any grading or construction activities, the applicant shall submit a WES EPSC Permit application and DEQ 1200-CN template style erosion control plans to WES for review and approval, and pay applicable permit fees (\$460 + \$80/acre over

1 acre). Plans shall be consistent with the substantive requirements of DEQ's 1200-C permit site erosion prevention and sediment control plans.

- xxiii. EPSC site plans shall delineate the total area of disturbance and note the square footage. Site plans shall identify adequate EPSC techniques and methods as prescribed in the current WES Erosion Prevention Planning and Design Manual.

For Water Quality Vegetated Buffers, the following conditions shall apply:

- xxiv. New development or land divisions adjacent to water quality sensitive areas shall preserve and maintain an undisturbed vegetated Buffer wide enough to protect the water quality functions of the sensitive area. The width of the undisturbed Buffer shall be as specified in Section 4, Table 4.1.
- xxv. The applicant shall submit plans to WES that clearly show all water quality resource areas, as identified by a qualified wetland professional. All required buffers, any proposed encroachments into the buffer, and proposed mitigation areas shall be shown on the plans.
- xxvi. All encroachments into the water quality buffer require an approved Buffer Variance from WES, in accordance with *Section 4.4*. Any buffer variance requests and mitigation/restoration plans shall be submitted to Clackamas County Planning. WES shall require a review of final plans prior to any buffer variance approvals to verify that the variance will not conflict with the proposed storm and sanitary layout.

For Plat approval, the following conditions shall apply:

- xxvii. Prior to WES sign-off on recording of the final plat, the following shall apply:
 - a) The sanitary and storm systems shall be substantially complete, as determined by WES, including but not limited to WES review of asbuilts and system inspections.
 - b) WES shall review the final plat for consistency with the approved sanitary and stormwater plans.
 - c) Plat shall contain dedications for all public sanitary and storm drainage easements.
 - d) Offsite easements shall be obtained and recorded by the applicant
 - e) WES shall review CC&Rs, private easements, and agreements pertaining to sanitary and stormwater improvements.
 - f) Applicable fees and charges shall be paid to WES.
 - g) Maintenance agreements shall be reviewed by WES and referenced in the plat notes.
 - h) To record a plat prior to substantial completion of the required improvements, WES staff shall first complete a site inspection and develop a punch list of all incomplete improvements. The applicant shall then provide an engineer's cost estimate for the incomplete improvements, sign a Developer's Agreement, and provide a performance bond for 125% of the approved cost estimate.

xxviii. The following statement shall be added to the Restrictions on the plat: “WATER ENVIRONMENT SERVICES (WES), ITS SUCCESSORS OR ASSIGNS IS HEREBY GRANTED THE RIGHT TO LAY DOWN, CONSTRUCT, RECONSTRUCT, REPLACE, OPERATE, INSPECT AND PERPETUALLY MAINTAIN SEWERS, WASTEWATER, STORM DRAINAGE OR SURFACE WATER PIPELINES, AND ALL RELATED FACILITIES. NO PERMANENT STRUCTURE SHALL BE ERECTED UPON SAID EASEMENT WITHOUT THE WRITTEN CONSENT OF WES. GRANTORS AGREE TO UNDERTAKE NO ACTIVITY THAT WOULD HARM OR IMPAIR THE PROPER FUNCTIONING OF THE SANITARY AND STORM SEWER SYSTEM.”

xxix. The following easement designations and labels shall be used on the plat:

- a) WES – CLACKAMAS WATER ENVIRONMENT SERVICES
- b) SDE - STORM DRAINAGE EASEMENT GRANTED TO WES
- c) SSE - SANITARY SEWER EASEMENT GRANTED TO WES
- d) PSDE - PRIVATE STORM DRAINAGE EASEMENT
- e) PSSE - PRIVATE SANITARY SEWER EASEMENT

The following WES Fees and Charges shall apply (ADVISORY ONLY):

- xxx. Sanitary Sewer Plan Review fees shall apply. The fee is equal to 4% of the installed cost of the public sewer extension. A \$400.00 minimum shall be due with the first plan submittal.
- xxxi. Surface Water Plan Review fees shall apply. The total fee is equal to 4% of the construction cost for all stormwater management related facilities. A \$400.00 minimum shall be due with the first plan submittal.
- xxxii. An Erosion Prevention and Sediment Control (EPSC) permit fee shall apply. A \$460.00 minimum permit fee plus \$80/additional acre shall be due with the first plan submittal.

2. Roads & Connectivity (County Transportation Engineering: 503-742-4691):

A) Overview:

- i. The following items are project requirements from the Department of Transportation and Development’s Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County’s Comprehensive Plan (Comp Plan), the County’s Zoning and Development Ordinance (ZDO) and the County’s Roadway Standards. Additional requirements beyond those stated in the conditions of approval may be required once plans have been submitted and reviewed. The applicant may discuss the requirements of the project with staff at any time.

- ii. The requirements specifically required by the Comprehensive Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the County Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

B) General Provisions:

- i. **Prior to final plat approval:** a Development Permit is required from the Engineering Division for review and approval of frontage improvements, access and utilities. The Permit shall be obtained prior to commencement of site work and recording of the partition plat. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon, or plans acceptable to the Engineering Division, provide a performance guarantee equal to 125% of the estimated cost of the construction, and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit application.
- ii. **Prior to final plat approval:** all required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond. Performance bonds shall be in the amount of 125% of the approved engineer's cost estimate of the required improvements, and shall be accepted only when access has met minimum Substantial Completion requirements, per Roadway Standards Section 190.
- iii. All required street, street frontage and related improvements shall comply with the standards and requirements of the Clackamas County Zoning and Development Ordinance and the Clackamas County Roadway Standards unless otherwise noted herein.
- iv. The applicant shall dedicate 15 feet of additional right-of-way and verify that there is a minimum 35-foot wide one half right-of-way width along the entire site frontage on the west side of SE Roots Road. At the intersection of SE Root Road with SE Webster Road, the applicant shall dedicate additional right-of-way to provide a future 50-foot tangent from SE Webster Road east, with a centerline based on a 25 mph curve.
- v. The applicant shall dedicate 10 feet of additional right-of-way and verify that there is a minimum 40-foot wide one half right-of-way width along the entire site frontage of SE Webster Road. The right-of-way centerline and half-width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
- vi. The applicant shall grant an 8-foot wide public easement for signs, slope and public utilities along the entire SE Roots Road and SE Webster Road right-of-way frontage.
- vii. A note shall be placed on the plat indicating an access restriction along the SE Roots Road frontage of Lots 1, 2, 8, 9 and 10, and along the SE Webster Road frontage of Lots 7 and 8.

- viii. Prior to final plat approval, the applicant shall design and construct improvements along the entire site frontage of SE Roots Road to arterial roadway standards, consistent with Standard Drawing C140. These improvements shall consist of the following:
- a) Up to a minimum 20-foot wide one half street improvement shall be constructed along the entire site frontage of SE Roots 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 curb, or curb and gutter if curblin slope is less than one percent.
 - e) A 5-foot wide unobstructed sidewalk, constructed per Standard Drawing S960.
 - f) A minimum 5-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees and groundcover shall be provided within the landscape strip along the entire site frontage.
 - g) Dual concrete curb ramps shall be constructed at the SE Webster Road and SE Roots Road intersection, per Oregon Standard Drawings, Series RD900. A striping plan shall be provided for the revisions to the intersection.
 - h) A concrete curb ramp shall be constructed at the east end of the sidewalk on SE Roots Road, constructed per Oregon Standard Drawings, Series RD900.
 - i) Provide a street name sign and stop sign shall be provided at the intersection of the private road with SE Roots Road. The stop sign shall be 30 inches in diameter and be placed 7 feet from the ground line.
 - j) Drainage facilities in conformance with Water Environment Services requirements and *Clackamas County Roadway Standards* Chapter 4.
- ix. The applicant shall design and construct improvements for the private street serving Lots 1-10, which will consist of:
- a) The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement, and shall specify the lots served by the easement. The easement shall encompass the required improvements.
 - b) A minimum of 20 feet of legal access width shall be provided to each lot from the shared access.
 - c) The intersection of the private street with SE Roots Road shall be constructed no less than 250 feet from SE Webster Road and SE Benda Avenue. The

intersection shall be constructed at a 90 degree angle, per Section 250.8.2 and 250.8.4 of the Roadway Standards. A minimum 20-foot long landing shall be constructed with an average grade of no more than 5 percent, per Roadway Standards Section 250.7.3.

- d) A minimum 20-foot wide, paved driving surface with curbs on both sides of the roadway shall be constructed. The minimum structural section for the new private road improvements shall comply with Clackamas County Roadway Standards Drawing R100.
 - e) A minimum 20-foot wide concrete driveway approach, consistent with Standard Drawing D650 shall be provided at the intersection of the private road with the SE Roots Road.
 - f) A minimum 5-foot wide curb-tight sidewalk shall be constructed on one side of the roadway.
 - g) Concrete driveway approaches for each lot where access is taken from the private road, per Standard Drawing D600 for lots with sidewalk, and D650 for lots without sidewalk.
 - h) A curb ramp shall be provided at the ends of the sidewalk, constructed, per Oregon Standard Drawings, Series RD900.
 - i) Drainage facilities in compliance with Water Environment Services Rules and Clackamas County Roadway Standards Chapter 4.
 - j) Written verification must be received from the Fire District that adequate emergency service access is provided. The roadway shall accommodate minimum turning radii for a fire truck. A turnaround shall be constructed, per Standard Drawing C350. The turnaround wings shall not exceed 5 percent slope.
 - k) Roadways with a paved width less than 26 feet shall be signed and/or striped "FIRE LANE NO PARKING." Installation of signs and/or striping shall be completed before recording the plat. The developer is responsible for replacing all signs damaged or removed during home and street construction.
 - l) A road maintenance agreement for the shared private road implementing ORS 105.170 - 105.185 shall be recorded with the plat.
- x. 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.

- xi. A Fire Access and water supply plan shall be provided for subdivisions, commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. The plan shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The applicant shall provide fire flow tests per NFPA 291 and shall be no older than 12 months. Work to be completed by experienced and responsible persons and coordinated with the local water authority.
- xii. Following completion of site construction activities of subdivisions, buildings over 1000 square feet or when required by Clackamas Fire District #1, the applicant shall provide as-built Fire Access and Water Supply pdf plans to the local Fire District and the County. The pdf plans shall show fire apparatus access, fire lanes, fire hydrants, fire lines, available fire flow, fdc location if applicable, building square footage and type of construction. The plans shall include any supporting details of the access, circulation, water vaults, fire lines, valves, fdc, backflow devices, etc.
- xiii. 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.
- xiv. 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.
- xv. All existing and proposed easements shall be shown on the final plat.
- xvi. Sidewalks 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, if required by Tri-Met.

3. Conditions for Density

- A) Maximum Density is 10
- B) Minimum Density is 9

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) received May 3, 2022. No work shall occur under this permit beyond that specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- ii. The service of a certified surveyor and/or engineer is required to satisfy these conditions. The County recommends you obtain a project manager to assist in obtaining the necessary permits to implement this project.
- iii. The applicant is **advised** to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project.

- iv. This approval is also subject to conditions of approval and findings set forth in Z0207-22-HDA, Z0208-22-HMV, and Z0209-22-CMP

B) General Approval Criteria:

- i. The proposed Subdivision — including all, parcels, lots, tracts, easements, future structures, etc., potentially contained therein — shall comply with all applicable provisions of the R-10 Zoning District, as outlined in Section 315 of this Ordinance.
 - a) **Advisory:** Planned Unit Developments may be subject to modified dimensional and development standards where indicated in ZDO Sec. 315
- ii. The proposed Subdivision shall comply with the applicable provisions of Section 1000 of this Ordinance, *Development Standards*, as outlined above.
- iii. This subdivision will be developed and platted as a Planned Unit Development (PUD) pursuant to Section 1013 of the ZDO. Therefore; the following requirements shall be satisfied consistent with Section 1013 of the ZDO:
 - b) DevNW, through the [**Community**] Land Trust (CLT) model shall hold the Open Space tract (Tract “A”) in perpetuity
- iv. An acceptable alternative to a homeowners association, DevNW through the CLT model, 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 as follows:
 - a) DevNW, the acceptable alternative to a 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 Conditions, Covenants, and Restrictions (CC and Rs), administered by DevNW, is required for each proposed lot
 - c) DevNW’s CC and Rs shall be incorporated prior to recording of the final plat.
 - d) **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. Approval Period and Time Extension:
 - a) Approval of a preliminary plat is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.
 - b) If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.
- vi. Final Plat Review:

- a) The form and content of the final plat shall comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and Oregon Revised Statutes Chapters 92, 94, 100, and 209.
- b) The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved preliminary plat and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, the Planning Director shall sign the plat.
- c) Any private access easements should also contain provisions for public utility services such as water, electricity, communications, natural gas, storm drainage, sanitary sewer, emergency services, etc.
- d) New easements should include a statement that the easements are for the lots or parcels shown and any future divisions thereof.
- e) Easements created for access to parcels that can be redeveloped or further divided shall contain language that would allow the access and utilities easement(s) used by any additional development or parcels created in future. Any private easements should also contain provisions for public utility services such as water, electricity, communications, gas, storm drainage, sanitary sewer, etc.

Notice was sent to applicable agencies, and to owners of property within 300 feet. Comments received relating to the applicable approval criteria listed below are addressed in the Findings Section. Comments from the following agencies were received:

AGENCY RESPONSES RECEIVED AND EXHIBITS: (See Exhibits 3, 4, 8)

1. Clackamas Water Environmental Services (CWES)
2. County Transportation Engineering Division (Engineering Division)
3. Clackamas River Water District

SECTION II: FINDINGS (Z0206-22-SS Appeal):

These findings and conclusions were reviewed, modified, and/or adopted by the Hearings Officer as denoted by boldface type in italics:

1. PROJECT OVERVIEW:

The subject property is roughly 2.47 acres in size, with Kellogg Creek flowing southwest, adjacent to the southernmost property line. Environment and natural hazard concerns are addressed in detail through a series of Habitat Conservation Area (HCA) land use permits, reviewed under files Z0207-22, Z0208-22,

and Z0209-22. To summarize, the applicant will be containing the HCA, water quality buffers, floodplain, and open space within Tract “A,” the proposed open space tract.

The subdivision itself will consist of 10 new residential lots that will accommodate new single family dwellings. Given the large amount of Open Space and other environmental overlays on the subject property, a Planned Unit Development (PUD) is required. This will provide flexibility in lot sizes and dimensional standards, while preserving the sensitive areas within Tract “A”. The property owner, DevNW, is a non-profit organization, operating under the [Community] Land Trust (CLT) model, offering affordable home prices. This approach will enable 10 affordable new single family homes, as defined by local, state, federal agencies, rather than being purchased at real market rates. Access will be off of Roots road, via a private road (Tract “B”), that will serve all 10 lots.

Comments Received: Staff received 3 letters for concern from surrounding neighbors. Staff will summarize key issues in each, and respond.

**Kellogg Creek is flood prone, and new impervious cover will cause further downstream impacts. Staff response: If the applicant can meet all ZDO criteria, and Clackamas Water Environmental Services (WES) stormwater treatment standards, the project shall be approved.. WES has provided a signed preliminary [statement] of feasibility and also submitted recommended conditions of approval. These conditions will ensure the development complies with WES’ standards. From a flooding standpoint, the Special Flood Hazard Area (SFHA) commonly referred to as the 100-year floodplain, present on the southern 1/3 of the subject property, will not be disturbed.*

**SE Roots/Webster Road intersection is dangerous, particularly for children that will occupy the new dwellings. Staff response: Staff does agree that this intersection is busy, especially during peak travel hours. However, as noted in County Engineering’s comments dated July 7th, 2022, the intersection of SE Roots Rd and SE Webster Road will benefit from a new traffic signal, which is listed as one of the County’s long-term capital improvements projects. Furthermore, the applicant is require to dedicate a an additional 10-feet of right of way along Webster Road, which will correct the existing intersection skew angle, when Webster Road is realigned to accommodate the traffic light. These future improvements should help with some of the intersection issues noted in the neighbor’s comments. At present, however, no additional traffic infrastructure is warranted with this project. The private road intersection onto SE Roots Road shall meet adequate sight distances, prior to construction. These items will be discussed in detail below, in Section 1007. Lastly, staff notes some reporting options are currently available through County Traffic Engineering: For road concerns including speed bumps and other options, consider reviewing the “Road Concerns” webpage: (<https://www.clackamas.us/transportation/roadconcern>). Also available on the web, the “Drive to Zero” program (<https://www.clackamas.us/drivetozero>)*

The remaining comments are either not applicable to the ZDO or will be addressed below, in the “Findings” section.

2. ZDO SECTION 315 AND 1000: DEVELOPMENT STANDARDS

315 URBAN LOW DENSITY RESIDENTIAL (R-10)

315.04 DEVELOPMENT AND BUILDING STANDARDS (GI)

*Table 315-2 sets forth dimensional standards and development standards for the R-10 zoning district. Per table 315-2, the minimum lot size in the R-10 district is 8,000 square feet. However, this dimension, as well as setback, height, and lot coverage standards can be modified pursuant to ZDO Sec. 1013, since this development shall be platted as a planned unit development (PUD). Given the flexibility of PUD standards, staff finds that the proposed lot configuration can comply with ZDO Sec. 315, and that single family homes are allowed as a primary use. **The Hearings Officer concurs in these findings.***

1001 GENERAL PROVISIONS

1001.01 PURPOSE

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

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

*The proposed subdivision is new development and, therefore, subject to the Purpose of this Section. **The Hearings Officer concurs in this finding.***

1001.02 APPLICABILITY

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

The proposed development is a subdivision. Therefore Section 1000 applies to this proposal. The applicable standards pertaining to Section 1000 are outlined above under Conditions of Approval, while the applicable criteria are addressed in findings below.

1002 PROTECTION OF NATURAL FEATURES

1002.01 HILLSIDES

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

The site is generally flat. This section is not applicable.

1002.02 DEVELOPMENT RESTRICTION FOLLOWING EXCESSIVE TREE REMOVAL

- A. Definitions: For a complete list of definitions see ZDO Subsec. 1002.02
- B. Excessive Tree Removal: Excessive tree removal is the removal of more than three trees—excluding those identified as exempt in Subsection 1002.02(E)—on a lot of record in a calendar year.
- C. Development Restriction: If excessive tree removal occurred in the five years immediately preceding the date that a complete application is filed for design review, a subdivision, a partition, or a conditional use, the application will be denied.

*There is no record of excessive tree removal on site. As noted in the applicant's natural resource assessment, the site was cleared of trees and developed back in 2007. **The Hearings Officer concurs with staff findings that this standard does not apply. There is conflicting information concerning whether a former owner of the subject property excessively removed trees or was fined for such activity. However, any such activity took place more than ten years prior to this application by a subsequent owner of this property.***

1002.03 TREES AND WOODED AREAS

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

Staff did not find any trees or wooded areas to protect on site. Furthermore, pursuant to ZDO Sec. 197.307(4), this standard is not clear and objective, and therefore, not applicable. The Hearings Officer concurs in this analysis and these findings.

1002.04 RIVER AND STREAM CORRIDORS

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

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

1002.05 DEER AND ELK WINTER RANGE

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

The proposed development is outside of these areas. Therefore, this standard is not applicable.

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 proposed development is not located on this map. Therefore, this standard is not applicable.

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 proposed development is not located on this map. Therefore, this standard is not applicable.

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

No geo hazards on site per DOGAMI maps.

ZDO SEC 1003.04: STANDARDS FOR SOIL HAZARD AREAS

*As discussed prior, there is some floodplain on the site, though it shall be contained in the Open Space Tract. According to Oregon Dept. of Geology and Mineral Industries (DOGAMI) Bulletin 99 Maps, wet soils/ high water table appear to be present on site, though generally contained to the open space tract. The applicant has prepared a detailed stormwater report that notes groundwater is generally at 10-11 feet below surface, though it could rise during wet months. **Since the DOGAMI maps show that the location of the proposed home sites and road will be outside of high water/wet soil areas, staff is advising the applicant to submit a geotechnical report to the County, prior to home site construction. However, as per the aforementioned DOGAMI maps, if ground water, at any time, is discovered within 1.5 feet of the surface (not counting tract "A"), a geotechnical report shall be required. this is detailed above in the conditions of approval.***

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

1006.01 GENERAL STANDARDS

The proposed subdivision will be served by a variety of utility and infrastructure services that are subject to this Subsection, the applicable standards of which are outlined above under Conditions of Approval, and findings for which are addressed 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, and is subject to Clackamas County Service District #5 (CCSD#5). A condition of approval is warranted, requiring the lot to annex into CCSD#5, if

*it hasn't been annexed already. The applicant shall contact CCSD#5 staff to determine what, if any, street lighting requirements are needed with this development. **The Hearings Officer concurs with staff that this requirement can be met, as detailed above as a condition of approval.***

1006.03 WATER SUPPLY

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

The water supply for the proposed subdivision will be provided by the Clackamas River Water District (CRWD). CRWD provided comments June 14, 2022, with the following comments:

- 1) *CRW currently has available the following infrastructure available within the public right-of-way to serve the site:
6-inch cast iron waterline located within SE Roots Rd. This waterline is not available for service connection only due to leak history;
12-inch ductile iron waterline located within SE Webster Rd. Waterline available for service connection.*
- 2) *CRW currently is serving the site with the following services:
On request of Clackamas Fire District #1 the 3/4-inch meter was pulled on 11/06/07. Staff concurs with these findings/comments, as well as recommended conditions of approval by CRWD in the letter dated June 14, 2022.*

These conditions of approval are listed above in the Conditions of Approval Section. The Hearings Officer concurs with staff that this criteria can be met.

- B. Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.
1. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner.

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

The statement does include a provision for adequate fire flows. The Hearings Officer finds that this standard can be met by condition of approval.

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

The statement is dated November 11, 2021, and water system capacity is not needed to be reserved for the proposed subdivision.

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

An applicable Condition of Approval is outlined above under Conditions of Approval. The Hearings Officer finds that as conditioned this criteria can be met.

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

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

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

The subject property is located within the UGB. Therefore, this criteria does not apply.

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 Environment Services (WES) is an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 for the purpose of providing regional sewerage works, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary or storm sewage within its boundaries.*
 - *WES has adequate capacity for sanitary sewer collection and treatment to serve this property. Points of connection are available via the existing public sanitary sewer mainlines located in SE Roots Road, SE Webster Road, and on the south side of the property. The sanitary sewer mainline in SE Roots Rd extends further west than is shown on the applicant's plans.*
 - *The applicant did not provide a preliminary storm report with the land use application. WES comments are based on the preliminary materials submitted for*

feasibility, which appears to have been subsequently revised. Additional comments and requirements may apply upon WES review of the final SWM Plan.

- *Based on the preliminary grading and utility plans, it's not clear how runoff from the required Roots Road frontage improvements will be captured and treated. As part of the final plan submittal to WES, the applicant must clearly delineate the basins that flow west to the existing catch basin at Roots/Webster intersection and east to the new storm treatment system.*
 - *The applicant has provided a "Declaration and Maintenance Agreement for On Site Stormwater Facilities" for public maintenance of the storm system, however the preliminary site design does not appear to meet access standards for publicly maintained facilities, in accordance with Appendix I. As proposed, the onsite storm facilities will need to be privately maintained.*
 - *With future development on the new parcels, System Development Charges (SDC's) will apply for sanitary sewer and surface water, in accordance with the prevailing rates in effect when building permit applications are submitted. Rate adjustments occur annually on July 1. WES will determine a final assignment of SDC's after review of the civil plans. Erosion control permit and fee shall also apply.*
 - *With future development, a credit of 1.0 ESU and 1.0 EDU shall be available based on previously paid SDC's (File # 383). It will be the developer's discretion as to how to apply the credit.*
 - *With future development, WES will provide separate monthly service bills for each lot as long as they all have separate tax lot numbers, otherwise a single monthly service bill for all units will be sent to the CLT.*
 - *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.

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 applicant has provided enough detail for WES to approve a Preliminary Statement of Feasibility.

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 April 14, 2022, and sanitary sewer system capacity is not needed to be reserved for the proposed subdivision.

1006.05 SUBSURFACE SEWAGE DISPOSAL

- A. All development proposing subsurface sewage disposal shall receive approval for the system from the County prior to submittal of a land use application for development. Said systems shall be installed pursuant to Oregon Revised Statutes 454.605 through 454.745 and Chapters 171, 523, and 828; Oregon Administrative Rules Chapter 340, Divisions 71 and 73; and the policies of the County.

Subsurface sewage disposal systems are not required since Sanitary Sewer is available. The Hearings Officer agrees that, therefore, this criterion is not applicable.

1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL

The following surface water management and erosion control standards apply:

- A. Positive drainage and adequate conveyance of surface water shall be provided from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point.

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

- 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.

Clackamas Water Environmental Services (WES) is the surface water management authority for the area including the subject site, however WES has not provided any comments noting that surface water cannot be met. The Hearings Officer concurs with staff that these standards can be met.

1. The surface water management regulatory authority may require a preliminary surface water management plan and report, natural resource assessment, and buffer analysis prior to signing the preliminary statement of feasibility.

Enough data was presented to WES to approve the Preliminary Statement of Feasibility. The Hearings Officer concurs with staff that this criteria is not applicable.

2. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.

The statement is dated in April 14, 2022, and surface water treatment and conveyance system capacity are not needed to be reserved for the proposed subdivision.

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

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

The Hearings Officer concurs with the staff finding that no natural drainage channels will be disturbed.

2. Protect development from flood hazards;

There are flood hazards on site. The Hearings Officer finds, however, that no development is being proposed within Tract "A" which is the flood hazard area discussed with this application.

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;

Conditions outlined above by WES or the County Plumbing Code will require the design and implementation of a system that complies with the above standards. The Hearings Officer finds that this criterion can be met.

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

Conditions outlined above by WES will require the design and implementation of a system that complies with the above standards. The Hearings Officer finds that these standards can be met.

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.

Conditions outlined above by WES will require the design and implementation of erosion control methods that comply with the above standards. The Hearings Officer finds that this criterion can be met.

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

A bridge or span is not needed nor proposed.

E. If a development, or any part thereof, is traversed by any watercourse, channel, stream, creek, gulch, or other natural drainage channel, adequate easements for

surface water management purposes shall be provided to the surface water management regulatory authority.

A watercourse is not being traversed.

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

Channel obstructions are not proposed, and no additional development is proposed within Tract "A".

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

Per ORS 197.307, this criteria is subjective, and therefore, not applicable. The Hearings Officer concurs in this analysis.

- H. A surface water management and erosion control plan is required for significant residential, commercial, industrial, and institutional development. The plan shall include:

1. The methods to be used to minimize the amount of runoff siltation and pollution created from the development both during and after construction; and
2. Other elements required by the surface water management authority.

A surface water management and erosion control plan is required for any additional development that occurs on site per WES, although this criteria itself is subjective per ORS 197.307.

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:

All preliminary statements of feasibility have been obtained. The Hearings Officer concurs in the staff finding that an exception is not necessary.

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.

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

- 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.

Roots Road and SE Webster Road are classified as minor arterial roadways (Comprehensive Plan map 5-1a). 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 roads. The standard right-of-way width for an arterial roadway to accommodate two travel lanes and 8-foot wide bike lanes is 70 feet. The existing right-of-way width of SE Roots Road is approximately 40 feet, requiring a dedication of approximately 15 feet of additional right-of-way to provide a 35-foot one half right-of-way width. The Hearings Officer concurs.

- 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 intersection of the private road with SE Roots Road is consistent with access spacing standards, per ZDO Section 1007.01(C)(1) and (2), and Roadway Standards Section 220. The Hearings Officer concurs.

2. For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, *Potentially Buildable Residential Sites > 5 Acres in UGB*, the applicant shall provide a conceptual map of new streets for

the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets; demonstrate opportunities to extend and connect new streets to existing streets, and provide direct public right-of-way routes. Closed-end street designs shall be limited to circumstances in which barriers prevent full street extensions. Closed-end streets shall not exceed 200 feet in length and shall serve no more than 25 dwelling units. Subsequent development on the site shall conform to the conceptual street map, unless a new map is approved pursuant to Subsection 1007.01(C)(2).

These criteria do not apply. The Hearings Officer concurs.

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.

This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. The Hearings Officer concurs in this analysis.

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.

This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. The Hearings Officer concurs in this analysis.

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.

This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. The Hearings Officer concurs in this analysis.

6. Inside the Portland Metropolitan Urban Growth Boundary:
 - a. The development shall have no more than the minimum number of driveways required by the Department of Transportation and Development on all arterial and collector streets.
 - b. For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.
 - c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.

- d. Driveways shall be located so as to maximize the number of allowed on-street parking spaces, the number of street trees, and optimum street tree spacing.

*Driveways shall be consistent with County Roadway standards. This requirement is detailed in the Conditions of Approval Section. **The Hearings Officer concurs.***

- D. Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.

*The Clackamas County TSP includes a long term capital improvement project to construct a traffic signal at the SE Webster Road/SE Roots Road intersection. The applicant will be required to dedicate right-of-way at the corner for future realignment of the intersection to eliminate the existing intersection skew angle to accommodate the future traffic signal, providing a 50-foot tangent from SE Webster Road east, with centerline based on a 25 mph curve. **The Hearings Officer finds that, as conditioned, these standards can be met.***

- E. All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.

*This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. **The Hearings Officer concurs in this analysis.***

- 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.

*This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. **The Hearings Officer concurs in this analysis.***

- 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.

*This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. **The Hearings Officer concurs in this analysis.***

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.

This location is not within areas identified in Ch. 10.

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

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

*Given the small lot configuration, and constraints on the southern half of the parcel, no additional public access to adjoining property is required. **The Hearings Officer concurs with staff that this criterion is not applicable.***

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

*This criteria is not clear and objective per ORS 197.307(4) and therefore, not applicable. However, as noted above, this criteria is not applicable. **The Hearings Officer concurs in this analysis and finding.***

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

*This criteria is not applicable per ORS 197.307. **The Hearings Officer concurs.***

4. Sustainable development features such as “Green Streets” as described in Metro’s *Green Streets: Innovative Solutions for Stormwater and Street Crossings (2002)*, which shall be allowed within the UGB and in unincorporated communities;

- a. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;
- b. Preservation of existing significant trees and native vegetation;
- c. Preservation of natural terrain and other natural landscape features;
- d. Achievement of maximum solar benefit for new development through orientation and block sizing;

- e. Existing forest or agricultural uses;
- f. Existing development;
- g. Scenic qualities;
- h. Planned unit developments;
- i. Local access streets less than 200 feet in length which are not extendible; and
- j. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.

New Green Streets are not proposed. These criteria are not applicable. The Hearings Officer concurs.

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

New County and/or public roads are not proposed. These criteria are not applicable.

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

The intersection of the private street with SE Roots Road shall be constructed no less than 250 feet from SE Webster Road and SE Benda Avenue. The intersection shall be constructed at a 90 degree angle, per Section 250.8.2 and 250.8.4 of the Roadway Standards. A minimum 20-foot long landing shall be constructed with an average grade of no more than 5 percent, per Roadway Standards Section 250.7.3.

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

This criteria is not applicable per ORS 197.307(4). The Hearings Officer concurs.

- 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.

This criteria is not applicable per ORS 197.307(4). The Hearings Officer concurs.

- E. New developments, subdivisions, and partitions may be required to dedicate land for right-of-way purposes and/or make road frontage improvements to existing rights-of-way as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

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

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

The existing and planned improvements along the SE Webster Road frontage accommodate a 3-lane road section. A 3-lane arterial roadway section requires an 80-foot wide public right-of-way. The existing right-of-way width of SE Webster Road is approximately 60 feet, requiring a dedication of approximately 10 feet of additional right-of-way to provide a 40-foot one half right-of-way width. The Clackamas County TSP includes a long term capital improvement project to construct a traffic signal at the SE Webster Road/SE Roots Road intersection. The applicant will be required to dedicate right-of-way at the corner for future realignment of the intersection to eliminate the existing intersection skew angle to accommodate the future traffic signal, providing a 50-foot tangent from SE Webster Road east, with centerline based on a 25 mph curve.

The project site includes approximately 485 feet of frontage on SE Roots Road and 465 feet of frontage on SE Webster Road. During review of the proposed development through two pre-application conferences under file numbers ZPAC0006-22 and ZPAC0106-20, county engineering staff found that full frontage improvements on both the SE Roots Road and SE Webster Road frontages would not be roughly proportional to the traffic impacts of a proposed 10-lot subdivision.

To analyze rough proportionality, staff looked at typical costs associated with constructing new streets in a residential subdivision, with each lot contributing one half of the standard street needed to provide access to each lot, including pavement, curb, landscape strip and sidewalk. Although, this analysis is simplified because it does not include other improvements, such as storm drainage that would be needed to support a particular development, it serves as a rough estimate for findings under Nolan-Dolan court cases. Assuming 100 feet of frontage (R10 Zoning) for each lot, the cost of frontage improvements on a local road is approximately \$19,801 per lot. For a 10 lot subdivision, the frontage costs would be approximately \$198,010. A

rough estimate of frontage on both SE Webster Road and SE Roots Road is \$293,337. The cost is approximately 32 percent higher than a typical development. In addition, these costs do not include the internal roadway that will provide access to each of proposed lot. In the case of the proposed subdivision, the site has approximately 950 of frontage on arterial roadways. Based this rough proportionality analysis, county engineering finds that frontage improvements on the SE Webster Road frontage are not proportional and will not be required. Staff finds that a 10 foot ROW dedication on the SE Webster Road frontage, and standard frontage improvement on the SE Roots Road frontage and associated right-of-way is appropriate and proportional, given the scope of the proposed development.

*The minimum improvements on the SE Roots 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 20-foot one-half paved width to the curb, a 5-foot wide landscape strip with street trees, a 5-foot wide unobstructed sidewalk, and storm drainage facilities. The applicant's preliminary plans appear to be consistent with these standards. With conditions, these standards can be met. **The Hearings Officer has reviewed the above analysis, including the rough proportionality determination by staff considering requirements for frontage improvements, and concurs in these findings. The shape of the subject site is a "deep V" with significant frontage along both SE Roots Road and SE Webster Road. As reviewed above, requiring this 10-lot subdivision of smaller homes to pay for full frontage improvements along both of these significant frontages is not proportional to the benefit this proposed subdivision will receive. As referenced by staff, this intersection will receive future upgrades provided by the County. There is no evidence in the record addressing concerns expressed with respect to sidewalks along SE Webster Road and whether they will ever being built. This is a serious safety concern for pedestrians and children in this area and these sidewalks should be built. However, based upon the above analysis, the applicant should not be required to pay for them.***

1007.03 PRIVATE ROADS AND ACCESS DRIVES

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

*The applicant is proposing a new private road (Tract "B"). Access for the subdivision is proposed by a new private road serving Lot 1-10. Clackamas County has adopted design and construction standards for private access roads, as provided in ZDO Sections 1007.02-03 and Roadway Standards Section 225.7. Private roads serving four or more lots are required to provide a minimum 20-foot wide paved road, with a 5-foot wide sidewalk on one side. The applicant's preliminary plans are consistent with these requirements. **These standards can be met with conditions of approval.***

*The Clackamas County's Roadway Standards include requirements for emergency vehicle access to residential subdivisions. Roads longer than 150 feet are required to provide a turnaround that can accommodate emergency services vehicles, as well as garbage and recycling trucks and other service and delivery vehicles. A hammerhead turnaround is proposed for the proposed private road and appears adequate. Written verification from the Fire District indicating that emergency service access is or will be adequate for the proposed subdivision will be required. **The Hearings Officer finds that, as conditioned, these standards can be met.***

1007.04 PEDESTRIAN AND BICYCLE FACILITIES

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

*As discussed above, Sidewalks are required for Roots Road, and the private road. Webster Road will require dedications, but frontage improvements will not be required as Engineering staff noted the exactions are not warranted. **The Hearings Officer concurs.***

- 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.

*Conditions of approval will ensure that this standard is met. **The Hearings Officer concurs.***

- 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.

Except where noted on Webster Road, sidewalks are required on all road frontages and the private road. The Hearings Officer finds that, as conditioned, this standard will 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 per Subsection 1007.04(F). The Hearings Officer finds that, as conditioned, this standard will be met.

- F. Sidewalk Location: Sidewalks required by Subsection 1007.04(C) or (D) shall be constructed on:
 - 1. Both sides of a new or reconstructed road, except that sidewalks may be constructed on only one side of the road if:
 - a. The road is not a through road;
 - b. The road is 350 feet or less in length and cannot be extended; or
 - c. In consideration of the factors listed in Subsection 1007.02(B)(3).

Sidewalks are only being constructed on one side of the proposed private road. The Hearings Officer finds that, as conditioned, this standard will be met.

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

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

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

Arterial	6 feet	8 feet	6 feet
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1. The entire required width of sidewalks and pedestrian pathways shall be unobstructed.

*This requirement can be met by condition of approval. **The Hearings Officer concurs.***

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.

*If transit shelters are required pursuant to TriMet, this standard shall be required. **The Hearings Officer concurs.***

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.

*This standard can be met by condition of approval. **The Hearings Officer concurs.***

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.

*This standard is not clear and objective and cannot be applied per ORS 197.307(4). However, ZDO Sec. 1007.03(H)(2) is clear. No comments from TriMet were received indicating a transit shelter be required. A condition of approval is warranted per the standard noted above, that any transit shelter or transit stop sign comply with ZDO Sec 1007.03(H)(2). **The Hearings Officer concurs in this analysis and finds that, as conditioned, these standards will be met.***

1007.06 STREET TREES

- A. Within the Portland Metropolitan Urban Growth Boundary (UGB), 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:

Street Trees are required on Roots Road frontage, but not on SE Webster or the proposed private street. The Hearings Officer finds that, as conditioned, this standard can be met.

1. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development.

The Hearings Officer finds that this standard can be met and is detailed above as a condition 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.

This application is for a subdivision. Therefore, these criteria apply.

- 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 152nd Drive (north of Highway 212); and
- d. South of Sunnyside Road (east of 82nd Avenue) or Harmony Road (west of 82nd 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).

- 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*.

- 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.

*ZDO subsection 1007.09 requires that roadways and intersections serving subdivisions have adequate capacity to handle the additional traffic generated by the development, and will continue to operate during the mid-day one hour peak and first and second hours of the PM peaks at acceptable volume to capacity (v/c) ratios. The proposed subdivision will generate a total of approximately 95 average daily vehicle trips, with 8 trips in the AM peak hour, and 10 trips in the PM peak hour. **Traffic studies are not required for developments that do not generate more than 20 peak hour trips. Engineering staff finds that the capacity of the roadways and intersections serving the project site will operate within the volume to capacity ratios. Therefore, the County's concurrency requirements as they relate to the transportation system are met by the applicant's proposal. The Hearings Officer concurs in this analysis by staff, and agrees with these findings, particularly given the small size of this proposed subdivision.***

1011 OPEN SPACE

1011.01 AREA OF APPLICATION

*Pursuant to ZDO Sec. 1101.01 (A) and Comprehensive Plan Map 4-6, the subject property does contain Open Space. The applicant's plan set show that the mapped Open Space is generally confined within Tract "A", but there are some areas where development will occur. ZDO Sec. 1101.01(C) identified three "high priority" open space standards that apply to this development: 1) Land over 35 percent slope; 2) Bodies of water such as rivers, lakes, or lagoons; 3) Wetlands. There are four other items, but those items are either not present, or contain subjective criteria and not applicable per ORS 197.307(4). Staff finds that ZDO Sec. 1011 is applicable. **The Hearings Officer concurs in this analysis by staff, and adopts these findings.***

1011.02 DEVELOPMENT STANDARDS AND LIMITATIONS

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

As noted above, there are three High priority open space categories that apply. Streams, creeks, and wetlands will be discussed below.

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

*Development on slopes exceeding 35 percent are not proposed, as this site is flat. Steep slopes are not applicable. Wetland and streams are already being preserved in the open space tract. Therefore, there are no encroachments into High-priority open space areas. **The Hearings Officer concurs in these findings.***

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

*This criteria is subjective. Therefore, pursuant to ORS 197.307(4), Second-priority open space cannot be applied. Staff notes that any fringe areas of the mapped open space, other than the streams and wetlands, are considered Secondary-Priority, and need not be preserved. **The Hearings Officer concurs in this analysis and in these findings.***

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

*The applicant has noted that a Homeowner's Association (HOA), or a similar entity shall be created, ensuring Tract "A" shall be preserved therein. **The Hearings Officer finds that, as conditioned, these criteria are or can be 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).

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

1012.04 GENERAL DENSITY PROVISIONS

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

The applicant shall be subject to the R-10 zoning district standards.

- B. The DLA and the minimum lot size standard applicable to a particular zoning district are seldom the same. Often this is because the maximum density derived from the DLA standard is calculated over the entire site prior to any platting of new lots or parcels. The minimum lot size standard then typically permits flexibility in determining where on the site the allowed dwelling units will be developed. For example, some lots may be relatively large while others are smaller, or open space tracts may be platted while all lot sizes are relatively small. Regardless of allowed flexible sizing of individual lots or parcels, however, the maximum density allowed for the entire site remains the

Since this subdivision is proposed as a Planned Unit Development (PUD) normal minimum lot sizes set forth in ZDO Sec. 315, Table 315-2 have more flexibility in lot size. The Hearings Officer concurs that this standard is met.

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

The subject property is currently vacant. Therefore, this standard is not applicable.

- 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. Therefore, this standard is not applicable.

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

Detached single-family dwellings are primary uses in the R-10 zoning district. Therefore, 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.

*The applicant has prepare a detailed density calculation plan which shows the maximum density for the subdivision can be met as detailed below. **The Hearings Officer concurs in this analysis and agrees with these proposed findings.***

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

GSA equals for R-10 equals 114,023 sq. ft.

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

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

The figure for new road (NR) listed by the applicant at 8,609 sq. ft.

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

The new road does not exceed 15 percent of GSA. This standard is not applicable.

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

Right-of-way dedication to SE Webster and Roots Road are required by condition of approval, but these areas need not be subtracted.

- 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.:

With the Modified HCA boundary, there are no subtractions of HR or MRR areas. Therefore, this subtraction is Zero.

- 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:

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

R-10 $\{114,023 - [8,609 + 0 + (0 \times 0.5)]\} / 10,000 = 10.54$ *In turn, Base Density equals 36.*

*The partial figure of 10.54 is being rounded down to 10, as described below. Staff notes that the applicant utilized 8,000 as the DLA. While this is incorrect, 10,000 square feet should be used per ZDO Sec. 315, the calculation is moot, as the project clearly has enough density for 10 lots, as proposed. **The Hearings Officer agrees that this standard is met and maximum density is 10.***

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

Since only 10 lots are proposed, the density of 10.54 shall be rounded down to 10. 10 lots is the max number of lots allowed.

1012.08 MINIMUM DENSITY

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

The subject property is located in the R-10 Zoning District, where a minimum density standard applies.

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

Staff concurs with the applicant's calculations. Minimum Density is 9. The Hearings Officer also concurs.

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

Minimum Density is 8.55, and is being rounded up to 9.

- D. The result is minimum density.

In sum, minimum density equals 9. The Hearings Officer notes that this shall be required as a condition of approval above.

1013 PLANNED UNIT DEVELOPMENTS

1013.01 APPLICABILITY

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

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

*This proposal is for a 10-lot subdivision. A **Planned Unit Development (PUD)** is permissible.*

- B. In an Urban Low Density Residential, MRR, or HR District, a subdivision, partition, or Type II replat shall be developed as a planned unit development if the subject property is larger than one acre and at least 10 percent of the subject property is designated Open Space on Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map; X-MH-1, Resource Protection Open Space; XMH-2, Resource Protection Open Space; X-MH-3, Resource Protection Open Space; or X-MH-5, Government Camp Village Plan Resource Protection Open Space

*Comprehensive Plan Map 4-6 shows that at least 10 percent of the subject property is designated Open Space. A PUD is required. Note, the applicant found that at least 33 percent of the site contained open space. **The Hearings Officer concurs in these findings.***

1013.02 ACCESSORY USES

The following accessory uses are permitted in a planned unit development. As used in Subsection 1013.02, accessory use means a subordinate use, the function of which is clearly incidental to that of the main use(s) in the planned unit development.

- A. Recreational uses, such as bicycle trails, golf courses, nature preserves, playgrounds, recreation rooms, swimming pools, tennis courts, walking trails, and wildlife sanctuaries; and
- B. Offices, other buildings, and facilities required for: 1. The operation, administration, and maintenance of the planned unit development; 2. Recreational uses permitted pursuant to Subsection 1013.02(A); and 3. Vehicle parking and storage established pursuant to Subsection 1013.03(D)

*The applicant has not proposed any accessory uses in the open space tract. **Therefore, this criteria is not applicable. Storm water facilities are permissible in Tract "A". The Hearings Officer concurs in these findings.***

1013.03 DIMENSIONAL AND DEVELOPMENT STANDARDS

- A. Natural or Unique Features: To the maximum extent feasible, the plan and design of the planned unit development shall ensure that natural or unique features of the land and environment are preserved.

*While staff notes that this criteria is not a clear and objective standard, natural and unique features are nonetheless being preserved in Tract "A". **The Hearings Officer concurs.***

- B. Maximum Number of Lots: In the RA-2, RR, RRFF-5, and FF-10 Districts, the number of residential lots in a planned unit development shall not exceed 10.

This criteria is not applicable since the property will be zoned Urban Low Density Residential. The Hearings Officer concurs in this finding.

C. Open Space:

1. A minimum of 20 percent of the gross site area shall be platted as one or more open space tracts.

Tract "A" shall contain roughly 33 percent of the gross site area. This standard is met.

2. Open space tracts may include recreational uses permitted pursuant to Subsection 1013.02(A), bicycle trails, walking trails, natural or landscaped buffer areas, bus shelters, and significant natural vegetation or landscape features.

Tract "A" will contain natural vegetation, landscaped buffer areas and storm water facilities. These uses are permissible.

3. Open space tracts shall not include:
 - a. Parking areas or driveways, except those serving recreational uses permitted pursuant to Subsection 1013.03(C)(2) ; or
 - b. Roads.

These uses are not proposed. This criteria is met.

4. The PUD shall be designed so that no lot or parcel is located more than 1000 feet from an open space tract.

Every lot is within 1,000 feet of Tract "A". This criteria is met.

5. All lots or parcels within the PUD shall have reasonable access to at least one open space tract.

Unfortunately, staff finds that this criteria is not a clear and objective standard, and pursuant to OSR 197.307(4), it cannot be applied. Staff did not identify a pedestrian accessway to the open space tract, but since the area has unique natural features, it need not be disturbed. The Hearings Officer concurs in this analysis and agrees that this standard is not applicable.

6. Each open space tract shall be large enough for recreational use unless the open space is intended to protect significant natural features from impacts associated with use or development.

While this criteria does not appear to be clear and objective, staff finds that the Open Space is large enough to protect natural features and recreational uses are not warranted since natural features need to be preserved. The Hearings Officer concurs in this analysis and findings by staff.

7. The open space restrictions shall continue in perpetuity, unless the restrictions are modified pursuant to either Section 1309, Modification, or the approval of a new land use permit application provided for by this Ordinance.

*This criteria is acknowledged and required as a condition of approval, as well as a criteria within the recorded CC and R documents. **The Hearings Officer finds that, as conditioned, this criteria can be met.***

- D. Parking: The following may be required after consideration of street type, width, traffic volume, transit amenities, and pedestrian circulation: guest parking for dwellings and sufficient parking space for storage of residents' recreational vehicles
 1. If required, recreational vehicle parking shall be located so as to be compatible with the surrounding development. If located on the perimeter of the PUD, it shall be screened from adjacent properties.
 2. Off-street parking may be provided on each lot or parcel or in parking areas in proximity to the dwellings they serve, provided that such common parking areas shall be developed on a platted tract designated for parking.

Off-street recreational parking is not proposed. This criteria is not applicable.

- E. Homeowners Association: A homeowners association, or acceptable alternative, is required pursuant to Subsection 1105.03(D).

*A Homeowners Association is not specifically proposed. However, this project proposes the Community Land Trust (CLT) model, where the property owner and developer, DevNW, will retain ownership of the Open Space tract (Tract "A"). The applicant submitted a preliminary declaration of Easements, Covenants, Conditions, and Restrictions (CC and Rs) which can ensure the open space tract is maintained and held in perpetuity so as not to be developed in the future. Given the special nature of this development, which will consist of affordable housing units, staff finds this model is acceptable, and may be used as an alternative to the traditional Homeowners Association model. **The Hearings Officer concurs in this analysis by staff and finds that this standard can be met and is detailed above in the conditions of approval.***

1017 SOLAR ACCESS FOR LAND DIVISIONS AND REPLATS

1017.01 APPLICABILITY

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

*The applicant is proposing a subdivision in the R-10 zoning District. **Therefore, this criteria applies.***

1017.02 DEFINITIONS

The following definitions apply to Section 1017:

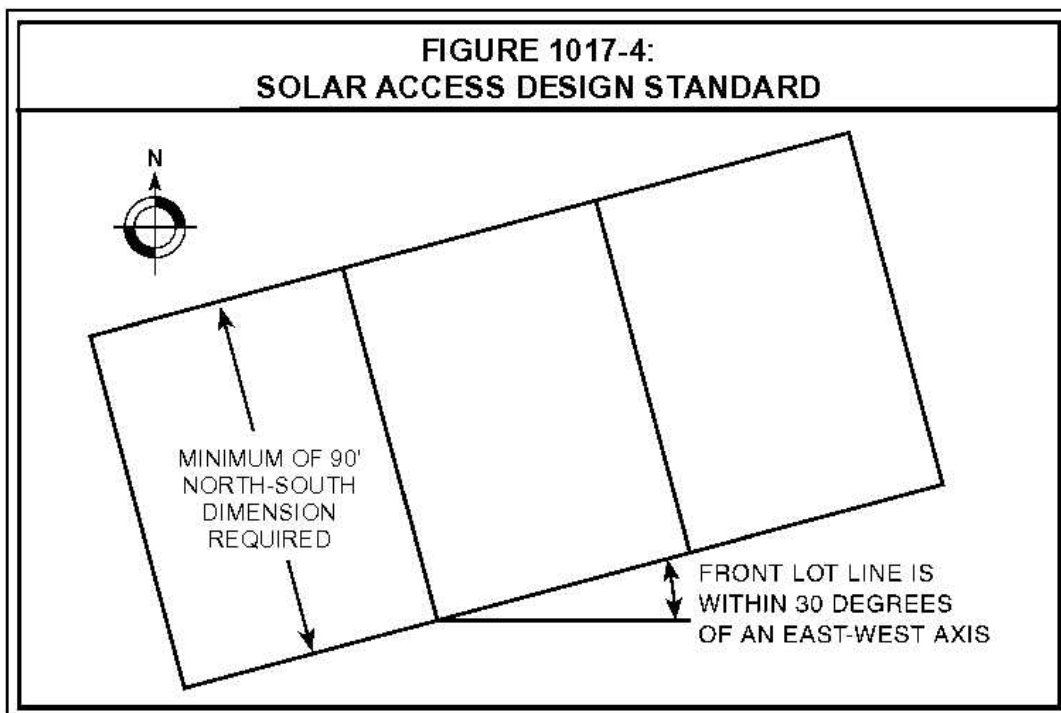
The criteria, requirements, standards and text of Section 1017 are subject to the definitions outlined in this Subsection.

1017.03 DESIGN STANDARD

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

- A. Have a minimum north-south dimension of 90 feet. Undevelopable area, other than a required setback area, may be included in the north-south dimension if it abuts either of the lot lines used in calculating north-south dimension; and
- B. Have a front lot line that is oriented within 30 degrees of a true east-west axis. (See Figure 1017-4.)

The project is for a Planned Unit Development. These standards cannot be met and an exception is sought by the applicant, as discussed below.



1017.04 EXCEPTIONS TO THE DESIGN STANDARD

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

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

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

1. The subject property includes a significant natural feature identified in the Comprehensive Plan, designated open space identified in the Comprehensive Plan, a highly or moderately restricted area identified in Subsection 1012.05, or a protected water resource and associated vegetated corridor regulated by the surface water management authority, that: a. Prevents given streets, lots, or parcels from being oriented for solar access; and b. Will remain undeveloped.

*The applicant has provided a response noting that the preservation of significant natural features is reason for not meeting the normal solar siting standards. Staff agrees. The site has open space, and many other sensitive areas. There is no possible way to meet these standards without encroaching into these areas. **This exception is warranted, and the applicant's reasoning is sufficient. The Hearings Officer concurs in this analysis by staff and finds that this criteria is met.***

III. ZDO SECTION 1100: DEVELOPMENT REVIEW PROCESS/PLA

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

1105.01 PURPOSE AND APPLICABILITY

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

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

1105.02 SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

1105.03 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

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

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

*The applicable standards pertaining to Section 1000 are outlined above under Conditions of Approval, while the applicable criteria are addressed in findings above. Furthermore, dimensional standards are regulated under ZDO Sec. 602. **The Hearings Officer adopts these findings.***

- 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 Medium Density Residential District and the applicant has not designated the proposed subdivision as a zero-lot-line development. **This criteria is not applicable.***

- C. As part of preliminary plat approval for a subdivision, approval of a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the 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:

This is a proposed subdivision, but no phasing plan is requested.

- 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

*As discussed above, the Community Land Trust (CLT) model will be used to accommodate affordable home prices on lots 1-10. Submitted Covenants, Conditions and Restrictions (CC and Rs) show that DevNW can act as a traditional Homeowners Association (HOA) so long as each criteria above are met and maintained. Each lot shall be bound to CC and Rs, and conditions will require that the open space tract (Tract "A") be maintained in perpetuity. Lastly, DevNW, through the CLT model is a non-profit organization, which is organized through the State of Oregon. Staff finds that assuming criteria 1-3 can be met through CC and Rs, DevNW is an acceptable alternative to a traditional Homeowners Association. **The Hearings Officer concurs in this analysis and finds that this standard can be met as detailed above in the Conditions of Approval section.***

1105.04 ADDITIONAL APPROVAL CRITERIA FOR REPLATS

The number of lots or parcels in the replatted area shall not exceed the number previously approved for the area, unless:

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

This lot has never been platted. Therefore, replat criteria are not applicable. The applicable standards of this Subsection are outlined above under Conditions of Approval.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

- A. Approval of a preliminary plat is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.
- B. If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two-year time extension may be approved pursuant to Section 1310, Time Extension, except for a replat reviewed as a Type I application pursuant to Section 1307, which may not be approved for a time extension.

This criteria is noted above in the Conditions of Approval section and can be met.

1105.07 FINAL PLAT REVIEW

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

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

D. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer hereby APPROVES application Z0206-22-SS for a 10-Lot Short Subdivision and Planned Unit Development (PUD), subject to conditions of approval.

Dated: September 12, 2022



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

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