

**FINAL ORDER and FINDINGS OF FACT
CITY COUNCIL
TYPE IV LAND DIVISION DECISION**

DATE: May 26, 2020

FILE NO.: 20-009 AP

PROJECT NAME: Bailey Meadows Subdivision

OWNER/APPLICANT: Allied Homes & Development

LEGAL DESCRIPTION: T2S R4E Section 23 Tax Lots 800, 801, 802, 803, 804

The above-referenced proposal was reviewed as a de novo Appeal to a Type III Subdivision and Type II Tree Removal Permit (19-023 SUB/VAR/TREE). As discussed further in this Order, the City Council ultimately denies the appeal and approves the application, with various conditions of approval. The following Findings of Fact are adopted supporting approval of the Tentative Plat in accordance with Chapter 17 of the Sandy Municipal Code.

FINDINGS OF FACT

General

1. Allied Homes & Development submitted an application to subdivide 23.42 acres into a 100-lot residential subdivision. The 100 proposed lots vary in size from 7,500 to 8,659 square feet. The proposal also includes a 22,521 square foot stormwater detention tract. The proposed development includes removal of trees to accommodate the extension and/or construction of rights-of-way. There are no existing structures on the subject property. The application as originally submitted proposed to rely solely on using Melissa Avenue in the Nicolas Glen subdivision to access the 100 lots in this subdivision.
2. The city received the application on July 5, 2019 and notified the applicant that it was incomplete. The applicant responded with a letter and additional submittal items that the city received on August 22, 2019. Under state law, the application was deemed complete on August 22, 2019 because the applicant provided some information in response to the incompleteness notice and stated that it would provide no additional information.
3. The subject site consists of five lots with a total area of approximately 23.42 acres. The site is located north of Highway 211, south of Rachael Drive, and west of Ponder Lane.
4. The parcel has a Plan Map designation of Low Density Residential and Zoning Map designation of SFR, Single Family Residential.

5. According to the applicant, the 100 proposed lots will add approximately 944 vehicle trips each weekday to Melissa Avenue. In discussions with the applicant, both during the pre-application stage and after the application was submitted, staff expressed concerns about having only one access into Bailey Meadows via Melissa Avenue.
6. One challenge in providing a second access into the proposed subdivision is the location of the subject property relative to the city's urban growth boundary ("UGB"). The city has a road identified in its transportation system plan ("TSP") that would serve as a second way to access Bailey Meadows. That road ("Gunderson Road") could connect the southern portion of the subdivision with Highway 211, as the TSP generally envisions. However, the connection from the subject property to Highway 211 would occur outside of the city's UGB. State law would only allow Gunderson Road to be built if it were either: (a) in the city's UGB; or (b) Clackamas County approved an "exception" in accordance with state law that would allow the road to be built on rural land outside the UGB.
7. Initially, during the pre-application period, the applicant considered filing an exception application with Clackamas County to extend Gunderson Road. However, senior planning staff at the county were not supportive of an exception. The applicant elaborated on the exception in more detail on page 3 of its August 20, 2019 letter to city staff (Exhibit P). After concluding that an exception would likely not be approved, the applicant submitted the Bailey Meadows land use application to City staff and proposed relying solely on Melissa Avenue for access to the subdivision. As discussed further in Exhibit P, the applicant asserts that state law prohibits the city from denying the application for only proposing one access point from Melissa Avenue.
8. After the application was deemed complete, the applicant chose to hold a neighborhood meeting regarding the proposed subdivision, which occurred on September 18, 2019 at the Sandy library. Subsequent to that meeting, on September 26, the applicant, its representatives and its attorney met with city staff and the city attorney to discuss issues related to the application. The parties discussed the impacts to Melissa Avenue and the residents of Nicolas Glen if a second access was not provided. At the conclusion of that meeting, the applicant agreed to explore a UGB expansion that would, if approved, permit the construction of Gunderson Road and provide a second access into and out of the proposed subdivision.
9. Ideally, a UGB expansion and the specifics of how Gunderson Road could be built and financed would occur prior to considering the subdivision application. However, this approach does not work for the applicant. Instead, the applicant is proposing that the city impose a condition of approval on its subdivision application that would require the applicant to seek, through a separate subsequent application process, an expansion of the UGB to allow the applicant to construct Gunderson Road, subject to certain contingencies. The applicant summarizes this proposal in a November 25, 2019 letter to the city (Exhibit W).
10. In its order approving the application, the Planning Commission included the condition of approval proposed by the applicant to require the applicant to apply to expand the UGB to accommodate the Gunderson Road connection. On January 7, 2020, in accordance with the Planning Commission's condition of approval, the applicant submitted a UGB expansion application to the city to accommodate Gunderson Road. As of the date of this Order, the City of

Sandy has approved the UGB expansion that would permit the construction of Gunderson Road, the connection of Gunderson Road to Highway 211 and associated highway improvements, and the dedication of parkland to the City. The Clackamas County Planning Commission recommended approval of the applicant's request to expand the City's UGB for these purposes to the Clackamas County Board of Commissioners. The Board of Commissioners will make a decision on the applicant's request to expand the UGB on June 3, 2020. A condition of approval in this Order requires the Board of Commissioners to approve the UGB expansion.

11. The Planning Commission hearing was originally scheduled to be held on October 28, 2019. The applicant agreed to postpone the original hearing to a later date to consider a second access into the proposed subdivision. The original 120-day deadline was December 20, 2019. On October 15, 2019 the City of Sandy received a notice from the applicant's attorney granting an extension of the 120-day clock to February 8, 2020 (Exhibit Q). On December 17, 2019 the City of Sandy received a notice from the applicant's attorney requesting to continue the initial evidentiary hearing and granting an extension of the 120-day clock to March 31, 2020 (Exhibit CCCC).
12. Notification of the proposal was originally mailed to property owners within 500 feet of the subject property and to affected agencies on September 12, 2019 regarding the October 28, 2019 public hearing. On October 16, 2019 a notice was mailed to property owners within 500 feet of the subject property stating that the October 28, 2019 meeting was cancelled. On November 27, 2019 notification of the revised proposal was mailed to property owners within 500 feet of the subject property and a legal notice was published in the Sandy Post on December 4, 2019 regarding the rescheduled public hearing on December 17, 2019.
13. Agency comments were initially received from the City Engineer, PGE, the Parks and Trails Advisory Board, and ODOT. On November 21, 2019, the applicant submitted updated materials to city staff (Exhibits R-U). On November 25, 2019, the applicant through its legal counsel clarified its intention to seek a UGB expansion to allow a Gunderson Road connection, subject to certain conditions (Exhibit W). On December 5, 2019, the applicant's traffic consultant submitted a memo (Exhibit X) that outlines anticipated changes in trip distributions from the subdivision if Gunderson Road were built and connected to Highway 211. ODOT submitted a revised comment on January 15, 2020.
14. Forty written comments were received prior to the December 17, 2019 hearing as listed in Exhibits DD. through QQQ. Six additional written comments were received, Exhibits VVV. through AAAA., between publication of the December 17, 2019 staff report on December 10, 2019 and the start of the public hearing on December 17, 2019 at 7:00 PM.
15. One additional public comment was received between the December 17, 2019 public hearing and the publication of the January 23, 2020 staff report. The public comment is Exhibit IIII. This public comment speaks to Ponder Lane access and a seasonal spring along Ponder Lane.
16. The Planning Commission heard an abbreviated version of the request from staff and the applicant at a public hearing on December 17, 2019. At the hearing, the Planning Commission heard public testimony and granted the applicant their requested continuance. The Planning Commission granted the continuance to January 23, 2020.

17. The following individuals spoke at the December 17, 2019 public hearing:

Applicant and Applicant Representatives:

- Michael Robinson

Public:

- Tony Profit
- Makoto Lane
- Richard Sheldon
- Cary Mallon
- Kathleen Walker
- Gigi Duncan
- Erin Findlay
- Don Robertson
- Tim Sellin
- Marie DeBatty
- Mike Schell
- Laura Kvamme
- Kelli Acord
- Carol Cohen
- Mark Miller
- Robert Fisher
- Brad Robison
- Les Geren
- Calvin McKiness

18. The following individuals spoke at the January 23, 2020 public hearing:

Applicant and Applicant Representatives:

- Michael Robinson
- Chris Goodell

Public:

- Makoto Lane
- Erin Findlay
- Kathleen Walker
- Carol Cohen
- Kelly Whitlock
- Gigi Duncan
- Laura Kvamme
- Brad Robison

19. At the January 23, 2020 public hearing the City Attorney, David Doughman, explained the applicant's request to have the record remain open. Because of the abbreviated nature of the December 17, 2019 hearing and because the applicant did not present at the December 17, 2019 hearing, Mr. Doughman recommended the Planning Commission treat January 23, 2020 as the first evidentiary hearing for the purposes of ORS 197.763. No parties objected to this approach, and following the January 23, 2020 hearing, there was a 7-day period where anyone could submit testimony into the record. The City called this first 7-day period Open Record Period #1. This was followed by a second 7-day period for anyone to submit testimony in response to anything submitted in the first 7 days. The City called this second 7-day period Open Record Period #2. Typically, there is a third 7-day period solely for the applicant, but the applicant waived the right to final argument. The Planning Commission decided in light of the open record periods they would reconvene on February 11, 2020 to deliberate amongst themselves with staff and City Attorney input, but no additional public or applicant testimony would be heard.

20. Open Record Period #1 ended on January 30, 2020 at 5:00 PM. The City posted all materials from Open Record Period #1 on the City of Sandy website on January 31, 2020.

21. Open Record Period #2 ended on February 6, 2020 at 5:00 PM. The City posted all materials from Open Record Period #2 on the City of Sandy website on February 7, 2020.
22. The Planning Commission deliberated on February 11, 2020. At the meeting, the Planning Commission approved the 100-lot subdivision per the findings and conditions listed in its final order.
Moved By: Commissioner Carlton
Seconded By: Commissioner Logan
Yes votes: Carlton, Lesowski, MacLean-Wenzel, Crosby, Logan, Mayton.
No votes: None
23. The Planning Commission issued the final order and findings of fact for 19-023 SUB/VAR/TREE Bailey Meadows Subdivision (Exhibit LLLLLL) on February 14, 2020. The appeal deadline was set 12 calendar days after the final order and findings of fact, otherwise identified as February 26, 2020.
24. The appellants submitted an appeal of the decision for 19-023 SUB/VAR/TREE on February 26, 2020. The appellants submitted Exhibits MMMMMM and NNNNNN, along with the associated appeal fee.
25. The City Council may limit the appeal to the evidence and testimony contained in the record of the Planning Commission's hearing, or the Council may choose to hear the appeal "de novo" which would allow for the introduction of additional evidence and testimony. On March 2, 2020 the Council decided to hold the appeal hearing de novo.
26. On March 3, 2020, notice of this appeal was sent to all neighbors within 500 feet of the subject site, the appellant, and others that spoke at the hearings or submitted written testimony. A legal notice was placed in the Sandy Post on March 4, 2020.
27. The appeal hearing was originally scheduled for March 16, 2020. However, due to concerns related to COVID-19, the hearing was cancelled.
28. Because the March 16 hearing was cancelled, on March 24, 2020, a re-notice of the appeal identifying the new hearing date was sent to all neighbors within 500 feet of the subject site, the appellant, and others that spoke at the hearings or submitted written testimony. The re-notice also provided information regarding how people can remotely attend and participate in the hearing. Staff also placed a new legal notice in the Sandy Post on March 25, 2020.
29. On April 6, 2020 the City Council remotely held a de novo public hearing consistent with Governor Brown's Executive Order No. 20-16. At that hearing, the Council heard from the applicant, appellants, and general public. The applicant requested the record remain open until 5:00 PM on April 13, 2020. The Council granted this request. The applicant also granted an extension of the 120-day deadline to April 28, 2020.
30. The following individuals spoke at the April 6, 2020 public hearing:
Applicant and Applicant Representatives:

- Michael Robinson
- Chris Goodell
- Cody Bjugan
- Daniel Stumpf
- Monty Hurley

Appellants:

- Kathleen Walker
- Cary Mallon
- Richard Sheldon
- Erin Findlay

Public:

- Makoto Lane
- Rachael (no last name identified)
- Gigi Duncan
- Paul Savage
- Marie DeBatty

31. The appellants raised the following issues on appeal, as described in the letter submitted on February 26, 2020:

- #1 The City did not follow the recommendations of the City Engineer.
- #2 The Planning Commission's order used too many 'if' statements.
- #3 Objected to the City paying for a portion of the Gunderson Road improvement costs.
- #4 Asserted the word 'typical' is clear and objective as it is commonly used on engineer illustrations.
- #5 The Traffic Impact Analysis (TIA) was completed by Lancaster Mobley Engineering and because Mr. Mobley is a Planning Commissioner this was improper.
- #6 Pipe diameters are not listed in the City code so therefore there should not have to be Average Daily Trip (ADT) standards in the City code.
- #7 The City should have conditioned approval only with approval of the Urban Growth Boundary (UGB) expansion and construction of Gunderson Road at no expense to the City of Sandy.
- #8 The City is foolhardy for approving the subdivision prior to the cost sharing of Gunderson Road being determined.
- #9 The Development Agreement should be completed as a land use decision.
- #10 The developer should pay the fee in-lieu of parkland and donate the additional land outside the UGB to the city.
- #11 The City should condition the 30th house to building permit, not occupancy.

32. Assertion #1: The City did not follow the recommendations of the City Engineer. *City of Sandy staff did follow the recommendations of the City Engineer on items that were germane to the subject land use application and could be applied as conditions of approval. The City Engineer is not an attorney and does not typically consider legal issues when making comments and recommendations on development proposals. As explained by the City Attorney in Exhibit ZZZZZ, the applicant asserts the city cannot apply certain Code criteria or certain standards in the city's transportation system plan (TSP). If the city were to find, for example, that public facilities are inadequate to serve the subdivision pursuant to Sandy Municipal Code 17.100.60(E)(4), and deny the application there is risk that denial would be overturned and could result in LUBA ordering approval of the subdivision. That would mean there would be no opportunity for a second access into the subdivision at this time, and presumably for the*

foreseeable future. This possibility resulted in the recommendation before the Planning Commission. City staff and the Planning Commission wanted to preserve the possibility that a second access would be provided (i.e. Gunderson Road). Furthermore, recommendations from any person are ultimately just recommendations. Neither state law nor the City's code requires decision makers to follow a recommendation. Ultimately, a decision maker must consider the various recommendations presented to it, consider the facts and apply the evidence and the facts to the applicable law in arriving at a decision.

33. Assertion #2: The Planning Commission's final order used too many 'if' statements. *The Council recognizes the complexities presented by this application, both in terms of the facts and the law. Ultimately, the Council believes that if the UGB application is approved and the boundary is expanded to accommodate a second access into the subdivision, the property included in the UGB expansion is annexed to the City, and a second access via Gunderson Road is constructed, the application should be approved, subject to other conditions of approval.*
34. Assertion #3: Objected to the City paying for a portion of the Gunderson Road improvement costs. *The issue of how the Gunderson Road improvements would be funded was not a decision for the Planning Commission to make and is not, itself, a land use consideration. In a separate proceeding that preceded the Council's deliberation and decision on this appeal, the Council authorized the approval of a development agreement that addresses the timing and financing of the Gunderson Road and Highway 211 improvements. Conditions of approval require the applicant to execute a non-statutory development agreement with the City that substantially conforms to the agreement the Council approved in a separate proceeding on May 18, 2020.*
35. Assertion #4: Asserted the word 'typical' is clear and objective as it is commonly used on engineer illustrations. *The word "typical" is used in a standard from Chapter 3 of the City's TSP that relates to how many average daily vehicle trips (or "ADTs") will occur on local streets such as Melissa Avenue. It states that local streets "have a 'typical' capacity between 800 and 1,000 ADT." In addition to arguments from the applicant and members of the public, the City Council considered two memos from the City Attorney addressing this issue (Exhibits ZZZZZ and EEEEE). In those memos, the City Attorney discussed the issues regarding the applicability of that standard, including whether it is adequately incorporated into the City's development code and whether the word "typical" is clear and objective for the purposes of state statute, specifically ORS 197.307(4). The Council agrees with the City Attorney and questions whether the standard is adequately incorporated into the development code. If the standard is applicable, based on the conditions of approval and the provision of a second access into the subdivision, the Council believes the application satisfies the standard as an atypical example of when a local street may exceed the ADT range.*
36. Assertion #5: The Traffic Impact Analysis (TIA) was completed by Lancaster Mobley Engineering and because Mr. Mobley is a Planning Commissioner this was improper. *On his own volition and consistent with advice from the City Attorney, Commissioner Mobley declared an actual conflict of interest and recused himself from the Planning Commission hearings on this application. The City's third-party traffic engineer reviewed the TIA and agreed with its conclusions. Moreover, to the extent a Planning Commissioner's involvement in an application*

affected a Planning Commission decision on the application, an independent de novo appeal and hearing by the City Council, which occurred in this case, cures any procedural concerns.

37. Assertion #6: Pipe diameters are not listed in the City code so therefore there should not have to be Average Daily Trip (ADT) standards in the City code. *As explained by the City Attorney in Exhibits ZZZZZ and EEEEE, the applicant asserts the city cannot apply certain Code criteria or certain standards in the city's transportation system plan (TSP). The applicant has not asserted that it may rely solely on existing water or sewer infrastructure to serve the subdivision, as it has with respect to road infrastructure and traffic issues.*
38. Assertion #7: The City should have conditioned approval only with approval of the Urban Growth Boundary (UGB) expansion and construction of Gunderson Road at no expense to the City of Sandy. *As discussed further in this Order, the City Council ultimately approves the application with the condition that the UGB expansion is approved. The costs associated with Gunderson Road are addressed in a development agreement that the City and the applicant have negotiated, in good faith and at arm's length, and which the City and the applicant will execute.*
39. Assertion #8: The City is foolhardy for approving the subdivision prior to the cost sharing of Gunderson Road being determined. *In a separate proceeding on May 18, 2020, prior to deliberating to a decision on this appeal, the Council authorized a non-statutory development agreement that addresses how costs related to Gunderson Road will be allocated.*
40. Assertion #9: The Development Agreement should be completed as a land use decision. *As explained by the City Attorney in Exhibit EEEEE, the development agreement being considered in this instance is a non-statutory development agreement, which is not subject to ORS 94.504 and will not apply any provisions in the city's development code or other land use regulations. LUBA and Oregon's appellate courts have recognized that development agreements under ORS 94.504 are one option, but not the only option, local governments may use to address issues related to costs and timing of the construction of infrastructure.*
41. Assertion #10: The developer should pay the fee in-lieu of parkland and donate the additional land outside the UGB to the city. *Chapter 17.86 of the Sandy Development Code governs parkland relative to land use applications. In accordance with the terms of that chapter, the City has the option of either requiring a dedication or requiring a fee-in-lieu of dedication. The options are mutually exclusive, as the term "fee-in-lieu of dedication" indicates. In this instance, the Council previously provided direction to staff to accept a fee-in-lieu of dedication. The applicant decided after the December 17, 2019 Planning Commission hearing to propose the parkland dedication, which the Planning Commission approved subject to the UGB expansion. While the applicant could choose to dedicate the land and pay a fee, the City cannot compel the applicant to do both.*
42. Assertion #11: The City should condition the 30th house to building permit, not occupancy. *The Council ultimately believes that the condition strikes a fair balance between the needs of the applicant and the needs of the City relative to the completion of Gunderson Road.*

43. On April 6, 2020 the City Council closed the public hearing, but in recognition of the effect of COVID-19 on the hearing process, consistent with guidance from DLCDC and with the applicant’s consent, it left the record open until 5:00 PM on April 13, 2020 for additional written testimony. The Council also decided to reconvene on April 20, 2020 solely to deliberate and to render a decision on the Bailey Meadows subdivision appeal.
44. During its deliberations on April 20, 2020, a majority of the City Council indicated that it did not believe the Bailey Meadows application satisfied the relevant approval criteria. Given the particular type of application at issue, pursuant to ORS 197.522, the applicant was afforded one additional opportunity to amend the proposal. The following schedule was set by City Council:
- April 28th at 5:00 PM – Deadline for the Applicant to submit proposed changes to the land use application.
 - May 4th at 5:00 PM – Deadline for the public to submit comments limited to the proposed changes.
 - May 6th at 5:00 PM – Deadline for the final written argument from the Applicant.
 - May 13th – Deadline for the revised staff report.
 - May 18th – City Council will review the proposal from the applicant, the additional public comments, and the staff report, at a public council meeting.
 - May 26th – Revised 120-day deadline to issue final order.
45. On April 28, 2020 prior to the 5:00 PM deadline the applicant submitted a proposed condition of approval (Exhibit BBBB BBBB) as follows:
- “The Applicant shall construct Gunderson Road between the south boundary of the proposed subdivision and Oregon Highway 211 in the location shown in Exhibit W. The City shall provide the maximum extent of Transportation System Development Charges credits and waiver of applicable City fees as determined by the City Manager to the Applicant for Gunderson Road. In addition, the Applicant shall pay up to \$500,000.00 for the Oregon Highway 211 improvements as a City project, as determined in the Development Agreement.”
46. Prior to the deadline of 5:00 PM on the 4th of May the public entered 14 additional public comments regarding the additional condition proposed by the applicant (Exhibits CCCCCCCC through P P P P P P P P P P).
47. Prior to the deadline of 5:00 PM on the 6th of May the applicant submitted a letter detailing their Final Written Argument (Exhibit Q Q Q Q Q Q Q Q Q Q).
48. On May 18, 2020 the City Council reconvened to make a decision on the Bailey Meadows subdivision appeal. The City Council passed a motion 6:1 to uphold the subdivision approval from the Planning Commission with the following vote:
- Moved By: Councilor Hamblin
 Seconded By: Councilor Smallwood
 Yes votes: Pietzold, Smallwood, Hamblin, Pulliam, Lee, Exner

No votes: Shultz

The motion was passed with the following findings and conditions:

- i. Add a finding that the front door of the houses on Lots 60-64 face the parkland consistent with Sandy Municipal Code Section 17.86.20.
- ii. Add a finding and modify the conditions to require the UGB expansion to be a condition of subdivision approval. The Council's intent is that if the UGB expansion is not approved, the subdivision is not approved.
- iii. Add a finding and modify the conditions to require the annexation, the comprehensive plan map change, and the zoning map change to be conditions of subdivision approval.
- iv. Add a finding and modify the conditions related to the jurisdiction of HWY 211.
- v. Modify conditions A.3., D.3., G.1., and G.4. in the Planning Commission Final Order.

17.30 – Zoning Districts

49. The area proposed for Gunderson Road and future parkland (tax lot 701) were not analyzed for density as the land is outside the UGB and is not permitted to include buildable lots.
50. Section 17.30.20 contains requirements for residential density calculations. The total gross acreage for the entire property inside the existing UGB is 23.42 acres. The proposal contains 5.21 acres of area dedicated for public right-of-way and 0.55 acres dedicated for public tracts (Tracts A and B) for the property inside the existing UGB. After removal of the right-of-way and public tracts the net site area for the subject property is reduced to 17.66 acres of net site area (NSA). The subject property does not contain any restricted development areas. Based on required density, the SFR land requires a minimum of 53 dwelling units (17.66 NSA x 3). The maximum allowed dwelling units is 102 (17.66 NSA x 5.8). The proposed 100 dwelling units are within the allowable density range and therefore meet the density requirement.

17.34 – SFR Single Family Residential Zoning District

51. The applicant proposes 100 single family detached dwellings in conformance with minimum and maximum density requirements, as detailed above in the analysis for Chapter 17.30.
52. Section 17.34.10 lists single family detached dwellings as a permitted use. The proposed subdivision includes 100 lots for single family detached dwellings. **All homes shall provide building design features in compliance with the standards in Section 17.90.150.**
53. The proposed lots range in size from 7,500 square feet to 9,706 square feet. **All homes shall meet the development standards of Section 17.34.30.**
54. Section 17.34.40 contains minimum requirements for development. All lots will be required to connect to City services. The applicant is also required to extend utilities to the furthest extent of the subject property.

17.80 – Additional Setbacks on Collector and Arterial Streets

55. Section 17.80.10 specifies additional setbacks for structures constructed adjacent to collector and arterial streets. The applicant is proposing to construct Gunderson Road from the southern boundary of the site to an intersection with Highway 211, but not construct the portion of Gunderson Road along Lots 55-59. Gunderson Road is classified as a minor arterial and therefore requires all lots along its right-of-way to meet the requirements of Chapter 17.80. Based on the applicant's updated proposal (Exhibit W), five of the proposed lots (Lots 55-59) will contain frontage on Gunderson Road. **All structures shall maintain a minimum 20-foot setback from the Gunderson Road public right-of-way.** The Preliminary Plat (Exhibit C, Sheet P1-04) depicts building envelopes at 20 feet from the Gunderson Road right-of-way.

17.82 – Special Setbacks on Transit Streets

56. Section 17.82.20 contains standards for building orientation on transit streets. Gunderson Road is a designated transit street. While the portion of Gunderson Road along Lots 55-59 may not have public improvements completed in conjunction with Bailey Meadows, Gunderson Road will eventually be extended along the southern edge of Lots 55-59. This is consistent with the TSP, which details Gunderson Road along the southern edge of the subject property. This is also consistent with the applicant's updated proposal (Exhibit W), which shows Lots 55-59 will ultimately have frontage on Gunderson Road. Staff asked the applicant whether they wanted to apply for a Special Variance to the requirements of Section 17.82.20 to allow the front door for the houses on lots along Gunderson Road to face the internal street network instead of Gunderson Road, which is a designated transit street. The applicant stated they did not want to apply for the variance. **The applicant shall update the Plan Set to detail the front door of the houses on Lots 55-59 to face Gunderson Road. The primary entrance shall connect directly to Gunderson Road via a pedestrian route per Section 17.82.20.**

17.84 – Improvements Required with Development

57. Section 17.84.20 contains requirements for the timing of improvements. Submission of preliminary street and utility plans during the land use review process is solely for compliance with the data requirements of Section 17.100.60 (D). **Public improvement plans are subject to a separate review and approval process. Preliminary plat approval does not connote approval of public improvement construction plans.** The applicant is proposing a phasing plan with this application. The applicant is proposing three phases and the submitted narrative (Exhibit B) states that improvements are planned to be phased with the approved plans.
58. Section 17.84.30 requires sidewalks along all public streets. Section 17.84.30(B) requires pedestrian and bicyclist facilities to minimize travel distance between residential areas, planned developments and parks. Sidewalks abutting the proposed lots shall be constructed in association with development of the lots. **The applicant shall construct sidewalks along Tract A both on Ponder Lane and Street B, prior to final plat approval. The sidewalks on local streets shall be five feet in width and separated by a five foot wide planter strip (or 6 foot wide swale) in areas not traversed by driveways.** The applicant is not proposing to construct any portion of Gunderson Road on the subject property. Based on the November 2019 updated submittal, the applicant is proposing that the portion of Gunderson Road along the southern property line would be entirely located on the property to the south rather than split across the property line. The City

Engineer (Exhibit Y) submitted the following comment based on the original submittal: “Melissa Avenue is classified in the City of Sandy Transportation System Plan (TSP), figure 5, as a local street and is proposed to be the only access to this development. Currently, the street surface is in bad condition. This site is generating an additional 944 trips while the combined ADT generated from this site and the existing Nicholas Glen No. 2 is 2,490 trips. The traffic volumes increase is deemed to deteriorate the existing street cross section further and potentially cause a complete failure. The TSP alludes to a traffic capacity on local streets between 800 and 1,000 ADT. The projected capacity exceeds the preferred capacity limitations. We are also concerned that the increase in traffic volumes through one access is detrimental to the overall life and safety in case an evacuation is needed. A review by the Fire Department is needed to confirm whether an additional emergency access is needed or not. However, we recommend as a minimum a temporary/ emergency access to Hwy 211.” Additional access for emergency vehicles would exist if the applicant extends Gunderson Road as proposed in the updated November 2019 submittal.

59. With the applicant’s updated submittal in November 2019, the applicant is proposing a pedestrian tract (Tract B) to connect the proposed subdivision to future development to the west. **The applicant shall construct the pedestrian tract (Tract B) improvements prior to final plat approval. Pedestrian scale lighting connected to the street light circuit shall be provided in the pedestrian easement. The Tract B walkway shall be conveyed to the City on the Final Plat. The walkway within the tract shall be constructed of concrete at 8 feet in width with a 7 foot wide area for trees and landscaping. The applicant shall install bollards at the east end of the tract to restrict vehicles from accessing the tract.**
60. Section 17.84.30(C) states that where a development site is traversed by or adjacent to a future trail linkage identified within the Transportation System Plan, improvement of the trail linkage shall occur concurrent with development. Dedication of the trail to the City shall be provided in accordance with 17.84.80. The City’s current TSP maps were created with the former UGB boundaries (pre-June 2017) and did not include the subject property that was brought into the revised UGB boundaries. Therefore, there are no trail linkages identified in the TSP for this property.
61. Section 17.84.40 contains standards for public transit and school bus transit. The Transit Director did not comment on the application. Transit amenities are not required.
62. Section 17.84.50 contains standards for street improvements and traffic evaluations. The initial Traffic Impact Analysis (Exhibit F) was completed by Lancaster Engineering and is dated June 20, 2019. The traffic assumptions are based on the 10th Edition Trip Generation handbook. The analysis is based on the construction of 100 single-family homes. The trip rates indicate that upon full occupancy the subdivision will generate about 74 trips during the morning peak hour and 99 trips during the evening peak hour, with a weekday total of 944 trips. The study looked at four intersections: SE 362nd Drive at Dubarko Road, Ruben Lane at Dubarko Road, Dubarko Road at Melissa Avenue, and Dubarko Road at Bluff Road. The study found that all study intersections are operating acceptably per City of Sandy performance standards and are projected to continue operating acceptably through year 2022, with or without the addition of site trips from the proposed development. The Traffic Impact analysis concludes that no significant safety issues or

trends are evident at the study intersections, traffic signal warrants were not met at the study intersections under all analysis scenarios and left-turn warrants are not estimated to be met under any analysis scenario. The study also did not look at the intersection of Melissa Avenue and Rachael Drive. Based on the applicant's updated November 2019 submittal and the proposal to extend Gunderson, the applicant submitted a revised traffic analysis with its UGB expansion application. The revised analysis finds that with the addition of Gunderson Road, it would capture 40 percent of new trips from Bailey Meadows and 30 percent of existing trips from Melissa Avenue. According to the revised traffic analysis, the addition of Gunderson Road would result in a total daily volume of 1378 trips for Melissa Avenue. As of the date of this report, the updated traffic analysis is being reviewed by the city's consulting traffic engineer.

The City Engineer (Exhibit Y) reviewed the original Traffic Impact Analysis and noted the following: "The study doesn't identify any concerns as a result of this development." Although the TIA itself didn't identify concerns, the City Engineer cited concerns regarding further deterioration of Melissa Avenue, as well as the detrimental effect that increased traffic volumes through one access would have on overall life and safety.

63. Section 17.84.50(B) contains the spacing standards for new arterial streets. The proposed subdivision boundaries do not include any new arterial or collector streets on the subject property; however, the applicant is proposing to construct a portion of Gunderson Road on the property to the south. Gunderson Road is defined as a minor arterial in the transportation system plan.
64. Section 17.84.50(C) requires local streets to be designed to discourage through traffic and requires cul-de-sacs to not exceed 400 feet in length nor serve more than 20 dwelling units. The proposal includes a knuckle but does not include any cul-de-sacs.
65. Section 17.84.50(D) requires development sites to provide access from a public street improved to City standards. The proposed street network and improvements generally comply with City standards. There are eight local streets inside the proposed subdivision requiring the improvements listed below.
66. Ponder Lane north/south: Ponder Lane north/south requires half-street improvements including 14 feet of asphalt, concrete curbs, 5-foot wide sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. **The applicant shall install bollards along the east terminus of Street B, Ponder Lane east/west, Street C, and Street D. The applicant shall also install 'no parking' signs along the full length of Ponder Lane north/south at a spacing as determined during construction plan review.**
67. Ponder Lane east/west: Ponder Lane east/west requires full-street improvements to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. The Preliminary Utility Plan (Exhibit C, Sheet P1-07) shows the street improvements on Ponder Lane east/west ending before the development site boundary. **The applicant shall extend the street improvements on Ponder Lane east/west to the east and west line of the development site and shall obtain slope**

easements or construct retaining walls as necessary to comply with this section of the Development Code.

68. Street A: Street A requires full-street construction to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. Staff requested the applicant remove the proposed knuckle and extend Street A to the west to allow for future street connection. Rather than extend the entirety of Street A to the property to the west, the applicant is proposing to install a pedestrian tract (Tract B) between Lots 10 and 11 (Exhibit S). Staff is satisfied with this proposed improvement, which will improve the future bicycle and pedestrian connectivity of the area. **The applicant shall construct the pedestrian tract (Tract B) improvements prior to final plat approval.** The Preliminary Utility Plan (Exhibit C, Sheet P1-07) shows the street improvements on Street A ending before the development site boundary. Section 17.84.50(E) requires extension of street improvements “to the edge of adjacent properties.” **The applicant shall extend the street improvements on Street A to the east property line of the development site and shall obtain slope easements or construct retaining walls as necessary to comply with this section of the Development Code.**
69. Melissa Avenue: Melissa Avenue requires full-street improvements to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strip, street trees, ADA ramps, and public utilities. **The applicant shall install the required local street improvements north of the property boundary to connect to the existing Melissa Avenue stub.** Based on feedback from the residents in the Nichols Glen neighborhood there is concern with accidents at the intersection of Melissa Avenue and Rachael Drive. A stop sign already exists at the intersection of Melissa Avenue and Rachael Drive for southbound traffic on Melissa Avenue. Upon further analysis, staff finds that an additional stop sign could help reduce potential conflicts. A stop sign should also be installed for northbound travel on Melissa Avenue. **The applicant shall install a stop sign at the intersection of Melissa Avenue and Rachael Drive for northbound traffic.**
70. Street B: Street B requires full-street improvements to local standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. The Preliminary Utility Plan (Exhibit C, Sheet P1-07) shows the street improvements on Street B ending before the development site boundary. **The applicant shall extend the street improvements on Street B to the east and west lines of the development site and obtain slope easements or construct retaining walls as necessary to comply with this section of the development code.**
71. Avenue 1: Avenue 1 requires full-street improvements to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities.
72. Avenue 2: Avenue 2 requires full-street improvements to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. The Preliminary Utility Plan (Exhibit C, Sheet P1-07) shows the street improvements on Avenue 2 ending before the development site boundary. **The**

applicant shall extend the street improvements on Avenue 2 to connect with Gunderson Road on the property to the south.

73. Street C: Street C requires full-street improvements to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. The Preliminary Utility Plan (Exhibit C, Sheet P1-07) shows the street improvements on Street C ending before the development site boundary. **The applicant shall extend the street improvements on Street C to the east and west line of the development site and shall obtain slope easements or construct retaining walls as necessary to comply with this section of the Development Code.**
74. Street D: Street D requires full-street improvements to local street standards including concrete curbs, 5-foot wide concrete sidewalks, street lighting, 5-foot wide planter strips, street trees, ADA ramps, and public utilities. The Preliminary Utility Plan (Exhibit C, Sheet P1-07) shows the street improvements on Street D ending before the development site boundary. **The applicant shall extend the street improvements on Street D to the east and west line of the development site and shall obtain slope easements or construct retaining walls as necessary to comply with this section of the Development Code.**
75. Gunderson Road: The applicant shall dedicate right-of-way to accommodate the construction of Gunderson Road to a minor arterial standard, consistent with page 4, Exhibit W. Dedication of right-of-way to the City of Sandy for Gunderson Road shall include the intersection connection to Highway 211. The City will make improvements to Highway 211 to connect Gunderson Road to the highway for public travel. **The applicant shall construct Gunderson Road to contain two travel lanes with at least 24 feet of paved width.** No public utilities are required to be installed in the Gunderson Road right-of-way at this time. **The applicant shall submit an application for a temporary approach permit to ODOT, if required by ODOT, in order to allow Gunderson Road to be used for construction traffic for the Bailey Meadows Subdivision.**
76. Highway 211: Highway 211 will eventually need to be improved at the intersection with Gunderson Road. The City will make the improvements to Highway 211 pursuant to the terms of the development agreement. The city and ODOT are currently discussing a transfer of jurisdiction of Highway 211 from ODOT to the City of Sandy. The portion that ODOT would transfer would include the Gunderson Road intersection.
77. Section 17.84.50(E) states that to provide for orderly development of adjacent properties, public streets installed concurrent with development of a site shall be extended through the site to the edge of the adjacent property(ies). The applicant is not proposing any permanent dead-end streets but proposes that Street A, Street B, Ponder Lane, Street C, and Street D be temporary dead-end streets with construction of this subdivision until such a time as these streets are extended onto the adjoining properties to the west, east, and south. **The applicant shall plat a vehicle non-access reserve (VNAR) strip at the east and west ends of Streets B, C, and D, the west ends of Gunderson Road and the east/west portion of Ponder Lane, and the east end of Street A.** The applicant is proposing fire turn-arounds and an emergency access that connects to Highway 211 via Ponder Lane. **The applicant shall work with the Fire Marshall to determine if the**

proposed plan meets Fire Code requirements, other than second access requirements which the Fire Marshall determined to be met. Per ODOT (Exhibit AA), the applicant shall provide turning templates for the Highway 211/Ponder Lane intersection. Improvements to the intersection will be required if determined necessary by ODOT or the City, depending on which entity has jurisdiction over the intersection.

78. Section 17.84.50(F) requires that public street improvements may be required through a development site to provide for the logical extension of an existing street network. The proposal includes the extension of Melissa Avenue from the Nicholas Glen subdivision. The submitted Conceptual Connectivity Plan (Exhibit D) details how the proposed street network could tie into the Bornstedt Village Plan.
79. Section 17.84.50(G) states that with the exception of extensions of existing streets, no street names shall be used that will duplicate or be confused with names of existing streets. The applicant has not proposed any new street names. **The City of Sandy reserves the right to name streets.**
80. Section 17.84.50(H) contains standards for public street locations, grades, alignment, and widths. Per the City Engineer (Exhibit Y), **the developer's engineer shall provide a profile design for a minimum of 200 feet for all future extensions of stubbed streets past the project boundary to ensure future grades can be met.**
81. Section 17.84.60 contains standards for public facility extensions. The applicant's Preliminary Street and Utility Plan (Exhibit C, Sheet 5) depicts the location and type of proposed public utilities including water, sanitary sewer, and stormwater. **All public utility installations shall conform to the City's facilities master plans. The applicant shall revise the utility plan to include broadband fiber locations as detailed by the SandyNet Manager and as required by 17.84.60(A).** Per the City Engineer (Exhibit Y), **all public sanitary sewer and waterline mains shall be a minimum of 8 inches in diameter and all stormwater drains shall be a minimum of 12 inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties. No building permits will be issued until all public utilities including sanitary sewer are available to serve the development. The applicant shall pay plan review, inspection, and permit fees as determined by the Public Works Director.** The utility improvements proposal and requirements for the Bailey Meadows subdivision are further detailed in Sections 17.100.230, 17.100.240, and 17.100.250 below. Except for the stormwater treatment and detention facility identified in Exhibit W, no city utilities will be required in the right-of-way of Gunderson Road.
82. Section 17.84.80 contains specifications for franchise utility installations. Private utility services will be submitted for review and approval by service providers and City staff in association with construction plans, and all utility lines will be extended to the perimeter of the site. **All franchise utilities shall be installed underground and in conformance with City standards.** PGE submitted a comment (Exhibit Z) stating they did not find any conflicts related to the project but that there's a PGE project located on SE Ponder Lane. Per PGE's request, **the applicant shall call the PGE Service Coordinators at (503) 323-6700 when the developer is ready to start the project.**

83. Section 17.84.90 contains requirements regarding land for public purposes. The applicant proposes a 22,521 square foot public stormwater detention pond (Tract A) and 1,460 square feet for a pedestrian access tract to the west (Tract B). The applicant is also proposing a second stormwater detention pond (Tract C) on Tax Lot 701 to the south of the Bailey Meadows. This second stormwater detention pond on Tax Lot 701 is for the collection and treatment of stormwater from Gunderson Road and Highway 211. **The applicant shall grant the stormwater pond (currently noted as Tract C) by easement.**

84. **The plat shall detail the following easements:**

- **An eight-foot wide public utility easement (PUE) along the frontage of all proposed lots;**
- **A 15-foot private sanitary sewer easement along the common lot lines of Lots 26-29;**
- **A 15-foot private sanitary sewer easement along the common lot lines of Lots 37-38 and 41-42;**
- **A 15-foot private sanitary sewer easement along the common lot lines of Lots 38-39 and 40-41;**
- **A 15-foot private sanitary sewer easement along the common lot lines of Lots 48-51;**
- **A 15-foot private storm drainage easement along the common lot lines of Lots 47-48 and 51-52;**
- **A vehicle non-access reserve (VNAR) strip in the following locations:**
 - **East end of Street A**
 - **West end of Street B**
 - **West end of Ponder Lane (east/west portion of right-of-way)**
 - **West end of Street C**
 - **West end of Street D**

85. Section 17.84.100 contains requirements for mail delivery facilities. The applicant will need to coordinate with the United States Postal Service (USPS) to locate mail facilities and these will be approved by the City and USPS. **Mail delivery facilities shall be provided by the applicant in conformance with 17.84.100 and the standards of the USPS. The applicant shall submit a mail delivery plan, featuring grouped lockable mail facilities, to the City and USPS for review and approval prior to installation of mailboxes.**

86. All public utility installations shall conform to the city's facilities master plans. **No building permits will be issued until all public utilities including sanitary sewer are available to serve the subdivision and the Final Plat has been recorded.** Public utilities must be installed to meet City standards. **Development of this subdivision will require payment of system development charges in accordance with applicable city ordinances.**

17.86 – Parkland and Open Space

87. Section 17.86.10 contains the minimum parkland dedication requirements. The applicant proposes 100 single-family detached dwellings with this subdivision request. Based upon the calculations adopted by the City and specified within Section 17.86.10, the required dedication area is 1.29 acres of public parkland (100 proposed units x 3 persons per unit x .0043=1.29 acres to be dedicated).
88. Section 17.86.20 states that homes must front on parkland. The front doors of the houses on Lots 60-64 shall face the parkland and are proposed to be constructed in compliance with this standard.
89. Section 17.86.40 contains factors for the City to evaluate whether to require parkland dedication based on this formula or collect a fee in lieu of dedication. This section specifies that it is entirely at the city's discretion to accept payment of a fee in lieu of the land dedication or require the dedication. Based on the calculations specified in Section 17.86.10, the applicant is responsible for dedicating 1.29 acres of public parkland based on 100 dwelling units. No parkland is specifically identified on the subject property in the Parks Master Plan; however, a community park is identified just north of the subject property. The conceptual location of the community park is in an already-built subdivision, Nicolas Glen, that was constructed without an active park, but did include dedication of some open space along the Tickle Creek Trail. The Parks Master Plan identifies conceptual locations for parks; thus, a community park should still be located somewhere in the general vicinity of where it is conceptually located in the Parks Master Plan. The Parks and Trails Advisory Board recommended dedication of parkland rather than collecting a fee-in-lieu. In early 2019 the City Council had an opportunity to review the option of requiring parkland or accepting a fee in-lieu for the Bailey Meadows property. City Council at that time decided that accepting a fee in-lieu was satisfactory.
90. Per Resolution 2013-14, the required fee in lieu amount would be \$241,000 per acre if the entire amount is paid prior to final plat approval. Therefore, based on the current Fee Resolution, the applicant would be required to pay a fee in lieu of dedication for a total of \$310,890 (1.29 acres of land to be dedicated x \$241,000). Alternatively, Ordinance 2013-03 allows the applicant to pay a minimum of 50 percent of the fee to receive final plat approval with the remaining balance to be paid as a proportionate amount with each building permit. If a portion of the fee is deferred, Resolution 2013-14 specifies a per acre fee of \$265,000. Currently, the Fee Resolution would require payment of \$341,850 if a portion of the fee was deferred, a minimum of 50 percent (\$170,925) paid prior to final plat approval and the remaining 50 percent (\$170,925) divided between the 100 lots (\$1,709.25/lot).
91. An alternative to dedication of parkland in the Bailey Meadows subdivision could be a dedication of parkland on the property to the south of Bailey Meadows that is being proposed as part of the extension of Gunderson Road. In fact, in its January 7 UGB expansion application, the applicant included approximately 2.4 acres of TL 701 to be dedicated to the city as parkland. The applicant asserted that various provisions of Chapter 17.86 were not clear and objective and could not be applied to the application. However, the applicant also wanted to respond to the desires of the neighbors to have a park in the vicinity. The Council ultimately is willing to accept the

applicant's proposed dedication of land for park purposes as part of the expansion of the UGB, which the applicant demonstrated was justified in part to meet the City's needs for additional park and recreation lands. **As part of the UGB expansion, the applicant shall dedicate the approximately 2.4 acres of land for park purposes.** With the dedication of this land, the applicant is not required to pay a fee in-lieu of dedication. The timing and conditions of the park land dedication are addressed in the development agreement.

92. Section 17.86.50 contains standards for open space dedication. The applicant is not proposing any dedication of open space.

17.92 – Landscaping and Screening

93. Section 17.92.10 contains general provisions for landscaping. Per Section 17.92.10 (C), trees over 25-inches circumference measured at a height of 4-½ feet above grade are considered significant and should be preserved to the greatest extent practicable and integrated into the design of a development. A 25-inch circumference tree measured at 4-½ feet above grade has roughly an eight-inch diameter at breast height (DBH). Based on the Planning Commission interpretation from May 15, 2019, Subsection 17.92.10(C) does not apply to residential subdivisions. Tree protection fencing and tree retention will be discussed in more detail under Chapter 17.102 in this document. **Per Section 17.92.10(L), all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.**
94. Section 17.92.30 specifies that street trees shall be chosen from the City-approved list. As required by Section 17.92.30, the development of the subdivision requires medium trees spaced 30 feet on center along street frontages. The submitted Street Tree Plan (Exhibit C, Sheet P1-22) identifies street trees along all of the proposed streets. The proposed plan details 115 street trees placed 50 feet on center. **The applicant shall update the Street Tree Plan to detail street trees placed 30 feet on center.**

The applicant is proposing to mass grade the buildable portion of the site. This will remove top soil and heavily compact the soil. In order to maximize the success of the required street trees, **the applicant shall aerate the planter strips to a depth of 3 feet prior to planting street trees. The applicant shall either aerate the planter strip soil at the subdivision stage and install fencing around the planter strips to protect the soil from compaction or shall aerate the soil at the individual home construction phase. The applicant shall call for an inspection with the City after aerating the soil and before planting the street trees.**

If the plans change in a way that affects the number of street trees (e.g., driveway locations), the applicant shall submit an updated street tree plan for staff review and approval. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and the planter strip shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy. Tree ties shall be loosely tied twine or other soft, elastic material and shall be removed after one growing season (or a maximum of 1 year).

95. Section 17.92.40 requires that all landscaping shall be irrigated, either with a manual or automatic system. **As required by Section 17.92.140, the developer and lot owners shall be required to maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period.**
96. Section 17.92.50 specifies the types and sizes of plant materials that are required when planting new landscaping. Street trees are typically required to be a minimum caliper of 1.5-inches measured 6 inches from grade. **All street trees shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground and shall be planted per the City of Sandy standard planting detail.** The applicant proposes eight (8) distinct street tree species with one (1) tree species per street/block face. Staff would like to see more diversity in street tree species in general and within each block. **The applicant shall update the plan set to detail a minimum of two (2) different tree species per block face for staff review and approval.**
97. Section 17.92.60 requires revegetation in all areas that are not landscaped or remain as natural areas. The applicant did not submit any plans for re-vegetation of areas damaged through grading/construction, although most of the areas affected by grading will be improved. **Exposed soils shall be covered by mulch, sheeting, temporary seeding or other suitable material following grading or construction to maintain erosion control for a period of two years following the date of recording of the final plat associated with those improvements.**
98. Section 17.92.130 contains standards for a performance bond. The applicant has the option to defer the installation of street trees and/or landscaping for weather-related reasons. Staff recommends the applicant utilize this option rather than install trees and landscaping during the dry summer months. Consistent with the warranty period in Section 17.92.140, staff recommends a two-year maintenance and warranty period for street trees based on the standard establishment period of a tree. **If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.**

17.98 – Parking, Loading, and Access Requirements

99. Section 17.98.20 requires two off-street parking spaces per single family detached dwelling unit. The 100 dwelling units proposed in this subdivision requires 200 off-street parking spaces. Each lot will have a driveway and based on lot width the ability to construct a double car garage.
100. Section 17.98.50 has specifications for parking area setbacks. Garages are required to be at least 22 feet setback from the front property line to meet setback requirements in the SFR zoning district. The Preliminary Plat (Exhibit C, Sheet P1-04) details a typical 22 foot garage setback.
101. Section 17.98.60 has specifications for parking lot design and size of parking spaces. **The applicant shall comply with the parking standards in Section 17.98.60.** The parking areas in front of the proposed garages for all lots need to be at least 10 feet in width by 20 feet in length. Driveways for single family homes are required to be at least 10 feet wide as detailed in Section

17.98.100 below. **The applicant shall comply with the parking standards in Chapter 17.98. Garages shall be at least 18 feet in depth to accommodate vehicle parking and the on-street parking spaces shall be at least 22 feet in length. All parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.**

102. Section 17.98.80 specifies access requirements to arterial and collector streets. The applicant proposes Gunderson Road to the south of the Bailey Meadows property. Gunderson Road is defined as a minor arterial in the Transportation System Plan and will not include any proposed driveways to any of the proposed lots in Bailey Meadows.
103. Section 17.98.100 has specifications for driveways. The minimum driveway width for a single-family dwelling is 10 feet. The Public Works driveway approach standard detail specifies a maximum of 24 feet wide for a residential driveway approach. The Preliminary Numbered Parking Plan (Exhibit E) details driveway curb cuts for all lots. The Parking Plan also details temporary emergency vehicle and franchise waste hauler turnaround locations, which also include driveway curb cuts. This results in numerous extra curb cuts. With the exception of Lot 8, it appears that all driveways are detailed at approximately 24 feet in width, but the proposed driveway spacing lacks linear space for street trees. Staff previously recommended that the applicant extend Street A to the west property boundary, which would eliminate the knuckle and the need to combine driveways on Lots 9 and 10, and the driveway on Lot 8 would no longer be on a curve. Rather than extend Street A to the west property boundary, the applicant is proposing to install a pedestrian tract (Tract B) between Lots 10 and 11. **The applicant shall update the plan set to detail all driveways at a maximum of 24 feet wide. The applicant shall combine driveways for Lots 9 and 10 into a shared driveway or reduce the width of the driveways for Lots 9 and 10 to accommodate street trees and other right-of-way amenities.** The applicant is not proposing any shared driveways; however, many of the proposed driveways on adjacent lots are located directly adjacent to each other. In order to increase on-street parking, maximize street tree planting, and reduce pedestrian conflict, **the applicant shall submit one of the following two options for staff review and approval:**
- a. **Submit a revised plan detailing shared driveways that do not exceed 24 feet wide with crossover easements; or,**
 - b. **Submit a detailed driveway spacing plan that conserves frontage and maximizes area for street trees and on-street parking.**
104. Section 17.98.130 requires that all parking and vehicular maneuvering areas shall be paved with asphalt or concrete. As required by Section 17.98.130, **all parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.**
105. Section 17.98.140 contains requirements for drainage. Other sections of this order detail the stormwater requirements.
106. Section 17.98.200 contains requirements for providing on-street parking spaces for new residential development. The Preliminary Numbered Parking Plan (Exhibit E) identifies a total of 122 on-street parking spaces with at least one (1) on-street parking space within 200 feet of each of the 100 lots. No parking courts are proposed. The location of fire hydrants will be reviewed by

the Sandy Fire Department in more detail with Construction Plans. **The applicant shall revise the Parking Analysis if required fire hydrants affect on-street parking spaces.**

17.100 – Land Division

107. Submittal of preliminary utility plans is solely to satisfy the requirements of Section 17.100.60.

Preliminary plat approval does not connote utility or public improvement plan approval which will be reviewed and approved separately upon submittal of public improvement construction plans.

108. Section 17.100.60(E) contains submittal requirements and criteria for approving residential subdivisions. Section 17.100.60(E)(1) requires subdivisions to be consistent with the density, setback, and dimensional standards of the base zoning district, unless modified by a Planned Development approval. The applicant requests subdivision approval for a subdivision that is in compliance with most of the applicable development standards. The application for the subdivision is being processed through a Type III procedure. The proposal is consistent with density and other dimensional standards of the base zoning district.

109. Section 17.100.60(E)(2) requires subdivisions to be consistent with the design standards set forth in this chapter. Consistency with design standards in this chapter are discussed under each subsection below. Conditions of approval can be adopted where necessary to bring the proposal into compliance with applicable standards.

110. Section 17.100.60(E)(3) requires the proposed street pattern to be connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy. The proposed street pattern is generally consistent with the Comprehensive Plan and the city's standards. The exception is that the subdivision as originally proposed would rely solely on Melissa Avenue for access. As discussed above in paragraph 32, the TSP generally limits local streets to a maximum of 1,000 ADT. The record contains arguments from the applicant's legal counsel, and responses from the city attorney, regarding the applicability of the ADT standards and whether those standards would allow the City to either: (a) compel the applicant to construct Gunderson Road or another adequate second access into the subdivision; or (b) deny the application. The Planning Commission and City Council also received testimony from members of the public regarding this important issue. With the inclusion of Gunderson Road and subject to a condition of approval, the street pattern will be consistent with the TSP. Therefore, the proposed subdivision meets Section 17.100.60(E)(3).

111. Section 17.100.60(E)(4) requires that adequate public facilities are available or can be provided to serve the proposed subdivision. All public utilities including water, sewer and stormwater are available or will be constructed by the applicant to serve the Bailey Meadows Subdivision. The original submission did not include Gunderson Road. As discussed above, the applicant is now proposing a solution that would provide Gunderson Road and, as conditioned, will be consistent with the TSP. Based upon the additional condition the applicant proposed pursuant to ORS 197.522 and other conditions of approval, the Council believes that adequate transportation facilities can be provided to serve Bailey Meadows. Conditions of approval requiring the UGB expansion to be approved and the UGB area to be annexed to the City will ensure that a second access to the subdivision can be provided under the City's jurisdiction. The execution of the

development agreement will ensure the existence of an equitable way to fund the applicant's construction of Gunderson Road prior to occupancy of the 30th house in the subdivision, and the City's subsequent improvements to Highway 211 and its intersection with Gunderson Road. Therefore, the Council finds that, as conditioned, the proposed subdivision meets this criterion.

112. Section 17.100.60(E)(5) requires all proposed improvements to meet City standards through the completion of conditions as listed within this final order and as detailed within these findings. As conditioned, this criterion is met.

113. Section 17.100.60(E)(6) strives to ensure that a phasing plan, if requested, can be carried out in a manner that meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops. The applicant is proposing to construct the 100 lot subdivision in three (3) phases. The application includes phase one with 71 lots, phase two with 8 lots, and phase three with 21 lots. The phasing plan is somewhat confusing, and staff has not determined the reasoning for the proposed placement of the phase lines. The applicant's narrative simply states, "As shown on the Preliminary Subdivision Plat in the Preliminary plans, the subdivision is planned to be completed in three phases and provide necessary public improvements concurrently with each phase. Additionally, the planned offsite extension of Gunderson Road is intended to occur in Phase 1 of the project, though the future minor arterial road is not within the Phase 1 boundary (as the improvements are offsite). The above requirements are satisfied and support the City's approval of this Subdivision". The importance of Gunderson Road is well established in this staff report and through public testimony. **Gunderson Road shall be constructed and accepted by the City prior to issuance of the 30th certificate of occupancy for a housing unit in the subdivision. The applicant shall submit a revised phasing plan for Director review and approval.**

114. Conditions of approval regarding phasing can be adopted to bring the proposal into compliance with City standards.

115. The Final Plat shall be recorded as detailed in Section 17.100.60 (I).

116. Section 17.100.70 specifies that all land divisions shall be in conformance with the requirements of the applicable base zoning district. The applicant did not request any variances; however, the submitted plans indicate the applicant would like a variance to Section 17.82.20 to have the front door for the houses along Gunderson Road face the interior local street network instead of Gunderson Road, which is designated as a transit street. During the completeness check, staff requested that the applicant clarify whether or not they wanted to apply for a variance. The applicant said they did not, thus **houses constructed along Gunderson Road will be required to face Gunderson Road.** Based on the updated proposal (Exhibit W), this would include Lots 55-59. The tentative plat shall otherwise be designed to comply with all standards of the City of Sandy Development Code, Transportation System Plan, Facilities Master Plans and Sandy Municipal Code.

117. Section 17.100.100(A) requires the pattern of streets established through land divisions should be connected to provide safe multimodal options, create a logical pattern of circulation, and spread

traffic over many streets. The proposed development is moderately conducive to walking and biking while accommodating motor vehicles. The applicant is proposing a knuckle rather than extending Street A to the west property boundary. Staff recommended the applicant extend Street A to the west property boundary. The applicant is proposing to construct a pedestrian walkway instead. The walkway (Tract B) will be located between Lots 10 and 11 and will provide bicycle and pedestrian connectivity to the west in the future. The addition of Gunderson Road will provide additional bicycle options, albeit Highway 211 is not conducive to bicycling at this time.

118. Section 17.100.100(B) contains requirements for preparing transportation impact studies. The submitted Traffic Impact Analysis (Exhibit F) was completed by Lancaster Engineering and is dated June 20, 2019. The traffic analysis is discussed in Section 17.84.50 of this document.
119. Section 17.100.100(C) requires that all streets follow topographic and arrangement specifications. Considering the site's topography, the proposed street layout is acceptable given the topography and residential use of this site, and the topography and use of adjacent properties.
120. Section 17.100.100(D) specifies that street layout shall generally use a rectangular grid pattern. The applicant proposes a rectangular pattern of streets with one knuckle at the intersection of Street A and Avenue 1. Future development to the south, east, and west will be required to align with the proposed intersections in order to maintain a rectangular grid pattern and maximize pedestrian, bicycle, and vehicular connectivity. Staff recommended the applicant extend Street A to the west property boundary. The applicant is proposing a pedestrian tract (Tract B) instead, which will improve future bicycle and pedestrian connectivity to the west. Staff is satisfied with this proposed improvement, which will improve the future bicycle and pedestrian connectivity of the area.
121. Section 17.100.100(E) requires that future street plans assure access for future development and promote a logical, connected pattern of streets. The proposed local street plan has been designed to facilitate the traffic needs of this development while ensuring there are no intersection conflicts with future development. Per the City Engineer (Exhibit Y), **the applicant shall provide a profile design for a minimum of 200 feet for all future street extensions beyond the project boundary to ensure future street grades can be met.**
122. Sections 17.100.100(F) contain specifications for street connections and exemptions for when typical connections are not possible. The proposed design extends Melissa Avenue south into the site. All proposed streets will allow connection with future development to the south and east, with the exception of Street A, which ends in a knuckle. Staff recommended the applicant extend Street A extending to the west property boundary. The applicant is proposing to install a pedestrian tract (Tract B) instead. The applicant submitted a Conceptual Connectivity Plan (Exhibit D) that shows how the proposed streets can connect to the streets to the east in compliance with the Bornstedt Village Plan.
123. Section 17.100.110 specifies street standards and roadway functional classifications. Section 17.100.110(E) contains standards for local street spacing at 8-10 local streets per mile. All proposed streets in the subdivision are local streets, including the extension of the existing Melissa Avenue into the site. The TSP details Gunderson Road, a minor arterial, along the south

property boundary. This approval is conditioned on the applicant installing Gunderson Road as an off-site improvement to intersect with Highway 211 pursuant to the terms of the development agreement.

124. Section 17.100.120(B) requires that residential blocks for local streets not exceed 400 feet in length, unless physical conditions justify larger blocks. The applicant is not proposing any blocks greater than 400 feet. The applicant is proposing a knuckle where Street A and Avenue 1 intersect. Staff recommended the applicant extend Street A to the west property boundary. The applicant is proposing to install a pedestrian tract instead.
125. Section 17.100.120(D) requires blocks over 600 feet in length to provide a pedestrian and bicycle accessway. None of the proposed blocks exceed 600 feet in length.
126. Section 17.100.130 contains specifications for proposed easements. The Preliminary Utility Plan (Exhibit C, Sheet P1-07) details an 8 foot wide public utility easement along all street frontages. The plat shall detail all proposed easements as detailed in Section 17.84.90 above.
127. Section 17.100.180 contains requirements for the creation of new intersections. The proposed intersections are all right angles and meet the required minimum spacing standard of 150 feet as required in Section 17.84.50(C)(2).
128. Section 17.100.210 specifies that the applicant is financially responsible for the installation of a lighting system. Chapter 15.30 contains the City of Sandy's Dark Sky Ordinance. The applicant will need to install street lights along all street frontages wherever street lighting is determined insufficient. **The locations of the street light fixtures shall be reviewed in detail with construction plans.**
129. Section 17.100.220 contains requirements for lot arrangement, lot dimensions, and other lot specifications. The Single Family Residential (SFR) zoning district requires lots at least 7,500 square feet in area. The proposed lots range in size from 7,500 square feet to 8,659 square feet. All homes are required to comply with setback standards and maximum building height limitations as required in Chapter 17.34. No lots are proposed to be accessed from a major or minor arterial. All lots are required to comply with clear vision requirements at all intersections.
130. Section 17.100.230 contains specifications for water lines and fire hydrants. The specific details of water facilities will be reviewed with construction plans. The utility plan submitted by the applicant shows a connection to the existing 8-inch water main at the intersection of Melissa Avenue and Rachael Drive and a possible connection to the existing 8-inch water line at the intersection of Arletha Court and Hwy 211. **The applicant shall demonstrate that adequate fire and domestic flow will be available by completing these connections.** Per the City Engineer (Exhibit Y), **all new waterlines shall be a minimum of 8-inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties.** The applicant's proposed Utility Plan (Exhibit C, Sheet P1-07) depicts new hydrants. **The location of fire hydrants shall be reviewed by the Sandy Fire Department in more detail with construction plans.**

131. Section 17.100.240 specifies requirements for sanitary sewer lines. The specific details of sanitary sewer facilities will be reviewed with construction plans. Per the City Engineer (Exhibit Y), **all new public sanitary sewer lines shall be a minimum of 8-inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties.** In order to achieve the necessary depth to drain the development site the proposed utility plan shows an 8-inch sanitary sewer line extended north to the existing sewer line in Melissa Avenue approximately 200 feet from the intersection of Rachel Drive and Melissa Avenue.
132. Section 17.100.250 contains specifications for surface drainage and stormwater systems. The applicant proposes a 22,521 square foot public stormwater detention pond (Tract A) to be dedicated to the City of Sandy. Detained and treated discharge from the detention pond is proposed to be discharged to the adjacent property to the west, which is outside of the UGB. Per the Public Works Director (Exhibit O), **the applicant shall demonstrate that the proposed subdivision does not exceed pre-development site runoff discharges to this same point and provide information on the dimensions and slope of the existing drainage way. The detention pond shall meet the requirements of the 2016 City of Portland Stormwater Management Manual (SWMM) for landscaping, Section 2.4.1, and escape route, Section 2.30. All new public storm drains shall be a minimum of 12-inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties.** The City Engineer (Exhibit Y) states the submitted preliminary stormwater calculations meet the water quality and water quantity criteria as stated in the City of Sandy Municipal Code Chapter 13.18 Standards and the City of Portland current Stormwater Management Manual (SWMM) Standards that were adopted by reference into the Sandy Development Code. Per the City Engineer, **the applicant shall submit a detailed final stormwater report stamped by a licensed professional to the City for review and approval with the final construction plans.**
133. Section 17.100.260 states that all subdivisions shall be required to install underground utilities. **The applicant shall install utilities underground with individual service to each lot.**
134. Section 17.100.270 specifies that sidewalks shall be installed on both sides of a public street. The applicant proposes constructing sidewalks along all public street frontages, with the exception of the Ponder Lane north/south. **As defined in the analysis of Chapter 17.84 of this staff report the applicant shall install sidewalks and planter strips on the west side of Ponder Lane.**
135. Section 17.100.280 requires that when appropriate, bicycle routes shall be extended within the proposed subdivision. The applicant does not propose any specific bicycle routes. Gunderson Road is classified as a minor arterial, which is prescribed to include bicycle lanes in both directions. However, Gunderson Road will not be built to its full profile at this time and bicycle lanes will most likely not be constructed in Gunderson Road in conjunction with development of the Bailey Meadows subdivision.
136. Section 17.100.290 specifies that where planting strips are provided in the public right-of-way, a master street tree plan shall be submitted and approved. As required by Section 17.92.30, the

development of the subdivision requires installation of trees along all street frontages. Street trees are discussed in Section 17.92.30 of this document.

137. Section 17.100.300 contains requirements for erosion control for new land divisions. **The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite. The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. All erosion control and grading shall comply with Section 15.44 of the Municipal Code and as detailed below. The proposed subdivision is greater than one acre which typically requires approval of a DEQ 1200-C Permit. The applicant shall submit confirmation from DEQ if a 1200-C Permit will not be required.**
138. Install all improvements detailed in Section 17.100.310 as required. **The applicant shall be responsible for the installation of all improvements detailed in Section 17.100.310, including fiber facilities. SandyNet requires the developer to work with the City to ensure that broadband infrastructure meets the design standards and adopted procedures as described in Section 17.84.70.**
139. Entry monument signs shall be located entirely outside the public right-of-way and clear vision areas as required by Section 17.74.30. **If entry signs are desired the applicant shall submit a detailed plan with a sign permit.**

17.102 – Urban Forestry

140. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. The subject property contains 23.42 acres and therefore compliance with this chapter is required. The subject property is currently a field, with very few trees. The applicant is not proposing any tree removal, with the exception of four (4) trees in the Melissa Avenue right-of-way and one (1) tree in the Ponder Lane right-of-way. With construction of Gunderson Road, additional trees will need to be removed from the Gunderson Road right-of-way. Tree removal as required by the city or public utility for the installation or maintenance or repair of roads, utilities, or other structures is exempt from the requirements of Chapter 17.102 per Section 17.102.20(B.1). **The applicant shall not remove any trees 11-inches DBH or greater from the subject property or the property to the south where the off-site Gunderson Road extension will be constructed that are located outside of the rights-of-way without applying for a tree removal permit and obtaining approval for tree removal.**
141. Section 17.102.50 contains tree retention and protection requirements. The subject property is 23.42 acres, which requires a minimum of 70 retention trees that are 11-inches or greater DBH and in good health. The applicant inventoried 192 total trees. Per the submitted Tree Preservation & Removal Plan (Exhibit C, Sheets P1-16-19), 19 of the inventoried trees are on the subject property. All of the 19 trees on the subject property are 11-inches or greater DBH; 17 are in good health, and 2 are in fair health. In order to meet the tree retention standard, the applicant cannot remove any of the 19 trees from the subject property. The applicant is proposing to preserve all 19 trees on the subject property. The properties directly north, south, east, and west of the subject site contain many existing trees, some of which are located close to the shared property line and have canopies that extend onto the subject property. The submitted Tree Preservation & Removal

Plan (Exhibit C, Sheets P1-16-19) inventoried 173 trees offsite. Of the 173, five (5) trees are proposed to be removed in conjunction with future street construction of Melissa Avenue and Ponder Lane; the remaining 168 are proposed to be preserved. With dedication of Gunderson Road along the south edge of the property along Lots 55-59, additional trees will need to be eventually removed when the street is constructed. This could result in removal of three (3) trees on the subject property (Trees # 15164, 15236, and 15274). This would result in 16 trees being retained on the subject property. The Tree Preservation & Removal Plan details the optimal tree root zone at 1 foot per 1 inch DBH for all trees inventoried, including those on adjacent properties. **The applicant shall install tree protection fencing to protect all 16 trees on the subject property as well as the 154 trees proposed for retention on adjacent properties. The applicant shall retain an arborist on site to monitor any construction activity within the root protection zones of the trees on adjacent properties that have root protection zones that would be impacted by construction of Gunderson Road.** The applicant did not submit a tree inventory and removal plan for the off-site portion of Gunderson Road.

Section 17.102.50(B.1) requires tree protection fencing be placed no less than 10 horizontal feet from the outside edge of the trunk. Per the Pacific Northwest International Society of Arboriculture (ISA), the ISA defines the critical root zone (CRZ) as “an area equal to a 1-foot radius from the base of the tree’s trunk for each 1 inch of the tree’s diameter at 4.5 feet above grade (referred to as diameter at breast height).” Often the drip-line is used to estimate a tree’s CRZ; however, it should be noted that a tree’s roots typically extend well beyond its drip-line. In addition, trees continue to grow, and roots continue to extend. Thus, a proactive approach to tree protection would take into consideration the fact that the tree and its root zone will continue to grow. The submitted Tree Preservation & Removal Plan (Exhibit C, Sheets P1-16-19) details the optimal tree root zone at 1 foot per 1 inch DBH. **The applicant shall install tree protection fencing a minimum distance of 1 foot per 1 inch DBH, as indicated by the project arborist and recommended by the ISA. Tree protection fencing shall be a minimum of six feet tall supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade. The tree protection fencing shall be 6 foot tall chain link or no-jump horse fencing and the applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the tree protection fencing indicating that the area behind the fence is a tree retention area and that the fence shall not be removed or relocated. No construction activity shall occur within the tree protection zone, including, but not limited to, dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall request an inspection of tree protection measures prior to any tree removal, grading, or other construction activity on the site.**

OTHER CONSIDERATIONS FOR TREES:

To ensure protection of the required retention trees, the applicant shall record a tree protection covenant specifying protection of the 16 trees on the subject property and limiting removal without submittal of an Arborist’s Report and City approval. This document shall include a sketch identifying the required retention trees and a 1 foot per 1 inch DBH radius critical root zone around each tree. All trees marked for retention shall be retained and protected during construction regardless of desired or proposed building plans; plans for future houses on the proposed lots within the subdivision shall be modified to not encroach on retention trees and associated tree protection fencing.

15.30 – Dark Sky

142. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. The applicant will need to install street lights along all street frontages wherever street lighting is determined necessary. **The locations of these fixtures shall be reviewed in detail with construction plans. Full cut-off lighting shall be required. Lights shall not exceed 4,125 Kelvins or 591 nanometers in order to minimize negative impacts on wildlife and human health.**

15.44 – Erosion Control

143. The applicant submitted a Geotechnical Engineering Report (Exhibit I) prepared by GeoPacific Engineering, Inc., dated June 18, 2019. The City Engineer (Exhibit Y) reviewed the Geotechnical Engineering Report and recommends that **the applicant shall retain appropriate professional geotechnical services for observation of construction of earthwork and grading activities. The grading setbacks, drainage, and terracing shall comply with the Oregon Structural Specialty Code (OSSC) requirements and the geotechnical report recommendations and conclusions as indicated in the report. When the grading is completed, the applicant shall submit a final report by the Geotechnical Engineer to the City stating that adequate inspections and testing have been performed on the lots and all of the work is in compliance with the above noted report and the OSSC. Site grading should not in any way impede, impound or inundate the adjoining properties.**

144. **All the work within the public right-of-way and within the paved area should comply with American Public Works Association (APWA) and City requirements as amended. The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite.** The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. **All erosion control and grading shall comply with Section 15.44 of the Municipal Code. The proposed subdivision is greater than one acre which typically requires approval of a DEQ 1200-C Permit. The applicant shall submit confirmation from DEQ if a 1200-C Permit will not be required.**

145. Section 15.44.50 contains requirements for maintenance of a site including re-vegetation of all graded areas. **The applicant’s Erosion Control Plan shall be designed in accordance with the standards of Section 15.44.50.**

146. Recent development at both Zion Meadows subdivision and the remodel of the Pioneer Building (former Sandy High School) have sparked unintended rodent issues in the surrounding neighborhoods. Prior to development of the site, **the applicant shall have a licensed pest control agent evaluate the site to determine if pest eradication is needed.**

DECISION

For the reasons described above, the request by Allied Homes and Development to construct a 100-lot subdivision is hereby **approved by the City Council** with the following conditions. In the conditions

below, the term “Development Agreement” means the non-statutory development agreement containing the terms and conditions approved by the Sandy City Council on May 18, 2020 in a separate proceeding.

CONDITIONS OF APPROVAL

A. Prior to submitting construction plans, including grading and erosion control permits, the applicant shall update the plan set and associated documents based on the conditions of approval determined by the City Council and shall submit a full set of the updated plans to Planning Division staff for review and approval.

1. Submit a revised Preliminary Plat featuring the following:
 - An eight-foot wide public utility easement (PUE) along the frontage of all proposed lots;
 - A 15-foot private sanitary sewer easement along the common lot lines of Lots 26-29;
 - A 15-foot private sanitary sewer easement along the common lot lines of Lots 37-38 and 41-42;
 - A 15-foot private sanitary sewer easement along the common lot lines of Lots 38-39 and 40-41;
 - A 15-foot private sanitary sewer easement along the common lot lines of Lots 48-51;
 - A 15-foot private storm drainage easement along the common lot lines of Lots 47-48 and 51-52;
 - A vehicle non-access reserve (VNAR) strip in the following locations:
 - East end of Street A
 - West end of Street B
 - West end of Ponder Lane (east/west portion of right-of-way)
 - West end of Street C
 - West end of Street D
2. Submit a revised Tree Plan featuring the following modifications:
 - If the plans change in a way that affects the number of street trees (e.g., driveway locations), the applicant shall submit an updated street tree plan for staff review and approval.
 - Detail a minimum of two (2) different tree species per block face for staff review and approval.
3. The applicant shall submit an application for a temporary approach permit to ODOT, if required by ODOT, in order to allow Gunderson Road to be used for construction traffic for the Bailey Meadows Subdivision.
4. Submit a revised Plan Set featuring the following:

- Revise the Plan Set to detail the front door of the houses on Lots 55-59 facing Gunderson Road.
 - Extend the street improvements on Ponder Lane east/west to the east and west line of the development site and obtain slope easements or construct retaining walls as necessary.
 - Extend the street improvements on Street A to the east property line of the development site and obtain slope easements or construct retaining walls as necessary.
 - Extend the street improvements on Street B to the east and west lines of the development site and obtain slope easements or construct retaining walls as necessary.
 - Extend the street improvements on Avenue 2 to connect with Gunderson Road on the property to the south.
 - Extend the street improvements on Street C to the east and west line of the development site and obtain slope easements or construct retaining walls as necessary.
 - Extend the street improvements on Street D to the east and west line of the development site and obtain slope easements or construct retaining walls as necessary.
5. Revise the plan set to detail all driveways at a maximum of 24 feet wide. Combine driveways for Lots 9 and 10 into a shared driveway or reduce the width of the driveways for Lots 9 and 10 to accommodate street trees and other right-of-way amenities. Submit one of the following two options for staff review and approval:
 - Submit a revised plan detailing shared driveways that do not exceed 24 feet wide with crossover easements; or,
 - Submit a detailed driveway spacing plan that conserves frontage and maximizes area for street trees and on-street parking.
 6. Call the PGE Service Coordinators at 503-323-6700 when the developer is ready to start the project.
 7. If the plans change in a way that affects the number of street trees (e.g., driveway locations), the applicant shall submit an updated street tree plan for staff review and approval.

B. Prior to earthwork, grading, or excavation, the applicant shall complete the following and receive necessary approvals as described:

1. The applicant shall obtain a grading and erosion control permit in conformance with Chapter 15.44. The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. *(Submit 2 copies to Planning/Building Department.)*
2. Submit proof of receipt of a Department of Environmental Quality 1200-C permit or submit confirmation from DEQ if a 1200-C Permit will not be required. *(Submit to Planning/Building Department.)*
3. Any existing domestic or irrigation wells on site shall be located, identified, capped, disconnected or abandoned in conformance with OAR 690-220-0030. A copy of the Oregon Water Resources Department (OWRD) abandonment certificate shall be submitted to the City Planning Division. Any on-site sewage disposal system shall be abandoned in conformance

with Clackamas County Water Environmental Services (WES) regulations and a copy of the septic tank removal certificate shall be submitted to the City Planning Division.

4. Install tree protection fencing to protect all 16 trees on the subject property as well as the 154 trees proposed for retention on adjacent properties. Retain an arborist on site to monitor any construction activity within the root protection zones of the trees on adjacent properties that have root protection zones that would be impacted by construction of Gunderson Road. Install tree protection fencing a minimum distance of 1 foot per 1 inch DBH, as indicated by the project arborist and recommended by the ISA. Tree protection fencing shall be a minimum of six feet tall supported with metal posts placed no farther than ten feet apart installed flush with the initial undisturbed grade. The tree protection fencing shall be 6 foot tall chain link or no-jump horse fencing and the applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the tree protection fencing indicating that the area behind the fence is a tree retention area and that the fence shall not be removed or relocated. No construction activity shall occur within the tree protection zone, including, but not limited to, dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall request an inspection of tree protection measures prior to any tree removal, grading, or other construction activity on the site.
5. Request an inspection of erosion control measures and tree protection measures as specified in Section 17.102.50(C). Receive an approval of erosion control measures and tree protection measures prior to construction activities or issuance of the grading and erosion control permit.
6. Submit confirmation from a licensed pest control agent that the site was reviewed to determine if pest eradication is needed.
7. A final written decision from the Clackamas County Board of County Commissioners approving the applicant's UGB expansion application (County File No. Z0004-20-CP).
8. A final written decision from the Sandy City Council approving the applicant's comprehensive plan amendment, zone change and annexation application (City File No. 20-001 ANN/CPA/ZC).

C. Prior to all construction activities, except grading and/or excavation, the applicant shall submit the following additional information as part of construction plans and complete items during construction as identified below: (*Submit to Public Works unless otherwise noted*)

1. The location of fire hydrants will be reviewed by the Sandy Fire Department in more detail with construction plans. Revise the Parking Analysis if required fire hydrants affect on-street parking spaces.
2. Work with the Fire Marshall to determine if the proposed plan meets Fire Code requirements, other than second access requirements which the Fire Marshall determined to be met. Per ODOT (Exhibit AA), the applicant shall provide turning templates for the Highway 211/Ponder Lane intersection. Improvements to the intersection will be required if determined necessary by ODOT or the City, depending on which entity has jurisdiction over the intersection.

3. Submit a profile design for a minimum of 200 feet for all future street extensions beyond the project boundary to ensure future street grades can be met.
4. Specify the locations of street lights on all streets being improved within and adjacent to the subdivision. Full cut-off lighting shall be required that does not exceed 4,125 Kelvins.
5. Submit a detailed final stormwater report stamped by a licensed professional to the City for review and approval with the final construction plans.
6. Demonstrate that the proposed subdivision does not exceed pre-development site runoff discharges to this same point and provide information on the dimensions and slope of the existing drainage way. The detention pond shall meet the requirements of the 2016 City of Portland Stormwater Management Manual (SWMM) for landscaping, Section 2.4.1, and escape route, Section 2.30.
7. Submit a mail delivery plan, featuring grouped lockable mail facilities, to the City and the USPS for review and approval prior to installation of mailboxes. Mail delivery facilities shall be provided by the applicant in conformance with Section 17.84.100 and the standards of the USPS.
8. Revise the utility plan to include broadband fiber locations as detailed by the SandyNet Manager.

D. Prior to Final Plat approval, the applicant shall complete the following tasks or provide assurance for their future completion:

1. Submit two paper copies of the tentative final plat for review with the associated plat review fee.
2. When the grading is completed, the applicant shall submit a final report by the Geotechnical Engineer to the City stating that adequate inspections and testing have been performed on all lots (Lots 1-32) and all of the work is in compliance with the above noted report and OSSC.
3. Construct all public improvements including streets and utilities, install street lights, and street signage. Complete street improvements for all streets within the subdivision as defined in this staff report, and for Gunderson Road per the Development Agreement. The improvements shall include installation of sidewalks and planter strips on the west side of Ponder Lane.
4. Construct sidewalks along Tract A both on Ponder Lane and Street B, prior to final plat approval.
5. Construct the pedestrian tract (Tract B) improvements with pedestrian scale lighting connected to the street light circuit. The Tract B walkway shall be conveyed to the City on the Final Plat. The walkway within the tract shall be constructed of concrete at 8 feet in width with a 7 foot wide area for trees and landscaping. Install bollards at the east end of the tract to restrict vehicles from accessing the tract.

6. Install bollards along the east terminus of Street B, Ponder Lane east/west, Street C, and Street D. Also, install 'no parking' signs along the full length of Ponder Lane north/south at a spacing as determined during construction plan review.
7. Install the required local street improvements north of the property boundary to connect to the existing Melissa Avenue stub.
8. Install a stop sign at the intersection of Melissa Avenue and Rachael Drive for northbound traffic.
9. Install street lights as identified on the construction plans. The locations of street light fixtures shall be reviewed in detail with construction plans.
10. Dedicate the following to the City (by deed using the City's standard form or as the City may otherwise approve):
 - Tract A and Tract B.
 - Dedicate the right-of-way for Gunderson Road.
11. Dedicate the approximately 2.3 acres of parkland on TL 701 in a form approved by the City.
12. Record a tree protection covenant specifying protection of the 16 trees on the subject property and limiting removal without submittal of an Arborist's Report and City approval. This document shall include a sketch identifying the required retention trees and a 1 foot per 1 inch DBH radius critical root zone around each tree. All trees marked for retention shall be retained and protected during construction regardless of desired or proposed building plans; plans for future houses on the proposed lots within the subdivision shall be modified to not encroach on retention trees and associated tree protection fencing.
13. If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.
14. Aerate the planter strips to a depth of 3 feet prior to planting street trees. The applicant shall either aerate the planter strip soil at the subdivision stage and install fencing around the planter strips to protect the soil from compaction, or shall aerate the soil at the individual home construction phase. The applicant shall call for an inspection with the City after aerating the soil and before planting the street trees.
15. Pay plan review, inspection, and permit fees as determined by the Public Works Director.
16. Pay addressing fees at \$40 for the subdivision plus \$5 per lot, or as otherwise identified in the most updated fee schedule.

17. Submit a true and exact reproducible copy (Mylar) of the Final Plat for final review and signature.

18. Submit a copy of the following once recorded:

- Mylar version of the Final Plat.
- Tree protection covenant including a map identifying the location of the retention trees.
- Deeds identifying dedications to the City.

E. Gunderson Road shall be constructed and accepted by the city prior to issuance of the 30th certificate of occupancy for a housing unit in the subdivision. The applicant shall submit a revised phasing plan for Director review and approval.

F. All conditions in Section A., B., C., and D. shall be satisfied prior to submittal of building permits. The following list includes conditions related to individual home construction:

1. All homes shall provide building design features in conformance with the standards of Section 17.90.150.
2. All homes shall meet the development standards of Section 17.34.30.
3. All structures shall maintain a minimum 20-foot setback from the Gunderson Road public right-of-way.
4. The front door of the houses on Lots 55-59 shall face Gunderson Road and include a connection directly to Gunderson Road via a pedestrian route per Section 17.82.20.
5. Street trees shall be installed approximately 30 feet on center in conjunction with issuance of building permits. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade. Trees shall be planted and staked per the City of Sandy standard planting detail; trees shall be tied to the stakes with loosely tied twine. Tree ties shall be removed within one year of installation. *However, if the applicant postpones street tree installation per Condition D.13 street trees do not need to be planted with individual home construction.*
6. Aerate the planter strips to a depth of 3 feet prior to planting street trees. The applicant shall either aerate the planter strip soil at the subdivision stage and install fencing around the planter strips to protect the soil from compaction, or shall aerate the soil at the individual home construction phase. The applicant shall call for an inspection with the City after aerating the soil and before planting the street trees.
7. All planter strips shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy.
8. All trees marked for retention shall be retained and protected during construction regardless of desired or proposed building plans. Plans for future houses on the proposed lots within the subdivision shall be modified to not encroach on retention trees and associated tree protection fencing.

9. Development of this subdivision will require payment of system development charges in accordance with applicable City ordinances, except as otherwise provided in the Development Agreement with respect to transportation system development charges.

G. General Conditions of Approval:

1. In accordance with a condition of approval in the Planning Commission's order, on January 7, the applicant submitted an application to the City to expand the City's UGB, which ultimately would: (1) allow the applicant to dedicate right-of-way and construct Gunderson Road between the south boundary of the proposed subdivision and Oregon Highway 211; and (2) to dedicate approximately 2.3 acres of parkland within TL 701. Upon approval and acknowledgment of the UGB application:
 - a. The applicant shall dedicate right-of-way sufficient to allow Gunderson Road to meet the minor arterial standard in the City's transportation system plan, as shown in Exhibit W (page 4), subject to the terms of the Development Agreement to be entered into between the applicant and the City.
 - b. The Applicant shall construct Gunderson Road between the south boundary of the proposed subdivision and Oregon Highway 211 in the location shown in Exhibit W. The City shall provide the maximum extent of Transportation System Development Charges credits and waiver of applicable City fees as determined by the City Manager to the Applicant for Gunderson Road. In addition, the Applicant shall pay up to \$500,000.00 for the Oregon Highway 211 improvements as a City project, as determined in the Development Agreement.
 - c. The applicant shall construct Gunderson Road with a paved width of at least 24 feet to allow for two lanes of travel, as shown in Exhibit W (page 4), subject to the terms of the Development Agreement.

If the UGB application is approved and is appealed, the applicant will intervene in the appeal and exercise good faith and its best efforts in defending the approval.

2. The Final Plat shall be recorded as detailed in Section 17.100.60.
3. Public improvement plans are subject to a separate review and approval process. Preliminary Plat approval does not connote approval of public improvement construction plans, which will be reviewed and approved separately upon submittal of public improvement construction plans.
4. No building permits, except for one model home, will be issued until all public utilities including sanitary sewer and water service are available to serve the development. If the applicant chooses to install a model home, they shall commit to a Model Home Agreement with the City of Sandy.
5. The City reserves the right to name all streets.
6. If entry signs are desired, the applicant shall submit a detailed plan showing the location of such signage and a sign permit application.

7. The applicant shall comply with the parking standards in Chapter 17.98. Garages shall be at least 18 feet in depth to accommodate vehicle parking and the on-street parking spaces shall be at least 22 feet in length. All parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.
8. All work within the public right-of-way and within the paved area shall comply with the American Public Works Association (APWA) and City requirements as amended.
9. All ADA ramps shall be designed, inspected by the design engineer, and constructed by the contractor to meet the most current PROWAG requirements.
10. All on-site earthwork activities including any retaining wall construction shall follow the current requirements of the current edition of the Oregon Structural Specialty Code (OSSC). If the proposal includes a retaining wall, the applicant shall submit additional details on the proposed retaining wall for staff review and approval.
11. Trees shall not be removed from the subject property or the property to the south where the off-site Gunderson Road extension will be constructed that are located outside of the rights-of-way without applying for a tree removal permit and obtaining approval for tree removal.
12. All franchise utilities shall be installed underground and in conformance with City standards with individual service to each lot.
13. The applicant shall be responsible for the installation of all improvements detailed in Section 17.100.310, including fiber facilities. SandyNet requires the developer to work with the City to ensure that broadband infrastructure meets the design standards and adopted procedures as described in Section 17.84.70.
14. All public utility installations shall conform to the City's facilities master plans.
15. Site grading shall not in any way impede, impound, or inundate the surface drainage flow from the adjoining properties.
16. The applicant shall retain appropriate professional geotechnical services for observation of construction of earthwork and grading activities. The grading setbacks, drainage, and terracing shall comply with the Oregon Structural Specialty Code (OSSC) requirements and the geotechnical report recommendations and conclusions as indicated in the report.
17. Water line sizes shall be based upon the Water Facilities Master Plan and shall be sized to accommodate domestic fire protection flows on the site.
18. All public sanitary sewer and waterline mains shall be a minimum of 8 inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties.

19. All stormwater drains shall be a minimum of 12 inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties.
20. As required by Section 17.92.10(L), all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing. As required by Section 17.92.140, the developer shall maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period.
21. Retention trees shall be detailed on a recorded tree protection covenant; thus, the retention trees shall be guaranteed or replaced in tree. None of the trees required to be retained may be located on or outside of the property line of the subject property.
22. Exposed soils shall be covered by mulch, sheeting, temporary seeding or other suitable material following grading or construction to maintain erosion control for a period of two years following the date of recording of the final plat associated with those improvements.
23. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
24. All improvements listed in Section 17.100.300 shall be provided by the applicant including drainage facilities, monumentation, mail facilities, sanitary sewers, storm sewer, sidewalks, street lights, street signs, street trees, streets, traffic signs, underground communication lines including telephone and cable, underground power lines, water lines and fire hydrants.
25. Comply with all standards required by Section 17.84 of the Sandy Development Code. Public and franchise improvements shall be installed or financially guaranteed in accordance with Chapter 17 of the Sandy Municipal Code prior to temporary or final occupancy of structures. Water lines and fire hydrants shall be installed in accordance with City standards. All sanitary sewer lines shall be installed in accordance with City standards.
26. Comply with all other conditions or regulations imposed by the Sandy Fire District or state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.



Stan Pulliam
Mayor

RIGHT OF APPEAL

A decision on a land use proposal or permit may be appealed to the City Council by an affected party by filing an appeal with the Director within twelve (12) calendar days of notice of the decision. Any person interested in filing an appeal should contact the city to obtain the form, “*Notice of Appeal*”, and Chapter 17.28 of the Sandy Development Code regulating appeals. All applications for an appeal shall indicate the nature of the interpretation that is being appealed and the matter at issue will be a determination of the appropriateness of the interpretation of the requirements of the Code.

An application for an appeal shall contain:

1. An identification of the decision sought to be reviewed, including the date of the decision;
2. A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings;
3. The specific grounds relied upon for review;
4. If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed in Chapter 17.28.50; and,
5. Payment of required filing fees.