

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-8.5) and
Preliminary Approval of an 8-Lot Minor
Subdivision.

Case File Nos:
Z0466-20-ZAP & Z0467-20-SS

(Trillium Nook/Fletcher)

A. SUMMARY

1. The applicant is Shawn Fletcher. The owners are Shawn and Marlene Fletcher.
2. The subject property is located at 15047 SE 152nd Drive, Clackamas, OR 97015. The legal description is T2S, R2E, Section 12BA, Tax Lot 1600, W.M. The subject property is approximately 2.13 acres and is currently zoned Future Urban 10-Acre (FU-10). The County’s Comprehensive Plan designation for the property is Low Density Residential.
3. On January 21, 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-8.5), and the applicant’s proposal for preliminary approval for an 8-lot Minor Subdivision with one associated stormwater tract.
4. At the conclusion of the public hearing, the record was left open for seven days for new evidence (specifically, for the applicant to submit a phasing plan) and an additional seven days for responses, with the record closing on February 4, 2021.
5. County staff recommended approval of the Zone Change from FU-10 to R-8.5. County staff also recommended approval of the eight (8) 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 January 21, 2021 public hearing about this application, and additional evidence submitted within the February 4, 2021 open-record period. 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 1-19, and the County’s recommendation of approval for both the zoning change application and the applicant’s proposed subdivision, subject to conditions. Mr.

Blessing noted that the zoning change is consistent with the County's Zoning and Development Ordinance and the County's Comprehensive Plan.

3. Applicant's consultant Rick Givens testified in support of the application, emphasizing information about the appropriateness of the requested zone change to a designation of R-8.5 Urban Low Density Residential, with surrounding properties already zoned R-8.5 and developed consistent with the applicant's proposal. Mr. Givens also requested that the Hearings Officer keep the record open for an additional 7 days to submit a proposed phasing plan.
4. No one testified in opposition to the application. Dennis and Joanne Campredon, owners of an adjacent property, appeared and expressed their concern that the proposal submitted at the hearing show that an existing easement across their property would terminate once access to a public road is made available to the subject property.
5. The Hearings Officer left the record open at the conclusion of the public hearing for an additional 7 days for the applicant to submit information in support of a phasing plan, and an additional 7 days for the County to review and respond to the applicant's request for a phased subdivision.

C. FACTS

1. The applicant's subdivision proposal includes a total of eight (8) new lots ranging in size from 6,825 sq. ft. to 17,947 sq. ft. There is an existing single family home that will be retained on lot 5. A stormwater tract labeled as "Tract A" will be located at the southwest corner of the subject property. Access to the site will be from an extension of SE Pinegrove Court, an existing 40 foot right-of-way which is currently stubbed at the westerly property line of the subject lot. The new extension of SE Pinegrove Court will run roughly 80 feet east, where it will terminate into a standard cul-de-sac. From the north end of the proposed cul-de-sac, the applicant proposes to construct a 32'-wide private road that will serve the northern four (4) lots of the proposed subdivision. The private road is contained in "Tract B" and is currently being referred to as Trillium Nook Court, while the subdivision itself is currently being named "Trillium Nook". The applicant has also requested that this project be approved in two subdivision phases subject to ZDO Sec. 1105.07(C). 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. (Exhibits 1, 17, 18, 19, 20, 22, 23)
2. The gross site area of the subject property is 2.13 acres (92,874 sq. ft.). The site is presently developed with the aforementioned single family residence. The site contains a mix of conifers and deciduous trees. The site currently takes access from the northeast corner of the property via a private access easement over and across the neighboring property directly east of the subject property. The applicant's initial plan set (Submitted on 11/12/2020) proposed to keep the existing easement and use it as "emergency access" only (Exhibit 1). The neighbors directly east submitted a letter dated January 6, 2021 indicating that the applicant will no longer have access rights over and across their property once an "alternative access" is created (Exhibit 5). In response, the applicant submitted a "revised" site plan on 1/8/2021 that shows the aforementioned emergency access being removed (Exhibit 7). The applicant also provided an explanation for the removal of the access easement on 1/8/2021 (Exhibit 6). Staff notes that the revised site plan will be reviewed for compliance with ZDO Sec. 1007, the Comprehensive

- Plan, and the County Roadways standards, and is reviewed in more detail below. (Exhibits 1, 17, 23)
3. 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, 17)
 4. Mr. Erik Carr Bertram, Development Review Specialist for Clackamas Water Environment Services (CWES), reviewed the applicant's proposal and provided a June 30, 2020 preliminary statement of feasibility stating 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, and adequate surface water treatment and conveyance is available, or can be made available by the applicant through improvements. Mr. Carr Bertram reviewed the proposal per WES rules and regulations and submitted a list of conditions of approval necessary for the proposal to meet these standards. CWES provided comments dated January 7, 2021 noting that adequate surface water treatment can be achieved by appropriate stormwater design. (Exhibits 2, 8)
 5. Mr. Tim Janssen, Engineering Manager for Sunrise Water Authority, reviewed the applicant's proposal and provided a July 23, 2020 preliminary statement of feasibility stating that water service is available in levels appropriate for the development. (Exhibit 3)
 6. Rapid Soils Solutions performed infiltration testing for storm water drainage design at the site, submitting an April 17, 2020 report stating that infiltration for the site was not recommended due to shallow ground water. (Exhibit 4)
 7. The State of Oregon DOGAMI map for the immediate vicinity of the site shows no hazards are identified for the property. The State of Oregon's State Wetland Inventory –DSL Wetland Map shows no identified wetlands present or affecting the applicant's proposal for the property, including no mass movement areas, or high-shrink soils, etc. (Exhibits 9, 10)
 8. The current Comprehensive Plan Map for Clackamas County shows that the subject property is outside the Sunnyside Village Plan Area. Google Maps, Tri-Met Maps, County Comprehensive Plan Map 5-8a, and County Comprehensive Plan Map 4-8 for the area show that the site has close proximity to employment, transit stops for public transportation, industrial and commercial areas, and is an area designated for neighborhood development. (Exhibits 11, 12, 13, 14, 21, 22)
 9. Mr. Jonny Gish, County DTD, reviewed the proposal and submitted the County's Transportation Engineering Findings & Conclusions, dated January 6, 2021, on behalf of the County, providing specific conditions of approval necessary for the proposal to meet County standards. Rick Givens, the applicant's consultant, submitted an August 3, 2020 Design Modification Request that was reviewed and approved by County DTD staff. The modification allows a modified 30 foot radius cul-de-sac, 6-inch mountable curb with a 6-foot commercial curb-tight sidewalk, providing for no parking permitted throughout the cul-de-sac, leaving a 37-foot radius public right-of-way, in order to provide an adequate turnaround while maintaining a workable lot pattern. Staff determined that the local transportation system capacity is adequate to serve the existing development and proposed development of the site. (Exhibits 15, 16)
 10. Rick Givens, the applicant's consultant, sent a January 20, 2021 email to Mr. Blessing stating that for financial reasons the owner had decided he wanted to phase the subdivision, completing the first phase within the initial four-year approval period and the second phase within the additional two years allowed for a phased development. The applicant submitted a

letter with a revised Preliminary Plan for the Trillium Nook subdivision, providing a phasing plan for the proposed subdivision and addressing the County's related approval criteria. (Exhibits 20, 23, 24)

11. Mr. Blessing submitted a staff response to the applicant's phasing plan stating that staff did not identify any procedural items that would preclude the applicant from submitting additional items, or any relevant issues that would preclude the applicant from meeting the phasing standards. Mr. Blessing stated that the County recommends approval of the subdivision plan set forth in Exhibits 23 and 24 subject to the additional findings and additional Conditions of Approval in the revised staff report. (Exhibit 25)

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. Z0466-20-ZAP):

The first application considered in this report and recommendation is the requested zone change from FU-10 to R-8.5. 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. These four general criteria are reviewed 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-8.5 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, no hazards, including mass movement areas, high shrink-swell soils, etc., have been identified. (Exhibit 9)

The “smaller lots” category of zoning designations, including the R-8.5 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 less than five percent slopes.

The proposed R-8.5 designation is appropriate for the subject property and 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 (SWI), and the DOGAMI maps, it is evident that the subject property is not susceptible to flooding, high water table or poor drainage. However, the applicant’s soil infiltration test prepared by Rapid Soils Solutions dated April 17, 2020 does note that “shallow ground water” was discovered during site investigations (Exhibit 4). Notwithstanding this finding, Clackamas Water Environmental Services (CWES) has provided comments dated January 7, 2020 (Exhibit 8) which note that adequate surface water treatment can be achieved by appropriate stormwater design. CWES also requires the applicant to

demonstrate the ability to convey surface water to discharge points that meet CWES design standards.

The proposed R-8.5, “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 have submitted comments and recommendations dated January 12, 2021, indicating that the local transportation system capacity is adequate to serve the existing development and proposed development of the site. 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 has submitted a Preliminary Statement of Feasibility signed by Erik Carr-Bertram of CWES on June 30, 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 2)

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 June 30, 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 2)

Sunrise Water Authority (SWA) is the domestic and fire protection water service provider for this area. The applicant has submitted a Preliminary Statement of Feasibility signed by the SWA on July 23, 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)

In conclusion, the Hearings Officer finds that the transportation, sewer, water and storm drainage facilities are adequate, or can be made adequate through improvements made by the developer of the subdivision, to support the proposed development of the property under the proposed R-8.5 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. 156 runs along SE 152nd Ave (Exhibit 13). The nearest bus stop is on SE 152nd Ave and Se Sedona Drive, which would require a walking distance of approximately 1,280 ft. from the new subdivision. (Exhibit 13)

The subject property is approximately one-quarter mile from the nearest transit stops for Tri-Met Route No 156. The proposed R-8.5 zoning designation is consistent with this factor and given the short walking distances to the transit stop.

- 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 ½ mile north of State Hwy 212 and the associated "Clackamas Industrial Area" that runs along Hwy 212 from 152nd ave west, roughly to Interstate 205 (Exhibit 12). This area is identified as an industrial area on the County's "Urban Growth Concept" which is Map 4-8 of the Comprehensive Plan (Exhibit 14). In the opposite direction, SE Sunnyside Road is roughly ¾ - 1 mile north of the subject property and has ample opportunity for several commercial/service jobs that are located along SE Sunnyside Rd, in both directions.

The subject property is within close proximity to jobs, shopping and cultural activities; therefore, a "smaller lot" designation such as the proposed R-8.5 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.

Map X-SC-1 of the Comprehensive Plan demonstrates that the subject property is outside the Sunnyside Corridor Community Plan Area (eastern extent of which is SE 138th Ave) and some 500 feet south of the Sunnyside Village Community Plan Area. (Exhibit 11)

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 8,500 square feet or smaller.

The entirety of the subject property is surrounded by the R-8.5 zoning designation, and the majority of lots within the immediate vicinity are 8,500 sq. ft. or less and where generally developed under the R-8.5 zoning regulations (which were modernized around 1980). This can be referenced in the County's GIS zoning layer (Exhibit 19)., The proposal fits in to the historic lot sizes and development pattern surrounding the property.

The proposed R-8.5 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. except tax lot 22E12BA09400, which is an undevelopable "tract" as shown on the County Tax Assessor Map (Exhibit 18).

This criteria is not applicable.

The Hearings Officer finds that, on balance, consideration of Policies 4.R.2.1 to 4.R.2.7 leads to the conclusion that the R-8.5 designation is the most appropriate zoning designation for the subject property, and is consistent with the surrounding land use patterns.

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 previously, 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 to and shall be reviewed by CWES according to their rules and regulations, and designed and constructed by the developer.

- b. Water: As discussed previously, Sunrise Water Authority (SWA) has indicated that adequate potable water supplies are available in sufficient quantities to provide normal domestic and fire protection needs for the proposed development upon completion of improvements to be made by the developer of the project.

County staff report, and the Hearings Officer finds, that adequate public facilities and services are currently available, or can be made available through improvements constructed by the developer/owner to serve the proposed development.

- 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 seven new homes, the project will generate 14 total daily vehicle trips, with 7 peak hour AM trips and 7 peak hour PM peak trips. Per Roadway Standards Section 295.2, a traffic study is not required for developments that generate less than 20 peak hour trips. Staff reports that the transportation system is adequate and will continue to be adequate.

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. has concluded, prior to the filing of the application 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.

The County Engineering Div. staff has submitted comments concerning this proposal and the adequacy of the transportation system dated January 12, 2021. (Exhibit 15) These are incorporated herein by reference. The Engineering staff has concluded 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 Planning and Zoning Division staff report, and the Hearings Officer finds, that these criteria have been 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 has submitted comments and recommendations dated January 12, 2021 and discussed previously addressing this criteria. Based upon the preliminary plan for the subdivision, the County Engineering staff have found that the safety of the existing and proposed transportation system will be adequate.

Based upon this discussion, the Hearings Officer finds that this criterion will be satisfied.

5. **On balance, the Hearings Officer finds that the proposed zone change from FU-10 to R-8.5 is appropriate for the subject property and should be approved.**

Part II:

MINOR SUBDIVISION APPLICATION (FILE NO. Z0467-20-SS):

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

County staff reviewed this proposed subdivision application with respect to the criteria listed above and made a number of related findings, and related proposed conditions of approval, as follows:

Section 315 of the ZDO controls land uses within the Urban Low Density Residential zoning districts including the proposed R-8.5 zoning district. The recommended conditions of approval for this subdivision will include compliance with the use, density, dimensional and development standards applicable to such a development in these zoning districts.

Per ZDO Section 315, the minimum lot or parcel size requirement is 8,500 s.f. with exceptions for planned unit developments and two or more lawfully established homes on one lot of record. The applicant has proposed to develop the lots pursuant to Table 315-2 of Section 315 of the ZDO. This provision allows for flexibility in lot sizing provided that the maximum permitted density is not exceeded and the smallest lots are not less than 80% of the district land area. The smallest parcel permitted in the R-8.5 zoning district under this provision is 6,800 s.f. According to the applicant's submitted site plan, proposed "Lot 7" will be the smallest at 6,825 sq. ft. The applicant can meet the criteria of Table 315-2. **A condition of approval is warranted to ensure compliance with ZDO Sec. 315.**

With such conditions of approval, the proposed subdivision is a permitted use within the proposed R-8.5 zoning district. The applicant has designed the subdivision to comply with the relevant approval criteria contained in the ZDO. **These criteria can be satisfied.**

1. Section 1001 of the ZDO sets forth the general provisions of the 1000 Sections that, taken together, set forth the general standards for development of property and associated facilities within the unincorporated area of Clackamas County.

Finding: Pursuant to Subsection 1001.02(A), the standards set forth in the 1000 Sections apply to all subdivision applications and approvals. **These criteria can be satisfied by conditions.**

2. Section 1002 of the ZDO, Protection of Natural Features, contains regulatory language regarding development affecting hillsides with slopes of 20% or greater, trees and wooded areas, river and stream corridors, and wildlife habitats and distinctive resource areas.

A. Section 1002.01, Hillsides, applies to development on slopes of 20% or greater.

- i. Finding: The intent of these criteria is to ensure that no lots are created that cannot be developed due to issues with steep slopes.
- ii. Finding: The subject property is level and does not contain slopes of 20% or greater.

These criteria are not applicable to the proposed development.

- B. Section 1002.02 applies to development restrictions following excessive tree removal prior to the filing of a development application.

There is no indication that tree removal has occurred at any time recently on the site. **These criteria are not applicable to the proposed development.**

- C. Section 1002.03, Trees and Wooded Areas, requires that existing wooded areas, 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. 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.

Finding: Staff notes that this policy contains subject language, particularly the following statement: “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.” Staff does not have a “clear and objective” method to determine what constitutes which trees shall be preserved and where. Therefore, pursuant to ORS 197.307, this policy does not apply. **These criteria can be satisfied by conditions.**

- D. Section 1002.04, River and Stream Corridors, requires all developments to be planned, designed, constructed and maintained so that 1) River and stream corridors are preserved to the maximum extent feasible and water quality is protected through adequate drainage and erosion control practices, and 2) Buffers or filter strips of natural vegetation are retained along all river and stream banks.

Finding: There are no streams or rivers within, or in close proximity to the subject property. **These criteria are not applicable.**

- E. Sections 1002.05, 1002.07 and 1002.08 do not apply as the resources that are the subject of these criteria are not located within, or in close proximity to the site.

3. Section 1003, Hazards to Safety:

- A. Section 1003.02, Standards for Earth Movement Hazard Areas: Finding:The subject property does not include any Earth Movement Areas as identified on the DOGAMI Geologic Hazard maps (Exhibit 9). **This criterion is not applicable.**

- B. Section 1003.03, Standards for Flood Hazard Areas:

Finding: According to the Federal Emergency Management Area FIRM maps, the subject property does not contain any regulated flood hazard areas. **This criterion is not applicable.**

- C. Section 1003.04, Standards for Soil Hazard Areas:

Finding: Except as described above, the DOGAMI maps, and other relevant resources such as FEMA Flood Insurance Rate Maps (FIRMs), the USDA NCRD soil maps, and the State Wetlands Inventory (SWI) maps, the subject property does not contain any potential soils hazards. **This criterion is not applicable.**

- D. Section 1003.05, Standards for Fire Hazard Areas:

Finding: The subject property is not located in an identified wildfire hazard area. **This criterion is not applicable.**

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4. Section 1006, Water Supply, Sanitary Sewer, Surface Water and Utilities Concurrency, of the ZDO sets forth the standards, requirements and considerations that pertain to water supply, sanitary sewer, surface water and utilities services concurrency.

A. Pursuant to 1006.01(A), the location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the rules and regulations of districts for surface water management.

Findings:

- i. The site is located within a surface water management district, CWES-CCSD#1. Management of surface water from roofs, foundations, footings and other impervious surfaces is subject to review and approval by the CCSD#1 pursuant to the CCSD#1 Surface Water Management Rules and Regulations.
- ii. Based upon the preliminary plan and topographic information, site grading will be limited primarily to that necessary to construct the driveway approaches for each home, home foundation excavations and installation of utilities for the new single-family dwellings. Grading should be limited to the minimum necessary given the topography, soils characteristics and drainage of the site.
- iii. CCSD#1 has submitted comments and recommendations dated January 8, 2020 (Exhibit 8) concerning this proposal. These comments provide stormwater requirements that the applicant must meet.
- iv. It is the responsibility of the owner/applicant to demonstrate to the satisfaction of the CCSD#1 that a storm water management system and erosion control measures can be implemented to serve the proposed development.

It is feasible to comply with the CCSD#1 surface water management requirements per comments dated January 8, 2020

B. Section 1006.01(B): All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development.

Findings:

The proposed development will be served with electricity by PGE, gas by NW Natural Gas, and with cable television services. A condition of approval is warranted requiring that all of these utilities shall be installed pursuant to the requirements of the district or company serving the property and shall be installed underground. Conformance to the standards of the applicable electric, gas and communications districts or companies is monitored by the County Engineering through the site Development Permit and Utility Placement Permit reviews prior to the commencement of construction. Except where otherwise prohibited by the utility district or company, any new utility facilities shall be installed underground. A condition of approval to this effect is warranted.

These criteria can be satisfied through conditions.

- C. Per Subsec. 1006.01(C), a coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.

This criterion can be satisfied by condition.

- D. Pursuant to Sec, 1006.01(D), 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.

Finding: The requirements for such easements, if any, will be determined by the Planning Division, CCSD#1, SWA and the County Engineering Div. during the final plat review process. **This criterion can be satisfied by condition.**

- E. Section 1006.02: Street lights shall be required for all developments inside the urban growth boundary, as outlined under this Subsection.

- i. Installation of street lights shall be consistent with the requirements of the County Service District no. 5 (CCSD#5) and the company serving the development (PGE). In every instance, a street light shall be installed where a new road intersects the County right of way and, in the case of subdivisions, at every intersection. The subject property is located within the urban growth boundary and is subject to the street lighting requirements of the CCSD #5.

Finding: Street lighting consistent with the area standard as determined by the CCSD#5 fronting and within the development will be required. A condition of approval is warranted requiring that street lighting be installed as deemed necessary by, and pursuant to, the requirements of the CCSD#5. The property owner shall also submit a request in writing to the CCSD#5 for the installation of the lighting and for the formation of an assessment area to pay for the operation and maintenance of lighting prior to final subdivision plat approval. This criteria is listed below as a Condition of Approval.

- F. Pursuant to Subsection 1006.03, all development which has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the district serving the development and under the applicable standards outlined in this Subsection, most of which relate to whether the proposal is a rural or urban development.

Findings:

- i. The site is located within the Sunrise Water Authority (SWA) service area, a public water service provider.
- ii. The applicant has submitted a Preliminary Statement of Feasibility signed by the SWA and dated July 23, 2020 indicating that the SWA has adequate supplies of potable water to supply domestic and fire flows needs if this subdivision is approved and subject to service improvements consistent with SWA standards and specifications (Exhibit 3).
- iii. A condition of approval is warranted requiring the applicant to install water service to each parcel consistent with the standards and specifications of the SWA and the

Clackamas Fire District No. 1 (the latter to ensure adequate fire flows and hydrant locations are provided). **This criterion can be satisfied through conditions.**

- G. Pursuant to Section 1006.04(A), all development that has a need for sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development.

Finding: The subject property is located within the CCSD#1 service area for sanitary sewerage. The applicant has submitted a Preliminary Statement of Feasibility signed by the CWES- CCSD#1 and dated June 30, 2020 indicating that CCSD#1 has adequate sanitary sewer service available subject to compliance with the CCSD#1 rules and regulation and subject to review of the final plans for the development prior to final plat approval (Exhibit 2) **These criteria can be satisfied through conditions.**

- H. Pursuant to Section 1006.06(B) the requirements of the surface water management regulatory authority apply. If the County is the surface water management regulatory authority, the surface water management requirements of the *Clackamas County Roadway Standards* apply.

Findings:

- i. The subject property is located within CCSD#1 service area and surface water management plans and implementation is subject to review and approval of CCSD#1 pursuant to its' Surface Water Management Rules and Regulations. The applicant has provided a Preliminary Statement of Feasibility signed by CCSD#1 and dated July 30, 2020 (Exhibit 2) indicating that it is feasible to provide adequate surface water management for the proposed project.
- ii. The proposed development is inside CCSD#1 boundaries and is subject to the Rules & Regulations and Standard Specifications. Therefore, the developer is required to submit plans for review and approval through CCSD#1. The current Rules and Regulations for storm water and sanitary apply. The current rates and charges for CCSD#1 storm and sanitary apply. Below are findings that were provided by CWES on January 8, 2021:

Clackamas Water Environment Services (WES) is an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 for the purpose of providing regional sewerage works, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary or storm sewage within its boundaries. WES has adequate capacity for sanitary sewer collection and treatment to serve this property. The development proposal exceeds 5,000 square feet of new or modified impervious surface area.

- iii. As discussed above, CWES has imposed several Conditions of Approval that will be required prior to final approval of the subdivision.

These criteria can be satisfied through conditions.

5. Section 1007, Roads, Circulation and Parking: This section requires right-of-way dedication and improvements for all new subdivisions as deemed necessary by the County Dept. of Transportation & Development according to classifications and guidelines listed in Chapter 5 of the Clackamas County Comprehensive Plan and the most recent standards adopted by separate order by the Board of County Commissioners. The latter incorporate the Clackamas County Roadway Standards. Staff received findings and associated conditions of approval dated January 12, 2021 noting that, with conditions, all applicable standards are either met or can be met. **These criteria can be satisfied through conditions.**

1007 ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

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

Finding: The applicant is proposing the extension of County road SE Pinegrove Ct. Future development of SE Pinegrove Ct is limited due to pre-existing development.

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

Finding: The applicant will be required to dedicate a minimum of 40-feet of public right-of-way through the tangent section of SE Pinegrove Ct and a 37-foot radius within the cul-de-sac

A Design Modification has been approved for the substandard right-of-way dedication and frontage improvements. **This standard is met.**

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

Finding: The applicant is proposing a private street intersecting the proposed extension of SE Pinegrove Ct on the north side of the cul-de-sac. The applicant is proposing the private street intersection with SE Pinegrove Ct to have an intersection spacing of 300 feet. **This standard is 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).

Finding: The subject development is not identified on Map 5-6. **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.

Finding: The applicant is proposing a private street intersecting the proposed extension of SE Pinegrove Ct on the north side of the cul-de-sac. **This standard is met.**

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.

Finding: The applicant is proposing the private street intersection with SE Pinegrove Ct to have an intersection spacing of 300 feet. **This standard is 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.

Finding: The applicant is proposing a private street with a 5-foot sidewalk centered within an access and utility easement. **This standard has been met.**

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.

Finding: The applicant is proposing one driveway access per lot with shared access for lots 2-5. Per the approved Design Modification no parking will be permitted throughout the cul-de-sac (Exhibit 16). **This standard is met.**

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

Finding: The applicant is proposing an extension of SE Pinegrove Ct with a centerline transitioning radius of 50-feet into the cul-de-sac. The applicant is proposing a private street intersecting SE Pinegrove Ct with a centerline spacing distance of 300-feet from SE Pinegrove Lp. **This standard has been met.**

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

Finding: The applicant is proposing the extension of an existing County road, terminating in a cul-de-sac. **This standard is met**

- F. Roadways shall be designed to accommodate transit services where transit service is existing or planned and to provide for the separation of motor vehicles, bicycle, and pedestrian traffic, and other modes as appropriate.

Finding: The subject proposal is not adjacent to transit services. **This standard does not apply.**

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

Finding: The applicant is not proposing any pedestrian crossing. The applicant will be required to provide a lowered 6-foot curb-tight sidewalk with mountable curb around the cul-de-sac. **This standard can be met with conditions of approval.**

1007.02 PUBLIC AND PRIVATE ROADWAYS

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

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

Finding: The applicant is proposing to extend SE Pinegrove Ct and a creation of a private street. SE Pinegrove Ct does not have specific design standards. **This standard does not apply.**

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.

Finding: Pinegrove Ct is not identified as a Regional or Community Boulevard. **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.

Finding: Pinegrove is not 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.

Finding: SE Pinegrove Ct is located within a “Neighborhood” on the Urban Growth Concept Plan Map IV-8. The applicant has proposed full frontage improvements throughout the cul-de-sac and the private street. **This standard has been met.**

- 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.

Finding: The applicant has proposed lowered 6-foot curb-tight sidewalk with mountable curb throughout the cul-de-sac. Additionally, the applicant will be required to provide a minimum 5-foot sidewalk on the private street and throughout the fire truck turnaround. **This standard can be met.**

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

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

Finding: The proposed development is surrounded by existing developments with no public access. **This standard does not apply.**

- 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.

Finding: The applicant’s proposal extends the public road to existing developments with no public access. **This standard does not apply.**

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

Finding: Design Modification has been approved for the substandard right-of-way dedication on SE Pinegrove Ct. The applicant will be required to dedicate a minimum of 40-feet of public right-of-way through the tangent section of SE Pinegrove Ct and a 37-foot radius within the cul-de-sac (Exhibit). **This standard can be met through conditions of approval.**

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

- a. Sustainable surface water management solutions such as low infiltration planters and basins, swales, ponds, rain gardens, trees, porous pavement, and minimal disruption to natural drainage systems;
- b. Preservation of existing significant trees and native vegetation;
- c. Preservation of natural terrain and other natural landscape features;
- d. Achievement of maximum solar benefit for new development through orientation and block sizing;
- e. Existing forest or agricultural uses;
- f. Existing development;
- g. Scenic qualities;
- h. Planned unit developments;
- i. Local access streets less than 200 feet in length which are not extendible; and
- j. Interior vehicular circulation for multifamily, commercial, institutional, and industrial developments.

Finding: The applicant is not proposing a “Green Street”. **This standard does not apply.**

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

Finding: The applicant has proposed the extension of SE Pinegrove Ct. terminating in a cul-de-sac. The future extension has been eliminated by existing development to the east. Also, Tract “G” of Sedona Park No. 2 subdivision is an open space tract containing steep slopes that should be left undisturbed. Staff finds that a cul-de-sac is acceptable in this case given these findings. **This standard is not applicable.**

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

Finding: The applicant will be required to provide intersection sight distance at the intersection of the Private street and SE Pinegrove Ct. SE Pinegrove Ct is classified as an urban local street and has a speed limit of 25 MPH. Therefore the applicant will be required to provide a minimum of 280 feet of intersection sight distance. **This standard can be met through conditions of approval.**

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.

Finding: The applicant has been approved for a Design Modification for the cul-de-sac. Parking will not be permitted along throughout the cul-de-sac. **This standard has been met.**

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

Finding: The applicant will be required to dedicate a minimum of 40-feet of public right-of-way through the tangent section of SE Pinegrove Ct and a 37-foot radius within the cul-de-sac.

Design Modification has been approved for the substandard right-of-way dedication (Exhibit 16). This standard is met.

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

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

Finding: The applicant has proposed full frontage improvements throughout the cul-de-sac and private road.

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

Finding: The applicant will be required to provide a lowered 6-foot curb-tight sidewalk with mountable curb throughout the cul-de-sac and a 5-foot wide curb-tight sidewalk on the private road throughout the fire truck turnaround. These standards are detailed below in the conditions of approval

3. Transit amenities as specified in Subsection 1007.05; and

Finding: Pinegrove Loop is not located on an existing or planned transit route. The closest public transit route is located at the intersection of SE Sedona Dr. and SE 152nd Ave. **This standard does not apply.**

4. Street trees as specified in Subsection 1007.06.

Finding: Except where street trees at maturity will block site line distance from the private road on to SE Pinegrove Court, street trees will be required on the extension of SE Pinegrove Loop. This criterion is detailed below in the conditions of approval.

1007.03 PRIVATE ROADS AND ACCESS DRIVES

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

Finding: The applicant is proposing a 26-foot wide paved private street with curb on both sides and a 5-foot sidewalk on one side. **This standard can be met and is detailed through conditions of approval.**

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

Finding: The applicant is proposing a 32-foot wide private access and utility easement for access for lots 2-5. **This standard is not applicable**

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

Finding: The applicant is proposing a 26-foot wide paved private street with curb on both sides and a 5-foot sidewalk on one side. **This standard is met, and detailed below in the conditions of approval**

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

Finding: The applicant is proposing to place utilities within the shared access and utility easement. **This standard is met.**

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

Finding: The applicant is proposing the private street to serve less than seven lots. The applicant has not proposed a deviation from the standard. **This standard does not apply.**

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).

Finding: The applicant will be required to provide and maintain vision clearance standards. This standard is detailed in the conditions of approval, below.

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.

Finding: The applicant has been approved for a Design Modification allowing a lowered 6-foot curb-tight sidewalk with mountable curb throughout the cul-de-sac. Additionally, the applicant will be required to provide a minimum 5-foot sidewalk on the private street and throughout the fire truck turnaround. These standards are detailed below.

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

Finding: The applicant will be required to design and construct an ADA compliant sidewalk throughout the development.

7. 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.

Finding: SE Pinegrove Ct is not listed on the Map 5-2a Planned Bikeway Network or 5-2b Essential Pedestrian Network, nor is it listed on any of the other maps. **This criterion is not applicable.**

- B. 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.

Finding: The applicant has proposed sidewalks the development. **These standards are detailed in the conditions of approval.**

- C. 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.

Finding: The applicant has been approved for a Design Modification allowing a lowered 6-foot curb-tight sidewalk with mountable curb throughout the cul-de-sac. Additionally, the applicant will be required to provide a minimum 5-foot sidewalk on the private street and throughout the fire truck turnaround. **These standards can be met, and are detailed in the conditions of approval.**

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

Finding: The proposed development is not located along an arterial or collector. **This standard does not apply.**

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

Finding: The applicant has been approved for a Design Modification allowing a lowered 6-foot curb-tight sidewalk with mountable curb throughout the cul-de-sac. Additionally, the applicant will be required to provide a minimum 5-foot sidewalk on the private street and throughout the fire truck turnaround. **This standard is detailed below in the conditions of approval.**

- E. 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:

Finding: The applicant has been approved for a Design Modification allowing a lowered 6-foot curb-tight sidewalk with mountable curb throughout the cul-de-sac. Additionally, the applicant will be required to provide a minimum 5-foot sidewalk on the private street and throughout the fire truck turnaround. **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.

Finding: SE Pinegrove Loop is not located on an existing or planned transit route. The closest public transit route is located at the intersection of SE Sedona Dr. and SE 152nd Ave. **This standard does not apply.**

1007.06 STREET TREES

- A. Within the Portland Metropolitan Urban Growth Boundary, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, three-family dwellings, attached single-family dwellings where three or more dwelling units are attached to one another, and commercial, industrial, or institutional developments, except that for structural additions to existing commercial, industrial, or institutional buildings, street trees are required only if the addition exceeds 10 percent of the assessed value of the existing structure, or 999 square feet. Street trees shall comply with the following standards:

Finding: As noted above, street trees will be required for SE Pinegrove Loop extension except where street trees prevent safe sight distance from being achieved.

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.

Finding: Street tree species will be planted from an approved list determined by the Dept. of Transportation and Development (DTD)

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.

Finding: As discussed above, the location of street trees may be modified based on these and other factors on the site

4. Planting of street trees shall be coordinated with other uses which may occur within the street right-of-way, such as bikeways, pedestrian paths, storm drains, utilities, street lights, shelters, and bus stops.
5. Street trees at maturity shall be of appropriate size and scale to complement the width of the street or median area.

Street tree planting shall be coordinated with other uses and shall be appropriate size and scale.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

*Finding: The applicant is proposing an 8-lot subdivision with an extension of an urban local street. Each residential home is expected to generate 2 vehicular trips during peak hours. A Transportation Impact Study to address traffic capacity is not required when the proposed development will generate less than 20 vehicle trips in any year hour. **This standard does not apply.***

- C. As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, *Motor Vehicle Capacity Evaluation Standards for the Urban Area*, and 5-2b, *Motor Vehicle Capacity Evaluation Standards for the Rural Area*.

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

6. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.
7. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed development. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.

Finding: Staff finds that the anticipated relative impact of the proposed development on the existing or planned transportation system is adequate. Additionally, staff finds that the LOS and v/c will remain at acceptable levels.

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

*Finding: The applicant is not proposing any off-site traffic improvements. The proposed development does not trigger the need of a Traffic Impact Study. **This standard does not apply.***

8. For a phased development, the first phase shall satisfy Subsections 1007.07(E)(1) through (4) at the time of land use approval. Subsequent phases shall be subject to the following:
 - a. At the time of land use approval, necessary improvements shall be identified and the phase for which they are necessary shall be specified.
 - b. Necessary improvements for a particular phase shall either:
 - i. Comply with Subsections 1007.07(E)(1) through (3) at the time of building permit approval, except that the improvements shall be scheduled to be under construction

within three years of building permit approval rather than within three years of land use approval; or

- ii. Comply with Subsection 1007.07(E)(4), in which case the improvements shall be completed or guaranteed prior to issuance of a certificate of occupancy or recording of the final plat for the applicable phase.

Finding: The applicant is not proposing a phased development. **This standard does not apply.**

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

- 9. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C).
 - c. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.
 - d. If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.

Finding: The existing transportation system serving the proposed development is sufficient to handle the anticipated traffic. No off-site improvements are required. **This standard does not apply.**

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

- 10. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:
 - e. A complete project or a segment of a roadway identified in Comprehensive Plan Table 5-3a, *20-Year Capital Projects*, 5-3b, *Preferred Capital Projects*, or 5-3c, *Long-Term Capital Projects*; the STIP; or the capital improvement plan (CIP) of a city or another county.
 - i. For a segment of a roadway to qualify as a substantial contribution, the roadway shall be on or abutting the subject property; no less than the entire segment that is on or abutting the subject property shall be completed; and there shall be a reasonable expectation that the entire project—as identified in Comprehensive Plan Table 5-3a,

5-3b, or 5-3c; the STIP; or the CIP of a city or another county—will be completed within five years;

- f. Located within the impact area of the proposed development. The impact area shall be established by the Clackamas County Roadway Standards;
- g. Estimated to have a minimum construction cost of \$527,000 in year 2004 dollars. The minimum construction cost shall on January 1st of each year following 2004 be adjusted to account for changes in the costs of acquiring and constructing transportation facilities. The adjustment factor shall be based on the change in average market value of undeveloped land, except resource properties, in the County according to the records of the County Tax Assessor, and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and shall be determined as follows:
 - i. $\text{Change in Average Market Value} \times 0.50 + \text{Change in Construction Cost Index} \times 0.50 = \text{Minimum Construction Cost Adjustment Factor}$
 - ii. After the adjustment factor is applied to the previous year's minimum construction cost, the result shall be rounded to the nearest thousand.

Finding: The applicant is not proposing to make a voluntary substantial contribution to the transportation system. **This standard does not apply.**

- 11. Prior to issuance of a certificate of occupancy for a conditional use or a development subject to design review and prior to recording of the final plat for a subdivision or partition, the applicant shall do one of the following:
 - h. Complete the substantial contribution; or
 - i. For transportation facilities under the jurisdiction of the County, the applicant shall provide the county with a deposit, letter of credit, performance bond, or other surety satisfactory to county staff pursuant to Section 1311. For transportation facilities under the jurisdiction of the state, a city, or another county, the applicant shall comply with the respective jurisdiction's requirements for guaranteeing completion of necessary improvements. This option is only available if the jurisdiction has a mechanism in place for providing such a guarantee.

Finding: The applicant will be required to construct all frontage improvements within County right-of-way and shared private access improvements including Fire access prior to final plat approval. **This standard can be met.**

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 subdivision, 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.

Finding: The applicant is not being offered fee-in-lieu for any improvements. The applicant will be required to construct all frontage improvements within County right-of-way and shared private access improvements including Fire access prior to final plat approval. **This standard does not apply.**

- 6. Section 1012 of the Zoning and Development Ordinance, Density Standards, Transfers and Bonuses, identifies the density standards for subdivisions within the various zoning districts.

Findings:

- i. Maximum Density: Pursuant to Subsection 1012.05 the maximum density is calculated as follows: Gross Site Area (GSA) is 92,874. Staff calculates “new road” area (new private road and public road) at roughly 16,000 sq. ft. However, only a maximum of 15 percent of “new road” (NR) may be subtracted from the GRA. In this case 15 percent of 92,874 is 13,931. Since there are no other subtractions for moderately or highly restricted areas, the “net site area” (NSA) is 78,943. Thus, Maximum Density is 78,943 (NSA) / 8,500 (District Land Area-DLA). The result is 9.28. Per ZDO Sec. 1012.05(F), the partial figure of 9.28 is rounded down to nine (9). Therefore, maximum density is 9. Staff agrees with applicant’s density calculation. The number of lots proposed complies with this subsection. This criteria is listed above in the conditions of approval. Staff notes that although the maximum density is 9, the applicant has only requested 8 lots. The addition of one extra lot will not be authorized without a subsequent land use permit for a land division or a modification of this permit, if approved by the Hearings Officer.
- ii. Minimum Density is the same calculation above, except, per ZDO Sec. 1012.08(C)(1), the max density or “base density” (BD) is multiplied by 80 percent. In this case, BD is still 78,943 multiplied by 0.80 = 63,154. This is divided by the DLA (8,500) which equals 7.42. Only partial figures of one half or greater need to be rounded up. Thus, Minimum Density is seven (7). Staff agrees with the applicant’s calculations. The proposed subdivision layout shows eight (8) lots, thus minimum density is met. This standard is detailed above in the conditions of approval.

The staff finds that the proposed subdivision can comply with the maximum density standards pursuant to Section 1012 of the ZDO.

- 7. Section 1017 of the Zoning and Development Ordinance, Solar Access Standards, identifies the design standards for new lots within subdivisions.

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Findings:

- i. ZDO Sec. 1017.03 (A) requires that at least 70 percent of lots have a minimum north-south dimension of 90 feet, while 1017.03(B) requires that at least 70 percent of lots have a front lot line that is oriented within 30 degrees of a true east-west axis. The applicant's narrative notes that only one lot can meet this standard. Staff examined the site plan and concurs that the layout as proposed cannot meet these standards. The applicant has prepared a detailed narrative requesting the an exception listed in ZDO Sec. 1017.04 be granted based on the following: 1) the east-west extension of Pine Grove Court can only result in a max width of 66 for property south of the right-of-way extension, 2) it is not possible to connect Pine Grove Court to any other street stubs because the adjoining property is private property and open space, and 3) lots 1-5 must have a north-south front axis because width of the subject property restricts each lot from having a proper east-west frontage. Staff agrees with the applicant. ZDO subsec. 1017.04(A)(3) and (4) provide for an exception of the following can be demonstrated:

“Existing road patterns must be continued through the subject property or must terminate on-site to comply with applicable road standards or planned roads in a way that prevents given streets, lots, or parcels from being oriented for solar access.” Also, “ An existing public easement or right-of-way prevents given streets, lots, or parcels from being oriented for solar access.”

Staff notes that County Tax Map (Exhibit 18), shows the southern lot line no wider than 215 feet. As the applicant noted, the existing layout of Pinegrove Loop is unfortunately oriented in a way that prevents the southern 66 feet of the subject property from being able to meet subsec. 1017.03(A). Further, a connection to SE 152nd Ave east of the subject property is not feasible due to Tract “G” of Sedona Park No. 2, an open space tract, which is blocking access to SE 152nd Ave. The County Dept. of Transportation and Development (DTD) does not have a mechanism to require such a connection. Furthermore, Tract “G” contains steep slopes that should remain undisturbed. . Therefore the applicant is proposing a cul-de-sac to terminate the public road. Since the cul-de-sac cannot be extended to the east half of the lot, lots 1-5 require a north-south oriented road instead of a road that is oriented in an east-west direction. Therefore, given these factors, staff finds the exceptions listed in subsec. 1017.04(A)(3) and (4) have been demonstrated. **This criteria is met.**

8. Section 1105 of the ZDO sets forth several standards and criteria for which subdivision can be approved. Per ZDO Sec. 1105.03(C), as part of preliminary plat approval for a subdivision, approval of a phasing plan and schedule to allow final plat review to occur in two or more phases, each of which includes a portion of the subject property, may be granted in consideration of such factors as the size of the proposed subdivision, complexity of development issues, required improvements, and other factors deemed relevant. If a phasing plan and schedule is approved, such approval shall be subject to the following:

- i. The total number of lots in all recorded phases of the subdivision shall not exceed the maximum density allowed pursuant to Section 1012, Lot Size and Density, for the gross site area included in all such phases.
- ii. If one or more open space tracts are required as a condition of subdivision approval, the first phase shall include all required open space tracts for the entire subdivision.
- iii. Future phases shall be shown upon the initial and subsequent final plats as a “Tract Reserved for Future Development.”
- iv. As deemed necessary by the County or special districts, dedication of rights-of-way or easements into or through future phases may be required with the initial or subsequent phases, prior to platting of the final phase.

Findings: the number of total lots in the phasing plan has not increased nor decreased. The applicant’s phasing plan still complies with ZDO Sec. 1012. No Open Space Tracts are required in this proposal. The applicant’s phasing plan (Exhibit 23) shows lots 5-8 as future lots and calls out this as a “Tract Reserved for Future Development”. Finally, the applicant has noted that a paved entrance and gravel driveway will provide access to the existing development prior to the recording of the final phase of this subdivision (Exhibit 24). Also, neither the Engineering Division nor CWES has made any additional requests for easements nor right of way dedications. Therefore, staff recommends the following conditions of approval: “Prior to final plat approval, access to the existing home site is only permitted from a 20 foot wide paved access easement delineated on the final plat. The entrance and driveway shall comply with the ZDO, Comprehensive Plan, and County Roadway standards.” Additionally the final plat shall note that the second phase is a “Tract Reserved for Future Development” These requirements are detailed above in the conditions of approval. Additional findings of this subsection are detailed in the staff memorandum dated February 4, 2021 and referenced herein as exhibit 25.

- 9. Section 1105 of the Zoning and Development Ordinance lists the general requirements for Subdivision. Specifically, Subsection 1105.02, subdivision Submittal Requirements, lists all of the information that must be provided for consideration of the tentative plan for this Subdivision. Subsection 1105.03(D) requires that all subdivisions with common areas for private roads and other common areas create a nonprofit, incorporated homeowners association, or an acceptable alternative. ZDO Sec. 1105.03(D) states the following four items:
 - a) The homeowners association shall continue in perpetuity unless the requirement is modified pursuant to either Section 1309, Modification, or the approval of a new land use permit application provided for by this Ordinance.
 - b) Membership in the homeowners association shall be mandatory for each lot or parcel owner.
 - c) The homeowners association shall be incorporated prior to recording of the final plat.

- d) Acceptable alternatives to a homeowners association may include, but are not limited to, ownership of common areas or facilities by the government or nonprofit conservation organization.

Finding: The applicant's narrative lists this subsection, however it does not state that a homeowners associated (HOA) will be created. Staff notes, an HOA will be required as a condition of approval, based on the standards above, for Tract A and Tract B of the applicant's plan set.

10. This, and all other relevant standards listed in Section 1105 will be required as conditions of approval . All other requirements of this Subsection have been met or are not applicable.
The requirements of this Section have been met.
11. **The staff finds that the relevant ZDO criteria have been, will be or can be met and recommends preliminary approval of the proposed 8-lot Minor Subdivision under the proposed R-8.5 zoning designation subject to the recommended conditions of approval below.**

E. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer hereby APPROVES Zone Change Application Z0466-20-ZAP and Subdivision Application Z0467-20-SS, subject to the following conditions of approval:

CONDITIONS OF APPROVAL

I. General and Advisory Conditions:

1. Approval of the subdivision is based upon the applicant materials submitted on 11/12/2020 and 1/6/2021 and approval of the concurrent zone change request from FU-10 to R-8.5, the Findings herein and as modified by these conditions of approval.
2. **NOTE: 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. If you like to take advantage of this meeting please contact Deana Mulder, in the Engineering Division office at (503) 742-4710 or by e-mail at deanam@co.clackamas.or.us.
3. All conditions of approval shall be financially guaranteed or completed prior to final plat approval, unless otherwise noted herein.
4. The services of a registered professional land surveyor and a civil engineer will be required to satisfy these conditions of approval.

5. **Platting:** Pursuant to ORS 92, five (5) paper copies of the draft plat survey of the development shall be submitted to the Engineering Division for internal routing and review.
 - a. An additional copy of the final plat survey and review deposit shall also be submitted separately to the County Surveyor's office for review.
 - b. The draft and final plats shall be prepared by a registered professional land surveyor in a form and with information consistent with the provisions of ORS 92, relevant portions of ORS 209.250, the County ZDO, Chapters 11.01 and 11.02 of the County Code and these conditions of approval.
 - c. Plat submittals will require signed originals of any maintenance agreements, related easements outside the plat, Codes, Covenants and Restrictions to be recorded with the plat, and proof of incorporation of a Homeowner's Association (if applicable). Drafts shall be provided for review at the time of draft plat submittal.
 - d. After the draft plat is approved by the Planning & Zoning Division staff and reviewed by the Survey Department, one (1) mylar copy and four (4) paper copies of the final plat shall be submitted to the County Engineering Division for final review.
 - e. When final approval is given by the Planning and Zoning Division and the final plat is approved by the County Surveyor, the plat must then be filed and recorded with the County Clerk. All property taxes shall be paid in full for the current year in order for the plat to be recorded.
6. None of the individual lots shall be sold, transferred or assigned until the final plat has been approved by the County Surveyor and recorded with the County Clerk.
7. No Building or Manufactured Home Placement permits will be issued until the final plat is recorded and sanitary sewer and storm water management facilities are approved, installed and operational.
8. **Easements:** All existing, required and proposed easements shall be shown and properly documented upon the final plat pursuant to ORS 92. Easements shall be provided along property lines as deemed necessary by the County DTD, Engineering Div., CCSD#1, the SWA, other special districts, and utility companies. Easements for special purposes shall be of a width deemed appropriate by the responsible agency. Any required easements shall be shown upon the final plat of the subdivision. The need for, and location of, such easements shall be determined during the street and street frontage, sanitary sewer and storm sewer plans review processes.
9. **Advisory Condition:** Future construction on the individual parcels shall be consistent with the relevant requirements of the Oregon Plumbing Specialty Code, Oregon Residential Specialty Code, Oregon Structural Specialty Code and/or Oregon Manufactured Home Standard requirements, as administered by the DTD, Building Codes Division. Foundations and drainage improvements shall be designed to ensure structural stability and proper roof, foundation and

footing/crawl space drainage in consideration of the soils and topographical characteristics of the site.

10. **Utilities:** Electricity, gas, and communications services shall be installed consistent with the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, any new or relocated utility improvements shall be installed underground and in accordance with the requirements of the service providers.
11. **Advisory Condition:** All grading, filling, and excavation done in connection with any development shall be in accordance with the County Excavation and Grading Ordinance administered by the County DTD, Building Codes Division.
15. All lots shall be graded to provide for gravity flow from homes for sanitary and storm water disposal.
16. **Advisory Condition:** Any proposed fill in individual lots that is more than one (1) foot in depth and where foundations and footings will not be bedded on native soil shall be placed as engineered fill (Grading Permit required) to support the new homes to be built on such lots.
12. **Fire District: prior to final Subdivision Plat approval,** the applicant shall submit written verification or stamped approved access plans from the CFD#1 Fire Marshal verifying that the Fire District's standards, including emergency services access, turnarounds and turnouts, fire flows, grades, horizontal and vertical clearances, etc. are, or will be, acceptable to the district. Copies of the approval shall be submitted to the County Engineering Division in conjunction with plans review and permitting for the proposed subdivision. (contact: Clackamas County Fire District No. ; Matt Amos, 503-742-2660, matt.amos@clackamasfire.com)
13. **Street Lighting:** Streetlights are a requirement for the subdivision and shall be installed pursuant to the standards of the CCSD #5. The developer shall make arrangements for the installation and maintenance of streetlights with the CCSD#5 and pre-wire for acceptance of these streetlights. **Prior to final plat approval,** the developer shall also submit an application to the CCSD#5 for the installation of the streetlights, annexation into the street lighting district and formation of an assessment area to pay for the operation of the lighting (Contact: Wendi Coryell, 503-742-4657).
14. **Advisory Condition:** 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.
15. **Planning and Zoning Division General Conditions:** Ben Blessing, (503) 742-4521

- A. All development and uses within the plat shall conform to the requirements of Section 315 of the ZDO. Nothing in this approval shall be construed to allow any use or structure that is not otherwise permitted subject to Section 315 of the ZDO.
- B. The minimum lot size shall not be less than 80% of the District Land Area of the R-8.5 Zoning District.
- C. Homeowners Association requirements:
 - 1. **Prior to final plat approval**, the applicant shall incorporate a not for profit Homeowners Association, or County-approved alternative, meeting the requirements set forth in Sec. 1105 of the ZDO to own and manage the common storm water and private street tracts and any other common facilities; e.g. storm water improvements.
 - 2. A copy of the filing of the Articles of Incorporation with the Oregon Secretary of State shall be submitted to the Planning and Zoning Division **prior to final plat approval**.
 - 3. All common tracts shall be conveyed to the HOA concurrently with recording of the final subdivision plat.
 - 4. Drafts of the proposed By-Laws and Codes, Covenants and Restrictions shall be submitted to the Planning Div. for review by the Planning Div., CCSD#1, and Office of County Counsel and one (1) copy shall be provided to the County Surveyor for review **prior to final plat approval**.
 - 5. The Codes, Covenants and Restrictions **in conjunction with the final plat** of the subdivision and the plat shall reference the recorded documents
- D. Maximum Density is nine (9) lots. However, only eight (8) lots are approved with this request.
- E. Minimum Density is seven (7) lots.
- F. **Phasing Plan** approved subject to Exhibit 23 and the following requirements :
 - 1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.
 - 2. The phasing schedule may provide a preliminary plat approval period for each subsequent phase not to exceed two years from the end of the prior phase approval period.
 - 3. Each phase shall be recorded with the County Clerk within the applicable approval period, or the approval of that phase and all subsequent phases will

become void.

4. If a final plat for any phase is not recorded within the initial approval period for that phase, a two-year time extension for that phase and all subsequent phases may be approved pursuant to Section 1310.
5. In no case shall a phasing schedule or any time extensions permit the recording of any phase more than 10 years after the date of preliminary plat approval.

G. Prior to planning approval of the first phase, the following shall be added to the final plat, noting the area of the second phase: “Tract Reserved for Future Development.”

16. **County Survey Dept. Conditions:** County Surveyor, (503) 742-4475, or cgriffin2@clackamas.us.

- A. All plats shall be prepared pursuant to ORS Chapter 92 and County Code Chapters 11.01 and 11.02.
- B. Easements created to provide for access and utility purposes within plats shall contain language that allows for use of the easement for future divisions of the parcels if, or when, zoning laws may permit future divisions.
- C. Any private easements shall allow for private and public utility services, including, but not limited to, water, power, communications, natural gas, storm drainage, sanitary sewer, emergency services, etc.
- D. Fences, other occupations and encroachments that fall across deed lines may indicate that unwritten title (ownership) issues exist. It is the responsibility of the plat surveyor conducting the boundary survey to notify the declarant and/or property owner if such situations are discovered. Failure to present the issues and resolve them will usually result in a delay of the plat approval and recording. If problems are noted, they shall be brought to the attention of the County Survey Dept. as a soon as possible to avoid unnecessary delay in the review process. Easements, as a general rule, are not acceptable solutions for encroachments.
- E. Any encroachments found during surveying of the plat shall be resolved to the satisfaction of the County Surveyor prior to final plat approval and recording.
- G. Fees, minimum submittal requirements and application for plat review are available on the County Survey website at <http://www.clackamas.us/surveyor>.

17. **Engineering Division Conditions:** Jonny Gish; JGish@clackamas.us

A) Overview:

- i. The following items are project requirements from the Department of Transportation and Development’s Development Engineering Division. These

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

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

B) General Provisions:

- i. **Prior to site improvements:** A Development Permit is required from the Engineering Department for review and approval of frontage improvements, sight distances and the shared driveway improvements. The permit shall be obtained prior to commencement of site work and recording of the subdivision 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 equal to 125% of the estimated cost of the construction. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit Application.
- ii. **Prior to Development Permit issuance:** 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.
- iii. **Prior to Substantial Completion:** 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.
- iv. **Prior to final Substantial Completion:** The applicant shall submit electronic as-built plans showing all improvements and construction changes, added and deleted items and location of utilities. A professional engineer, registered in the state of Oregon, shall stamp and sign as-built plans.
- v. **Prior to final plat approval:** The applicant shall provide a road maintenance agreement for the shared private road implementing ORS 105.170 – 105.185. This agreement shall include any and all signings and postings and be recorded with the plat.

- vi. **Prior to final plat approval:** The applicant shall dedicate a minimum 40-foot full width right-of-way to the County for the tangent section of SE Pinegrove Ct and a minimum 37-foot radius within the cul-de-sac to the County.
- vii. **Prior to final plat approval:** The applicant shall dedicate an 8-foot wide public utility, signs and sidewalk easement along the entire frontage of SE Pinegrove Ct.
- viii. **Prior to final plat approval:** The applicant shall dedicate a minimum 26-foot private access and utility easement for the private road. The private road shall be referenced on the final plat as a reciprocal and perpetual, common access and utility easement benefitting all served lots.
- ix. **Prior to final plat approval:** The applicant shall meet the requirements for Substantial Completion Section 190 of the Clackamas County *Roadway Standards*.

C) Public & Private Roadways:

- i. The applicant shall provide written approval for the fire access, circulation, fire suppression, grades and horizontal and vertical clearances from the Fire Marshal for the public street improvements.
- ii. The applicant shall design and construct full frontage improvements for the extension of the tangent section of SE Pinegrove Ct to match existing conditions:
 - a. 28-feet of pavement with structural section to meet C100
 - b. 6” standard curb
 - c. 5-foot curb-tight ADA compliant sidewalk on both sides
 - 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
- iii. The applicant shall design and construct full frontage improvements for the proposed cul-de-sac of SE Pinegrove Ct:
 - a. 30-foot radius of pavement
 - b. 6-inch mountable curb
 - c. 6-foot curb-tight lowered ADA compliant sidewalk (6-inches thick)
 - 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
- iv. The applicant shall establish “NO PARKING” zone throughout the cul-de-sac with required signage and curb painting.

D) Private Roads & Access Drives:

- i. The applicant shall provide written approval for the fire access, circulation, fire suppression, grades and horizontal and vertical clearances from the Fire Marshal for the private street improvements.
- ii. Provide a private street sign at the intersection of the private road and SE Pinegrove Ct. Street signage shall meet Standard Details T100, T130, T150 and T250 and be white background with black lettering with black border.
- iii. The applicant shall design and construct full improvements for the private street “SE Trillium Nook Ct.” Improvements shall be centered within the easement:
 - a. Minimum 26-foot access and utility easement
 - b. Minimum 26-foot wide driveway approach meeting standard detail D600
 - c. An approved emergency vehicle turnaround per Standard Detail C350 at a location approved by the Fire Marshal and Clackamas County DTD
 - d. Minimum 25-foot of pavement with structural section to meet R100 for urban private road
 - e. 6-inch curb
 - f. Street lighting per CCSD #5
 - g. 5-foot curb-tight ADA compliant sidewalk on one side continuing through the fire truck turnaround.
 - h. Drainage facilities in compliance with WES/CCSD#1 requirements and Clackamas County *Roadway Standards* Chapter 4
- iv. The applicant shall establish “NO PARKING” zone throughout the private street and emergency vehicle turnaround with required signage and curb painting.
- v. An Entrance Permit shall be obtained prior to building permits issuance for each lot.
- vi. The applicant shall provide and maintain minimum intersection sight distances at the proposed shared private road intersection with SE Pinegrove Ct. 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 at SE Pinegrove Ct.
- vii. **Prior to plat approval** of the first phase, a 20’ wide access easement shall be delineated, showing that the only access to the existing home site shall be from proposed SE Pinegrove Loop. The entrance and driveway shall comply with the ZDO, Comprehensive Plan, and County Roadway standards
- viii. Legal access shall be verified prior to final plat approval.

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18. Water Environmental Services (WES-CCSD#1), Erik Carr-Bertram; ecarr@clackamas.us

- A. 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:
- i. Water Environment Services Rules and Regulations, July 2018, Ordinance No. 03-2018
 - ii. Sanitary Sewer Standards, Clackamas County Service District No. 1, July 1, 2013.
 - iii. Stormwater Standards, Clackamas County Service District No. 1, July 1, 2013.
- B. 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.
- C. 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.
- D. The applicant shall include the following materials with their final plan review submittal to WES:
- i. Two (2) sets of complete civil construction plans for all sanitary and stormwater improvements.
 - ii. Two (2) copies of the final storm report, including infiltration testing and downstream analysis.
 - iii. \$800 minimum sanitary and stormwater management plan review fees
 - iv. Erosion control permit application (available on WES website) and \$460 permit fee
- E. 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.
- F. A Surface Water, Storm Drainage and Sanitary Sewer Easement granted to Clackamas County Service District No. 1 is located on the site. No development shall encumber use or access to this easement by WES.
- i. Placement of retaining walls or any other appurtenances within the public sanitary sewer easement shall be subject to issuance of an easement encroachment permit. The applicant shall provide adequate plans and profiles necessary for WES to review the proposal, as determined by WES.
 - ii. Any proposal to remove an existing sewer mainline shall be considered and approved at the sole discretion of WES.
- G. The proposed development shall be subject to applicable fees and charges, in accordance with WES RR&S. All fees and charges shall be paid before plat approval, and are subject to change without notice to the applicant. All costs associated with the design, construction and testing of the sanitary sewer and storm system shall be provided by and at the sole expense of the applicant.

For Sanitary Sewer, the following conditions shall apply:

- H. All dwelling units within the boundaries of the proposed development shall be connected to the Public Sanitary Sewers System. Prior to plat approval, the developer shall provide sanitary sewer service laterals to a point approved by WES for each lot, including any necessary easements.
 - i. Any existing dwellings shall connect to the public sanitary sewer system and pay applicable System Development Charges.
- I. 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.
- J. 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.
- K. 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.
- L. The sanitary sewer service connection lateral shall be constructed with a clean out at the front edge of the Public Utility Easement (PUE)/Right-Of-Way, or the property line.
- M. The developer shall provide a Certification of Existing System Decommissioning and abandon any on-site subsurface sewage disposal system in accordance with Oregon DEQ and County Soils Department requirements.

For Surface Water, the following conditions shall apply:

- N. 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.
- O. The developer's engineer shall submit a final 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.
- P. The SWM Plan shall provide a design to mitigate the stormwater runoff from all proposed onsite permeable and impervious surface areas, all water entering the property from off-site, and any road improvements required by Clackamas County DTD.

- Q. 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.
- R. The geotech report indicates the infiltration standard cannot be met, therefore the project engineer shall submit a design modification request with an equivalent alternative to the required infiltration/retention standard. Options include:
- i. **BMP Tool:** WES, in cooperation with other local jurisdictions, has developed a BMP Sizing Tool. The tool sizes facilities so that post-development peak flow durations will match the pre-development peak flow durations ranging from 42% of the 2-year to the 10-year flows, as determined by HSPF continuous rainfall model simulation.
 - ii. **Engineer's Model:** The project engineer can develop and submit a continuous rainfall runoff model simulation, so that post-development peak flow durations will match the pre-development peak flow durations ranging from 42% of the 2-year to the 10-year flows as determined by the continuous model simulation.
 - iii. **Flow Control and Retention Standard:** Meet the Detention/Flow Control Standard and retain the first ½" of runoff in a 24-hour period onsite within an approved facility, as determined by WES. The storage of the infiltration/retention volume within a vegetative facility shall not exceed 6-inches in height above the vegetation.
- S. The following shall apply with any BMP Sizing Tool design submittal:
- i. Any modification of the design output shall be completed with the custom pond sizing feature of the BMP Tool, in consultation with Brown and Caldwell. Additional review time should be expected. Changes to the pond sizing, dimensions, or layout may be required. It is the developer's responsibility to discuss any site layout modifications with the Planning Department.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. The engineer shall verify each Drainage Management Area aligns with the final grading plans.

- T. The conveyance system shall be sized for a minimum 25-year design storm.
- U. 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.
- V. Grading plans shall clearly identify an acceptable overflow pathway system, as determined by WES, 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.
- W. Storm service connection laterals shall be provided to convey the stormwater runoff and foundation drains for every proposed lot within the development.
- X. An infiltration testing report shall verify the feasibility of all proposed infiltration systems and provide field infiltration test results that correspond to the location and depth of the infiltration facilities, in accordance with Appendix E.
- Y. 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).
- Z. 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.
 - i. Provide a map showing the downstream pipe layout to the extent of your analysis. Indicate pipe sizes and slopes on the map. If available, provide as-built plans used for the downstream system analysis.
- AA. The property owners shall be responsible to perpetually inspect and maintain all stormwater management systems, in accordance with WES Rules, Section 12.10.
 - i. The stormwater maintenance plan shall be referenced in the Plat Restrictions. Upon plat approval, the signed agreement will be delivered to the County Surveyor's office by WES staff.
 - ii. 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.
- BB. For publicly maintained stormwater facilities, the following shall apply:
 - i. 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.

- ii. All publicly maintained stormwater systems must be designed and constructed to public standards.
- iii. Centralized stormwater facilities shall be located within a Tract to the homeowners association. The HOA shall be solely responsible for maintenance and associated costs for the surrounding vegetation, fencing, and landscaping. These responsibilities shall be documented in the HOA CC&R's.
- iv. All stormwater facilities shall comply with maintenance access standards for publicly maintained facilities, in accordance with Appendix I.
- v. The developer shall maintain the stormwater facilities for a one-year warranty period; thereafter WES will be responsible for perpetual maintenance of the public stormwater facilities.

For Erosion Control, the following shall apply:

- CC. 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 through 340-41-470.
- DD. With the 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.
- EE. Any development activity that results in over 800 sq ft of soil disturbance shall obtain a WES Erosion Prevention and Sediment Control (EPSC) Permit before the start of any grading or construction activities. The applicant shall submit a Permit application and erosion control site plans, and pay applicable permit fees (\$460 + \$80/acre over 1 acre).
- FF. 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.

For Water Quality Vegetated Buffers, the following shall apply:

- GG. 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.

For Plat review, the following shall apply:

- HH. Prior to final plat approval by WES, the following shall apply:
- i. WES shall review the final plat in conjunction with the approved sanitary and stormwater plans.
 - ii. 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 construction.
 - iii. All sanitary and storm drainage easements shall be shown on the plat.
 - iv. Applicable fees and charges shall be paid to WES.
 - v. Maintenance agreements shall be referenced in the plat notes.

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

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

- KK. The following easement designations and labels shall be used on the plat:
- i. WES – CLACKAMAS WATER ENVIRONMENT SERVICES
 - ii. SDE - STORM DRAINAGE EASEMENT GRANTED TO WES
 - iii. SSE - SANITARY SEWER EASEMENT GRANTED TO WES
 - iv. PSDE - PRIVATE STORM DRAINAGE EASEMENT
 - v. PSSE - PRIVATE SANITARY SEWER EASEMENT

The following WES Fees and Charges shall apply:

- LL. 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.
- MM. 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.
- NN. An Erosion Prevention and Sediment Control (EPSC) permit fee shall apply. A \$460.00 minimum permit fee shall be due with the first plan submittal.

OO. 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.

- i. Surface Water SDC: The current rate is \$215 per single family building permit application.
- ii. Sanitary Sewer SDC: The current rate is \$8,005.00 per single family building permit application.

19. **Sunrise Water Authority (SWA) Tim Jansen; tjanssen@sunrisewater.com**

A. Applicant is subject to the rules and regulations of SWA. SWA may require conditions of approval be satisfied prior to final plat approval.

Dated: February 16, 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.