

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application for a Zone Change
From Future Urban – 10 Acres (FU-10) to Urban
Low Density Residential (R-7) and Preliminary
Approval of a 9-Lot Minor Subdivision.

Case File Nos:
Z0492-20-ZAP & Z0493-20-SS

(Alpina Estates)

A. SUMMARY

1. The applicant and owner is Alpina Properties, LLC.
2. The subject property is located at 12765 SE 132nd Ave, Happy Valley, OR 97086 (Sunnyside Area). The legal description is T2S, R2E, Section 02BA, Tax Lot 6400, W.M. The subject property is approximately 1.93 acres, is located inside an urban growth boundary, and is currently zoned Future Urban 10-Acre (FU-10). The Comprehensive Plan Designation for the property is Low Density Residential.
3. On February 4, 2021, Hearings Officer Carl Cox (the “Hearings Officer”) conducted a public hearing to receive testimony and evidence about the applicant’s proposal to change the zoning designation for the property from FU-10 to Urban Low Density Residential (R-7), and the applicant’s proposal for preliminary approval for a 9-lot Minor Subdivision with one associated stormwater tract in the southeast corner of the lot.
4. County staff recommended approval of the Zone Change from FU-10 to R-7. County staff also recommended approval of the nine (9) lot subdivision subject to conditions. The Hearings Officer approved the zone change and subdivision proposal, subject to the conditions of approval included in this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony and evidence at the February 4, 2021 public hearing about this application. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform due to the corona virus. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the County’s staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, County Planner Ben Blessing summarized the County’s review of the application and presented the County’s staff report and findings, with a PowerPoint presentation, related Exhibits 1-24, and the County’s recommendation of approval for both the zoning change application and the applicant’s proposed subdivision. Mr. Blessing noted that the zoning change is consistent with the County’s Zoning and Development Ordinance Section 1202.03(A) and the County’s Comprehensive Plan criteria from the Residential section of Chapter 4.

3. Jonny Gish, County DTD, and Erik Carr Bertram, County CWES, provided testimony in support of the County's recommended approval of the applications.
 4. Brad Kilby, Senior Planner HHPR, Inc. testified in support of the applications, providing information about the applications and plans for addressing drainage on the property, among other things.
 5. Paul Emge, a neighbor who lives one block off 132nd, expressed concerns with the proposal to open Regency View through to 132nd. Mr. Emge provided anecdotal testimony concerning the traffic along Sunnyside Rd. in this area and asserts that the neighborhood will experience a worsening traffic problem from the additional access. Mr. Emge asserts that an additional traffic light should be required at the intersection of Sunnyside Rd. and 128th to address the traffic.
 6. Richard Drewieske, a neighbor who lives on 132nd next door to the proposal site, also expressed concerns with respect to additional traffic utilizing Regency View Street as access, as well as lack of notice of the dead-end for Regency View Ct., asserting that a sign would help drivers to avoid the road rather than turn around there. Mr. Drewiske also provided anecdotal testimony concerning the water that accumulates on and adjacent to the site, and expressed concern that existing trees on the site be preserved as much as possible.
 7. Mary Solte, a neighbor who lives off 130th Ave., provided anecdotal testimony concerning traffic problems in the area, and particularly the difficulty of turning left onto Sunnyside Rd. especially during rush hour. Ms. Solte asserts that the traffic lights along Sunnyside Rd. are not well coordinated, and is concerned that the proposal will redirect traffic to Regency View Street.
 8. Feena Sprague is a neighbor who lives off 132nd Ave., who expressed her concern with the loss of one of the remaining undeveloped spaces in the vicinity. Ms. Sprague would like to see provision for more open space in the neighborhood, such as a dog park.
 9. Terri Pomeroy is a neighbor who lives off 128th Dr. who provided testimony in support of the proposal, noting that when Regency View Street is completed it will provide better access to her neighborhood off the main Sunnyside Rd. artery.
 10. Mr. Blessing provided additional testimony, noting again that the proposed zoning density is consistent with the County's code for the area (approx. 7,000 square foot lots), and the County has no planned open space in that area.
 11. Jonny Gish, County DTD, noted that the proposal is for a small, 9-lot subdivision and therefore a specific traffic impact study was not required. Mr. Gish stated that the County does not intend to require an additional traffic light on Sunnyside Rd. for this small development, due to the high cost (approximately \$800,000) and lack of space to accommodate such traffic lights. Mr. Gish further noted that the traffic lights along Sunnyside are constantly monitored and adjusted by County staff through the use of on-location cameras and equipment, particularly during rush hour. Mr. Gish stated that completed Regency View through the site is part of the County's plan for completing roadways in the area.
 12. Erik Carr Bertram, County CWES, noted that the County would require the applicant to submit a surface water management plan, and obtain County approval of that plan.
 13. The Hearings Officer closed the record at the conclusion of the public hearing.
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C. FACTS

1. The subject property is currently zoned FU-10 and is within a fully developed suburban neighborhood of single-family residences with lots approximately 7,000 square feet, generally zoned R-7. The subject site is the only property in its immediate vicinity that is not zoned for residential development. The subject site is approximately 1.93 acres (84,244 sq. ft) and generally rectangular in shape. The property is level and mass site grading is not proposed or necessary to develop the site as proposed. There are no environmental overlays or significant natural resources within, or in close proximity to the subject property. (Exhibits 1, 20)
2. The applicant's subdivision proposal includes a total of nine (9) new lots ranging in size from 6,439 sq. ft. to 8,741 sq. ft. There is an existing single family home that will presumably be demolished. In its place, a proposed storm water facility known as Tract "A" will be constructed to treat and detain any new or reconstructed impervious surfaces installed with this development. The primary access to lots 1-7 shall be from an extension of the existing public road known as SE Regency View Street (Regency View St.). Currently Regency View Street is stubbed at the westerly property line of the subject property. The applicant proposes to extend Regency View Street east, through the subject property and connect it to SE 132nd Ave (132nd Ave). Direct access to lot 8 is proposed from 132nd Ave and access to lot 9 shall be from the end of SE 131st Court. (Exhibit 20)
3. Approval of the subdivision application is dependent upon approval of the zone change request due to the lot sizing and density requirements for the proposed single-family dwellings. The subject property also lies in the Sunnyside Corridor Community Plan area. Therefore, staff will review the residential policy findings of the Comprehensive Plan (Ch. 4) as well as the Sunnyside Corridor Community plan (Ch. 10) first, followed by the proposed subdivision. (Exhibits 1, 20)
4. The site is presently developed with a circa 1950 single family residence that presumably will be demolished, and is generally a large open meadow with some smaller trees in the middle of the lot as well as some larger conifer trees surrounding the home site. The applicant's plan set and associated narrative (Submitted on 12/03/2020) note that none of the existing large trees can be retained, due to the size and scope of the development (Exhibits 1, 20).
5. The applicant proposes to rezone the site to R-7 zoning and subdivide the property into nine single-family lots. The site would also include a stormwater quality pond located in the SE corner of the site where the existing single-family house is presently located. In its place, a proposed storm water facility known as Tract "A" will be constructed to treat and detain any new or reconstructed impervious surfaces installed with this development. All other utilities would be extended to serve the site from the surrounding neighborhood, including wate and sewer. (Exhibit 1)
6. The primary access to lots 1-7 shall be from an extension of the existing public road known as SE Regency View Street (Regency View St.). Currently Regency View Street is stubbed at the westerly property line of the subject property. The applicant proposes to extend Regency View Street east, through the subject property and connect it to SE 132nd Ave (132nd Ave). Direct access to lot 8 is proposed from 132nd Ave and access to lot 9 shall be from the end of SE 131st Court.
7. Approval of the subdivision application is dependent upon approval of the zone change request due to the lot sizing and density requirements for the proposed single-family dwellings. The subject property also lies in the Sunnyside Corridor Community Plan area.

8. Staff received six letters of concern from neighbors. The first letter, from Glen Sachet dated January 6, 2021, recommends that per ZDO Sec. 1007.01(C)(4) and 1007.02(B) and (C), Regency View Street should be “connected” with SE Regency View Court, which is located on the east side of 132nd Ave and already developed. Staff agrees, and notes that those ZDO subsections do require public roads connect to existing public roads to allow as much connectivity as possible. The applicant’s plan set does show that Regency View Street will align with SE Regency View Court. Several safety considerations and development standards will be described below. (Exhibit 5)
9. Staff also received a comment from Bob Carus dated January 20, 2021 This letter generally describes potential safety concerns that may arise by connecting Regency View with 132nd Ave. Neighbor Carus opines that the connection will cause increased vehicular speeds during peak or non-peak traffic hours as cars try to bypass certain sections of SE Sunnyside Road. According to neighbor Carus, there is particular concern at the intersection of SE Regency View Street and SE 130th Ave, which is roughly 200 feet west of the subject property. Neighbor Carus has requested that County staff “consider” requirements to install stop signs facing east and west at the intersection of SE 130th Ave and SE Regency View St. Staff noted that intersection safety is a concern and forwarded this comment to the Transportation Engineering Division (Engineering Division) for review. As “Transportation Concurrency” the Engineering Division has required a stop sign at the above mentioned location. (Exhibit 8).
10. Staff received a comment from neighbor Mary Holliman who resides directly west of the subject property. This letter provides specific details relating to existing stormwater issues that are present on neighbor Holliman’s property as well as the associated catch basin located at the end (or “stub”) of SE 131st Court. The pictures show there is considerable surface water that forms a small channel over and across Holliman’s property during high rain events as well as significant pooling of storm water adjacent to the curb in the road right of way of 131st Ct. Given these existing stormwater issues, neighbor Holliman is requesting a “specific mitigation plan” to ensure that the proposed subdivision does not cause adverse impacts to the adjoining property. Staff responded and contacted Erik Carr-Bertram with Clackamas Water Environmental Services (CWES) regarding this comment. Erik notes that the developer must address all water entering the development from offsite, so they’ll (developer) need to address it with their civil plan submittal. These standards are included in the Conditions of Approval recommended by staff. Staff also noted that CWES will send out a “field crew” to assess the existing CWES infrastructure (Exhibits 6, 7, 9)
11. Staff received a comment from neighbor Mary Solty describing traffic concerns in and the difficult in making left turns onto Sunnyside from 126th Ave., 128th Ave., or 130th Ave., and asserting that the traffic from 126th Ave., 128th Ave., or 130th Ave., will begin using Regency View through to 132nd Ave. as an alternative. Neighbor Solty suggests that a traffic stop be installed at 130th and Regency View, referencing a nearby school bus stop. Neighbor Solty further suggests that a traffic study on Sunnyside between 122nd and 132nd to improve the left turns. (Exhibit 21)
12. Staff received a comment from neighbor Feena Sprague describing her concerns and sadness about the loss of the open space at the site, her hope that an old oak tree in the far back corner of the site be left standing, and her desire that the site be used for a playground and dog park, rather than developed with houses. (Exhibit 22)
13. The applicant’s developer and engineer considered placing the stormwater quality facility in the SW corner of the site to assist in protecting this large deciduous tree, but concluded that

the natural slope and fall of the site is to the SE corner. Therefore, the applicant's developer and engineer concluded that the tree would have to be removed to accommodate the new lot and home. They did note that street trees would be planted all along street frontages and that individual landscape scenes were likely to include trees as a component. (Exhibit 1)

14. Staff received comment from neighbors Marty and Laura Thomas regarding the proposal. They assert that 132nd Ave. is too narrow and a safety hazard whenever there is an additional car parked facing either north or south. Neighbors Marty and Laura Thomas report that the signage that previously marked off the No Parking areas on the street has been removed and more effort should be made to address improperly parked cars. They contend that there has already been a drop in water pressure that should be addressed prior to authorizing this proposal. Neighbors Marty and Laura Thomas are also concerned with interference such as noise during construction, access to their own street and home during construction, and possible interruptions in their delivery or utility services. (Exhibit 23)
15. County Planner Ben Blessing noted some of the specific characteristics of the site supporting the County's recommendation of approval for the zoning change. Specifically, Mr. Blessing noted the close proximity to transit Tri-Met 155 (about ¼ mile), and the close proximity to employment, such as the commercial properties on Sunnyside Road about ¼ mile south of the site. Mr. Blessing also noted that the site has the type of access to public roads, public utilities, and adequate capacity for the proposed subdivision, and fits in with the surrounding zoning and development patterns (subdivisions of single-family homes on roughly 7,000 square foot lots.) (Exhibit 24)
16. County Planner Ben Blessing also noted specific details of the proposed subdivision on the site, that the site supports an eight lot subdivision with a storm detention tract such that any storm water entering the site can be properly treated and conveyed. Mr. Blessing noted that the proposal would connect SE Regency View to SE 132nd Ave., and sidewalks, street trees, and curbs such as required by the County would be constructed. Mr. Blessing also noted that stop signs on 130th Ave. and Regency View as well the intersection for 132nd Ave. and SE Regency View would also be required. Further, Mr. Blessing noted that a geotechnical report would be required, and that home construction on the site would follow the recommendations of the geotechnical report. Mr. Blessing asserts that, with the recommended conditions, the proposal would be appropriate for the site. (Exhibit 24)
17. Applicant agrees with the County's recommendations of approval, and does not dispute the County's proposed conditions.

D. DISCUSSION

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

County staff reviewed the applications and provided a staff report with supporting exhibits identifying the applicable standards and proposing findings and conditions sufficient to support the County's recommended approval of the applications.

Part I:

ZONE CHANGE REQUEST (FILE NO. Z0492-20-ZAP):

Subsection 1202.02 of the County ZDO lists the information that must be included in a complete application for a Zone Change.

This application includes a completed land use application form, site plan, and responses addressing the approval criteria in Section 1202 of the ZDO. The application also includes a description of the proposed use and vicinity map drawn to scale that includes the required information. Thus, all the submittal requirements under Subsection 1202.02 are included in the application. The application was submitted on December 3, 2020 and was deemed complete on December 11, 2020. Notice was sent out on December 30, 2020 for the February 4th, 2021 hearing. The 120-day deadline established by state law for processing this application is April 12, 2021. **The hearings officer finds that the submittal requirements of Subsection 1202.02 are met.**

Section 1202 of the Clackamas County Zoning and Development Ordinance lists four general criteria that must be addressed in order to allow this zone change. The Planning and Zoning Division staff has reviewed this request with respect to these criteria below.

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

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

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

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

Finding: According to the Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletin No. 99 Geologic Hazards Map, Lake Oswego and Gladstone Quadrangle, The only hazard areas are “wet soils.” The “wet soils” are discussed further below and within a March 6, 2020 Geotechnical investigation prepared by GeoPacific Engineering (Exhibit 2), concluding that the applicant’s proposal is geotechnically feasible, provided that certain recommendations are incorporated into the design and construction phases of the project.

The “smaller lots” category of zoning designations, including the R-7 zoning district, is consistent with this factor.

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

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

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

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

*Upon review of the FEMA flood insurance rate maps, the State Wetlands Inventory Maps (Exhibit 10), and the DOGAMI maps, **the site does contain “Wet Soils”**, but there is no indication that this area is prone to flooding. (Exhibit 15) The applicant has submitted a Geotechnical investigation prepared by GeoPacific Engineering and dated March 6, 2020 (Exhibit 2). The report notes that groundwater may be present starting generally at 10 feet below ground level. The report also provides foundation and home construction design standards to offset adverse impacts that may occur to a home’s foundation in the future. While this policy may present some difficulty due to high water table, staff notes that overall, construction, grading, and erosion control measures can be met without causing adverse impacts to the surrounding properties or proposed homes sites.*

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

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

With respect to the capacity of the local transportation system, the County Engineering Div. staff submitted comments and recommendations dated January 22, 2021, indicating that the local transportation system capacity is adequate to serve the existing development and proposed development of the site (Exhibit 19). A traffic

impact study was not required by the County Traffic Engineer for this relatively small subdivision proposal.

Clackamas Water Environmental Services (CWES) Clackamas County Service District #1 (CCSD#1) is the sanitary sewer service provider for this area. The applicant submitted a Preliminary Statement of Feasibility signed by Erik Carr-Bertram of CWES on December 1, 2020 indicating that the CCSD#1 has adequate capacity in the sanitary sewerage collection and treatment system to accommodate the proposed development and that service is either available, or can be made available to serve the project through improvements constructed by the applicant. (Exhibit 6)

CWES-CCSD#1 is also the surface water management services provider and regulatory agency for this area. The applicant has submitted a Preliminary Statement of Feasibility signed by Erik Carr-Bertram of CWES on December 1, 2020 indicating that the CCSD#1 has adequate surface water treatment and conveyance is available to serve the proposed development, or can be made available through improvements to be completed by the developer. (Exhibit 4)

Sunrise Water Authority (SWA) is the domestic and fire protection water service provider for this area. The applicant submitted a Preliminary Statement of Feasibility signed by the SWA on November 9, 2020 indicating that adequate supplies of water are available, or can be made available through improvements to be constructed by the applicant, for domestic and fire flow purposes to serve the proposed development. (Exhibit 3)

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

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

This factor encourages lands within a short walking distance of a transit stop to be zoned for smaller lots. Per Clackamas County's Comprehensive Plan map 5-8a and Tri-Met's online transit mapping programming, Tri-Met route no. 155 runs along SE Sunnyside Rd (Exhibit 11). The nearest bus stop is on SE Sunnyside Rd and SE 132nd Ave, which would require a walking distance of approximately 1,300 feet or roughly 1/4 mile from the proposed subdivision. (Exhibit 11)

Given the short walking distances to the transit stop referenced above, the proposed R-7 zoning designation is consistent with this factor.

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

The subject property is located approximately 1/4 mile north of SE Sunnyside Rd (Exhibit 16). Furthermore, Comprehensive Plan Map 4-8 shows SE Sunnyside Road

as "Corridor Street" (Exhibit 16), which will support multiple commercial uses such as retail, services, places of worship, etc.

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

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

As discussed in the project description above, the subject property is within the Sunnyside Corridor Community Plan. Chapter 10 of the comprehensive plan sets forth specific policies for housing within that Corridor, discussed in more detail in that section. However, there is no specific requirement that permits the subject property to be designated R-2.5 or R-5.

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

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

The entirety of the subject property is surrounded by the R-7 zoning designation, and the majority of lots within the immediate vicinity are between 6,000 sq. ft. to 8,000 sq. ft. Furthermore, the surrounding lots were developed under the modern R-7 zoning regulations (after 1980). This can be referenced in the County's GIS zoning layer (Exhibit 17). The proposal fits in to the historic lot sizes and development pattern surrounding the property. Large lot zoning districts such as R8.5, R-10, or R-15 would not fit into the surrounding pattern

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

- I. Sub-Policy 4.R.2.7 refers to achieving a density average of 7,500 square feet or less per lot in low density Future Urban areas when conversion to immediate urban low density residential occurs, the R-10 zoning designation shall be limited to areas with slopes of 20% or greater. Flexible-lot-size land divisions and other buffering techniques shall be encouraged in those areas immediately adjacent to developed subdivisions with lots of 20,000 s.f. or more to protect neighborhood character, while taking full advantage of allowed densities.

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

This criteria is not applicable.

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

- J. Section I of Chapter 10 of the Comprehensive Plan sets forth the goals and policies that are specific to “Land Uses” of the Sunnyside Corridor Community Plan Area. Pursuant to Comprehensive Plan Map 10-SC-1, the subject property is located within said community plan area (Exhibit 12). Map 10-SC-2 shows the surrounding land use plan designation as Low Density Residential (Exhibit 13). The policies establishing special standards for Low Density Residential designations applied in the Sunnyside Corridor Community Plan Area are set out in Section I, Polices (3.0) through (3.1). Policy 3.0 States the following:

“Residential land use plan designations shall be allowed in the Sunnyside Corridor Community Plan Area to provide for a variety of housing choices that are compatible with the character of the area, support current and projected demographics and ensure a range of densities to promote an efficient use of the land and urban services.”

Policy 3.1 requires that lots east of SE 132nd Ave, South of SE Sunnyside Road and west of Sunnyside Village shall be designated R-7

In terms of Policy 3.1, the subject property is directly west of the SE 132nd Ave. Therefore, Policy 3.1 does not apply. Policy 3.0, similar to policies in Chapter 4 (See 4.R.2.6 findings above), requires that housing choices [are] compatible with the surrounding area. As discussed above, the surrounding zoning district is R-7, and lots range in size from 6,000 sq. ft – 8,000 sq. ft. The lots proposed are also within this range and, as will be discussed below, can meet minimum lot size requirements in ZDO sec. 315. Thus, the proposed land use designation of R-7 is appropriate for the subject property.

- K. Section II of Chapter 10 of the Comprehensive Plan sets forth the goals and policies that are specific “Streets, Alleys, and Pedestrian Connections” with the Sunnyside Corridor Community Plan Area. Several of these policies are related to commercial zones located along Sunnyside road itself, or can be addressed below in the Transportation Section of ZDO Sec. 1007:

Sub-policy 1.0: Integrate land use with the transportation network in the Sunnyside Corridor Community Plan. **Finding:** *the applicant has prepared a site plan that adequately connects the proposed subdivision to the existing Sunnyside Corridor transportation plan. This policy is met.*

Sub-policies 2.0, 2.1, and 2.2: new developments shall provide streets, vehicular connections and pedestrian connections as shown on the Map X-SC-3 and Map 5-4a. **Finding:** *The applicant’s narrative has noted that SE Regency View Street will comply with these maps where applicable and that there is no need to find an alternative location for Regency View St (Exhibit 14). These standards are addressed in Section 1007 of the subdivision findings. This policy can be met.*

Sub-policy 3.0, and 3.1: A system of pedestrian connections shall be provided from

subdivisions and multifamily developments to the following commercial or public facilities: existing or planned transit facility, school, park, outdoor activity area, plaza, day care center, children's play area, library, church, or similar facility. **Finding:** *The applicant's narrative notes that commercial or public facilities, transit, schools, parks, etc. are not adjacent to the subject property. The nearest commercial facility is roughly ¼ miles due south, along Sunnyside Road. Furthermore, the proposed extension of SE Regency View will provide sidewalks to SE 132nd Ave. A separate pedestrian facility is not feasible.* **This policy is not applicable.**

Sub-policy 3.2: Pedestrian access shall be provided from a dead-end street, cul-de-sac, or mid-block where the block is longer than 330 feet. **Finding:** *The applicant's narrative notes that no "dead-end" street is being created that is longer than 330 feet. The County Tax Assessor tax map for 22E02BA shows that the rough dimensions of the subject property are 313' by 299' (Exhibit 18). Therefore, the subject property is not long enough to warrant a pedestrian access.* **Thus, this policy is not applicable.**

Sub-policy 3.3 relates to commercial development and is **not applicable**.

Sub-policy 4.0 through 4.3 relates to development south of SE Sunnyside Road and is **not applicable**.

Sub-policy 5.0 and 5.1: Orient local streets whenever practical so that at least 50 percent of the lots front north or south to take advantage of solar access. **Finding:** *the applicant's narrative notes that 78% of the lots associated with the proposed subdivision will be taking advantage of solar access. Proposed Lots 1-7 are all designed to have a true north-south orientation. Lots 8-9 are taking access from different locations.* **Therefore, this policy can be met.**

Sub-policy 5.2: Provide on-street parking, landscape strips between sidewalk and street, sidewalks on both sides of the street, street trees, and short pedestrian crossing distances at intersections. Figure X-SC-2 (Exhibit 13) illustrates a typical street cross section. **Finding:** *The applicant's narrative notes that it can comply with all standards of this cross-section. However, the landscape strip may be modified to fit to the existing local road. While completely "new roads" are required to be designed to the full cross-section, this is an extension of the existing Regency View Street. None of the surrounding streets have landscaping strips, thus, this deviation may be allowed to ensure that this development fits into the character of the neighborhood.* **This policy can be met through Conditions of Approval.**

Sub-policy 6.0 requires the applicant to provide vehicular and/or pedestrian connections between residential developments, public facilities, neighborhood services, and the collector and arterial street system. **Finding:** *As discussed above, the proposed extension of SE Regency View Street will provide the necessary connections between the noted uses above.* **This policy is met.**

Sub-policy 7.0: Alleys shall be allowed in all residential zoning districts. All alleys shall be private streets and shall be constructed as depicted in Figure X-SC-3.. **Finding:** *This proposal does not propose any alleys nor are they required.* **This policy is not applicable.**

Sub-policy 8.0 relates to access control on to Sunnyside Road. The subject property is not located on Se Sunnyside Road. **This criteria is not applicable.**

On balance, consideration of Policies 4.R.2.1 to 4.R.2.7 leads to the conclusion that the R-7 designation as the most appropriate zoning designation for the subject property, and is consistent with the surrounding land use patterns. Furthermore, the applicant has demonstrated or can demonstrate compliance with Chapter 10 and polices related to the Sunnyside Corridor Community Plan.

2. Subsection 1202.03(B) of the ZDO states that if a development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of the service provider's existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.
 - a. Sanitary Sewer and Storm Water Management: As discussed, the subject property is located within Clackamas Water Environmental Services (CWES) Clackamas County Service District #1 (CCSD#1). According to the CWES, sanitary sewer capacity is adequate, or can be made adequate, to serve the proposed development and service is subject to the CCSD#1 Sewer Code. According to the CWES comments, adequate storm water management facilities appear feasible and shall be reviewed by CWES according to their rules and regulations, and designed and constructed by the developer.
 - b. Water: As discussed, Sunrise Water Authority (SWA) has indicated that adequate potable water supplies are available in sufficient quantities to provide normal domestic needs. Fire protection needs for the proposed development shall be made with the existing water system, unless an alternative fire protection system, approved by Clackamas Fire Dist. #1 is approved in writing. This standard is detailed below.

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

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

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

Finding: ZDO subsection 1007.07 requires that roadways and intersections serving subdivisions have adequate capacity to handle the additional traffic generated by the development. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards. Based on the proposed subdivision, factoring in one existing home and 8 new homes, the anticipated traffic from the proposed development is expected to generate less than twenty vehicular trips in any peak hour. Per Roadway Standards Section 295.2, a traffic study is not required for developments that generate less than 20 peak hour trips.

As discussed earlier, the applicant has not submitted a Traffic Impact Study and none was required by the County Traffic Engineer for this small development proposal. The County Traffic Engineering Sec. concluded that the proposed applications would not result in the degradation of the level of service in the influence area intersections to a point where they would be considered to be operating at an inadequate level of service. County Traffic Engineering recommended that a two-way, east-west facing controlled stop (Stop signs) at 130th and SE Regency View Street, be required as a condition of approval.

The County Engineering Div. staff has submitted comments concerning this proposal and the adequacy of the transportation system dated January 22, 2021. (Exhibit 19) These are incorporated herein by reference. The Engineering staff stated that transportation system capacity in the area will be adequate to serve the proposed development if the zone change is approved.

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

- 4. Subsection 1202.03(D) of the ZDO requires that the safety of the transportation system is adequate to serve the level of development anticipated by the zone change.
Finding: The County Engineering Division submitted comments and recommendations dated January 22, 2021 and discussed previously addressing this criteria. Based upon the preliminary plan for the subdivision, the County Engineering staff stated that, with the imposition of conditions of approval, the safety of the existing and proposed transportation system will be adequate.

This criteria can be satisfied.

CONCLUSION: As conditioned, the proposed zone changed from FU-10 to R-7 is appropriate for the subject property and should be approved.

Part II:

PRELIMINARY APPROVAL OF A MINOR SUBDIVISION (FILE NO. Z0493-20-SS):

This application is subject to Sections 202, 315, 1001, 1002, 1003, 1006, 1007, 1012, 1017, 1105 and 1307 of the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Division reviewed these sections of the ZDO in conjunction with this proposal and made a number of specific findings, recommending approval of this application for a minor subdivision, subject to certain conditions of approval.

1. **ZDO SECTION 1000: DEVELOPMENT STANDARDS**

1001 GENERAL PROVISIONS

1001.01 PURPOSE

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

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

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

1001.02 APPLICABILITY

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

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

1002 PROTECTION OF NATURAL FEATURES

1002.01 HILLSIDES

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

The proposed subdivision does not involve development on slopes greater than or equal to 20 percent. As shown on the DOGAMI map and noted in the Geotechnical report prepared by GeoPacific Engineering and dated March 6, 2020, no part of the subject property has slopes exceeding 15 percent. This criteria is not applicable.

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

As noted in Section 1002.01 above, the site does not have slopes exceeding 15 percent. This subsection does not apply.

1002.03 TREES AND WOODED AREAS

- iv. 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:

This criteria contains subjective criteria, particularly with the following: “significant clumps or groves or trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible.” This subjective criteria lacks a “clear and objective” standard to determine which trees or other vegetation are significant, which shall be preserved, and where. Therefore, pursuant to Oregon Revised Statutes (ORS) 197.307, this policy does not apply.

1002.04 RIVER AND STREAM CORRIDORS

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

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

1002.05 DEER AND ELK WINTER RANGE

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

The subject property is located outside of the Deer and Elk Winter Range. Therefore, these standards do not apply.

1002.06 MOUNT HOOD RESOURCE PROTECTION OPEN SPACE

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

The subject property is located outside of the Mt. Hood Resource Protection Open Space. Therefore, these standards do not apply.

1002.07 SIGNIFICANT NATURAL AREAS

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

The subject property does not contain a significant natural area. Therefore, these standards do not apply.

1003 HAZARDS TO SAFETY

1003.01 PURPOSE

- v. To protect lives and property from natural or man-induced geologic or hydrologic hazards and disasters.

- vi. To protect property from damage due to soil hazards.
- vii. To protect lives and property from forest and brush fires.
- viii. To avoid financial loss resulting from development in hazard areas.

1003.02 STANDARDS FOR MASS MOVEMENT HAZARD AREAS

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

The proposed subdivision is not located in mass movement hazard area. Therefore, this section is not applicable.

- v. 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 database.

The DOGAMI map for the Lake Oswego and Gladstone Quadrangle show that there are no landslide hazards in this area (Exhibit 15).

1003.03 STANDARDS FOR FLOOD HAZARD AREAS

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

The DOGAMI map for the Lake Oswego and Gladstone Quadrangle show that there are no flood hazards in this area, and this area is not located within the Special Flood Hazard Area (SFHA), and not subject to ZDO Sec. 703. (Exhibit 8)

1003.04 STANDARDS FOR SOIL HAZARD AREAS

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

The proposed subdivision is located in soil hazard areas comprised of Wet/high water table. The applicant has provided a detailed geotechnical report prepared by GeoPacific Engineering and dated March 6, 2020 that provides recommendations for home construction (including, footing design, crawlspace/foundation design, and habitable floor height), erosion control, site preparation, excavation and utility trenching, and site drainage. The applicant shall ensure that these recommendations are followed during the site development. Additionally, the geotechnical investigation recommends that: "after site development, a final Soil Engineer's report should either confirm or modify the

conditions Geopacific Engineering's geotechnical report. Staff recommends and the hearings officer adopts a condition of approval requiring a "Soil Engineer's report" after the site development has occurred or is substantially complete and prior to final subdivision plat approval by the Planning Division. Finally, staff recommends and the hearings officer adopts a condition of approval for all future home sites to be constructed to the recommendations set forth in the GeoPacific geotechnical report and any subsequent Soil Engineer's report that may modify that geotechnical report. These standards are detailed above. These requirements can be met.

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

As discussed above, the DOGAMI only indicates the presence of wet/high water table (Exhibit 8).

1003.05 STANDARDS FOR FIRE HAZARD AREAS

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

The proposed subdivision is not located in a Fire Hazard Area. This criteria is not applicable.

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

1006.01 GENERAL STANDARDS

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

1006.02 STREET LIGHTS

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

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

1006.03 WATER SUPPLY

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

The water supply for the proposed subdivision will be provided by Sunrise Water Authority (SWA). SWA has provided a preliminary statement of feasibility, but has not provided site specific comments. Therefore, staff recommends and the hearings officer adopts a condition of approval requiring the applicant to meet all of SWA's applicable rules and regulation, if any, prior to the final subdivision plat approval. These standards can be met.

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

The applicant has submitted a preliminary statement of feasibility from SWA, indicating that water service is available or can be made available. (Exhibit 3). These criteria can be met.

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

The statement notes that adequate fire flows will not be known until the water facilities are constructed. Therefore, a condition of approval is recommended, adopted by the hearings officer, requiring that the applicant provide a statement from Clackamas Fire District #1, stating that an alternative will be used, if fire flows are not adequate. This standard can be met and is detailed in the 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 November 9, 2020, and water system capacity is not needed to be reserved for the proposed subdivision (Exhibit 3). This criteria is met.

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

An applicable Condition of Approval is outlined under Conditions of Approval and is adopted by the hearings officer.

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

The applicable standards of this Subsection are outlined under Conditions of Approval, adopted by the hearings officer.

1006.04 SANITARY SEWER SERVICE

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

Sanitary sewer for the proposed subdivision will be provided by Clackamas Water Environmental Service (CWES). CWES has provided comments and conditions dated January 14, 2021 (Exhibit 6) with the following comments:

- *Clackamas Water Environment Services (CWES) is an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 for the purpose of providing regional sewerage works, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary or storm sewage within its boundaries.*
- *WES has adequate capacity for sanitary sewer collection and treatment to serve this property*

Several conditions of approval have been included in CWES's comments dated January 14, 2021. Staff recommends approval of all proposed conditions as they relate to sewerage systems, and the hearings officer adopts these conditions. These criteria can be met.

- xv. 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 CWES, indicating that sanitary sewer capacity is available as outlined above (Exhibit 4).

2. The service provider may require preliminary sanitary sewer system plans and calculations for the proposed development prior to signing a preliminary statement of feasibility.

The preliminary statement of feasibility has already been signed. This criteria is not applicable.

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

The statement is dated December 1, 2020, and sanitary sewer system capacity is not needed to be reserved for the proposed subdivision. Therefore, this criteria is met.

1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL

The following surface water management and erosion control standards apply:

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

An applicable Condition of Approval is outlined under the Conditions of Approval adopted by the hearings officer.

- xvii. The requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the *Clackamas County Roadway Standards* apply.

The surface water management regulatory authority for the proposed subdivision is Clackamas Water Environmental Service (CWES). CWES has provided comments and conditions dated January 14, 2021 (Exhibit 6) with the following comments:

- *The development proposal exceeds 5,000 square feet of new or modified impervious surface area.*

Several conditions of approval have been included in CWES's comments dated January 14, 2021. Staff recommends approval of all proposed conditions as they relate to storm water and erosion control, and the hearings officer adopts these conditions. These criteria can be met

- xviii. 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 CWES, indicating that adequate surface water management, treatment and conveyance is available as outlined above.

1. The surface water management regulatory authority may require a preliminary surface water management plan and report, natural resource

assessment, and buffer analysis prior to signing the preliminary statement of feasibility.

The applicant has already signed the statement of feasibility. This criteria is not applicable (Exhibit 4).

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 1, 2020, and surface water treatment and conveyance system capacity are not needed to be reserved for the proposed subdivision.

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

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

As discussed in the applicant's storm water report, all new impervious surfaces shall be treated, detained and conveyed subject to the standards of CWES. There are no known drainage channels on the site that need protection. This criteria is met.

Protect development from flood hazards;

As discussed above, this area has not been mapped as being within the Special Flood Hazard Area (SFHA) nor has there been any identified historical flooding events on the subject property. A letter from neighbor Mary Holliman has noted some localized flooding on subject property to the west of the site (Exhibit 7). Staff reiterates that all new impervious surfaces must be treated, detained, and conveyed.

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

As noted above, the applicant plans to treat, detain, and convey all new impervious runoff subject to standards set forth by CWES. These criteria can be met.

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

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

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

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

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

A watercourse is not present on the subject property. This criteria is not applicable.

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

This development is not traversed by a watercourse. CWES will require easements necessary for the property conveyance of surface water. This criteria is not applicable.

- xxii. 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.

- xxiii. 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.

Staff again notes neighbor Mary Holliman's letter (Exhibit 7) who has concerns regarding drainage surrounding properties west of the subject property. Staff received additional comments from CWES staff reiterating that all water entering the subject property from off-site must be addressed on the civil site plan as a Condition of Approval (Exhibit 9). Additionally staff finds a condition of approval is warranted to ensure that natural drainage pattern "shall not be substantially altered at the periphery of the subject property." The hearings officer adopts the proposed condition. Therefore, this standard can be met.

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

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

A surface water management and erosion control plan is required for the proposed subdivision as discussed above. CWES will regulate erosion control measures. An applicable Condition of Approval is outlined above under Conditions of Approval, and is adopted by the hearings officer.

1006.07 PRELIMINARY STATEMENTS OF FEASIBILITY EXCEPTIONS

xxv. A land use application shall be deemed complete and may be approved without the submittal of one or more of the preliminary statements of feasibility required by Subsections 1006.03, 1006.04, and 1006.06 if the applicant demonstrates that a good faith attempt has been made to obtain the statement(s). At a minimum, demonstration of a good faith attempt shall require the applicant to submit the following:

1. A statement signed by the applicant indicating that the service provider or surface water management authority has not responded to a request for a preliminary statement of feasibility or has refused to issue one. When the refusal to issue a preliminary statement of feasibility is based upon a finding that adequate service cannot be provided, such refusal shall not qualify for an exception under this subsection; and
2. A copy of a letter delivered to the service provider or surface water management authority clearly requesting a preliminary statement of feasibility. The letter shall be dated no less than 30 days prior to the submittal of the land use application.

An Exception to Preliminary statements of Feasibility is not needed since the applicant submitted the property statements. This criteria is not applicable.

1007 ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

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

The applicant has submitted a Geotechnical Report from GeoPacific Engineering, Inc. dated March 6th, 2020 stating specific recommendations for excavation methods, spoilage use and storage, equipment sizes to be utilized, utility trench backfill and structural sections for public roads (Exhibit 2). The applicant will be required to provide written approval from the Geotechnical Engineer that all recommendations are included within the approved Development Permit plans.

*The applicant is proposing the continuation of SE Regency View St and connection with SE 132nd Ave. This proposed street continuation is consistent with the Clackamas County Comprehensive Plan Map X-SC-3. **This standard is met.***

- xxvii. 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 applicant will be required to dedicate right-of-way consistent with the standards set forth in Figure X-SC-2 of the Sunnyside Corridor Community Plan. **This standard can be met.***

- xxviii. 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 align the continuation of SE Regency View St with the existing portion of the street on the east side of SE 132nd Ave. The nearest intersection along SE 132nd Ave is approximately 240-feet to the south measured centerline-to-centerline.

SE 132nd is classified as an urban local street that requires a minimum of 25-feet of access spacing.

The applicant will be required to provide access spacing along the continuation of SE Regency View St consistent with Section 220 Table 2-1 of the Roadway Standards.

This standard can be met.

2. For development on any portion of a contiguous site identified on Comprehensive Plan Map 5-6, *Potentially Buildable Residential Sites > 5 Acres in UGB*, the applicant shall provide a conceptual map of new streets for the entire site. The map shall identify street connections to adjacent areas to promote a logical, direct, and connected system of streets;

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

The proposed development is not located on Map 5-6 of the Comprehensive Plan. This standard does not apply.

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

Pursuant to ORS 197.307, this standard is not clear and objective and this standard cannot be applied. However, the applicant will be required to provide access spacing along the continuation of SE Regency View St consistent with Section 220 Table 2-1 of the Roadway Standards.

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.

Pursuant to ORS 197.307, this standard is not clear and objective and this standard cannot be applied. However, the applicant is proposing to align the continuation of SE Regency St with the existing portion of the street on the east side of SE 132nd Ave. The continuation of SE Regency St will be required to be Stop Controlled at SE 132nd Ave and include an ADA compliant sidewalk connection. This standard can be met.

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

The applicant is not proposing any joint access easements. The applicant has proposed each parcel to have frontage along County right-of-way. This standard does not apply

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.

*SE Regency View St and SE 132nd Ave are both classified as Local Urban Streets. The access driveways for each lot will be required to maximize on-street parking and street trees. The applicant has not proposed any deviations of standard driveway widths or access requirements. **This standard is met.***

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

*The applicant is proposing to align the continuation of SE Regency View St with the existing portion of the street on the east side of SE 132nd Ave. The existing intersection meets the standard. **This standard is met.***

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

The applicant is proposing full dedication and frontage improvements within the proposed development and along County road frontages. The applicant will be required to design and construct SE Regency View St and SE 132nd Ave to meet Figure X-SC-2.

- xxxi. 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.

*No existing or planned transit services exist along the frontage of the proposed development. **This standard does not apply.***

- xxxii. 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.

Pursuant to ORS 197.307, this standard is not clear and objective and this standard cannot be applied. However, the applicant is proposing full dedication and frontage

*improvements within the proposed development and along County road frontages. The applicant will be required to design and construct ADA compliant sidewalks and ramps at the intersection of SE Regency View St and SE 132nd Ave. **This standard can be met.***

1007.02 PUBLIC AND PRIVATE ROADWAYS

xxxiii. All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.

1. Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.

*The proposed development is located within the Sunnyside Corridor Community Plan in Chapter 10 of the Comprehensive Plan. The applicant will be required to design and construct the continuation of SE Regency View St and SE 132nd Ave to meet Figure X-SC-2 (Exhibit 13). **This standard can be met.***

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

*The proposed development is not located along any streets identified as Region of Community Boulevards on Comprehensive Plan Map 5-5. **This standard does not apply.***

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

*The proposed development is not adjacent to any roads identified on Comprehensive Plan Map 5-1. **This standard does not apply.***

4. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, *Urban Growth Concept*, roads shall be

designed to minimize the length of street crossings and to maximize connectivity for pedestrians as deemed appropriate by the Department of Transportation and Development. Other streetscape design elements in these areas include:

- a. On-street parking;
- b. Street trees;
- c. Street lighting;
- d. Pedestrian amenities; and
- e. Truck routes shall be specified for deliveries to local businesses.

*The proposed development is not identified on Comprehensive Plan Map IV-8 (Exhibit 16). **This standard does not apply.***

5. In centers, corridors, and station communities, as identified on Comprehensive Plan Map IV-8, on local streets within the Portland Metropolitan Urban Growth Boundary (UGB), and in unincorporated communities, when conflicts exist between the dimensional requirements for vehicles and those for pedestrians, pedestrians shall be afforded additional consideration in order to increase safety and walkability. In industrial areas, the needs of vehicles shall take precedence.

*The proposed development is not identified on Comprehensive Plan Map IV-8. **This standard does not apply.***

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

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

*The applicant is proposing full dedication and frontage improvements within the proposed development and along County road frontages. The applicant will be required to design and construct SE Regency View St and SE 132nd Ave to meet Figure X-SC-2. **This standard has been met.***

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

*The proposed development completes the public street connection and creates access to existing developments. **This standard is met.***

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

*The applicant is not proposing any deviations from this standard. **This standard does not apply.***

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

*The applicant is not proposing “Green Streets” within the proposed development. The development will be required to meet Clackamas Water Environmental Services standards for surface water management onsite and downstream. **This standard does not apply.***

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

*The applicant is not proposing a termination of a public street. **This standard does not apply.***

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

*The applicant will be required to meet intersection sight distances at the intersection of SE Regency View St and SE 132nd Ave per Section 240 of the Roadway Standards. The posted speed limit for SE 132nd Ave is 25 MPH which requires a minimum of 280 feet of intersection sight distance both north and south bound along SE 132nd Ave. **This standard can be met.***

1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and
2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.

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

*The applicant is proposing full dedication and frontage improvements within the proposed development and along County road frontages. The applicant will be required to design and construct SE Regency View St and SE 132nd Ave to meet Figure X-SC-2. **This standard has been met.***

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

1. Surfacing, curbing, or concrete gutters as specified in Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards;
2. Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;
3. Transit amenities as specified in Subsection 1007.05; and
4. Street trees as specified in Subsection 1007.06.

The applicant is proposing full dedication and frontage improvements within the proposed development and along County road frontages. The applicant will be required to design and construct SE Regency View St and SE 132nd Ave to meet Figure X-SC-2.

Structural section and utility trench compaction for full-width improvements to SE Regency View St and half-street improvements to SE 132nd Ave will be required to meet the recommendations set forth in the geotechnical report from GeoPacific Engineering Inc. dated March 6th, 2020.

This standard can be met and is detailed in the conditions of approval.

1007.03 PRIVATE ROADS AND ACCESS DRIVES

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

The applicant is not proposing any new private roads. Lot 8 will access SE 132nd Ave and lot 9 will access SE 131st Ct. Lots 1-7 will access SE Regency View St. Driveway approaches shall be designed and constructed to meet Standard Detail D600.

*All lots will be required to adhere to access spacing requirements per Section 220 Table 2-1 of the Roadway Standards. **This standard is met.***

1. When easements or “flag-pole” strips are used to provide vehicular access to lots or parcels, the minimum width shall be 20 feet, unless a narrower width is approved by the Department of Transportation and Development and the applicable fire district’s Fire Marshal;
2. Where the number of lots served exceeds three, a wider width may be required as deemed appropriate or necessary by the Department of Transportation and Development consistent with other provisions of Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards;
3. Access easements or “flag-pole” strips may be used for utility purposes in addition to vehicular access;
4. The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and
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).

1007.04 PEDESTRIAN AND BICYCLE FACILITIES

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

The existing developments along SE Regency View St and SE 132nd Ave have curb-tight sidewalk. Due to existing conditions, the applicant will be required to provide minimum five-foot curb-tight sidewalk throughout the development.

The applicant is proposing full dedication and frontage improvements within the proposed development and along County road frontages.

*The applicant will be required to design and construct SE Regency View St and SE 132nd Ave to meet Figure X-SC-2. **This standard has been met.***

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

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

The applicant is not proposing any bikeways. The applicant will be required to design and construct five-foot curb-tight sidewalk along both sides of SE Regency View St and along the frontage of SE 132nd Ave through the frontage of lot 6707 and connect to the existing sidewalk.

This standard can be 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;

*The proposed development is not adjacent to any schools, employment centers, recreation areas, open spaces or transit corridors. **This standard does not apply.***

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

The applicant will be required to construct an ADA compliant dual-ramp sidewalk approach at the NW and SW corner of the intersection at SE Regency View St and SE 132nd Ave. The applicant will be required to design and construct five-foot curb-tight sidewalk connections to existing sidewalks on both SE Regency View St and SE 132nd Ave.

*Where mailboxes, fire hydrant, utility poles, etc. must be located within the limits of the sidewalk, an eyebrow shall be constructed so the full unobstructed width of the sidewalk is provided. Additional easements shall be granted to provide for any sidewalk eyebrows. **This condition 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 proposed development is not identified on Comprehensive Plan Map 5-2a.

SE 132nd is identified on Map 5-3 Essential Pedestrian Network as an Existing Local Road. The applicant will be required to design and construct half-street improvements along the entire frontage of SE 132nd Ave.

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

*The applicant is proposing full dedication and frontage improvements within the proposed development and along County road frontages. The applicant will be required to design and construct SE Regency View St and SE 132nd Ave to meet Figure X-SC-2. **This standard has been met.***

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

The applicant will be required to design and construct five-foot curb-tight sidewalk connections to existing sidewalks on both SE Regency View St and SE 132nd Ave.

The applicant will be required to provide a sidewalk connection at the SW corner of the proposed development to the existing sidewalk through the frontage of tax lot 6707.

This condition can be met.

- xliii. 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.

xliv. Sidewalk Location: Sidewalks required by Subsection 1007.04(C) or (D) shall be constructed on:

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

*The applicant is proposing sidewalk extension and connection to existing curb-tight sidewalks along SE Regency View St and SE 132nd Ave. **This standard is met.***

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 applicant is proposing a nine-lot subdivision with five-foot curb-tight sidewalks on both sides of SE Regency View St and one side of SE 132nd Ave. **This standard is met.***

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

*Both SE Regency View St and SE 132nd Ave are classified as urban local streets. The applicant has submitted plans showing full frontage improvements along SE Regency View St and half-street improvements along SE 132nd Ave. **This standard has been met.***

- a. The requirement shall be waived if the dwelling is a replacement for one destroyed by an unplanned fire or natural disaster; and
- b. The sidewalk requirement shall apply to no more than two street frontages for a single lot.

xlv. Pedestrian Pathways: Within the UGB, a pedestrian pathway may be constructed as an alternative to a sidewalk on a local or collector road when it is recommended by the Department of Transportation and Development; the surface water management regulatory authority approves the design; and at least one of the following criteria is met:

1. The site has topographic or natural feature constraints that make standard sidewalk construction unusually problematic;
2. No sidewalk exists adjacent to the site;
3. Redevelopment potential along the road is limited; or
4. The road is identified for a pedestrian pathway by the River Forest Neighborhood Plan adopted by the City of Lake Oswego.

*The proposed extension of SE Regency View St to the intersection with SE 132nd Ave will provide a five-foot curb-tight sidewalk extension on both sides of SE Regency View St connection to the sidewalk connection on SE 132nd Ave. A separate pedestrian pathway is not required. **This standard is met.***

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

Table 1007-1: Minimum Sidewalk and Pedestrian Pathway Width

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

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

*The applicant has proposed to design and construct ADA compliant five-foot curb-tight sidewalks on both sides of SE Regency View St and one-side of SE 132nd Ave with connection to the existing southern sidewalk. Where mailboxes, fire hydrant, utility poles, etc. must be located within the limits of the sidewalk, an eyebrow shall be constructed so the full unobstructed width of the sidewalk is provided. Additional easements shall be granted to provide for any sidewalk eyebrows. **This standard has been met.***

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.

*There are no existing transit stops along the frontage of the proposed development. **This standard does not apply.***

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

*The existing adjacent developments have curb-tight sidewalks. The applicant has proposed the continuation of five-foot curb-tight sidewalks along SE Regency View St and SE 132nd Ave. The applicant will be required to provide and maintain intersection sight distance at the intersection of SE Regency View St and SE 132nd Ave. **This standard is met.***

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

1. Accessways shall be required where necessary to provide direct routes to destinations not otherwise provided by the road system and where topography permits. Developments shall not be required to provide right-of-way for accessways off-site to meet this requirement. If right-of-way is available off-site, the developer may be required to improve an accessway off-site up to 150 feet in length.
2. Accessways shall provide safe, convenient access to facilities generating substantial pedestrian or bicycle trips, such as an existing or planned transit stop, school, park, place of worship, daycare center, library, commercial area, or community center. Facilities such as these shall be accessible from dead-end streets, loops, or mid-block locations. Where required, accessways shall be constructed at intervals of no more than 330 feet, unless they are prevented by barriers such as topography, railroads, freeways, pre-existing development, or environmental constraints such as streams and wetlands.

*As discussed above in the Zone Change requirements, the subject property is no wider than 330 feet across in any direction. Furthermore, the uses noted above (transit stops, schools, parks, etc.) are not adjacent to the subject property. Therefore, additional Accessways are not required. **This criteria is not applicable.***

xlviii. Bikeways: Bikeways shall be required as follows:

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

*The proposed development is not identified on Map 5-2a of the Comprehensive Plan. **This standard does not apply.***

2. Shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be considered in the reconstruction or new construction of any other arterial or collector.

*SE Regency View St and SE 132nd Ave are both classified on Map5-4a of the Comprehensive Plan as local urban roads. **This standard does not apply.***

3. Within urban growth boundaries, shoulder bikeways, bike lanes, bike paths, or cycle tracks shall be constructed from new public or private elementary, middle school, and high school facilities to off-site bikeways to provide continuous bicycle route connections within and between surrounding developments, unless precluded by existing development.

*The proposed development is not located adjacent to public or private education facilities. **This standard does not apply.***

1007.05 TRANSIT AMENITIES

All residential, commercial, institutional, and industrial developments on existing and planned transit routes shall be reviewed by Tri-Met or other appropriate transit provider to ensure appropriate design and integration of transit amenities into the development. The design shall not be limited to streets, but shall ensure that pedestrian/bikeway facilities and other transit-supportive features such as shelters, bus pull-outs, park-and-ride spaces, and signing will be provided. The designs shall comply with Tri-Met standards and specifications.

*The proposed development is not located along an existing transit facility. **This standard does not apply.***

1007.06 STREET TREES

- xlix. Within the Portland Metropolitan Urban Growth Boundary, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the

assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:

*The applicant has proposed the continuation of a five-foot curb-tight sidewalk throughout the proposed development. The applicant will be required to provide street trees placed behind the five-foot curb-tight sidewalk. **This standard can be met.***

1. Partial or complete exemptions from the requirement to plant street trees may be granted on a case-by-case basis. Exemptions may be granted, for example, if the exemption is necessary to save existing significant trees which can be used as a substitute for street trees.
2. Street trees to be planted shall be chosen from a County-approved list of street trees (if adopted), unless approval for planting of another species is given by the Department of Transportation and Development.
3. Location and planting of street trees may be influenced by such conditions as topography, steep terrain, soil conditions, existing trees and vegetation, preservation of desirable views, and solar access.
4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.
5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

*The applicant will be required to provide street trees behind the five-foot curb-tight sidewalk and be listed on the Clackamas County approved Street Tree list. Street tree planting and locations shall maximize access spacing, on-street parking and meet Standard Detail L100 and L200. **This standard can be met.***

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

The applicant is proposing a nine-lot subdivision. SE Regency View St and SE 132nd Ave north of SE Sunnyside road are not listed on the Clackamas County Transportation System Plan. The applicant will be required to provide a stop-controlled intersection at SE Regency View St and SE 132nd Ave.

Due to the increased traffic from existing development from the west accessing the proposed connection to SE 132nd Ave, staff finds the need to create a two-way stop-controlled intersection at SE Regency View St and SE 130th Ave. The applicant will be required to provide signage and striping to create a Two-Way Stop Controlled Intersection stopping traffic east and west bound along SE Regency View St at the intersection of SE Regency View St and SE 132nd Ave.

*The anticipated traffic from the proposed development is expected to generate less than twenty vehicular trips in any peak hour. **This standard can be met.***

- li. 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:

As discussed above, Capacity is already adequate. A detailed analysis of this subsection is not required.

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.

- lii. The fee in lieu of construction may be paid if the road frontage improvements are located on a local, connector, or collector road that is not identified on Comprehensive Plan Map 5-3, *Essential Pedestrian Network*, and payment of the fee is deemed by the Department of Transportation and Development to be an acceptable alternative to construction of the required improvements; or

*The proposed development is located along SE 132nd Ave., which is identified as an Existing Local Road on Comprehensive Plan Map 5-3, Essential Pedestrian Network. The applicant will be required to provide half-street improvements along SE 132nd Ave and full-street improvements and dedication for the extension of SE Regency View St. **This standard does not apply.***

1012 LOT SIZE AND DENSITY

1012.01 APPLICABILITY

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

- liii. Subdivisions;
- liv. Partitions;

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

1012.02 MINIMUM LOT SIZE EXCEPTIONS

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

No Exception can be applied to this proposal.

1012.04 GENERAL DENSITY PROVISIONS

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

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

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

If the requested zone change is approved, the applicant shall be subject to the R-7 zoning district standards. While 7,000 sq. ft. is the size required to calculate density, actual lot sizes in the R-7 zoning district may be as small as 80 percent of the DLA or 5,600 sq. ft. this standard is set forth ZDO Sec. 315, Table 315-2. The applicant has note proposed any lot sizes below 5,600 sq. ft.

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

dwellings will continue to comply with the requirements for accessory dwelling units or temporary dwellings, respectively.

There is one single-family dwelling on site that will be demolished. Density shall be established based on Gross Site Area, which is detailed below.

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

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

lix. 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).

A lot is not being created for a nonconforming single-family home. The existing house will be demolished. This criteria is not applicable.

1012.05 MAXIMUM DENSITY

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

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

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

GSA equals 84,244 sq. ft.

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

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

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

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

NR equals 14,569 sq. ft., while 15 percent of the GSA equals 12,637. In turn, the value for NR equals 12,637 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 132nd Ave. 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 0.

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

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

The total developed area of HRA equals 0.

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

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

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

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

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

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

The total developed area of MRA equals 0.

- lxii. 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:

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

$$\{84,244 - [12,637 + 0 + (0 \times 0.5)]\} / 7,000 = 10.22. \text{ In turn, Base Density equals } 6.$$

The partial figure of 10.22 is being rounded down to the whole number of 10.

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

In sum, maximum density equals 10. This will be detailed in the conditions of approval section.

1012.08 MINIMUM DENSITY

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

The subject property is located in the R-7 Zoning District, where a minimum density standard applies.

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

*As discussed above GSA equals 84,244. Per ZDO Sec. 1012.08(C)(1), multiply the result of net site area (NA) by 80 percent to get minimum density. In this case NA is 84,244 – 12,637 (new road) or 71,607. Multiply that result by 80 percent to get 57,286. Divide the result by DLA for a minimum density of 8.18 or **a minimum density of 8.***

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

The partial figure of 8.18 is being rounded down to the whole number of 8.

lxvi. The result is minimum density.

In sum, minimum density equals 8. This shall be required as a condition of approval.

1017 SOLAR ACCESS FOR LAND DIVISIONS AND REPLATS

1017.01 APPLICABILITY

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

The applicant is proposing a subdivision in the R-7 District. This criteria applies

1017.02 DEFINITIONS

The following definitions apply to Section 1017:

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

1017.03 DESIGN STANDARD

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

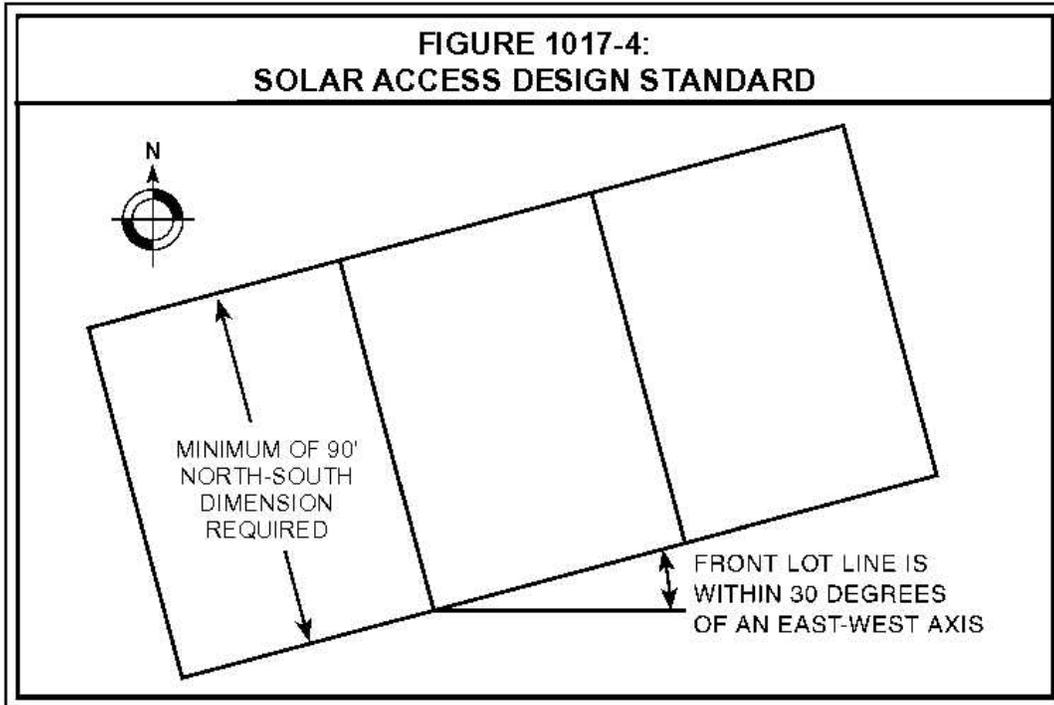
lxvii. Have a minimum north-south dimension of 90 feet. Undevelopable area, other than a required setback area, may be included in the north-south dimension if it abuts either of the lot lines used in calculating north-south dimension; and

*The applicant has provided a table in the submitted narrative demonstrating that lots 1-7 have a north south dimension of at least 90 feet. (**Advisory Note:** dimension is more commonly referred to as “distance” when referencing to length between two points) staff*

confirmed this by reviewing the applicant's site plan. Lots 1-7 represent 78 percent of the total lots. This standard is met.

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

Lots 1-7 are aligned in a true east-west axis. Again, this represents 78 percent of the total lot count of the subdivision. This standard is met.



1017.04 EXCEPTIONS TO THE DESIGN STANDARD

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

Exceptions to the Design Standards are not required since Solar Access standards are met.

2. **ZDO SECTION 1100: DEVELOPMENT REVIEW PROCESS**

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

1105.01 PURPOSE AND APPLICABILITY

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

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

1105.02 SUBMITTAL REQUIREMENTS FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

1105.03 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

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

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

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

- lxx. 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.

If the Zone Change is approved, the subject property shall be located in the R-7 Low Density Residential District. This criteria is not applicable.

lxxi. As part of preliminary plat approval for a subdivision, approval of a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the subject property, may be granted in consideration of such factors as the size of the proposed subdivision, complexity of development issues, required improvements, and other factors deemed relevant. If a phasing plan and schedule is approved, such approval shall be subject to the following:

A phasing plan is not proposed. This criteria is not applicable.

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

The applicant has stated that a homeowners association (HOA) will be established to provide maintenance for stormwater Tract "A". The standards for an HOA shall be described in the conditions of approval

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

The subject property is located in a Future Urban Area. All of the previous findings note that the subject property will contain road dedications, easements, structure, wells and on-site wastewater treatment systems shall be consistent with the orderly future development of the subject property at the R-7 density.

1105.06 APPROVAL PERIOD AND TIME EXTENSION

The applicable standards of this Subsection are outlined 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 Final Order a preliminary plat is being approved, the standards for finalization of which through a final plat are outlined under Conditions of Approval. The parcels involved with the proposed subdivision are not larger than 80 acres.

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E. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer hereby APPROVES Zone Change Application Z0492-20-ZAP and Subdivision Application Z0493-20-SS, with the following conditions of approval:

CONDITIONS OF APPROVAL

1. Conditions for Protection of Natural Features

A) Soil Hazard Areas:

- i. Development of the subject property is subject to the construction and development standards set forth by the geotechnical investigation prepared by GeoPacific Engineers and dated March 6, 2020.
- ii. The applicant shall submit a “Soil Engineer’s report” after the site development has occurred or is substantially complete that confirms the recommendation of GeoPacific Engineering’s recommendations in Condition 1(A)(i), or modifies them. This shall be submitted to the Planning and Zoning Division and Engineering Division prior to plat approval.
- iii. Home site construction shall be subject to the structural and drainage recommendations of the geotechnical investigation prepared by GeoPacific Engineering and dated March 6, 2020 and any modifications thereof.

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

A) General Standards:

- iv. 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 District (CWES).
- v. Utilities for electricity, natural gas, and communications services shall be installed pursuant to the requirements of the utility district(s) or company(ies) serving the proposed subdivision. Except where otherwise prohibited by the utility district or company, all such facilities shall be installed underground.
- vi. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.
- vii. 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:

- viii. 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.

- ix. Areas outside Clackamas County Service District No. 5 shall annex to the district through petition to the district.
- x. 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) General Sanitary Sewer and Storm/Surface Water Conditions:

- xi. 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:
- xii. Water Environment Services Rules and Regulations, July 2018, Ordinance No. 03-2018
- xiii. Sanitary Sewer Standards, Clackamas County Service District No. 1, July 1, 2013.
- xiv. Stormwater Standards, Clackamas County Service District No. 1, July 1, 2013.
- xv. Upon land use approval, the applicant shall procure the necessary plan approvals and permits in accordance with WES RR&S for sanitary sewer services and surface water management, including erosion control requirements. WES shall determine if the applicant’s sanitary and stormwater submittals conform to WES RR&S and satisfy the Conditions of Approval during WES’ final plan review and permit approval process.
- xvi. 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.
- xvii. The applicant shall include the following materials with their final plan review submittal to WES:
- xviii. Two (2) sets of complete civil construction plans for all sanitary and stormwater improvements.
- xix. Two (2) copies of the final storm report, including infiltration testing and downstream analysis.
- xx. \$800 minimum sanitary and stormwater management plan review fees
- xxi. Erosion control permit application (available on WES website) and \$460 permit fee
- xxii. Prior to final plat approval by WES, the following shall apply:
- xxiii. WES shall review the final plat in conjunction with the approved sanitary and stormwater plans.

- xxiv. 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.
- xxv. All sanitary and storm drainage easements shall be shown on the plat.
- xxvi. Applicable fees and charges shall be paid to WES.
- xxvii. Maintenance agreements shall be referenced in the plat notes.
- xxviii. Any requests to modify current WES Design Standards shall be made in accordance with Sanitary Standards, Section 1.7 or Stormwater Standards, Section 1.6.
- xxix. 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.

D) For Sanitary Sewer, the following conditions shall apply:

- xxx. All dwelling units within the boundaries of the proposed development shall be part of an approved plan to connect to the Public Sanitary Sewers System. Prior to plat approval, a separate and independent sanitary sewer service connection shall be provided to each lot, including any necessary easements.
 - a. All sanitary sewer service connections to the public mainline shall be made at a location that is acceptable to WES. Adequate access to public mainlines is available within the public right-of-way, therefore all proposed lots shall make points of connection within the public right-of-way.
- xxxi. Any new service connections made to an existing mainline shall be subject to a Collection Sewer Charge.
- xxxii. An extension of WES' sanitary sewer system shall be required to serve this development. Any extension of the sanitary sewer system shall be conveyed to WES for ownership. The system shall be designed, constructed and tested in accordance with WES RR&S. Building permits for individual lots shall not be approved until the sanitary sewer system improvements are complete in all respects and accepted by WES.
- xxxiii. All conditions of the Public Sanitary Sewer Extension Permit shall be met prior to final acceptance by WES, in accordance with Section 4.5. Final testing, as-builts, and service connection drawings for the sanitary sewer system shall be submitted for review and approval prior to final inspection.
- xxxiv. Public sewer mainlines shall be located either in the public right-of-way or within a minimum 15'-wide sanitary sewer easement granted to WES. Easements for storm and sanitary in a combined area shall be a minimum of 20'- wide.

- xxxv. The sanitary sewer service connection laterals shall be constructed with a clean out at the front edge of the Public Utility Easement (PUE)/Right-Of-Way, or the property line.
- xxxvi. The following shall apply for any tap of an existing sanitary sewer mainline:
- a. Developer will need to obtain a right-of-way utility placement permit from the local road authority.
 - b. Developer's contractor shall contact WES 48-hours in advance to schedule sewer tap (503-742-4574). Not available on Fridays.
 - c. A \$125.00 tap-in fee shall apply for each 4-inch connection into a public mainline.
 - d. Developer's contractor will excavate trench opening, exposing the public sanitary sewer mainline. WES personnel will make sewer tap and install a PVC service connection fitting. Contractor will extend the service lateral to edge of ROW and backfill the trench.
 - e. Trench shoring shall be required. The contractor shall provide a trench dewatering mitigation plan for adequate removal and disposal of trench water and sediment.
 - f. The contractor shall construct a clean out at the front edge of the Public Utility Easement (PUE)/Right-Of-Way, the sanitary sewer easement, or the property line. See Detail Drawings SAN-017 or SAN-018 in Appendix D.
 - g. Multiple laterals must be minimum distance of 3-feet apart at the main.

E) For Surface Water, the following conditions shall apply:

- xxxvii. WES shall review, approve and permit stormwater management plans for any development that creates or modifies 5,000 square feet or more of impervious surface area.
- xxxviii. Upon land use approval, developer's engineer 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.
- xxxix. The SWM Plan shall provide a design to mitigate the stormwater runoff from all onsite impervious surface areas, all onsite pervious disturbed areas, all water entering the property from off-site, and any offsite road improvements required by the local road authority.
- a) Any offsite stormwater entering the site shall be placed in a bypass pipe or mitigated onsite.
 - b) The applicant has indicted a portion of runoff in SE 132nd Ave is unable to be captured by the proposed facilities. The applicant shall address this issue by treating an equal contiguous upstream area within the proposed storm

facilities, or by providing alternative downstream measures that meet WES performance standards, as determined to the satisfaction of WES.

- xl. Storm drainage detention calculations shall follow the King County method (SBUH hydrograph).
- xli. 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** – On-site detention facilities shall be designed to reduce the 2-year post-developed runoff rate to ½ of the 2-year pre-developed discharge rate.
 - d) **Detention/Flow Control Standard in Areas with Limited Downstream Capacity** – 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. If limited downstream capacity is identified during the plan review process, the applicant’s 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.
- xlii. The conveyance system shall be sized for a minimum 25-year design storm.
- xliii. A design modification request from the applicant to use the BMP Tool as an equivalent alternative to the required infiltration/retention standard was approved by WES on December 1, 2020. The following shall apply with the BMP Tool design submittal:
 - e) If downstream capacity or flooding issues are identified as part of the project’s plan review, in addition to meeting the requirements of the continuous rainfall model (BMP Tool results), over-detention of the 25-year storm shall also be required. The project engineer shall use the custom pond sizing routine in the tool and iterate the design until meeting both the continuous model requirements and the SBUH modeling for over-detention of the 25-year storm to the 2-year pre-developed rate. Use the B&C procedure for converting volumes to areas to input into the tool, and provide a stage-storage-flow curve and summary table.

- f) 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.
 - g) 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.
 - h) 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.
 - i) The engineer shall verify each Drainage Management Area aligns with the final grading plans.
- xliv. The SWM Plan shall identify an acceptable point of discharge to safely convey stormwater runoff from the entire boundary of the development, or the applicant shall propose a plan to provide an acceptable point of discharge, including necessary easements.
 - xlv. 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 (Section 1.2).
 - xlvi. An infiltration testing report shall verify the feasibility of proposed infiltration systems and provide infiltration test results that correspond to the location and depth of the facilities, in accordance with Appendix E.
 - xlvii. 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)
 - xlviii. 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.
 - j) Provide a standard capacity analysis chart and plan showing the downstream pipe layout to the extent of your analysis. Indicate pipe sizes and slopes on the map. Provide all applicable as-built drawings.
 - k) Include conveyance analysis through known downstream in-line detention systems, in addition to the conveyance piping system.
 - l) An upstream drainage analysis shall be included in this analysis.
 - xliv. The property owners shall be responsible to perpetually inspect and maintain all stormwater management systems, in accordance with WES Rules, Section 12.10.

- m) It is recommended that the Developer/Owner sign a WES ‘Declaration and Maintenance Agreement for On-Site Stormwater Facilities’, by which WES shall maintain the subdivision’s stormwater system in exchange for a monthly fee of \$3 per lot. If the developer chooses not to use the maintenance agreement, then the homeowners will be responsible for storm system maintenance, and this responsibility must be documented and recorded as a deed restriction.
- l. The stormwater maintenance plan shall be referenced in the Plat Restrictions.
- li. For publicly maintained stormwater facilities, the following shall apply:
 - n) 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.
 - o) All publicly maintained stormwater systems must be designed and constructed to public standards.
 - p) All stormwater facilities shall comply with maintenance access standards for publicly maintained facilities, in accordance with Appendix I.
 - q) Centralized stormwater facilities shall be located within a Tract to the homeowners association. All other facilities shall be located within the public right-of-way, a tract, or a storm drainage easement granted to WES, as determined by WES.
 - r) 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 HOA CC&R’s.
 - s) 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.
- F) For Erosion Control, the following shall apply:
 - lii. Per Stormwater Standards, Section 6.1, the owner or their agent, contractor, or employee shall properly install, operate and maintain both temporary and permanent Erosion Protection and Sediment Control practices to protect the environment during the useful life of the project. No visible or measurable erosion shall leave the property during development, construction, grading, filling, excavating, clearing, or other activity that accelerates erosion, as required by water quality standards set forth in OAR 340-41-445 thru 470.
 - liii. With the first plan submittal to WES, the applicant shall include erosion control site plans that identify adequate EPSC techniques and methods as prescribed in the current WES Erosion Prevention Planning and Design Manual. Site plans shall delineate the total area of disturbance.

- liv. The applicant shall submit a WES Erosion Prevention and Sediment Control (EPSC) Permit application and erosion control site plans, and pay applicable permit fees (\$460 + \$80/acre over 1 acre).
 - lv. For those sites that are 1 acre to less than 5 acres of disturbance, an Oregon 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.
- G) For Water Quality Vegetated Buffers, the following shall apply:
- lvi. 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.
- H) The following WES Fees and Charges shall apply:
- lvii. 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.
 - lviii. 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.
 - lix. An Erosion Prevention and Sediment Control (EPSC) permit fee shall apply in the amount of \$540.00
 - lx. A Collection Sewer Charge shall apply for each new direct connection to an existing public sanitary sewer mainline. The final amount to be determined upon review of the final construction plans.
 - lxi. With future development, System Development Charges (SDC's) will apply for sanitary sewer and surface water, in accordance with the prevailing rates in effect when building permit applications are submitted. Rate adjustments occur annually on July 1.
 - t) Surface Water SDC: The current rate is \$215 per single family building permit application.
 - u) Sanitary Sewer SDC: The current rate is \$8,005.00 per single family building permit application.
- I) Additional Surface Water Requirements per ZDO Sec. 1006
- lxii. 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.
 - lxiii. Greatly accelerated release of stored water is prohibited.

- J) Applicant shall comply with rules and regulations of the Sunrise Water Authority (SWA). If any specific standards are required prior to plat recording, applicant shall contact the Planning and Zoning Division and provide documentation that specific requirements set forth by SWA have been met.
- K) Applicant shall demonstrate that water for fire flow is sufficient. If not sufficient, applicant shall provide written documentation approved by Clackamas Fire Dist. #1 that an alternative fire suppression system is adequate.

3. Conditions for Roads & Connectivity:

L) Overview:

lxiv. 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.

lxv. 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.

M) General Provisions:

lxvi. **Prior to site improvements:**

- a. The applicant shall obtain a Development Permit from the Engineering Department for review and approval of frontage improvements and sight distance requirements. The permit shall be obtained prior to commencement of site work and recording of the partition plat. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit Application.
- b. The applicant shall provide a performance guarantee equal to 125% of the estimated construction costs for work within the existing County right-of-way.

lxvii. Prior to Development Permit issuance:

- a. The applicant shall enter into a Developer/Engineer Agreement for primary inspection services. This form will be provided to the applicant and shall be signed and returned to County Plans Reviewer (Contact Engineering: Engineering@clackamas.us).
- b. The applicant shall provide written approval from the Geotechnical Engineer that the recommendations within the submitted report are implemented within the approved plans.
- c. The applicant shall provide written approval from the Clackamas Fire District #1 Marshal for onsite circulation, access and fire suppression.
- d. The applicant shall provide utility connection permits from Clackamas Water Environmental Services and Sunrise Water Authority. All utility connection and extension shall be shown on the approved plans.

lxviii. Prior to Substantial Completion:

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

lxix. Prior to final plat approval:

- a. The applicant shall meet the requirements for Substantial Completion Section 190 of the Clackamas County Roadway Standards.
- b. The applicant shall dedicated a minimum 44-feet full width right-of-way to Clackamas County for the extension of SE Regency View St and minimum 27-feet from centerline along SE 132nd Ave.
- c. The applicant shall dedicate an 8-foot wide public utility, signs and sidewalk easement along the entire frontage SE Regency View St and SE 132nd Ave.
- d. The applicant shall annex into street lighting district CCSD #5 and submit an assessment area to pay for the operation of the street lighting.

N) Public & Private Roadways:

- lxx. The applicant shall design the extension of SE Regency View St to match the centerline with the existing portion east of SE 132nd Ave.
- lxxi. The applicant shall design and construct full frontage improvements for the extension of the SE Regency View St:
 - a. Minimum 32-feet of pavement (structural section to meet geotechnical requirements)
 - b. 6" standard curb

- c. 5-foot curb-tight ADA compliant sidewalk on both sides
 - d. Dual ADA compliant curb ramp at NW and SW corner of SE Regency View St and SE 132nd Ave
 - e. Street trees behind the sidewalk
 - f. Street lighting per CCSD #5
 - g. Drainage facilities in compliance with WES/CCSD#1 requirements and Clackamas County *Roadway Standards* Chapter 4
- lxxii. The applicant shall design and construct full frontage improvements for half-street improvements along the entire frontage of SE 132nd Ave:
- a. Minimum 16-foot radius of pavement (structural section to meet geotechnical requirements)
 - b. 6-inch mountable curb
 - c. 5-foot curb-tight ADA compliant sidewalk connecting to existing sidewalk on south end
 - d. Street trees behind the sidewalk
 - e. Street lighting per CCSD #5
 - f. Drainage facilities in compliance with WES/CCSD#1 requirements and Clackamas County *Roadway Standards* Chapter 4
- lxxiii. The applicant shall design and construct a minimum 20-foot radius curb at the NW and SW intersection of SE Regency View St and SE 132nd Ave per *Roadway Standards* Section 250.8 Table 2-15.
- lxxiv. Provide stop sign, stop bar and street sign at the SW intersection of SE Regency View St and SE 132nd Ave. Street signage shall meet Standard Details T100, T130, T150 and T250.
- lxxv. The applicant shall provide and maintain minimum intersection sight distances at SE Regency View St and SE 132nd Ave. Intersection sight distance shall restrict plantings at maturity, retaining wall, embankments, trees, fences or any other objects that obstruct vehicular sight distance. Minimum required intersection sight distance is 280 feet north and south bound along SE 132nd Ave.
- lxxvi. All off-site utility connection and extensions shall adhere to Chapter 7 of the *Roadway Standards* for pavement restoration requirements.

O) Private Roads & Access Drives:

- lxxvii. Entrance Permits for individual driveway accesses shall be obtain prior to building permits issuance for each lot.
- lxxviii. The applicant shall provide a driveway access for lot 6707 to SE 132nd Ave per Standard Detail D600.

P) Street Trees:

lxxix. Street trees shall be selected from the Clackamas County Approved Street Trees List.

lxxx. Street trees shall be planted behind the curb-tight sidewalk and per Section 255 of the Roadway Standards.

Q) Transportation Facilities Concurrency:

lxxxi. The applicant shall to provide signage and striping to create a Two-Way Stop Controlled Intersection stopping traffic east and west bound along SE Regency View St at the intersection of SE Regency View St and SE 130th Ave.

4. Conditions for Density

R) Density Summary

lxxxii. Maximum density for the proposed subdivision equals 10

lxxxiii. Minimum density for the proposed subdivision equals 8

5. Conditions for Land Divisions

S) General Conditions:

lxxxiv. Approval of this land use permit is based on the submitted written narrative and plan(s) submitted December 3, 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.

lxxxv. **Advisory Condition:** Applicant shall comply with Chapter 7.05 of the County Code for road naming and addressing requirements. Applicant can contact Liz Dance in the Planning Division for obtaining street addresses:
LDance@clackamas.us

lxxxvi. 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.

lxxxvii. **Advisory Condition:** The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project.

lxxxviii. 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.

T) General Approval Criteria:

- lxxxix. The proposed subdivision — including all, parcels, lots, tracts, easements, future structures, etc., potentially contained therein — shall comply with all applicable provisions of the R-7 Zoning District, as outlined in Section 315 of this Ordinance.
- xc. The proposed subdivision shall comply with the applicable provisions of Section 1000 of this Ordinance, *Development Standards*, as outlined above.
- xc. 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:
- v) 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.
 - w) Membership in the homeowners association shall be mandatory for each lot or parcel owner.
 - x) The homeowners association shall be incorporated prior to recording of the final plat.
 - y) 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.
 - z) **Prior to plat approval**, applicant shall submit a draft copy of the Covenants, Conditions and Restrictions (CC&Rs) to the Planning and Zoning Division to confirm that the above requirements are set forth in said CC&Rs.
- xcii. Approval Period and Time Extension:
- aa) 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.
 - bb) 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*.
- xciii. Final Plat Review:

- cc) 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.
- dd) 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.
- ee) 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.
- ff) New easements should include a statement that the easements are for the lots or parcels shown and any future divisions thereof.
- gg) Easements created for access to parcels that can be redeveloped or further divided shall contain language that would allow the access and utilities easement(s) used by any additional development or parcels created in future. Any private easements should also contain provisions for public utility services such as water, electricity, communications, gas, storm drainage, sanitary sewer, etc.

Dated: February 9, 2021



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

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