

**FINDINGS OF FACT and FINAL ORDER
TYPE III LAND USE PROPOSAL**

This proposal was reviewed concurrently as a Type III subdivision with tree removal, three variances, and two adjustments. The following exhibits, findings of fact, and conditions (bold text) explain the proposal and the conditions of approval.

DATE: November 30, 2021

FILE NO.: 21-037 SUB/VAR/ADJ/TREE

PROJECT NAME: Sandy Woods II Subdivision

APPLICANT/OWNER: Silver V Construction, Inc.

PHYSICAL ADDRESS: No situs

LEGAL DESCRIPTION: T2SR4E11, Tax Lots 2202, 2203, 2204, and 4800

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EXHIBITS

Applicant's Submittals:

- A. Land Use Application
- B. Project Narrative (dated June 4, 2021)
- C. Plan Set
 - Cover Page
 - Sheet 1 – Site Plan
 - Sheet 2 – Site Plan with Trees
 - Sheet 3 – Existing Conditions Plan
 - Sheet 4 – Tree Retention/Removal Plan
 - Sheet 5 - Tree List
 - Sheet 6 – Offsite Sanitary Sewer Plan
 - Sheet 7 – Onsite Sanitary & Waterline Plan
 - Sheet 8 – Storm Drain Plan
 - Sheet 9 – Driveway & Street Lighting Plan
 - Sheet 10 – Residential Parking Analysis
 - Sheet 11 – Future Street Plan
 - Sheet 12 – Grading & ESC Plan
 - Sheet 13 – Retaining Walls
 - Sheet 14 – Kelso Road Plan & Profile
 - Sheet 15 – Onsite Street Profiles
- D. Storm Drainage Report (dated June 2021)
- E. Transportation Impact Study (dated March 2021)
- F. Arborist Report (dated June 3, 2021)
- G. Arborist Report Addendum (dated July 13, 2021)
- H. Wetland Delineation for Remainder of Property (dated May 2017)
- I. Wetland Delineation for Wetland in Northwest Corner (dated May 2017 and August 2020)
- J. DSL Wetland Concurrence for Entire Original Property (dated January 29, 2019)
- K. DSL Wetland Concurrence for Wetland in Northwest Corner (dated October 29, 2020)
- L. Clackamas County Design Modification Request
- M. Incompleteness Letter Response (dated August 3, 2021)

Agency Comments:

- N. City Transportation Engineer (dated October 14, 2021)
- O. Fire Marshal (dated October 26, 2021)
- P. Parks and Trails Advisory Board (dated October 27, 2021)
- Q. City Public Works Director (dated October 29, 2021)

Public Comments:

- R. Joseph Plitt (received November 4, 2021)

Additional Documents Submitted by Staff:

- S. Third Party Arborist Report (dated October 16, 2021)
- T. Staff Report from November 22, 2021 Planning Commission hearing

U. Staff presentation from November 22, 2021 Planning Commission hearing

FINDINGS OF FACT

GENERAL FINDINGS

1. These findings are based on the applicant's submittals received on June 11, 2021, with additional items received on June 15, 2021 and June 18, 2021. Staff found the application incomplete on July 8, 2021. On July 15, 2021, August 4, 2021, and August 6, 2021, the applicant submitted additional items. Staff found the application complete on September 9, 2021 for the purpose of beginning the "120-day clock." The 120-day deadline is January 7, 2022.
2. This report is based upon the exhibits listed in this document, including the applicant's submittals, agency comments, and public testimony.
3. The subject site is approximately 17.68 acres. The site is located south of Kelso Road, west of Jewelberry Avenue, and north of the Sandy Woods Phase I Subdivision.
4. The parcel has a Comprehensive Plan Map designation of Low Density Residential and a Zoning Map designation of Single Family Residential (SFR).
5. The applicant, Silver V Construction, Inc. submitted an application for a 43-lot subdivision on a 17.68-acre parcel located south of Kelso Road, west of Jewelberry Avenue, and north of the Sandy Woods Phase I Subdivision. The 43 lots range in size from 7,500 square feet to 12,450 square feet. All 43 lots are proposed to gain access from Kelso Road with a secondary fire access under the BPA powerlines to the south of the subdivision. The proposal also includes a creek and tree preservation tract (split into three separate tracts identified as Tracts K, M, and O), a stormwater tract (Tract L), a wetland tract (Tract J), and a public walkway tract (Tract N). All lots are proposed to contain either a single-family home or a duplex as allowed in the permitted uses section of the Single Family Residential (SFR) zoning district. The proposal also includes frontage improvements, utility extensions, and removal of 251 trees from the subject property. In addition, the applicant requested the following three variances:
 - A. Variance to Section 17.100.110(F) to exceed the 400-foot maximum length for a cul-de-sac.
 - B. Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for Street A.
 - C. Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for Street B.
6. Upon a more thorough review of the proposal, staff determined that the third requested variance (Variance C) is not needed since the longer proposed block length is due to existing natural features; however, a variance to Section 17.100.120(D) for the north side of Street B is needed. Staff also identified two additional adjustment requests: 1) a Type I Adjustment to Section 17.100.120(B) to exceed the 400-foot maximum block length for the west side of Street A between Kelso Road and Street B by less than 10 percent; and 2) a Type II Adjustment to Section 17.34.30(C) to reduce the required 20-foot minimum lot frontage by

20 percent for Lot 77. The variance and adjustment requests are discussed in more detail in Chapter 17.66 of this order.

7. This subdivision request was submitted on June 11, 2021, prior to the repeal of Planned Developments effective on September 15, 2021. Therefore, code references to Planned Developments may still be mentioned in this order.
8. The City of Sandy completed the following notices:
 - A. A transmittal was sent to agencies asking for comment on October 6, 2021.
 - B. Notification of the proposed application was mailed to affected property owners within 500 feet of the subject property on October 26, 2021.
 - C. A legal notice was published in the Sandy Post on November 3, 2021.
9. One (1) written public comment was received (Exhibit R). The main concern expressed is a safety concern about children climbing the BPA towers to the east of the subject property.
10. The Planning Commission held a public hearing on November 22, 2021 to review the proposal. Margo Clinton of SGS Development and Pat Sisul of Sisul Engineering spoke on behalf of the applicant. One member of the public provided testimony; Joseph Plitt owns the property to the east of the subject property and had concerns about trespassing and safety.

LAND DIVISION CRITERIA – Chapter 17.100

11. This land use application is for the subdivision of land and therefore is reviewed in compliance with Chapter 17.100.
12. Submittal of preliminary public utility plans and street 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.**
13. Section 17.100.60(E) contains the approval criteria for a subdivision. 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 did not apply for a Planned Development. The base zoning district is single family residential (SFR), which specifies that the density shall not be less than 3 or more than 5.8 units per net acre. As discussed in Chapter 17.30 of this document, the proposed 43 lots are in compliance with the density standards. As discussed in Chapter 17.34 of this document, all lots are proposed to have a minimum lot size of 7,500 square feet and a minimum average lot width of 60 feet in compliance with Sections 17.34.30(A and B). Section 17.34.30(C) requires each lot to have a minimum lot frontage of 20 feet. All lots have a minimum lot frontage of 20 feet, with the exception of Lot 77, which is a flag lot. The applicant requested a Type II Adjustment to Section 17.34.30(C) to reduce the required minimum lot frontage by 20 percent; the adjustment request is discussed in more detail in Chapter 17.66 of this order. Section 17.34.30(E) contains the required minimum setbacks. Exhibit C, Sheet 2 details building footprints in compliance with the minimum setback standards, with the exception of Lot 53. Lot 53 abuts Kelso Road, which is a residential minor arterial and requires a 20-foot setback per Chapter 17.80. **The applicant shall update the building footprint on Lot 53 to comply with the required 20-foot setback from Kelso Road.** With this condition, the proposal meets the setback standards of Section 17.34.30(E) and Chapter 17.80. The proposed subdivision will connect to water and sanitary sewer in compliance with Sections 17.34.40(A and B). The proposed street layout allows for a future street network to be developed to the west of the subject property as required by Section 17.34.40(C). As discussed in Section 17.100.60(E.2) of this order, the presence of existing wetlands/streams on the property as well as the existing BPA easement over the adjacent properties to the south and east make a gridded street network impractical. All lots have frontage on a public street and are proposed to have at least 40 feet of street frontage, with the exception of the flag lot (Lot 77). The Planning Commission finds this proposal meets approval criteria 17.100.60 (E)(1).
14. Sections 17.100.60(E)(2) and 17.100.70 require subdivisions to be consistent with the design standards set forth in this chapter. The Planning Commission finds the proposal meets approval criteria 17.100.60 (E)(2) as explained in A. through J., below:
 - A. Section 17.100.100(A) pertains to the Street Connectivity Principle. The proposed subdivision will gain access from Kelso Road, with a stubbed street to the west, and an emergency fire access road to the south. Due to the presence of existing wetlands/streams on the property as well as the existing BPA easement over the

adjacent properties to the south and east, a gridded street network is impractical. The proposed cul-de-sac better protects the stream/wetland area than having a gridded street network bisect the stream in two places. The emergency fire access also serves as a bicycle/pedestrian connection that connects Sandy Woods II to Sandy Woods I and the Sandy Bluff Park further south. In addition, the proposal includes a pedestrian path connecting the cul-de-sac bulb and proposed Street B, as well as a pedestrian path stubbed to the east property line that will provide a connection to trails under the BPA easement in the future. The Planning Commission finds the proposal meets Section 17.100.100(A).

- B. Section 17.100.100(D) requires the street layout to use a rectangular grid pattern but allows for modifications to the rectangular grid pattern if appropriate to adapt to topography or natural conditions. As stated above, the presence of existing wetlands/streams on the property as well as the existing BPA easement over the adjacent properties to the south and east make a gridded street network impractical. The Planning Commission finds the proposal meets Section 17.100.100(D).
- C. Section 17.100.100(E) pertains to a future street plan. The proposal provides one stubbed street to the west, which will provide future access for the property to the west. The adjacent properties to the south and east are under the BPA easement, therefore, development of these sites would be extremely limited. Although the proposal doesn't include connections for vehicles to the south and east (aside from the emergency fire access to the south), the proposal does include multiple pedestrian paths that connect the cul-de-sac to Street B as well as a pathway to the east and a public access easement along the fire access lane to the south, which will connect to future trails under the BPA easement to the east and south. The Planning Commission finds the submitted proposal meets Section 17.100.100(E).
- D. Section 17.100.100(F) pertains to connections. As previously stated, the proposal includes multiple bike/pedestrian paths that both internally connect streets within the proposed subdivision and connects the proposed subdivision to future trails in the BPA easement and allows for easier pedestrian access to the nearby Sandy Bluff Park. Additional street connections are not practical due to the existing BPA easement to the south and east. The Planning Commission finds the submitted proposal meets Section 17.100.100(F).
- E. Section 17.100.110(F) discourages cul-de-sacs but states: "If deemed necessary, cul-de-sacs shall be as short as possible and shall not exceed 400 feet in length." The applicant requested a variance to Section 17.100.110(F) to exceed the 400-foot maximum length for a cul-de-sac. The applicant is also proposing two bicycle/pedestrian paths from the cul-de-sac, which provides internal connections within the proposed subdivision as well as external connections to the Sandy Woods I Subdivision and Sandy Bluff Park to the south. The variance request is discussed in Chapter 17.66 of this document. With approval of the variance by the Planning Commission, the submitted proposal can meet Section 17.100.100 (F) as it relates to cul-de-sacs.

- F. Section 17.100.120(B) contains standards for block lengths. The applicant did not submit information on block lengths for all blocks; however, the applicant is requesting three variances to block length. The variance requests are discussed in further detail in Chapter 17.66 of this order. With approval of the variances by the Planning Commission, the submitted proposal can meet Section 17.100.120(B).
- G. Section 17.100.120(D) contains requirements for bicycle/pedestrian accessways on blocks that exceed 600 feet. The applicant proposes multiple block faces that exceed 600 feet and include a bicycle/pedestrian accessway for some of the block faces exceeding 600 feet. Staff identified one variance to Section 17.100.120(D) and one additional block face that will require the applicant to add a bicycle and pedestrian accessway, both of which are discussed further in Chapter 17.66 of this order. With approval of the variances by the Planning Commission, the submitted proposal can meet Section 17.100.120(D).
- H. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, the applicant is required to provide a stormwater easement or drainage right-of-way conforming substantially with the lines of a watercourse per Section 17.100.130. Based on the Statewide Wetland Inventory (SWI), the site has both an intermittent stream and a riverine wetland. The applicant is proposing to place the stream/wetlands in three separate publicly dedicated tracts, with an additional wetland placed in a fourth tract in the northwest portion of the site. The Planning Commission finds the proposal meets Section 17.100.130.
- I. Per Section 17.100.170, flag lots are only allowed “where it can be shown that no other street access is possible to achieve the requested land division.” The applicant is proposing one flag lot (Lot 77). This is due to the location of the existing stream/wetland that traverses the site. The applicant is proposing one road that crosses the stream/wetland and terminates at a cul-de-sac. The stream/wetland area is currently a separate tract that also contains a majority of the tree retention for the entire Sandy Woods development (Phase I and II). With this application, the applicant is modifying the existing stream/wetland tract to accommodate the road crossing as well as a pedestrian connection. Proposing only one road crossing better preserves the stream/wetland and associated tree retention and, thus, justifies the need for the flag lot. The Planning Commission finds the proposal meets Section 17.100.170.
- J. Section 17.100.220(C) states: “The lot or parcel width at the front building line shall meet the requirements of the Development Code and shall abut a public street other than an alley for a width of at least 20 feet. A street frontage of not less than 15 feet is acceptable in the case of a flag lot division resulting from the division of an unusually deep land parcel that is of a size to warrant division into not more than two parcels.” As explained in Chapter 17.34 of this document, all lots have a minimum of 20 feet of street frontage, with the exception of the flag lot (Lot 77), which is evaluated in more detail in I, above. The applicant is requesting a Type II Adjustment to Section 17.34.30(C) to reduce the required minimum lot frontage for Lot 77 by 20 percent. With approval of the adjustment by the Planning Commission, the proposal can meet Section 17.100.220(C).

15. 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. Sandy's Transportation System Plan (TSP) was adopted by Ordinance 2011-12 as an addendum to the Comprehensive Plan in 2011. At that time, the subject property was not in City limits and was not included in the TSP; thus, consistency with the official street plan cannot be determined for the subject property. As previously stated, a gridded street pattern is impractical due to the presence of existing wetlands/streams on the property as well as the existing BPA easement over the adjacent properties to the south and east. The applicant is proposing one stubbed street to the west, which will provide future access for the property to the west. The applicant is also proposing multiple pedestrian paths, including a path connecting the cul-de-sac to Street B, a path that terminates at the east boundary of the subject property and will connect to a future trail under the BPA easement, and a public access easement along the fire access lane to the south, which will also connect to future trails under the BPA easement. The Planning Commission finds the proposal meets approval criteria 17.100.60 (E)(3).
16. Section 17.100.60(E)(4) requires that traffic volumes shall not exceed average daily traffic (ADT) standards for local streets as detailed in Chapter 17.10, Definitions. The applicant's Transportation Impact Study (Exhibit E) evaluated ADT and determined the proposed development would result in 406 daily site trips. The proposed access is from Kelso Road, which is a residential minor arterial and not a local street. The TIS assumed that 55 percent of the site trips will travel to and from the west on Kelso Road and 45 percent will travel to and from the east towards Bluff Road. The Planning Commission finds the proposal meets approval criteria 17.100.60 (E)(4).
17. Section 17.100.60(E)(5) requires that adequate public facilities are available or can be provided to serve the proposed subdivision. City water, sanitary sewer, and stormwater are available or will be constructed by the applicant to serve the subdivision. The Planning Commission finds the proposal meets approval criteria 17.100.60 (E)(5).
18. Section 17.100.60(E)(6) requires all proposed improvements to meet City standards. A detailed review of proposed improvements is contained throughout this order. The Planning Commission finds that the proposal provides improvements that meet City standards, or that can meet City standards with conditions of approval. Therefore, the Planning Commission finds the proposal meets approval criteria 17.100.60 (E)(6).
19. Section 17.100.60(E)(7) 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 not requesting a phased development. The Planning Commission finds the proposal meets approval criteria 17.100.60 (E)(7).

ADJUSTMENTS AND VARIANCES – Chapter 17.66

20. The applicant requested the following three Type III Variances:
 - A. Variance to Section 17.100.110(F) to exceed the 400-foot maximum length for a cul-de-sac.
 - B. Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for Street A.
 - C. Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for Street B.

21. Staff evaluated the applicant's variance requests and agrees that a variance is required to exceed the 400 foot maximum length for a cul-de-sac and to exceed the 400-foot maximum block length for the east side of Street A. Based on the presence of existing wetlands and streams on the property, staff finds that both block faces of Street B can exceed 400 feet without the need for a variance based on the Director's previous interpretation of Section 17.100.120(B), which allows for an exception to the block length maximum due to topographic, natural resource, or other similar physical conditions that justify longer blocks. However, staff finds that a variance to Section 17.100.120(D) to not provide a bicycle/pedestrian accessway on the north side of Street B is still required.

22. During a more thorough review of the applicant's proposal, staff also identified two additional adjustment requests. Staff reached out the applicant and the applicant requested that staff process the following adjustments:
 - A. Type I Adjustment to Section 17.100.120(B) to exceed the 400-foot maximum block length for the west side of Street A between Kelso Road and Street B by less than 10 percent.
 - B. Type II Adjustment to Section 17.34.30(C) to reduce the required 20-foot minimum lot frontage for Lot 77 by 20 percent.

Variance A: Cul-de-sac Length

22. The applicant requested a Type III Variance to Section 17.100.110(F) to exceed the 400-foot maximum length for a cul-de-sac.

23. Criteria A. of Section 17.66.70 states "The circumstances necessitating the variance are not of the applicant's making." The applicant is proposing a cul-de-sac due to the location of the existing stream/wetland that traverses the site. The stream/wetland are existing natural features and are not of the applicant's making. Rather than propose a gridded street pattern, the applicant is proposing one road that crosses the stream/wetland and terminates at a cul-de-sac. Proposing only one road crossing better preserves the stream/wetland and associated tree retention and, thus, justifies the need for the cul-de-sac. The applicant is also proposing two bicycle/pedestrian paths from the cul-de-sac, which provide both internal connections within the proposed subdivision as well as external connections to the Sandy Woods I Subdivision and Sandy Bluff Park to the south. The Planning Commission finds criterion A is met.

24. Criteria B. of Section 17.66.70 states "The hardship does not arise from a violation of this Code, and approval will not allow otherwise prohibited uses in the district in which the

property is located.” The applicant has not violated the Code and the uses allowed on the lots will be the same with or without approval of this variance. The Planning Commission finds criterion B is met.

25. Criteria C. of Section 17.66.70 states “Granting of the variance will not adversely affect implementation of the Comprehensive Plan.” The variance will not have an impact on any of the policies or goals of the Comprehensive Plan. The Planning Commission finds criterion C is met.
26. Criteria D. of Section 17.66.70 states “The variance authorized will not be materially detrimental to the public welfare or materially injurious to other property in the vicinity.” Approval of the variance will not be materially detrimental or injurious to other property owners in the vicinity. The narrative (Exhibit B) states: “The project has been designed to only have minimal permitted disturbance to the natural features on site. The extended road length to the cul-de-sac and the creation of the tracts help support the longevity of these natural features by minimizing potential disturbance. The road and cul-de-sac extend farther south creating longer road length to allow the perennial stream setback to sit entirely within a tract and outside of future/potential lots. This will ensure the stream’s protection in the present and future.” The Planning Commission finds criterion D is met.
27. Criteria E. of Section 17.66.70 states “The development will be the same as development permitted under this code and City standards to the greatest extent that is reasonably possible while permitting some economic use of the land.” The development will be the same as development permitted under this code and City standards to the greatest extent that is reasonably possible while permitting some economic use of the land. As explained in this order, the proposal meets applicable code sections, or will be able to meet the code with conditions of approval. A variance to the cul-de-sac length allows the applicant to develop the southern portion of the property while minimizing disturbance to the natural areas. The Planning Commission finds criterion E is met.
28. Criteria F. of Section 17.66.70 states “Special circumstances or conditions apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape (legally existing prior to the effective date of this Code), topography, or other circumstances over which the applicant has no control.” The applicant’s narrative (Exhibit B) states: “This property has several natural features in multiple areas on this site that create special circumstances for the subject site and proposed project. There are three wetlands located within the subject site and a perennial stream that runs the full width of the property, the city has requested only one road crossing over the perennial stream, and the BPA easements over the tract to the south and adjacent property to the east prohibit development on these sites and therefore, no road extensions or connections to these sites are feasible. The pre-existing neighboring conditions, natural and pre-existing features have prompted the applicant to come up with creative solutions and longer road lengths to create a feasible site design to reduce impact to these existing natural features. The applicant had no control of the neighboring site restrictions and existing natural site features.” The Planning Commission finds criterion F is met.

29. For the reasons discussed, **the Planning Commission approves the requested variance to allow the cul-de-sac to exceed the 400-foot maximum length. To better protect the stream and wetland natural areas that traverse the site, the applicant shall be required to install a fence in Tracts K, M, and O along the property line of Lots 44, 66-69, 77-80, and 86 that abuts Tracts K, M, and O to prevent encroachment into the natural areas. The fences shall be installed prior to final plat. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.**

Variance B: Street A Length East Side

30. The applicant requested a Type III Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for Street A.
31. Criteria A. of Section 17.66.70 states “The circumstances necessitating the variance are not of the applicant’s making.” The applicant is proposing to exceed the block length standard on the east side of Street A. The applicant’s narrative (Exhibit B) states that the need for the additional block length for Street A is in part due to the existing BPA easement extending along the eastern boundary of subject property and is not of the applicant’s making. Staff acknowledges that the BPA easement has existed long before the proposed development and borders the eastern boundary of the proposed development; however, a street could still be stubbed to the east property line and extended further east under the BPA easement in the future. There are multiple examples of roads going under the BPA easement. Thus, while development of the adjacent property to the east is unlikely, it would still be possible to provide connectivity through the adjacent property in the future. Therefore, staff finds the requested variance to exceed 400 feet for Street A does not meet the Type III Variance review criteria and is better processed as a Special Variance.
32. To be granted a Type III Special Variance, the applicant must meet one of the following criteria in Section 17.66.80:
- A. The unique nature of the proposed development is such that:
 - 1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
 - 2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.
 - B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.
 - C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.
33. The Planning Commission determined the requested variance to Section 17.100.120(B) to exceed the 400-foot block length for the east side of Street A meets Criterion A. While the

applicant could provide a stubbed street to the east property line to reduce the block length of Street A, the property to the east is almost entirely encumbered by a BPA easement and is unlikely to develop. Kelso Road is a residential minor arterial and will be designed to accommodate traffic from the proposed subdivision without the need for an additional local street connecting to the east. The Planning Commission does not believe approval of the variance will be materially detrimental or injurious to other property owners in the vicinity. Because the adjacent parcel to the east would not be able to develop due to the BPA easement, it will not be detrimental to the property owner to the east to not have a stubbed street at the east property line of the subject property. However, as detailed on the Future Street Plan (Exhibit C, Sheet 11) there will be a future trail under the BPA easement and the applicant is still required to meet Section 17.100.120(D), which requires a mid-block bicycle and pedestrian accessway on any block over 600 feet in length. The bicycle/pedestrian accessway is required to have a minimum improved surface of 10 feet within a 15-foot right-of-way or tract. The applicant is proposing a 5-foot-wide wood chip path in Tract K that stubs to the east property line; however, it doesn't meet the Section 17.100.120(D) path requirement as proposed and it would not be a good location for a 10-foot paved path due to its proximity to retention trees. Staff believes the applicant could reduce the width of Lots 44-53 by one or two feet each to provide a 15-foot-wide tract for the bicycle and pedestrian accessway while still meeting the minimum average lot width of 60 feet as required by Section 17.34.30(B). Staff recommends the applicant consider locating the bike/ped tract in line with Street B. Alternatively, staff recommends the applicant locate the tract between Lots 44 and 45, which already has a 15-foot-wide public sanitary sewer easement. The bicycle/pedestrian path could be located on top of the sanitary sewer easement with both in a separate tract. **The applicant shall update the plan set to detail a 15-foot-wide bicycle and pedestrian tract with a 10-foot-wide improved surface located mid-block on the east side of Street A and stubbed to the east property boundary.**

34. For the reasons discussed, **the Planning Commission approves the requested variance to allow the east side of Street A to exceed the 400-foot maximum block length. The applicant shall update the plan set to detail a 15-foot-wide bicycle and pedestrian tract with a 10-foot-wide improved surface located mid-block on the east side of Street A and stubbed to the east property boundary.**

Variance C: Street B Length

35. The applicant requested a Type III Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for Street B.
36. As discussed above, staff finds that due to the locations of existing wetlands and streams on the subject property both block faces of Street B can exceed 400 feet without the need for a variance based on the Director's previous interpretation of Section 17.100.120(B), which allows for an exception to the block length maximum due to topographic, natural resource, or other similar physical conditions that justify longer blocks. With this proposal, the applicant is preserving a large wetland to the north of Street B and a stream/wetland to the south of Street B; thus, the proposal to exceed 400 feet is justified. However, staff finds that a variance to Section 17.100.120(D) to not provide a bicycle/pedestrian accessway on the north side of Street B is still required. The applicant could technically provide a midblock bike/ped accessway connecting the north side of Street B to Tract J, therefore, staff finds the variance

is of the applicant's making and does not meet the Type III Variance review criteria. The variance to not provide a midblock bike/ped accessway is better processed as a Special Variance.

37. To be granted a Type III Special Variance, the applicant must meet one of the following criteria in Section 17.66.80:
- A. The unique nature of the proposed development is such that:
 - 1. The intent and purpose of the regulations and of the provisions to be waived will not be violated; and
 - 2. Authorization of the special variance will not be materially detrimental to the public welfare and will not be injurious to other property in the area when compared with the effects of development otherwise permitted.
 - B. The variance approved is the minimum variance needed to permit practical compliance with a requirement of another law or regulation.
 - C. When restoration or replacement of a nonconforming development is necessary due to damage by fire, flood, or other casual or natural disaster, the restoration or replacement will decrease the degree of the previous noncompliance to the greatest extent possible.
38. The Planning Commission determined the requested variance to Section 17.100.120(D) to not provide a bicycle and pedestrian accessway on the north side of Street B, which exceeds 600 feet in length, meets Criterion A. The intent of the bicycle and pedestrian accessway is to provide connectivity between streets and other public or semipublic lands or through greenway systems. While the applicant could propose a path that connects the middle of block on Street B to Kelso Road, this would negatively affect the preserved wetland. The Planning Commission does not believe the approval of the variance will be materially detrimental or injurious to other property owners in the vicinity and it will help protect the existing wetland. To better protect the existing wetland and prevent encroachment into the wetland tract, staff recommends requiring fences along the property lines of the lots that abut the wetland tract (Tract J).
39. For the reasons discussed, **the Planning Commission approves the requested variance to allow Street B to not provide a bicycle/pedestrian accessway on the north block face of Street B. To better protect the wetland in the northwest corner of the subject property, the applicant shall be required to install a fence in Tract J along the property line of Lots 54, 55, and 59-65 that abuts Tract J to prevent encroachment into the wetland. The fences shall be installed prior to final plat. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.**

Adjustment A: Street A Length West Side

40. During a more thorough review of the application, staff identified that the west side of Street A between Kelso Road and Street B is approximately 414 feet in length, which would require a Type I Adjustment. Staff reached out to the applicant to see if the applicant wanted to apply for the Type I Adjustment as part of this application. The applicant requested that staff

process the Type I Adjustment and submitted the Type I Adjustment fee on October 28, 2021.

41. Section 17.66.20 specifies that the Type I Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 10 percent.
42. Section 16.66.40 contains the review criteria for both Type I and Type II Adjustments. In order to be approved, an adjustment request must meet all four (4) criteria.
43. Adjustment Criteria A states: “The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City.” A 414-foot block will not be significantly different than a 400-foot block. The applicant could propose a 400-foot block on the west side of Street A between Kelso Road and Street B; however, that would just increase the length of the west side of the cul-de-sac. Exceeding the block length standard by approximately 14 feet is not contrary to the Comprehensive Plan or any other City policies or standards. Criteria A can be met for a Type I Adjustment.
44. Adjustment Criteria B states: “The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code.” Exceeding the block length standard by approximately 14 feet will not affect the amount of privacy enjoyed by users of nearby structures. Criteria B is met.
45. Adjustment Criteria C states: “The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks.” Exceeding the block length standard by approximately 14 feet will not adversely affect physical and natural systems. Regardless of whether the block is 400 feet or 414 feet, the wetland in Tract J will be preserved. **To better protect the wetland in the northwest corner of the subject property, the applicant shall be required to install fences in Tract J along the property line of Lots 54, 55, and 59-65 that abuts Tract J to prevent encroachment into the wetland. The fences shall be installed prior to final plat. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.** Criteria C is met.
46. Adjustment Criteria D states: “Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development site.” The requested block length adjustment will not affect architectural features for existing structures on adjoining properties or future structures in Sandy Woods II. Criteria D is met.
47. For the reasons discussed above, **the Planning Commission approves a Type I Adjustment to allow the west side of Street A to be approximately 414 feet. To better protect the wetland in the northwest corner of the subject property, the applicant shall be required to install a fence in Tract J along the property line of Lots 54, 55, and 59-65**

that abuts Tract J to prevent encroachment into the wetland. The fences shall be installed prior to final plat. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.

Adjustment B: Lot 77 Lot Frontage

48. During a more thorough review of the application, staff identified that the proposed flag lot (Lot 77) is detailed as having 15 feet of lot frontage, which does not meet the 20-foot minimum lot frontage required by Section 17.34.30(C). Staff reached out to the applicant to see if the applicant wanted to apply for the Type II Adjustment as part of this application, which would allow the 20-foot minimum lot frontage to be reduced to 16 feet. The applicant requested that staff process the Type II Adjustment on November 8, 2021.
49. Section 17.66.30 specifies that the Type II Adjustment procedure allows the Director to grant or deny an adjustment request that involves only the expansion or reduction of a quantifiable provision of the Sandy Development Code by not more than 20 percent.
50. Section 16.66.40 contains the review criteria for both Type I and Type II Adjustments. In order to be approved, an adjustment request must meet all four (4) criteria.
51. Adjustment Criteria A states: “The proposed development will not be contrary to the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City.” Sixteen feet of lot frontage will not be significantly different than 20 feet of lot frontage. The applicant could propose a 20-foot flag for Lot 77; however, that would likely just increase the width of the driveway and decrease the length of the planter strips on either side of the flag lot. Reducing the width of the pole portion of the flag lot standard by 4 feet is not contrary to the Comprehensive Plan or any other City policies or standards provided the accessway maintains a minimum paved width of 10 feet in accordance with Section 17.100.170(C). **The applicant shall detail a minimum paved width of 10 feet on the accessway (pole) portion of the flag lot.** Criteria A can be met for a Type II Adjustment.
52. Adjustment Criteria B states: “The proposed development will not substantially reduce the amount of privacy enjoyed by users of nearby structures when compared to the same development located as specified by this Code.” Reducing the width of the accessway (pole) portion of the flag lot by 4 feet will not affect the amount of privacy enjoyed by users of nearby structures. Criteria B is met.
53. Adjustment Criteria C states: “The proposed development will not adversely affect existing physical systems and natural systems, such as traffic, drainage, dramatic land forms, or parks.” Reducing the width of the accessway (pole) portion of the flag lot by 4 feet will not adversely affect physical and natural systems. Regardless of whether the accessway is 20 feet wide or 16 feet wide, the stream and retention trees in Tract O will be preserved. **To better protect the stream and retention trees, the applicant shall install a fence in Tract O along the south side of the Lot 77 property line to prevent encroachment into the natural area.** Criteria C is met.

54. Adjustment Criteria D states: “Architectural features of the proposed development will be compatible to the design character of existing structures on adjoining properties and on the proposed development site.” The requested adjustment to lot frontage will not affect architectural features for existing structures on adjoining properties or future structures in Sandy Woods II. Criteria D is met.
55. For the reasons discussed above, **the Planning Commission approves a Type II Adjustment to Section 17.34.30(C) to allow the 20-foot minimum lot frontage to be reduced to 16 feet for Lot 77. The applicant shall update the plan set to detail the lot frontage of Lot 77 at 16 feet. The applicant shall detail a minimum paved width of 10 feet on the accessway (pole) portion of the flag lot. The applicant shall be required to install a fence in Tract O along the south side of the Lot 77 property line to prevent encroachment into the natural area. The fences shall be installed prior to final plat. The fence shall be a 6 foot tall black chain link fence. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.**
56. **Approval of an adjustment or variance shall be effective for a 2-year period from the date of approval, unless substantial construction has taken place.** The Director (Type I and Type II) or Planning Commission (Type III) may grant a 1-year extension if the applicant requests such an extension prior to expiration of the initial time limit.

DENSITY CALCULATIONS – Chapter 17.30

57. The total gross acreage for the entire property is 17.68 acres. After removal of the proposed rights-of-way (2.26 acres) and proposed publicly dedicated tracts (6.93 acres), the net site area (NSA) for the subject property is reduced to 8.49 net acres. Although the property has a stream and multiple wetlands on-site, these were not delineated and mapped as part of the annexation process and, therefore, do not show up on the City's Flood and Slope Hazard Overlay District map. The applicant is still proposing to protect the streams and wetlands, but is opting to use the County setback standards for streams and wetlands rather than the City's FSH overlay and associated restricted development area. Thus, no restricted development areas have been identified or removed for the purpose of the net acre calculation.
58. The subject property is zoned Single Family Residential (SFR); therefore, a minimum of 3 units and a maximum of 5.8 units per acre are allowed. The minimum density for the subject property is 25 units (8.49 net acres x 3 units/net acre = 25.47 rounded down to 25). The maximum density for the subject property is 49 units (8.49 net acres x 5.8 units/net acre = 49.24 rounded down to 49). The applicant identifies 43 lots, within the density range.

ZONING DISTRICTS – Chapter 17.34

59. As stated in the narrative (Exhibit B), the applicant proposes constructing 43 single-family detached homes as permitted in this zoning district. Section 17.34.30 contains the design standards for this zone. As shown on Sheet 1 of the plan set (Exhibit C), all lots in the proposed subdivision contain at least 7,500 square feet. As detailed on pages 4-5 of the narrative (Exhibit B), all of the lots contain an average lot width of 60 feet or more as required.
60. Section 17.34.30(C) requires all lots to have a minimum lot frontage of 20 feet. The applicant is proposing one (1) flag lot (Lot 33), with a 15-foot-wide flag. The proposed flag lot is due to proposing a single street that crosses the existing stream and wetland that traverse the site in order to minimize negative impacts on the stream and wetland. Staff reached out to the applicant regarding the 20-foot minimum required lot frontage and presented the option of a Type II Adjustment, which would allow a 16-foot-wide flag, if approved. The applicant requested the Type II Adjustment, which is discussed in further detail in Chapter 17.66 of this order. With approval of the adjustment by the Planning Commission, the proposal can meet the minimum lot frontage requirements of Section 17.34.30(C).
61. Section 17.34.40(A) requires that water service be connected to all dwellings in the proposed subdivision. Per the submitted narrative (Exhibit B), the applicant proposes to extend water service to serve all dwellings in the development.
62. Section 17.34.40(B) requires that all proposed dwelling units be connected to sanitary service. Per the submitted narrative (Exhibit B), the applicant proposes to extend sanitary sewer service to serve all dwellings in the development.
63. Section 17.34.40(C) requires that the location of any real improvements to the property must provide for a future street network to be developed. The narrative (Exhibit B) states: “The street design in this subdivision provides for a future street connection if the neighboring site to the west is to be developed. Due to the location of the BPA easement to the south and east, there is no proposed connection to the abutting southern property. The site is proposing a new ROW connection to Kelso Rd.”
64. Section 17.34.40(D) requires that all dwelling units must have frontage or approved access to public streets. All proposed lots have frontage on and access to a public street.

ADDITIONAL SETBACKS AND SPECIAL SETBACKS – Chapters 17.80 and 17.82

65. Chapter 17.80 requires all residential structures to be setback at least 20 feet to collector and arterial streets. Kelso Road is classified as a residential minor arterial. **All structures on lots abutting Kelso Road shall be setback at least 20 feet.** Lot 53 is the only lot with frontage on Kelso Road. As indicated in the narrative (Exhibit B), the applicant is proposing to meet the 20-foot setback on Lot 53.
66. Section 17.82.20(A) requires that all residential dwellings shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street. Kelso Road is a transit street. **All residential structures on lots abutting Kelso Road shall have their primary entrances oriented to Kelso Road.** As indicted in the narrative (Exhibit B), the primary entrance for Lot 53 will be oriented towards Kelso Road.
67. Section 17.82.20(B) requires that dwellings shall have a primary entrance connecting directly between the transit street and building interior and outlines requirements for the pedestrian route. Section 17.82.20(C) requires that primary dwelling entrances shall be architecturally emphasized and visible from the street and shall include a covered porch at least 5 feet in depth. **The adherence to Chapter 17.82 for residential design standards shall be required for Lot 53.**

TRANSPORTATION – Chapters 17.84 and 17.100

68. This finding analyzes the Traffic Impact Study.

- A. The applicant submitted a Transportation Impact Study (TIS; Exhibit E) from Kelly Engineering, dated March 2021. The study concluded that the surrounding roadway system can adequately accommodate traffic from the Sandy Woods phase 2 development and that no off-site transportation improvements or traffic control devices were identified to accommodate the development. The TIS states: “Adequate sight distance should be maintained at the site access onto SE Kelso Road. Obstructions by landscaping, signs or other objects should not be allowed.” According to the TIS, the proposed residential development would generate up to 32 site trips during the morning peak hour, 43 site trips during the evening peak hour, and 406 daily site trips. However, the TIS was based on development of 43-single family homes, as stated on page 2 of the TIS. Due to the requirements of House Bill 2001, a duplex is now allowed as an outright permitted use on any lot that allows a single-family residence. The City is not able to preclude any of the 43 lots from developing with a duplex rather than a single-family home. Thus, the TIS should have been based on 43 duplexes. The subdivision is proposed to take access solely from Kelso Road, with an emergency fire access that connects the proposed subdivision to the Sandy Woods Phase I subdivision. Thus, the only local streets that would be impacted are those proposed on the subject property. Based on the potential that 86 dwelling units could be developed, the traffic on the local streets within the proposed subdivision would not exceed 1,000 average daily trips (ADT). Thus, the Planning Commission finds the application meets the standards of Sections 17.100.60(E.4) and 17.84.50(B.4).
- B. The City Transportation Engineer (Exhibit N) reviewed the TIS and finds that it meets City requirements. The City Transportation Engineer further concludes that the study area intersections will meet applicable city operational standards, no safety mitigation is proposed, and sight distance is adequate.

69. Section 17.84.50(E) requires that public streets installed concurrent with development of a site shall be extended through the site to the edge of the adjacent property. The proposed street layout results in one temporary dead-end street (Street B) that will be stubbed to the west property line of the subject property. The proposal also includes one cul-de-sac. The proposed subdivision does not propose to stub a street to the east or south property lines because the adjacent properties to the east and south are encumbered by a BPA easement.

70. The proposed development includes the need to name Street A and Street B. **The street names shall be related to the mountain/native tree or shrub theme. Staff recommends Thielsen Avenue for Street A and Oceanspray Street for Street B, but is open to other name proposals related to the mountain/native tree or shrub theme. If the applicant wants to propose alternative street names the names shall be submitted to staff for review and approval.**

71. Sections 17.84.50(F and G) require public streets to be improved to City standards along the entire frontage of the property. Per the Public Works Director (Exhibit Q), the sole access to and from the site is via the intersection of Kelso Road and proposed Street A. Kelso Road is a Clackamas County facility, therefore, the County’s design standards apply to improvements

adjacent to and within Kelso Road. The applicant submitted a design modification request to Clackamas County (Exhibit L) to reduce sidewalk and planter strip width to minimize impacts to existing delineated wetlands on the Kelso Road frontage of the site west of proposed Street A. The County approved the design modification to allow a five-foot-wide curb tight sidewalk adjacent to the wetland. The County also approved a design modification allowing the Kelso Road frontage sidewalk to terminate short of the east of the site boundary adjacent to proposed Lot 53. The County's narrative response to the design modification request indicates that the applicant requested that the sidewalk improvements on Kelso Road terminate five feet from the east property line of the site due to grading required to construct the sidewalk. The County approved this modification even though there is no mention of the sidewalk terminating short of the site boundary in the design modification request or the land use application narrative submitted by the applicant. The site plan submitted with the application shows the Kelso Road sidewalk improvements terminating approximately 30 feet from the east boundary of the site and about 10 feet from the west boundary of the site. Based on the contours shown on the existing conditions plan it does not appear that any slope easement or grading on adjacent property would be necessary to allow the Kelso Road street frontage improvements to extend to the east boundary of the site per the requirements in Section 17.84.60 of the Sandy Municipal Code. It does however appear that retaining walls or grading outside the right-of-way would be required to extend the Kelso Road sidewalk to the west boundary of the site. **The applicant shall clarify if a request to terminate the Kelso Road sidewalk improvements was included with the design modification request submitted to the County and, if so, clarify whether it was for the east or west end of the development site. Clarification may include further design modifications approved by Clackamas County. The frontage improvements for Tracts J, K, L, M, N, and O shall be completed prior to final plat approval.**

72. While Section 17.100.100(C) calls for a rectangular grid pattern the proposed street layout is not a rectangular grid pattern as it incorporates a cul-de-sac and a diagonal street. However, this is due to the location of existing wetlands and streams on the subject property as well as the BPA easement on the adjacent properties to the east and south. The Planning Commission finds that the proposed street layout is logical as it relates to minimizing negative impacts to existing wetlands and streams.
73. The applicant requested multiple block length variances to Section 17.100.120. The variance requests are discussed in Chapter 17.66 of this order.

PEDESTRIAN AND BICYCLE IMPROVEMENTS – Chapters 17.84 and 17.100

74. Section 17.84.20(A)(1) requires that all improvements shall be installed concurrently with development or be financially guaranteed. **All lots in the proposed subdivision will be required to install public and franchise utility improvements or financially guarantee these improvements prior to final plat approval.**
75. Section 17.84.30(A)(1) requires that all proposed sidewalks on the local streets will be five feet wide as required by the development code and separated from curbs by a tree planter strip that is a minimum of five feet in width.
76. As required by Section 17.84.30(A)(2), **six-foot sidewalks shall be constructed along Kelso Road. These frontages shall include 5-foot-wide planter strips as required.** In order to minimize impacts to the wetland adjacent to Kelso Road, **a portion of the Kelso Road sidewalk may be reduced to 5 feet in width and be moved curb tight in accordance with the approved Clackamas County design modification and Section 17.84.30(A.3.b) of the Sandy Development Code.**
77. In relation to Section 17.84.30, the proposal includes multiple bicycle/pedestrian improvements. As required by Section 17.84.30(B), safe and convenient pedestrian and bicyclist facilities that strive to minimize travel distance to the extent practicable shall be provided in conjunction with new development within and between new subdivisions. The proposal includes a public access easement connecting the proposed subdivision to the existing Sandy Woods I Subdivision and, ultimately, to Sandy Bluff Park to the south. The proposal also includes a path stubbed to the east that will connect to future trails under the BPA easement. Subsection 17.84.30(B)(2) goes on to elaborate that right-of-way connecting cul-de-sacs passing through unusually long or oddly shaped blocks shall be a minimum of 15 feet wide with eight (8) feet of pavement. The applicant proposes a cul-de-sac with two pedestrian connections, both of which are a minimum of 15 feet wide with 8 feet of pavement. The pedestrian connection extending north from the cul-de-sac to Street B (Tract N) also serves as the mid-block bicycle and pedestrian accessway required by Section 17.100.120(D), which requires a minimum 10-foot-wide improved surface within a 15-foot-wide right-of-way or tract as proposed. The proposed path is located between retention Trees #1504, 1506, and 1507 on the west and Trees #1542 and 1543 on the east and will encroach into the tree protection area of multiple trees. The third-party arborist (Exhibit S) recommended that the applicant be required to evaluate if there is space for sewer line and path construction between Trees #1504 and 1542 as noted in Attachment 1 of the third-party arborist report while still adequately protecting the trees per Figure 1 of the third-party arborist report (i.e., limiting construction disturbances to no closer than a radius from a tree of 0.5 feet per inch of trunk diameter (DBH) if no more than 25 percent of the critical root protection zone area (estimated at one foot radius per inch of DBH) is impacted). If there is not sufficient space to construct the sewer line and path while still protecting the trees in accordance with Figure 1 of the third-party arborist report, the third-party arborist suggests strategies such as boring and/or reduction of pathway width and associated grading be implemented to protect the trees in accordance with Figure 1 of the third-party arborist report. The pathway in Tract N is proposed at 10 feet in width, which is the minimum

requirement for a bicycle and pedestrian accessway, therefore, the arborist's suggestion for a reduced path width would require an adjustment or variance. Thus, boring the sewer and reducing the grading associated with the pathway construction are the most viable options. **The applicant shall evaluate if there is space for sewer line and path construction between Trees 1504 and 1542 as noted in Attachment 1 of the third-party arborist report. If there is not sufficient space to construct the sewer line and path while still protecting the trees in accordance with Figure 1 of the third-party arborist report, the applicant shall bore the sewer under the perennial stream to limit disturbance to the stream and any tree root systems and reduce grading associated with the pathway construction, if needed, to protect the trees in accordance with Figure 1 of the third-party arborist report.** With this condition included in this finding, this proposal meets the requirements of Section 17.84.30.

78. Section 17.100.120(D) requires a mid-block bicycle and pedestrian accessway on any block over 600 feet in length. The bicycle/pedestrian accessway is required to have a minimum improved surface of 10 feet within a 15-foot right-of-way or tract. As discussed in Chapter 17.66 of this order, the applicant is proposing a 5-foot-wide wood chip path in Tract K that stubs to the east property line; however, it doesn't meet the Section 17.100.120(D) path requirement as proposed and it would not be a good location for a 10-foot paved path due to its proximity to retention trees. Staff believes the applicant could reduce the width of Lots 44-53 by one or two feet each to provide a 15-foot-wide tract for the bicycle and pedestrian accessway while still meeting the minimum average lot width of 60 feet as required by Section 17.34.30(B). Staff recommends the applicant consider locating the bicycle/pedestrian tract in line with Street B. Alternatively, staff recommends the applicant locate the tract between Lots 44 and 45, which already has a 15-foot-wide public sanitary sewer easement. The bicycle/pedestrian path could be located on top of the sanitary sewer easement with both the path and sewer in the same tract. **The applicant shall update the plan set to detail a 15-foot-wide bicycle and pedestrian tract located mid-block on the east side of Street A and stubbed to the east property boundary.**

PARKING, LOADING, AND ACCESS REQUIREMENTS – Chapter 17.98

79. Section 17.98.10(M) requires that the developer provide a Residential Parking Analysis Plan. This plan identifying the location of parking for the 43 lots is included in Exhibit C, Sheet 10.
80. Section 17.98.20(A) requires that each single-family dwelling unit or duplex is required to provide at least two off-street parking spaces. **Compliance with this requirement will be evaluated during building plan review.**
81. Section 17.98.80(A) requires access from a lower functional order street. **Vehicle Non-Access Reserve (VNAR) strips shall be depicted on the plat for the Kelso Road frontage of Lot 53 and Tract J, with the exception of the Public Works Access, to comply with Section 17.98.80(A). A VNAR strip shall also be depicted on the plat for the west end of Street B.**
82. Section 17.98.100 has specifications for driveways. The minimum driveway width for a single-family dwelling is 10 feet and the maximum width is 24 feet wide for a residential driveway approach. **Driveways shall taper to match the driveway approach width to prevent stormwater sheet flow from traversing sidewalks. Additionally, all driveways shall meet vertical clearance, slope, and vision clearance requirements. Any driveway that exceeds a slope of 8.3 percent shall install a safe pedestrian walkway, including stairs as needed, from the house to the sidewalk.**
83. Section 17.98.100(G) contains requirements for driveways on cul-de-sacs and states that the sum of the width of all driveway approaches within the bulb of the cul-de-sac shall not exceed 50 percent of the circumference of the cul-de-sac. **The cul-de-sac shall meet the requirements of Section 17.98.100(G).** Exhibit C, Sheet 9 includes an analysis of the driveway widths on the cul-de-sac and states the sum of the width of all the driveway approaches is 31 percent in compliance with the code requirement.
84. 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.**
85. Section 17.98.200 contains requirements for providing on-street parking spaces for new residential development. Per Section 17.98.200, one (1) on-street parking space at least 22 feet in length has been identified within 300 feet of each of the 43 lots as required. Exhibit C, Sheet 10 shows that 52 on-street parking spaces have been identified in compliance with this standard. No parking courts are proposed by the applicant.

UTILITIES – Chapters 17.84 and 17.100

86. Section 17.84.60 outlines the requirements of public facility extensions. The applicant submitted an offsite sanitary sewer plan (Exhibit C, Sheet 6), an onsite sanitary sewer and water plan (Exhibit C, Sheet 7), and a storm drain plan (Exhibit C, Sheet 8), which show the location of proposed public water, sanitary sewer, and stormwater drainage facilities. **Broadband fiber service shall be detailed with construction plans.**
87. Franchise utilities will be provided to all lots within the proposed subdivision as required in Section 17.84.80. The location of these utilities will be identified on construction plans and installed or guaranteed prior to final plat approval. The applicant does not anticipate extending franchise utilities beyond the site. All franchise utilities other than streetlights shall be installed underground. The developer shall make all necessary arrangements with franchise utility providers. **The developer shall install underground conduit for street lighting.**
88. Section 17.84.90 outlines requirements for land for public purposes. The application includes dedication of right-of-way, a stormwater detention pond tract, four open space/wetland/stream tracts, and one public walkway tract. Eight-foot-wide public utility easements will be required along all lots adjacent to street rights-of-way for future franchise utility installations. **All easements and dedications shall be identified on the final plat.**
89. As required by Section 17.100.130, eight-foot-wide public utility easements (PUE) are required along all property lines abutting a public right-of-way.
90. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. A lighting plan shall be coordinated with PGE and the City as part of the construction plan process and prior to installation of any fixtures as required by Section 17.100.210. The applicant shall 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 to minimize negative impacts on wildlife and human health.**
91. Section 17.84.100 outlines the requirements for mail delivery facilities. **The location and type of mail delivery facilities shall be coordinated with the City Engineer and the Post Office as part of the construction plan process.**
92. The Fire Marshal (Exhibit O) reviewed the proposal and provided general comments as well as comments related to fire apparatus access and firefighting water supplies. **Construction documents detailing compliance with fire apparatus access and fire protection water supply requirements shall be provided to Sandy Fire District for review and approval. Approved fire apparatus access roadways and an approved water supply for fire protection, either temporary or permanent, shall be installed and operational prior to any combustible construction or storage of combustible materials on site in accordance with OFC Chapter 33. Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property, including monument signs. The**

address shall be plainly legible and visible from the road fronting the property and the same shall be on the dwelling plainly legible and visible when approaching. These numbers shall contrast with their background. Fire flow testing shall be completed to determine available fire flow. Testing will be the responsibility of the applicant. The applicant shall contact the City of Sandy Public Works Department for testing information and requirements and notify the Fire Marshal prior to fire flow testing. Each new fire hydrant installed shall be ordered in an OSHA safety red finish and have a 4-inch non-threaded metal faced hydrant connection with cap installed on the steamer port. The applicant shall adhere to all other requirements of the Sandy Fire District.

93. The applicant is proposing to pave the existing 12-foot wide Public Works gravel access roadway to serve as the second emergency fire access. The Fire Marshal approved the 12-foot-wide paved path provided that 20 feet of unobstructed width is maintained. Per the Public Works Director (Exhibit Q), modifications proposed to the existing pedestrian path and stormwater facility maintenance roadway in the adjacent Sandy Woods development include placing asphalt pavement over the existing crushed rock surface to provide a 12-foot-wide emergency vehicle access route for Sandy Woods II. The existing pedestrian path and stormwater facility maintenance roadway includes locked bollards at the intersection of the path with Broken Top Avenue to prevent unauthorized vehicle access. **The applicant shall submit a proposal to prevent unauthorized vehicle use of the new pedestrian path/stormwater maintenance and emergency vehicle access roadway while still allowing emergency vehicle access.** The proposed pedestrian path/stormwater maintenance and emergency vehicle access roadway will be more than 1,000 feet long between Broken Top Avenue and the cul-de-sac bulb of proposed Street A. There is pedestrian-scale lighting on the portion of the path between existing Lots 30 and 31 in Sandy Woods I but no illumination on the rest of the proposed route. **The applicant shall submit a design for City and Fire District review to mitigate risks to pedestrians and emergency vehicles due to the lack of illumination along the pedestrian path/stormwater maintenance and emergency vehicle access roadway. Possible mitigation steps include reflective pavement edge striping and/or delineators; curve and chevron signage to define changes in horizontal alignment or illumination. The pedestrian path/stormwater maintenance and emergency vehicle access roadway design shall comply with Clackamas County Interagency Fire Code Access Guide standards for width, grade, vertical clearance, load capacity, turning radii, and gates. The applicant shall submit turning template diagrams for the intersection of the existing pedestrian path/stormwater maintenance roadway and Broken Top Avenue, and the proposed pedestrian path/stormwater maintenance and emergency vehicle access roadway and Street A. The turning template diagrams shall demonstrate that the existing driveway approach at Broken Top Avenue is wide enough for emergency vehicle access and shall define any 'No Parking' zones that would need to be posted to allow emergency and service vehicle access.**
94. Per the Public Works Director (Exhibit Q), the development site is proposed to be served by a single 8-inch diameter dead end water line connected to the existing 12-inch water line in Kelso Road. **The applicant shall submit calculations demonstrating that the proposed water line will be able to furnish the required fire and domestic flows for Sandy Woods II.**

95. The applicant intends to install sanitary sewer lines in compliance with applicable standards in Section 17.100.240. The sanitary sewer plans will be reviewed by the City Engineer and Public Works Director. **Public utility and street plans for land use applications are submitted to comply with the requirements in 17.100.60 of the Sandy Municipal Code. Land use approval does not connote approval of utility or street construction plans which are subject to a separate submittal and review process.** The Public Works Director (Exhibit Q) notes the proposed sanitary sewer extension between Tract L and the existing sanitary sewer in Olson Street is over 1,600 feet long and includes four manholes. There is no existing or proposed all-weather access to the proposed sewer line. **The applicant shall construct a 12-foot-wide crushed rock access roadway over the existing and proposed sewer easement between Tract L and manhole F-8 and between Olson Street and manhole F-6 to provide maintenance access for the off-site sewer line. Plans for public and private sewer collection and conveyance facilities shall be submitted to the Oregon Department of Environmental Quality for review and approval per ORS Chapters 454, 468 and 4868B and OAR 340-052 and in particular OAR 340-052-0040(2).**
96. Section 17.100.250(A) details requirements for stormwater detention and treatment. A public stormwater quality and detention facility is proposed as Tract L to be located in the southwest section of the proposed development. In addition, the northwest corner of Tract J contains a small stormwater pond. **All site runoff shall be detained such that post-development runoff does not exceed the predevelopment runoff rate for the 2, 5, 10 and 25 year storm events. Stormwater quality treatment shall be provided for all site drainage per the standards in the City of Portland Stormwater Management Manual (COP SWMM).** Per the Public Works Director (Exhibit Q), the stormwater management plan depicts fourteen separate flow-through planters in the proposed City right-of-way adjacent to Lots 44, 45, 47, 53, 54, 63, 64, 65, 71 through 74, 76, 78, 80, 82, 83 and Tracts K, M, and O. **The street frontage of Lots 44, 45, 47, 53, 54, 63, 64, 65, 71 through 74, 76, 78, 80, 82, 83 and Tracts K, M, and O shall include Vehicle Non-Access Reserve (VNAR) strips coincident with the flow-through planter locations to prevent the construction of driveway approaches over these areas upon development of the lots. The stormwater detention pond in Tract L shall be fenced per the requirements in the City of Portland SWMM.**
97. 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.**

PARKLAND DEDICATION – Chapter 17.86

98. Section 17.86.10 contains a clear and objective formula for determining the amount of land required to be dedicated. The formula is acres = proposed units x (persons/unit) x 0.0043. For the 43 lots, assuming single family homes as indicated in the narrative (Exhibit B), acres = 43 x 3 x 0.0043 = 0.55 acres. The applicant is proposing to pay a fee-in-lieu of parkland dedication.
99. Per Section 17.86.40, at the City's discretion only, the City may accept payment of a fee in lieu of land dedication. A payment in lieu of land dedication is separate from Park System Development Charges and is not eligible for a credit of Park System Development Charges. The amount of the fee in lieu of land dedication (in dollars per acre) shall be set by City Council Resolution, and it shall be based on the typical market value of developed property (finished lots) in Sandy net of related development costs. The Parks and Trails Advisory Board (Board) met on August 11, 2021. In a memo dated October 27, 2021 (Exhibit P), the Board recommended a fee-in-lieu of parkland dedication given the proposed subdivision's proximity to Sandy Bluff Park. The Board specifically states: "The 2021 Parks and Trails Master Plan states as a goal that 'Residential areas should be served by the 1/4-mile service area of a mini park or the 1/2- mile service area of a neighborhood park.' In their discussion the board noted that Sandy Woods Phase II is close to the 1/2 mile goal in its proximity to Sandy Bluff Park, which meets the criteria for a neighborhood park. The board strongly endorses the requirement to provide pedestrian access connecting Phases I and II as it will result in a safe and direct route to Sandy Bluff Park for residents of the proposed development. As a result of their discussion the board recommends accepting a Fee in Lieu of land dedication for the Sandy Woods Phase II development. The board's formal recommendation, unanimously passed, reads as follows: Motion to accept a Fee in Lieu of land dedication for the Sandy Woods Phase II proposed development. Includes the support for the requirement of the access points connecting Phase I and Phase II which provides direct access to Bluff Park and future trail connections."
100. The parks dedication requirement, and therefore any fee in-lieu payment under Section 17.86.40, is based on the impact from the number of people anticipated to live in the units in the subdivision, and a duplex includes two dwelling units, each of which can be occupied by a family (or a number of unrelated persons). Accordingly, each unit of a duplex is treated the same as a separate single-family dwelling for purposes of calculating the amount of land dedicated under Section 17.86.10 or a fee in-lieu payment under Section 17.86.40. However, pursuant to state law (ORS 197.758), each lot is allowed to be developed with a duplex. Thus, to ensure compliance with the standard, **the applicant shall pay a fee-in-lieu of parkland dedication in the amount of \$132,550 (0.55 multiplied by \$241,000) to the City prior to final plat approval, or \$145,750 (0.55 multiplied by \$265,000) if half is deferred to building permit issuance. If the applicant chooses to defer payment, the applicant shall pay \$72,875 prior to recording of final plat and the additional \$72,875 divided between the 43 lots, or \$1,694.77 with each building permit. Additionally, if any lot includes a duplex or is converted to a duplex in the future, the applicant or future property owner shall pay an additional \$3,082.56 (0.55 multiplied by \$241,000 divided by 43) with the building permit for that lot or**

duplex addition. With this condition, the City finds the application complies with Section 17.86.10.

101. Section 17.86.50 contains minimum standards for open space dedication. The applicant's narrative (Exhibit B) states they are proposing to dedicate all tracts within the subdivision (J, K, L, M, N and O) to the City of Sandy and will work with the City on the dedication process and requirements. Per the Public Works Director (Exhibit Q), **Tract L shall be dedicated to the City for stormwater management, emergency vehicle and pedestrian access. Tracts J, K, M and O shall be dedicated to the City as open space and pedestrian easements.**

102. Section 17.86.50(D.1) states: "Prior to acceptance of proposed open space, the City may require the developer to submit a Phase I Environmental Site Assessment completed by a qualified professional according to American Society of Testing and Materials (ASTM) standards (ASTM E 1527). The results of this study shall indicate a clean environmental record." **The applicant shall submit a Phase I Environmental Site Assessment completed by a qualified professional according to American Society of Testing and Materials (ASTM) standards (ASTM E 1527) for all open space dedications. The results of this study shall indicate a clean environmental record.**

URBAN FORESTRY – 17.102

103. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. An Arborist Report prepared by Ryan Neumann (ISA Certified Arborist PN-5539A; TRAQ Qualified) of Portland Tree Consulting and dated June 3, 2021 is included as Exhibit F. The arborist inventoried all trees 11 inches and greater diameter at breast height (DBH) as required in Section 17.102.50. The inventory of trees proposed to be retained is included in Exhibit C, Sheet 5. The Plan Set (Exhibit C) also contains a sheet with building footprints, retention trees, and the project arborist’s recommended root protection zones (Sheet 2), and a Tree Retention and Removal Plan (Sheet 4). A third-party arborist review dated October 16, 2021 was conducted by Todd Prager (ASCA Registered Consulting Arborist; ISA Board Certified Master Arborist, WE-6723B; ISA Qualified Tree Risk Assessor; AICP, American Planning Association) of Teragan & Associates and is included as Exhibit S.
104. The property contains approximately 17.68 acres. However, the applicant proposed retaining all required trees for both Sandy Woods Phase I and Sandy Woods Phase II on the northern (Phase II). Thus, the retention requirements are based on the original parcel, which was 38.95 acres per the submitted narrative (Exhibit B) and, therefore, requires retention of 117 healthy trees, 11 inches DBH or greater, and likely to grow to maturity ($38.95 \times 3 = 116.85$). The arborist report evaluated 494 trees 6-inches DBH or greater, 251 of which are proposed for removal. The applicant proposes to retain 152 trees 11-inches DBH or greater, including 86 conifers and 66 deciduous trees. The applicant also proposes to retain an additional 91 trees between 6 inches DBH and 11 inches DBH.
105. All of the trees at 11-inch DBH or greater that are proposed for retention are non-nuisance species and were evaluated as being “viable” by the project arborist with the following exceptions:
- Tree #1339, a 17-inch DBH Douglas fir, was evaluated as “suppressed.”
 - Tree #1531, a 17-inch DBH western hemlock, was evaluated as “grows out of old stump.”
 - Tree #1569, a 49-inch DBH Douglas fir, was evaluated as “trunk swoop at 45 feet.”
 - Trees #1854 and #1855, 24-inch and 16-inch DBH Douglas firs, did not have any evaluation of their condition.

Staff typically reviews arborist reports that rank tree health/condition as very good, good, fair, poor, or dead/dying/diseased. Thus, staff requested more information on the “viable” ranking as part of the incompleteness letter. The project arborist submitted an addendum (Exhibit G) that states the following: “For the purposes of the submitted Tree Preservation Plan and Tree Table the working definition of ‘viable’ is a healthy tree that is in fair to very good condition and is expected to be reasonably healthy and provide benefits to the community for ten to twenty years. Additional information for individual trees is provided in the ‘remarks’ column of the tree table.” The third-party arborist report (Exhibit S) states: “Based on my general review of the trees during my site visit, I observed trees in less than good health condition that would not meet the City’s typical preservation tree standards. In particular, there are red alders (*Alnus rubra*) and other species that have struggled with extreme weather events that may have occurred following the initial tree assessment for the

project. Therefore, the City may require a reassessment of the tree conditions to ensure there are at least 117 retention trees that are in good condition. If a reassessment of tree conditions is required, I recommend focusing the reassessment on the trees to be retained of [sic] the edges of the lots to be occupied by houses. In addition to a health assessment, I recommend including an assessment of the structural conditions of the trees to evaluate their stability considering adjacent tree removals and potential increased wind exposure.” The arborist report submitted by the applicant is dated June 3, 2021; however, it does not indicate when the actual inventory was conducted. Staff compared the June 3, 2021 tree inventory to the December 7, 2017 inventory submitted with the Sandy Woods I application and they appear to be the same. Thus, staff concluded that the tree inventory has not been updated since 2017, which was well before the wind storms in the fall of 2020 and the ice storm in the winter of 2021, all of which caused significant damage to trees in Sandy. **In order to assess whether the trees proposed for retention are still healthy and in good condition, the applicant shall submit an updated arborist evaluation confirming that a minimum of 117 trees are healthy, in good or very good condition, not nuisance species, 11-inches DBH or greater, and did not suffer any damage during the multiple storms since the original assessment.** Per the third-party arborist’s recommendations, **the updated evaluation shall also include the following:**

- Assessment of the structural condition of the trees to evaluate their stability considering adjacent tree removals and potential increased wind exposure.
- Evaluation of whether there is adequate space for excavation of foundation and construction access on Lots 47, 48, 49, 52, 53, 66, 68, 71, 82, 83, 84, and 85. If there is not adequate space, reduce building envelopes to accommodate the tree protection zones. Alternatively, modify the tree protection to allow for adequate space while providing the minimum protection zones in accordance with Figure 1 in the third-party arborist report.
- Evaluation of the feasibility of construction of the paved path in Tract N between the tree protection fencing of Trees #1504 and #1542. If there is not space to construct the sewer line and path while still protecting the trees in accordance with Figure 1 of the third-party arborist report, bore the sewer under the perennial stream to limit disturbance to the stream and any tree root systems and reduce grading associated with the pathway construction, if needed, to protect the trees.
- Description of proposed path construction in the tree protection zones of Tracts O and K.
- Details on whether stumps of trees to be removed that are within the tree protection zones will be left in place or carefully stump ground to protect the root systems of the adjacent trees to be retained.

The third-party arborist report also recommended that the updated arborist evaluation include an evaluation of whether the grading can be adjusted using retaining walls or other strategies to protect Tree #2057 in accordance with Figure 1 in the third-party arborist report. At the November 22, 2021 Planning Commission hearing, the applicant stated that they are proposing to remove Tree #2057 since it has a broken top and is considered a dead/dying/diseased tree.

106. The applicant is proposing to retain multiple trees on private, developable lots. While staff encourages the applicant to retain as many trees as possible, staff has concerns about retention trees being located on developable lots. Based on previous subdivision developments, including Sandy Woods I, staff has seen that a number of the trees retained on private lots are either illegally removed once the new homeowner moves in, or the new homeowner becomes concerned the trees are hazardous due to their proximity to the house and applies for a hazard tree removal permit. Rather than create a potential future conflict between tree retention and private homeowners, **the Planning Commission recommends that as many of the 117 required retention trees as possible shall be located in Tracts J, K, M, and O.** Staff also has concerns about whether Trees #1337, 1399, 1486, 1487, 1585, 1802, 1803, 1805, 1973, 2035, and 2037 will be adequately protected due to the fact that a large portion of their critical root zones are located on the adjacent properties to the east or west. **After the updated inventory/retention plan is completed, if the applicant needs to count Tree #1337, 1399, 1486, 1487, 1585, 1802, 1803, 1805, 1973, 2035, or 2037 towards the minimum retention tree standard, the project arborist shall submit information regarding the percentage of the critical root zone (at 1 foot per 1 inch DBH) that is located on the adjacent properties to the east or west and whether any portion of the minimum root protection zone (at 0.5 feet per 1 inch DBH) is located on the adjacent properties to the east or west.**
107. The Arborist Report (Exhibit F) provides recommendations for protection of retained trees including identification of the recommended root protection zone for these trees. The requirements of 17.102.50(B) shall be complied with prior to any grading or tree removal on the site. The project arborist's root protection zone recommendations do not follow the standard critical root zone (CRZ) of 1 foot per 1 inch DBH (with allowance of up to 25 percent of the CRZ to be impacted), thus staff requested more information on the rationale for not using the standard CRZ as part of the incompleteness letter. The arborist report addendum (Exhibit G) states: "The modified root protection zones (RPZs) listed in the Tree Table were established by an ISA Certified Arborist after evaluating the subject trees, the grading plan, and proposed layout. Critical root zones (CRZs) have been reduced based on individual basic assessments of subject trees, working knowledge of species characteristics, and working knowledge of root crown characteristics. Modified RPZs have been used on the site to protect the health and long-term viability of trees being preserved, while providing reasonable workspace and movement of equipment and personnel on the site. Tree protection fence (TPF) will be installed at the radii listed in the 'RPZ' column of the tree table. All encroachments or grade disturbances within the RPZs of trees being preserved will be reviewed and supervised by the project arborist." The third-party arborist reviewed the applicant's tree protection plan and found that it does not meet the tree protection zone that is widely accepted in the Willamette Valley to provide adequate tree protection. The third-party arborist report includes recommended tree fencing locations in Attachment 1 of the report, which limit construction disturbances to no closer than a radius from a tree of 0.5 feet per inch of trunk diameter (DBH) if no more than 25 percent of the critical root protection zone area (estimated at one foot radius per inch of DBH) is impacted. **The applicant shall install tree protection fencing as detailed on Attachment 1 of the third-party arborist report. The tree fencing shall be installed prior to any development activity on the site, including clearing, tree removal, and erosion control measures, in order to protect the trees and the soil around the trees from disturbance.**

Sediment fencing shall be located outside the tree protection zones. If erosion control is required inside the tree protection zones, the applicant shall use straw wattles to minimize root zone disturbance of the trees to be retained. Inspections of retention tree fencing by a City official shall be completed prior to any earthwork or grading being conducted onsite. Should the fencing need to be adjusted, the applicant or project arborist shall contact Planning Division staff and obtain staff review and approval prior to relocating the fence. The applicant shall not relocate or remove the tree protection fencing prior to issuance of a certificate of occupancy for the subject lots. The tree protection fencing shall be 6-foot-tall chain link or no-jump horse fencing supported with metal posts placed no farther than 10 feet apart installed flush with the initial undisturbed grade. The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches, placed every 75 feet or less) to the tree protection fencing with the following: **“TREE PROTECTION ZONE, DO NOT REMOVE OR ADJUST THE APPROVED LOCATION OF THIS TREE PROTECTION FENCING.** Please contact the project arborist if alterations to the approved location of the tree protection fencing are necessary. [Arborist’s name], Project Arborist – [Arborist’s phone number].” No construction activity shall occur within the tree protection zone, including, but not limited to, grading, clearing, excavation, access, stockpiling, 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 with City staff and the project arborist prior to any tree removal, grading, or other construction activity on the site. Up to 25 percent of the area between the minimum root protection zone of 0.5 feet per 1-inch DBH and the critical root zone of 1 foot per 1-inch DBH may be able to be impacted without compromising the tree, provided the work is monitored by a qualified arborist. The applicant shall retain an arborist on site to monitor any construction activity within the critical root protection zones of the retention trees or trees on adjacent properties that have critical root protection zones that would be impacted by development activity on the subject property.

108. The Tree Retention and Protection Plan (Exhibit C, Sheet 4) details several trees being removed that are located in close proximity to retention trees and in some cases are within the CRZ of the retention tree. Attachment 1 of the third-party arborist report species that stumps of trees to be removed that are located in the tree protection zones as detailed on Attachment 1 should be retained or carefully stump ground. **The applicant shall retain stumps or carefully stump grind trees to be removed that are in the tree protection zones detailed on Attachment 1 of the third-party arborist report. Trees proposed for removal that are located in Tracts J, K, M, or O shall be left as snags rather than completely removed in order to minimize negative impacts to the remaining retention trees and stream/wetlands. Removal of trees located within the tree protection zone of a retention tree shall be completed under the supervision of the project arborist and the applicant shall fell the trees to be removed away from the trees to be retained so they do not contact or otherwise damage the trunks or branches of the trees to be retained. Tree removal and/or snag creation shall be completed without the use of vehicles, or heavy equipment in the tree protection zone. Trunks and branches of adjacent trees shall not be contacted during tree removal or snag creation. The applicant shall submit a post-construction report prepared by the project arborist or**

other TRAQ qualified arborist to assess whether any of the retention trees were damaged during construction. If retention trees were damaged and need to be replaced, the mitigation ratio shall be 4:1.

109. The Arborist Report (Exhibit F) and addendum (Exhibit G) from Portland Tree Consulting includes recommendations related to activity within a root protection zone. **The applicant shall adhere to all recommendations contained in the arborist report including, but not limited to, the following:**
- Without the owner’s authorization and the project arborist’s supervision, none of the following shall be allowed within a root protection zone:
 1. New buildings;
 2. Grade change or cut and fill, during or after construction;
 3. New impervious surfaces;
 4. Utility or drainage field placement;
 5. Staging or storage of materials and equipment during construction;
 6. Vehicle maneuvering during construction.
 - Any activity within a root protection zone, including adjustment of the tree protection fence, shall be approved by the project arborist and the City Development Services Director.
 - The project arborist shall be available to monitor tree related issues during the development of the site and provide recommendations, supervision, and assistance in the preservation of the protected trees. The project arborist shall document and report on site visits and shall be prepared to conduct root pruning when visiting the site.
110. **To ensure protection of the required retention trees, the applicant shall record a tree protection covenant specifying protection of trees on the subject property and limiting removal without submittal of an Arborist’s Report and City approval. The covenant shall detail the species and locations of the retention trees as well as the tree protection zones of each tree as detailed on Attachment 1 of the third-party Arborist Report.**

LANDSCAPING AND SCREENING – Chapter 17.92

111. Section 17.92.10 contains general provisions for landscaping. As required by Section 17.92.10 (C), trees over 25-inches circumference measured at a height of 4.5 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 4.5 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 is discussed in more detail in the Urban Forestry, Chapter 17.102 section of this document. **Per Section 17.92.10(L), all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.**
112. Section 17.92.30 states that planting of trees is required for all parking lots with four or more parking spaces, public street frontages, and along private drives more than 150 feet long. The applicant submitted a Residential Parking Analysis (Exhibit C, Sheet 10) that details street trees. 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 all street frontages. Planter strips will be provided along all frontages as required in Section 17.100.290. The narrative (Exhibit B) notes that street trees will be planted 30 feet on center and that final street tree locations and species will be determined during final engineering design of the subdivision improvements. **The applicant shall submit proposed tree species to City staff for review and approval concurrent with construction plan review. To improve species diversity, the applicant shall include at least four (4) different tree genera, with at least two (2) different genera per block face. No more than 10 percent of the proposed street trees shall be of the same species, no more than 20 percent shall be of the same genus, and no more than 30 percent shall be of the same family.** Due to concerns with Asian Longhorn Beetle and Emerald Ash Borer as well as an interest in increasing species diversity, staff would prefer that the applicant not propose any maples or ashes as street trees at this time. **The street trees along Tracts J, K, O, and M shall be installed prior to final plat approval.**

The applicant is proposing to mass grade the buildable portion of the site. This will remove topsoil and will heavily compact the existing soil. To maximize the success of the required street trees, **the applicant shall aerate and amend the soil within the planter strip 15 feet in both directions from where the tree will be planted (or as is feasible based on locations of driveways or street corners) to a depth of 3 feet prior to planting street trees. The applicant shall aerate and amend the soil at the individual home construction phase. The applicant shall submit a letter from the project landscaper confirming that the soil in the planter strips has been aerated and amended prior to planting the 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.

113. Section 17.92.40 requires that all landscaping shall be irrigated, either with a manual or automatic system. The narrative (Exhibit B) states that the proposed landscape strips within the public right-of-way will have irrigation sleeves coming from the adjacent property and that the property owner will be responsible for maintaining the irrigation of the planter strip once the trees are planted. **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.**
114. 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. 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 material and shall be removed after one growing season (or a maximum of 1 year).**
115. 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 (2) years following the date of recording of the final plat associated with those improvements.**
116. 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 planting 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 planting 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 and labor, including a two-year maintenance and warranty period.**

FLOOD AND SLOPE HAZARD (FSH) OVERLAY – Chapter 17.60

117. The subject property was outside City limits when the most recent Flood and Slope Hazard (FSH) mapping was completed and, thus, is not included on the City’s FSH Overlay map. The property was annexed into City limits in 2017 by Ordinance 2017-09. Section 2 of Ordinance 2017-09 adopts the August 30, 2017 staff report as findings supporting the approval of the annexation and incorporates the report into the ordinance by reference. The Zoning finding of page 4 of the staff report states: “The Zoning Map depicts a conceptual zoning designation for the property of SFR, Single Family Residential. Density will be evaluated during land use review (i.e. subdivision) of the subject property. Considerations to restricted development areas, such as powerline easements and wetlands/creeks will be part of the evaluation.”
118. Rather than map the FSH overlay, the applicant is proposing to adhere to Clackamas County’s setback standards, which are included on page 50 of the applicant’s narrative (Exhibit B). The County setback standards meet or exceed the City’s standards as included in Section 17.60.30.
119. Section 17.60.10 relates to mapping the FSH. The applicant’s narrative (Exhibit B) states: “The FSH overlay cannot be applied to this project site because it was not required at the time of annexation of this site. Therefore, Code Section 17.60 Flood & Slope Hazard (FSH) Overlay District does not apply to this project. However, the applicant will respond to sections of this code to show the project meets the intent of this chapter and the general principles of the FSH Overlay District. The wetlands on site are not deemed significant, therefore a 25’ setback is required per City of Sandy Municipal Code. However, the plans show 50’ setback from the wetlands, these setbacks ensure they will be protected. A 50’ setback is required from top of bank of the perennial stream located on site. Both setbacks meet the City of Sandy Municipal Code (17.60.30.A), Clackamas County Code (CCSD #1, Table 4.1), and Oregon State’s requirements. On the plan set included with this application, the delineated wetlands, perennial stream, the top of bank, and all required setbacks are mapped per the applicant’s responsibilities of this code section. There is no significant slope on this site greater than 25% and therefore this does not apply. The project proposal meets the intent of this code section.” The submitted Site Plan (Exhibit C, Sheet 1) details the 50-foot buffer around the wetlands. In addition, the stream is located within multiple tracts, which all provide at least a 50-foot setback. The Planning Commission finds the intent of Section 17.60.10 has been met.
120. Section 17.60.20 pertains to permitted uses and activities. According to the narrative (Exhibit B) there are three delineated wetlands and a perennial stream on the site. The applicant submitted wetland delineations for the entire site (Exhibit H), including a separate delineation for the wetland in the northwest corner of the site (Exhibit I). The applicant also submitted concurrence from the Oregon Department of State Lands (DSL) for all wetlands on the site (Exhibits J and K). In addition, the Oregon Statewide Wetlands Inventory (SWI) identifies both an intermittent stream and a riverine wetland on the subject property. As stated in the narrative, the applicant has designed the site development to place all the sensitive areas (three wetlands and stream/wetland traversing the site) in tracts to maximize their protection. The wetlands will remain undisturbed with the exception of a small section

located in the Kelso Road right-of-way, which will be addressed with the County application for a Design Modification Request for Kelso Road (Exhibit L). **No future lots shall be platted within the 50-foot setback from the wetlands or stream.** The applicant is proposing a public road (Street A) and utility crossing over the stream to allow development to occur on the south portion of the property. As stated in the narrative, the applicant is only proposing a single road crossing in order to reduce the impact to the stream and retention trees. The applicant is also proposing a public sewer crossing under the stream in Tract N. As stated in the narrative, the applicant intends to bore the sewer under the perennial stream to limit disturbance to the stream and any tree root systems. **The applicant shall bore the sewer under the perennial stream to limit disturbance to the stream and any tree root systems.** The sewer crossing is proposed to be located underneath the existing dirt road that crosses the perennial stream to further reduce construction impact from the sewer main extension. The applicant is also proposing a pedestrian pathway that meanders along the stream in Tracts K and O. As discussed in Chapter 17.102 of this order, the third-party arborist recommends the applicant submit a description of the proposed path construction in the tree protection zones of Tracts O and K.

121. Section 17.60.30 specifies required setback areas. As previously discussed, the applicant is following Clackamas County's code requirements. The applicant is proposing a 50-foot setback from the wetlands and stream, which meet the City's required setbacks in Section 17.60.30.

HILLSIDE DEVELOPMENT, EROSION CONTROL, NUISANCES, AND ACCESSORY DEVELOPMENT – Chapters 17.56, 15.44, 8.04, and 17.74

122. The applicant's narrative (Exhibit B) states that there are no slopes on the site greater than 25 percent; therefore, the provisions of Chapter 17.56, Hillside development, do not apply.
123. Grass seeding shall be completed as required by Section 17.100.300. The submitted preliminary Grading and ESC Plan (Exhibit C, Sheet 12) provides additional details to address erosion control concerns. A separate Grading and Erosion Control Permit will be required prior to any site grading. Erosion control requirements are defined in greater detail in the review of Chapter 15.44 in this document. 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.**
124. **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.**
125. Recent development has sparked unintended rodent issues in 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. The result of the evaluation shall be submitted to staff and if required the evaluation shall include eradication techniques.**
126. Section 17.74.40 specifies, among other things, retaining wall and fence height in front, side, and rear yards. Retaining walls on property in residential zones shall not exceed 4 feet in height in the front yard, 8 feet in height in rear and side yards abutting other lots, and 6 feet in height in side and rear yards abutting a street. The submitted plan set (Exhibit C) details three (3) retaining walls, including two (2) rockery walls in Tract L and one (1) Keystone Block wall in Tract K along Street A. Sheet 13 of the plan set includes details on the proposed retaining walls. The maximum height of the rockery walls is 3 feet, in compliance with the code. The maximum height of the Keystone Block wall along Street A is 6 feet. In addition, the applicant is proposing a fence between the sidewalk and the proposed Keystone Block wall. The applicant did not submit details on the height or type of proposed fence. The proposed location of the Keystone Block wall and fence in Tract K is adjacent to Street A, in what would be the front yard. Thus, the maximum allowed combined height of the wall and fence would be 4 feet per Section 17.74.40(A.2). However, the applicant contends that because there is no proposed building on Tract K, there can't be a front yard based on the definition of "yard, front" in Chapter 17.10: "A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point

of the main building.” Staff recommended that the Planning Commission make a determination on the maximum allowed combined height of a fence and retaining wall in Tract K. The Planning Commission discussed the proposed wall and fence at the November 22, 2021 public hearing. The applicant clarified that the wall would be located below the street level and there would be a 42-inch safety fence on top of the retaining wall. **The Planning Commission approves the retaining wall and fence height as proposed by the applicant. The fence shall be either black chain link or black vertical tube fencing and shall meet the minimum height requirement of the state building code or AASHTO, whichever governs.**

DECISION

The Planning Commission voted 7:0 to **approve** the subdivision request **as modified by the conditions of approval listed below**. The Planning Commission **approves** the following three variances and two adjustments with the conditions as outlined below:

- Type III Variance to allow the cul-de-sac to exceed the 400-foot maximum length. To better protect the stream and wetland natural areas that traverse the site, the applicant shall be required to install a fence in Tracts K, M and O along the property line of Lots 44, 66-69, 77-80, and 86 that abuts Tracts K, M, and O to prevent encroachment into the natural areas. The fences shall be installed prior to final plat. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.
- Special Variance to allow the east side of Street A to exceed the 400-foot maximum block length. The applicant shall update the plan set to detail a 15-foot-wide bicycle and pedestrian tract with a 10-foot-wide improved surface located mid-block on the east side of Street A and stubbed to the east property boundary. Staff recommends the applicant consider locating the bike/ped tract in line with Street B. Alternatively, staff recommends the applicant locate the tract between Lots 44 and 45, which already has a 15-foot-wide public sanitary sewer easement. The bicycle/pedestrian path could be located on top of the sanitary sewer easement with both in a separate tract.
- Special Variance to allow Street B to not provide a bicycle/pedestrian accessway on the north block face of Street B. To better protect the wetland in the northwest corner of the subject property, the applicant shall be required to install a fence in Tract J along the property line of Lots 54, 55, and 59-65 that abuts Tract J to prevent encroachment into the wetland. The fences shall be installed prior to final plat. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.
- Type I Adjustment to allow the west side of Street A to exceed the 400-foot maximum block length by approximately 14 feet.
- Type II Adjustment to Section 17.34.30(C) to allow the 20-foot minimum lot frontage to be reduced to 16 feet for Lot 77. The applicant shall update the plan set to detail the lot frontage of Lot 77 at 16 feet. The applicant shall detail a minimum paved width of 10 feet on the accessway (pole) portion of the flag lot. The applicant shall be required to install a fence in Tract O along the south side of the Lot 77 property line to prevent encroachment into the natural area. The fences shall be installed prior to final plat. The fence shall be 6 foot tall black chain link fence. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.

The Planning Commission **approves** the combined height of the fence and retaining wall in Tract K as proposed by the applicant. The fence shall be either black chain link or black vertical tube fencing and shall meet the minimum height requirement of the state building code or AASHTO, whichever governs.

CONDITIONS OF APPROVAL

A. Prior to submittal of construction plans, submittal of trade permits and/or grading or other construction permits, the applicant shall update the plans submitted with the land use application to include the following items as specified below:

1. Update the plan set to detail the tree protection fencing located as detailed in Attachment 1 of the third-party arborist report.
2. Update the plan set to detail a 15-foot-wide bicycle and pedestrian tract located mid-block on the east side of Street A and stubbed to the east property boundary.
3. Update the building footprint on Lot 53 to comply with the required 20-foot setback from Kelso Road.
4. Update the plan set to detail the lot frontage of the flag lot (Lot 77) at 16 feet. Detail a minimum paved width of 10 feet on the accessway (pole) portion of the flag lot (Lot 77).
5. Submit an updated arborist evaluation confirming that a minimum of 117 trees are healthy, in good or very good condition, not nuisance species, 11-inches DBH or greater, and did not suffer any damage during the multiple storms since the original assessment. The Planning Commission recommends that as many of the 117 required retention trees as possible shall be located in Tracts J, K, M, and O. Per the third-party arborist's recommendations, the updated evaluation shall also include the following:
 - a. Assessment of the structural condition of the trees to evaluate their stability considering adjacent tree removals and potential increased wind exposure.
 - b. Evaluation of whether there is adequate space for excavation of foundation and construction access on Lots 47, 48, 49, 52, 53, 66, 68, 71, 82, 83, 84, and 85. If there is not adequate space, reduce building envelopes to accommodate the tree protection zones. Alternatively, modify the tree protection to allow for adequate space while providing the minimum protection zones in accordance with Figure 1 in the third-party arborist report.
 - c. Evaluation of the feasibility of construction of the paved path and sewer line in Tract N between the tree protection fencing of Trees #1504 and 1542 as noted in Attachment 1 of the third-party arborist report. If there is not space to construct the sewer line and path while still protecting the trees in accordance with Figure 1 of the third-party arborist report, the applicant shall bore the sewer line and reduce the grading associated with construction of the pathway.
 - d. Description of proposed path construction in the tree protection zones of Tracts O and K.
 - e. Details on whether stumps of trees to be removed that are within the tree protection zones will be left in place or carefully stump ground to protect the root systems of the adjacent trees to be retained.
6. After the updated inventory/retention plan is completed, if the applicant needs to count Tree #1337, 1399, 1486, 1487, 1585, 1802, 1803, 1805, 1973, 2035, or 2037 towards the minimum retention tree standard, the project arborist shall submit information regarding

the percentage of the critical root zone (at 1 foot per 1 inch DBH) that is located on the adjacent properties to the east or west and whether any portion of the minimum root protection zone (at 0.5 feet per 1 inch DBH) is located on the adjacent properties to the east or west.

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

1. Apply and receive approval for 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 applicant shall shift sediment fencing to outside the tree protection zones. If erosion control is required inside the tree protection zones, the applicant shall use straw wattles to minimize root zone disturbance of the trees to be retained. *(Submit to Planning Division and Public Works Department for approval)*
2. Submit proof of receipt of a Department of Environmental Quality 1200C permit or submit confirmation from DEQ if a 1200-C Permit will not be required.
3. Install tree protection fencing as detailed on Attachment 1 of the third-party Arborist Report (Exhibit S). The tree fencing shall be installed prior to any development activity on the site, including clearing, tree removal, and grading, in order to protect the trees and the soil around the trees from disturbance. The tree fencing shall adhere to the following:
 - Sediment fencing shall be located outside the tree protection zones. If erosion control is required inside the tree protection zones, the applicant shall use straw wattles to minimize root zone disturbance of the trees to be retained.
 - Should the fencing need to be adjusted, the applicant or project arborist shall contact Planning Division staff and obtain staff review and approval prior to relocating the fence.
 - The applicant shall not relocate or remove the tree protection fencing prior to issuance of a certificate of occupancy for the subject lots.
 - The tree protection fencing shall be 6-foot-tall chain link or no-jump horse fencing supported with metal posts placed no farther than 10 feet apart installed flush with the initial undisturbed grade.
 - The applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches, placed every 75 feet or less) to the tree protection fencing with the following: “TREE PROTECTION ZONE, DO NOT REMOVE OR ADJUST THE APPROVED LOCATION OF THIS TREE PROTECTION FENCING. Please contact the project arborist if alterations to the approved location of the tree protection fencing are necessary. [Arborist’s name], Project Arborist – [Arborist’s phone number].”
 - No construction activity shall occur within the tree protection zone, including, but not limited to, grading, clearing, excavation, access, stockpiling, or 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 with City staff and the project arborist prior to any tree removal, grading, or other construction activity on the site.
 - Up to 25 percent of the area between the minimum root protection zone of 0.5 feet per 1-inch DBH and the critical root zone of 1 foot per 1-inch DBH may be able to be impacted without compromising the tree, provided the work is monitored by a qualified arborist.
 - The applicant shall retain an arborist on site to monitor any construction activity within the critical root protection zones of the retention trees or trees on adjacent properties that have critical root protection zones that would be impacted by development activity on the subject property.
 - The applicant shall retain stumps or carefully stump grind trees to be removed that are in the tree protection zones detailed on Attachment 1 of the third-party arborist report.
 - Trees proposed for removal that are located in Tracts J, K, M, or O shall be left as snags rather than completely removed in order to minimize negative impacts to the remaining retention trees and stream/wetlands.
 - Removal of trees located within the tree protection zone of a retention tree shall be completed under the supervision of the project arborist and the applicant shall fell the trees to be removed away from the trees to be retained so they do not contact or otherwise damage the trunks or branches of the trees to be retained.
 - Tree removal and/or snag creation shall be completed without the use of vehicles, or heavy equipment in the tree protection zone.
 - Trunks and branches of adjacent trees shall not be contacted during tree removal or snag creation.
4. Adhere to the regulations of the Migratory Bird Act. If trees are removed during prime nesting season (February 1- July 31), the applicant shall check for nests prior to tree removal. If nests are discovered, the applicant shall delay tree removal until after the nesting season or shall hire a professional to relocate the nests to an appropriate nearby location, provided the species using the nest is not invasive.
 5. Request an inspection of erosion control measures and tree protection measures as specified in Section 17.102.50 C. Inspections of retention tree fencing by the Planning Division shall be completed prior to any earthwork or grading being conducted onsite.
 6. Prior to grading or any earthwork have a licensed pest control agent evaluate the site to determine if pest eradication is needed. The result of the evaluation shall be submitted to staff and if required the evaluation shall include eradication techniques.

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

1. Submit a mail delivery plan, featuring grouped lockable mail facilities, to the City and USPS for review and approval prior to installation of mailboxes.

2. Submit a plan identifying the locations of street lights along with specifications of proposed lighting fixtures to be reviewed in detail with construction plans. Full cut-off lighting shall be required. Lights shall not exceed 4,125 Kelvins or 591 nanometers to minimize negative impacts on wildlife and human health.
3. Confirm and provide documentation that all street surfacing details proposed are in conformance with the standards identified in Subsection 17.100.200 for City review and approval.
4. When the grading is completed, a final report shall be submitted to the City by the Geotechnical Engineer stating that adequate inspections and testing have been performed on the property and all of the work is in compliance with the above noted report and the OSSC.
5. Construction documents detailing compliance with fire apparatus access and fire protection water supply requirements shall be provided to Sandy Fire District for review and approval.
6. Obtain a Development Permit from the Clackamas County Engineering Division for design and construction of required improvements, utility installation, and access to Kelso Road. To obtain the Permit, the applicant shall submit plans prepared and stamped by an Engineer registered in the State of Oregon meeting Section 140 of the Clackamas County Roadway Standards.
7. Submit a detailed final stormwater report stamped by a licensed professional engineer for review. The calculations shall meet the water quality/quantity criteria as stated in the City of Sandy Development Code (SDC) Chapter 13.18 Standards and the City of Portland Stormwater Management Manual (SWMM) Standards that were adopted by reference into the Sandy Development Code.
8. Clarify if a request to terminate the Kelso Road sidewalk improvements was included with the design modification request submitted to Clackamas County and, if so, clarify whether it was for the east or west end of the development site. Clarification may include further design modifications approved by Clackamas County.
9. Submit a proposal to prevent unauthorized use of the new pedestrian path/stormwater maintenance and emergency vehicle access roadway while still allowing emergency vehicle access.
10. Submit a design for the City and the Fire District to review that mitigates risks to pedestrians and emergency vehicles due to the lack of illumination along the proposed pedestrian path/stormwater maintenance and emergency vehicle access roadway.
11. Submit turning template diagrams for the intersection of the existing pedestrian path/stormwater maintenance roadway and Broken Top Avenue and the proposed pedestrian path/stormwater maintenance and emergency vehicle access roadway and Street A. The turning template diagrams shall demonstrate that the existing driveway

approach at Broken Top Avenue is wide enough for emergency vehicle access and shall define any 'No Parking' zones that would need to be posted to allow emergency and service vehicle access.

12. Submit calculations demonstrating that the proposed water line can furnish the required fire flows and domestic flows for Sandy Woods II.

D. Prior to Final Plat approval, the applicant shall complete all public improvements including the following or provide financial assurance for their future completion:

1. The applicant shall pay a fee in-lieu of parkland dedication in the amount of \$132,550 (0.55 multiplied by \$241,000) to the City prior to final plat approval, or if the applicant chooses to defer payment, the applicant shall pay \$72,875 prior to recording of final plat and the additional \$72,875 divided by the 43 lots, or \$1,694.77 with each building permit.
2. Pay plan review, inspection and permit fees as determined by the Public Works Director, and install all public improvements, including but not limited to the following:
 - a. Six-foot sidewalks along Kelso Road, including a 5-foot-wide planter strip. In order to minimize impacts to the wetland adjacent to Kelso Road, a portion of the Kelso Road sidewalk may be reduced to 5 feet in width and be moved curb tight in accordance with the approved Clackamas County design modification and Section 17.84.30(A.3.b) of the Sandy Development Code.
 - b. Five-foot sidewalks along Street A and Street B, including a 5-foot-wide planter strip.
 - c. Full street improvements on Street A and Street B.
 - d. Half street improvements on Kelso Road as approved by Clackamas County Engineering, including approved design modifications.
 - e. Full frontage improvements for Tracts J, K, L, M, N, and O.
 - f. Street lighting in conformance with city standards.
 - g. ADA ramps to meet the most current PROWAG requirements.
 - h. Retaining walls.
 - i. Safety fence along Tract K. The fence shall be either black chain link or black vertical tube fencing and shall meet the minimum height requirement of the state building code or AASHTO, whichever governs.
 - j. Pedestrian paths in Tracts K, L, N, and O, and the new 15-foot-wide bicycle and pedestrian tract located mid-block on the east side of Street A and stubbed to the east property boundary. The paths in Tracts N and L shall be compliant with the width and surfacing requirements in Section 17.84.30(B.2) and shall include pedestrian-scale lighting connected to the streetlighting circuit. Lights shall not exceed 4,125 Kelvins or 591 nanometers to minimize negative impacts on wildlife and human health.
3. Construct a 12-foot-wide crushed rock access roadway over the existing and proposed sewer easement between Tract L and manhole F-8 and between Olson Street and manhole F-6 to provide maintenance access for the off-site sewer line.

4. Plant street trees along Tracts J, K, O, and M. In order to better protect newly planted trees, the applicant shall amend and aerate the soil within the planter strip 15 feet in both directions from where the tree will be planted (or as is feasible based on locations of driveways or street corners). The applicant shall submit documentation from the project landscaper stating that the soil has been amended and aerated prior to planting the street trees.
5. Install fences in Tracts J, K, M and O along the property line of Lots 44, 54, 55, 59-69, 77-80, and 86 that abuts Tracts J, K, M, and O to prevent encroachment into the natural areas. The fences shall be 6 foot tall black chain link fences. The applicant shall include a plat note or record a restrictive covenant stating that the fence shall not be removed.
6. Vehicle Non-Access Reserve (VNAR) strips shall be depicted on the plat for the Kelso Road frontage of Lot 53 and Tract J, with the exception of the Public Works Access, to comply with Section 17.98.80(A). A VNAR strip shall also be depicted on the plat at the west terminus of Street B.
7. The street frontage of Lots 44, 45, 47, 53, 54, 63, 64, 65, 71 through 74, 76, 78, 80, 82, 83 and Tracts K, M and O shall include Vehicle Non-Access Reserve (VNAR) strips coincident with the flow-through planter locations to prevent the construction of driveway approaches over these areas upon development of the lots.
8. The street names shall be related to the mountain/native tree or shrub theme. Staff recommends Thielsen Avenue for Street A and Oceanspray Street for Street B, but is open to other name proposals related to the mountain/native tree or shrub theme. If the applicant wants to propose alternative street names the names shall be submitted to staff for review and approval.
9. Submit a Phase I Environmental Site Assessment completed by a qualified professional according to American Society of Testing and Materials (ASTM) standards (ASTM E 1527) for all open space dedications. The results of this study shall indicate a clean environmental record.
10. Dedicate the following:
 - a. Tract L shall be dedicated to the City for stormwater management, emergency vehicle access, and for pedestrian access.
 - b. Tracts J, K, M, and O shall be dedicated to the City as open space and for pedestrian access.
 - c. Track N shall be dedicated to the City for a sanitary sewer line and for pedestrian access.
 - d. The new 15-foot-wide bicycle and pedestrian tract located mid-block on the east side of Street A and stubbed to the east property boundary shall be dedicated to the City for pedestrian access.

11. Detail eight (8) foot public utility easements (PUEs) along property lines abutting a right-of-way for all lots within the subdivision. The plat shall detail all proposed easements as required by Subsection 17.100.130.
12. If applicable, submit an on-site sewage system decommissioning form to Clackamas County WES with a copy to the City. If applicable, abandon any existing wells per the requirements of OAR 690-220 and submit proof of proper well abandonment to the City. If the site has plumbing that needs to be capped, a plumbing permit will be required.
13. Submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist to assess whether any of the retention trees were damaged during construction. If retention trees were damaged and need to be replaced, the mitigation ratio shall be 4:1.
14. Record a tree protection covenant specifying protection of trees on the subject property and limiting removal without submittal of an Arborist's Report and City approval. The covenant shall detail the species and locations of the retention trees as well as the tree protection zones of each tree as detailed on Attachment 1 of the third-party Arborist Report.
15. The applicant shall bore the sewer under the perennial stream to limit disturbance to the stream and any tree root systems.
16. Meet the requirements for Substantial Completion Section 190 of the Clackamas County Roadway Standards.
17. Record a fire apparatus easement for the required fire apparatus road and provide a copy to Planning Division staff.
18. Install all required fire hydrants. Each fire hydrant shall be ordered in an OSHA safety red finish and have a 4-inch non-threaded metal faced hydrant connection with cap installed on the steamer port.
19. Pay addressing fees for the subdivision as identified in the most updated fee schedule.
20. Submit a true and exact reproducible copy (Mylar) of the Final Plat to the Planning Division for final review and signature.
21. Submit a copy of the following once the plat is recorded:
 - Tree protection covenant including a map identifying the species and locations of the retention trees as well as the tree protection zones of each tree as detailed on Attachment 1 of the third-party Arborist Report.
 - Deeds identifying dedications to the City.
 - Fire apparatus easement.

E. Prior to issuance of building permits on any lot, the applicant shall:

1. Submit a digital drawing of the final plat survey (CAD format).
2. The applicant shall enter into a Developer/Engineer Agreement for primary inspection services. This form will be provided to the applicant and shall be signed and returned to the Clackamas County Plans Reviewer. Submit a copy of this agreement to the Planning Division.

F. Conditions related to individual home construction:

1. If any lot includes a duplex that lot shall pay an additional \$3,082.56 (0.55 multiplied by \$241,000 divided by 43) with the building permit for that lot or duplex addition.
2. If the applicant chooses to defer parkland fee-in-lieu payment, the applicant shall pay \$1,694.77 with each building permit (\$72,875 divided by the 43 lots).
3. All structures shall provide building design features in conformance with the standards of Chapter 17.90.
4. Demonstrate compliance with all remaining applicable development standards at the time of proposed development on individual lots of record. All homes shall be constructed in compliance with the standards for projections into required setbacks and shall not exceed a height of 35 feet. All garages shall be setback a minimum of 22 feet from the property line.
5. Driveways shall taper to match the driveway approach width to prevent stormwater sheet flow from traversing sidewalks. Additionally, all driveways shall meet vertical clearance, slope, and vision clearance requirements. Any driveway that exceeds a slope of 8.3 percent shall install a safe pedestrian walkway, including stairs as needed, from the house to the sidewalk.
6. All structures on Lot 53 shall maintain a minimum 20-foot setback from the Kelso Road public right-of-way.
7. The dwelling on Lot 53 shall have its primary entrance oriented toward Kelso Road. Lot 53 shall include a clearly marked, lit pedestrian pathway extending from the adjacent transit street right-of-way (Kelso Road) to the structure's primary entrance. The pedestrian route shall consist of materials such as concrete, asphalt, stone, brick, permeable pavers, or other materials as approved by the Director. The pedestrian path shall be permanently affixed to the ground with gravel subsurface or a comparable subsurface as approved by the Director. The primary dwelling entrance shall be architecturally emphasized and visible from the street and shall include a covered porch at least 5 feet in depth to be evaluated for compliance at time of building permit review.
8. Install sidewalks and planter strips on all other streets (i.e., those streets with sidewalks not installed prior to final plat).

9. Street trees shall be installed approximately 30-feet-on-center in conjunction with individual home construction. Trees shall be planted in association with development of individual lots. As specified in Section 17.92.50, street trees shall be a minimum caliper of 1.5-inches measured 6 inches above grade. Street trees shall be planted per the City of Sandy standard planting detail; tree ties shall be loosely tied and removed after one growing season (or a maximum of 1 year). The planter strip shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy. In order to better protect newly planted trees, the applicant shall aerate and amend the soil within the planter strip 15 feet in both directions from where the tree will be planted (or as is feasible based on locations of driveways or street corners) to a depth of 3 feet prior to planting street trees. The applicant shall aerate and amend the soil at the individual home construction phase. The applicant shall submit a letter from the project landscaper confirming that the soil in the planter strips has been aerated and amended prior to planting the trees. Staff will review the tree species and spacing with construction plans. The street tree species shall be selected from the City of Sandy street tree list. To improve species diversity, the applicant shall include at least four (4) different tree genera, with at least two (2) different genera per street. No more than 10 percent of the proposed street trees shall be of the same species, no more than 20 percent shall be of the same genus, and no more than 30 percent shall be of the same family. Due to concerns with Asian Longhorn Beetle and Emerald Ash Borer, staff would prefer that the applicant not propose any maples or ashes as street trees at this time.
10. All planter strips shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy.
11. 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.
12. Development of this subdivision shall include payment of system development charges in accordance with applicable city ordinances.
13. Buildings shall be provided with approved address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property, including monument signs. The address shall be plainly legible and visible from the road fronting the property and the same shall be on the dwelling plainly legible and visible when approaching. These numbers shall contrast with their background.
14. Driveway width for a single-family dwelling shall be a minimum of 10 feet and a maximum width of 24 feet wide. All driveways shall be constructed of asphalt, concrete or other approved materials per Subsection 17.98.130.
15. 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 and the City determines substantial completion of all public improvements. If the applicant

chooses to install a model home, the applicant shall commit to a Model Home Agreement with the City of Sandy.

16. Install utilities underground with individual service to each lot.

G. General Conditions

1. Pursuant to Section 17.100.60 the final plat shall be delivered to the Director for approval within two (2) years following approval of the tentative plat, and shall incorporate any modification or condition required by approval of the tentative plat. The Director may, upon written request of the applicant, grant an extension of the tentative plat approval for up to one (1) additional year.
2. Public utility and street plans for land use applications are submitted to comply with the requirements in Section 17.100.60 of the Sandy Municipal Code. Land use approval does not connote approval of utility or street construction plans which are subject to a separate submittal and review process.
3. Approval of adjustments or variances shall be effective for a 2-year period from the date of approval, unless substantial construction has taken place. The Director (Type I and Type II) or Planning Commission (Type III) may grant a 1-year extension if the applicant requests such an extension prior to expiration of the initial time limit.
4. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with Clackamas County Roadway Standards or any project specific approved design modifications.
5. The applicant shall adhere to all recommendations contained in the arborist report including, but not limited to, the following:
 - a. Without the owner's authorization and the project arborist's supervision, none of the following shall be allowed within a root protection zone:
 - i. New buildings;
 - ii. Grade change or cut and fill, during or after construction;
 - iii. New impervious surfaces;
 - iv. Utility or drainage field placement;
 - v. Staging or storage of materials and equipment during construction;
 - vi. Vehicle maneuvering during construction.
 - b. Any activity within a root protection zone, including adjustment of the tree protection fence, shall be approved by the project arborist and the City Development Services Director.
 - c. The project arborist shall be available to monitor tree related issues during the development of the site and provide recommendations, supervision, and assistance in the preservation of the protected trees. The project arborist shall document and report on site visits and shall be prepared to conduct root pruning when visiting the site.

6. 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.
7. The cul-de-sac shall meet the requirements of Section 17.98.100(G).
8. All parking, driveway, and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.
9. 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.
10. Full cut-off lighting is required. Lights shall not exceed 4,125 Kelvins or 591 nanometers to minimize negative impacts on wildlife and human health.
11. All earthwork activities to include grading, foundation excavation, site and sub-grade preparation, cut and fill slopes shall be observed and documented by a geo-technical engineer to assure compliance with IBC standards as amended by the state of Oregon and referenced as “Oregon Structural Specialty Code” (OSSC). Site grading shall not in any way impede or impound or inundate the surface drainage flow from the adjoining properties without a proper collection system. The earthwork activities shall be observed and documented under the supervision of the geotechnical Engineer.
12. Approved fire apparatus access roadways and an approved water supply for fire protection, either temporary or permanent, shall be installed and operational prior to any combustible construction or storage of combustible materials on site in accordance with OFC Chapter 33. Fire flow testing will be required to determine available fire flow. Testing will be the responsibility of the applicant. The applicant shall contact the City of Sandy Public Works for testing information and requirements and notify the Fire Marshal prior to fire flow testing. The applicant shall adhere to all other requirements of the Sandy Fire District.
13. The pedestrian path/stormwater maintenance and emergency vehicle access roadway design shall comply with Clackamas County Interagency Fire Code Access Guide standards for width, grade, vertical clearance, load capacity, turning radii and gates.
14. All site runoff shall be detained such that post-development runoff does not exceed the predevelopment runoff rate for the 2, 5, 10 and 25 year storm events. Stormwater quality treatment shall be provided for all site drainage per the standards in the City of Portland Stormwater Management Manual (COP SWMM).
15. The stormwater detention pond in Tract L shall be fenced per the requirements in the City of Portland SWMM.
16. No future lots shall be platted within the 50-foot setback from the wetlands or stream.

17. The applicant shall be responsible for the installation of all improvements detailed in Section 17.100.310, including fiber facilities.
18. All public utility installations shall conform to the City's facilities master plans. All utilities shall be extended to the plat boundary for future connections. The applicant shall pay plan review, inspection, and permit fees as determined by the Public Works Director.
19. Plans for public and private sewer collection and conveyance facilities shall be submitted to the Oregon Department of Environmental Quality for review and approval per ORS Chapters 454, 468 and 4868B and OAR 340-052 and in particular OAR 340-052-0040(2).
20. The applicant shall comply with Section 17.100.260, which states all subdivisions or major partitions shall be required to install underground utilities (including, but not limited to, electrical and telephone wiring). The utilities shall be installed pursuant to the requirements of the applicable utility company. All franchise utilities shall be installed underground and in conformance with City standards. The applicant shall call the PGE Service Coordinators at 503-323-6700 when they are ready to start the project.
21. As required by Section 17.92.140, the developer and lot owners shall be required to maintain all vegetation planted in the development on a continual basis, including necessary watering, weeding, pruning, and replacing.
22. 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 landscaping, assuring installation within 6 months. The cost of street trees shall be based on the street tree plan and at least \$500 per tree. The cost of landscaping shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials and labor, including a two-year maintenance and warranty period.
23. Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area. Erosion control measures shall be provided by the applicant in accordance with Section 15.44 of the Municipal Code.
24. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
25. 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.



Jerry Crosby
Planning Commission Chair

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.