



STAFF REPORT TO THE HEARINGS OFFICER

Staff Recommendation: Denial

Permit Types: Zone Change and Planned Unit Development for a Major Subdivision

File Nos. Z0051-25 and Z0052-25

Applicant's Proposal: A zone change from R15 to R10 for 3 acres of the property filed with a Planned Unit Development subdivision that originally proposed at 47-48 lots and is now proposing 43 lots as seen in site plan stamped by the engineer on 6/12/2025.

Staff Report Date: July 3, 2025

Date of Hearing: July 17, 2025,

Issued By: Joy Fields, Principal Planner, jfields@clackamas.us, 503-742-4510

Applicant: Mark Dane Planning Inc.

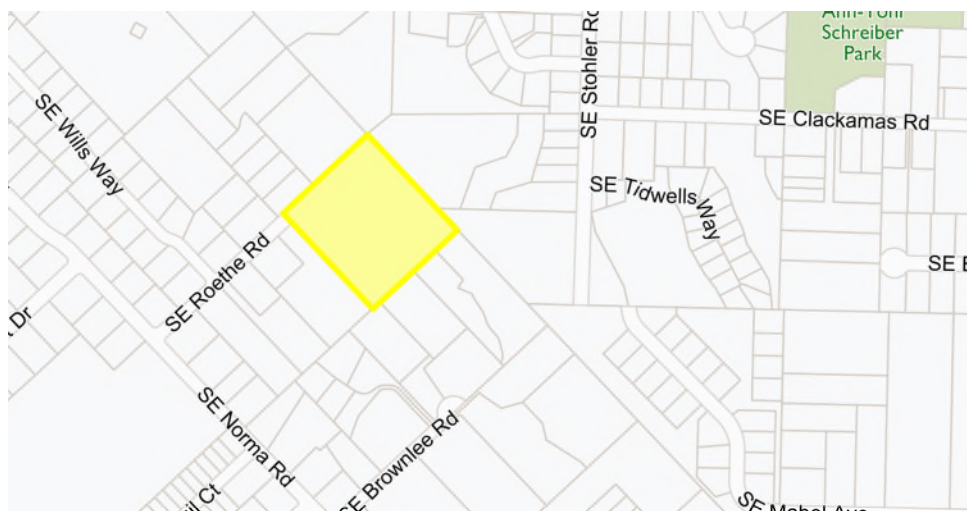
Owner of Property: Mark Dane Planning Inc.

Zoning: Currently: R-15; Proposed: R-10

Assessor's Map & Tax Lot(s): T02S R02E Section 07DA Tax Lot 00100

Site Address: 6320 SE ROETHE RD, MILWAUKIE, OR 97267

Location Map



Community Planning Organization (CPO) for Area:

Oak Grove Community Council: Valerie Chapman contact@oakgrovecpo.org
503.974.6422

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

Opportunity to Review the Record and Decision: The complete decision, including findings and conditions of approval, and the submitted application are available for review online at <https://aca-prod.accela.com/CLACKAMAS>. Select the **Planning** tab and enter the file number to search. Select **Record Info** and then select **Attachments** from the dropdown list, where you will find the submitted application. A copy of the decision, application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost by contacting the Planner listed above. Copies of all documents may be purchased at a cost established by the County fee schedule.

APPLICABLE APPROVAL CRITERIA

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 315, 1103, 1105, 1202, 1000s, and 1307.

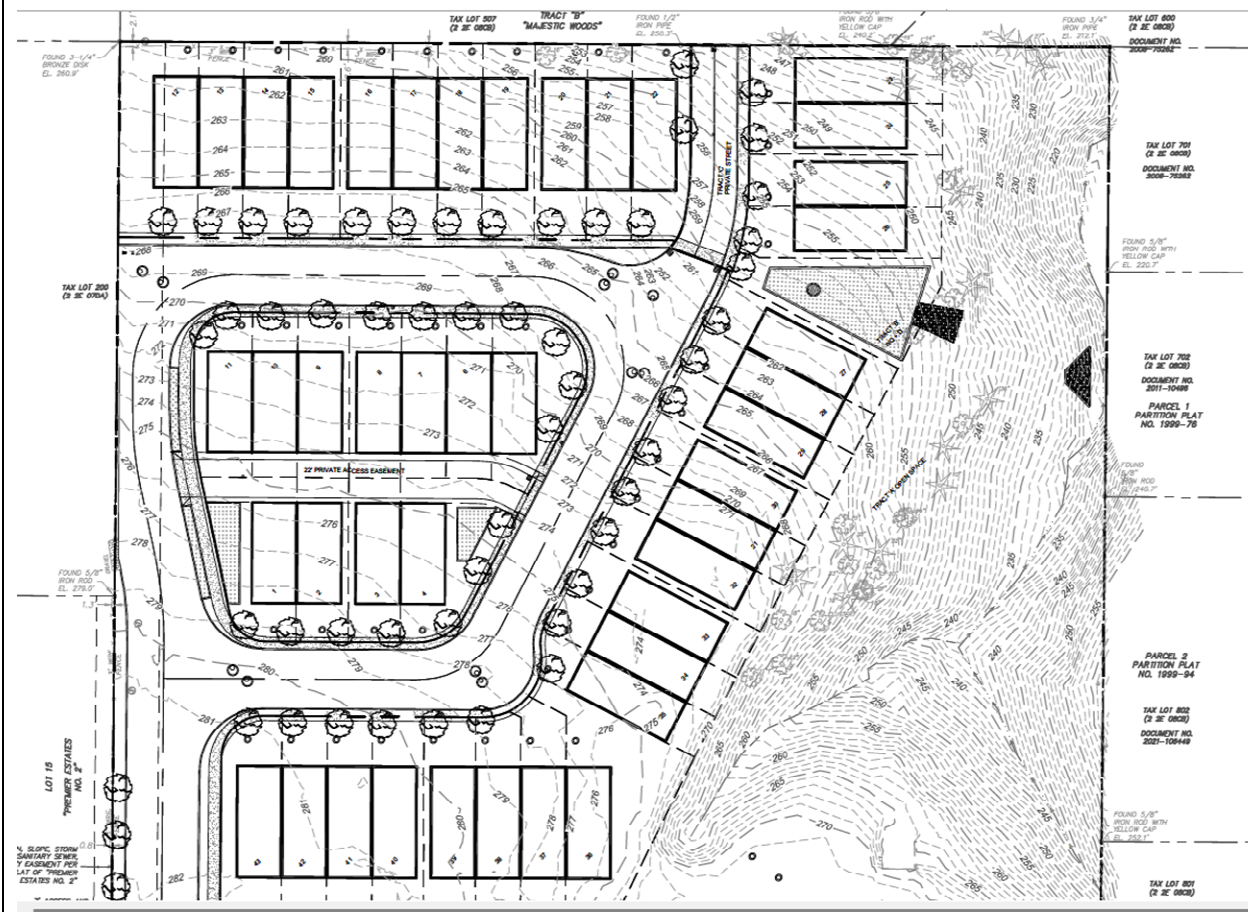
PUBLIC AND AGENCY COMMENTS

Notice was sent to applicable agencies and owners of property within 300 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. All written comments received are saved to the file as an exhibit and listed on the Exhibits List.

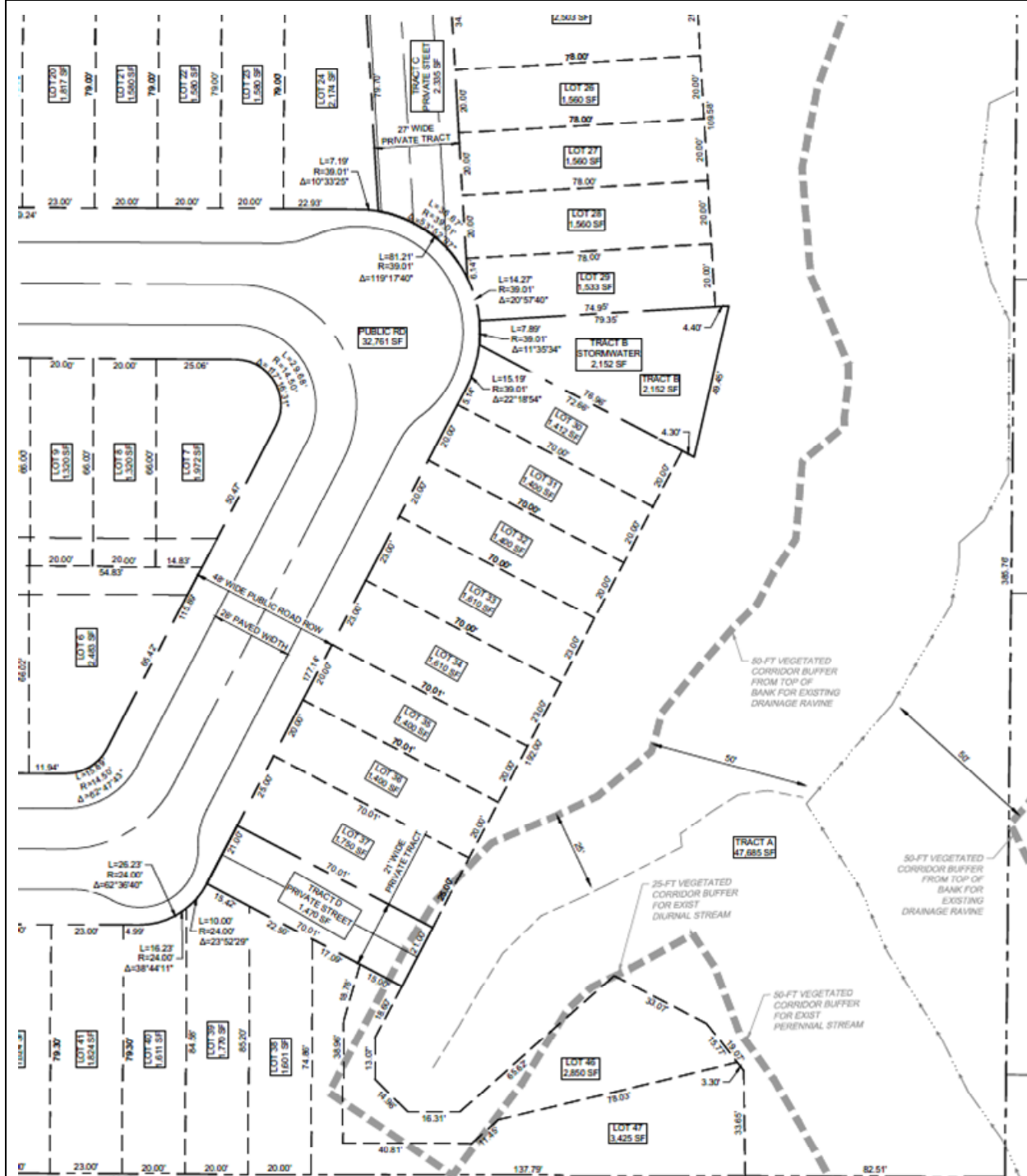
Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통?

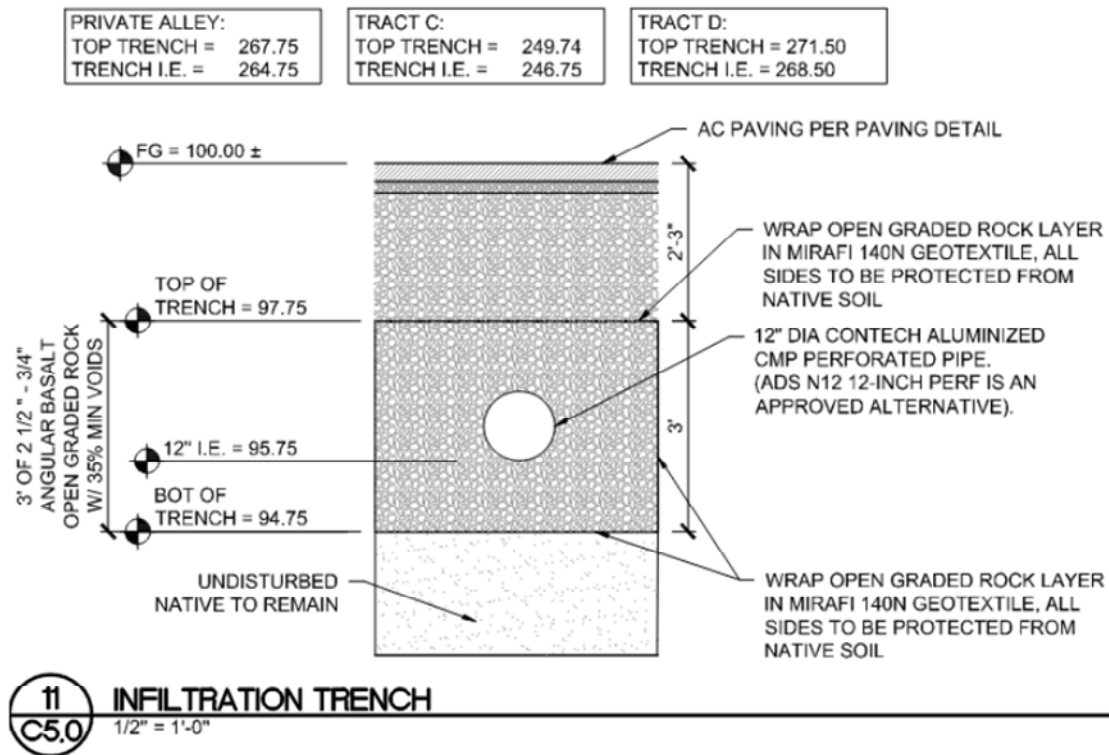
Final Site Plan



Open Space Tract from Exhibit 2a



Storm Drainage Infiltration Trench



PERMIT EXPIRATION

Pursuant to ZDO Subsection 1105.09, and 1103.03 approval of a land division is valid for four years from the date of the final decision. Unless an appeal is filed, the date of the final decision is the "decision date" listed above. **During this 4-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.**

This is the only notice you will receive of this deadline.

RECOMMENDED CONDITIONS OF APPROVAL

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parentheses. At all times, the use shall be sited and conducted in compliance with these conditions of approval. Noncompliance may result in code enforcement action or revocation of this permit.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on date and additional documents submitted on dates(s). No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with these documents and the limitation of any approval resulting from the decision described herein.
2. Prior to the final plat submittal, the applicant/property owner shall complete the following and provide documentation of completion to the Planning and Zoning Program for the file:
 - a. Evidence that the homeowners association has been incorporated, or evidence that ownership of the open space tract has been transferred to a government or nonprofit conservation organization. ZDO 1105.05(D)
 - b. Documentation that the storm drainage management proposed:
 - i. Includes positive drainage and adequate conveyance of surface water from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point. ZDO 1006.06(A)
 - ii. Can meet the DEQ Rule Authorization and water quality requirements. ZDO 1006.06 and Comprehensive Plan Policy 4.R.3.2
 - iii. Clearly identifies any areas of concern related to slope and soil and provides adequate recommendations for appropriate construction methods. Additionally, a copy of the preliminary geotechnical review prepared by Rapid Soil Solutions, LLC shall be provided for the file. ZDO 1002.01(B)(2) and 1103.02(B)
 - iv. The location, design, installation, and maintenance of all utility lines and facilities shall be carried consistent with the rules and regulations of the surface water management regulatory authority, which is Clackamas Water Environmental Services (WES). ZDO 1006.01
 - c. The applicant shall provide evidence that any wells in the tract subject to temporary or permanent abandonment under Oregon Revised Statutes (ORS) 537.665 have been properly abandoned. ZDO 1006.03(C)
 - d. Development which has a need for, or will be provided with, public or community water service shall install water service facilities and grant necessary easements pursuant to the requirements of the district or company serving the development pursuant to ZDO 1006.03(A).
 - e. Connect to WES District public sanitary sewer system pursuant to Comprehensive Plan Sub-Policy 4.R.2.2 and ZDO 1006.01):

- i. Permit Required (Rules, Section 4.2) A permit shall be required to connect to the District system, including, but not limited to a Service Connection, pipes, pollution reduction manholes, and detention facilities, whether constructed or natural. Before connecting to the District system, a permit authorizing such connection shall first be secured from the District and all applicable fees paid.
- f. The following direction was provided regarding service provider easement requirements required pursuant to ZDO 1006.01(D)::
 - i. Public Easements – Existing (Section 5.2.7): Existing Surface Water, Storm Drainage, and Sanitary Sewer Easements located on the site and granted to WES/CCSD#1 are permanent and not extinguishable. No development shall encumber the use or access to these easements by WES.

With future development on Lot 12, no footing or foundation of any permanent structure shall be allowed to encroach within the existing easement, whether above or below ground.
 - ii. Public Easements – New (Section 5.2.7): All new Surface Water, Storm Drainage, and Sanitary Sewer Easements shall be reviewed and approved by the District prior to final Plan approval. Public easements shall be granted to “Water Environment Services” and recorded via plat map or deed instrument. All public sanitary sewer easements shall be labeled on the plat as ‘SSE’ and public storm drainage easements as ‘SDE’. Public easements shall have a minimum width of 15-feet. Easements that combine both mainline sanitary sewers and storm sewers shall have a minimum width of 20-feet.
- g. Dedicate a minimum of 26 feet of right of way to Clackamas County for the street stub that provides access to the northeast (tax lot 22E08CB00507). ZDO 1007.02.B.1 and Comprehensive Plan Policy 4.R.13)
- h. Provide sidewalks and street trees on both sides of the public loop road including along the western property boundary. ZDO 1007.04(F) and 1007.06(A).
- i. Fire District Approval ZDO 1003.05
- j. The applicant shall submit and abide by an erosion Protection and Sediment Control plan approved by Clackamas Water Environment Services. ZDO 1002.01(A)(2)

3. The final plat shall:

- a. Comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and Oregon Revised Statutes Chapters 92, 94, 100, and 209.
 - b. Include dedicated access to the open space for all residents of the subdivision. ZDO 1013.03(C)(5)
 - c. Dedicate Open Space tract that is a minimum of 20 percent of the gross site area. ZDO 1013.03(C)(1)
 - d. Be submitted to the County for review.
 - e. If the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, Completion of Improvements, Sureties, and Maintenance, the Planning Director shall sign the plat.
 - f. Include the service provider easements as required by the provider. (ZDO 1006.01(D))
3. All of the WES Sewer And Surface Water Management requirements must be completed following the specifications included in Exhibit 4. ZDO 1006.01(B)
4. Prior to issuance of final occupancy (Certificate of Occupancy) the applicant/property owner shall complete the following:
- a. Type I slope review will be required for lot 23 prior to building permit approval. Lots 24-28, and 31-35 will be evaluated for slopes during building permit review and if the areas of 20% slope are disturbed for dwelling development additional land use review will be needed. ZDO 1002.01(A).
5. A sign permit will be needed prior to the installation of a sign for the development. ZDO 1010.
6. An Open Space land use application shall be reviewed for disturbance hillsides with over 35% slope, and wetlands including the riverine wetlands identified on site in the site plan. Additionally, if recreation areas are added to the Open Space Tract/ "Tract A" then Open Space Review ZDO 1011.03

FINDINGS

The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. Background/Overview of Applicant's Proposal:

The plan set provided by the applicant (Exhibit 2j) show the applicant's proposal to be a Townhouse development. Both the R-10 and R-15 Zoning Districts are subject to ZDO 315 and both districts allow townhouses subject to the design and access standards set forth in ZDO 845 and the density provisions of ZDO 1012. The density allowed in the R-10 district is higher than the R-15 district and is necessary for this subdivision to meet the 43 lot configuration.

Approval of the subdivision application is dependent upon approval of the zone change request. Residential policy findings of the Comprehensive Plan (Ch. 4) are analyzed first, followed by the proposed subdivision. The open space review follows. The gross site area of the subject property is 3.89 acres (169,330 square feet) pursuant to the applicant's density calculations and density map (Exhibit 2d and 2j).

The site is undeveloped, except for one detached single family home that is scheduled to be demolished. The subject property is a mix of open field and forest land. The applicant's proposal will preserve much of the regulated sensitive areas including steep slopes (20%-35%), and a water resource area mapped by the Statewide wetland inventory and included on the Comprehensive Plan Map 4-6 as a Resource Protection Open Space area. By preserving sensitive areas in Tract "A", the applicant will utilize the Planned Unit Development (PUD) provisions, that allow flexible lot sizes smaller than the typical minimum lot size requirements in the R-10 zoning district.

The applicant's subdivision and Planned Unit Development (PUD) proposal includes a total of 43 new lots ranging in size from 1,400, to 3,770 square feet with an open space tract at about 48,239 square feet, designated as Tract A in the plan set submitted on 6/19/25.

A stormwater treatment facility is proposed in Tract "B" in addition to treatment sites to the west of lot 1 and east of lot 4 and infiltration trenches beneath the road infrastructure. After storm water is gathered and treated in Tract "B," it will be piped down to a small outfall pad where it will be discharged to a small tributary flowing through the Open Space Tract A and joining Kellog Creek downstream of the site.

Access to the subdivision is proposed via a 26 -32 foot wide paved loop road off the end of Roethe Rd that would be located within public right of way ranging from 26 feet to 48 feet in width. Lots 23 through 26 are proposed to have access through a narrow extension off of the loop road via a private street labeled Tract C. However, ZDO 1007.02.B.1 and Comprehensive Plan Policy 4.R.13 require that road stubs dedicate right of way to Clackamas County for future development purposes.

Some development, in lot 23 is required on slopes exceeding 20 percent but less than 35 percent. Development on slopes ranging from 20-35 percent requires a future Type 1 ministerial review.

In terms of the Zone Change, the applicant is proposing the R-10 zoning district.

2. ZDO Section 315, URBAN LOW DENSITY RESIDENTIAL

Section 315 regulates the R-10 and R-15 districts, which includes the subject property currently and as proposed in the zone change application Z0051-25. Table 315-1 identifies uses permitted in the Low Density Residential zone. Table 315-1 identifies dwellings, including townhouses as uses that are a primary use subject to Section 845.

Pursuant to Table 315-2, footnotes 1, 2, 4, 5, and 8 apply to the proposed Planned Unit Development with Townhouse development:

1. The minimum lot size standards apply as established by Sections 1012 and 1107. Notwithstanding the minimum lot size standard, a lot of record may be developed subject to other applicable standards of this Ordinance, except minimum lot size standards of Section 800 apply.

2. In a planned unit development, there is no minimum lot size. However, the DLA standard applies pursuant to Section 1012, Lot Size and Density.

4 For townhouses developed pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters, there is no minimum lot size and the DLA shall be one-quarter of the DLA in the applicable zoning district.

5 Maximum lot coverage in a planned unit development is 65 percent.

8. In a planned unit development, there are no minimum rear and side setbacks except from rear and side lot lines on the perimeter of the final plat. In a zero-lot-line development, approved pursuant to Subsection 1105.03(B), there are no minimum rear and side setbacks for detached single-family dwellings, manufactured homes, prefabricated structures, single room occupancies, and structures accessory to such dwellings, except from rear and side lot lines on the perimeter of the final plat. Where either of these standards applies, it supersedes any other rear or side setback standard in Table 315-2.

Finding: The plan set provided in the application (Exhibit 2j) include lot sizes below the minimum lot size of 2,000 in the R-10 and R-15 districts. However, because the proposal is for a PUD and ultimately for a townhouse development there is no minimum lot size. The district land area is being evaluated under Section 1012. As noted by the applicant “*Lot Coverage 65% - No town house will exceed this standard. For example a 75-ft deep by 20-ft wide lot could have a building envelope of up to 975 SF, or 48.75 deep.*” The lot coverage and setbacks for the building built on the lots proposed through this application will be reviewed and confirmed during the building permitting process. The preliminary plan set submitted as Exhibit 2j shows the lot coverage, and front and rear setbacks can be met. **These criteria are informational only.**

3. ZDO Section 1202 Zone Changes - Applicable to land use application Z0051-25

1202.01 PURPOSE AND APPLICABILITY

Section 1202 is adopted to provide standards, criteria, and procedures under which a change to the zoning maps (hereinafter referred to as a zone change) may be approved.

Finding: The applicant states:

“The subject property is presently zoned R-15 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 on a portion of the property from the current R-15 to the R-10 designation. The remainder of the property would retain the R-15 designation. The R-10 and R-15 zoning designations are both Urban Low Density Residential Plan designations and the development and use of land in each is governed by Section 315 of the ZDO allowing for the same list of uses with single family dwellings the most prominent. Townhomes may be approved in either zoning district subject to conditional use permit approval. The proposed zone change is consistent with the Comprehensive Plan designation for the site.”

Thus the applicant originally proposed this section to apply to 3 acres of the 3.89 acre site. To meet the density requirements in ZDO 1012 staff find that the zone change to the R-10 district must include at least 127,512 square feet or 2.92 acres. **This criteria is met.**

1202.02 SUBMITTAL REQUIREMENTS *In addition to the submittal requirements identified in Subsection 1307.07(C), an application for a zone change shall include a site plan of the subject property showing existing improvements, and a vicinity map showing the relationship of the subject property to the surrounding area. An application for a zone change to NC District also shall include:*

- A. The requirements listed in Subsection 1102.02;*
- B. A vicinity map, drawn to scale, showing the uses and location of improvements on adjacent properties and properties across any road; and*
- C. A site plan, drawn to scale, showing the following:*
 - 1. Property dimensions and area of property;*
 - 2. Access to property;*
 - 3. Location and size of existing and proposed improvements showing distance from property lines and distance between improvements;*
 - 4. Location of existing and proposed parking; and*
 - 5. Location of existing and proposed pedestrian and bicycle facilities, including pedestrian rest and gathering areas.*

Finding: The applicant provided an application with the above information through submittals on 2/5/25, 2/24/25, 2/27/25, 3/4/25, and 3/6/25. Additional information was

then provided on 3/10/25, 6/11/25, 6/12/25, 6/19/25 and 6/24/25 to augment the original submittals. **These criteria are met.**

1202.03 GENERAL APPROVAL CRITERIA

A zone change requires review as a Type III or IV application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:

A. The proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.

Finding: The application is being reviewed as a Type III application pursuant to Section 1307 and is being reviewed for consistency with the applicable goals and policies of the Clackamas County Comprehensive Plan.

In the original submittal the applicant conducted the following analysis of their proposal related to the policies of the Comprehensive Plan. Please note that the staff review and finding identifies the policy number as of 6/19/25 and although the substance of the policy is usually the same, the number referenced by the applicant is often different than the policy number noted by staff:

“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).

Comment: The following information was taken from the Geotech / geologist that conducted a thorough field investigation six borings, and five infiltration tests. According to the Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletin No. 99 Geologic Hazards Map, Lake Oswego and Gladstone Quadrangle dated 1979, there are no identified soils on the site subject to slippage, compaction or which have high shrink-swell characteristics. According to this map, none of these conditions is present upon the subject property. In addition, the more recent lidar mapping by the Oregon DOGAMI does not indicate the presence of landslide deposits or scarps within the site, though such deposits are identified just off the north end of the site at the downstream outlet of the stream flowing along the easterly boundary and through the east end of the site.

The Oregon Statewide Landslide Information Database (SLIDO) suggests a landslide located northeast of the project site. The slide extends roughly half a

mile, following the orientation of Kellogg Creek. This landslide is classified as pre-historic (movement recorded more than 150 yrs. ago), deep-seated with head scarp height of about 30'. However, there is no indication of any soil movement on the site.

No groundwater was encountered in any of the boreholes. No standing/flowing water and no pockets of unusual vegetation were observed across the extent of the proposed development area. The USGS mapping suggests that the estimated depth to ground water at the site is at about 69'.

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.

Comment: The topographic information surveyed, and mapped by Centerline indicates that approximately 41,932 Sf or .96 acres of the 3.89 acres site or 25% of the site have slopes of between 20 – 50%. The remaining 2.93 acres have slopes of less than 20%. The applicant believes that the proposed R-10 designation on a portion of the site with a slope of less than 20% is appropriate for the subject property and consistent with this factor given the topographical characteristics of the subject property.

Staff reviewed the DOGAMI Bulletin 99 map (exhibit 3) and concur with the applicant's analysis that the subject property does not contain land slide hazards and that the steep slopes are located on the southeastern 1 acre portion mostly on Tract A. The steeper slopes are described in the DOGAMI map legend as "Moderate slopes of gentle terrace escarpments, foothills, pediments, and alluvial fans. Slopes generally excessive for septic tank drainage. Stream and ditch erosion moderate to severe and severe where gullyng can take place in plowed fields devoid of vegetation. Some eathflow and slump landslides have reduced steeper slopes to this category." Protecting those slopes from moderate to severe erosion by containing them in the open space, Tract A would protect the resources and helps the applicant comply with Sub-Policy 4.R.8. Additionally, the slope of the land is consistent with the R-10 zoning requested by the applicant pursuant to current Sub-Policy 4.R.3.1(b).

The applicant states:

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.

Comment: According to the FEMA flood insurance rate maps, the subject property is not susceptible to flooding and not located within a regulatory floodplain. Therefore, the applicant believes that the proposed R-10 designation on a portion of the site is appropriate for the subject property and consistent with this factor.

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

Comment: With respect to sight distance, and the capacity of the local transportation system, the Applicants traffic engineer has submitted comments

and recommendations indicating that the local transportation system capacity is adequate to serve the existing development and proposed development of the site.

The Clackamas County Service District No. 1, administered by the County Water Environment Services department, is the sanitary sewer service provider for this area. The applicant has submitted a Preliminary Statement of Feasibility signed by WES staff dated 1/13/25 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. Improvements will be required of the applicant to serve the proposed development with sanitary sewerage services.

The 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 WES staff dated 1/13/25 indicating that 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.

The Oak Lodge Water Services District (OLWSD) is the domestic and fire protection water service provider for this area. The applicant has submitted a Preliminary Statement of Feasibility signed by the OLWSD staff 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.

In conclusion, the applicant believes that the transportation, sewer, water and storm drainage facilities are adequate, or can be made adequate through improvements to be designed and constructed by the developer of the subdivision, to support the proposed development of the property under the proposed split R-10 and R-15 zoning designations.

Staff reviewed the TM Rippey Consulting Engineers storm drainage management report that concluded the storm water management requirements could be met. The report included design for a planting strip for treating storm drainage from Public Right of way #1, #2, #3, along with the existing right of way and the Single Lot identified as 4S, design for an infiltration trench to serve the Private Alley, Tract C, and Tract D. The report also indicated drywells would be used as would a stormwater pond that is identified in the revised site plan (Exhibit 2i). However, the modification of the roads and lot configurations to meet the roadway standards resulted in a modification of the storm drainage management. Water Environment Services signed a preliminary statement of feasibility on 01/29/2025 (included in Exhibit 2b) indicating that there was sanitary sewer available to service the land division and that the stormwater management plan of using drywells and infiltration trenches would have to meet the DEQ requirements. Staff from Water Environment Services reviewed the updated stormwater infrastructure and storm drainage management and provided comments in an exhibit.

Oak Lodge signed a preliminary statement of feasibility on 01/13/2025 (included in Exhibit 2) that indicated “Water service, including fire flows, is available in levels appropriate for the development and adequate water system capacity is available in source, supply, treatment, transmission, storage, and distribution, or such levels and capacity can be made available through improvements completed by the developer or the system owner.” Therefore, staff find that there are no limitations to rezoning the property R10 caused by inadequate water availability and find the proposal consistent with Comp Plan Chapter 4 policy 4.R.3.2.

Sub-Policy 4.R.2.3 refers to availability of transit

It states that 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.

Comment: Tri-Met transit route no. 31 runs along Oatfield Rd. The nearest bus stop is at the intersection of SE Webster & Thiessen The applicant believes that the subject property is one mile from the nearest transit stop for Tri-Met Route No. 31. The applicant believes that the proposed split R-10 and R-15 zoning designations are all consistent with this factor, but the latter are most appropriate. One-half mile of walking distance to a transit stop is generally the upper limit considered for normal access.

And

Staff reviewed the Tri-Met transit routes and concur with the applicant that the site is not within walking distance (approximately onequarter mile) of a transit stop and thus the R-2.5, R-5, R-7, and R-8.5 zoning districts would not be appropriate for the site.

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.

Comment: The proposed development is an area where the zoning transitions from predominantly R-10 to predominantly R-15 zoning. Generally, the latter properties zoned R-15 are found on steeper slopes on the easterly side of Oatfield Ridge which is significantly steeper in the main that the westerly side. Generally, the lots zoned R-15 have been historically developed with homes on larger lots. However, in this case, both the R-10 and R-15 designations are considered “larger lots” in the context of these Plan policies. While there is little “vacant” land, in the immediate area, there are certainly many lots zoned R-15 in close proximity with additional development potential, even under the existing R-15 designation.

The applicant is of the opinion that the term “vacant lands” does not only refer to entirely undeveloped lands, but also lands that are significantly under-developed as are many within the immediate area. This policy also refers to “the existing

development pattern". One can see from the zoning map of the immediate area that a few zone changes have occurred where lands that were originally zoned R-15 have been changed to R-10 and one small development a short distance to east.

That development was approved either as a flexible lot size development or planned unit development to "cluster" the building sites on the less steep area of the original parcel comprising the plat area. While many of the proposed lots are smaller than most in the proposed development pattern and use is not out of character with the historical development in the area, particularly those developments implemented since 1980.

The subject and surrounding properties have been planned and zoned for urban low density residential use for at least 50 years. As the Comprehensive Plan policies used to determine appropriate zoning designations and density of development have changed over that period, particularly since 1980 when the current policies in Chapter 4 of the Plan were developed, changes on individual properties have been approved to re-develop underdeveloped properties in the area. The trend has been to allow higher density development of properties where deemed appropriate in consideration of the Plan policies considered here.

Given the zoning and development pattern in the area, the applicant believes that the subject property is not located in an area which has historically been developed on large lots where little vacant land exists. The applicant believes that the proposed split R-10 and R-15 zoning designations on the subject property are not inconsistent with this factor.

Staff reviewed the zoning and found the adjacent property directly to the north of the subject site is currently zoned R10 while the adjacent property to the south, east, and southwest are zoned R15. Therefore, only zoning a portion of the site could maintain zoning variety in the area. However, staff do not think only rezoning a portion of the site would not be necessary to meet the Comprehensive Plan policy 4.R.3.6 since rezoning the entire site as R-10 would still provide for the "neighborhood livability and variety" supported by policy 4.R.3.6.

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.

Comment: This application does not involve a conversion of Future Urban designated lands to immediate urban low-density lands, therefore this factor is not applicable. On balance, the applicant believes that consideration of Policies 4.R.2.1 to 4.R.2.7 leads to the conclusion that the proposed split R-10 and R-15 zoning designations are the most appropriate for the subject property.

Staff reviewed the analysis by the applicant. The applicant cites the Comprehensive Plan policies that appear to be a prior version of policies that were re-numbered when the plan was last amended on 9/9/2024. Therefore, much of the language used in the policies considered by the applicant reflect the current language, but the reference numbers are different than those of the current plan. Taking the application narrative, along with the conclusions by the applicant included above staff agree that the R-10 zoning of the property is appropriate based on land patterns, slopes, and utility availability.

Although the subject property was historically, developed as a large lot with a singled detached home, and has slopes of 20% and more, the rezoning of the at least 127,512 square feet and up to 169,330 square feet of the site supports policy 4.R.1.4 while being consistent with 4.R.3.1.b, and 4.R.3.6.

Protecting the majority of slopes over 20% within the open space tract meets the development criteria in policy 4.R.5.1 and the tree preservation plan, in addition to the open space tract ensures the proposed development is consistent with policy 4.R.7.

4.R.8 Require a site analysis for each development in areas designated as Open Space or where the County has identified the potential for significant impacts. This requirement may be waived in the event all development is transferred to more suitable land outside of areas designated as Open Space

The applicant provided the following additional narrative related to policy 4.R.8 in Exhibit 2m:

“Policy 4.R refers to Low Density Residential Policies. Specifically, subsection 4.R.8 requires a site analysis for each development in areas *designated as Open Space or where the County has identified the potential for significant impacts*. The code notes that this requirement may be waived in the event all development is transferred to more suitable land outside of areas designated as Open Space.

Comment: The applicant has prepared a detailed site analysis. This includes:

- 1) Defining an accurate boundary*
- 2) Determining those areas of the property with slopes over 20%*
- 3) Determining those trees that need to be removed for the development*
- 4) Determining the overall open space to be protected.*
- 5) Using this information to determine where the zone change is being proposed – namely the boundary of the open space tract – Tract ‘A’.*

The site analysis is related to the Resource Protection Open Space. The resources are protected by Statewide Planning Goal 5 and implemented through our Comprehensive Plan policies and ZDO include:

- a. Riparian corridors, including water and riparian areas and fish habitat;

Comment: *The applicant has delineated both the perennial and diurnal streams on the property. The first has a 50-ft buffer the 2nd having a 25-ft buffer. The applicant is protecting all steep slope treed areas, as well as the riparian corridors along the eastern edge of the property.*

b. Wetlands;

Comment: *There are no wetlands outside of the exiting drainage channels. Both sides of the creek are extremely steep, and the property is deeply incised. There is a clearly defined channel, that has been surveyed.*

c. Wildlife Habitat;

Comment: *The Goal 5 resource has been called out by the state. This is an older State map and is based upon environmental areas around waterways. As with most Statewide resource maps the accuracy is reliant upon the ground surveys for actual determination. For example the southern fork of the overlay is about 100-feet further west that it should be.*

The applicant has attached an arborist report, and tree removal plan.

d. Federal Wild and Scenic Rivers;

Comment: *N/A*

e. State Scenic Waterways;

Comment: *N/A*

f. Groundwater Resources;

Comment: *No groundwater sources were identified by the Geotech that reviewed the site*

g. Approved Oregon Recreation Trails;

Comment: *N/A*

h. Natural Areas;

Comment: *N/A*

i. Wilderness Areas;

Comment: *N/A*

j. Mineral and Aggregate Resources;

Comment: *N/A*

k. Energy sources;

Comment: *N/A*

l. Cultural areas.

Comment: *N/A*

WES has not requested that we fill out a WQRA BR / NRA. By avoiding the drainageways, and staying out of both the buffers and the more steeply sloped area I had understood from Ben that we met the approval criteria.”

Staff reviewed the tree preservation plan, the topographic survey, and the survey with the 50 foot buffer around the waterways/wetlands and concur with the applicant that they have conducted a site analysis as required by 4.R.8 and that Tract A open space preserves a Statewide Goal 5 resource. The final proposal shown in Exhibit 2j shows that the majority of the open space and natural resources such as steep slopes, are confined in Tract A. Thus with the open space tract and concentrating the development on more suitable land outside of areas designated as Open Space in compliance with 4.R.8.

As discussed in relation to ZDO 1006, the site is or can be served with public water, public sewer, and drainage controls. Additionally the plan set provided in Exhibit 2j show street trees, and thus policy 4.R.10 is met.

The density calculation in the findings for 1012 show that 15% of the gross area is for roadways in line with policy 4.R.11.

The plan shows a stub street connecting to the vacant property to the northwest that is necessary to provide access pursuant to Comprehensive Plan policy 4.R.13.

For those reasons, staff find the proposed zone change is consistent with the applicable goals and policies of the Comprehensive Plan.

These criteria are met.

B. If development under the proposed zoning district designation has a need for any of the following public services, the need can be accommodated with the implementation of the applicable service provider's existing capital improvement plan: sanitary sewer, surface water management, and water. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.

Finding: The applicant provided preliminary statements of feasibility from Water Environment Services indicating that sanitary sewer and surface water management were feasible as long as the development was conditioned to meet all applicable WES rules and standards and DEQ water quality requirements. Oak Lodge Water Services indicated that with the improvements completed by the developer, or the system owner, the water system has adequate capacity to source, supply, treat and distribute the needed water. **This criterion is met.**

C. The transportation system is adequate and will remain adequate with approval of the proposed zone change. For the purpose of this criterion:

1. 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.

2. The evaluation of transportation system adequacy shall be conducted pursuant to the Transportation Planning Rule (Oregon Administrative Rules 660-012- 0060).

3. 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.

4. The methods of calculating v/c and LOS are established by the Clackamas County Roadway Standards.

5. The adequacy standards shall apply to all roadways and intersections within the impact area of the proposed zone change. The impact area shall be identified pursuant to the Clackamas County Roadway Standards.

6. 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.

7. Notwithstanding Subsections 1202.03(C)(4) through (6), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.

D. Safety of the transportation system is adequate to serve the level of development anticipated by the proposed zone change.

Finding: This applicant provided a draft (Exhibit 2c) trip generation analysis of the subdivision that assumed up to 48 lots for townhomes would be included, although the final proposal only includes 43 lots. The final signed trip generation analysis by ARD Engineering is found in Exhibit 2e. The analysis looked at the number of trips generated by the proposed development and the impact for the 6 nearby intersections. The intersections of potential concern were identified by Clackamas County staff. The analysis by ARD Engineering found that 22 additional trips would be added to the morning peak hour, 26 trips would be added during the evening peak hour and there would be an overall increase of 336 average daily trips from the townhouse development. Accordingly, the traffic engineer found that the impact of the proposed development on the area intersection would be minimal/negligible.

The analysis by ARD states “Approval of a zone change to R10 for the entire 3.88-acre property would result in a net increase of up to 9 AM trips, 10 PM trips, and 128 daily trips as compared to the current development potential under the existing R15 zoning. The total increase in site trips is roughly half of the 20-peak-hour trip threshold that Clackamas County typically uses to determine whether a detailed operational analysis is required.”

And the report included the following findings for compliance with Oregon Administrative Rules 660-012- 0060:

“No changes are proposed to the functional classification of existing or planned transportation facilities.” “No changes are proposed to the standards implementing the functional classification system” “The proposed zone change is from one residential zoning type to another. The vehicle types that will access the site are similar under either zoning scenario. As such, the proposed zone change will not result in types or levels of travel or access that are inconsistent with the functional classification of any existing or planned transportation facility.”

“Under the reasonable worst case development scenario, a zone change from R15 to R10 on the subject property would result in no more than 6 added peak-hour trips at any of the intersections of potential concern that were identified by Clackamas County. This is one quarter of the traffic level which triggers the need for a detailed operational analysis. Since the actual impact of a more limited zone change on the property would be even less than the impact analyzed herein, the change from R15 to R10 zoning is not projected to degrade the performance of any existing or planned transportation facilities.”

“Based on the analysis, the proposed change from R15 to R10 zoning on the subject property is not projected to degrade the performance of any existing or planned transportation facilities, and the zone change meets the requirements of Oregon’s Transportation Planning Rule.”

Clackamas County Transportation Engineer, Christian Snuffin reviewed the analysis and found:

“The analysis appears to adequately address the requirements of the Transportation Planning Rule (OAR 660-012-0060) and demonstrates that the proposed zone change would not result in a significant effect on area transportation facilities from an operational perspective. This conclusion also serves to implicitly address ZDO Section 1202.03(C), which requires a determination of whether the amendment will significantly affect a transportation facility as defined in the TPR.

However, Clackamas County ZDO Section 1202.03(D) also requires that the transportation analysis include an assessment of transportation safety, in addition to operational effects. The current memo does not include a safety analysis (e.g., crash history review) at the study intersections. The applicant should provide a brief addendum addressing this requirement to complete the review.”

These criteria are not currently met.

1202.04 NC DISTRICT APPROVAL CRITERIA *If the application requests a zone change to NC District, approval of the zone change shall include approval of a specific use for the subject property, including a specific site development plan. A. In addition to the standards and criteria in Subsection 1202.03, a zone change to NC District shall be subject to the following standards and criteria:*

Finding: The applicant is not requesting a zone change to or from an NC District. **This criterion is not applicable.**

1202.05 ALTERNATE ZONING DISTRICT DESIGNATION *An application for a zone change may include a request for the approval of an alternate zoning district designation if it is found that the applicant's preferred designation does not comply with the approval criteria but the alternate designation does.*

Finding: Staff did not find issues with the applicant's preferred designation and thus are not proposing an alternate designation. **This criterion is not applicable.**

Summary: The applicant failed to provide a transportation analysis that included an assessment of transportation safety. Therefore, there is a criterion that is not met. However, if a traffic impact analysis finds that the transportation system can safely handle the increased density afforded by the R-10 zone, then staff would recommend approval of Z0051-25 with appropriate conditions of approval to ensure compliance with the Comprehensive Plan policies.

4. ZDO SECTION 1105 SUBDIVISIONS, PARTITIONS, REPLATS, MIDDLE HOUSING LAND DIVISIONS, CONDOMINIUM PLATS, AND VACATIONS OF RECORDED PLATS

1105.01 PURPOSE AND APPLICABILITY *Section 1105 is adopted to provide standards, criteria, and procedures under which a subdivision, partition, replat, middle housing land division, condominium plat, or vacation of a recorded plat may be approved, except:*

A. In the EFU, TBR, and AG/F Districts, land divisions that are approved pursuant to Subsections 401.09, 406.09, or 407.08, respectively, are exempt from review pursuant to Section 1105. However, all subdivisions, as well as all partitions containing any parcel of 80 acres or smaller (based on the best available records), require completion of a final plat pursuant to Subsection 1105.11; and

B. Subdivisions for cemetery purposes pursuant to Oregon Revised Statutes Chapter 97 are exempt from Section 1105.

Finding: The applicant is proposing a subdivision of one 3.89 acre property into 43 lots for a townhouse development. The underlying zone is proposed as R-10 and is an Urban Low Density Residential designation. **These criteria are met.**

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

Finding: The applicant submitted the materials required for a subdivision, a zone change, a PUD and an open space review. **These criteria are met.**

1105.04 ADDITIONAL SUBMITTAL REQUIREMENTS FOR MIDDLE HOUSING LAND DIVISIONS

Finding: The applicant is not proposing a middle housing land division. **These criteria are not applicable.**

1105.05 APPROVAL CRITERIA FOR SUBDIVISIONS, PARTITIONS, AND REPLATS

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

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

Finding: The applicant is proposing a major subdivision that is being reviewed as a Type III land use decision pursuant to Section 1307. Section 1000 is evaluated below. **These criteria are met.**

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

Finding: The applicant indicated in the application that they are proposing a zerolot-line development with no side setbacks. **This criterion is met.**

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.

Finding: The applicant indicated in the application that they are proposing a single phase of development. As such staff are not reviewing it as part of a phasing plan. **This criterion is met.**

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

1. The homeowners association shall continue in perpetuity unless the requirement is modified pursuant to either Section 1309, Modification, or the approval of a new land use permit application provided for by this Ordinance.

2. Membership in the homeowners association shall be mandatory for each lot or parcel owner.

3. The homeowners association shall be incorporated prior to recording of the final plat.

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

Finding: The applicant is proposing an open space tract to comply with the requirements of the Comprehensive Plan and Section 1013. As conditioned this can be met. **These criteria can be met as conditioned.**

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

Finding: The site is not currently, and the applicant is not proposing, a future urban designation. **These criteria are not applicable.**

1105.06 ADDITIONAL APPROVAL CRITERIA FOR REPLATS

Finding: The site is not currently a platted lot, and the applicant is not proposing, a replat. **These criteria are not applicable.**

1105.09 APPROVAL PERIOD AND TIME EXTENSION Except for a middle housing land division:

A. Approval of a preliminary plat is valid for four years from the date of the final decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the final plat shall be recorded with the County Clerk, or the approval will become void.

B. If a final plat is not recorded within the initial approval period established by Subsection 1105.09(A), a two-year time extension may be approved pursuant to

Section 1310, Time Extension, except for a replat reviewed as a Type I application pursuant to Section 1307, which may not be approved for a time extension.

C. If a phasing plan and schedule are approved pursuant to Subsection 1105.05(C), the following shall apply in lieu of Subsections 1105.09(A) and (B): 1. The phasing schedule may provide a preliminary plat approval period for the first phase not to exceed four years from the date of the final written decision. If the County's final decision is appealed, the approval period shall commence on the date of the final appellate decision.

Finding: These criteria are informational only.

1105.11 FINAL PLAT REVIEW *If a preliminary plat is approved, finalizing the approval requires the completion of a final plat, except that a final plat is not required for a partition or partition replat in which all parcels are larger than 80 acres. The applicant shall comply with the following:*

A. The form and content of the final plat shall comply with the County's final decision approving the preliminary plat and applicable provisions of Chapters 11.01 and 11.02 of the Clackamas County Code and Oregon Revised Statutes Chapters 92, 94, 100, and 209.

B. The final plat shall be submitted to the County for review. If a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws shall be submitted to the County with the final plat. If the final plat and, if a homeowners association is required, the declaration for a planned community, articles of incorporation, and bylaws are consistent with the approved preliminary plat and the conditions of approval included in the County's final decision on the application have either been satisfied or guaranteed pursuant to Section 1311, Completion of Improvements, Sureties, and Maintenance, the Planning Director shall sign the plat.

C. If the final plat is for a middle housing land division, it shall contain a notation that the lots shown on the plat were created pursuant to a middle housing land division and may not be further divided.

Finding: These criteria are met as conditioned.

5. 1000, Development Standards

Type of Development	1002 Protection of Natural Features	1003 Hazards to Safety	1004 Historic Protection	1005 Site and Building Design	1006 Utilities, etc	1007 Roads & Connectivity	1009 Land- scaping	1010 Signs	1011 Open Space and Parks	1012 Lot Size and Density	1013 Planned Unit Develop- ments	1015 Parking and Loading	1017 Solar Access	1021 Solid Waste & Recyclable Material Collection
Partitions														
Subdivisions	✓	✓	✓		✓	✓		✓	✓	✓	✓	✓	✓	
Replats														
Institutional														
Commercial ²	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓		✓
Industrial														

Pursuant to ZDO Table 1001-1, Subdivisions are subject to the following Development Standards in addition to those discussed above.

ZDO Section 1002, Protection Of Natural Features

1002.01 HILLSIDES

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

Finding: The applicant states: “*The intent of these criteria is to ensure that no lots are created that cannot be developed due to issues with steep slopes. The subject property is split roughly equally between the main area with slopes of less than 20% and the easterly ¼ of the site, with slopes equal to or greater than 20%. The applicant has designed the subdivision options to avoid development on slopes of 20% or greater...*” The applicant’s plan set shows approximately five square feet of the building footprint on lot 23 with slopes over 20%. That small area will not preclude development, but will require the property owner to submit a Type I steep slope application for review prior to the development of a home on a site with greater than 20% slope. Lots 24-28 and Lots 31-36 appear to have slopes over 20% located outside of the building envelope. However, the slope on those lots will be evaluated and confirmed using the site plan submitted with the building permit. This criterion can be met as conditioned.

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

Finding: The overall site plan and detailed site plans provided in Exhibit 2j show that the only lot with slopes greater than 20 percent in the building footprint is lot 23. Because the area of steep slope on lot 23 is so small, staff believe it can be developed with review of a geotech report and land use file, Therefore, pursuant

to 1002.01, a Type I slope review will be required for lot 23 prior to Final Occupancy of the building but building on 90 % of the lot could be achieved without steep slope review by reducing the size of the home.

This criterion is met as conditioned.

2. Grading, stripping of vegetation, and lot coverage by structures and impervious surfaces shall be limited to no more than 30 percent of slopes 20 percent or greater. Variances to this standard may be granted pursuant to Section 1205, Variances. A variance shall not be granted unless the proposed development satisfies the following conditions:

- a. The proposed lot coverage shall not exceed the maximum lot coverage standard of the zoning district;*
- b. The additional lot coverage, grading, or stripping shall not:*
 - i. Decrease the stability of the slope;*
 - ii. Appreciably increase erosion, sedimentation, or drainage flow from*

Finding: The subject site contains slopes greater than 20 percent and the majority of those slopes are protected by being contained within “Tract A”, the open space tract. The narrative in the application indicates that a “preliminary geotechnical review prepared by Rapid Soil Solutions, LLC. The report author, Mia Mahedy-Sexton, PE, GE, found that upon examination of the slopes within the property, there was no indication of major active slope instability. Based on the site plan that shows the proposed footprints of the future townhouses, lot 23 is the only lot proposed where the building footprint may extend into an area with slopes over 20%. Therefore, less than 30 percent of slopes 20 percent or greater are proposed for development through this application. The applicant shall submit and abide by an erosion Protection and Sediment Control plan approved by Clackamas Water Environment Services. **These criteria are met and a condition of approval ensures compliance.**

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

Finding: The site plan shows that the 43 proposed townhouses are clustered in approximately 3 acres of the site to leave about an acre as protected open space to reduce alteration of terrain and provide protection for steep slopes, waterways, and existing trees.

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

Finding: The applicant provided a grading plan on sheet C2.1 of exhibit 2j that identifies the extent of the grading during the subdivision implementation process. The grading proposed is confined to the areas identified as road right of way, utilities, stormwater,

and sidewalk. The grading during building construction will be reviewed through the building permit review process. This criterion is met.

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

Finding: The applicant provided a copy of an approved Design Modification application (RW014125) that was reviewed by the Transportation and Engineering Program. That included the following proposal and conditions:

Proposal 1: Reduced tangent sections at roadway intersections; reduced pavement width and tangent lengths; single access for residential development in excess of 30 units; fire access/water supply

Approval with Conditions

· The applicant shall obtain written Fire Marshal approval

Proposal 2: Alternative 1 per Standard Drawing C110 and Section 215 for internal public streets

Approved with Conditions to provide minimum improvements:

- 26-feet of pavement*
- Six-inch mountable curb*
- Six-foot lowered curb-tight sidewalk (sidewalk may be in easement along side lots only and not frontage where driveways are present)*
- Street trees behind sidewalk*
- Maintain minimum 20-foot setback from back of sidewalk to front of garage*

Proposal 3: Allow 2/3 street improvements along westerly property line to be designed and constructed with future development

Approved with conditions:

- Provide full street improvements along tax lot 2E07DA02200. Tax lot 2200 is fully developed with no guarantee of additional development in the future.*

Proposal 4: Allow private road connection to northerly adjacent lots 22E07AD02706 and 22E08CB00507

Approved with Conditions:

- The intent of ZDO 1007.02.B.1 is met with providing urban private road improvements of 20-feet of pavement, six-inch curb and five-foot sidewalk;*
- Or Provide 42-feet of right-of-way to allow for Alternative 2 per Standard Drawing C110*

Proposal 5: Allow 24-foot private access easement alley way with 18-feet of pavement. County

Staff is under the assumption that the internal lots are backloaded.

Approved with Conditions:

- Restrict alley way parking with appropriate signage*
- Provide cross section of alley way with land use application*

Under Proposal 4 Planning and Zoning staff find that dedication to the County of a minimum of 26 feet is required to meet ZDO 1007.02.B.1 as noted below.

This criterion can be met as conditioned.

6. Re-vegetation of all graded areas shall be the responsibility of the developer and shall occur as soon as feasible following the final grading. Maintenance of the slopes shall be the responsibility of the developer until the property ownership is transferred

Per ORS 197A.400, this criterion cannot be applied because it is not clear and objective

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

Finding: It appears that small storm water outfall near the creek bottom may encroach on slopes exceeding 35%. The applicant did not identify how the second outfall would be reached or if there would be a pipe down to the outfall, which would need to be revegetated once the storm water pipe is installed. The final stormwater plan and accompanying geotechnical engineering report needs to clearly identify any areas of concern and provides adequate recommendations for appropriate construction methods. **This criterion can be met as conditioned.**

1002.03 TREES AND WOODED AREAS

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

Finding: Per ORS 197A.400, local governments cannot apply subjective standards. Therefore, this standard is not applicable. Staff notes that the majority forested hillside (slopes greater than 20 percent) will be contained in the Tract "A".

1002.04 RIVER AND STREAM CORRIDORS

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

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

1002.05 DEER AND ELK WINTER RANGE

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

Finding: The subject property is located outside of the Deer and Elk Winter Range. **These criteria are not applicable.**

1002.06 MOUNT HOOD RESOURCE PROTECTION OPEN SPACE

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

Finding: The subject property is located outside of the Mt. Hood Resource Protection Open Space. **These criteria are not applicable.**

1002.07 SIGNIFICANT NATURAL AREAS

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

Finding: The subject property does not contain a significant natural area.

The property is inside the Urban Growth Boundary and as indicated in the application, was previously used for a single-family home with field and forest. Excessive tree removal excludes trees removed after land use approval for a development. In addition to the significant grove of trees near the 50 foot stream buffer line, there is significant

clump or grove of trees near the entrance of the property as shown on the existing conditions site plan. Those trees and vegetation would prohibit the development of the needed housing and there is no clear and objective criteria for the preservation of those trees. Therefore, the development of the access and townhouse development is allowed pursuant to ORS 197A.400. The existing records do not indicate there are any significant landforms on site. The site is not in the VR4/5 or VR5/7 Districts and it is located outside of the Mount Hood Resource Protection area and outside the Deer and Elk Winter Range. **These criteria are met.**

ZDO Section 1003, Hazards To Safety

1003.01 PURPOSE

- A. *To protect lives and property from natural or man-induced geologic or hydrologic hazards and disasters.*
- B. *To protect property from damage due to soil hazards.*
- C. *To protect lives and property from forest and brush fires.*
- D. *To avoid financial loss resulting from development in hazard areas.*

Acknowledged.

1003.02 STANDARDS FOR MASS MOVEMENT HAZARD AREAS

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

B. Approval Criteria:

Finding: The proposed subdivision is not located in a mass movement hazard area. Only the building envelope on lot 23 encroaches on slopes twenty (20) percent or greater. **This section is not applicable.**

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

Finding: The Bulletin 99 DOGAMI map for the Lake Oswego and Gladstone Quadrangle shows that there are no landslide hazards in this area (Exhibit 3). **These criteria are not applicable**

1003.03 STANDARDS FOR FLOOD HAZARD AREAS

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

Finding: The site is located within the Special Flood Hazard Area (SFHA), and not subject to ZDO Sec. 703. **These criteria are not applicable**

1003.04 STANDARDS FOR SOIL HAZARD AREAS

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

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

Finding: The subject site contains no mapped: mass movement hazards, special flood hazard areas, or soil hazard areas beyond the steep slopes located in the open space tract "Tract A". **These criteria are not applicable**

1003.05 STANDARDS FOR FIRE HAZARD AREAS

A. Development in areas with the potential for forest or brush fires shall be designed: 1. To provide adequate water storage and pressure for purposes of maintaining minimum flows for fire protection. 2. To provide, in cooperation with local fire districts, fire hydrants appropriate to the intensity and type of development. 3. So that dwellings are not sited in areas subject to extreme fire hazard, such as areas of heavy fuel concentration, draws, etc. 4. To provide for other methods of fire protection and prevention appropriate to the location and type of development, utilizing techniques recommended by the Oregon State Forestry Department.

Finding: The property is inside the Urban Growth Boundary and is within a fire district. The utility plan on Sheet C3.0 in Exhibit 2j show the installation of two new fire hydrants. The site is in an area of low hazard according to the Oregon Wildfire Risk maps produced by ODF and Oregon State University. **These criteria can be met as conditioned.**

ZDO Section 1004, Historic Protection

Finding: The subject property is not a Historic Landmark, and is not located in a Historic District or Historic Corridor. Tax assessor's data indicate the existing house was

built in 1971. Therefore there are no known historic resources on the subject site. **These criteria are not applicable.**

ZDO SECTION 1006, Utilities, Street Lights, Water Supply, Sewage Disposal, Surface Water Management, and Erosion Control

1006.01 GENERAL STANDARDS

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 the surface water management regulatory authority.

B. All development that has a need for electricity, natural gas, and communications services shall install them pursuant to the requirements of the utility district or company serving the development. Except where otherwise prohibited by the utility district or company, utility service lines shall be installed underground.

C. Coordinated installation of necessary water, sanitary sewer, and surface water management and conveyance facilities is required.

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 location, design, installation, and maintenance of all utility lines and facilities shall be carried consistent with the rules and regulations of district, or utility district covering the site. The surface water management regulatory authority is Clackamas Water Environmental Services (WES). The sewer district that is able to serve the site is Clackamas Service District #1 that is also a part of Water Environmental Services (WES). The water district that is available for the development is Oak Lodge Water District. **As conditioned these criteria are met.**

1006.02 STREET LIGHTS

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

A. Street lighting shall be installed pursuant to the requirements of Clackamas County Service District No. 5 and the electric company serving the development. A street light shall be installed where a new road intersects a County road right-of-way and, in the case of subdivisions, at every intersection within the subdivision.

B. Areas outside Clackamas County Service District No. 5 shall annex to the district through petition to the district.

Finding: The subject property is located inside the Portland Metropolitan Urban Growth Boundary and the proposal includes a subdivision. Therefore, the installation of street lights at every intersection within the subdivision is required. **As conditioned these criteria can be met.**

1006.03 WATER SUPPLY

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

B. Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.

1. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner.

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

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

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

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

1. Land divisions or other development requiring water service shall not be approved, except as provided in Subsection 1006.03(D)(4), unless they can be served by a public water system in compliance with drinking water standards as determined by the Oregon Health Authority.

2. Development requiring water service within the boundaries of a water service system, created pursuant to ORS chapters 264, 450, or 451, shall receive service from this system.

3. New public water systems shall not be created unless formed pursuant to ORS chapters 264, 450, or 451.

4. A lot of record not located within the approved boundaries of a public water system may be served by an alternative water source.

Finding: The development is within the boundaries of a water service system. Oak Lodge Water District signed a preliminary statement of feasibility on 01/13/2025 (included in Exhibit 2) that indicated “Water service, including fire flows, is available in levels appropriate for the development and adequate water system capacity is available in source, supply, treatment, transmission, storage, and distribution, or such levels and capacity can be made available through improvements completed by the developer or the system owner.” The utility plan in the application indicated the water service would be utilized for all of the lots in the subdivision (Exhibit 2j). However, sheet C3.0 of the plans set in Exhibit 2j shows no water lines to Lots 23-26. Additional utility plans are needed to ensure adequate water source to all of the proposed lots. The application indicates that there is an existing house on the property. However, the tax assessor’s information indicates the property is not currently in a water district. Therefore, when Oak Lodge extends water service to the site the existing well will need to be properly abandoned if required by *Oregon Revised Statutes (ORS) 537.665*. **These criteria can be met as conditioned.**

1006.04 SANITARY SEWER SERVICE

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

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

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

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

3. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve sanitary sewer system capacity for the development. C. Hotels and motels are permitted in unincorporated communities only if served by a community sewer system as defined by Oregon Administrative Rules 660-022- 0010(2)

Finding: The subject property is inside the Clackamas County Service District #1 service district that is part of Clackamas Water Environment Services (“WES” or “District”), which 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. Properties located within the WES service area shall be subject to WES Rules and Regulations, 2023, Ordinance No. 02-2023. These

Rules and Regulations shall apply to any property that discharges or requests to discharge, via connection request, development permit, or change in use, to the District's public sanitary sewer system or public stormwater system, to groundwater, or to surface waters within District boundaries. Clackamas Water Environment Services (WES) signed a preliminary statement of feasibility on 01/29/2025 (included in Exhibit 2b) indicating that there was sanitary sewer available to service the land division and that the stormwater management plan of using drywells and infiltration trenches would have to meet the DEQ requirements. Staff from Water Environment Services reviewed the updated stormwater infrastructure and storm drainage management and provided and any comments received have been saved as Exhibit 4. **These criteria can be met as conditioned.**

1006.05 ONSITE WASTEWATER TREATMENT - Not applicable

1006.06 SURFACE WATER MANAGEMENT AND EROSION CONTROL

The following surface water management and erosion control standards apply:

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

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.

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

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

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

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

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

2. Protect development from flood hazards;

- 3. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;*
- 4. Ensure that waters drained from the development are substantially free of pollutants, including sedimentary materials, through such construction and drainage techniques as sedimentation ponds, reseeding, and phasing of grading; and*
- 5. Ensure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development.*

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

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

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

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

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

Finding: The subject property is located inside the Clackamas County Service District #1 and Water Environment Services district. Clackamas Water Environment Services (WES) signed a preliminary statement of feasibility on 01/29/2025 (included in Exhibit 2b) indicating that there was sanitary sewer available to service the land division and that the stormwater management plan of using drywells and infiltration trenches would have to meet the DEQ requirements. Staff from Water Environment Services reviewed the updated stormwater infrastructure and storm drainage management and provided and any comments received have been saved as an exhibit. No waterways are being crossed, or altered in the proposed plan. Per ORS 197A.400 the standards above that are subjective cannot be applied because adequate, feasible, and as deemed necessary are not clear and objective criteria. **As conditioned these criteria can be met.**

ZDO Section 1007, ROADS AND CONNECTIVITY

1007.01 GENERAL PROVISIONS

A. The location, alignment, design, grade, width, and capacity of all roads 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.

B. Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, detached singlefamily dwellings, and commercial, industrial, and institutional uses, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

Finding: The applicant has proposed a 43-lot subdivision and zone change of a 3.89-acre property located at the end of Roethe Rd. Access to the project site is proposed from connection to the east end of Roethe Rd. The existing drive at the end of Roethe road extends up through the proposed development to serve the adjacent home to the north of the site that is located on map and tax lot number 22E07DA00200. The design modification application and approval from the Transportation and Engineering program (Exhibit 2h) verified that the road designs shown in Exhibits 2i and 2j could be consistent with the Clackamas County Roadway Standards.

However, a review of a minor subdivision, Z0195-04, of the adjacent property to the northeast left a large 99,116 square foot lot in the upper, westerly part of the property to be reserved for future development of 6 additional single family lots (22E08CB00507). The findings in that land use approval indicated that access would be taken off of Roethe road for those additional lots due to the environmentally sensitive areas such as steep slopes and waterways. Therefore, a stub street is needed to provide access to adjacent property for future development. A review of the Comp Plan Chapter 4 and Section 1007 by Planning staff indicate that because of the language in Clackamas County Comprehensive Plan Chapter 4 Policy “4.R. 13 Require stub streets in land divisions where necessary to provide access to adjacent property” and ZDO 1007.02.B.1 that states “When public access to adjoining property is required, this access shall be improved and dedicated to the County” dedication to the county of the 26 foot minimum right-of-way under Tract C in Exhibit 2j is needed for the proposal to be consistent with Section 1007, and Chapter 4 of the Clackamas County Comprehensive Plan. As discussed below and discussed by a representative of the owner of the adjacent lots in Exhibit 6, due the number of lots to be served by this road stub, the width of the right of way may need to be expanded.

As conditioned these criteria can be met.

C. New developments shall have access points connecting with existing 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.

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).

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.

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.

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.

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

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

Finding: The subject property is not in the NC, VA, or SCMU District and is not located in a station community. Joint access is not proposed. The property is less than 5 acres in size and is not included in Comprehensive Plan Map 5-6 that identifies potentially buildable residential sites. The driveway serving the site currently exists and currently serves one additional lot. The application materials do not propose to alter the location of the driveway but do propose to expand the width and provide a loop road to access the new lots.

ZDO Section 1007.02 (E) and 1007.04 require that subdivision applications improve the public roadway frontage and construct new public roads to current county standards,

including paved width, curbs, sidewalks and street trees based on the roadway classification and approved roadway cross-sections as adopted in the Clackamas County Roadway Standards. New developments shall have access points connecting with existing private, public, county, or state roads. The alternative designs of the road were considered and conditions of approval were given through a Design Modification application (Exhibit 2h).

Roethe are classified as a local roadways (Comprehensive Plan map 5-2a). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for local roads. The standard right-of-way width for a local roadway is 54 feet. The applicant requested a design modification to have a smaller transection (Exhibit 2h).

Per ORS 197A.400 the remaining standards in 3. And 4. cannot be applied because adequate, feasible, and as deemed necessary are not clear and objective criteria.

These criteria can be met as conditioned.

8. Inside the Portland Metropolitan Urban Growth Boundary:

- a. The development shall have no more than the minimum number of driveways required by the Department of Transportation and Development on all arterial and collector streets.*
- b. For properties having more than one street frontage, driveways shall be located on the street with the lowest functional classification, if feasible.*
- c. Driveways shall be no wider than the minimum width allowed by the Clackamas County Roadway Standards.*
- d. Driveways shall be located so as to maximize the number of allowed onstreet parking spaces, the number of street trees, and optimum street tree spacing.*

Finding: All lots are designed with a single driveway Sheet C1.3 Exhibit 2j. Lots 1-11 take access from an alley while the other lots access using the loop road. Only local and private roads make up this development, so access to higher functional classification roads is not a concern. Street spacing will comply with County Roadway Standards.

This criterion 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.

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.

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 development proposes the construction of new roads that were reviewed for compliance with the Roadway Standards through the design modification application (Exhibit 2h). The public road adjacent to the site does not serve a transit service route. The subject property is inside the UGB and the transportation adequacy, as discussed in Section 1202 above was reviewed and found adequate (Exhibit 5 and Exhibit 2e). Additional review of the ability for the transportation system to safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards is needed (Exhibit 5). Transportation and Engineering Program staff reviewed the proposal for compliance with Chapter 5 and 10 of the Comprehensive Plan in addition to Section 1007 and their comments are saved as an exhibit. **As conditioned these criteria can be met.**

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 subject property is not located in: Government Camp; the Sunnyside Corridor; the Sunnyside Village; the Regional Center, or Mount Hood Resource Protection Area. Therefore there are no specific design standards for the road that is used to access to the site and proposed to serve the townhouse development beyond what is required by the cross-section for the local road standards in Chapter 5 of the Comprehensive Plan. **This criterion is not applicable.**

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.

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.

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

Finding: The property is not included in Comprehensive Plan Map 5-1 as a scenic road; Map IV-8 as located in a center, corridor or station community; and outside of the area included on Map 5-5. **These criteria are not applicable.**

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

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

Finding: Access to adjoining property is required through the proposed development, because the vacant lands to the northeast were involved in previous land use decisions that identified access to the undeveloped tract as Roethe Road. Access through these subdivisions is prohibited due to the location of the open space tract along the steep slopes and waterway as similarly proposed in this application. Therefore, this access to the adjacent property is required and this access shall be improved and dedicated to the County. **This criterion can be met as conditioned.**

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 layout of new roads was reviewed by the Transportation and Engineering staff and the comments are included as an exhibit that includes findings and recommended conditions of approval. A representative of the adjacent neighbors provided their own analysis of the road layout (Exhibit 6). The property to the northeast is vacant property that is identified in Plat 3950 recorded in Book 129 Page 22 as a 2.275 acre tract reserved for future development. There are no wetlands, streams, or topography that would limit the extension of "Tract C" to serve the adjacent property. Therefore, this road that will need to dedicate right of way to the county pursuant to 1007.02(B)(1) and will then be considered a new public road. **These criteria can be met as conditioned.**

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

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

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, consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

Finding: The proposal includes the creation of 43 new residential lots, and an open space tract through a Planned Unit Development and major subdivision. Therefore, dedication of land for right of way purposes and road frontage improvements will be needed. The driveways, and road frontage improvements in Exhibit 2j are contained within a 33' wide public road right of way for the loop road and a 26 foot wide private stub street to the north. These proposed road frontage improvements and right-of-way was reviewed by the Transportation and Engineering staff and their findings and recommended conditions of approval are included as an exhibit.

The Clackamas County's Roadway Standards include requirements for emergency vehicle access to residential subdivisions. Fire access standards require two points of access for subdivisions of more than 30 lots. The applicant did not address the two points of access required, but indicated that they understood "written approval from the Fire Marshal will be required".

Roads longer than 150 feet are required to provide a turnaround that can accommodate emergency services vehicles, as well as garbage and recycling trucks and other service and delivery vehicles. The applicant states "The preliminary plans identify a modified hammerhead-type turnaround at the west end of the proposed temporary dead end of Roethe Road." Exhibit 2a shows this modified hammerhead-type turnaround in the north west section of the subdivision that has since been turned into part of the loop road. Written verification from the Fire District indicating that emergency service access is, or will be, adequate for the proposed subdivision will be required. This criterion can be met as conditioned.

Per ORS 197A.400 the remaining standards in D above cannot be applied because it is not clear what restricts motorists' vision or deemed appropriate would mean for this subdivision and townhouse development.

These criteria can be met as conditioned.

F. Road frontage improvements within the UGB and in Government Camp, Rhododendron, and Wemme/Welches shall include:

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

2. *Pedestrian, bikeway, accessway, and trail facilities as specified in Subsection 1007.04;*
3. *Transit amenities as specified in Subsection 1007.05; and*
4. *Street trees as specified in Subsection 1007.06.*

Finding: The proposal includes new road frontage improvements including curbs, and street trees. The minimum improvements for a local roadway, consistent with ZDO Section 1007 include, but are not necessarily limited to 32-foot wide paved roadway, 6-inch curbs, a 5-foot wide landscape strips with street trees, 5-foot wide unobstructed sidewalks, and storm drainage facilities. The applicant's preliminary plans were modified through a design modification application to the Transportation and Engineering Program. The design modification effectively approved a 20-foot wide street with sidewalk on one side as allowed in ZDO 1007.04(F)(1). Road frontage improvements proposed in Exhibit 2j was reviewed again by the Transportation and Engineering staff and their findings and recommended conditions of approval are included as an exhibit. Criteria in 2, 3, and 4 are reviewed in the referenced sections. **These criteria can be met as conditioned.**

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:

1. *When easements or "flag-pole" strips are used to provide vehicular access;*
2. *Where the number of lots served exceeds three,;*
3. *Access easements or "flag-pole" strips may be used for utility purposes in addition to vehicular access;*
4. *The standards listed above may be deviated from when deemed appropriate by the Department of Transportation and Development to accommodate one-half streets or private common access drives and roads within developed urban areas providing access to not more than seven lots; and*
5. *The intersection of private roads or access drives with a public or county road and intersections of two private roads or access drives shall comply with the sight distance and clear zone standards pursuant to Subsection 1007.02(D).*

Finding: Access drives are defined in ZDO 202 as "ACCESS DRIVE: A private way, with a travel surface generally no more than 12 feet in width, created by deed or easement to provide vehicular ingress to, or egress from not more than two lots or

parcels". Therefore, the current home is served by an access drive. However, the access to the newly created lots in the subdivision is proposed as a public road.

As noted in the design modification (Exhibit 2h), and the plan set, the road serving lots 23-26 are proposed as a private road. Testimony received (Exhibit 6) identifies future phases of development for adjacent subdivisions that would also use the street identified as Tract C in Exhibit 2j. As indicated in Exhibit 6 the total number of lots served by Tract C will exceed 7 lots if those future development phases are pursued. Therefore, dedication of right of way to Clackamas County is required because a public street is needed pursuant to previous land use decisions and Chapter 4 of the Comprehensive Plan and to meet the road classifications and guidelines listed in Section 1007. Testimony in Exhibit 6 indicates that additional width may be needed to meet the roadway standards because the road will ultimately serve more than 7 lots. The road access and sight distance at the intersection of the stub road and the loop road was reviewed by the Transportation and Engineering staff and their findings and recommended conditions of approval are included as an exhibit. **As conditioned these criteria can be met.**

1007.04 PEDESTRIAN AND BICYCLE FACILITIES

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

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

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

C. Requirements for Pedestrian and Bicycle Facility Construction: Within the Portland Metropolitan Urban Growth Boundary (UGB), except if the subject property is in the AG/F, EFU, FF-10, RA-1, RA-2, RC, RI, RRFF-5, or TBR District, sidewalks, pedestrian pathways, and accessways shall be constructed

as required in Subsection 1007.04 for subdivisions, partitions, multifamily dwellings, triplexes, quadplexes, cottage clusters, townhouses 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.

D. Requirement for Sidewalk Construction: Within the UGB, except if the subject property is in the AG/F, EFU, FF-10, RA-1, RA-2, RC, RI, RRFF-5, or TBR District, sidewalks shall be constructed, as required in Subsection 1007.04(F), for duplexes, detached single-family dwellings, townhouses where two dwelling units are attached to one another, and manufactured dwellings outside a manufactured dwelling park.

E. Sidewalks or Pedestrian Pathways in Unincorporated Communities:

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

Finding: The applicant applied for a design modification request from the Clackamas County Transportation and Engineering program to reduce the right-of-way width and pavement width. The review of case file #RW014125 found that with conditions of approval the alternate roadway cross sections and geometric design could meet the Clackamas County Roadway Standards (Exhibit 2h). The design modification effectively approved a 20-foot wide street with sidewalk on one side pursuant to ZDO 1007.04(F)(1) since the narrow street under Tract C will meet 1007.02(B)(3) c. and d. The narrower street with sidewalk on one side as shown in Exhibit 2j for Tract C reduces encroachment into the 20% slope for lot 23 and enables two trees over 12" in dbh to be protected (see Exhibit 2j Sheet C4.2/page 15).

The road frontage improvement on the western edge of the property near lots 1 and 11 appear to include sidewalks on only one side. The condition of approval for Proposal 3 in Exhibit 2h indicate that full street improvements along tax lot 2E07DA02200 are needed. Therefore, sidewalks are needed on both sides of the through road that staff refer to as the loop road to meet the full street improvement requirement.

Additional findings are found in the comments provided by the Transportation and Engineering Program saved as an exhibit.

These criteria can be met as conditioned.

K. Bikeways: Bikeways shall be required as follows:

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

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

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

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

Finding: The project site is not located on, or near a trail, bikeway, bike lane, or bike path included on Comprehensive Plan Map 5-2a or 5-2b; Comp Plan Map IX-1, Open Space Network & Recreation Needs NCPRD's Park and Recreation Master Plan; or Metro's Regional Trails and Greenways Map. The access road, loop road, is not considered an arterial or collector. There are no schools on or adjacent to the subject site. Therefore, there is no specific trail or bicycle infrastructure required for this subdivision. **These criteria are met.**

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: The project site is not located on a current, or planned, Tri-Met route. The applicant states in the Narrative for Sub-Policy 4.R.2.3 in Exhibit 2a that *"The nearest bust stop is at the intersection of SE Webster and Thiessen. The applicant believes that the subject property is one mile from the nearest transit stop for Tri-met Route No. 31."* Because the site is at the end of the current extent of Roethe Road and Roethe Road includes no known transit-supportive features. **This criterion is met.**

1007.06 STREET TREES

A. Within the Portland Metropolitan Urban Growth Boundary, except in the AG/F, EFU, FF-10, FU-10, RA-1, RA-2, RC, RI, RRFF-5, and TBR Districts, street trees are required on all road frontage—except frontage on private roads or access drives—for subdivisions, partitions, multifamily dwellings, triplexes, townhouses where three or more dwelling units are attached to one another, and commercial,

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

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

Finding: The applicant's updated plan set shows street trees along loop road with a gap on the western property boundary shared with tax lot 200. No exemptions were requested or needed due to topography, views, solar access, or existing trees. Roethe Road is classified as a local road on Comprehensive Plan Map 5-4a. Therefore, extending Roethe Road to serve the subdivision and Townhouse development will require street trees included on the road frontage including on the western side of the property as sidewalks are constructed to meet the local street cross section shown in in Comp Plan Figure 5 – 1d. The condition of approval for Proposal 3 in Exhibit 2h indicate that full street improvements along tax lot 2E07DA02200 are needed. Therefore, street trees are needed on both sides of the through road that staff refer to as the loop road to meet the full street improvement requirement.

This criterion can be met as conditioned.

1007.07 TRANSPORTATION FACILITIES CONCURRENCY

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

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

- 1. Development that is located:*

- a. *In the Light Industrial, General Industrial, or Business Park District; and*
 - b. *North of the Clackamas River; and*
 - c. *West of Highway 224 (south of Highway 212) or 152nd Drive (north of Highway 212); and*
 - d. *South of Sunnyside Road (east of 82nd Avenue) or Harmony Road (west of 82nd Avenue) or Railroad Avenue (west of Harmony Road); and*
 - e. *East of Interstate 205 (south of Milwaukie Expressway) or the city limits of Milwaukie (north of the Milwaukie Expressway).*
- 2. *Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;*
 - 3. *Unmanned utility facilities, such as wireless telecommunication facilities, where no employees are present except to perform periodic servicing and maintenance;*
 - 4. *Mass transit facilities, such as light rail transit stations and park-and-ride lots;*
 - 5. *Home occupations to host events, which are approved pursuant to Section 806; and*
 - 6. *Development in Government Camp that is otherwise consistent with the Comprehensive Plan land use plan designations and zoning for Government Camp.*

C. As used in Subsection 1007.07(B), adequate means a maximum volume-to-capacity ratio (v/c), or a minimum level of service (LOS), as established by Comprehensive Plan Tables 5-2a, Motor Vehicle Capacity Evaluation Standards for the Urban Area, and 5-2b, Motor Vehicle Capacity Evaluation Standards for the Rural Area. Notwithstanding the definitions of “urban” and “rural” in Chapter 5, Transportation System Plan, of the Comprehensive Plan, Highway 212 shall be evaluated under Table 5-2a, if the subject property is inside the Portland Metropolitan Urban Growth Boundary.

Finding: The proposed use includes a proposed zone change and whether the transportation system is adequate for the R-10 district was evaluated above. Additional review by the Transportation and Engineering staff and their findings and recommended conditions of approval are included as an exhibit. Based on the traffic generation analysis and review of the transportation system adequacy for the zone change staff believe these criteria could be met with conditions the comments by the Transportation and Engineering staff will be essential in determining if this is correct. **These criteria can be met as conditioned.**

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

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

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

1. *For facilities under the jurisdiction of the County, necessary improvements are included in the Five-Year Capital Improvement Program, fully funded, and scheduled to be under construction within three years of the date land use approval is issued;*
2. *For facilities under the jurisdiction of the State of Oregon, necessary improvements are included in the Statewide Transportation Improvement Program (STIP) and scheduled to be under construction within four years of the date land use approval is issued;*
3. *For facilities under the jurisdiction of a city or another county, necessary improvements are included in that jurisdiction's capital improvement plan, fully funded, and scheduled to be under construction within three years of the date land use approval is issued.*
4. *Alternatively, timely means that necessary improvements will be constructed by the applicant or through another mechanism, such as a local improvement district. Under this alternative:*
 - a. *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: i. Complete the necessary improvements; or ii. 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, Completion of Improvements, Sureties, and Maintenance. 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.*
5. *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:*

F. As used in Subsection 1007.07(E), necessary improvements are: 1. Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.07(C).

- a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards,*

which also establish the minimum standards to which a transportation impact study shall adhere. b. 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.

G. Notwithstanding Subsections 1007.07(D) and (F)(1)(a), motor vehicle capacity calculation methodology, impact area identification, and transportation impact study requirements are established by the ODOT Transportation Analysis Procedures Manual for roadways and intersections under the jurisdiction of the State of Oregon.

H. As an alternative to compliance with Subsection 1007.07(B), the applicant may make a voluntary substantial contribution to the transportation system. 1. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:

1. As used in this subsection, “substantial contribution” means construction of a roadway or intersection improvement that is all of the following:

2. 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: a. Complete the substantial contribution; or b. 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 proposed use includes a proposed zone change and whether the transportation system is adequate for the R-10 district was evaluated above. Additional review by the Transportation and Engineering staff and their findings and recommended conditions of approval are included as an exhibit. Based on the traffic generation analysis and review of the transportation system adequacy for the zone change staff believe these criteria could be met with conditions the comments by the Transportation and Engineering staff will be essential in determining if this is correct. **These criteria can be met as conditioned by planning staff and Transportation and Engineering staff.**

ZDO Section 1010, SIGNS

Finding: The applicant included no sign designs or specifications on any of the sheets or in the narrative. **These criteria are met as conditioned.**

ZDO Section 1011, OPEN SPACE AND PARKS

1011.01 AREA OF APPLICATION

A. Section 1011 applies to areas generally indicated as Open Space on Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map, or on the Mt. Hood Community Plan Map when one or more of the following open space resources is present:

- 1. Willamette River Greenway;*
- 2. Distinctive urban forests;*
- 3. Hillsides of more than 20 percent slope;*
- 4. Areas of confirmed land movement hazard;*
- 5. Areas of severe erosion or unstable soil;*
- 6. Areas of high visual sensitivity;*
- 7. Significant natural areas; and*
- 8. Other distinctive or unique natural areas, or areas of serious natural hazard.*

B. Section 1011 also applies to areas generally indicated as Open Space on the Mt. Hood Community Plan Map when one or more of the following open space resources is present:

Finding: The subject site is identified as Resource Protection Open Space on the Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map. The subject site is not included as Open Space on the Mt. Hood Community Plan Map.

These criteria are applicable.

C. Open space regulated pursuant to Subsection 1011.01(A) or (B) shall be categorized as follows:

- 1. High-priority open space is:*
 - a. Land or water necessary to assure a continuous network of open space (e.g., stream corridor, forested hillside);*
 - b. Land over 35 percent slope;*
 - c. Confirmed land movement hazard areas;*
 - d. Areas judged to have severe erosion potential due to soil type, geologic structure, and vegetation;*
 - e. Bodies of water such as rivers, lakes, or lagoons;*
 - f. Wetlands; and*
 - g. Significant natural areas.*
- 2. Second-priority open space is:*

- a. Land greater than 20 percent slope and less than 35 percent slope;
- b. Distinctive urban forests;
- c. Land within a special flood hazard area, as defined in Section 703, or within 25-year flood limits where special flood hazard areas have not been designated;
- d. Land used as a recharge area for wetlands; and e. Areas of high visual sensitivity.

D. In addition, Subsection 1011.05 applies in Sunnyside Village.

Finding: The applicant states:

“The topographic information surveyed, and mapped by Centerline indicates that approximately 41,932 Sf or .96 acres of the 3.89 acres site or 25% of the site have slopes of between 20 – 50%. The remaining 2.93 acres have slopes of less than 20%. The applicant believes that the proposed R-10 designation on a portion of the site with a slope of less than 20% is appropriate for the subject property and consistent with this factor given the topographical characteristics of the subject property”

The application did not delineate the 20-35 % slope from the area above 35% slope. The watershed map included in the original stormwater analysis shows the subject property is adjacent to a forested hillside. However, there is no continuous network of open space identified in the application. The Comprehensive Plan Map 4-6 shows the subject property is at the intersection of three sections or fingers of resource protection Open Space. The Statewide Wetlands Inventory identifies a couple of riverine wetlands on site according to USFWS National Wetlands Inventory. The applicant identifies those waterways on their site plan. Therefore, staff find that the Resource Protection Open Space on the property is High-priority open space because of the presence of wetlands and or bodies of water. **These criteria are met.**

1011.02 DEVELOPMENT STANDARDS AND LIMITATIONS

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

Finding: The applicant avoids the disturbance of the identified steep slopes and bodies of water by containing those resources in an open space tract identified as Tract A on Exhibit 2j. Therefore, the proposal is designing the development around the open space. **This criterion is met.**

B. High-priority open space shall be preserved outright, except: 1. Development on hillsides over 35 percent slope shall be subject to Subsection 1002.01(B). 2. Commercial or industrial developments affecting wetlands or significant natural

areas may be allowed, subject to Subsection 1011.03 and when permitted by the U.S. Army Corps of Engineers and the Oregon Department of State Lands.

Finding: The applicant avoids the disturbance of most of the slopes over 20% and provides a 25 and 50 foot buffer around the bodies of water identified on the site plan. These open space resources are contained in an open space tract identified as Tract A on Exhibit 2j. Therefore, the proposal is designing the development around the open space. **This criterion can be met as conditioned.**

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

Finding: The applicant preserves the open space resources by containing them in an open space tract identified as Tract A on Exhibit 2j. Additionally ZDO 1105.05(D) requires that the ownership of the open space tract has been transferred to a homeowners association, a government entity, or nonprofit conservation organization. **This criterion can be met as conditioned.**

1011.03 CONFLICT RESOLUTION FOR WETLANDS AND SIGNIFICANT NATURAL AREAS

High-priority open space wetlands and significant natural areas shall not be disturbed unless approved through review as a Type II application pursuant to Section 1307, Procedures, for a specific commercial or industrial development plan. Approval shall not be granted unless the following social, economic, energy, and appropriate environmental considerations are addressed and satisfied:

Finding: The applicant preserves the High-priority open space resources by designating them as open space tract identified as Tract A on Exhibit 2j. There is no indication in the plans that the high-priority open space wetlands and significant features will be disturbed. The narrative in exhibit 2d states "Only limited disturbance of the buffer is proposed for removal of invasive species, paths, etc., but significant tree and other vegetation removal is prohibited." Compliance with this criterion is ensured through a recommended condition of approval. **This criterion can be met as conditioned.**

1011.04 PARK AND EASEMENT DEDICATIONS

A. The standards and requirements of Section 1011 shall be applied whenever land is to be dedicated for a park, recreation area, or easement

Finding: There is no indication in the application narrative or plans that open space tract will be dedicated for a part, recreation area or opens space easement. However, if these options are pursued in the future, open space review will be needed. Compliance with this criterion is ensured through a recommended condition of approval. **This criterion can be met as conditioned.**

ZDO Section 1012, LOT SIZE AND DENSITY

1012.01 APPLICABILITY Section 1012 applies to the following land use permit applications in any zoning district that has a minimum lot size standard, district land area standard, or minimum density standard, except the AG/F, EFU, and TBR Districts: A. Subdivisions; B. Partitions; C. Replats reviewed as a Type II application pursuant to Section 1307, Procedures; D. Design review for manufactured home parks, congregate housing facilities, and dwellings, including residential condominiums; and E. Conditional uses for manufactured home parks and dwellings.

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

G. Townhouses: In the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District, the minimum lot size standards are waived for townhouses.

Finding: The plan set provided in the application (Exhibit 2j) include lot sizes below the minimum lot size of 2,000 in the R-10 and R-15 districts. However, because the proposal is ultimately for a townhouse development the minimum lot size standard is waived. **This criterion is met**

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

Finding: The property is not currently zoned and not proposed to be rezoned to VR-5/7, VR-4/5, or VTH Districts. **This criterion is not applicable**

1012.04 GENERAL DENSITY PROVISIONS

A. Density is a measurement of the number of dwelling units in relationship to a specified amount of land. In the context of a partition, subdivision, replat, or manufactured home park, density typically relates to potential dwelling units in the form of lots, parcels, or manufactured home park spaces. Density often is expressed as dwelling units per acre; however, this Ordinance implements density standards in many zoning districts by assigning a district land area (DLA), which is the starting point for determining the maximum number of dwelling units allowed on a particular site. In general, the DLA is the minimum lot area required per dwelling unit; however, the DLA is subject to adjustment for density bonuses, restricted area development limitations, and limits on the extent of new road area that must be subtracted. In addition, for a duplex, triplex, quadplex, or cottage cluster in the R-5, R-7, R-8.5, R-10, R-15, R-20, R-30, VR-4/5, or VR-5/7 District, and for accessory dwelling units, DLA is not the minimum lot area required per dwelling unit.

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

Finding: The DLA and maximum density are calculated below. **These criteria are informational only.**

C. Except for middle housing land divisions approved pursuant to Section 1105, Subdivisions, Partitions, Replats, Middle Housing Land Divisions, Condominium Plats, and Vacations of Recorded Plats, if the subject property is currently developed with one or more dwelling units that will be retained, such dwelling units shall be included in demonstrating compliance with the maximum and minimum density standards of Section 1012. Notwithstanding this provision, accessory dwelling units and temporary dwellings approved pursuant to Section 1204, Temporary Permits, are not included in demonstrating compliance with the density standards, provided that these dwellings will continue to comply with the requirements for accessory dwelling units or temporary dwellings, respectively.

Finding: The proposal is not a middle housing land division. The property currently has one detached single family home located on site. The proposal includes the removal of the existing home. Therefore, the existing dwelling is not included in the compliance review. **This criterion is not applicable**

D. If a subdivision, partition, or replat is proposed on property currently developed with duplexes, triplexes, quadplexes, or multifamily dwellings (or with a current design review approval for such development), maximum and minimum density shall be calculated separately for each proposed lot or parcel, except:

- 1. In a planned unit development or a development of duplexes approved pursuant to Subsection 1012.07, maximum and minimum density shall be calculated for the entire property proposed for development prior to the creation of new lots or parcels.*
- 2. Middle housing land divisions approved pursuant to Section 1105 are exempt.*

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

F. Except in Urban Low Density Residential, VR-4/5, and VR-5/7 Districts, each unit in a single room occupancy is considered a dwelling unit for the purposes of calculating minimum and maximum density.

1012.05 MAXIMUM DENSITY

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

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

Finding: A review of the tax map and total site area identified on sheet C1.1 shows a total site area of 169,330 square feet or 3.89 acres (GSA). **This criterion is met.**

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

1. The land area of new county, public, or private roads (NR) in the HR, MRR, Urban Low Density Residential, VR-4/5, VR-5/7, and VTH Districts, except: a. If NR exceeds 15 percent of the GSA, only 15 percent of the GSA shall be subtracted. b. No subtraction shall be made for strips of land adjacent to existing road rights-of-way when such strips are required to be dedicated as a condition of approval;

Finding: A review of the road area and area in Tract C, as identified on sheet C1.1, shows a total area of 33,367 square feet in public or private roads (NR). The total NR is 19.7 %. Therefore, the NR for calculating density is limited to 15% of the GSA that is 25,399.5 square feet. Subtracting the roads from the total GSA results in a functional GSA of 143,930.5 square feet. **This criterion is met.**

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

- a. Slopes greater than 50 percent;*
- b. Mass movement hazards regulated by Section 1003, Hazards to Safety;*
- c. The floodway of the Floodplain Management District regulated by Section 703, Floodplain Management District;*
- d. The Willamette River and the required buffer area regulated by Section 705, Willamette River Greenway;*

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

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

Finding: In the narrative addressing Comp Plan Sub-Policy 4.R.2.1(b) in Exhibit 2d the applicant indicates that 25%, or 0.96 acres of the site have slopes between 20-50%. The remaining 2.93 acres have slopes of less than 20%. This conclusion is supported by the topo map included in the plan set (Exhibit 2j). The mass movement hazards regulated by Section 1003 are specifically the State Department of Geology and Mineral Industries (DOGAMI) Bulletin 99 and accompanying maps. The Bulletin 99 maps do not identify landslide topography, local slump and earthflow, or mudflow and debris flow on the subject property. The Bulletin 99 maps identify the potential for steep slopes but none of the specific resources regulated by Section 1003. The subject site has no mapped floodplain and is not subject to the Floodplain Management District regulated by Section 703. The site is outside of the Willamette River Greenway buffer and is not subject to Section 705. The site was not included in the Habitat Conservation Areas or Water Quality Resource Areas mapped by Metro in 2002 and is therefore not subject to ZDO Sections 706 or 709. Therefore, the subject property contains no HRA. That leaves the functional GSA at 143,930.5 square feet. **These criteria are met.**

3. In a zoning district other than HR and MRR, fifty percent of the land area of any portions of the GSA in the following moderately restricted areas (MRA), except that no subtraction shall be made for MRA that will remain undeveloped, in which case density accruing to these areas may be transferred to unrestricted areas.: a. Slopes equal to or greater than 20 percent and less than or equal to 50 percent; and b. Areas outside the floodway but within the Floodplain Management District regulated by Section 703.

Finding: The applicant identifies that on 0.96 of an acre or 41,817.6 square feet there are slopes of 20-50%. Therefore, the GSA is reduced by 20,908.8 square feet leaving 123,021.7 as the functional Grose Site Area after the roads and steep slopes are subtracted from the area. **These criteria are met.**

4., 5. And 6. In the HR and MRR Districts....

Finding: The property is not currently or proposed to be in the HR or MRR Districts. **These criteria are not applicable.**

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

** Except in the HR and MRR Districts, HRA and MRA may be reduced to zero as provided by Subsections 1012.05(B)(2) and (3).*

Finding: As discussed above, in the formula the NSA would be {169,330-[25,399.5+20,908.8]} that is 123,022 square feet. The current zoning is R-15 that requires a DLA of 15,000, however pursuant to Table 315-2 footnote 4, for townhouses developed pursuant to Section 845, the DLA shall be one-quarter of the DLA so under the R-15 zoning for townhouses the base density is 32 units.

The proposed zoning is R-10 that requires a DLA of 10,000, or 2,500 for townhouses, so under the R-10 zoning the base density is for townhouses is 49 under the original configuration proposed (See Exhibits 2d and 2a). Therefore, the density proposed by the Planned Unit Development Subdivision is contingent on the approval of the zone change proposal. **These criteria are met for the proposed R-10 zoning for the entire site.**

*The applicant indicated in the original narrative (Exhibit 2d) that they were only proposing to re-zone the 3 acres outside of the open space tract that contains slopes over 20%. The GSA for that 3 acres would be 130,680 square feet and 15% of that for NR is 19,602 square feet. No area over 20% slope would be included so the calculation would be $\{127,512 - 19,127\} / \{10,000 \times 1/4\} = 43$ townhouses on about 3 acres. **These criteria are met for the proposed R-10 zoning for 3 acres of the site.***

Sheet C1.1 included in Exhibit 2j shows the area proposed for the R-10 designation is only 121,091 square feet. When the 15% of the area or 18,163.65 square feet is removed and the product is divided by the District Land Area the result is only 41 townhouse lots. This does not meet the density requirements needed for 43 lots. However, more than 50 % of Lot 12 is covered by an existing public utility easement and thus may need to be removed or reconfigured to be “buildable”.

Based on these calculations, either the entire lot of record needs to be rezoned to R10 or a minimum of 127,512 square feet of the site needs to be rezoned to R10. The adjacent property directly to the north of the subject site is currently zoned R10 while the adjacent property to the south, east, and west are zoned R15. Therefore, only zoning a portion of the site could maintain zoning variety in the area, but only rezoning a portion of the property would not be necessary to meet the Comprehensive Plan policy 4.R.3.6 since the variety could be achieved with rezoning the entire site to R-10 as discussed above. The density calculations in the findings above for 1012 show that 15% of the gross area is for roadways in line with policy 4.R.11. The plan shows a stub street connecting to the vacant property to the northwest that is necessary to provide access pursuant to Comprehensive Plan policy 4.R.13.

These criteria are met when either 3 acres, or the entire site is rezoned as R-10.

D. In the MRR District, the calculation in Subsection 1012.05(C) shall be done separately for each proposed unit size category identified in Table 317-3, District Land Area Standards in the MRR District. This requires the applicant to identify the square footage of the NSA that is attributed to each unit size category. The results of each separate calculation shall be added to determine BD.

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

- 1. Unless using the affordable housing bonus under option 1 in Table 1012- 1, Bonus Density, the proposed development shall include a minimum of four dwelling units, excluding accessory dwelling units and temporary dwellings approved pursuant to Section 1204, Temporary Permits.*
- 2. The bonus density categories and corresponding maximum increases to BD, as well as the zoning districts to which the bonus density categories are applicable, are identified in Table 1012-1, Bonus Density.*
- 3. In the MRR District, dwelling units allowed through the bonus density provisions shall be developed with the same unit size mixture as provided in the BD. For example, if a development is proposed with a BD of 50 units of 700 square feet and 50 units of 500 square feet, and a bonus density of 10 units is allowed, the 10 bonus units shall include 5 units of 700 square feet and 5 units of 500 square feet.*

Finding: The property is not currently or proposed to be in the HR or MRR Districts and affordable housing is not proposed so there are no density bonuses proposed or applicable. **These criteria are not applicable.**

1012.08 MINIMUM DENSITY

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

Finding: The property is not currently or proposed to be in the HDR, MR-1, MR-2, PMD, RCHDR, SHD, and VA Districts. However, the R-10 District is an Urban Low Density Residential district. **These criteria are applicable.**

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

Finding: A review of the tax map and total site area identified on sheet C1.1 shows a total site area of 169,330 square feet or 3.89 acres (GSA). **This criterion is met.**

- B. Subtract the following land area from GSA to determine net acreage: 1. New county, public, or private roads and strips of land dedicated adjacent to existing road rights-of-way; 2. Slopes equal to or greater than 20 percent; 3. Mass movement hazards regulated by Section 1003, Hazards to Safety; 4. Areas in the Floodplain Management District regulated by Section 703, Floodplain Management District; 5. The Willamette River and the required buffer area regulated by Section 705, Willamette River Greenway; 6. Habitat Conservation Areas (HCA) regulated by Section 706, Habitat Conservation Area District (HCAD), provided that the HCA, or portion thereof, to be subtracted is protected from development by a restrictive covenant or a public dedication, and provided*

that the subject property was inside the Portland Metropolitan Urban Growth Boundary on January 1, 2002; 7. Water Quality Resource Areas regulated by Section 709, Water Quality Resource Area District (WQRAD); and 8. Land to be dedicated to the public for park or open space use.

Finding: *The applicant states “The topographic information surveyed, and mapped by Centerline indicates that approximately 41,932 Sf or .96 acres of the 3.89 acres site or 25% of the site have slopes of between 20 – 50%.”. The square footage of the open space tract is proposed at 48,239 square feet. While not all of the slopes over 20% are included in the open space tract, the applicant did not provide any detail on the amount of land with slopes over 20% located outside of the open space tract. Therefore for the calculation of net acreage the area of the open space tract alone is subtracted from the gross site area for a total of 121,091 square feet.*

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

1. By 80 percent in Urban Low Density Residential Districts. However, partitions in these districts have no minimum density requirement provided that a master plan demonstrates that the minimum density for the entire property can be met through future land division; 2. By 80 percent in the PMD and MR-1 Districts, except in the case of a manufactured home park where the result shall be multiplied by 50 percent; 3. By 90 percent in the MR-2, HDR, and SHD Districts; or 4. By 50 percent in the VA District.

D. Any partial figure of one-half or greater shall be rounded up to the next whole number. E. The result is minimum density.

Finding: Staff found that the minimum density for a 121,091 net acreage to be 10 lots for the R-10 zone except that for Townhouse developments the density is $\frac{1}{4}$ the DLA so for a Townhouse development the minimum density is 39 lots. The applicant proposes 43 lots.

These criteria are met.

ZDO Section 1013, PLANNED UNIT DEVELOPMENTS

1013.01 APPLICABILITY *Section 1013 applies to subdivisions, partitions, and replats as follows:*

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

B. In an Urban Low Density Residential, MRR, or HR District, a subdivision, partition, or Type II replat shall be developed as a planned unit development if the subject property is larger than one acre and at least 10 percent of the subject property is designated Open Space on Comprehensive Plan Map IV-6, North

Urban Area Land Use Plan Map; X-MH-1, Resource Protection Open Space; XMH-2, Resource Protection Open Space; X-MH-3, Resource Protection Open Space; or X-MH-5, Government Camp Village Plan Resource Protection Open Space.

Finding: Staff reviewed the Comprehensive Plan maps and found that the subject site does have more than 10 percent of the land area designated as open space (see excerpt below) and based on the site analysis by the applicant, the resource protection open space for this application is the hillsides of more than 20 percent, 50 feet of any permanent stream, and wetland areas. Therefore, the subdivision is being reviewed as a planned unit development (PUD) pursuant to ZDO Section 1013.

4.GG.2 Establish three categories of Open Space within the northwest urban area: Resource Protection, Major Hazards, and Public and Community Use.

4.GG.2.1 The purpose of Resource Protection Open Space is to protect natural resources and the open character of designated areas while allowing development according to the Plan. Resource Protection Open Space is land in one the following categories:

4.GG.2.1.a The flood fringe of 100-year floodplains;

4.GG.2.1.b Areas within 100 feet of mean low water on all major rivers and 50 feet of any other permanent stream

4.GG.2.1.c Land within the Willamette River Greenway

4.GG.2.1.d Wetland areas

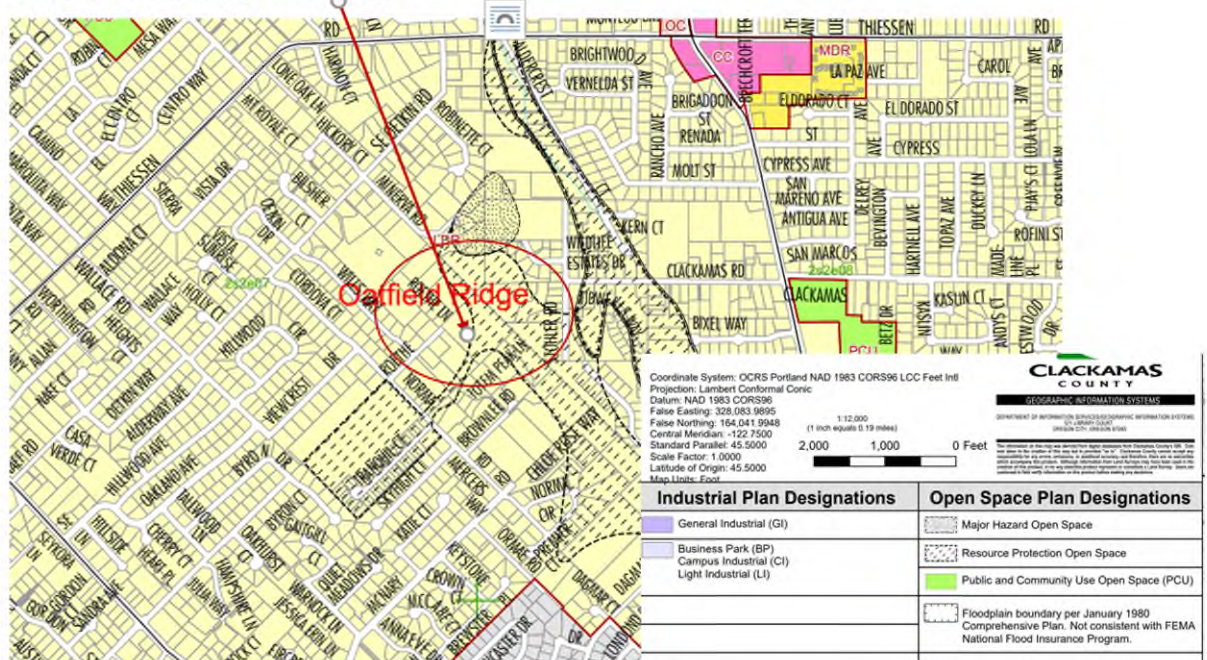
4.GG.2.1.e Distinctive urban forests

4.GG.2.1.f Hillsides of more than 20 percent slope

4.GG.2.1.g Areas of high visual sensitivity

4.GG.2.1.h Other distinctive or unique natural areas (see Natural Resources Chapter)

4.GG.2.1.i Undeveloped public land with potential for recreation



This criterion is met.

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

A. Recreational uses, such as bicycle trails, golf courses, nature preserves, playgrounds, recreation rooms, swimming pools, tennis courts, walking trails, and wildlife sanctuaries; and

B. Offices, other buildings, and facilities required for: 1. The operation, administration, and maintenance of the planned unit development; 2. Recreational uses permitted pursuant to Subsection 1013.02(A); and 3. Vehicle parking and storage established pursuant to Subsection 1013.03(D)

Finding: The applicant is not proposing any of these accessory uses with this PUD application. **These criteria are not applicable.**

1013.03 DIMENSIONAL AND DEVELOPMENT STANDARDS

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

Finding: The majority of the slopes over 20 percent, many of the trees, as well as the two waterways identified on the Department of State Lands wetland inventory are being preserved in an open space tract. Of the 3.89 acres, the applicant originally included 0.89 acres in the Open Space tract, identified as Tract A. With the modification of the site plan

for the roadway standards and design modification application processed through the Transportation and Engineering program, the amount of land within Tract A increased to 48,239 square feet with the removal of two of the lots in the southern area of the property. Therefore, staff estimate that approximately 28% of the 3.89 acre site that contains the unique natural features are being preserved as an open space tract. **This criterion is met.**

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

Finding: The property is zoned R-15 currently and the zone change proposal is to change the underlying zoning to the R-10 District. **This criterion is not applicable.**

C. Open Space:

- 1. A minimum of 20 percent of the gross site area shall be platted as one or more open space tracts.*
- 2. Open space tracts may include recreational uses permitted pursuant to Subsection 1013.02(A), bicycle trails, walking trails, natural or landscaped buffer areas, bus shelters, and significant natural vegetation or landscape features.*
- 3. Open space tracts shall not include:*
 - a. Parking areas or driveways, except those serving recreational uses permitted pursuant to Subsection 1013.03(C)(2) ; or*
 - b. Roads.*

Finding: The proposal includes dedicating more than 20% of the site area as Open Space as discussed above. The site plan submitted on 6/12/25 (Exhibit 2i) along with the plan set submitted on 6/19/25 (Exhibit 2j) shows the area of the property being included in Tract A. The site plan shows no driveways, roads, or recreational uses contained within the open space tract. As the opens space tract is evaluated for recreational trails and other open space use that provides for the preservation of steep slopes, natural vegetation, and water resources, consideration of open space review is needed. **These criteria can be met as conditioned.**

- 4. The PUD shall be designed so that no lot or parcel is located more than 1000 feet from an open space tract.*
- 5. All lots or parcels within the PUD shall have reasonable access to at least one open space tract.*
- 6. Each open space tract shall be large enough for recreational use unless the open space is intended to protect significant natural features from impacts associated with use or development.*
- 7. The open space restrictions shall continue in perpetuity, unless the restrictions are modified pursuant to either Section 1309, Modification, or*

the approval of a new land use permit application provided for by this Ordinance.

Finding: The lots included in the proposal are all within 500 feet of the open space tract according to sheet C1.1 dated 6/18/25 (Exhibit 2j). The site plan shows no access to the open space tract. As conditioned the opens space tract will be evaluated for recreational trails and other open space use that provides for the preservation of natural resources. Additionally, access to the open space is needed. **These criteria are met as conditioned.**

D. Parking: The following may be required after consideration of street type, width, traffic volume, transit amenities, and pedestrian circulation: guest parking for dwellings and sufficient parking space for storage of residents' recreational vehicles.

1. If required, recreational vehicle parking shall be located so as to be compatible with the surrounding development. If located on the perimeter of the PUD, it shall be screened from adjacent properties.

2. Off-street parking may be provided on each lot or parcel or in parking areas in proximity to the dwellings they serve, provided that such common parking areas shall be developed on a platted tract designated for parking.

Finding: Each of the lots included in the proposal contain one off-street parking space according to sheet C1.1 dated 6/18/25 (Exhibit 2j). The site plan shows no shared parking area and no recreational vehicle parking. **These criteria are met.**

ZDO Section 1015, PARKING AND LOADING

1015.01 GENERAL STANDARDS

A. Inside the Portland Metropolitan Urban Growth Boundary (UGB), parking, loading, and maneuvering areas shall be hard-surfaced, unless a permeable surface is required for surface water management pursuant to the regulations of the surface water management authority or in order to comply with Subsection 1006.06.

C. Parking and loading requirements for uses and structures not specifically listed in Tables 1015-1, Automobile Parking Space Requirements; 1015-2, Minimum Automobile Parking Space Requirements for Dwellings; 1015-3, Minimum Required Bicycle Parking Spaces; and 1015-4, Minimum Required Off-Street Loading Berths shall be subject to the requirements for the most similar use.

D. Motor vehicle parking, bicycle parking, and loading areas shall be separated from one another.

E. Required parking spaces and loading berths shall not be: a. Rented, leased, or assigned to any other person or organization, except as provided for under Subsection 1015.02(D)(3)(a) for shared parking or Subsection 1015.04(C) for shared loading berths. b. Used for storing or accumulating goods or storing a

commercial or recreational vehicle, camper, or boat, rendering the space(s) useless for parking or loading operations. c. Occupied by the conducting of any business activity, except for permitted temporary uses (e.g., farmers' markets).

Finding: The subject property is inside the Portland Metropolitan Urban Growth Boundary (UGB). Due to the Climate-Friendly and Equitable Communities state rules parking cannot be required for needed housing. However, the site plan indicates that there will be driveways serving lots 12-22 and lots 23-43. Driveways are considered off-street parking. Therefore, the parking, loading, and maneuvering areas developed as part of the Subdivision will need follow the standards in 1015 and be hard surfaced. The site plan shows the driveways are separated from one another. These proposed parking areas were reviewed by the Transportation and Engineering staff and their findings and recommended conditions of approval are included as an exhibit. **These criteria can be met as conditioned.**

1015.02 MOTOR VEHICLE PARKING AREA STANDARDS

A. Off-street parking areas shall be designed to meet the following requirements:

- 1. Off-street motor vehicle parking areas shall be provided in defined areas of the subject property. No area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose and has required maneuvering area for vehicles. Required backing and maneuvering areas shall be located entirely onsite.*
- 2. Automobile parking spaces shall be a minimum of 8.5 feet wide and 16 feet long, except that parallel spaces shall be a minimum of 8.5 feet wide and 22 feet long*
- 4. Parking areas shall comply with minimum dimensions for curb length, stall depth, and aisle width established by the Clackamas County Roadway Standards; these dimensions are based on the orientation (e.g., 45-degree, 90-degree), length, and width of the spaces.*

Finding: The submitted site plan showed the parking spaces/ driveways. The narrative indicated that "All front entry driveways area proposed to be 10-feet wide". Many of these criteria refer to required parking and as stated above there is no required parking. No parking lot is proposed. Additionally, those standards that are not clear and objective are not addressed. Thus the three criteria identified above are considered and conditioned to ensure compliance. **As conditioned these criteria can be met.**

1015.03 BICYCLE PARKING STANDARDS

- 8. Within the UGB, quadplexes not developed pursuant to Section 845, Triplexes, Quadplexes, Townhouses, and Cottage Clusters, and multifamily residential, commercial, and institutional developments shall designate short-term bicycle parking (less than four hours) and long-term bicycle parking (four or more hours) spaces as needed for the development.*

Finding: The submitted site plan showed no bicycle parking. Because the site is within the UGB and is for a Townhouse development bicycle parking is required. However, the number of spaces is identified in the code as “spaces needed for the development”. That does not indicate a clear and objective number that can be used to evaluate bicycle parking for needed housing. **These criteria are not applicable.**

1015.04 OFF-STREET LOADING STANDARDS – not applicable.

ZDO Section 1017 SOLAR ACCESS

1017.01 APPLICABILITY

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

Finding: The applicant is proposing a subdivision in the R-15 or R-10 District. **These criteria are applicable.**

1017.02 DEFINITIONS

The following definitions apply to Section 1017:

A. CROWN COVER: The area within the drip line of a tree.

B. FRONT LOT LINE: A lot line abutting a street. For corner lots, the front lot line is that with the narrowest street frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag lot. (See Figure 1017-1.)

C. NORTHERN LOT LINE: The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If two lot lines have an identical angle relative to a line drawn east-west, the northern lot line shall be an east-west line 10 feet in length within the lot in the northernmost point possible. (See Figure 1017-2.

D. NORTH-SOUTH DIMENSION: The length of a line beginning at the midpoint of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a lot line. (See Figure 1017-3.)

E. UNDEVELOPABLE AREA: An area that cannot be used practicably for a habitable structure because of natural conditions, such as slopes exceeding 20 percent in a direction greater than 45 degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as right-of-way; existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of

a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

Finding: These criteria are informational only.

1017.03 DESIGN STANDARD

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

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

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

Finding: The application included the following statement without any additional information: "Solar requirements will not be possible, so request an exception per 1017.04. Should be straightforward". This appears to be the comment provided the planner after the pre-application conference. There is no request for an exception and the lots do not meet the north-south dimensional requirements. **These criteria are not met.**

1017.04 EXCEPTIONS TO THE DESIGN STANDARD

Finding: The application included no evidence or narrative addressing 1017.04. **These criteria are not applicable because an exception was not requested.**

6. ZDO Section 1103, OPEN SPACE REVIEW

1103.01 APPLICABILITY Section 1103 applies to development that affects an open space resource described in Section 1011, and shown generally on Comprehensive Plan Map IV-6, North Urban Area Land Use Plan Map, as Resource Protection, Major Hazards, or Public and Community Use Open Space.

1103.02 PROCEDURE Open space review shall require a Type II application pursuant to Section 1307 and shall be subject to the following:

A. The required site analysis and development plans shall be reviewed to ensure that all Comprehensive Plan policies, Ordinance, and development standards relevant to the open space resource designation are being satisfied.

Finding: Staff reviewed the tree preservation plan, the topographic survey, and the survey with the 50 foot buffer around the waterways/wetlands and concur with the applicant that they have conducted a site analysis.

Staff find that the Comprehensive Plan policies, ordinance and development standards relevant to the opens space resource designation are being satisfied, or can be satisfied with conditions. **This criterion is met as conditioned.**

B. The probable impact of the proposed development on relevant natural systems or features, in particular on resources of area-wide significance, shall be evaluated.

Finding: Staff reviewed the tree preservation plan, the topographic survey, and the survey with the 50 foot buffer around the waterways/wetlands and concur with the applicant that they evaluated the impact of the proposed development on the natural features. The applicant indicated that there had also been a soils analysis completed, but it was not included in the application. A copy of the report will be submitted and evaluated to ensure no impact was found by the specialist who completed the report.

This criterion is met as conditioned.

C. The potential for conservation easements, public acquisition, dedication, or any other available means of securing parts of the site as a park, trail, or other open space resource shall be evaluated.

D. Alternative development proposals that better protect the open space resources through the appropriate use of such techniques as density transfers, commonwall structures, multistory buildings, parking structures, under-structure parking, and reduced parking requirements near transit lines, shall be identified. The intent of this is to assist the applicant in using the various provisions of the Comprehensive Plan, Ordinance, and development standards to achieve the best possible balance of development and open space protection.

Finding: Evaluating the potential protection mechanisms and uses of the open space is not clear and objective since there is no result required based on specifics of the evaluation. Therefore, this is not required *Per ORS 197A.400*.

These criteria are not applicable.

1103.03 APPROVAL PERIOD AND TIME EXTENSION A. Open space review approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void.

Summary: The applicant failed to provide evidence or narrative to address ZDO 1017 that applies to subdivisions. Therefore, there is criteria that is not met. Staff have to recommend denial of the application because staff is unable to determine if it is feasible to meet ZDO 1017 without any submittal addressing the criteria. However, the applicant requests an exception to the dimensional requirements for solar access and the reasoning for the exception meets the criteria in 1017, then staff would recommend approval of Z0052-25 with appropriate conditions of approval to ensure compliance with the Comprehensive Plan policies and the ZDO requirements.

ADVISORY NOTES

Advisory notes are not a part of the recommended conditions of approval. The items listed below are not conditions of land use approval and are not subject to appeal. They are advisory and informational only but may represent requirements of other agencies/departments. As such, they may be required by these other agencies/departments in order to complete your proposed development.

1. WES has reviewed the proposal and has provided the following Conditions:

- A. Authority (Rules, Section 2): Clackamas Water Environment Services (“WES” or “District”) is an intergovernmental entity formed pursuant to Oregon Revised Statutes Chapter 190 for the purpose of providing regional sewerage works, including all facilities necessary for collecting, pumping, treating, and disposing of sanitary or storm sewage within its boundaries. Properties located within the WES service area shall be subject to WES Rules and Regulations, 2023, Ordinance No. 02-2023. These Rules and Regulations shall apply to any property that discharges or requests to discharge, via connection request, development permit, or change in use, to the District’s public sanitary sewer system or public stormwater system, to groundwater, or to surface waters within District boundaries.
 - a. Water Environment Services Sanitary Standards, April 2023
 - b. Water Environment Services Stormwater Standards, April 2023
 - c. Water Environment Services Buffer Standards, April 2023
- B Rates, Charges, and Billings (Rules, Section 5)
 - a. Plan review fees shall apply at the following rates:
 - i. Sanitary Review: The fee is equal to 4% of the installed cost of the public sewer extension. A \$400.00 minimum is due with the first plan submittal.
 - ii. Stormwater Review: The total fee is equal to 4% of the construction cost for all stormwater management related facilities. A \$400.00 minimum is due with the first plan submittal.
 - b. Erosion Protection and Sediment Control permit fee shall apply in the amount of \$620.00.
 - c. With future development on each lot, System Development Charges (SDCs) shall apply on all development that increases usage of the sanitary sewer, storm system or surface water facilities owned, managed, or maintained by WES. WES shall not issue such permit or allow connection or increased usage of the system(s) until the charge has been paid in full. SDC payments shall apply at the rates in effect on the date when a complete building permit application is submitted to the applicable Building Code Division.
- C Prior to WES signing off on the plat approval, any sanitary or storm systems required by WES Standards shall be substantially complete, as determined by WES, or the Applicant shall obtain a performance surety for all proposed sanitary and stormwater improvements on the approved plan. Substantial completion requires WES review of asbuilt drawings, initial inspection of sanitary and storm systems, and a signed storm maintenance agreement. See Appendix A of Exhibit 4 for Plat Review/Approval criteria.