

**CITY COUNCIL STAFF REPORT  
TYPE IV APPEAL**

This proposal was originally reviewed concurrently as a Type III subdivision with tree removal. The Planning Commission denied the request. This review before the City Council is an appeal filed by the applicant. The following exhibits and findings of fact explain the proposal and support the Planning Commission decision and the staff recommendation.

**DATE:** January 11, 2022

**FILE NO.:** 21-061 AP (appeal to File No. 21-014 SUB/TREE)

**PROJECT NAME:** Deer Meadows Subdivision

**APPLICANT/OWNER:** Roll Tide Properties, Corp.

**PHYSICAL ADDRESS:** 40808 and 41010 Highway 26

**LEGAL DESCRIPTION:** T2 R5E Section 18CD, Tax Lots 900 and 1000

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## **EXHIBITS**

### **Applicant's Original Submittals:**

- A. Land Use Application
- B. Project Narrative (dated June 17, 2021)
- C. Civil Plan Set
  - Sheet C1 - Cover Sheet and Future Street Plan
  - Sheet C2 - Preliminary Plat Map
  - Sheet C3 - Existing Conditions and Tree Retention Plan
  - Sheet C4 - Tree Tables
  - Sheet C5 - Master Street and Utility Plan
  - Sheet C6 - Preliminary Street Tree and Parking Plan
  - Sheet C7 - Preliminary Grading and Erosion Control Plan
  - Sheet C8 - Slope Analysis
- D. Preliminary Stormwater Report
- E. Traffic Impact Study (dated June 14, 2021)
- F. Arborist Report
- G. Wetland Determination
- H. DSL Offsite Determination
- I. Geotechnical and Slope Stability Investigation
- J. Geotechnical Supplemental Review Letter
- K. Letter from Michael Robinson (dated March 31, 2021)
- L. Letter from Michael Robinson (dated June 11, 2021)

### **Agency Comments:**

- M. Fire Marshal (dated August 10, 2021)
- N. ODOT (dated September 1, 2021)
- O. Parks and Trails Advisory Board (dated September 1, 2021)
- P. City Transportation Engineer (dated August 30, 2021)
- Q. City Transit Director (dated August 30, 2021)
- R. City Public Works Director (dated September 2, 2021)

### **Public Comments:**

- S. Gary and Val Roche (received August 16, 2021)
- T. Dave and Nancy Allan (received August 23, 2021)
- U. Ashley Yukich (received August 23, 2021)
- V. Marilyn Euteneier (September 8, 2021)
- W. Scott Ruehrdanz (September 13, 2021)

### **Documents Received after publication of the Planning Commission Staff Report:**

- X. Letter from Michael Robinson (September 23, 2021)
- Y. Letter from Michael Robinson (September 24, 2021)
- Z. Letter from All County Surveyors and Planners (dated September 16, 2021)
- AA. Parks and Trails Advisory Board Minutes
- BB. Letter from Dave Carter (received September 27, 2021)

- CC. Revised TIS from Ard Engineering (September 27, 2021)
- DD. Letter from Vincent and Lynn Mandina (received September 27, 2021)
- EE. Ard Engineering Response Memo (September 27, 2021)
- FF. Presentation from Development Services Director
- GG. Presentation from Tracy Brown Consulting

**Materials received during Open Record Period #1:**

- HH. Email from Michael Robinson (October 6, 2021)
- II. 120-day extension letter from Michael Robinson (October 6, 2021)
- JJ. Revised memo from the City Transportation Engineer (October 6, 2021)
- KK. Staff email exchange with DLCDD (October 7, 2021)
- LL. Letter from Michael Robinson (October 11, 2021)
- MM. Home Builders Association Letter (October 11, 2021)
- NN. Letter from Michael Robinson (October 11, 2021)

**Materials received during Open Record Period #2:**

- OO. Email from Christy Veselik (October 16, 2021)
- PP. Letter from Michael Robinson (October 18, 2021)

**Materials received during Open Record Period #3:**

- QQ. Letter from Michael Robinson (October 25, 2021)
- RR. Letter from City Attorney David Doughman (November 1, 2021)

**Staff Documents Reviewed by the Planning Commission:**

- SS. September 27, 2021 Staff Report
- TT. November 8, 2021 Staff Report
- UU. November 18, 2021 Final Order for File No. 21-014 SUB/TREE

**Appeal Documents:**

- VV. 120-day extension email from Michael Robinson (November 24, 2021)
- WW. Appeal documents from the applicant (received November 30, 2021)
- XX. Letter from City Attorney regarding scope of work (December 21, 2021)
- YY. Letter from Michael Robinson regarding scope of work (January 3, 2022)

## **FINDINGS OF FACT**

### **GENERAL FINDINGS**

1. The Planning Commission denied the Deer Meadows subdivision proposal with a vote of 5:0 on November 8, 2021. The final order (i.e., written decision) was signed by Chairman Crosby and issued on November 18, 2021.
2. The applicant filed an appeal of the Planning Commission decision on November 30, 2021 within 12 days of the Planning Commission decision as required by Section 17.28.10.
3. These findings are based on the applicant's submittals and other evidence and testimony presented to the Planning Commission. In a letter dated June 11, 2021, the applicant agreed to toll the 120-day clock until July 27, 2021. The original 120-day clock deadline was November 24, 2021.
4. On September 27, 2021 the Planning Commission held a public hearing on the Deer Meadows Subdivision and decided to create an open record period prior to deliberating on the subdivision request at a special meeting scheduled for November 8, 2021. The first open record period closed on Monday, October 11 at 4 pm. During the first open record period, anyone could submit additional written information for the Planning Commission to consider. The second open record period closed on Monday, October 18 at 4 pm. During the second open record period, parties could only submit information that rebutted or responded to information that was submitted during the first open record period. The third open record period closed on Monday, October 25 at 4 pm. This third open record period was reserved solely for the applicant to submit their final written argument.
5. With the creation of the open record period the applicant agreed to extend the 120-day clock by an additional 42 days. The 120-day clock deadline was then extended to January 5, 2022.
6. On November 24, 2021 the applicant requested to extend the 120-day clock deadline by an additional 27 days to February 1, 2022.
7. The subject site is approximately 15.91 acres. The site is located at 40808 and 41010 Highway 26.
8. The parcel has a Comprehensive Plan Map designation of Village and a Zoning Map designation of R-1, Low Density Residential; R-2, Medium Density Residential; and C-3, Village Commercial.
9. The applicant, Roll Tide Properties Corp., seeks approval for a 32-lot subdivision at 40808 and 41010 Highway 26. The development proposal includes two partial street extensions and the creation of two new streets. The applicant proposes 30 lots of Low Density Residential (R-1) that would contain single family homes or duplexes, one small lot (9,023 square feet) of Medium Density Residential (R-2) that would like contain multi-family, and one large lot (7.35 acres) with a combination of Medium Density Residential (R-2) and Village

Commercial (C-3) that would likely contain multi-family. The proposed 30 lots with R-1 zoning range in size from 5,500 square feet to 32,189 square feet. The applicant proposes to retain 48 existing trees and proposes to remove the remainder of the trees from the site.

10. The exact number of multifamily units was not determined at the time of the subdivision request as the applicant wants to process the multi-family development in a subsequent design review application. However, the applicant claims the number of multifamily dwelling units on the R-2 zoned land will be between 38 dwelling units and 66 dwelling units. The C-3 zoned land would likely contain a mix of commercial and residential development, and the exact number of multifamily dwelling units is unknown at this time.
11. Due to the interest in the previous proposal at the subject site, the Development Services Director elevated the Deer Meadows subdivision application to a Type III decision to be heard and considered by the Planning Commission.
12. Throughout the project narrative (Exhibit B) the applicant failed to submit required information. Instead, on 14 occasions in the narrative the applicant stated that the development code is subjective (i.e., not clear and objective) and because the subdivision is a housing application the alleged subjective development code language is not applicable. Staff explained at the Planning Commission meetings that they did not agree with the applicant's interpretation of what constitutes and does not constitute subjectivity.
13. The applicant previously proposed a development at the site that was denied by the City Council (File No. 19-050 CPA/ZC/SUB/SAP/TREE Bull Run Terrace). This application (File 21-014 SUB/TREE) was substantively different from that prior proposal. The applicant did not propose a Comprehensive Plan amendment or Zone Change amendment with this application. The applicant chose not to expand Deer Pointe Park or connect Dubarko Road to Highway 26. The existing parks master plan details the Deer Pointe neighborhood to have a Community Park. The existing transportation system plan classifies Dubarko Road as a minor arterial and shows it extending through the subject property and connecting to Highway 26.
14. The City of Sandy provided the following notices for this appeal:
  - A. Notification of the appeal was mailed to affected property owners within 500 feet of the subject property on December 30, 2021.
  - B. A legal notice was published in the Sandy Post on January 5, 2022.
15. The City of Sandy provided the following notices with File No. 21-014 SUB/TREE:
  - A. A transmittal was sent to agencies asking for comment on August 2, 2021.
  - B. Notification of the proposed application was mailed to affected property owners within 300 feet of the subject property on August 10, 2021.
  - C. A supplemental notice regarding the Planning Commission meeting was mailed to affected property owners within 300 feet of the subject property on August 24, 2021.
  - D. A legal notice was published in the Sandy Post on September 15, 2021.

## **PLANNING COMMISSION BASIS FOR DENIAL**

### **BASIS FOR DENIAL 1: The application does not meet subdivision criteria 17.100.60(E)(1)**

16. 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 as this particular application was submitted prior to the repeal of Planned Developments. Each base zoning district requires that residential development comply with Chapter 17.82. First, the Preliminary Plat Map (Exhibit C, Sheet C2) details setbacks for Lots 2, and 27-31 showing the front setback facing the local street or public access lane, instead of the Transit Street as required by Chapter 17.82. Second, Sheet C2 does not identify that lots abutting Highway 26 shall face Highway 26 as required by Chapter 17.82, nor does the plan set detail frontage improvements along Highway 26 as required by Chapter 17.86. Third, by not proposing the extension of Dubarko Road to connect with Highway 26, the lots that would otherwise abut Dubarko Road do not have the required frontage to Dubarko Road as required by Chapter 17.82. Fourth, by not proposing Dubarko Road or parkland dedication, some of the proposed lots are in the required right-of-way for Dubarko Road and also located across required parkland. Therefore, this proposal does not meet approval criteria 17.100.60 (E)(1).

### **BASIS FOR DENIAL 2: The application does not meet subdivision criteria 17.100.60(E)(3)**

17. Section 17.100.60(E)(3) requires the proposed street pattern to be connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy. The proposed street pattern is not consistent with the Comprehensive Plan and the city's standards, including connecting Dubarko Road to Highway 26.

18. The 2011 Sandy Transportation System Plan (TSP) was adopted by Ordinance 2011-12 as an addendum to the Comprehensive Plan. Exhibit A of Ordinance 2011-12 is the TSP. The TSP is referenced by ordinance as 'the transportation element of the City of Sandy Comprehensive Land Use Plan.' The 2011 TSP includes the official street plan for the City of Sandy. Project M20 in the TSP is the connection of Dubarko Road to Highway 26.

19. On pages 9, 10, and 14 of the project narrative (Exhibit B) the applicant references the City's TSP and states that the TSP identifies Dubarko Road as a minor arterial. On page 32 of the project narrative (Exhibit B) the applicant claims that subdivision approval criteria 17.100.60 (E)(3) is not clear and objective and therefore the subdivision does not need to meet the Comprehensive Plan or official street plan for the City of Sandy. The applicant also asserts that if the official street plan is in the TSP, it is not sufficiently incorporated into the development code for the purposes of limited land use decisions. However, in the narrative for Bull Run Terrace (File No. 19-050) for the same subject site the same applicant stated, "As illustrated on the submitted Future Street Plan (Sheet C1), the proposed street system is consistent with the City's Transportation System Plan and Comprehensive Plan." So, with the Bull Run Terrace land use application the applicant conceded that the street system had to be consistent with the City's Transportation System Plan and Comprehensive Plan to meet criteria 17.100.60 (E)(3). The applicant's inconsistent understanding of what is the official

street plan (i.e., the City's TSP) is illogical and conflicting even in the applicant's project narrative. Additionally, in a previous TIS from Ard Engineering (dated September 28, 2020) on page 24 the applicant's traffic engineer referenced the requirement for the Dubarko Road connection by stating, "it is the completion of the city's planned connection of Dubarko Road to Highway 26." Furthermore, the proposal is not consistent with OAR 660-012-0045, which requires that local governments implement their TSP. By not providing the connection of Dubarko Road to Highway 26 in the proposal the subdivision request does not meet approval criteria 17.100.60 (E)(3).

**BASIS FOR DENIAL 3: The application does not meet the parkland dedication requirements in Chapter 17.86**

20. The applicant did not propose any parkland dedication as required by Chapter 17.86 of the Sandy Development Code. Directly west of the subject property is undeveloped land owned by the City of Sandy that has long been reserved for the eventual development of Deer Pointe Park. The Parks and Trails Advisory Board (Board) met on August 11, 2021. The Board recommended that conditions of approval were included that required dedication of land for expansion of Deer Pointe Park. The 1997 Parks Master Plan designated Deer Pointe Park as a community park, and in the Location and Development Polices section of the Plan states that community parks should be 20 acres or more. Because the Deer Meadows subdivision did not propose parkland dedication abutting Deer Pointe Park, the proposed subdivision is inconsistent with the 1997 Parks Master Plan.
  
21. Section 17.86.10 contains a clear and objective formula for determining the amount of land required to be dedicated. The formula is  $\text{acres} = \text{proposed units} \times (\text{persons/unit}) \times 0.0043$ . For the 30 single family homes,  $\text{acres} = 30 \times 3 \times 0.0043 = 0.39$  acres. For the maximum development of 66 multifamily units,  $\text{acres} = 66 \times 2 \times 0.0043 = 0.57$  acres. Combined, this totals 0.96 acres. The dedication of 0.96 acres was required to meet the clear and objective criteria in Chapter 17.86. NOTE: The number of dwelling units on the subject site does not account for the additional land required to be dedicated for Dubarko Road to connect to Highway 26 or the parkland dedication, therefore the calculations related to parkland dedication are based on unreliable assumptions.



## **LAND DIVISION CRITERIA – Chapter 17.100**

22. This land use application is for the subdivision of land and therefore is reviewed in compliance with Chapter 17.100.
23. Submittal of preliminary 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.**
24. On page 1 of the project narrative (Exhibit B) the applicant states that in accordance with ORS 197.307 (4) a local government may apply only clear and objective standards, conditions, and procedures regulating the creation of needed housing. The analysis of land division criteria as follows has been conducted through review of clear and objective standards. Staff's assessment of this subdivision proposal meets ORS 197.307 (4).
25. 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. Each base zoning district requires that residential development comply with Chapter 17.82. First, Preliminary Plat Map (Exhibit C, Sheet C2) details setbacks for Lots 2, and 27-31 showing the front setback facing the local street or public access lane, instead of the Transit Street as required by Chapter 17.82. Second, Sheet C2 does not identify that lots abutting Highway 26 shall face Highway 26 as required by Chapter 17.82, nor does the plan set detail frontage improvements along Highway 26 as required by Chapter 17.86. Third, by not proposing the extension of Dubarko Road to connect with Highway 26 the lots that would otherwise abut Dubarko Road do not have the required frontage to Dubarko Road as required by Chapter 17.82. In addition, Lot 12 does not have the minimum 20 feet of street frontage required by Section 17.36.30(C). Fourth, by not proposing Dubarko Road or parkland dedication, some of the proposed lots are in the required right-of-way for Dubarko Road and also located across required parkland. Therefore, this proposal does not meet approval criteria 17.100.60 (E)(1).
26. Section 17.100.60(E)(2) requires subdivisions to be consistent with the design standards set forth in this chapter. The proposal is not consistent with Section 17.100.70, Section 17.100.100 (A)(E) or (F). The proposal does not meet approval criteria 17.100.60 (E)(2) as explained in A. through E., below:
  - A. In accordance with Section 17.100.70 the design standards in Chapter 17.100 are not met as the proposed subdivision does not follow the City of Sandy Transportation System Plan by providing the connection of Dubarko Road to Highway 26.
  - B. In accordance with Section 17.100.100 (A) the proposed subdivision does not meet the Street Connectivity Principle. By not connecting Dubarko Road to Highway 26 the subdivision does not provide safe and convenient options for cars, bikes, and pedestrians; does not create a logical, recognizable pattern of circulation; and does not spread traffic over many streets so that key streets such as Langensand Road and Highway 211 are not overburdened.

- C. In accordance with Section 17.100.100 (E), by not connecting Dubarko Road to Highway 26 the proposed subdivision does not provide a future street plan that promotes a logical, connected pattern of streets.
  - D. In accordance with Section 17.100.100 (F) the proposed subdivision does not include the continuation of Dubarko Road and proposes two cul-de-sacs and one dead-end public access lane, all of which do not provide connectivity to other streets within the development and to existing and planned streets outside the development.
  - E. The applicant did not submit any information on block lengths or information regarding single tier vs double tier blocks. Instead, the applicant stated the block length standards in Section 17.100.120 are subjective (i.e., not clear and objective) and because the subdivision constitutes a needed housing application the block length standards are not applicable. The applicant failed to submit information into the record regarding block lengths and therefore staff does not have enough information to determine block lengths.
27. Section 17.100.60(E)(3) requires the proposed street pattern to be connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy. The proposed street pattern is not consistent with the Comprehensive Plan and the city's standards, including connecting Dubarko Road to Highway 26. The 2011 Sandy Transportation System Plan (TSP) was adopted by Ordinance 2011-12 as an addendum to the Comprehensive Plan. Exhibit A of Ordinance 2011-12 is the TSP. The TSP is referenced by ordinance as 'the transportation element of the City of Sandy Comprehensive Land Use Plan'. The 2011 TSP includes the official street plan for the City of Sandy. Project M20 in the TSP is the connection of Dubarko Road to Highway 26. On pages 9, 10, and 14 of the project narrative (Exhibit B) the applicant references the City's TSP and states that the TSP identifies Dubarko Road as a minor arterial. On page 32 of the project narrative (Exhibit B) the applicant claims that subdivision approval criteria 17.100.60 (E)(3) is not clear and objective and therefore the subdivision does not need to meet the Comprehensive Plan or official street plan for the City of Sandy. The applicant also asserts that if the official street plan is in the TSP, it is not sufficiently incorporated into the development code for the purposes of limited land use decisions. However, in the narrative for Bull Run Terrace (File No. 19-050) for the same subject site the same applicant stated, "*As illustrated on the submitted Future Street Plan (Sheet C1), the proposed street system is consistent with the City's Transportation System Plan and Comprehensive Plan.*" So, with the Bull Run Terrace land use application the applicant conceded that the street system had to be consistent with the City's Transportation System Plan and Comprehensive Plan to meet criteria 17.100.60 (E)(3). The applicant's inconsistent understanding of what is the official street plan (i.e., the City's TSP) is illogical and inconsistent even in the applicant's project narrative. Additionally, in a previous TIS from Ard Engineering (dated September 28, 2020) on page 24 the applicant's traffic engineer references the requirement for the Dubarko Road connection by stating, "it is the completion of the city's planned connection of Dubarko Road to Highway 26." Furthermore, the proposal is not consistent with OAR 660-012-0045, which requires that local governments

implement their TSP. By not providing the connection of Dubarko Road to Highway 26 in the proposal the subdivision request does not meet approval criteria 17.100.60 (E)(3).

28. 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 project narrative (Exhibit B) and the applicant's Traffic Impact Study (Exhibit E) do not evaluate ADT on local streets. The applicant's project narrative on page 32 states, "As detailed in the submitted Traffic Study traffic volumes on local streets are not projected to exceed ADT standards. This criterion is met." Staff cannot find an evaluation of ADT standards in the submitted TIS. Based on incomplete ADT analysis of the surrounding local streets the subdivision request does not meet approval criteria 17.100.60 (E)(4).

29. Section 17.100.60(E)(5) requires that adequate public facilities are available or can be provided to serve the proposed subdivision. City water, sewer and stormwater are available or will be constructed by the applicant to serve the subdivision. However, the proposal does not meet approval criteria 17.100.60 (E)(5) as explained in A through C, below:

A. Dubarko Road. As thoroughly explained in this staff report the proposal does not propose the continuation of Dubarko Road to connect with Highway 26. This is inconsistent with the 2011 TSP and will create a safety concern by increasing trips to other streets in Sandy that are not designed to accommodate additional traffic without the connection of Dubarko Road to Highway 26. As stated by the City of Sandy Transportation Engineer (Exhibit P), the Deer Meadows subdivision application should be denied based on the inadequacy of the TIS and because the applicant does not propose the connection of Dubarko Road to Highway 26. By not providing the Dubarko Road connection to Highway 26 the subdivision fails to incorporate a key project from the 2011 TSP and therefore fails to provide adequate public facilities for transportation. Furthermore, the proposal is not consistent with OAR 660-012-0045, which requires that local governments implement their TSP.

B. Parkland Dedication. Pursuant to 17.86.10 of the Development Code, new residential subdivisions "shall be required to provide parkland to serve existing and future residents of those developments." As thoroughly explained in this staff report the proposal does not include dedication of 0.96 acres of parkland as the Code requires. Directly west of the subject property is undeveloped land owned by the City of Sandy that has long been reserved for the eventual development of Deer Pointe Park. The 1997 Parks Master Plan designated Deer Pointe Park as a community park, and the Location and Development Policies section of the Plan states that community parks should be 20 acres or more. Because the Deer Meadows subdivision does not propose parkland dedication abutting Deer Pointe Park the proposed subdivision is inconsistent with the 1997 Parks Master Plan. Staff recognizes that outside of the City of Sandy purchasing land, there are practical and legal impediments to requiring an applicant to dedicate enough acreage to accommodate a 20-acre community park. Staff finds that a neighborhood park would be a more reasonable solution. Based on the 1997 Parks Master Plan, a neighborhood park is two to seven acres. The existing land the City

owns for Deer Point Park is 1.40 acres. When coupled with the 0.96 acres required by this application, the result would be an approximately 2.4 acre neighborhood park.

C. Highway 26 frontage improvements. As explained by the Public Works Director (Exhibit R) the site plan does not depict frontage improvements (curbs, sidewalks, street lighting, street trees, storm drainage, etc.) on the Highway 26 frontage of the site. Frontage improvements along Highway 26 are required by Section 17.84.50(F)(1) and Section 17.84.30(A). Section 17.84.50(F)(1) states, “Where a development site abuts an existing public street not improved to City standards, the abutting street shall be improved to City standards along the full frontage of the property concurrent with development.”

30. Section 17.100.60(E)(6) requires all proposed improvements to meet City standards. A detailed review of proposed improvements is contained throughout this staff report. Staff has identified a few aspects of the proposed subdivision improvements requiring additional information or modification by the applicant. Some of the required improvements could be satisfied with conditions of approval, but several of the required improvements can only be satisfied by a substantial modification to the subdivision proposal. The proposed subdivision lacks the following substantial improvements: 1) Dubarko Road connecting to Highway 26; 2) Highway 26 frontage improvements; and 3) Parkland dedication. The proposal does not meet approval criteria 17.100.60 (E)(6).

31. 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. That said, the applicant is proposing that the design of the multifamily dwellings and commercial land occurs at a future date. The proposal meets approval criteria 17.100.60 (E)(7).

## **DENSITY CALCULATIONS – Chapter 17.30**

32. The total gross acreage for the entire property is 15.91 acres. After removal of the proposed right-of-way and proposed stormwater tract, the net site area (NSA) for the subject property is reduced to 13.22 net acres with three zoning districts. The area zoned as R-1 is 5.64 net acres, the area zoned as R-2 is 4.74 net acres, and the area zoned as C-3 is 2.84 net acres.

NOTE: The density calculations on the subject site do not account for the additional land required to be dedicated for Dubarko Road to connect to Highway 26 or the parkland dedication, therefore the calculations related to density are based on unreliable assumptions.

33. For the area zoned R-1, a minimum of 5 and a maximum of 8 units per acre are allowed. The minimum density for the subject area is 5.64 net acres x 5 units/net acre = 28.2 rounded down to 28 units. The maximum density for the subject area is 5.64 net acres x 8 units/net acre = 45.12 rounded down to 45 units. The applicant identifies 30 lots, within the density range.

34. For the area zoned R-2, a minimum of 8 and a maximum of 14 units per acre are allowed. The minimum density for the subject area is 4.74 net acres x 8 units/net acre = 37.92 rounded up to 38 units. The maximum density for the subject area is 4.74 net acres x 14 units/net acre = 66.36 rounded down to 66 units. The applicant has not identified the exact number of units which will be built in the subject area. In the project narrative (Exhibit B) on page 5 the applicant states that the exact number of multi-family dwelling units will be determined with a future land use application. **Multi-family housing development on this site shall be reviewed in a future design review process.**

35. For the area zoned C-3, the Sandy Development Code does not define a minimum or maximum density, but does prescribe use requirements, height requirements, minimum setbacks, landscaping percentage requirements, and parking requirements. The combination of these requirements will dictate the maximum number of residential multi-family housing units. The property zoned C-3 will also need to contain a commercial use. **This will be reviewed in a future design review process.**

## **ZONING DISTRICTS – Chapters 17.36, 17.38, and 17.46**

### Chapter 17.36 – Low Density Residential (R-1)

36. The applicant proposes constructing 30 single-family dwellings or duplexes as permitted in this zoning district. Section 17.36.30 contains the design standards for this zone. As shown on Sheet C2 of the plan set (Exhibit C), all lots in the proposed subdivision contain at least 5,500 square feet and contain an average lot width of at least 50 feet as required. All lots have at least 20 feet of street frontage with the exception of Lot 12, which does not have any street frontage as proposed.
37. Section 17.36.40(A) requires that water service be connected to all dwellings in the proposed subdivision. Section 17.36.40(B) requires that all proposed dwelling units be connected to sanitary service if currently within 200 feet from the site, which it is. Section 17.36.40(C) requires that the location of any real improvements to the property must provide for a future street network to be developed. Section 17.36.40(D) requires that all dwelling units must have frontage or approved access to public streets. The applicant proposes to meet all these requirements.
38. Section 17.36.50(B) requires that lots with 40 feet or less of street frontage shall be accessed by a rear alley or shared private driveway. Lots 9-16 proposed to access the cul-de-sac at the east terminus of Fawn Street all have less than 40 feet of lot frontage along Fawn Street, therefore, all 8 of these lots shall include shared driveways. Lots 20 and 21 share a private drive, Tract A, that accesses Street A, therefore these two lots shall include a shared driveway. **Lots 9-16, 20, and 21 shall have shared driveways.**

### Chapter 17.38 – Medium Density Residential (R-2)

39. The R-2 zoning district allows for all residential use types, including but not limited to single family dwellings, duplexes, row houses, and multifamily dwelling units. The applicant is proposing three lots, Lots 27, 31, and 32, to include R-2 zoned land. Both lots 27 and 32 are proposed as split zoned lots. Lot 27 is split zoned between R-1 and R-2 zoned land, while Lot 32 is split zoned between R-2 and C-3 zoned land. Lot 31 is proposed to be entirely zoned R-2. Staff anticipates that Lot 31 will likely contain a single-family home or duplex, and Lot 32 will likely contain multi-family dwellings. As noted above, the applicant will be allowed to develop between 38 and 66 dwelling units on the R-2 zoned land, unless additional public land dedications are required. The R-2 zone does not include a minimum lot area. **The future design review application will include a review of development standards and requirements.**

### Chapter 17.46 – Village Commercial (C-3)

40. While the C-3 zoning district will have to contain some commercial development there is a decent chance the C-3 land will also contain residential dwelling units. The exact number of potential residential units is not known at this time. If residential units are proposed on the C-3 land the dwelling units will be assessed in a future design review. **Any future development on the land zoned C-3 will require a design review in accordance with the development standards found in Section 17.46.30 and the Sandy Municipal Code.**

## **ADDITIONAL SETBACKS AND SPECIAL SETBACKS – Chapters 17.80 and 17.82**

41. Chapter 17.80 requires all residential structures to be setback at least 20 feet to collector and arterial streets. Highway 26 is classified as an arterial, Dubarko Road is classified as a minor arterial, and Street B is classified as a collector. **All structures on lots abutting Highway 26, Dubarko Road, and Street B shall be setback at least 20 feet.**
  
42. 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. Highway 26, Dubarko Road, and Street B are all transit streets. **All residential structures on lots abutting Highway 26, Dubarko Road, and Street B shall have their primary entrances oriented to Highway 26, Dubarko Road, or Street B. If a lot abuts two or more of these streets the residential structure shall be oriented to the highest classification of street. This means for example that Lot 30 shall be oriented to Dubarko Road.**
  
43. The applicant references ORS to claim that Chapter 17.82 is not clear and objective and therefore the design standards in Chapter 17.82 do not have to be followed, but the project narrative goes on to state that Lots 2, and 27-31 can be designed in compliance with the standards of Chapter 17.82. Section 17.82.20(B) requires that dwellings shall have a primary entrance connecting directly between the 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.**
  
44. Section 17.82.20(D) requires that if the site has frontage on more than one transit street, the dwelling shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect. **If a lot abuts two or more of these streets the residential structure shall be oriented to the highest classification of street. This means for example that Lot 30 shall be oriented to Dubarko Road. The orientation of the future multi-family units that have frontage on both Highway 26 and Dubarko Road will be determined in a future design review process.**

## **TRANSPORTATION – Chapters 17.84 and 17.100**

45. This finding analyzes the Traffic Impact Study (Exhibit E).

- A. The applicant submitted a Traffic Impact Study (Exhibit E) from Ard Engineering, dated June 14, 2021. The study did identify some required mitigation. According to the Traffic Impact Study (TIS), the proposed residential development (not including the commercial lot) would generate up to 79 site trips during the morning peak hour, 99 trips during the evening peak hour, and 1,180 daily site trips.
- B. The TSP states that Highway 211 at Dubarko Road has a high historical crash rate. Ard Engineering also states that no operational mitigations are necessary or recommended in conjunction with the proposed subdivision.
- C. The City Transportation Engineer (Exhibit P) states that the development plan ignores the TSP and does not propose extending Dubarko Road, currently a stub street, to connect with Highway 26 opposite SE Vista Loop (West) as specified in the TSP. The City Transportation Engineer also includes the following concerns:
  - i. The TIS addresses some of the city’s requirements but does not provide an adequate basis to evaluate impacts of the proposed development. Key deficiencies include a failure to provide for the extension of Dubarko Road to connect with Highway 26 as specified in the TSP and a failure to account for development of or access to the commercially zoned land (approximately 3 acres) that comprises a portion of Lot 32 in the proposed development.
  - ii. The engineer’s use of pre-COVID-19 counts is understandable, but new analyses needed to address the full impact of the development should be based on new traffic counts.
  - iii. The applicant appears to be assuming that the commercially zoned portion of Lot 32 would have direct driveway access to Highway 26, though this appears to conflict with ODOT access control policies. Alternatively, the applicant may be assuming some type of cross-easements or shared driveway connections involving the residentially zoned portion of Lot 32 would be acceptable. Neither option appears viable.
  - iv. Since the TIS did not examine the impact of development of the commercially zoned portion of the site, it is not clear that LOS D would be achieved with full development of the subject property. It appears that only a little more development in Sandy would push the Dubarko Road and Highway 211 intersection to LOS E and cause the need for mitigation.
  - v. The proposed elimination of Dubarko Road results in localized impacts in the immediate vicinity that will result in different travel patterns than anticipated in the TSP.
  - vi. The applicant’s traffic engineer failed to explain how the site would be developed to serve all uses in the absence of the Dubarko Road extension identified in the TSP. The City Traffic Engineer recommends delaying any approvals until access issues are resolved and street connectivity meets the TSP.

46. The City Transportation Engineer (John Replinger) recommends denial of the application based on the inadequacy of the TIS. Mr. Replinger states that the applicant has two paths to approval. The first involves submitting a new application that provides for the extension of Dubarko Road to Highway 26 as specified in the TSP. The second involves seeking a TSP



amendment with an alternative arterial and collector street network that allows the regional needs to be met without the section of Dubarko Road that is proposed to be eliminated.

47. This finding analyzes the necessity for Dubarko Road to intersect with Highway 26.
  - A. The proposed street pattern in Deer Meadows is not consistent with the Comprehensive Plan and the city's street plan, including connecting Dubarko Road to Highway 26. The 2011 Sandy Transportation System Plan (TSP) was adopted by Ordinance 2011-12 as an addendum to the Comprehensive Plan. Exhibit A of Ordinance 2011-12 is the TSP. The TSP is referenced by ordinance as 'the transportation element of the City of Sandy Comprehensive Land Use Plan'. The 2011 TSP includes the official street plan for the City of Sandy. Project M20 in the TSP is the connection of Dubarko Road to Highway 26.
  - B. The proposal is not consistent with OAR 660-012-0045, which requires that local governments implement their TSP.
  - C. ODOT (Exhibit N) recommends that the City require the applicant to construct Dubarko Road as shown in the adopted Transportation System Plan (TSP). Consistent with OAR 660-012-0045, completing this connection would implement the adopted road network in the TSP. The extension of this arterial would provide increased connectivity for the proposed development as well as for other residents of the City. This would help reduce motor vehicle congestion and provide more options for those walking, biking, and using transit. Planning within the City of Sandy has assumed the Dubarko Road connection for over a decade. For example, the Sandy Area Metro Transit Master Plan identifies this connection as a way to provide increased service on the east side of Sandy and to more efficiently serve residents along Vista Loop Road.
  - D. Dubarko Road shall continue in a northeast direction to connect with Highway 26. Dubarko Road shall include features consistent with the minor arterial street section in the 2011 Sandy TSP. The widening of Dubarko Road to accommodate the street section in the TSP is eligible for Transportation System Development Charge credits. The difference in cost between the required minor arterial improvements and a standard local street section is eligible for credits.
  - E. The extension of Dubarko Road is classified as a minor arterial street and shall meet the standards of Section 17.84.50(B) which states that arterial streets should generally be spaced in one-mile intervals and traffic signals should generally not be spaced closer than 1,500 ft for reasonable traffic progression.
  - F. Per the 2020 Transit Master Plan, the extension of Dubarko Road to intersect with Highway 26 is a future transit route.
48. Street B (defined as 'New Road' in the TSP) is classified as a collector street and does not need to adhere to the standards in Section 17.84.50(B).
49. The applicant's project narrative (Exhibit B) and the applicant's Traffic Impact Study (Exhibit E) do not evaluate ADT on local streets. The applicant's project narrative on page 32 states, "As detailed in the submitted Traffic Study traffic volumes on local streets are not projects to exceed ADT standards. This criterion is met." Staff cannot find an evaluation of ADT standards in the submitted TIS. As explained earlier in this staff report, based on

incomplete ADT analysis of the surrounding local streets the subdivision request does not meet approval criteria 17.100.60 (E)(4).

50. 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 southern property line of the subject property. The proposal also includes two cul-de-sacs and one public access lane. The proposed subdivision does not propose the extension of Dubarko Road which is inconsistent with the City of Sandy 2011 TSP and thus fails to install the public street extension of Dubarko Road concurrent with development of the site. The proposed subdivision does not meet the standards of Section 17.84.50 (E).
51. The proposed development includes the need to name Street A, Street B, and Street C. Street A and Street B are one continuous street running north to south and therefore should be one street name. **The street shall be related to the deer theme in the development to the west and shall be an ‘avenue’ as it runs north/south. Staff recommends the name Velvet Avenue. The public access lane, Street C shall be related to the deer theme in the development to the west and shall be a ‘street’ as it runs east/west.**
52. Proposed streets do not meet the requirements of 17.84.50(H) as public street improvements (i.e., Dubarko Road) do not provide for the logical extension of an existing street network. The proposed streets also do not meet Section 17.100.100(E) as the subdivision proposal does not promote a logical, connected pattern of streets. The future street plan (Exhibit C, Sheet C1) does not adhere to the adopted 2011 TSP. Both Dubarko Road and Street B are identified in the TSP; however, the applicant is not proposing the connection of Dubarko Road to Highway 26. Therefore, the future street plan is incomplete and inconsistent with the TSP which is adopted by the City of Sandy and recognized by the State of Oregon as the official street plan for the city of Sandy.
53. Dubarko Road and Street “C” create “T” intersections at their connection to Street “A” and Street “B” respectively. The Code at 17.84.50(E)(2) states that adjacent “T” intersections “shall maintain a minimum of 150 feet between the nearest edges of the two rights-of-way.” The distance between the two nearest edges of the right-of-way between Dubarko Road (an arterial) and Street C (a local street) is less than the minimum 150 ft. dimension in Sections 17.84.50(E)(2) and 17.84.50(J)(3).
54. Based on the submitted site plan it does not appear that that the minimum 100 feet of tangent alignment required in Section 17.84.50(J)(5)(a) is provided at the intersection of Street “B” (a collector) and Dubarko Road (an arterial) or at the intersection of Dubarko Road and Street “B”.
55. 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 cul-de-sacs and does not include the required extension of Dubarko Road to Highway 26. Staff finds that the proposed street layout does not represent a logical street pattern.

56. The applicant did not submit any information on block lengths or information regarding single tier vs double tier blocks. Instead, the applicant stated the block length standards in Section 17.100.120 are subjective (i.e., not clear and objective) and because the subdivision constitutes a needed housing application the block length standards are not applicable. The applicant failed to submit information into the record regarding block lengths and therefore staff does not have enough information to determine block lengths.

## **PEDESTRIAN IMPROVEMENTS – Chapters 17.84 and 17.100**

57. 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.**
58. 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 planting area that is a minimum of five feet in width.
59. As required by Section 17.84.30(A)(2), six-foot sidewalks shall be constructed along Highway 26, Dubarko Road, and Street B. These frontages shall include planter strips as required. ODOT (Exhibit N) recommends that the City require frontage improvements consistent with City, ODOT, and ADA standards. The applicant does not propose to install frontage improvements along Highway 26 and therefore does not meet the requirements of Section 17.84.30(A)(4).
60. 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. 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 two cul-de-sacs but does not propose a pedestrian connection to streets beyond the cul-de-sacs as required by Section 17.84.30. Furthermore, the Street A cul-de-sac is in the parkland expansion area for Deer Pointe Park.
61. In relation to Sections 17.84.30(B), 17.84.30(C), 17.84.30(D), and 17.84.30(E), no pedestrian or bicycle facilities other than sidewalks have been identified or proposed in the subdivision. The plan set (Exhibit C, Sheet C5) does not identify bicycle lanes on Dubarko Road or Street B. **The applicant shall revise the plan set to include bicycle lanes on Dubarko Road and Street B.**
62. Section 17.84.40(A) requires the developer to construct adequate public transit facilities. Per the 2020 Transit Master Plan, the extension of Dubarko Road to intersect with Highway 26 is a future transit route. With extension of Dubarko Road to intersect with Highway 26 two transit amenities are required along the completed extension of Dubarko Road. **The applicant shall install two concrete bus shelter pads and green benches (Fairweather model PL-3, powder coated RAL6028). The required pad size is 7 feet by 9 feet 6 inches and the amenities should be located adjacent to Lot 1 and Lot 5.**

## **PARKING, LOADING, AND ACCESS REQUIREMENTS – Chapter 17.98**

63. Section 17.98.10(M) requires that the developer provide a Residential Parking Analysis Plan. This plan identifying the location of parking for the 30 R-1 zoned lots is included in Exhibit C, Sheet C6.
64. 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. Parking for the proposed multi-family units will be evaluated as part of a future design review application.**
65. Section 17.98.60 has specifications for parking lot design and size of parking spaces. Lot 32 is proposed to gain access from an arterial or collector street and therefore is required to comply with Section 17.98.80.
66. Section 17.98.100 has specifications for driveways. The minimum driveway width for a single-family dwelling is 10 feet. The Public Works driveway approach standard detail specifies a maximum of 24 feet wide for a residential driveway approach. Additionally, all driveways shall meet vertical clearance, slope, and vision clearance requirements. Staff has concerns with the following lots:
- A. The driveway on Lot 3 and its proximity to the intersection of Dubarko Road as it's within 150 feet of the intersection of Dubarko Road and Highway 26. **Driveway access for Lot 3 shall be reviewed and approved by the City Public Works Director and City Engineer prior to issuance of a building permit.**
  - B. There is no driveway identified for Lot 32. **Driveway access for Lot 32 shall be reviewed and approved by the City Public Works Director and City Engineer concurrently with land use review of Lot 32.**
67. The Public Works Director (Exhibit R) stated that no dimensional information is detailed in the plan set about driveway widths. **The location, number, and width of all driveway approaches in cul-de-sacs shall not exceed the dimensional standards in Section 17.98.100.** The applicant's statement indicating that "Both of the proposed cul-de-sacs have less than 50% of their circumference covered by driveway drops" is not sufficient.
68. Section 17.98.110 outlines the requirements for vision clearance. **The requirements of this section will be considered in placing landscaping in these areas with construction of homes and will be evaluated with a future design review application for the multi-family units.**
69. 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.**
70. Section 17.98.200 contains requirements for providing on-street parking spaces for new residential development. Per 17.98.200, one on-street parking space at least 22 feet in length

has been identified within 300 feet of each of the 30 lots zoned as R-1 as required. Exhibit C, Sheet C6 shows that 47 on-street parking spaces have been identified in compliance with this standard. No parking courts are proposed by the applicant.

NOTE: The locations of the lots on the subject site do not account for the additional land required to be dedicated for Dubarko Road to connect to Highway 26 or the parkland dedication, therefore the distances and locations of on-street parking spaces is based on unreliable assumptions.

## **UTILITIES – Chapters 17.84 and 17.100**

71. Section 17.84.60 outlines the requirements of public facility extensions. The applicant submitted a utility plan (Exhibit C, Sheet C5) which shows the location of proposed public water, sanitary sewer, and stormwater drainage facilities. **Broadband fiber service shall be detailed with construction plans.**
72. 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 will be installed underground. The developer will make all necessary arrangements with franchise utility providers. **The developer shall install underground conduit for street lighting.**
73. Section 17.84.90 outlines requirements for land for public purposes. The application includes dedication of right-of-way and land for a stormwater detention pond. The proposal does not include land dedicated for parkland as required by the Sandy Development Code nor does the proposal include land dedicated for the continuation of Dubarko Road to intersect with Highway 26. Eight-foot-wide public utility easements will be required along all lots adjacent to street rights-of-way, including Highway 26, for future franchise utility installations. **All easements and dedications shall be identified on the final plat.**
74. As required by 17.100.130, eight-foot-wide public utility easements (PUE) are required along all property lines abutting a public right-of-way. The applicant did not propose a PUE along Highway 26. **The applicant shall add a PUE along all lots abutting Highway 26.**
75. Chapter 15.30 contains the City of Sandy’s Dark Sky Ordinance. A lighting plan will 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 will need to install street lights along all street frontages wherever street lighting is determined necessary. **The locations of these fixtures shall be reviewed in detail with construction plans. Full cut-off lighting shall be required. Lights shall not exceed 4,125 Kelvins or 591 nanometers to minimize negative impacts on wildlife and human health.**
76. 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.**
77. The applicant shall install all water lines and fire hydrants in compliance with the applicable standards in Section 17.100.230, which lists requirements for water facilities. According to the Public Works Director the existing 8-inch diameter water line resides in an easement granted to the City of Sandy recorded at 2004-110340. **The applicant shall replace the existing waterline with an 8-inch diameter water line at a depth approved by the City Engineer.** There will be no compensation or credits for replacement of the existing water line. This pipe is a standard pressure line and will be used to provide domestic water service to the development. The City’s water master plan shows an 18-inch diameter water line in Dubarko Road south of Highway 26. **The applicant shall install an 18-inch water line in**

**Dubarko Rd. connected to the existing 18-inch water line at the west end of the site and the existing 12-inch line on Highway 26.** Due to the elevation of the site relative to the existing water reservoirs on Vista Loop Drive this line will be a low-pressure, high-volume line and will be used for fire protection. The cost difference between a standard diameter water line and the required 18-inch water line is eligible for Water System Development Charge (SDC) credits. The amount of the credit provided will be based on the Water System Construction Cost Credit table in the Water System Development Charge Methodology adopted by City Council motion on September 5, 2017. The applicant's proposal does not clearly define if they propose to replace the 8-inch diameter water line and/or install an 18-inch water line in conformance with the Water Master Plan.

78. Section 17.84.60D states, "As necessary to provide for orderly development of adjacent properties, public facilities installed concurrent with development of a site shall be extended through the site to the edge of adjacent property(ies)." The applicant does not propose to extend the existing 12-inch water main in Highway 26 east from the required intersection of Dubarko Road and Highway 26 to the east boundary of the site. **The existing 12-inch water line in Highway 26 shall be extended to the eastern boundary of the site per the requirements of Sections 17.84.60 (C) and (D).** The extension of the waterline is eligible for SDC credits for the difference in cost between the minimum required 8-inch diameter line and a 12-inch diameter line.
79. 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. **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.**
80. Section 17.100.250(A) details requirements for stormwater detention and treatment. A public stormwater quality and detention facility is proposed as Tract C to be located at the northwest corner of the proposed development. The proposed 10-foot-wide public storm drainage easements depicted between Lots 27 and 28 and at the rear of Lots 9-13 do not meet the minimum dimensional requirement for public facility easements in Section 17.84.90(A)(2). **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).**
81. 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**

82. The applicant is not proposing any parkland dedication as required by Chapter 17.86. Directly west of the subject property is undeveloped land owned by the City of Sandy that has long been reserved for the eventual development of Deer Pointe Park. The 1997 Parks Master Plan designated Deer Pointe Park as a community park, and in the Location and Development Polices section of the Plan states that community parks should be 20 acres or more. Because the Deer Meadows subdivision does not propose parkland dedication abutting Deer Pointe Park the proposed subdivision is inconsistent with the 1997 Parks Master Plan.
83. 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 30 single family homes, acres = 30 x 3 x 0.0043 = 0.39 acres. For the maximum development of 66 multifamily units, acres = 66 x 2 x 0.0043 = 0.57 acres. Combined, this totals 0.96 acres. The dedication of 0.96 acres could expand the Deer Pointe Park to 2.36 acres if the parkland dedication abuts Deer Pointe Park. However, if the applicant does not propose abutting parkland, then the additional 0.96 acres would not be contiguous to the existing parkland.
- NOTE: The number of dwelling units on the subject site does not account for the additional land required to be dedicated for Dubarko Road to connect to Highway 26 or the parkland dedication, therefore the calculations related to parkland dedication are based on unreliable assumptions.
84. The Parks and Trails Advisory Board (Board) met on August 11, 2021. The Board recommended that conditions of approval include the dedication of land for expansion of Deer Pointe Park (Exhibit O). The vision for this currently undeveloped park parcel has always included adjacent parkland dedication from the subject property. Additionally, a conceptual design has been prepared and has been through an initial public comment period as part of the updated Parks and Trails Master Plan.
85. 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, the City of Sandy is not aware of any duplexes being proposed at this time. Also, the City is not aware of how many multifamily units will be proposed on the land zoned as C-3. **If any lot includes a duplex or additional multifamily dwelling units are proposed on the C-3 zoned land the applicant shall be required to pay a fee in-lieu of parkland dedication in accordance with Section 17.86.40.**
86. Section 17.86.20 has a requirement that all homes must front on the parkland. The purpose of having homes front the parkland is to provide eyes on the park and increase safety for park users. Since the applicant is not proposing parkland dedication there is nothing in the applicant's submission detailing that any houses will face Deer Pointe Park.

87. Section 17.86.30 lists the requirements of the developer prior to acceptance of required parkland dedications. Since the applicant is not proposing parkland dedication this section was not reviewed for compliance.

## **URBAN FORESTRY – 17.102**

88. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. An Arborist Report is included as Exhibit F. The arborist inventoried all trees eleven inches and greater diameter at breast height (DBH) as required in 17.102.50. The inventory of trees proposed to be retained is included in Exhibit C, Sheet C3 and the proposed retention trees are shown in Exhibit C, Sheet C4.
89. The property contains 15.91 acres requiring retention of 48 trees, 11 inches and greater DBH ( $15.91 \times 3 = 47.73$ ). The applicant is proposing to retain all 48 trees on Lots 13, 14, and 21. One tree proposed for retention is a Grand fir and the other 47 trees are all Douglas fir. The trees range in size from 11 inches DBH to 30 inches DBH, and are in good condition as identified by the arborist.
90. Most of the proposed retention trees are located along Highway 26 on Lot 13, which is proposed to be zoned R-1, Low Density Residential. As indicated on the Preliminary Plat (Exhibit C, Sheet C2), the applicant is proposing to place a conservation easement over an area that encompasses the retention trees on Lots 13, 14, and 21 totaling 21,939 square feet. Staff believes there could be a future conflict between retention trees in this conservation easement and development of Lot 13.
91. The Arborist Report (Exhibit F) provides recommendations for protection of retained trees including identification of the recommended tree 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 applicant shall install tree protection fencing at the critical root zone of 1 foot per 1-inch DBH to protect the 48 retention trees on the subject property as well as all trees on adjacent properties and shall not relocate or remove the fencing prior to certificates of occupancy. The tree protection fencing shall be 6-foot-tall chain link or no-jump horse fencing and the applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the tree protection fencing indicating that the area behind the fence is a tree retention area and that the fence shall not be removed or relocated. No construction activity shall occur within the tree protection zone, including, but not limited to, dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall request an inspection of tree protection measures prior to any tree removal, grading, or other construction activity on the site. 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.**
92. The Tree Preservation Plan (Exhibit C, Sheet C3) details several trees being removed right next to the trees proposed for retention. **The trees proposed for removal that are adjacent to retention trees shall be removed in in a way that does not harm or damage adjacent trees.** The Arborist Report (Exhibit F) from Teragan and Associates, Inc. includes

recommendations for tree removal. The arborist also identifies options for stumps, including retention or careful surface grinding. Staff recommends that the applicant not fully remove all the trees adjacent to the retention trees but rather leave snags. **Tree removal and/or snag creation shall be completed without the use of 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 ensure none of the retention trees were damaged during construction.**

93. **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.**

## **LANDSCAPING AND SCREENING – Chapter 17.92**

94. 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.**
95. Section 17.92.20 lists the requirements for minimum landscaping improvements. **The details of this section will be considered with submittal of a design review application for the proposed multi-family units and commercial property.**
96. 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 current street tree plan (Exhibit C, Sheet C6) does not show the distance between trees, but most trees measure approximately 30 feet on center. The applicant does not detail street trees along Street C, nor along Highway 26. **The applicant shall update the Street Tree Plan to detail trees at 30 feet on center along Street C and Highway 26. The trees along street C can be behind back of sidewalk, but the street trees along Highway 26 shall be in a planter strip per Section 17.100.290.**

The applicant is proposing to mass grade the buildable portion of the site. This will remove topsoil and heavily compact the soil. To maximize the success of the required street trees, **the applicant shall aerate and amend the soil in the planter strips to a depth of 3 feet prior to planting street trees. The applicant shall either amend and aerate the planter strip soil at the subdivision stage and install fencing around the planter strips to protect the soil from compaction or shall aerate 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. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and the planter strip shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy. Tree ties shall be loosely tied twine or other soft material and shall be removed after one growing season (or a maximum of 1 year).**

97. Section 17.92.40 requires that all landscaping shall be irrigated, either with a manual or automatic system. **As required by Section 17.92.140, the developer and lot owners shall be required to maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period.**
98. Section 17.92.50 specifies the types and sizes of plant materials that are required when planting new landscaping. Street trees are typically required to be a minimum caliper of 1.5-inches measured 6 inches from grade. **All street trees shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground and shall be planted per the City of Sandy standard planting detail. The applicant shall submit proposed trees specifies to City staff for review and approval concurrent with construction plan review.**
99. 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.**
100. Section 17.92.90 has details on screening of unsightly views or visual conflicts. While the proposed lots are not unsightly, they are a large contrast from the existing view of the existing forest. This contrast was identified at a Planning Commission hearing for Bull Run Terrace in August of 2020 and the applicant was asked to look at some additional screening measures to protect existing trees or add additional landscaping. The applicant took the comments seriously and proposed additional landscaping along the common property line with the Deer Pointe subdivision. However, in this proposed subdivision for Deer Meadows the applicant is not proposing any tree retention nor is the applicant proposing any additional landscaping along the common property line with the Deer Pointe subdivision.
101. Section 17.92.130 contains standards for a performance bond. The applicant has the option to defer the installation of street trees and/or landscaping for weather-related reasons. Staff recommends the applicant utilize this option rather than install trees and landscaping during the dry summer months. Consistent with the warranty period in Section 17.92.140, staff recommends a two-year maintenance and warranty period for street trees based on the standard establishment period of a tree. **If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.**

**HILLSIDE DEVELOPMENT AND EROSION CONTROL – Chapters 17.56, 15.44, and 17.74**

102. The applicant submitted a Geotechnical and Slope Stability Investigation (Exhibit I) showing that the subject site contains a small area of slope exceeding 25 percent. The geotechnical investigation was completed by Redmond Geotechnical Services on November 23, 2020. **All recommendations in the Geotechnical and Slope Stability Investigation (Exhibit I) shall be conditions for development.**
103. Grass seeding shall be completed as required by Section 17.100.300. The submitted preliminary Grading and Erosion Control Plan (Exhibit C, Sheet C7) 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 Chapter 15.44 of 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.**
104. **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.**
105. 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.**
106. Section 17.74.40 specifies, among other things, retaining wall and fence height in front, side, and rear yards. Retaining walls 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 inside and rear yards abutting a street. The submitted plan set (Exhibit C, Sheet C5) details a 3-foot retaining wall at the west terminus of Street C, a 4-foot retaining wall between Tract C and Lot 26, and an 8-foot retaining wall to the west of Street A and north of Fawn Street. These three retaining walls are proposed as Keystone block and Ultra-block, and all three include notes that the heights are plus/minus the stated height on the plan set. The plan set does not detail the height of the retaining wall in Tract C for the stormwater facility. **The applicant shall submit additional details on the proposed retaining walls, including height, material, and information on the architectural finish, for staff review and approval.**

## RECOMMENDATION

The Planning Commission **denied** the subdivision request due to the following issues:

- 1) The application does not meet subdivision criteria 17.100.60(E)(1).
- 2) The application does not meet subdivision criteria 17.100.60(E)(3).
- 3) The application does not meet the parkland dedication requirements in Chapter 17.86.

In addition, staff recommends the City Council **deny** the subdivision request due to the following issues:

- 1) The subdivision proposal does not meet subdivision Criteria 17.100.60 (E)(1), (2), (3), (4), (5), and (6).
- 2) The applicant's statement indicating that "Both of the proposed cul-de-sacs have less than 50% of their circumference covered by driveway drops" is not sufficient as there were no dimensional specifications submitted by the applicant to support this statement.
- 3) The applicant proposes two cul-de-sacs but does not propose a pedestrian connection to streets beyond the cul-de-sacs as required by Section 17.84.30.
- 4) The applicant proposes Lot 12 with less than the minimum 20 feet of street frontage as required by Section 17.36.30(C).
- 5) The distance between the two nearest edges of the right-of-way between Dubarko Road (an arterial) and Street C (a local street) is less than the minimum 150 ft. dimension in Sections 17.84.50(E)(2) and 17.84.50(J)(3).
- 6) The minimum 100 feet of tangent alignment required in Section 17.84.50(J)5(a) is not provided at the intersection of Street "B" (a collector) and Dubarko Road (an arterial) or at the intersection of Dubarko Road and Street "B".
- 7) The applicant does not propose to extend Dubarko Road to intersect with Highway 26 consistent with the requirements of the Sandy Development Code or the 2011 Transportation System Plan.
- 8) The applicant does not include highway frontage improvements along Highway 26 consistent with the Sandy Development Code.
- 9) The applicant's proposal does not clearly define if they propose to replace the 8-inch diameter water line and/or install an 18-inch water line in conformance with the Water Master Plan.
- 10) The applicant does not propose to extend the existing 12-inch water main in Highway 26 east from the required intersection of Dubarko Road and Highway 26 to the east boundary of the site consistent with the Sandy Development Code.
- 11) The proposed 10-foot-wide public storm drainage easements depicted between Lots 27 and 28 and at the rear of Lots 9-13 do not meet the minimum dimensional requirement for public facility easements in Section 17.84.90(A)(2).
- 12) This subdivision proposal does not propose to dedicate 0.96 acres of parkland as required by Chapter 17.86. The additional 0.96 acres could expand Deer Pointe Park consistent with the Parks and Trails Master Plan that was adopted in 1997.