



STAFF REPORT TO HEARINGS OFFICER FOR:

**PROPOSED 15-LOT SUBDIVISION AND PLANNED UNIT DEVELOPMENT CALLED
RUSCLIFF ESTATES:**

1. SUBDIVISION FILE NO. Z0001-20-SL

***CONSOLIDATED AND PROCESSED CONCURRENTLY WITH:
HABITAT CONSERVATION AREA (HCA) REVIEW | Z0523-HDA-19, Z0524-CMP-19,
Z0525-HMV-19***

Staff Report Prepared by Ben Blessing, Planner 2, CFM

Table of Contents

Location Map	5
Site Plan	6
SECTION 1: LIST OF EXHIBITS	7
SECTION 2: SUMMARY	8
SECTION 3: PROJECT OVERVIEW	9
SECTION 4: recommended CONDITIONS OF APPROVAL	11
1. Conditions for Protection of Natural Features	11
A) Trees & Wooded Areas:	11
2. Conditions for Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management & Erosion Control	11
A) General Standards:	11
B) Street Lights:	12
C) Water Supply:.....	12
D) WATER ENVIRONMENTAL SERVICES (WES) – Sanitary Sewer, Storm Water, Erosion Control, and Sensitive Area Conditions-From comments date July 22, 2020:.....	13
3. Conditions for Roads & Connectivity:	22
A) Overview:	22
B) Conditions of Approval: Ken Kent (503) 742-4673;.....	22
C) 25	
4. Conditions for Density	25
D) Density Summary	25
5. Conditions for Planned Unit Development	25
A) Uses and Dimensional Standards for Planned Unit Development (PUD) in R-10 District:.....	25
B) Maximum Number of Lots	25
C) Open Space:.....	25
D) Homeowners Association:.....	26
6. Conditions for Land Divisions	26

A) General Conditions:	26
B) General Approval Criteria:	26
SECTION 5: FINDINGS	29
706 habitat Conservation area dist. (hcad)	29
1001 GENERAL PROVISIONS	29
1001.01 PURPOSE	29
1001.02 APPLICABILITY	29
1002 PROTECTION OF NATURAL FEATURES	30
1002.01 HILLSIDES	30
1002.03 TREES AND WOODED AREAS	30
1002.04 RIVER AND STREAM CORRIDORS	31
1002.06 MOUNT HOOD RESOURCE PROTECTION OPEN SPACE	31
1002.07 SIGNIFICANT NATURAL AREAS	32
1003 HAZARDS TO SAFETY	32
1003.01 PURPOSE	32
1003.02 STANDARDS FOR MASS MOVEMENT HAZARD AREAS	32
1003.03 STANDARDS FOR FLOOD HAZARD AREAS	33
1003.04 STANDARDS FOR SOIL HAZARD AREAS	33
1003.05 STANDARDS FOR FIRE HAZARD AREAS	33
1006 UTILITIES, STREET LIGHTS, WATER SUPPLY, SEWAGE DISPOSAL, SURFACE WATER MANAGEMENT, AND EROSION CONTROL	34
1006.01 GENERAL STANDARDS	34
1006.02 STREET LIGHTS	34
1006.03 WATER SUPPLY	34
1006.04 SANITARY SEWER SERVICE	35
1006.05 SUBSURFACE SEWAGE DISPOSAL	36
1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL	36
1006.07 PRELIMINARY STATEMENTS OF FEASIBILITY EXCEPTIONS	39
1007 ROADS AND CONNECTIVITY	40
1007.01 GENERAL PROVISIONS	40
1007.02 PUBLIC AND PRIVATE ROADWAYS	44
1007.03 PRIVATE ROADS AND ACCESS DRIVES	49
1007.04 PEDESTRIAN AND BICYCLE FACILITIES	50
1007.05 TRANSIT AMENITIES	53
1007.06 STREET TREES	53
1007.07 TRANSPORTATION FACILITIES CONCURRENCY	54

1007.08	FEE IN LIEU OF CONSTRUCTION.....	55
1012	LOT SIZE AND DENSITY.....	56
1012.01	APPLICABILITY.....	56
1012.02	MINIMUM LOT SIZE EXCEPTIONS.....	56
1012.03	MAXIMUM LOT SIZE.....	56
1012.04	GENERAL DENSITY PROVISIONS.....	57
1012.05	MAXIMUM DENSITY.....	58
1012.07	MAXIMUM DENSITY FOR TWO- AND THREE-FAMILY DWELLINGS IN URBAN LOW DENSITY RESIDENTIAL DISTRICTS.....	61
1012.08	MINIMUM DENSITY.....	61
1013	PLANNED UNIT DEVELOPMENTS.....	63
1013.01	APPLICABILITY.....	63
1013.02	ACCESSORY USES.....	63
1013.03	DIMENSIONAL AND DEVELOPMENT STANDARDS.....	64
1017	SOLAR ACCESS FOR LAND DIVISIONS AND REPLATS.....	66
1017.01	APPLICABILITY.....	66
1017.02	DEFINITIONS.....	66
1017.03	DESIGN STANDARD.....	66
1017.04	EXCEPTIONS TO THE DESIGN STANDARD.....	67
1105	SUBDIVISIONS, PARTITIONS, REPLATS, CONDOMINIUM PLATS & VACATIONS OF RECORDED PLATS.....	69
1105.01	PURPOSE AND APPLICABILITY.....	69
1105.02	SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS.....	69
1105.03	APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS.....	69
1105.06	APPROVAL PERIOD AND TIME EXTENSION.....	70
1105.07	FINAL PLAT REVIEW.....	70

Location Map



SECTION 1: LIST OF EXHIBITS

<i>Ex. No.</i>	<i>Date Received</i>	<i>Author or Source</i>	<i>Subject & Date of Document</i>
1.	June 10, 2020	Ben Blessing	Staff Report- June 10,2020
2.	March 2020	Tax Assessor	Tax Map-Precise Date Unknown
3.	April 3, 2020	Firwood Design/Applicant	Revised Plan Set- Nov, 2019
4.	June 9, 2020	Betty Johnson-CRWD	Water Dist. Comments and Prelim. Statement of Feasibility. June 9, 2020
5.	Jan 2, 2020	Erik Carr- WES	Prelim statement of feasibility- Dec, 12, 2019
6.	June 3, 2020	Erik Carr-WES	Denial Comments- June 3, 2020
7.	April 3, 2020	Firwood Design/Applicant	HCA Disturbance Figures-Used for Calculating Density- March, 2020
8.	June 8, 2020	Kent Kent-Engineering	Engineering division comments- June 8, 2020
9.	June 3, 2020	DOGAMI	DOGAMI Map- Date unknown.
10.	July 21, 2020	Mike Bickerton-WES	Note that applicant cannot meet WES standards
11.	April 3, 2020	Firwood Design/Applicant	Tree Removal Plan, March 2020
12.	April 3, 2020	Firwood Design/Applicant	HCA Disturbance Area, March 2020
13.	July 27, 2020	WES-Erik Carr	WES-Conditions of Approval- July 22, 2020
14.	July 27, 2020	Staff-Ben Blessing	Revised Staff Report- July 27, 2020
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SECTION 2: SUMMARY

This document represents the Staff Report to the County Hearings Officer by the Planning & Zoning Division Staff that contains Findings and Proposed Conditions for Land Use Applications, File Nos. Z0001-20-SL, Z0523-19-HDA, Z0524-19-CMP, Z0525-19-HMV

DATE OF REPORT: June 10, 2020

CASE FILE NOS: Z0001-20-SL, Z0523-HDB-19, Z0524-CMP-19, Z0525-HMV-19

STAFF CONTACT: Ben Blessing

MAP & TAXLOT(S): 22E05CB00600

SITE ADDRESS(ES): No Situs

APPLICANT: Brian D' Ambrosio

OWNER OF PROPERTY: Paragon Development

TOTAL AREA INVOLVED: 5.05 Acres

ZONING: R-10

CITIZENS PLANNING ORGANIZATION FOR AREA: Oak Grove Community Council-

Joseph Edge, Chair
joseph.edge@gmail.com
503-360-5593
14850 SE River Forest Drive
Oak Grove, 97267

PROPOSAL: A 15-Lot Subdivision and Planned Unit Development (PUD) in conjunction with a Habitat Conservation Area (HCA) Development Permit.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, you must promptly forward it to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the Planning and Zoning Staff Staff Report and all evidence submitted with this application is available for inspection, at no cost, at the Planning and Zoning office during normal business hours. Copies of all documents may be purchased at the rate of 11-cents per page. The Land Use Staff Report contains the findings and conclusions upon which the recommendation is based along with any conditions of approval.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 202, 315, 706, 1001, 1002, 1003, 1006, 1007, 1012, 1013, 1017, 1105 and 1307.

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SECTION 3: PROJECT OVERVIEW

Applicant is proposing a 15-Lot Planned Unit Development (PUD) Subdivision on approximately 5.05 acres. The subdivision is currently being referred to as “Ruscliff Estates.” The subject property, zoned R-10, is located just north of Aldercreek Middle School and is the former site of the North Clackamas School District bus parking lot (bus barn). The subject property also shares a property line with a church directly north and Highway 224 Milwaukie Expressway on its eastern edge. This site is mainly flat, with a small intermittent creek that originates and/or “daylights” in the western sector, and then flows off the property to the north and west for about ¾ of a mile until dumping into Kellogg Creek. This intermittent creek is known as Alder Creek.

The development also contains two open space tracts; Tract B and Tract C. The main part of Tract C is located at the easterly extent of the subject property, with a small flagpole or “strip” extending along the southerly boundary of the proposed private road (Tract A) to the western half of the property. Tract C contains existing wetlands and will contain water quality infiltration trenches just south of the private road (Tract A). Tract B is located in the westerly section of the subject property and also contains a large wetland complex and will contain a large water quality storm pond. The wetlands within these tracts are protected by Clackamas Water Environment Services (WES) water quality buffers and, in part, by a Habitat Conservation Area (HCA). The environmental considerations for this development are being reviewed concurrently under file(s) Z0523-19-HDA, Z0524-19-CMP, and Z0525-19-HMV and are set forth in a staff report prepared by Senior Planner Steve Hanschka and dated June 10, 2020.

Apart from the aforementioned environmental considerations, the applicant is also proposing a PUD subject to ZDO Sec. 1013, which will provide flexibility in lot sizes and setback standards for new homes. A PUD is necessary because the applicant has selected to preserve the wetlands on the subject property and, therefore, will not have the space to build standard lot sizes that are normally required in the R-10 Zoning District.

Finally, the applicant is proposing a private road currently labeled as “Tract A” that will be 20’ feet wide with a curbs on both sides of the street and a 5 foot sidewalk located on the north side of the road. The applicant must demonstrate compliance with all of the listed ZDO criteria set forth herein. The findings are listed below.

Staff notes that Clackamas Water Environmental Services (CWES or WES) initially made comments in opposition to this development, ultimately noting that the applicant could not demonstrate compliance with surface water management or sanitary sewer standards. This is Erik Carr’s comments dated June 3, 2020 (See Exhibit 6). Since that time, the applicant was able to demonstrate compliance with WES’s standards and the ZDO criteria for surface water and

sanitary sewer service based on Erik Carr's comments dated July 22, 2020 (Exhibit 13). Staff will explain these comments in more detail below, in the Findings section below.

Recomendation

It is the recommendation of the Planning & Zoning Division to **approve** this application for a Subdivision and Planned Unit Development, subject to the Conditions of Approval outlined below:

SECTION 4: RECOMMENDED CONDITIONS OF APPROVAL

1. Conditions for Protection of Natural Features

A) Trees & Wooded Areas:

- i. Site planning and design techniques which address incorporation of trees and wooded areas in the development plan shall be implemented. Where mature trees do not need to be removed for the development, mature trees shall be preserved.
- ii. Trees and wooded areas to be retained shall be protected during site preparation and construction as follows:
 - a) Avoiding disturbance of the roots by grading and filling activity;
 - b) Providing for water and air filtration to the roots of trees which will be covered with impermeable surfaces;
 - c) Pruning or topping of trees which will be in parking areas or near buildings, as necessary, to maintain proper balance between top growth and roots, reduce windfall potential, and provide adequate vision clearances for safe vehicular circulation; and
 - d) Requiring, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection of specified wooded areas or specimen trees, as recommended by the arborist or horticulturist.

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

A) General Standards:

- i. The location, design, installation, and maintenance of all utility lines and facilities shall be carried consistent with the rules and regulations of the surface water management regulatory authority, which is 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 and PUD. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.
- iii. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.

- iv. Easements shall be provided along lot lines as deemed necessary by the County, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency.

B) Street Lights:

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

C) Water Supply:

- i. Standards for Provision of Water Supply by Public or Community Water Service:
 - a) Water service facilities shall be installed, and easements shall be granted pursuant to the requirements of Clackamas River Water District (CRWD), as follows:
 - 1) All conditions required by the district and set forth in the letter dated June 9, 2020 and identified as Exhibit 4
- ii. The applicant shall submit stamped and approved plans or written verification from the Clackamas Fire District No. 1 Fire Marshal indicating that the Fire District's access and fire flow standards have been, or will be met.
- iii. Prior to final approval of the proposed Subdivision and PUD, 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.
- iv. Standards inside the Portland Metropolitan Urban Growth Boundary (UGB), Government Camp, Rhododendron, Wemme/Welches, Wildwood/Timberline, and Zigzag Village:
 - a) The proposed Subdivision and PUD shall be served by a public water system in compliance with drinking water standards as determined by the Oregon Health Authority.
 - b) The proposed Subdivision and PUD located within the boundaries of the CRWD water service system shall receive service from this system.
 - c) The proposed new public water system shall be formed pursuant to ORS Chapters 264, 450, or 451.

- D) WATER ENVIRONMENTAL SERVICES (WES) – Sanitary Sewer, Storm Water, Erosion Control, and Sensitive Area Conditions-From comments date July 22, 2020:
- 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. 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 vegetated buffer and erosion control requirements.
 - iii. Any requests to modify current WES sanitary or stormwater design standards shall be made in accordance with Sanitary Standards, Section 1.7 or Stormwater Standards, Section 1.6.
 - iv. Prior to plan approval, all sanitary and stormwater submittals shall be reviewed for compliance with WES RR&S and Conditions of Approval. 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.
 - v. Upon land use approval by the County, the applicant shall submit the following materials to WES:
 - a) Two (2) sets of complete civil construction plans for all sanitary and stormwater improvements.
 - b) Two (2) copies of the final storm report, including infiltration testing and downstream analysis.
 - c) A Natural Resource Assessment, including identification of water quality resources, buffers, encroachments, and mitigation.
 - d) Erosion control plans, permit application (available on WES website) and applicable permit fee
 - e) \$800 minimum sanitary and stormwater management plan review fees
 - vi. Prior to final plat approval by WES, the following shall apply:
 - a) WES shall review the final plat in conjunction with the approved sanitary and stormwater plans.
 - b) The sanitary and storm systems shall be complete in all respects, in accordance with the approved plans, or a performance bond shall be

provided by the applicant to guarantee the construction of the infrastructure.

- c) All public and private sanitary and storm drainage easements shall be shown on the plat.
 - d) Applicable fees and charges shall be paid to WES.
 - e) Maintenance agreements shall be approved by WES and referenced in the plat notes.
- vii. A Surface Water, Storm Drainage and Sanitary Sewer Easement located within the development and granted to Clackamas County Service District No. 1 is permanent and not extinguishable. No development shall encumber use or access to this easement by WES.
- viii. 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:

- ix. Prior to plat approval, a separate and independent sanitary sewer service connection shall be provided to each lot, including any necessary easements. Each connection shall be constructed with a clean out at the front edge of the public sanitary sewer easement.
- x. An extension of WES' sanitary sewer system shall be required to serve this development and shall be conveyed to WES for ownership. The plat shall not be approved until the sanitary sewer system improvements are complete in all respects and accepted by WES.
- xi. The sanitary sewer system shall be designed, constructed and tested in accordance with WES RR&S, including but not limited to the design standards noted below. As proposed, the applicant's proposal does not meet WES public sanitary sewer extension requirements. The applicant shall revise the design to meet current WES design standards or submit a design modification request to WES with an acceptable alternative design, as determined by WES.
 - a) The minimum design slope of a dead-end public mainline shall be 2%.
 - b) Sanitary sewer mainlines located within a public sanitary sewer easement shall be placed with a minimum cover of 6-feet.
 - c) A dead-end mainline shall terminate in a manhole.
- xii. Public sanitary sewer mainlines shall be located either in the public right-of-way or within a minimum 15-foot wide sanitary sewer easement granted to WES. Easements for storm and sanitary in a combined area shall be a minimum of 20-foot wide.

- xiii. WES shall own and maintain service laterals to the edge of the public sanitary sewer easement. Language shall be included on the plat that assigns ownership and maintenance responsibilities of laterals once they've extended beyond the WES easement into common space or a tract.
- xiv. The applicant shall contact WES 48-hours in advance to schedule a tap of the public sanitary mainline. A \$125 tap-in fee shall apply for each 4-inch connection.
- xv. A Collection Sewer Charge shall apply for any direct connection to the existing sanitary sewer mainline.

For Surface Water, the following conditions shall apply:

- xvi. All development that creates or modifies 5,000 square feet or more of impervious surface area shall submit a Surface Water Management Plan and Storm Report (SWM Plan) to WES for review and approval. The SWM Plan shall demonstrate how the development will conform to WES RR&S and shall be prepared by a civil engineer licensed by the State of Oregon.
- xvii. The SWM Plan shall provide a design to mitigate the stormwater runoff from all proposed onsite permeable and impervious surface areas, all water entering the property from off-site, and any road improvements.
- xviii. The SWM Plan shall conform to the following general stormwater standards, as well as all other applicable stormwater requirements in accordance with WES RR&S:
 - a) **Water Quality Standard** - Water quality facilities shall be designed to capture and treat the first 1-inch of stormwater runoff from a 24-hour storm event using either vegetation (Appendix H) or a Basic Treatment proprietary device (Appendix F).
 - b) **Infiltration Standard** - The first ½ inch of runoff in a 24-hour period must be captured and retained onsite through an approved infiltration system.
 - c) **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 all other water quality and infiltration requirements. Within these designated basins (see maps in Appendix G), onsite detention facilities shall be designed to 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.
 - d) The **conveyance system** shall be sized for a minimum 25-year design storm.
- xix. If infiltration is not feasible the design engineer shall submit a modification request in accordance with Stormwater Standards Section 1.6 with an equivalent alternative design which can accomplish the same design intent as

provided in these standards. A geotech report shall be included with the request. Retention options in lieu of the infiltration standard include:

- a) BMP Tool: WES, in cooperation with other local jurisdictions, has developed a BMP Sizing Tool. The tool sizes facilities so that post-development peak flow durations will match the pre-development peak flow durations ranging from 42% of the 2-year to the 10-year flows, as determined by HSPF continuous rainfall model simulation.
 - b) Engineer's Model: The project engineer can develop and submit a continuous rainfall runoff model simulation, so that post-development peak flow durations will match the pre-development peak flow durations ranging from 42% of the 2-year to the 10-year flows as determined by the continuous model simulation.
 - c) Flow Control and Retention Standard: Meet the Detention/Flow Control Standard and retain the first ½" of runoff in a 24-hour period onsite within an approved facility, as determined by WES. The storage of the infiltration/retention volume within a vegetative facility shall not exceed 6-inches in height above the vegetation.
- xx. A design modification request for the Infiltration Standard was approved on October 3, 2019 with the condition to design the stormwater facility to retain the volume of the infiltration storm event. The applicant has instead proposed an alternative design using the BMP Tool. The BMP Tool is not currently in the WES Stormwater Standards, therefore the applicant shall submit a new design modification request to WES with a proposal to use the BMP Tool, in accordance with Stormwater Standards, Section 1.6.
- xxi. The following shall apply for any proposal that receives approval to use the BMP Tool:
- a) All stormwater management facilities shall be designed with the continuous flow model of the Tool. Conveyance structures shall be designed per WES stormwater standard criteria.
 - b) Underground detention facilities shall be designed with the custom pond sizing feature of the BMP Tool. The designer shall use HydroCAD or another design tool to size the detention system along with Brown and Caldwell's Tool input procedures for asymmetrical detention storage design. The engineer shall provide stage/storage/discharge results with the SWM Plan.
 - c) Engineer shall provide elevations for all proposed facilities.
 - d) The pond shall include a minimum 18" engineered media for water quality treatment.
 - e) Roadside planters shall be designed in accordance with the WES draft planter detail.

- f) Proprietary stormwater treatment devices must be approved by the Washington Department of Ecology with General Use Level Designation and classified as a Basic Treatment technology.
 - g) The BMP Tool requires input of site specific soil types, therefore the SWM Plan shall include a site plan that identifies the location of each stormwater facility, the boundaries of each Drainage Management Area (sub-basin), and an overlay of the soil classification map.
 - h) The engineer shall verify each Drainage Management Area aligns with the final grading plans.
 - i) Storm plans shall include a typical landscape plan for the planters. Develop a table showing the square footage of the plant zone, number of each type of plant required, and individual plant species proposed for each planter. Include engineered media specifications from Appendix A of the Stormwater Standards to the landscape plans.
 - j) Proposed landscape areas shall be input as 'Landscape' (not grass) in the post-developed condition.
- xxii. The SWM Plan shall identify an acceptable point of discharge to safely convey stormwater runoff from the entire boundary of the development.
- xxiii. A Downstream Conveyance Analysis shall be included in the SWM Plan. The analysis must extend a minimum of 1500' or to the point where the development contributes less than 15% of the upstream drainage area, whichever is greater. The analysis shall be based on the entire drainage basin, including all future upstream development, and calculate the 25-year storm event for conveyance capacity requirements.
- a) Provide a map showing the downstream pipe layout to the extent of your analysis. Indicate pipe sizes and slopes on the map. If available, provide as-built plans used for the downstream system analysis.
- xxiv. Grading plans shall clearly identify an overflow pathway system 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.
- xxv. A geotechnical report prepared by a qualified professional shall be included with the SWM Plan. The report shall provide infiltration test results that correspond to the location and depth of the infiltration facilities and verify the feasibility of all proposed infiltration systems, in accordance with Appendix E.
- xxvi. 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)
- xxvii. Groundwater and springs that are encountered during development shall be the responsibility of the developer to address. Plans for drainage of these waters shall be submitted to WES for review and approval prior to construction.

- xxviii. Roadside planters shall be designed to meet current WES stormwater standards, including infiltration, water quality, and detention/flow control requirements. The following shall also apply:
- a) The planter shall provide over-detention because of the limited downstream capacity. Infiltration facilities shall retain the 25-year storm in the planter and use the SBUH method to demonstrate the higher storm retention.
 - b) The project engineer may be required to perform infiltration testing of the facilities, as requested by WES, to provide assurance that the system will perform as designed. If applicable, testing shall be documented in a report stamped and signed by the project engineer and submitted to WES.
 - c) Stormwater facilities should be designed for the limiting infiltration rate in the vegetated facilities, namely the facility engineered media that is generally assumed to be no greater than 2" per hour (assuming the onsite native infiltration rates are greater).
 - d) Any storm facilities located within County public ROW will be maintained by WES. These facilities shall be designed to only receive runoff from the ROW and shall provide adequate maintenance access and functionality, as determined by WES. A maintenance agreement with WES shall not be required for these facilities.
- xxix. The property owners shall be responsible to perpetually inspect and maintain all stormwater management systems, in accordance with WES Rules, Section 12.10.
- a) Adequate maintenance access shall be provided to the storm facilities, as determined by WES.
 - b) WES will typically maintain surface facilities pending a public maintenance agreement with the developer by which WES will maintain the subdivision's stormwater system in exchange for a monthly fee of \$3 per lot. If the developer chooses not to utilize a public maintenance agreement, the homeowners will be responsible for storm system maintenance and this responsibility must be documented and recorded with the plat.
 - c) Underground storm facilities shall require further evaluation by WES before entering into a public maintenance agreement with the developer. Storm systems that include underground detention may require private maintenance by the HOA.
 - d) Any stormwater maintenance agreement and plan shall be referenced in the Plat Restrictions. Upon plat approval, the signed agreement will be delivered to the County Surveyor's office by WES staff.
- xxx. For publicly maintained stormwater facilities, the following shall apply:

- a) A ‘Declaration and Maintenance Agreement for On Site Stormwater Facilities’, which describes the perpetual maintenance of the stormwater facilities, shall be submitted to WES prior to final plan approval. The agreement shall be recorded with the plat.
- b) All publicly maintained stormwater systems must be designed and constructed to public standards and shall be located within a public right-of-way, a tract to the homeowners association, or a storm drainage easement (SDE) granted to WES. (Section 5.5.11)
- c) Centralized stormwater facilities shall be located within a Tract to the homeowners association. The HOA shall be solely responsible for maintenance and associated costs for the surrounding vegetation, fencing, and landscaping. These responsibilities shall be documented in the CC&R’s.
- d) All stormwater facilities shall comply with maintenance access standards for publicly maintained facilities, in accordance with Appendix I.
- e) 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 shall apply:

- xxxvi. No visible or measurable erosion shall leave the property during construction or during any activity described in Stormwater Standards, Section 6.2.1.
- xxxvii. Site Plans for erosion control shall be required for all development, construction, grading, and any other activity which accelerates erosion as required by water quality standards set forth in OAR 340-41-445 through 340-41-470. Site plans shall delineate the total area of disturbance. The plans shall use the techniques and methods prescribed in the current WES Erosion Prevention Planning and Design Manual.
- xxxviii. Any development activity that results in over 800 sq ft of soil disturbance shall obtain a WES Erosion Prevention and Sediment Control Permit before the start of any grading or construction activities. The applicant shall submit a Permit application and erosion control site plans, and pay applicable permit fees (\$460 + \$80/acre over 1 acre).
- xxxix. For those sites that are 1 acre to less than 5 acres of disturbance, a Department of Environmental Quality (DEQ) 1200-CN Construction Stormwater (Erosion Control) Permit will be issued by WES along with the WES EPSC permit. To obtain a 1200-CN permit, the applicant must submit the required WES EPSC Permit application and 1200-CN template style erosion control plans to WES for review and approval.

For Water Quality Vegetated Buffers, the following shall apply:

- xxxv. All new development shall meet WES Rules to preserve and maintain an undisturbed vegetated buffer to protect all water quality resource areas, in accordance with Stormwater Standards, Section 4. County Planning Division

serves as WES' agent to administer these requirements (in consultation with WES), therefore the applicant shall coordinate with Planning for all buffer-related requirements.

- xxxvi. Per Section 4.4, activities prohibited in the Buffer Area shall include:
- xxxvii. Construction of structures (buildings of any kind).
- xxxviii. Grading of any kind (including swales, ponds, etc.).
- xxxix. Impervious Surface (parking lots, gravel, etc.).
- xl. Tree Removal (dead or alive) unless approved by the District.
- xli. Herbicide/Pesticide use in and around sensitive areas and Buffers must be approved by the District.
- xlii. Ornamental Vegetation (lawns, non-native shrubs, bark dust, etc.).
- xliii. Permittable uses in the Buffer Area include road crossings, and utility construction and storm outfalls accompanied by an acceptable restoration plan.
- xliv. With the applicant's first plan submittal, the applicant shall submit plans to WES that clearly show all water quality resource areas, all required buffers, any proposed encroachments into the buffer, and proposed mitigation areas.
- xlv. 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.
- xlvi. The developer shall submit proof of wetland mitigation approval from DSL/COE. If mitigation approval is not granted, all WES rules and regulations shall apply.
- xlvii. Approval of the land use application does not include any conclusions by WES regarding acceptability of regulated water quality sensitive areas by DSL or COE. This decision should not be construed or represented to authorize any activity that will conflict with or violate DSL/COE requirements. The applicant shall coordinate with DSL/COE and, if necessary, other responsible agencies to ensure that development activities are designed, constructed, operated and maintained in a manner that complies with DSL/COE approval.

For Plat review, the following shall apply:

- xlviii. **Prior to final plat approval**, WES shall review the plat in conjunction with the approved sanitary sewer and stormwater plans. The sanitary and storm systems shall be complete in all respects, in accordance with the approved plans, prior to WES approving the plat for recording, or a performance bond shall be provided by the applicant to guarantee the construction of the infrastructure. All sanitary and storm drainage easements shall be shown on the plat.

- xlix. 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.”
- l. The following statement shall be added to the Restrictions: “THIS PLAT IS SUBJECT TO WES RULES AND REGULATIONS AND “DECLARATION AND MAINTENANCE AGREEMENT FOR ON SITE STORMWATER FACILITIES” RECORDED AS DOCUMENT NO. _____, CLACKAMAS COUNTY DEED RECORDS.”
- li. 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

WES Advisory Conditions:

- lii. 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.
- liii. 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.
- liv. An Erosion Prevention and Sediment Control (EPSC) permit shall apply. A \$780.00 permit fee shall be due with the first plan submittal.
- lv. A Collection Sewer Charge for the proportionate cost of constructing the public mainline sewer shall apply for any new direct connection to the existing sanitary sewer mainline. The amount due shall be determined upon review of the final plans and shall be paid prior to the plat being recorded.
- lvi. System Development Charges (SDC’s) shall be assessed with the future building permits, in accordance with the prevailing rates in effect on the date when the building permit application is submitted. Rates are typically adjusted annually on July 1st.
- lvii. The current Surface Water SDC rate is \$215 per single family building permit application.

- lviii. The current Sanitary Sewer SDC rate is \$8,005.00 per single family building permit application.

3. Conditions for Roads & Connectivity:

A) Overview:

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

B) Conditions of Approval: Ken Kent (503) 742-4673;

- 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 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 a 35-foot wide right-of-way along the western frontage of the project site on the SE Ruscliff Road right-of-way, as well as extending the 35-foot wide dedication to the south property. The right-of-way centerline and half-width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
- v. The applicant shall grant an 8-foot wide public easement for signs and public utilities along the entire SE Ruscliff Road right-of-way.
- vi. Prior to final plat approval, the applicant shall design and construct improvements along the entire site frontage of SE Ruscliff Road to local roadway standards, consistent with Standard Drawing C110. These improvements shall consist of the following:
 - f) Up to a minimum 22-foot wide one half street improvement, to match the existing curb off-set. The structural section shall comply with Standard Drawing C100 for a local roadway.
 - g) 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.
 - h) Standard curb, or curb and gutter if curblines slope is less than one percent.
 - i) A 5-foot wide unobstructed sidewalk.
 - j) A minimum 5-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees shall be provided within the landscape strip along the entire site frontage at 25-40-foot spacing, based on tree species.
 - k) Dual curb ramps at the corner of the private road where it intersects SE Ruscliff Road, constructed per ODOT Standard Drawings.
 - l) At the terminus of SE Ruscliff Road, adequate turnaround area for passenger vehicles shall be provided. Maneuvering for passenger vehicles shall be demonstrated. If necessary, either additional right-of-way shall be dedicated, or a temporary easement shall be provided over the portion of the private road to accommodate the turning area.
 - m) Drainage facilities in conformance with Water Environment Services requirements and *Clackamas County Roadway Standards* Chapter 4. Maintenance provisions for water quality facilities, such as planters or swales within and serving the public right-of-way, shall be addressed through a maintenance agreement.

- n) An end of road type III barricade or approved alternative shall be provided at the terminus of newly widened southerly portion SE Ruscliff Road.
- vii. The applicant shall design and construct improvements for the new private roadway, serving Lots 1 through 15, 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. The easement shall encompass the required improvements.
 - b) A minimum 20-foot wide, paved driving surface with curbs on both sides of the roadway and a 5-foot wide curb-tight sidewalk on the south side of the roadway.
 - c) The minimum structural section for the new private road improvements shall comply with Clackamas County Roadway Standards Drawing R100.
 - d) A 5-foot wide concrete band, consistent with Standard Drawing D675 shall be provided at the intersection of the private road with the right-of-way of SE Ruscliff Road, to identify the public and private roadway boundary. The concrete band shall be located at a point to allow for passenger vehicles to turnaround on SE Ruscliff road.
 - e) Twenty-five foot radius curb at the intersection of the private road and SE Ruscliff Road, per Clackamas County Roadway Standards Table 2-7.
 - f) A curb ramp shall be provided at the east end of the sidewalk, constructed per ODOT Standard Drawings.
 - g) Drainage facilities in compliance with Water Environment Services Rules and Clackamas County Roadway Standards Chapter 4.
 - h) Written verification must be received from the Fire District that adequate emergency service access is provided. An emergency vehicle turnaround shall be constructed at the end of the private access road, per County Roadway Standards Drawing C350.
 - i) Roadways with a paved width less than 28 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.
 - j) Adequate intersection sight distance at the new private road intersection with SE Ruscliff Road shall be provided. No plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance shall be 280 feet to the north

- k) A road maintenance agreement for the shared private road implementing ORS 105.170 - 105.185 shall be recorded with the plat.
- viii. 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.
- ix. 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.
- x. All existing and proposed easements shall be shown on the final plat.
- xi. Unless a different location is approved by the Engineering Division, access to all new lots shall be from the new private road.
- xii. Any deviation to the required roadway standards set forth herein may only occur with written approval by the DTD Engineering Division.

C)

4. Conditions for Density

D) Density Summary

- i. Maximum density for the proposed Subdivision and PUD equals 18.
- ii. Minimum density for the proposed Subdivision and PUD equals 0.

5. Conditions for Planned Unit Development

A) Uses and Dimensional Standards for Planned Unit Development (PUD) in R-10 District:

- i. Attached Single-Family Dwellings: Attached single-family dwellings are permitted on every lot or parcel of the proposed PUD.
- ii. Maximum Lot Coverage: Maximum lot coverage is 65 percent. / There is no maximum lot coverage.
- iii. Rear & Side Yard Setbacks: The minimum rear and side yard setbacks from rear and side lot lines for interior lots or parcels is zero.
- iv. Lots 1-13 must meet the regular **rear** district setback standards in the R-10 Zoning District which is 20 feet,

B) Maximum Number of Lots

- i. The maximum number of lots shall not exceed 15.

C) Open Space:

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

- ii. 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.

D) Homeowners Association:

- i. A homeowners association, or acceptable alternative, is required pursuant to Subsection 1105.03(D), as outlined below.

6. Conditions for Land Divisions

A) General Conditions:

- i. Approval of this land use permit is based on the submitted written narrative and plan(s) dated January 2, 2020, January 23, 2020, and April 30, 2020. No work shall occur under this permit beyond that specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- ii. The proposed Subdivision and PUD is also subject to the Findings and Conditions of File No(s). Z0523-19-HDA, Z0524-19-CMP, and Z0525-19-HMV.
- iii. The service of a certified surveyor and/or engineer is required to satisfy these conditions. The County recommends you obtain a project manager to assist in obtaining the necessary permits to implement this project.
- iv. The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project.
- v. The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

B) General Approval Criteria:

- i. The proposed Subdivision and PUD — including all, parcels, lots, tracts, easements, future structures, etc., potentially contained therein — shall comply with all applicable provisions of the R-10 Zoning District(s), as outlined in Section 315 of this Ordinance.

- ii. The proposed Subdivision and PUD shall comply with the applicable provisions of Section 1000 of this Ordinance, *Development Standards*, as outlined above.
- iii. A nonprofit, incorporated homeowners association, or an acceptable alternative, is be required for ownership of, improving, operating, and maintaining common areas and facilities, including, but not limited to, open space, private roads, access drives, parking areas, and recreational uses, and for snow removal and storage in Government Camp, as follows:
 - a) The homeowners association shall continue in perpetuity unless the requirement is modified pursuant to either Section 1309, *Modification*, or the approval of a new land use permit application provided for by this Ordinance.
 - b) Membership in the homeowners association shall be mandatory for each lot or parcel owner.
 - c) The homeowners association shall be incorporated prior to recording of the final plat.
 - d) Acceptable alternatives to a homeowners association may include, but are not limited to, ownership of common areas or facilities by the government or a nonprofit conservation organization.
- iv. Approval Period and Time Extension:
 - a) Approval of a preliminary plat is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.
 - b) If a final plat is not recorded within the initial approval period established by Subsection 1105.06(A), a two-year time extension may be approved pursuant to Section 1310, *Time Extension*.
 - c) If a phasing plan and schedule are approved pursuant to Subsection 1105.03(C), the following shall apply in lieu of Subsections 1105.06(A) and (B):
 - 1) The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.
 - 2) The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.

- 3) Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will become void.
 - 4) If a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved pursuant to Section 1310.
 - 5) In no case shall a phasing schedule or any time extensions permit the recording of any phase more than 10 years after the date of preliminary plat approval.
- v. Final Plat Review:
- a) The form and content of the final plat shall comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and Oregon Revised Statutes Chapters 92, 94, 100, and 209.
 - b) The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved preliminary plat and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, *Completion of Improvements, Sureties, and Maintenance*, the Planning Director shall sign the plat.
 - c) Any private access easements should also contain provisions for public utility services such as water, electricity, communications, natural gas, storm drainage, sanitary sewer, emergency services, etc.
 - d) New easements should include a statement that the easements are for the lots or parcels shown and any future divisions thereof.
 - e) Easements created for access to parcels that can be redeveloped or further divided shall contain language that would allow the access and utilities easement(s) used by any additional development or parcels created in future. Any private easements should also contain provisions for public utility services such as water, electricity, communications, gas, storm drainage, sanitary sewer, etc.

SECTION 5: FINDINGS

This application is subject to Sections 202, 706, 1001, 1002, 1003, 1006, 1007, 1012, 1013, 1017 1105 and 1307 of the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Division has reviewed these sections of the ZDO in conjunction with this proposal and makes the following findings:

I. ZDO SECTION 706 (HCA) & ZDO SECTION 1000: DEVELOPMENT STANDARDS

706 HABITAT CONSERVATION AREA DIST. (HCAD)

As discussed above the HCA requirements of this subdivision and PUD are being discussed under land use file Z0523-HDA-19, Z0524-CMP-19, Z0525-HMV-19 prepared by Steve Hanschka and dated June 10, 2020. These files are being reviewed concurrently with this file and are an addendum hereto.

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

1001.02 APPLICABILITY

- A. Except where a different applicability standard is set forth elsewhere in Section 1000, Section 1000 applies to partitions; subdivisions; replats; institutional, commercial, and industrial developments; manufactured dwelling parks; condominiums; multifamily dwellings; two- and three-family dwellings; and attached single-family dwellings where three or more dwelling units are attached to one another. Notwithstanding this provision, level one through

three mobile vending units are not subject to Section 1000, except as set forth in Section 837, *Mobile Vending Units*. In addition, Section 1009, *Landscaping*, does not apply to partitions, subdivisions, and replats.

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

1002 PROTECTION OF NATURAL FEATURES

1002.01 HILLSIDES

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

The proposed PUD subdivision in the R-10 Zoning District does not involve development on slopes greater than or equal to 20 percent. This criteria is not applicable.

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

As discussed above, there are no steep slopes on the subject property. This criteria is not applicable.

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:

There is a significant clump of trees located in the western sector of the subject property. The eastern sector is fairly open, with one small clump of trees in the extreme eastern part of the subject property. The clump of trees in the eastern part of the development will be contained within Tract C, and therefore not subject to

removal (See Exhibit 11). The western section, however, will require significant tree removal to accommodate the private road, improvements to SE Ruscliff Road, and lots 14-15 of the PUD subdivision (See Exhibit 11). Fortunately, most of the trees in this clump will per preserved because they are located within Tract B and, thus, protected from development. Furthermore, as noted in the Staff Report prepared by Steve Hanschka (Z0523-19-HAD, Z0524-19-CMP, and Z0525-19-HMV), the majority of both open space tracts (Tract B and C) will benefit from extensive mitigation and replanting of native trees and shrubs. This, in turn, should protect the wetlands while at the same time providing additional trees that will contribute to both the western clump of trees and the eastern clump. On Balance, staff finds that the tree removal proposed is acceptable given the development needs of this PUD. However, staff recommends that all trees on the subject property that do not need to be removed to accommodate the development, be preserved. The standards of this Subsection are outlined above under Conditions of Approval. This criteria can be met.

- B. Trees and wooded areas to be retained shall be protected during site preparation and construction according to County design and specifications by:

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

1002.04 RIVER AND STREAM CORRIDORS

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

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

1002.05 DEER AND ELK WINTER RANGE

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

The subject property is located outside of the Deer and Elk Winter Range. This criteria 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 does not have natural wetlands shown on Comprehensive Plan Map X-MH. This criteria 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 subject property does not contain a Significant Natural Area. This criteria 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.

The proposed Subdivision and PUD does not contain hazards except where noted below.

1003.02 STANDARDS FOR MASS MOVEMENT HAZARD AREAS

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

The proposed Subdivision and PUD is not located in mass movement hazard areas. This criteria is not applicable.

- B. No development or grading shall be allowed in areas of land movement, slump or earth flow, and mud or debris flow, except under one of the following conditions:

As discussed above, this criteria is not applicable.

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

The DOGAMI Bulletin 99 map for the Lake Oswego and Gladstone Quadrangles does not show mass movement areas on the subject property.

1003.03 STANDARDS FOR FLOOD HAZARD AREAS

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

According to the DOGAMI Bulletin 99 map for the Lake Oswego and Gladstone Quadrangles, the subject property contains areas prone to flooding (See Exhibit 9). However, FEMA has not mapped any recent flood hazard maps or Flood Insurance Rate Maps. Staff also notes that the mapped flood areas on the DOGAMI Bulletin 99 map for the Lake Oswego and Gladstone Quadrangles will be contained within an open space tract. Thus, development will not occur in flood hazard areas. This criteria is met.

1003.04 STANDARDS FOR SOIL HAZARD AREAS

- A. Appropriate siting and design safeguards shall insure structural stability and proper drainage of foundation and crawl space areas for development on land with any of the following soil conditions: Wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock.

The DOGAMI Bulletin 99 map for the Lake Oswego and Gladstone Quadrangles does not show soil hazard areas. This criteria is not applicable.

- B. The principal source of information for determining soil hazards is the State DOGAMI Bulletin 99 and accompanying maps. Approved site specific soil studies shall be used to identify the extent and severity of the hazardous conditions on the site, and to update the soil hazards data base accordingly.

As discussed above, soil hazards have not been identified and this criteria is not applicable.

1003.05 STANDARDS FOR FIRE HAZARD AREAS

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

Fire Hazard Areas have not been identified. This criteria is not applicable.

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

1006.01 GENERAL STANDARDS

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

1006.02 STREET LIGHTS

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

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

1006.03 WATER SUPPLY

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

The water supply for the proposed Subdivision and PUD will be provided by Clackamas River Water District (CRWD). CRWD has provided comments and conditions dated June 9, 2020 (See Exhibit 4) pursuant to the standards of this Section. Staff has the following findings

CRWD has provided 12 comments/conditions that are standard with all developments in CRWD. The applicant must contact CRWD after land use approval and comply with 12 comments/conditions as deemed necessary by The District. Staff therefore requires that the applicant complies with CRWD comments dated June 9, 2020 and detailed herein as Exhibit 4.

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

- 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 indicates that water available does not apply to fire flows. Therefore, the applicant shall receive approval from Clackamas Fire District #1, that fire flows are adequate, or that an alternative system is available. An applicable Condition of Approval is outlined above under Conditions 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 June 9, 2020, this criteria is met.

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

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

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

This criteria is detailed above in the Conditions of Approval.

1006.04 SANITARY SEWER SERVICE

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

Sanitary sewer for the proposed Subdivision and PUD will be provided by Clackamas Water Environmental Services (WES). Erik Carr has provided comments dated 27th (See Exhibit 13) stating that sanitary sewer service can be provided subject to several conditions of approval noted above. This criteria can be met.

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

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

The applicant has submitted a preliminary statement of feasibility from Erik Carr of WES, indicating that sanitary sewer capacity is available subject to each lot having a separate and independent sanitary service connection. This criteria is met

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.

As discussed above, a Preliminary Statement of Feasibility was submitted, with conditions. This criteria is met.

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

The statement is dated December 12, 2019, and sanitary sewer system capacity is not needed to be reserved for the proposed Subdivision and PUD (See Exhibit 5).

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 is not permitted in this area of the County nor is it proposed. This criteria 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.

The surface water management regulatory authority for the proposed Subdivision and PUD is Clackamas Water Environmental Services (WES). Erik Carr has provided comments dated July 22, 2020 (See Exhibit 6) pursuant to the standards of this Section,

Noting that surface water management can be achieved subject to several conditions of approval detailed above. This criteria can be met.

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

The applicant has submitted a preliminary statement of feasibility from WES, indicating that adequate surface water management, treatment and conveyance is available. This criteria is 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.

These have all been submitted WES has recommended conditions of approval, where necessary, to meet this standard. This criteria can be met.

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 December 12, 2019, and surface water treatment and conveyance system capacity are not needed to be reserved for the proposed Subdivision and PUD. (See Exhibit 5)

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

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

As discussed above and in Z0523-19-HDA, Z0524-19-CMP, Z0525-19-HMV, alder creek is being preserved in open space "Tract B."

2. Protect development from flood hazards;

As discussed above, floodprone areas are also being protected in open space Tract "B".

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;

Based on WES's comments dated July 22, 2020, the applicant can design a system by which water within the development will be controlled without causing damage or harm to the natural environment or to property or person within the drainage basin. These requirements are detailed above in the Conditions of Approval.

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

The applicant's site plan and narrative appear to address these standards. Furthermore, these standards can be met as Conditions of Approval.

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.

As discussed in Erik Carr's letter dated July 22, 2020, it appears that waters will be 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. Assuming the applicant satisfies conditions of approval above, this criteria can be met.

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

There has been no request for bridge or span, nor has a need for them been identified. This criteria is not applicable.

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

As discussed in detail above, and in Z0523-19-HDA, Z0524-19-CMP, Z0525-19-HMV, the creek and much of its associated upland riparian habitat is being contained within Tract B. An applicable Condition of Approval is outlined above under Conditions of Approvals to ensure the stream channel is protected.

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

Channel obstructions are not proposed. This criteria is not applicable.

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

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

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

A surface water management and erosion control plan is required for the proposed Subdivision and PUD. Pursuant to WES's comments dated July 22, 2020, the applicant has demonstrated to WES, that they can meet surface water management standards assuming the conditions of approval above can be met. This criteria can be met.

1006.07 PRELIMINARY STATEMENTS OF FEASIBILITY EXCEPTIONS

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

As discussed above, the applicant's preliminary statement of feasibility for public water is older than 1 year. However, CRWD has supplied an additional preliminary

statement of feasibility and recommended conditions of approval dated June 9, 2020. This criteria is met

- B. In the absence of evidence in the record to the contrary, it shall be presumed that the failure of a service provider or surface water management authority to respond to a request for a preliminary statement of feasibility constitutes a finding of adequacy of service. This presumption shall be for the purposes of land use application approval only and does not guarantee that service can be provided.

It is presumed that the preliminary statement of feasibility will still indicated that the water service is available. The applicant shall meet one of the two options above.

1007 ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

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

The Department of Transportation & Development has provided comments and conditions dated June 8, 2020 pursuant to the standards of this Section, with comments as follows (See Exhibit 8):

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

The right-of-way width of SE Ruscliff Road, up to the project site is 60 feet. At the northwest corner of the site, the right-of-way abuts the north property line for 35 feet. A section of right-of-way extends southerly adjacent to the west property line for 70 feet at a width of 25 feet. The minimum right-of-way for a local roadway is 54 feet. Where a larger right-of-way and road improvement have been established for a roadway, the County typically requires new development to match the existing roadway. Consistent with the right-of-way width and curb off-set established for SE Ruscliff Road, the applicant will be required to dedicate approximately 35 feet of right-of-way along the project site frontage on SE Ruscliff Road, as well as extending the dedication to the southern property line.

The existing paved width of SE Ruscliff Road varies and is approximately 32 feet where it abuts the northwest corner of the project site. There is curb and sidewalk on the east side of SE Ruscliff Road, constructed along the frontage of the adjacent church, abutting the northerly project boundary. Additional curb sections are also constructed along other portions of SE Ruscliff Road. Minimum improvements on the SE Ruscliff 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 one-half paved width to the curb, 5-foot wide landscape strip with street trees, 5-foot wide unobstructed sidewalk, and storm drainage facilities. The curb line for SE Ruscliff Road has been established and appears to be off-set approximately 22 feet from the centerline of the right-of-way. The applicant will be required to provide up to a one-half street improvement to the centerline of the right-of-way along the entire site frontage, aligned with the existing curb to the north, and continue that half street improvement to the south property line of the project site. This criteria can be met and is detailed above in the conditions of approval.

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

Clackamas County's Roadway Standards include requirements for emergency vehicle access to residential subdivisions. Private roadways longer than 150 feet are required to provide an emergency services turnaround. The proposed private roadway is approximately 976 feet in length and will require construction of an emergency services turnaround per Clackamas Roadway Standards, Drawing C350. The applicant is proposing a hammerhead turnaround at the end of the roadway, which is an acceptable turnaround for the proposed roadway. Written verification from the Fire District that adequate emergency service access is adequate for the proposed subdivision will be required.

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

The applicant is proposing to provide access for 15 lots with a private road along the south side of the property. Clackamas County has adopted design and construction standards for private roads, as provided in ZDO Sections 1007.02-03 and Roadway Standards Section 225.7. Private roads serving urban subdivisions are required to design and construct a minimum 20-foot wide paved road, with curbs on both sides of the roadway and a 5-foot wide unobstructed sidewalk on one side. The applicant has proposed a 20-foot

wide road within a 32-foot wide tract. Standard curb is proposed on both sides of the road up to proposed Lot 13, transitioning to mountable curb on the north side. This criteria can be met.

2. *For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, Potentially Buildable Residential Sites > 5 Acres in UGB, the applicant shall provide a conceptual map of new streets for the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets; demonstrate opportunities to extend and connect new streets to existing streets, and provide direct public right-of-way routes. Closed-end street designs shall be limited to circumstances in which barriers prevent full street extensions. Closed-end streets shall not exceed 200 feet in length and shall serve no more than 25 dwelling units. Subsequent development on the site shall conform to the conceptual street map, unless a new map is approved pursuant to Subsection 1007.01(C)(2).*

The subject property is not contiguous to a site identified on Comprehensive Plan Map 5-6. This criteria is not applicable.

3. *Access control shall be implemented pursuant to Chapter 5 of the Comprehensive Plan and the Clackamas County Roadway Standards considering best spacing for pedestrian access, traffic safety, and similar factors as deemed appropriate by the Department of Transportation and Development.*
4. *Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other vehicles, pedestrians, and bicyclists.*

SE Ruscliff Road terminates at the project site without a turnaround area. Typically, roadways are stubbed without a turnaround when the roadway is intended to be extended in the future. Otherwise, the terminus of a roadway is required to provide an adequate turnaround area, such as a cul-de-sac bulb or hammerhead configuration. Adjacent to the west property line of the project, there is a "flag pole" portion of the North Clackamas School District Alder Creek Middle School site. The "flag pole" has previously served as an access drive for the school district bus maintenance facility. The maintenance facility is in the process of moving to a different location. There is potential at some point in the future for the school property or a portion of the property to redevelop. The proposed subdivision will be providing an emergency vehicle turnaround at the end of the proposed on-site private road. However, until SE Ruscliff road is extended, there will not be an area for the public to turnaround at the terminus of the public road. Therefore, the proposed subdivision will be required to provide adequate turnaround area for passenger vehicles. This may include additional right-of-way dedication at

the south end of SE Ruscliff Road or a temporary easement over a portion of the private road. The applicant will be required to demonstrate maneuvering area for passenger vehicles to turnaround. A 5-foot wide concrete band will be required to demark the boundary between public and private roadway.

5. Joint access and circulation drives utilizing reciprocal easements shall be utilized as deemed necessary by the Department of Transportation and Development. In the NC District, joint street access for adjacent commercial developments shall be required.

The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement. The easement shall encompass the required improvements.

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.

All driveways will be located on a private road. Only one property has two street frontages; lot 15. Unless approved by the Dept. of Transportation and Development Engineering division, access to new home sites shall be taken on the private road. This requirement is detailed above in the conditions of approval.

- 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.

These requirements are detailed above in the conditions of approval.

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

Standards and also to Oregon Department of Transportation standards for state highways.

Clackamas County ZDO Section 1007.04 requires sidewalks along the street frontage adjacent to urban subdivisions, and on both sides of new streets within a subdivision. In certain cases, sidewalks may be reduced to one side of the roadway. The County typically requires sidewalks on one side of a private road. Therefore, sidewalk improvements are required on the entire SE Ruscliff Road frontage and on the south side of the new private access road. Separate bicycle facilities are not required on a private road. This criteria is detail above in the Conditions of Approval.

- 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.

Transit services are not existing or planned on any roadway associated with this development. This criteria is not applicable.

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

A sidewalk will provide access to from the private road to the local roadway. Even if pedestrian crossings are necessary, modified crossing lengths are not requires since this development's new private road is only 20' wide. This standard is not required.

1007.02 PUBLIC AND PRIVATE ROADWAYS

- A. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.
1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.

The northwest corner of the project site abuts the SE Ruscliff Road right-of-way. SE Ruscliff Road is classified as a Local Roadway (Comprehensive Plan map 5-2a). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for local roads.

2. Development along streets identified as Regional or Community Boulevards on Comprehensive Plan Map 5-5, *Metro Regional Street Design Classifications*, shall provide pedestrian, bicycle, transit, and visual amenities in the public right-of-way. Such amenities may include, but are not limited to, the following: street trees, landscaping, kiosks, outdoor lighting, outdoor seating, bike racks, bus shelters,

other transit amenities, pedestrian spaces and access to the boulevard, landscaped medians, noise and pollution control measures, other environmentally sensitive uses, aesthetically designed lights, bridges, signs, and turn bays as appropriate rather than continuous turn lanes.

The subject property is not located along a street identified as Regional or Community Boulevards Classifications. This criteria is not applicable.

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

The subject property is not adjacent to scenic roads identified on Comprehensive Plan Map 5-1. This criteria is not applicable.

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

The subject property is not located in center, corridors and station communities as identified on Comprehensive Plan Map IV-8. This criteria is not applicable.

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

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

A section of right-of-way extends southerly adjacent to the west property line for 70 feet at a width of 25 feet. The minimum right-of-way for a local roadway is 54 feet. Where a larger right-of-way and road improvement have been established for a roadway, the County typically requires new development to match the existing roadway. Consistent with the right-of-way width and curb off-set established for SE Ruscliff Road, the applicant will be required to dedicate approximately 35 feet of right-of-way along the project site frontage on SE Ruscliff Road, as well as extending the dedication to the southern property line. This requirement is detailed above in the Conditions of Approval.

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

The proposed subdivision will be providing an emergency vehicle turnaround at the end of the proposed on-site private road. However, until SE Ruscliff road is extended, there will not be an area for the public to turnaround at the terminus of the public road. Therefore, the proposed subdivision will be required to provide adequate turnaround area for passenger vehicles. This may include additional right-of-way dedication at the south end of SE Ruscliff Road or a temporary easement over a portion of the private road. The applicant will be required to demonstrate maneuvering area for passenger vehicles to turnaround. A 5-foot wide concrete band will be required to demark the boundary between public and private roadway

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

These standards may only be deviated from upon written permission from the Dept. of Transportation and Development (DTD). This requirement is detailed above.

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.

All of the above features have been considered and included where necessary or possible. This criteria is met.

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

As discussed above, SE Ruscliff Road is an existing right or way that stubs at the subject property. The applicant is required to dedicate right of way to meet the local road standard and any future development of the property to the south will have access to a public road.

- D. Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:
 - 1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and

Adequate intersection sight distance at the new private road intersection with SE Ruscliff Road shall be provided. No plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance shall be 280 feet to the north. This criteria can be met.

- 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.

Curbside parking is prohibited on any roadway with a paved width less than 28 feet. This criteria can be met.

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

As discussed above, up to 35 feet of addition right-of-way will be dedicated, all the way to the southwest corner of the subject property.

- 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;

Minimum improvements on the SE Ruscliff 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 one-half paved width to the curb, 5-foot wide landscape strip with street trees, 5-foot wide unobstructed sidewalk, and storm drainage facilities. The curb line for SE Ruscliff Road has been established and appears to be off-set approximately 22 feet from the centerline of the right-of-way. The applicant will be required to provide up to a one-half street improvement to the centerline of the right-of-way along the entire site frontage, aligned with the existing curb to the north, and continue that half street improvement to the south property line of the project site

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

These facilities are not required. This criteria is not applicable.

- 3. Transit amenities as specified in Subsection 1007.05; and

Transit am entities are not required.

- 4. Street trees as specified in Subsection 1007.06.

Local Roads require a minimum 5 ft. wide landscape strip with approved street trees, unless otherwise waived by the DTD Engineering Division. This requirement is detailed above in the conditions of approval.

1007.03 PRIVATE ROADS AND ACCESS DRIVES

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

The applicant has proposed a 15-lot subdivision on the east side of SE Ruscliff Road at its southerly terminus. Previous similar applications for subdivision of the project site have been considered and approved, but were not finalized. Access is proposed with a new private road serving 15 lots from SE Ruscliff Road.

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

Easement or flag-pole strips are not proposed. All new lots will access the private road. This criteria is not applicable

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

The Private Road will have a minimum paved width of 20 feet. This criteria can be met.

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

This requirement is required as a condition of approval. This criteria can be met.

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

As discussed above, the access road will need to meet standards set forth by the engineering division and Chapter 5 and 10 of the Comprehensive Plan, and the Roadway Standards. Any changes or deviations from the required roadway standards must be approved in writing by DTD Engineering Division. This requirement is detailed above in the conditions of approval.

5. The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives

shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.02(D).

Adequate intersection sight distance at the new private road intersection with SE Ruscliff Road shall be provided. No plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance shall be 280 feet to the north. This requirement is detailed above in the conditions of approval section.

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.

A sidewalk is required on one side of the road as detailed above. Bicycle facilities are not required with this private road.

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

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

The required sidewalk will shall minimize conflicts amount automobiles and trucks. This criteria is met.

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;

As described above, the pedestrian facility (Sidewalk) will be required on one side of the new private road and will provide pedestrian access to SE Ruscliff road, the only existing public road in conjunction with this development.

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

All sidewalks will be ADA accessible where required. This criteria can be met.

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

The subject property is not on the Essential Pedestrian Network or the Urban Planned Bikeway map. This criteria is not applicable.

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

As described above, a new sidewalk shall meet the requirements of the Roadway Standards and ZDO Sec. 1007.04.

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

The subject property is not located in an Unincorporated Community. This criteria is not applicable.

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

The new road is not a through road. Therefore, a road on one side is permissible.

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

The subject application is for a Subdivision. This criteria can be met.

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

A Pedestrian Pathway is not proposed.

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

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

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

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

Based on the applicant's plan set, this criteria can be met and is detailed above in the Conditions of Approval.

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.

As discussed above, this criteria is not applicable.

3. A sidewalk set back from the curb by at least five feet may be one foot narrower (but not less than five feet) than the standard listed above. This five-foot separation strip shall be landscaped and shall be maintained by the adjacent property owner. The landscape strip may contain fixed objects provided that sight distance and roadside clear zone standards are satisfied pursuant to the Clackamas County Roadway Standards.

As discussed above, this criteria can be met and is detailed above in the Conditions of Approval.

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

Accessways are not proposed with this subdivision and PUD. This criteria is not applicable.

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

Bikeways are not proposed nor required with this subdivision and PUD. This criteria is not applicable.

- J. Trails: Trail dedications or easements shall be provided and developed as shown on Comprehensive Plan Map IX-1, *Open Space Network & Recreation Needs*; the Facilities Plan (Figure 4.3) in NCPRD's Park and Recreation Master Plan; and Metro's Regional Trails and Greenways Map.

Trials are not required. This criteria is not applicable.

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.

Transit Amenities are not required. This criteria is not applicable.

1007.06 STREET TREES

- A. Within the Portland Metropolitan Urban Growth Boundary, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial,

industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:

As noted above in this report, street trees are required on SE Ruscliff Road, but not on the proposed private road serving the 15 new lots. This criteria can be met.

1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case basis. Exemptions may be granted, for example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees.

This requirement is detailed above in the conditions of approval.

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

A minimum 5-foot wide landscape strip shall be provided between the sidewalk and curb. Street trees shall be provided within the landscape strip along the entire site frontage at 25-40-foot spacing, based on tree species.

3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.

This standard can be addressed with Engineering Division prior to final plat approval. This criteria can be met.

4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.

As discussed above, Ruscliff Road will need to meet the requirements of local roadway cross-section set forth in figure 5-1d of the Comprehensive Plan.

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

This requirement is detailed above in the Conditions of Approval.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

This application is of a Subdivision and PUD. ZDO Subsec. 1007.07 applies.

- B. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:

ZDO subsection 1007.09 requires that roadways and intersections serving subdivisions have adequate capacity to handle the additional traffic generated by the development and will continue to operate during the mid-day one hour peak and first and second hours of the PM peaks at acceptable volume to capacity (v/c) ratios, below the maximums which are 0.90 and 0.99 respectively. The proposed subdivision is projected to generate 143 total new daily vehicle trips. The development will result in approximately 11 AM and 15 PM peak hour trips. Traffic studies are not required for developments that generate less 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. There are no mitigation measures recommended for traffic impacts. Therefore, the county's concurrency requirements as they relate to the transportation system are met by the applicant's proposal

- 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*.

As discussed above, Engineering staff has already calculated the maximum (v/c) ratio. This criteria is met.

- D. For the purpose of calculating capacity as required by Subsections 1007.07(B) and (C), the following standards shall apply:

These standards need not be listed individually. Engineering staff has already done the necessary calculations above. This standard is met.

- E. As an alternative to compliance with Subsection 1007.07(B), the applicant may make a voluntary substantial contribution to the transportation system.

A voluntary contribution is not required. This criteria is not applicable.

1007.08 FEE IN LIEU OF CONSTRUCTION

For all or part of the road frontage improvements required by Section 1007; located within the Portland Metropolitan Urban Growth Boundary (UGB) and required for a partition, a two- or three-family dwelling (where no more than one such dwelling is proposed), an attached or detached single-family dwelling, or a manufactured dwelling; the developer may elect to pay a fee in lieu of construction as follows.

Fee and Lieu of Construction is not available for this project because it is a subdivision. This criteria is not applicable.

1012 LOT SIZE AND DENSITY

1012.01 APPLICABILITY

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

- A. Subdivisions;
- B. Partitions;

The applicant is proposing a subdivision and PUD 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).

A subdivision is proposed and there are no applicable minimum lot size exceptions to review except as noted below.

- C. The minimum lot size standards of the applicable zoning district are waived for a designated nonresidential tract for a private road, open space, or similar support purpose.

There are three tracts containing open space and road. These are exempt from any minimum lot size standard, assuming they don't already comply with those standards. This criteria can be met.

- D. Notwithstanding Subsections 1012.02(B) through (D), the minimum lot size inside the Portland Metropolitan Urban Growth Boundary is 20 acres in the FF-10, RA-1, RA-2, RC, RI, and RRFF-5 Districts, except as provided by Subsection 3.07.1130(c) of the Code of the Metropolitan Service District.

The subject property is zoned R-10. This criteria is not applicable.

1012.03 MAXIMUM LOT SIZE

In subdivisions, partitions, and replats in the VR-5/7, VR-4/5, and VTH Districts, lots and parcels shall comply with the maximum lot size standards of the applicable zoning district, except as established by Subsections 1012.03(A) through (C) for the VR-5/7 and VR-4/5 Districts.

The subject property is located in the R-10 Zoning District, where there is no maximum lot size. This criteria is met.

1012.04 GENERAL DENSITY PROVISIONS

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

The DLA is 5.05 acres. Staff will adjust for restricted area development limitations and new road below subtraction below. Bonus Density is not proposed

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

This criteria is understood and acknowledged.

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. This standard does not apply.

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

The subject property is currently vacant. This standard does not apply

- 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).

The R-10 Zoning District does allow Single-Family Residences.

1012.05 MAXIMUM DENSITY

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

The DLA for the R-10 zoning district is 10,000 sq. ft. As such, the proposed subdivision and PUD is limited to the maximum density calculated below.

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

GSA equals 5.05 acres or roughly 220,000 sq. ft.

- B. Subtract the following from GSA to determine net site area (NSA). In the event of an overlap between categories requiring a subtraction, the area of overlap shall be classified in the most restrictive category.
 - 1. The land area of new county, public, or private roads (NR) in the HR, MRR, Urban Low Density Residential, VR-4/5, VR-5/7, and VTH Districts, except:

The subject property is located in the R-10 Zoning District.

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

NR equals 31,774 sq. ft., while 15 percent of the GSA equals 33,00 sq. ft. In turn, the value for NR equals 31,774 sq. ft.

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

Right-of-way is required by condition to be dedicated in the form of a strip of land located adjacent to SE Ruscliff Rd. These areas of dedication are not being subtracted in the calculation of maximum density.

2. In a zoning district other than HR and MRR, any land area of the GSA in the following highly restricted areas (HRA), except that no subtraction shall be made for HRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas:

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

- a. Slopes greater than 50 percent;

Developed areas of slopes greater than 50 percent equals 0.

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

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

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

Developed areas of floodway regulated by Section 703 equals 0.

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

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

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

Developed areas of Habitat Conservation Areas regulated by Section 706 equals 13,108 sq.ft. (See Exhibit 12)

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

Developed areas of Water Quality Resource Areas regulated by Section 706 equals 0.

The total developed area of HRA equals 44,882 sq. ft.

3. In a zoning district other than HR and MRR, fifty percent of the land area of any portions of the GSA in the following moderately restricted areas (MRA), except that no subtraction shall be made for MRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas.:

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

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

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

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

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

- a. The Floodplain Management District regulated by Section 703; and

The total land area in the Floodplain Management District regulated by Section 703 equals 0.

- 4. In the HR and MRR Districts, 50 percent of the land area of the GSA in the following moderately restricted areas (MRA). Residential development is prohibited in the MRA.

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

- 5. In the HR and MRR Districts, although no subtraction is required for stream corridor areas, residential development is prohibited in these areas.

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

- 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:

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

{220,000 - [31,774 + 13,108 + (0 x 0.5)]} / 10,000 = 175,118. In turn, Base Density equals 17.51.

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

No Bonus Density is proposed. This criteria is not applicable.

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

The partial figure of 17.51 is being rounded up to the whole number of 18

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

Maximum density up to this point is 18.

1. Comply with the minimum lot size standards, if any, of the applicable zoning district, as modified by Subsection 1012.02;

The minimum lot size standard of the R-10 zoning district is 8,000 sq. pursuant to Subsection 1012.02. However, this standard is being modified by ZDO Sec. 1013, the Planned Unit Development standards.

2. Ensure that, in all other Urban Low Density Residential Districts, the density of the developed portion of the subject property does not exceed one dwelling unit per 3,630 square feet of land area.

The max density in this proposal is actually over 12,222 sq. ft. per dwelling. This development does not come close to exceeding this standard.

In sum, maximum density equals 18.

1012.07 MAXIMUM DENSITY FOR TWO- AND THREE-FAMILY DWELLINGS IN URBAN LOW DENSITY RESIDENTIAL DISTRICTS

In the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, and RA-1 Districts, developments of two- or three-family dwellings approved pursuant to Section 1203, *Conditional Uses*, shall be limited to a maximum density, which shall be calculated as follows:

The applicant is not proposing two or three-family dwellings in the R-10 zoning District. This criteria is not applicable.

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 District, where a minimum density standard applies.

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

GSA equals 220,000.

- 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;

The area of dedications and new county, public and / or private roads equals 31,744.

2. Slopes equal to or greater than 20 percent;

The area of slopes equal to or greater than 20 percent equals 0.

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

The area of mass movement hazards regulated by Section 1003 equals 0.

4. Areas in the Floodplain Management District regulated by Section 703, *Floodplain Management District*;

The area in the Floodplain Management District regulated by Section 703 equals 0.

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

The area in the Willamette River and required buffer area regulated by Section 705 equals 0.

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;

The area of HCA regulated by Section 706 equals 64,159 sq., ft.

7. Water Quality Resource Areas (WQRA) regulated by Section 709, *Water Quality Resource Area District (WQRAD)*; and

The area of WQRA regulated by Section 709 equals 0.

8. Land to be dedicated to the public for park or open space use.

The area of land to be dedicated for Open Space Use equals 128,243 sq. ft.

The total area of the above areas equals 224,146. In turn, GSA – 224,146 = 0. In sum, net acreage (NA) equals 0.

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

The subject property is not located in the RCHDR District.

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

$$(NA / 0) \times 0.80 = 0$$

- 2. By 80 percent in the PMD and MR-1 Districts, except in the case of a manufactured home park where the result shall be multiplied by 50 percent;
- D. Any partial figure of one-half or greater shall be rounded up to the next whole number.

The partial figure of 0 is being rounded up to the whole number of 0

- E. The result is minimum density.

In sum, minimum density equals 0. Staff notes that the applicant has demonstrated compliance with the minimum and maximum density standards.

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.

The applicant has proposed a subdivision to be developed as a planned unit development (PUD).

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

The subject property is over 5 acres in area but does not contain any Open Space on Comprehensive Plan Map IV-6. This criteria is not required. Instead, the applicant has elected to meet PUD standards below.

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

The sensitive areas are being preserved in Open Space tracts, but those are generally off limits to residences as they are intended to be left in a natural state.

- 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).

These type of uses have not been proposed. However, a Conditional of Approval is warranted to permit such uses if proposed. This criteria can be met.

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.

This is discussed in significant detail above and in the Z0523-19-HDA, etc. Natural features are being preserved in open space tracts.

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

This criteria is not applicable because the property is zoned R-10.

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

The subject property is roughly 5.05 acres. Between Tract B and Tract C, there is roughly 2.94 acres of open space. Therefore, the applicant easily satisfies this requirement. A condition of approval is warranted to ensure that the development always has at least 20 percent gross site platted as open space. This standard can be 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.

As discussed above and in Z0523-19-HDA, the tracts will contain wetlands that are protected by water quality buffers and the HCA. Clackamas Water Environmental Services (WES) generally only allows access to the areas for specific purposes such as maintenance of infiltration facilities, landscaping, cleaning, etc. This criteria can be met.

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 areas are not included. This criteria is not applicable.

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

All lots are located within 1,000 feet of an open space tract.

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

All lots have reasonable access to an open space tract.

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.

As discussed above, the open space tracts are protecting significant natural features from impacts associated with use or development. This criteria is met.

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 standard is outlined above under Conditions of Approval.

- 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.

Recreational vehicle parking has not been requested. If requested, recreational parking on perimeter of PUD shall be screened from adjacent properties. This criteria is outlined above as a condition of approval.

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.

Additional parking is not proposed with this development. 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 shall be created prior to final plat. These standards are outlined above under 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 and PUD in the R-10 District. Therefore, Section 1017 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:

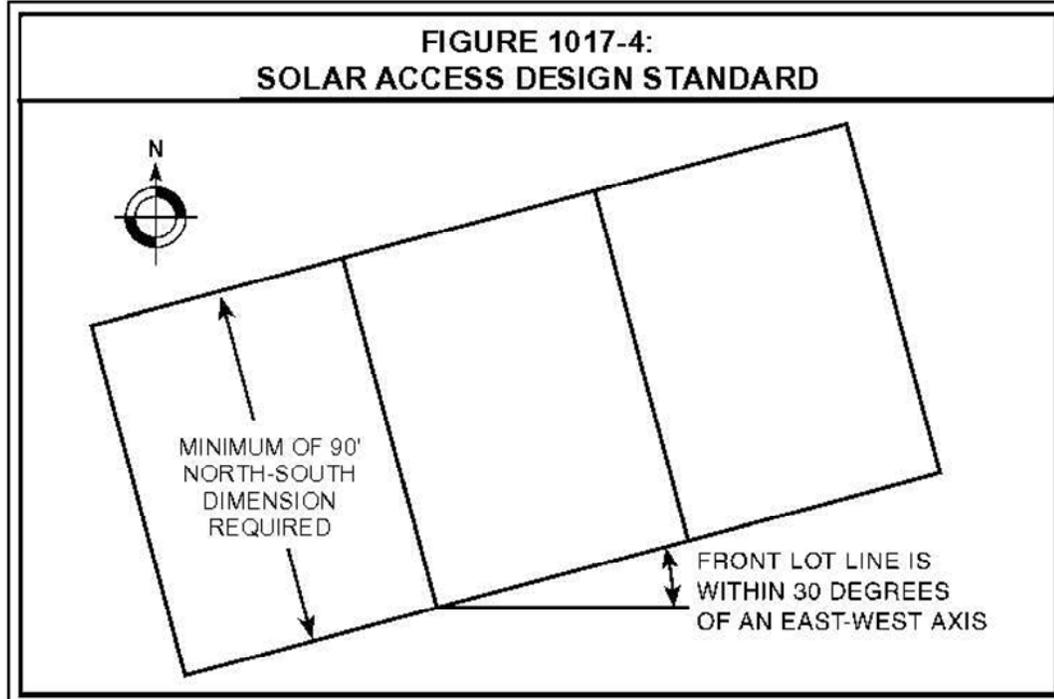
- A. Have a minimum north-south dimension of 90 feet. Undevelopable area, other than a required setback area, may be included in the north-south dimension if it abuts either of the lot lines used in calculating north-south dimension; and

All lots have a minimum north-south dimension of roughly 89.50' to 90.5'. However, less than 70 percent are actually over 90 feet. While technically, the applicant doesn't meet this standard, staff finds that distance is so slight, that this small distance (roughly 0.50 feet) could be accounted for prior to final plat approval.

Notwithstanding, the site is highly constrained with sensitive areas, and an exemption to these standards is also warranted. This detailed below.

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

Front lot lines all have a true east-west axis. This criteria is met.



1017.04 EXCEPTIONS TO THE DESIGN STANDARD

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

- A. Density and Cost: If Subsection 1017.03 is applied, either the resulting density would be less than that proposed, the minimum density would be less than that required in Section 1012, *Lot Size and Density*, or on-site site development costs (e.g., grading, roads, and water, surface water management and sanitary sewer systems) are at least five percent more per lot or parcel than if the standard is not applied due to one of the following conditions:
 1. The subject property, or a portion of the subject property for which the exception is sought, has a natural grade that is sloped 20 percent or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey by a professional land surveyor registered in the State of Oregon.

This criteria is not being evaluated.

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

The subject property is covered in highly restricted areas. It is evident in the design of this subdivision and PUD, that space available for lots is at a premium. The applicant has done the best they can to meet these requirements. This exemption is therefore granted.

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

To avoid wetlands, the private road is located in the only available spot while still allowing for proper width and lot sizes. Staff finds that this exemption is also granted.

4. An existing public easement or right-of-way prevents given streets, lots, or parcels from being oriented for solar access.

This criteria is not being evaluated.

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

This criteria is not applicable.

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

Trees will remain where development is not proposed. This criteria is detailed above in the Conditions of Approval.

II. ZDO SECTION 1100: DEVELOPMENT REVIEW PROCESS

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

1105.01 PURPOSE AND APPLICABILITY

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

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

1105.02 SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

1105.03 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

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

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

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

- 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 R-10 Low Density Residential District and has not designated the proposed Subdivision as a zero-lot-line development. However, because this project is also a PUD, the developer may elect to place homes on the rear or side lot lines pursuant to ZDO Sec. 315, Table 315-1.

- 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:

Phasing is not proposed. This criteria is not applicable.

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

A homeowners association, or acceptable alternative, is required for the reasons outlined above. The applicable standards of this Subsection are outlined above under Conditions of Approval.

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

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

1105.06 APPROVAL PERIOD AND TIME EXTENSION

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

1105.07 FINAL PLAT REVIEW

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

Through this land use permit staff report, 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 and PUD are not all larger than 80 acres.