



## Staff Report

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**Meeting Date:** June 27, 2022

**From** Emily Meharg, Senior Planner

**SUBJECT:** 21-021 SUB/VAR/TREE/HD The Bornstedt Views Subdivision

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### **BACKGROUND / CONTEXT:**

The applicant, Mac Even of Even Better Homes, Inc., submitted an application for a 43-lot Type III subdivision on a 12.74-acre parcel located at 19618 Bornstedt Road. The 43 lots range in size from 7,500 square feet to 43,175 square feet. All lots are proposed to contain either a single-family home or a duplex. The proposal also includes frontage improvements, utility extensions, and removal of 709 trees from the subject property. The applicant requested the following six (6) Type III variances:

A.Type III Variance to Section 17.100.120(B) to allow the north side of Maple Street between Street A and Averill Parkway to exceed 400 feet.

B.Type III Variance to Section 17.100.120(B) to allow the south side of Maple Street between Street A and Street B to exceed 400 feet.

C.Type III Special Variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the north side of Maple Street between Street A and Averill Parkway, which exceeds 600 feet.

D.Type III Special Variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the south side of Maple Street between Street A and Street B, which exceeds 600 feet.

E.Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road.

F.Type III Special Variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.

6.The 43-lot subdivision proposal is an update to a previous subdivision proposal submitted by the same applicant as part of the same file (File No. 21-021). The previous application, submitted May 6, 2021, was for a 42-lot Type II subdivision on the same property. The 42 lots ranged in size from 7,500 square feet to 54,263 square feet.

Thirteen (13) of the lots were proposed to gain access from a new street that intersected with Bornstedt Road, and the other 29 lots were proposed to gain access via an extension of Averill Parkway to the south. The applicant did not propose an east-west street connection between the new street that intersected with Bornstedt Road and Averill Parkway.

### **KEY CONSIDERATIONS / ANALYSIS:**

See Attached Staff Report

**RECOMMENDATION:**

Staff recommends the Planning Commission **approve** the subdivision request **with conditions**.

Staff further recommends the Planning Commission **approve** the following requested variances:

1. Type III Variance to Section 17.100.120(B) to allow the north side of Maple Street between Street A and Averill Parkway to exceed 400 feet.
2. Type III Variance to Section 17.100.120(B) to allow the south side of Maple Street between Street A and Street B to exceed 400 feet.
3. Type III Special Variance to Section 17.100.120(D) to not include a bike/ped accessway on the north side of Maple Street between Street A and Averill Parkway, which exceeds 600 feet.
4. Type III Special Variance to Section 17.100.120(D) to not include a bike/ped accessway on the south side of Maple Street between Street A and Street B, which exceeds 600 feet.
5. Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road.
6. Type III Special Variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.

Additional Staff Recommendations

1. Staff recommends that a majority of the retention trees be located in a separate tree retention tract.
2. Staff recommends increasing Tract A to include the clump of retention trees on the north end of Lot 27 such that Tract A becomes a joint storm detention facility and tree protection tract dedicated to the City, or create a separate tree protection tract on the north side of Lot 27 to be owned and maintained by an HOA or other private owner. To accomplish this, staff recommends the Planning Commission approve two variances to Section 17.34.30(C) to allow Tax Lots 19 and 27 to each have only 10 feet of frontage on a public street (Street A) for a total combined width of 20 feet. This is effectively the same as the applicant's proposal in which Tax Lot 19 has a 20-foot-wide flagpole with an access easement to Tax Lot 27.
3. Staff also recommends a joint tree protection and stream/wetland protection tract between Lots 10 and 11 either to be dedicated to the City or owned and maintained by an HOA or other private owner.
4. Staff recommends the Planning Commission require the applicant to submit a cash payment to cover half the estimated cost of terminating the temporary fire turnaround easements, removing the paved fire turnarounds on the private lots and replacing with landscaping, and removing the driveway approaches and replacing them with curb, planter strip, and street trees.

**LIST OF ATTACHMENTS/EXHIBITS:**

**Applicant's Submittals:**

- A. Land Use Application
- B. Project Narrative (dated April 2022) & Supplemental Narrative (dated May 26, 2022)
- C. Civil Plan Set
  - o Sheet C1 - Cover Sheet and Future Street Plan
  - o Sheet C2 - Tentative Plat Map
  - o Sheet C3 – Topographic Survey
  - o Sheet C4 - Tree Inventory List 1
  - o Sheet C5 - Tree Inventory List 2
  - o Sheet C6 - Tree Inventory List 3
  - o Sheet C7 – Tree Retention and Protection Plan
  - o Sheet C8 – Street and Utility Plan
  - o Sheet C9 – Grading and Erosion Control Plan
  - o Sheet C10 – On-Street Parking Plan
- D. Preliminary Storm Drainage Report (dated April 25, 2022)
- E. Traffic Impact Study (dated May 20, 2022)
- F. Arborist Report (dated April 25, 2022)
- G. Wetland Determination (dated April 15, 2022)
- H. Geotechnical Investigation and Consultation Services (dated May 3, 2021)
- I. Supplemental Geotechnical Consultation Services Letter (dated April 27, 2022)
- J. Clackamas County Survey SN2022-026 (accepted/filed January 20, 2022)
- K. Email from City Engineer (dated January 27, 2020)

**Agency Comments:**

- L. Pacific Habitat Services Third-Party Wetland Review (dated January 27, 2022)
- M. SandyNet General Manager email (dated June 3, 2022)
- N. Fire Marshal (letter dated September 18, 2021, and email dated June 4, 2022)
- O. City Transportation Engineer (dated June 14, 2022)
- P. Parks and Trails Advisory Board (letter dated September 20, 2021, and memo dated June 9, 2022)
- Q. DSL Wetland Land Use Notice Response (dated December 14, 2021)
- R. DSL Wetland Land Use Notice Response (dated June 10, 2022)
- S. GeoPacific Engineering Third-Party Geotech Review (dated June 10, 2022)
- T. Clackamas County Transportation (dated October 19, 2021)
- U. City Engineer (email dated June 14, 2022)
- V. Earth Care Designs, LLC dba Oregon Tree Care Third-Party Arborist Review (dated June 14, 2022)

**Public Comments:**

- W. Charlene Fine (received June 1, 2022)
- X. Lori Pyles (received October 7, 2021)
- Y. Barb Moyer (received October 16, 2021)
- Z. Becky Hausken (received October 21, 2021)
- AA. Doug and Marilyn Nichols (received October 21, 2021)
- BB. Lindsay Erceg (received October 21, 2021)
- CC. Natalie Parson (received October 22, 2021)

**Additional Documents Submitted by Staff:**

- DD. Marshall Ridge Partition Plat 4603
- EE. Ordinance 2019-16
- FF. Technical Memorandum (dated October 4, 2018)
- GG. Wetland Determination Report Submitted to DSL by the Applicant (dated May 20, 2022)
- HH. October 15, 2021, Staff Report with Exhibits

## PLANNING COMMISSION STAFF REPORT TYPE III LAND USE PROPOSAL

This proposal was reviewed concurrently as a Type III subdivision with six (6) Type III variances, tree removal, and hillside development. The following exhibits and findings of fact explain the proposal and support the staff recommendation.

**DATE:** June 15, 2022

**FILE NO.:** 21-021 SUB/VAR/TREE/HD

**PROJECT NAME:** The Bornstedt Views Subdivision

**APPLICANT:** Even Better Homes

**OWNER:** Bornstedt Views, LLC

**PHYSICAL ADDRESS:** 19618 Bornstedt Road

**LEGAL DESCRIPTION:** T2S R4E Section 24C, Tax Lot 100

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## **FINDINGS OF FACT**

### **GENERAL FINDINGS**

1. These findings are based on the applicant's updated submittal items for a 43-lot subdivision received on April 29, 2022, May 23, 2022, and May 26, 2022. The applicant had originally proposed and applied for a 42-lot subdivision on the same property. The original submittal items were received on May 6, 2021, and staff found the original application incomplete on June 3, 2021. On August 17, 2021, the applicant submitted some of the missing information and written notice that no other information will be provided. The applicant further requested that the application be deemed complete effective August 17, 2021, for the purpose of beginning the "120-day clock"; thus, staff found the application complete on August 17, 2021, for the purpose of beginning the "120-day clock." The original proposal was scheduled to be heard at the October 25, 2021, Planning Commission meeting. Based on multiple items outlined in the October 15, 2021, Staff Report (Exhibit HH), staff recommended denial of the original 42-lot subdivision proposal. In response, the applicant requested that the October 25, 2021, Planning Commission hearing be cancelled and that they be allowed to resubmit an updated application. The applicant extended the 120-day deadline multiple times while they updated their submittal items. Based on the applicant's requested extensions, the 120-day deadline was extended to August 17, 2022.
2. This report is based upon the exhibits listed in this document, including the applicant's submittals, agency comments, and public testimony. The land use record includes information regarding the original 42-lot subdivision, but for brevity those items are not included in this staff report nor are included for the Planning Commission review.
3. The subject site is approximately 12.74 acres. The site is located at 19618 Bornstedt Road.
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, Mac Even of Even Better Homes, Inc., submitted an application for a 43-lot Type III subdivision on a 12.74-acre parcel located at 19618 Bornstedt Road. The 43 lots range in size from 7,500 square feet to 43,175 square feet. All lots are proposed to contain either a single-family home or a duplex. The proposal also includes frontage improvements, utility extensions, and removal of 709 trees from the subject property. The applicant requested the following six (6) Type III variances:
  - A. Type III Variance to Section 17.100.120(B) to allow the north side of Maple Street between Street A and Averill Parkway to exceed 400 feet.
  - B. Type III Variance to Section 17.100.120(B) to allow the south side of Maple Street between Street A and Street B to exceed 400 feet.
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  - E. Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road.
  - F. Type III Special Variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.
6. The 43-lot subdivision proposal is an update to a previous subdivision proposal submitted by the same applicant as part of the same file (File No. 21-021). The previous application, submitted May 6, 2021, was for a 42-lot Type II subdivision on the same property. The 42 lots ranged in size from 7,500 square feet to 54,263 square feet. Thirteen (13) of the lots were proposed to gain access from a new street that intersected with Bornstedt Road, and the other 29 lots were proposed to gain access via an extension of Averill Parkway to the south. The applicant did not propose an east-west street connection between the new street that intersected with Bornstedt Road and Averill Parkway.
7. The original application was submitted on May 6, 2021. Since then, there have been four (4) ordinances with amendments to the Development Code (Title 17), including code amendments related to House Bill (HB) 2001, code amendments to Chapter 17.100, Land Division, code amendments to Chapter 17.86, Parkland and Open Space, and a repeal of Chapter 17.64, Planned Developments. Oregon's goalpost rule (ORS 227.178(3)(a)) requires an application to be reviewed under the existing code at the time of submittal. The code changes to Chapter 17.100, Land Division, became effective May 2, 2022 and the code changes to Chapter 17.86, Parkland and Open Space, became effective June 7, 2022; thus, the analysis contained in this staff report is based on the previous versions of Chapter 17.100 and Chapter 17.86 that were in effect at the time of the applicant's first submittal. The repeal of Chapter 17.64, Planned Developments, became effective on September 15, 2021; therefore, code references to Planned Developments may still be mentioned in this staff report. The code changes related to HB 2001 became effective June 17, 2021. Although this application was submitted prior to the code changes going into effect, the proposal will be able to include duplexes as allowed by HB 2001.
8. The owner of the subject property submitted an application for annexation in 2018. The annexation was approved by Ordinance 2019-16 (Exhibit EE), which included the following four (4) conditions of annexation approval for the subject property:
- A. Prior to the future development of the subject property the standards and criteria of the Flood & Slope Hazard (FSH) Overlay District (Chapter 17.60) shall be applied to the subject property.
  - B. Prior to the future development of the subject property the Flood & Slope Hazard (FSH) Overlay District map shall be updated to include the subject property.
  - C. Prior to the future development of the subject property the development shall be limited to no more than 43 single family lots or 388 average daily trips.

- D. Prior to the future development of the subject property an applicant, or representative, shall confirm the conditions associated with Case File No. Z0169-19-HL have been fulfilled.

The fourth condition (Condition D, above) involved a historic root cellar on the subject property that the applicant applied to demolish. Clackamas County approved the request with conditions through Case File No. Z0168-19-HL and the applicant submitted an email from Clay Glassgow at Clackamas County on June 28, 2019, stating that the conditions of approval for Case File No. Z0169-19 had been satisfied. With the adoption of House Bill 2001 and subsequent modifications to the Development Code, the City can no longer restrict development to single family homes but rather must allow duplexes as well. The trip cap limitations related to 388 trips or 43 single family homes, which since the passing of HB2001 is equivalent to 43 lots. The applicant is meeting this condition from the annexation approval by proposing 43 lots. The Flood & Slope Hazard Overlay is also required to be mapped on this property prior to future development.

- 9. The City of Sandy completed the following notices for the updated 43-lot subdivision:
  - A. A transmittal was sent to agencies asking for comment on May 24, 2022.
  - B. Notification of the proposed application was mailed to affected property owners within 500 feet of the subject property on May 24, 2022.
  - C. A legal notice was published in the Sandy Post on June 8, 2022.
  - D. Staff sent a follow-up email to the property owners of 38928 and 38940 Jerger Street explaining that the proposal includes connecting to the sanitary sewer mainline in Jerger Street through the existing 10-foot-wide public utility easement along the shared property line of 38928 and 38940 Jerger Street.
- 10. At publication of this staff report, one (1) written public comment was received in regard to the revised 43-lot subdivision proposal. Charlene Fine (Exhibit W) expressed concerns related to Averill Parkway. The City also has six (6) public comments on file in regard to the original proposed 42-lot subdivision layout (Exhibits X-CC). The comments primarily centered around the presence of a seasonal creek and wetlands on the subject property, loss of trees and nature, increased traffic, the extension of Averill Parkway to the south, the lack of an east-west connection, and infrastructure concerns.

## **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(D) outlines the data requirements for a tentative plat. Section 17.100.60(D.5) requires the applicant to detail existing and proposed right-of-way. The original 42-lot application detailed 30 feet of right-of-way from the centerline of Bornstedt Road to the property line and the Bornstedt Road section detailed a 60-foot total right-of-way and a new right-of-way line on the east side of the road. Based on the partition plat for the Marshall Ridge Subdivision (Plat 4603; Exhibit DD), staff noted that the total right-of-way width along the Bornstedt Road frontage of the site varied in width from 83.06 feet at the northern property line to 96.21 feet at the southern property line of the Marshall Ridge Subdivision. Staff requested the chain of title for the property and did not find any evidence of Clackamas County granting the property owner additional right-of-way. To clear up the confusion with the Bornstedt Road right-of-way, the applicant filed a survey with Clackamas County to detail the property line and right-of-way. The survey (SN2022-026; Exhibit J) was approved by Clackamas County on January 20, 2022, and is the basis for the tentative plat submitted with the new 43-lot subdivision. Staff finds the application meets the submittal requirements of Section 17.100.60(D.5).
14. 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 and the annexation conditions. 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. Section 17.34.30(E) contains the required minimum setbacks. The applicant did not include a plan sheet that details building footprints in compliance with the minimum setback standards for all lots; however, the Tree Retention and Protection Plan (Exhibit C, Sheet C7) details building footprints on lots with retention trees. **The applicant shall comply with the setback standards in Chapter 17.34 and Chapter 17.80. The applicant shall not propose building footprints that encroach into the critical root zone of 1 foot per 1 inch DBH as detailed on the Tree Retention and Protection Plan (Exhibit C, Sheet C7).** With these conditions, 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 south, north, and east of the subject property as required by Section

17.34.40(C). Section 17.34.50(B) requires all lots with 40 feet or less of street frontage to be accessed by a rear alley or a shared private driveway. All lots have frontage on a public street and are proposed to have at least 40 feet of street frontage, with the exception of Lots 19 and 27. Lot 19 is a flag lot with 20.45 feet of frontage and Lot 27 is accessed via an easement on the flagpole portion of Lot 19. Staff finds this proposal meets approval criteria 17.100.60 (E)(1).

15. Sections 17.100.60(E)(2) and 17.100.70 require subdivisions to be consistent with the design standards set forth in this chapter. Staff finds the proposal meets approval criteria 17.100.60 (E)(2) as explained in A. through L., below:

- A. Section 17.100.100(A) pertains to the Street Connectivity Principle. The proposed subdivision will gain access from Bornstedt Road and both Maple Street and Averill Parkway will be extended through the property. Per the City Engineer (Exhibit U), the new alignment for the Bornstedt Views subdivision proposal is much improved with the continuation of Maple Street. The proposal also includes two new north-south streets: Street A will be stubbed to the north and south property lines and Street B will connect from the south side of Maple Street to the south property line. Due to the presence of existing wetlands/streams and steep slopes on the property as well as the existing subdivision to the north, an additional north-south street is impractical. The proposal also includes a soft-surface trail connection through Tract A that connects Maple Street to the south property line. The applicant has requested block length variances for the north and south sides of Maple Street as well as variances to not provide mid-block bike/ped accessways on Maple Street. With approval of the requested variances, staff 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 and steep slopes on the property make a fully gridded street network that complies with block length standards and spacing impractical. The applicant has requested block length variances for the north and south sides of Maple Street as well as variances to not provide mid-block bike/ped accessways on Maple Street. With approval of the requested variances, staff 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 east, which will provide future access for the property to the east. The adjacent properties to the north are all developed with the exception of Tax Lot 3600. The applicant is proposing to stub Street A to the shared property line with Tax Lot 3600, which will provide additional future access to that lot. In addition, the proposal includes stubbing three streets and one mid-block soft-surface pedestrian path to the south property line. Staff 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 the extension of Maple Street and Averill Parkway through the site as well as multiple stubbed streets and a pedestrian trail to the south. By extending Maple Street through the site, the proposal provides direct access to Bornstedt Park and Cascadia Park. The City Engineer (Exhibit U) reviewed the proposal and determined that the pedestrian path through Tract A should be designated to extend to the north property line for potential extension upon development of the property to the northwest. This would allow a future connection from the cul-de-sac depicted on the future street plan (Exhibit C, Sheet C1) on Tax Lot 3600 to better meet the requirements of Section 17.84.30(B.2) and Section 17.100.120(D). **The applicant shall include a pedestrian easement and provide sufficient width for a pedestrian path through the stream, wetland, and tree protection tract between Lots 10 and 11 such that it can connect north to the cul-de-sac detailed on the future street plan upon development of the property to the northwest (Tax Lot 3600).** With the recommended condition of approval, staff finds the submitted proposal meets Section 17.100.100(F).
- E. Section 17.100.120(B) contains standards for block lengths. The Site Location and Future Street Plan (Exhibit C, Sheet C1) details block lengths for some blocks, but not all blocks. The east side of Averill Parkway already exceeds 400 feet to the north. The applicant is proposing to extend Averill Parkway south one additional lot to the intersection with Maple Street. The north block face of Maple Street between Street A and Averill Parkway is approximately 1,030 feet and the south block face of Maple Street between Street A and Street B is 721.35 feet. The applicant is requesting two variances to block length for the north and south sides of Maple Street. The variance requests are discussed in further detail in Chapter 17.66 of this staff report. With approval of the variances as recommended by staff, the submitted proposal can meet Section 17.100.120(B).
- F. Section 17.100.120(D) contains requirements for bicycle/pedestrian accessways on blocks that exceed 600 feet. The applicant proposes two block faces that exceed 600 feet. The applicant is requesting a variance to not provide a bike/ped accessway on the north side of Maple Street. The applicant is requesting a second variance to allow a 6-foot-wide soft-surface pedestrian path mid-block on the south side of Maple Street rather than the required 10-foot-wide paved path within a 15-foot-wide tract or right-of-way as required for a bike/ped accessway per Section 17.100.120(D). The variance requests are discussed further in Chapter 17.66 of this staff report. With approval of the variances as recommended by staff, the submitted proposal can meet Section 17.100.120(D).
- G. 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 a stream and a wetland. The applicant is proposing a public detention pond (Tract A) and a varying width public storm easement on Lot 11 where the stream and wetland traverse the site. To better protect the stream and wetland, **the applicant shall update the site plan to**

**detail the varying width public storm easement as a separate tract rather than an easement on Lot 11.** The applicant did not submit information on a culvert under Maple Street. **The applicant shall submit details on a culvert, including a hydraulic memo prepared by the stormwater engineer summarizing the design. The culvert shall be sized appropriately to accommodate the anticipated volume of water.**

- H. 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 19). The flagpole portion of Lot 19 also serves as access to Lot 27. Based on topography of the area between Street A and Street B south of Maple Street, the applicant is not proposing to include an additional north-south street stubbed to the south property line and is requesting a variance to block length to allow this. Staff finds the proposal meets Section 17.100.170.
- I. Section 17.100.220(B) states that when lots are more than double the minimum lot size required for the zoning district, the subdivider may be required to arrange such lots to allow further subdivision and the opening of future streets to serve such potential lots. Lot 27 is 43,175 square feet, which is much more than double the minimum lot size of 7,500 square feet. Per the applicant’s narrative (Exhibit B), the reason Lot 27 is so large “is due to site topography and difficulty in serving this area with street access. As shown on the topographic survey, a considerable portion of this lot contains slopes in excess of 25 percent. In addition, a substantial grove of trees proposed to be retained is located on the northern portion of the lot. For this reason, access to the only developable portion of this lot in the southwest corner, will be needed from an easement across the pole portion of Lot 19. These features and conditions limit division of this lot in the future.” Staff finds the proposal meets Section 17.100.220(B).
- 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 frontage on a public street. Staff finds the proposal meets Section 17.100.220 (C).
- K. Section 17.100.220(D) states that double frontage lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography or orientation. The applicant is proposing five double frontage lots along Bornstedt Road, which is a minor arterial. The applicant is requesting a variance to allow the houses along Bornstedt Road to face proposed Street A rather than Bornstedt Road; the variance request is discussed in detail in Chapter 17.66 of this staff report. Staff finds the proposal meets Section 17.100.220(D).
- L. Section 17.100.240 pertains to sanitary sewer installation and requires the subdivision to connect to existing mains. As discussed in more detail in Chapter 17.84 of this

document, the applicant's original proposal lumped nine (9) private sanitary sewer force mains in a PUE. In response, the Public Works Director required the applicant to construct gravity sewers draining to the public sewer line in Jerger Street. The updated proposal details a 15-foot-wide sanitary sewer easement between proposed Lots 7 and 8 that connects to the existing 10-foot-wide sanitary sewer easement between Lots 253 and 254 of the Cascadia Village No. 6 Subdivision to connect the proposed sanitary sewer line in Maple Street with the existing public sewer line in Jerger Street as required. The City Engineer (Exhibit U) notes that the sanitary sewer capacity may be limited when construction plans are submitted. The City is currently expanding the plant capacity and working to secure DEQ approvals for additional development. Staff finds the proposal meets Section 17.100.240.

16. 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, with the exception of the Bornstedt Road frontage of the subject property, which was included in the TSP. The Bornstedt Road section (Section B on Exhibit C, Sheet C8) details a 6-foot-wide bike lane on Bornstedt Road in conformance with project B3 on the TSP's Bicycle System Plan. In addition, the Bornstedt Village Specific Area Plan details the extension of Averill Parkway south through the subject property. The proposal includes extensions of Maple Street and Averill Parkway through the site as well as two additional north-south streets. As stated above, the presence of existing wetlands/streams and steep slopes on the property make a fully gridded street network that complies with block length standards and spacing impractical. The applicant has requested block length variances for the north and south sides of Maple Street as well as variances to not provide mid-block bike/ped accessways on Maple Street. With approval of the requested variances, staff finds the proposal meets approval criteria 17.100.60 (E)(3).
17. 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 Traffic Impact Study prepared by Ard Engineering and dated May 20, 2022 (Exhibit E) evaluated ADT on local streets and determined the proposed development would result in 406 daily site trips with development of 43 single-family homes or 620 daily trips with development of 86 duplex units. The TIS conclusions state: "The local streets in the project vicinity currently carry fewer than 1,000 vehicles per day, in accordance with the requirements of the city's development code. Following completion of the proposed development the local streets are projected to continue to carry fewer than 1,000 daily trips. Accordingly, operation of local streets is projected to meet city standards." As part of the annexation application for this property, the applicant submitted a Technical Memorandum (Exhibit FF) by Ard Engineering dated October 4, 2018. The memorandum states: "it is projected that no more than 43 lots can be constructed within the subject property, with each lot serving one single-family home." The memorandum concludes: "Under the reasonable worst case development scenario, the proposed annexation and zone change would result in a net addition of no more than 388 daily trips." The annexation and corresponding Technical



Memorandum analyzing trips were completed prior to House Bill 2001; thus, the worst-case scenario did not consider duplexes. City Council approved the annexation through the adoption of Ordinance 2019-16 (Exhibit EE), which included a condition capping the number of lots at 43 or the number of average daily trips for this property at 388. The proposal is for 43 lots. Staff finds the proposal meets approval criteria 17.100.60 (E)(4) and is in compliance with the 43-lot maximum condition of Ordinance 2019-16.

18. 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 City Engineer (Exhibit U) notes that the sanitary sewer capacity may be limited when construction plans are submitted. The City is currently expanding the plant capacity and working to secure DEQ approvals for additional development. The proposal meets approval criteria 17.100.60 (E)(5).
19. 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 finds that the proposal provides improvements that meet City standards, or that can meet City standards with approval of requested variances and/or conditions of approval. Per the City Engineer (Exhibit U), all public infrastructure improvements shall comply with the City of Sandy standards and Public Works requirements. Therefore, staff finds the proposal meets approval criteria 17.100.60 (E)(6).
20. 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 proposal meets approval criteria 17.100.60 (E)(7).

## **VARIANCES – Chapter 17.66**

21. The applicant requested the following six (6) Type III variances:

- A. Type III Variance to Section 17.100.120(B) to allow the north side of Maple Street between Street A and Averill Parkway to exceed 400 feet.
- B. Type III Variance to Section 17.100.120(B) to allow the south side of Maple Street between Street A and Street B to exceed 400 feet.
- C. Type III Special Variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the north side of Maple Street between Street A and Averill Parkway, which exceeds 600 feet.
- D. Type III Special Variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the south side of Maple Street between Street A and Street B, which exceeds 600 feet.
- E. Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road.
- F. Type III Special Variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.

### **Variance A: Block Length - North Side of Maple Street**

22. The applicant requested a Type III Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length on the north side of Maple Street.

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 an approximately 1,030-foot-long block face along the north side of Maple Street between Street A and Averill Parkway. The supplemental narrative (Exhibit B) states “the north side of Maple Street is constrained from complying with the block length standard by abutting lots accessed by Jerger Street in Cascadia Village and by the location of FSH natural resources north of the site.” While the applicant could include an additional north-south street between Street A and Averill Parkway that stubs to the north property line, the street would dead-end into an existing house and would only be able to extend to connect to Jerger Street if an existing house or two existing houses are removed in the future. Staff 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. Staff 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. Staff 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. Staff 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 staff report, the proposal meets applicable code sections, or will be able to meet the code with conditions of approval. Staff 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 supplemental narrative (Exhibit B) states “topographic and built constraints and the location of an ephemeral stream on the subject property make construction of streets north and south of Maple Street impracticable and undesirable. These conditions are generally unique to the subject property and result from physical limitations of the property.” Staff finds criterion F is met.
29. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to allow the north block face of Maple Street between Street A and Averill Parkway to exceed the 400-foot maximum block length.**

Variance B: Block Length - South Side of Maple Street

30. The applicant requested a Type III Variance to Section 17.100.120(B) to exceed the 400-foot maximum block length for the south side of Maple Street.
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 a 721.35-foot-long block face along the south side of Maple Street between Street A and Street B. The supplemental narrative (Exhibit B) states: “The south side of Maple Street is constrained by steep slopes and the location of an ephemeral drainage that runs through this portion of the site.” While the applicant could include an additional north-south street between Street A and Street B that stubs to the south property line, the street would have negative impacts to an existing stream and proposed retention trees. In addition, the street would need to traverse an area that contains 35 percent or greater slopes, which would not be practicable or supported by the development code. Both the existing stream and an area of 35 percent or greater slopes cut through Tract A and Lot 27, respectively, at a diagonal (from the southeast to the northwest). In addition, 10 of the 38 proposed retention trees are located on Lot 27 towards the middle of the block on the south side of Maple Street. The addition of a mid-block north-south street to the south of Maple Street between Street A and Street B would have negative impacts to the existing stream and existing trees and would not be practicable due to the existing steep slopes. Staff finds criterion A is met.
32. 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. Staff finds criterion B is met.

33. 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. On the contrary, granting a variance to allow the south block face of Maple Street between Street A and Street B to exceed 400 feet will better protect the existing trees and stream, which is consistent with the Comprehensive Plan Goal 5 policies for protection of natural resources. Staff finds criterion C is met.
34. 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. Staff finds criterion D is met.
35. 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 staff report, the proposal meets applicable code sections, or will be able to meet the code with conditions of approval. Staff finds criterion E is met.
36. 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 supplemental narrative (Exhibit B) states “topographic and built constraints and the location of an ephemeral stream on the subject property make construction of streets north and south of Maple Street impracticable and undesirable. These conditions are generally unique to the subject property and result from physical limitations of the property.” Staff finds criterion F is met.
37. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to allow the south block face of Maple Street between Street A and Street B to exceed the 400-foot maximum block length.**

Variance C: Bike/Pedestrian Accessway – North Side of Maple Street

38. The applicant requested a Type III Special Variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the north side of Maple Street between Street A and Averill Parkway, which exceeds 600 feet.
39. 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.
40. Staff believes the requested variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the north side of Maple Street between Street A and Averill Parkway meets Criterion A. The applicant could provide a bike/pedestrian accessway stubbed to the north property line that aligns with the existing 5-foot-wide public utility easements on each side of the property line between the lots in the subdivision to the north; however, there is not an existing constructed bike/pedestrian accessway in the subdivision to the north that a proposed bike/pedestrian accessway could connect to and the existing easement does not include a pedestrian easement. The existing easement is for utility purposes only. Since the subdivision to the north is already fully developed, it is unlikely that a bike/pedestrian accessway will be built. Furthermore, staff does not believe approval of the variance will be materially detrimental or injurious to other property owners in the vicinity. However, as noted by the City Engineer (Exhibit U), the property to the northwest of the subject property (Tax Lot 3600) is not yet developed. The City Engineer states that the proposal should accommodate the extension of the 6-foot-wide soft-surface pedestrian path in Tract A to the north property line. Rather than construct the extension of the pedestrian trail north of Maple Street with this application, the City Engineer suggests that the applicant designate sufficient area to accommodate a future extension of the path upon development of the property to the northwest.
41. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to not require a bike/ped accessway on the north side of Maple Street between Street A and Averill Parkway. The applicant shall include a pedestrian easement and provide sufficient width for a pedestrian path through the stream, wetland, and tree protection tract between Lots 10 and 11 such that it can connect north to the cul-de-sac detailed on the future street plan upon development of the property to the northwest (Tax Lot 3600).**

Variance D: Bike/Pedestrian Accessway – South Side of Maple Street

42. The applicant requested a Type III Special Variance to Section 17.100.120(D) to not include a bike/pedestrian accessway with a minimum 10-foot-wide paved path in a 15-foot-wide tract or right-of-way on the south side of Maple Street between Street A and Street B, which

exceeds 600 feet. Instead, the applicant is proposing a six-foot-wide soft surface trail in Tract A that will stub to the south property line.

43. 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.

44. Staff believes the requested variance to Section 17.100.120(D) to not include a bike/pedestrian accessway on the south side of Maple Street between Street A and Street B meets Criterion A. Section 17.100.120(D) requires the bike/pedestrian accessway to have a minimum paved width of 10 feet within a 15-foot-wide tract or right-of-way. As stated in the supplemental narrative (Exhibit B), the area south of Maple Street contains steep slopes, which makes construction of a 10-foot-wide improved path impracticable. Rather than provide a paved path in compliance with the standards of Section 17.100.120(D), the applicant proposes a 6-foot-wide soft surface trail through Tract A. The trail is proposed to be wood chip or gravel and will connect Maple Street to the south property line. Staff does not believe approval of the variance will be materially detrimental or injurious to other property owners in the vicinity and inclusion of a mid-block path will enhance future pedestrian connectivity.

45. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to not include a bike/pedestrian accessway with a minimum 10-foot-wide paved path in a 15-foot-wide tract or right-of-way on the south side of Maple Street between Street A and Street B. Staff recommends the Planning Commission require a six-foot-wide soft-surface trail through Tract A as proposed. The trail shall be compacted gravel and shall be located outside of the critical root zone (of 1 foot per 1 inch DBH) of all protected retention trees.**

#### Variance E: Transit Street Orientation

46. The applicant requested a Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road, a transit street.

47. 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.

48. Staff believes the requested variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road meets Criterion A. As stated in Section 17.82.00, the intent of orienting dwellings towards a transit street is “to provide for convenient, direct, and accessible pedestrian access to and from public sidewalks and transit facilities; provide a safe, pleasant and enjoyable pedestrian experience by connecting activities within a structure to the adjacent sidewalk and/or transit street; and, promote the use of pedestrian, bicycle, and transit modes of transportation.” The Development Code does not allow driveway access to higher classification streets such as Bornstedt Road, a minor arterial street. The front doors could be oriented to Bornstedt Road with a rear loaded garage oriented to Street A; however, staff recognizes that the front doors on Bornstedt Road would essentially be false front doors, which is not the intent of the code. Staff does not believe the approval of the variance will be materially detrimental or injurious to other property owners in the vicinity. The Planning Commission previously approved a similar variance request for the houses along the west side of Bornstedt Road to face the internal street network rather than Bornstedt Road as part of the Marshall Ridge subdivision approval (File No. 17-066). Typically, when a transit street orientation variance is approved, the Planning Commission requires additional design requirements for all lots that receive approval to not face the transit street in order to better meet the intent of the code by creating a more robust aesthetic appearance along the transit street. These additional design requirements typically include more decorative fences as well as additional Sandy Style elements on the transit street facing façade.

For the reasons discussed, **staff recommends the Planning Commission approve the requested Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road, a transit street. Staff further recommends the Planning Commission require the applicant to add additional design elements and decorative fencing along the Bornstedt Road facing sides of Lots 14-18 per the following:**

- **The applicant shall construct a decorative fence on the Bornstedt Road facing side of Lots 14-18 to enhance the visual appeal of these lots from the adjacent street and match the existing fencing along the west side of Bornstedt Road installed with the Marshall Ridge subdivision. The fence shall include the following design details:**
  - **Constructed of vertical black metal or faux metal fencing material.**
  - **No less than 3-inch gap between vertical pickets.**
  - **4-feet to 6-feet in height.**
  
- **Builders of individual lots shall incorporate all of the following design details on the Bornstedt Road elevations of Lots 14-18 where applicable:**
  - **Decorative gables – including three or more of the following:**
    - **A window with grids.**
    - **A trimmed vent. The trim must match the trim on the windows and the vent must be at least 4 square feet in area.**
    - **Cross or diagonal bracing, shingles, trim, corbels, exposed rafter ends, or brackets.**
    - **Decorative ‘belly-band’ with an alternative paint color to the siding color, between building floors.**
  - **Mixture of siding materials, including shake or horizontal lap siding with an alternative paint color to the primary siding color.**
  - **Recessed or covered rear entries.**
    - **The covered area must be at least 48 square feet and a minimum of 8 feet wide.**
    - **The recessed entry must feature vertical support posts.**
  - **Minimum four-inch wide trim or 12-inch wide shutters around all windows.**

**The applicant shall submit proposed decorative fence for staff review and approval. Builders of individual lots shall submit proposed elevation designs for staff review and approval.**

#### Variance F: Retaining Wall Height

49. The applicant requested a Type III Special Variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.
50. 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.
51. Staff believes the requested variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27 meets Criterion A. Per Section 17.74.40(A.2), the maximum height of a retaining wall and/or fence on property in residential zones shall not exceed 4 feet in height in the front yard. The supplemental narrative (Exhibit B) states “the 4 - 8 foot wall proposed to be constructed along the front of Lot 27 is needed to hold up the extension of Maple Street through the property and to protect retained trees on this lot. This wall is designed to raise the road grade of this portion of the road and will not be visible from either the road surface or the sidewalk along this street.” Staff does not believe approval of the variance will be materially detrimental or injurious to other property owners in the vicinity and the retaining wall will allow for the extension of Maple Street and better protection of retention trees.
52. For the reasons discussed, **staff recommends the Planning Commission approve the requested variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.**

### **DENSITY CALCULATIONS – Chapter 17.30**

53. The total gross acreage for the entire property is 12.74 acres. After removing the proposed right-of-way (2.66 acres) and proposed stormwater tract (0.79 acres), the net site area (NSA) for the subject property is reduced to 9.29 net acres.
54. The subject property is zoned Single Family Residential (SFR); therefore, a minimum of 3 units per acre and a maximum of 5.8 units per acre are allowed. The minimum density for the subject area is  $9.29 \text{ net acres} \times 3 \text{ units/net acre} = 27.87$  rounded up to 28 units. The maximum density for the subject area is  $9.29 \text{ net acres} \times 5.8 \text{ units/net acre} = 53.88$  rounded up to 54 units. The applicant identifies 43 lots, within the density range. For the purposes of calculating maximum density and in accordance with House Bill 2001, duplexes shall be counted the same as a single-family residence (i.e., duplexes shall count as one dwelling unit).

## **ZONING DISTRICTS – Chapter 17.34**

55. The applicant proposes constructing 43 single-family dwellings or duplexes as permitted in the single-family residential zoning district per Section 17.34.10(A). Section 17.34.30 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 7,500 square feet and contain an average lot width of 60 feet as required.
56. Section 17.34.30(C) requires all lots to have a minimum lot frontage of 20 feet. A majority of the lots contain 60 feet of frontage. The applicant is proposing one (1) flag lot (Lot 19), with 20.45 feet of frontage and a 20-foot-wide flag, and a second lot (Lot 27) that has 25.7 feet of frontage on Maple Street but is accessed via the 20-foot-wide flagpole portion of Lot 19. All lots are proposed to have a minimum of 20 feet of lot frontage. Therefore, the proposal meets the minimum lot frontage requirements of Section 17.34.30(C).
57. 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.
58. Section 17.34.40(B) requires that all proposed dwelling units be connected to sanitary sewer if service is currently within 200 feet of the site, which it is. The applicant's original proposal lumped nine (9) private sanitary sewer force mains in a PUE. In response, the Public Works Director required the applicant to construct gravity sewers draining to the public sewer line in Jerger Street. The updated proposal details a 15-foot-wide sanitary sewer easement between proposed Lots 7 and 8 that connects to the existing 10-foot-wide sanitary sewer easement between Lots 253 and 254 of the Cascadia Village No. 6 Subdivision to connect the proposed sanitary sewer line in Maple Street with the existing public sewer line in Jerger Street as required.
59. The applicant's narrative (Exhibit B) states that a well currently exists on the property and an onsite septic system may exist. The narrative further states that these systems will be decommissioned in accordance with applicable regulations and the applicant will provide proof of the decommissioned system with construction documents. **The applicant shall submit a copy of the decommission paperwork for the well and the onsite septic system, if applicable.**
60. 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 applicant's narrative states that a new street network will be constructed to serve each dwelling as required. The proposal includes extensions of Averill Parkway to the south property line and Maple Street to the east property line. In addition, the proposal includes two proposed north-south streets: Street A, which extends to the north and south property lines, and Street B, which extends south from its proposed intersection with Maple Street to the south property line.
61. 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 public streets. The applicant is proposing one (1) flag lot (Lot 19), with 20.45 feet of frontage on Street A and a 20-foot-wide flagpole

for access. In addition, the applicant is proposing one lot (Lot 27) that has a 25.7-foot frontage on Maple Street but will take access from a 20-foot-wide access easement on the flag portion of Lot 19. Therefore, the proposal meets the minimum lot frontage requirements of Section 17.34.40(D).

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

62. Chapter 17.80 requires all residential structures to have a minimum setback of 20 feet to collector and arterial streets. Bornstedt Road is classified as a minor arterial. **All structures on Lots 14-18 shall have a minimum setback of 20 feet to Bornstedt Road.**
63. 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. 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. Bornstedt Road is a transit street, thus lots abutting Bornstedt Road are required to meet the standards of Section 17.82.20. The applicant applied for a Special Variance to Section 17.82.20, which is discussed in Chapter 17.66 of this staff report.

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

64. This finding analyzes the Traffic Impact Study (Exhibit E). Due to the requirements of House Bill 2001, the proposed 43-lot subdivision could result in 86 duplex units.

- a. The applicant submitted a Traffic Impact Study (Exhibit E) from Ard Engineering, dated May 20, 2022. According to the Traffic Impact Study (TIS), the proposed residential development would generate up to 32 site trips during the morning peak hour, 43 trips during the evening peak hour, and 406 daily site trips if developed with 43 single-family homes, or 41 site trips during the morning peak hour, 49 trips during the evening peak hour, and 620 daily trips if developed with 86 duplex units.
- b. Ordinance 2019-16 includes the following condition of annexation approval for the subject property: “Prior to the future development of the subject property the development shall be limited to no more than 43 single family lots or 388 average daily trips.” The proposed subdivision includes 43 single-family home lots in compliance with the annexation condition.
- c. The City Transportation Engineer (Exhibit O) reviewed the TIS and provided the following comments:
  - i. An evaluation of traffic signal warrants at the Highway 211/Dubarko Road intersection showed the warrants would not be met based on traffic volumes under any analysis scenario. Based on the crash history at this location, the existing two-way traffic control was recommended to be upgraded to all-way stop control by Ard Engineering. However, the City Transportation Engineer recommends the intersection be studied more to determine a solution and that installation of an all-way stop would be premature prior to a study.
  - ii. A sight distance evaluation at the Bornstedt Road/Maple Street (site access) intersection found the minimum intersection sight distance standards will be met to the north and south of the intersection once the existing vegetation and embankment north of the proposed access is removed during site development. **Minimum AASHTO sight distance requirements shall be met at the site access. The proposed Maple Street approach at Bornstedt Road shall be constructed to provide a minimum of 500 feet of intersection sight distance based on the 45 mile per hour posted speed on Bornstedt Road. Vegetation and grading shall be cut back, as required, to provide adequate sight distance. The available sight distance shall be reevaluated by the applicant and approved by the City Traffic Engineer prior to final site plan approval.** Clackamas County Transportation (Exhibit T) requires that **a profile and survey information shall be provided demonstrating adequate intersection sight distance.**
  - iii. **The new roadway connection onto Bornstedt Road shall be constructed directly opposite to Maple Street and controlled by a stop sign.** Per the City Engineer (Exhibit U), the alignment of Maple Street does not adequately consider the location of existing facilities east of Averill Parkway. **The Maple Street roadway extension shall consider how to accommodate the existing improvements east of Averill Parkway.**
  - iv. **The development shall pay transportation system development fees based on the estimated new vehicle trips generated by the development.**

65. 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 three temporary dead-end streets (Averill Parkway, Street A, and Street B) that will be stubbed to the southern property line of the subject property (Street A is also proposed to stub to the northern property line) and one temporary dead-end street stubbed to the east property line (Maple Street). The applicant is requesting variances to allow the north and south sides of Maple Street to exceed 400 feet. With approval of the requested variances to block length, the proposed subdivision meets the standards of Section 17.84.50 (E).
66. The proposed development includes the need to name Street A and Street B. **The street names shall be related to the east coast town/college theme.**
67. Sections 17.84.50(F and G) require public streets to be improved to City standards along the entire frontage of the property. The Street and Utility Plan (Exhibit C, Sheet C8) details street improvements extending to the property boundary on all streets with the exception of the north end of Street A. The street improvements proposed adjacent to Lots 13 and 14 do not extend to the edge of the adjacent property to the north as required in Sections 17.84.50(F.1) and 17.84.50(G). **The applicant shall update the Street and Utility Plan to detail street improvements on the frontages of Lots 13 and 14 that extend to the property line per Sections 17.84.50(F.1) and 17.84.50(G). Retaining walls in the right-of-way or slope easements on adjacent parcels may be required to accomplish this. The frontage improvements for Tract A (and any additional tracts) shall be completed prior to final plat approval.**
68. Bornstedt Road is classified as a minor arterial street in the City of Sandy Transportation System Plan. As detailed on the Street and Utility Plan (Exhibit C, Sheet C8), the applicant is proposing half street improvements along Bornstedt Road. Clackamas County Transportation has jurisdiction over access and improvements on Bornstedt Road adjacent to the subject property and, therefore, reviewed the original 42-lot subdivision proposal and provided comments (Exhibit T). At the time of publication of this staff report, staff had not received any updated comments from the County. If the applicant is advised to or chooses to modify the proposal in terms of access location and/or design following the preparation of the comments submitted by Clackamas County Transportation, the County requests an opportunity to review and comment on such changes prior to a decision being made. Clackamas County Transportation's comments are summarized below with corrections by the City of Sandy.
- A. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with *Clackamas County Roadway Standards*.**
- B. Prior to commencement of site work and recording of the plat the applicant shall obtain a Development Permit from the Clackamas County Engineering Division for design and construction of required improvements, utility installation, and access to Bornstedt Road. To obtain the Permit, the applicant shall submit plans prepared and stamped by an Engineer registered in the State of Oregon. Prior to final plat**

**approval:** all required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond when access has met minimum Substantial Completion requirements, per Roadway Standards Section 190. Performance bonds shall be in the amount of 125 percent of the approved engineer's cost estimate of the required improvements.

- C. The applicant shall dedicate approximately 5 feet of public right-of-way along the entire Bornstedt Road frontage to provide a minimum 35-foot one half right-of-way width. The right-of-way centerline and width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.**
- D. The applicant shall grant an 8-foot-wide public easement for signs, slope and public utilities along the entire Bornstedt Road right-of-way frontage.**
- E. Minimum improvements on the Bornstedt Road frontage consistent with *Clackamas County's Roadway Standards* include, but are not limited to, up to a one half-street improvement, including:**
  - i. Up to a minimum 20-foot wide, one half-street improvement shall be constructed along the entire site frontage to arterial roadway standards, with a structural section per Clackamas County Roadway Standards Standard Drawing C100.**
  - ii. The half street improvement design shall include cross sections every 25 feet per Roadway Standards Section 250.7.5. The design shall demonstrate that the new curb line and cross slope to the existing centerline allow for construction of a curb on the opposite side of the road with cross slopes that meet minimum standards.**
  - iii. Lane transitions shall be provided per Roadway Standards Section 250.6.4 based on a 45 MPH design speed.**
  - iv. Standard curb, or curb and gutter if curblane slope is less than one percent.**
  - v. Adjacent to the curb, a 5-foot landscape strip, including street trees shall be constructed along the entire site frontage.**
  - vi. A minimum 6-foot-wide unobstructed sidewalk shall be constructed along the entire site frontage. If the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk shall require the construction of a concrete ramp, adjacent to the end of the sidewalk, providing a transition from the new sidewalk to the edge of the pavement. The ramps shall meet ADA guidelines.**
  - vii. Dual curb ramps shall be constructed per Oregon Standard Drawing (RD 900 Series) at the SE Maple Street intersection with Bornstedt Road.**



- viii. The intersection of Maple Street with Bornstedt Road shall be constructed at a 90-degree angle, per Section 250.8.2 and 250.8.4 of the Roadway Standards. A minimum 50-foot-long landing shall be constructed with an average grade of no more than 5 percent, per Roadway Standards Section 250.7.3**
  - ix. Provide minimum intersection sight distance of 500 feet north and south at the Maple Street intersection with Bornstedt Road per Section 240 of the Clackamas County Roadway Standards. Profile and survey information shall be provide demonstrating adequate intersection sight distance.**
  - x. Drainage facilities shall be provided in conformance with Clackamas County Roadway Standards, Chapter 4.**
- F. A note shall be placed on the plat indicating an access restriction along the Bornstedt Road frontage of Lots 14-18.**

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

68. 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.**
69. Section 17.84.30 includes pedestrian and bicycle requirements. Section 17.84.30(A.1) requires all proposed sidewalks on local streets to be a minimum of five feet wide and separated from curbs by a tree planting area that is a minimum of five feet in width. Section 17.84.30(A.2) requires all proposed sidewalks on arterial or collector streets to be six feet wide and separated from curbs by a tree planting area that is a minimum of five feet in width. **Six-foot-wide sidewalks shall be constructed along Bornstedt Road as required by Section 17.84.30(A.2). Five-foot wide sidewalks shall be constructed along all proposed local streets as required by Section 17.84.30(A.1). All frontages shall include 5-foot-wide planter strips.**
70. 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 Plan Set (Exhibit C) details sidewalks on all existing and proposed streets. The proposal also includes sufficient width for the required 6-foot-wide bike lane along Bornstedt Road identified as project B3 in the TSP; however, the bike lane is not called out in the plan set. **The applicant shall update the Street and Utility Plan to detail the bike lane on the plan as well as on Section B. The applicant shall submit a striping plan for the bike lane.** The proposal includes a soft-surface pedestrian path through Tract A that will connect Maple Street to the adjacent property to the south; however, the pathway does not meet the requirements for a bicycle and pedestrian accessway as required by Section 17.100.120(D). In addition, the applicant is not proposing a bike/pedestrian accessway on the north side of Maple Street. The applicant requested two (2) variances to Section 17.100.120(D) to not provide a mid-block bike/pedestrian accessway through the north and south block faces of Maple Street, both of which exceed 600 feet. The variance requests are discussed further in Chapter 17.666 of this staff report. With approval of the requested variances as recommended by staff, the proposal meets the requirements of Section 17.84.30.

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

71. 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 SFR zoned lots is included in Exhibit C, Sheet C10.
72. 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.**
73. 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 Bornstedt Road frontage of Lots 14-18 to comply with Section 17.98.80(A). A VNAR strip shall also be depicted on the plat for the Maple Street frontages of Lots 14, 15, and 27 and the south terminus of Averill Parkway, the south terminus of Street B, the south and north termini of Street A, and east end of Maple Street.**
74. 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. As detailed on the Street and Utility Plan (Exhibit C, Sheet C8) and the On-Street Parking and Street Tree Plan (Exhibit C, Sheet C10), the applicant is proposing multiple pairs of driveways separated by 2 feet, which effectively creates a 50-foot-wide driveway approach. The 2-foot separation does not provide sufficient space to plant a street tree, located utility connections, or provide a safety break for a pedestrian. Based on the submitted plans, it is unclear where the utilities are proposed to connect to the individual lots. **The applicant shall update the On-Street Parking and Street Tree Plan to detail the locations of utility connections. The applicant shall update the site plan to detail a minimum of 16 feet between driveway approaches, or shall detail shared driveways at a maximum of 24 feet wide.** The proposal also includes three temporary fire turnarounds flanked by a driveway on either side, which results in an even wider driveway effectively. Once the property to the south develops, the temporary fire turnaround easements will be terminated, the paved area on the private lots will need to be removed and landscaped, and the driveway approach cut will need to be removed and replaced with curb, planter strips, and street trees. It is unclear how this will happen and who will complete the improvements and the City's Development Code is silent on the matter. Rather than require individual property owners of the lots with fire turnarounds to complete these upgrades, staff recommends the costs be split between the project applicant and the future developer of the property to the south. **Staff recommends the Planning Commission require the applicant to submit a cash payment to cover half the estimated cost of terminating the temporary fire turnaround easements, removing the paved fire turnarounds on the private lots and replacing with landscaping, and removing the driveway approaches and replacing them with curb, planter strip, and street trees.**
75. **All driveways shall meet the requirements of Section 17.98.100. No driveway shall exceed a grade of 15 percent at any point along the driveway length, measured from the right-of-way line to the face of garage or furthest extent of the driveway. 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. 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. The location, number, and width of all driveway approaches shall not exceed the spacing and dimensional standards in Section 17.98.100.

76. 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.**
77. 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 is required within 300 feet of each of the 43 lots zoned as SFR. Exhibit C, Sheet C10 shows that 97 on-street parking spaces have been identified; however, it is not clear if there is a minimum of one on-street parking space within 300 feet of each lot as there is no correlation between the parking space numbers and the lot numbers. **The applicant shall update the on-street parking space numbers to detail a minimum of one on-street parking space within 300 feet of each lot.** No parking courts are proposed by the applicant.

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

78. Section 17.84.60 outlines the requirements of public facility extensions. The applicant submitted a Street and Utility Plan (Exhibit C, Sheet C8) which shows the location of proposed public water, sanitary sewer, and stormwater drainage facilities. The City Engineer reviewed the proposal and provided comments (Exhibit U). **All public infrastructure improvements shall comply with the City of Sandy standards and Public Works requirements. A more thorough review shall be required once the construction plans and details are provided.**
79. Broadband vault/conduit infrastructure are required for all new developments. **Broadband fiber service shall be detailed with construction plans. The applicant shall coordinate with the SandyNet General Manager. The applicant shall provide PGE preliminary or final plans to Greg Brewster (gbrewster@ci.sandy.or.us) for design and joint use of common dry utility trench as well as material requirements and standards.**
80. 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 shall be installed underground. The developer will make all necessary arrangements with franchise utility providers. **The developer shall install underground conduit for street lighting.**
81. 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. 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.**
82. 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.
83. 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 the street light 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.**
84. 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.**
85. The Fire Marshal (Exhibit N) reviewed the proposal and expressed one concern. The Street and Utility Plan (Exhibit C, Sheet C8) details a 12 percent grade along Maple Street east of Street A. Per the Oregon Fire Code, access roadway grades shall not exceed 10 percent.

However, an alternate method of construction, which may include but is not limited to the installation of automatic fire sprinkler systems, in accordance with ORS 455.610 may be approved to mitigate this condition. **The applicant shall work with the Fire Marshal to determine an alternate method of construction to address the Oregon Fire Code access roadway grade requirement.** In addition, the Fire Marshal 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 upon building permit submittal. 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. 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 Fire Code Application Guide requires a minimum turning radius of 28 feet inside and 48 feet outside as measured from the same center point. The applicant shall meet the minimum turning radius requirements of the Fire Code Application Guide. The applicant shall adhere to all other requirements of the Sandy Fire District.**

86. **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.**
87. 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. Per the City Engineer (Exhibit U), sanitary sewer capacity may be limited when construction plans are submitted. The City is currently expanding the plant capacity and working to secure DEQ approvals for additional development. **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. 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 486B, and OAR 340-052 and OAR 340-052-0040(2).**
88. Section 17.100.250(A) details requirements for stormwater detention and treatment. A public stormwater quality and detention facility is proposed as Tract A to be located on the south side of Maple Street between proposed Streets A and B. **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 City Engineer (Exhibit U), the stormwater calculations and detention pond sizing shall include the offsite contribution if all flow is discharging into the detention basin. Fencing shall be required around the detention pond and access shall be provided for equipment to enter if needed.**

89. 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**

90. 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, 0.55 acres (43 x 3 x 0.0043). The applicant is proposing to pay a fee-in-lieu of parkland dedication.
91. 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 Systems Development Charges, and is not eligible for a credit of Park Systems 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, to review the original 42-lot subdivision proposal. In a memo dated September 20, 2021 (Exhibit P), the Board recommended a fee-in-lieu of parkland dedication given the size of the development, and its proximity to both Bornstedt Park and Cascadia Park. The Board met again on June 8, 2022, to review the updated 43-lot subdivision. The Board did not have a quorum so wouldn't have been able to modify the recommendation; however, the Board members in attendance unanimously agreed to keep the original recommendation of a fee-in-lieu. The Board was also supportive of the proposed trail through Tract A, particularly since the recently adopted Parks and Trails Master Plan update includes a trail (T48) that traverses the subject property.
92. 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 by 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.
93. Section 17.86.30 pertains to land dedication procedures. **Staff recommends increasing the size of Tract A to include the clump of retention trees on the north end of Lot 27 such that Tract A becomes a joint storm detention facility and tree protection tract to be dedicated to the City or create a separate tree protection tract on the north side of Lot 27 to be owned and maintained by an HOA or other private owner. Staff also recommends a joint tree protection and stream/wetland protection tract between Lots**



**10 and 11 either to be dedicated to the City or owned and maintained by an HOA or other private owner.** Section 17.86.30(A) states: “Prior to acceptance of required parkland dedications, the applicant/developer shall complete the following items for all proposed dedication areas: 1) The developer shall clear, fill, and/or grade all land to the satisfaction of the City, install sidewalks on the park land adjacent to any street, and seed the park land; and, 2) The developer 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). The results of this study shall indicate a clean environmental record. **Should the applicant choose to dedicate one or both tracts to the City, the applicant shall adhere to the requirements of Section 17.86.30(A.1 and 2) with the exception that the applicant shall not clear, fill, and/or grade the tree, wetland, and stream protection tracts.**

## **URBAN FORESTRY – 17.102**

94. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. An Arborist Report prepared by Todd Prager of Teragan & Associates and dated April 25, 2022, 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, Sheets C4-C6 and the Tree Retention and Protection Plan is shown in Exhibit C, Sheet C7. The following findings address the tree retention standards and include conditions in the event that the application is approved.
95. The property contains 12.74 acres requiring retention of 38 healthy trees, 11 inches DBH or greater, and likely to grow to maturity ( $12.74 \times 3 = 38.22$ ). The arborist report states that a total of 38 trees are proposed to be retained and 709 trees are proposed to be removed. All 38 of the trees proposed to be retained were evaluated by the project arborist to be in good condition, over 11-inch DBH, and not considered nuisance species. However, the arborist report states that the tree assessment/inventory was completed in July 2020, which was before the windstorms in the fall of 2020, the ice storm in the winter of 2021, and the snowstorm in April 2022, all of which caused significant damage to trees in Sandy. The Arborist Report was reviewed by a third-party reviewer. The third-party review was conducted by Damien Carré of Earth Care Designs, LLC dba Oregon Tree Care and is dated June 14, 2022 (Exhibit V). The review included a site visit and visual ground assessment of the condition of the trees conducted on June 14, 2022. Of the 38 trees proposed for retention by the applicant, all were found to be in good condition with the exception of Tree #381, which failed and is laying on the ground with an approximately 8-foot-tall snag. **Tree #381 shall not be counted towards the minimum retention requirement.** As discussed in more detail below, many of the proposed retention trees have critical root zones that extend onto adjacent properties, making it difficult to ensure the trees will remain healthy and grow to maturity. Staff anticipates that the tree retention plan will need to be reevaluated and updated. **The applicant shall submit an updated arborist evaluation and tree retention plan detailing a minimum of 38 trees proposed for retention that are 11-inches DBH or greater, non-nuisance species, healthy, in good condition, and likely to grow to maturity; the report shall confirm that the trees did not suffer any damage during the multiple storms since the original assessment.**
96. Four (4) trees proposed for retention are deciduous (3 bigleaf maples and one red alder) and the remaining 34 are conifer species (32 Douglas firs and 2 western hemlocks). The trees range in size from 11 inches DBH to 47 inches DBH, with one bigleaf maple (Tree #95) specified at 8-, 7-, and 5-inches DBH with multiple leaders at ground level. All trees were in good condition as identified by the project arborist; however, as previously stated, the assessment was done in July 2020, prior to several severe weather events. The applicant is proposing to retain all 38 trees on private, developable lots. Staff has concerns about all of the retention trees being located on developable lots. Based on previous subdivision developments, staff has seen that many the trees retained on private lots are either illegally removed once the new homeowner moves in, or the new homeowner applies for a permit to remove the tree expressing concerns about the tree being a hazard tree due to its location in their rear yard and proximity to their house. Rather than create a potential future conflict between tree retention and private homeowners, **staff recommends that a majority of the**

retention trees be located in a separate private tree retention tract. Staff recommends increasing the size of Tract A to include the clump of retention trees on the north end of Lot 27 such that Tract A becomes a joint storm detention facility and tree protection tract to be dedicated to the City, or creating a separate tree protection tract on the north side of Lot 27 to be owned and maintained by an HOA or other private owner. To accomplish this, staff recommends the Planning Commission approve two variances to Section 17.34.30(C) to allow Tax Lots 19 and 27 to each have only 10 feet of frontage on a public street (Street A) for a total combined width of 20 feet. This is effectively the same as the applicant's proposal in which Tax Lot 19 has a 20-foot-wide flagpole with an access easement to Tax Lot 27. Staff also recommends a joint tree protection and stream/wetland protection tract between Lots 10 and 11 either to be dedicated to the City or owned and maintained by an HOA or other private owner. The applicant shall install fences along the property lines that abut the wetland, stream, and tree protection tract between Lots 10 and 11, along the Lot 26 and Lot 27 property lines that abut the tree protection tract adjacent to the stormwater detention facility, and around the stormwater detention facility to prevent encroachment into the natural area. The fences shall be black powder coated chain link. The pedestrian path on Tract A shall be located outside of the stormwater detention facility fencing.

97. Staff has additional concerns about whether Trees #38, 44, 45, 139, 141, 142, 144, 297, 351, 353, 354, 366, 694, and 695 will be able to be adequately protected due to the fact that a large portion of their critical root zones are located on the adjacent properties to the north or east. The third-party review assessed root and tree protection concerns, including the percent of the critical root zone of each of the proposed retention trees that's on an adjacent property, where applicable. The review identified the following root/protection concerns:

- Tree # 38: 50% of CRZ and 60% of canopy on adjacent property; property line is within the minimum root protection zone
- Tree #44: 30% of the CRZ on adjacent property; property line is within the minimum root protection zone; property line 6 feet from tree
- Tree #45: 20% of the CRZ on adjacent property; property line is within the minimum root protection zone; property line 8 feet from tree
- Tree #139: 35% of the CRZ on adjacent property; property line is within the minimum root protection zone; property line 6 feet from tree
- Tree #141: 45% of the CRZ and 50% of the canopy on adjacent property; property line is within the minimum root protection zone; property line 1 foot from tree
- Tree #142: 45% of the CRZ and 50% of the canopy on adjacent property; property line is within the minimum root protection zone; property line 1 foot from tree
- Tree #144: 42% of CRZ and 50% of canopy on adjacent property; property line is within the minimum root protection zone; property line 2 feet from tree
- Tree #297: 20% of CRZ on adjacent property; property line is within the minimum root protection zone; property line 13 feet from tree
- Tree #351: 20% of CRZ on adjacent property; property line is within the minimum root protection zone; property line 18 feet from tree

- Tree #352: 15% of CRZ on adjacent property; property line is within the minimum root protection zone; property line 17 feet from tree
- Tree #353: 25% of CRZ on adjacent property; property line is within the minimum root protection zone; property line 13 feet from tree
- Tree #354: 45% of CRZ and 50% of canopy on adjacent property; property line is within the minimum root protection zone; property line 2 feet from tree
- Tree #366: 20% of CRZ on adjacent property; property line 22 feet from tree
- Tree #371: 2% of CRZ on adjacent property; property line 26 feet from tree
- Tree # 688: 2% of CRZ on adjacent property; property line 25 feet from tree
- Tree #691: 10% of CRZ on adjacent property; property line 17 feet from tree
- Tree #693: 18% of CRZ on adjacent property; property line 14 feet from tree
- Tree #694: 35% of CRZ on adjacent property; property line is within the minimum root protection zone; property line 5 feet from tree
- Tree #695: 30% of CRZ on adjacent property; property line is within the minimum root protection zone; property line 9 feet from tree

The third-party analysis concludes that the following trees cannot be adequately protected by the root protection zone on the subject property: Trees #38, 44, 45, 139, 141, 142, 144, 297, 351, 353, 354, 694, and 695. **Trees # 38, 44, 45, 139, 141, 142, 144, 297, 351, 353, 354, 694, and 695 shall not be counted towards the minimum required tree protection standards.**

**As part of the updated arborist report and tree protection plan, 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 an adjacent property and whether any portion of the minimum root protection zone (at 0.5 feet per 1 inch DBH) is located on an adjacent property for all proposed retention trees that have CRZs or minimum root protection zones on adjacent property. If any portion of the minimum root protection zone or if 25 percent or more of the critical root zone is located on an adjacent property, the applicant shall not be able to count those trees towards the minimum retention standard (though the trees can and are still recommended to be retained).**

98. The Arborist Report (Exhibit F) provides recommendations for protection of retained trees including identification of the recommended tree protection zone for these trees at the critical root zone of 1 foot per 1 inch DBH as detailed on Attachment 2 of the report. The requirements of Section 17.102.50(B) shall be complied with prior to any grading or tree removal on the site. **In compliance with the project arborist's recommendations, the applicant shall install tree protection fencing at the critical root zone of 1 foot per 1-inch DBH to protect the 38 retention trees on the subject property as well as at the critical root zone of 1 foot per 1 inch DBH of all trees on adjacent properties. Where the retention trees are located within the tree protection tract (north end of Lot 27) and the combined tree, wetland, and stream protection tract (between Lots 10 and 11), the fencing shall be installed at the CRZs or edges of the protection tracts, whichever is greater. 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. Erosion control fencing shall be installed outside of the tree protection area fencing. The applicant 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 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 information as recommended by the project arborist:

**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. Todd Prager, Project Arborist – 971-295-4835.

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.

99. The Topographic Survey (Exhibit C, Sheet C3) details several trees proposed for removal that are located in close proximity to trees proposed for retention. These include trees located at the rear of Lots 1, 3, 4, 5, 6, 10, 13, 40, 41, and 42 and trees located at the front of Lot 27 (which staff recommends be protected as a tract). Staff expects that the lot numbers with retention trees will change based on the updated arborist report and tree protection plan. **Staff recommends all trees within the critical root zones of retention trees be left as snags rather than completely removed in order to minimize negative impacts to the remaining retention trees. If the applicant does not retain the trees proposed for removal from within the critical root zones of protected retention trees as snags, those trees shall be removed in a way that does not harm or damage adjacent trees. 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. If the trees proposed for removal from within the critical root zones of protected retention trees are removed, their removal 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. The applicant shall submit a post-construction report prior to plat recording 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.**

100. The Arborist Report (Exhibit F) from Teragan and Associates, Inc. and the third-party review from Earth Care Designs, LLC dba Oregon Tree Care include recommendations for additional protection measures related to tree removal as well as tree protection recommendations for the trees to be retained. **The applicant shall adhere to all recommendations contained in the arborist report and third-party arborist review including, but not limited to, the following:**

- 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. No vehicles or heavy equipment shall be permitted within the tree protection zones during tree removal operations. No excavation of soil shall be done within the trees RPZ without Arborist supervision. Demolition should be done by hand to minimize compaction of soil and tree roots. Air Spading is recommended prior to any excavation. A Certified Arborist must be on site to monitor and/or perform any root pruning that may be deemed necessary.
- The stumps of the trees to be removed from within the tree protection zones shall either be retained in place or stump ground to protect the root systems of the trees to be retained.
- Care will need to be taken to not contact or otherwise damage the crowns of the trees that may extend into the construction area.
- It will be important to reassess and monitor the trees along the newly exposed tree grove edges following site clearing and periodically during construction and after high wind events to ensure they do not pose a high risk. This monitoring should occur for the next two to three storm seasons following site clearing. All preserved trees should be monitored annually for changes and/or signs of stress after construction activities are completed.
- Shift sediment fencing to outside the tree protection zones. If erosion control is required inside the tree protection zones, use straw wattles to minimize root zone disturbance of the trees to be retained.
- Notify all contractors of tree protection procedures. For successful tree protection on a construction site, all contractors must know and understand the goals of tree protection. Hold a tree protection meeting with all contractors to explain the goals of tree protection. Have all contractors sign memoranda of understanding regarding the goals of tree protection. The memoranda should include a penalty for violating the tree protection plan. The penalty should equal the resulting fines issued by the local jurisdiction plus the appraised value of the tree(s) within the violated tree protection zone per the current Trunk Formula Method as outline in the current edition of the Guide for Plant Appraisal by the Council of Tree & Landscape Appraisers. The penalty should be paid to the owner of the property.
- The project arborist should be notified prior to the cutting of woody roots from trees that are to be retained to evaluate and oversee the proper cutting of roots with sharp cutting tools. Air spading is a less invasive option and is recommended. Do not use an excavator to pull or cut roots. Dig out around the exposed or severed root by hand prior to cutting.

Only use tree pruning tools with sharpened blades to provide a clean cut. Tree pruning to compensate for potential root loss may be recommended before root pruning. Cut roots should be immediately covered with soil or mulch to prevent them from drying out. Trees that have roots cut should be provided supplemental water during the summer months.

- Any necessary passage of utilities through the tree protection zones should be by means of tunneling under woody roots by hand digging or boring with oversight by the project arborist.
- After Construction, carefully landscape the areas within the tree protection zones. Do not allow trenching for irrigation or other utilities within the tree protection zones. Carefully plant new plants within the tree protection zones. Avoid cutting the woody roots of trees that are retained. Do not install permanent irrigation within the tree protection zones unless it is drip irrigation to support a specific planting or the irrigation is approved by the project arborist. Provide adequate drainage within the tree protection zones and do not alter soil hydrology significantly from existing conditions for the trees to be retained. Provide for the ongoing inspection and treatment of insect and disease populations that are capable of damaging the retained trees and plants. The retained trees may need to be fertilized if recommended by the project arborist. Any deviation from the recommendations in this section should receive prior approval from the project arborist.

101. **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 critical root zones of each tree at 1 foot per 1 inch DBH. This covenant shall be finalized after the post-construction arborist report.**

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

102. 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.**
103. 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 an On-Street Parking Plan (Exhibit C, Sheet C10) that details street trees.
104. 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 submitted On-Street Parking Plan (Exhibit C, Sheet C10) includes a note that states street trees will be planted 30 feet on center. The note also states that species will be determined by City staff at the time of planting. **The applicant shall submit proposed tree species to City staff for review and approval concurrent with construction plan review. 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. 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.**
105. The On-Street Parking Plan (Exhibit C, Sheet C10) details a street tree in the driveway on Lot 20. **The applicant shall update the Street Tree Plan to remove the street tree from the driveway on Lot 20.** Lot 39 does not have a street tree detailed. **The applicant shall update the Street Tree Plan to detail a street tree in the planter strip adjacent to Lot 39.** To ensure adequate soil volume, **the driveway approach to Lot 39 shall be a maximum of 16 feet in width.** Lot 40 details a single street tree with sufficient planter space for two trees. **The applicant shall update the Street Tree Plan to detail a second street tree in the planter strip adjacent to Lot 40.** Lot 41 details two driveways and one street tree. **The applicant shall update the Street Tree Plan to remove one of the two driveways on Lot 41 and detail an additional street tree in the planter strip adjacent to Lot 41.**
106. 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 if the application is approved. 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 street trees.

107. If the plans change in a way that affects the number of street trees (e.g., driveway or utility locations), the applicant shall submit an updated street tree plan for staff review and approval.
108. 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.**
109. 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).**
110. 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.**
111. 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, labor, and other costs of the required action, including a three-year maintenance and warranty period.**

## **FLOOD AND SLOPE HAZARD (FSH) OVERLAY – Chapter 17.60**

112. 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 2019 by Ordinance 2019-16, which included the following conditions of annexation approval:
- Prior to the future development of the subject property the standards and criteria of the Flood & Slope Hazard (FSH) Overlay District (Chapter 17.60) shall be applied to the subject property.
  - Prior to the future development of the subject property the Flood & Slope Hazard (FSH) Overlay District map shall be updated to include the subject property.
113. The original 42-lot subdivision application included a Stream and Wetland Presence Determination prepared by Jason Smith of Castle Rose that concluded there was no stream and associated wetland on the property. The Oregon Statewide Wetlands Inventory (SWI) identifies both an intermittent stream and a freshwater forested/shrub wetland on the subject property. In addition, page 4 of the Geotechnical Report (Exhibit H) states that the central portion of the site contains an existing seasonal drainage basin and/or tributary to Tickle Creek, indicating that the Geotechnical exploration identified an existing waterway on the subject property. The applicant's Stream and Wetland Presence Determination was reviewed by both a third-party wetland scientist (Exhibit L) and DSL (Exhibit Q). DSL's review concluded the following: "Based on a review of the available information, there may be jurisdictional wetlands or waters onsite. A wetland delineation of the entire property by a qualified wetland consultant is recommended prior to development. The report should be submitted to DSL for review and concurrence. The wetland delineation report must meet the technical requirements in OAR 141-090-0030 as well as the minimum standards and requirements in OAR 141-090-0035 (1-17). The report prepared by Castle Rose Consulting has not been submitted to the Department for review and concurrence. This report does not meet our standards for a delineation report and the conclusions of this report have not been confirmed by DSL. Additionally, for determination of ephemeral streams, the stream should be evaluated after a precipitation event and after a period of no precipitation to determine if the flow persists. Wetlands may be present outside and adjacent to a defined stream channel." The third-party review determined that "wetlands subject to jurisdiction under the Oregon Removal-Fill Law and /or Section 404 of the Clean Water Act may be present on the site." In addition, the review concludes that "based on the presence of wetland plants with a FACW [Facultative Wetland] indicator status in portions of the stream channel and the presence of soils meeting hydric soil indicators within the drainageway... the stream may be intermittent rather than ephemeral."
114. With submittal of this updated 43-lot subdivision application, the applicant submitted an updated Wetland Determination prepared by Jason Smith of Castle-Rose Environmental and dated April 15, 2022 (Exhibit G). The applicant submitted the proposal to DSL for review on May 20, 2022; however, the applicant had not received concurrence from DSL at the time of publication of this staff report. **The applicant shall submit concurrence from the Oregon Department of State Lands (DSL).** Staff submitted a Wetland Land Use Notification for the updated 43-lot subdivision proposal to DSL for review and receive a Wetland Land Use Notification Response (Exhibit R) on June 10, 2022. DSL's response

noted that the National Wetlands Inventory shows wetland, waterway, or other water features on the property and that the water features may be subject to the State Removal-Fill Law based on a review of wetland maps, the county soil survey, and other available information. Thus, the proposed project may impact wetlands and may require a State permit, which is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide. In addition, a Federal permit may be required by The Army Corps of Engineers. DSL's review concluded: "A stream is mapped on this property. The stream may be jurisdictional for the Department. Wetlands may be associated with this stream. A wetland delineation has been submitted for this project (WD2022-0290). This delineation identified an ephemeral stream on the property. An ephemeral stream is not jurisdictional. However, an independent review by another consultant for the City of Sandy identified the stream as intermittent and identified potential wetlands on the property. It is likely that a site visit will be needed after reviewing the delineation to resolve conflicting information. Based on the conflicting information available on this site, no development activities should be permitted on this site until the delineation has been reviewed and concurred." **Prior to any development activities on the site, the applicant shall submit DSL concurrence for the wetland delineation. If DSL determines there's an intermittent stream and/or a significant wetland on the subject property, the applicant shall submit an application and receive approval for an update to the FSH overlay district on the subject property in compliance with Ordinance 2019-16.**

## **HILLSIDE DEVELOPMENT, EROSION CONTROL, & RETAINING WALLS – Chapters 17.56, 15.44, 8.04, and 17.74**

115. The applicant submitted a Geotechnical Report prepared by Redmond Geotechnical Services (Redmond) entitled "Geotechnical Investigation and Consultation Services, Proposed The Bornstedt Views Development Site, Tax Lot No. 100, SE Bornstedt Road and SE Averill Parkway, Sandy (Clackamas County), Oregon" and dated May 3, 2021 (Exhibit H) as well as a supplemental letter from Redmond Geotechnical Services (Exhibit I). In addition, the applicant submitted a Topographic Survey (Exhibit C, Sheet C3) that details slopes between 25 and 34.99 percent and slopes 35 percent and greater. The Geotechnical Report was reviewed by a third-party professional as required by Section 17.56.50(B.2). The Third-Party Review of the geotechnical report was completed by GeoPacific Engineering and dated June 10, 2022 (Exhibit S). The review found that the applicant's geotechnical report by Redmond satisfies the criteria listed in Appendix C, Geotechnical Report Requirements, of Chapter 17.56. The review acknowledges that there are slopes greater than 25 percent on Lots 19, 21, 25, 26, and 27, and slopes greater than 35 percent on Lots 25 and 27, which requires a Geological Assessment stamped by a Certified Engineering Geologist and an Engineering Geology Report stamped by a Certified Engineering Geologist, respectively, per Sandy's Development Code. The applicant's geotechnical report submitted by Redmond is not stamped by a Certified Engineering Geologist and, therefore, does not meet the criteria listed in Appendices A and B of Chapter 17.56. However, the third-party review notes that the City can decide if they want to waive the requirement for a Geological Assessment and/or an Engineering Geology Report and states: "It is our opinion that for this site a geotechnical engineer should be capable of concluding whether or not the proposed development will be hazardous, without the review of a Certified Engineering Geologist. However, the City of Sandy does have the support of the code to require a report stamped by a Certified Engineering Geologist if they desire. Requiring a Geological Assessment and/or an Engineering Geology Report for the site would increase the amount of examination of the site by a professional with specific training and experience in evaluating geologic hazards." The third-party review also notes that the Grading Plan (Exhibit C, Sheet C9) details a cut in Tract A at the base of a 44 percent slope. The review further notes that Redmond has reviewed the civil plan set and stated that the plans are in conformance with their recommendations and that no changes are needed. Based on that, the third-party reviewer assumes Redmond is comfortable with the cut at the base of the slope. The City Engineer (Exhibit U) states that the steep slope areas should be delineated on the plat to identify developable areas relative to Chapters 17.56 and 17.60, or a geotechnical report submitted for slope stability. **Prior to any proposed development on lots with slopes of 25 percent or greater, the applicant shall submit a geotechnical report for slope stability.**
116. During review of the geotechnical report and civil plan set, the third-party reviewer noticed that Lots 20, 21, 24, and the flagpole driveway for Lots 19 and 27 are planned in the middle of an existing drainage. The Grading and Erosion Control Plan (Exhibit C, Sheet C9) does not detail any proposed changes in grade on Lots 19, 20, 21, 24, or 27. As currently detailed on the Grading Plan, it's quite possible that water will flow onto these lots towards the houses and Maple Street. **To prevent seasonal surface water runoff from flowing**

**towards houses, the applicant shall install interception swales or trenches where the existing drainages intersect with the property boundaries of Lots 19, 20, 21, 24, and 27 and shall reroute the surface runoff around the lots or propose an alternative method for review and approval by the City Engineer.**

117. Grass seeding shall be completed as required by Section 17.100.300. The submitted Grading and Erosion Control Plan (Exhibit C, Sheet C9) 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.**
118. **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.**
119. 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 rat eradication is needed. The result of the evaluation shall be submitted to staff.**
120. 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 Grading and Erosion Control Plan (Exhibit C, Sheet C9) details a 4- to 8-foot-tall retaining wall along the Maple Street frontage of Tract A and Lots 26 and 27; however, it is unclear which portions of the wall exceed 4 feet. **The applicant shall submit additional details on the proposed retaining wall, including a section diagram, proposed material, and information on the architectural finish, for staff review and approval.** Tract A is a stormwater detention facility and is therefore exempt from the maximum wall height standards per the exception in Section 17.74.40. The applicant has requested a special variance to exceed a 4 foot maximum wall in the front yard of Lot 27, which is discussed in more detail in Chapter 17.66 of this staff report. Staff did not receive a request from the applicant to exceed the maximum 4-foot height limit in the front yard of Lot 26. **The individual or combined height of a fence and/or retaining wall in the front yard of Lot 26 shall not exceed 4 feet.**

## RECOMMENDATION

Staff recommends the Planning Commission **approve** the subdivision request **with conditions**.

Staff further recommends the Planning Commission **approve** the following requested variances:

- A. Type III Variance to Section 17.100.120(B) to allow the north side of Maple Street between Street A and Averill Parkway to exceed 400 feet.
- B. Type III Variance to Section 17.100.120(B) to allow the south side of Maple Street between Street A and Street B to exceed 400 feet.
- C. Type III Special Variance to Section 17.100.120(D) to not include a bike/ped accessway on the north side of Maple Street between Street A and Averill Parkway, which exceeds 600 feet.
- D. Type III Special Variance to Section 17.100.120(D) to not include a bike/ped accessway on the south side of Maple Street between Street A and Street B, which exceeds 600 feet.
- E. Type III Special Variance to Section 17.82.20 to allow Lots 14-18 to face the internal street network rather than Bornstedt Road.
- F. Type III Special Variance to Section 17.74.40(A.2) to allow up to an 8-foot-tall retaining wall in the front yard of Lot 27.

### Additional Staff Recommendations

1. Staff recommends that a majority of the retention trees be located in a separate tree retention tract.
2. Staff recommends increasing Tract A to include the clump of retention trees on the north end of Lot 27 such that Tract A becomes a joint storm detention facility and tree protection tract dedicated to the City, or create a separate tree protection tract on the north side of Lot 27 to be owned and maintained by an HOA or other private owner. To accomplish this, staff recommends the Planning Commission approve two variances to Section 17.34.30(C) to allow Tax Lots 19 and 27 to each have only 10 feet of frontage on a public street (Street A) for a total combined width of 20 feet. This is effectively the same as the applicant's proposal in which Tax Lot 19 has a 20-foot-wide flagpole with an access easement to Tax Lot 27.
3. Staff also recommends a joint tree protection and stream/wetland protection tract between Lots 10 and 11 either to be dedicated to the City or owned and maintained by an HOA or other private owner.
4. Staff recommends the Planning Commission require the applicant to submit a cash payment to cover half the estimated cost of terminating the temporary fire turnaround easements, removing the paved fire turnarounds on the private lots and replacing with landscaping, and removing the driveway approaches and replacing them with curb, planter strip, and street trees.

## RECOMMENDED 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 dedication of approximately 5 feet of public right-of-way along the entire Bornstedt Road frontage to provide a minimum 35-foot one half right-of-way width. The right-of-way centerline and width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
2. Update the site plan to detail a joint tree protection and stream/wetland protection tract between Lots 10 and 11 that includes the varying width public storm easement on Lot 11 and the critical root zones around the retention trees on Lot 10. The applicant shall include a pedestrian easement and provide sufficient width for a pedestrian path through the stream, wetland, and tree protection tract between Lots 10 and 11 such that it can connect north to the cul-de-sac detailed on the future street plan upon development of the property to the northwest (Tax Lot 3600).
3. Submit details on a culvert under Maple Street from Tract A to the public storm tract (currently on Lot 11), including a hydraulic memo prepared by the stormwater engineer summarizing the design. The culvert shall be sized appropriately to accommodate the anticipated volume of water.
4. Update the Street and Utility Plan to detail the following:
  - a. Street improvements on the frontages of Lots 13 and 14 that extend to the property line per Sections 17.84.50(F.1) and 17.84.50(G). Retaining walls in the right-of-way or slope easements on adjacent parcels may be required to accomplish this.
  - b. A bike lane on the plan as well as on Section B. The applicant shall submit a striping plan for the bike lane.
  - c. A minimum of 16 feet between driveway approaches, or detail shared driveways at a maximum of 24 feet wide.
5. Update the On-Street Parking and Street Tree Plan to detail the following:
  - a. Remove the street tree from the driveway on Lot 20.
  - b. Detail a street tree in the planter strip adjacent to Lot 39.
  - c. Detail the driveway approach to Lot 39 at a maximum of 16 feet in width.
  - d. Detail a second street tree in the planter strip adjacent to Lot 40.
  - e. Remove one of the two driveways on Lot 41 and detail an additional street tree in the planter strip adjacent to Lot 41.
  - f. Update the on-street parking space numbers to detail a minimum of one on-street parking space within 300 feet of each lot.
  - g. Detail utility locations.



6. Submit an updated arborist evaluation and tree retention plan detailing a minimum of 38 trees proposed for retention that are 11-inches DBH or greater, non-nuisance species, healthy, in good condition, and likely to grow to maturity; the report shall confirm that the trees did not suffer any damage during the multiple severe storm events that have occurred since the original assessment. Trees # 38, 44, 45, 139, 141, 142, 144, 297, 351, 353, 354, 381, 694, and 695 shall not be counted towards the minimum required tree protection standards. As part of the updated arborist report and tree protection plan, 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 an adjacent property and whether any portion of the minimum root protection zone (at 0.5 feet per 1 inch DBH) is located on an adjacent property for all proposed retention trees that have CRZs or minimum root protection zones on adjacent property. If any portion of the minimum root protection zone or if 25 percent or more of the critical root zone is located on an adjacent property, the applicant shall not be able to count those trees towards the minimum retention standard (though the trees can and are still recommended to be retained).
7. Submit concurrence from the Oregon Department of State Lands (DSL) prior to any development activities on the site. If DSL determines there's an intermittent stream and/or a significant wetland on the subject property, the applicant shall submit an application and receive approval for an update to the FSH overlay district on the subject property in compliance with Ordinance 2019-16.
8. Submit additional details on the proposed retaining wall, including a section diagram, proposed material, and information on the architectural finish, for staff review and approval.
9. Submit proposed decorative fence for the Bornstedt Road frontage of Lots 14-18 for staff review and approval.

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

1. 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 1200-C permit or submit confirmation from DEQ if a 1200-C Permit will not be required.
3. Install tree protection fencing at the critical root zone of each retention tree at 1 foot per 1-inch DBH in compliance with the project arborist's recommendations as well as at the

critical root zone of 1 foot per 1 inch DBH of all trees on adjacent properties. Where the retention trees are located within the tree protection tract (north end of Lot 27) and the combined tree, wetland, and stream protection tract (between Lots 10 and 11), the fencing shall be installed at the CRZs or edges of the protection tracts, whichever is greater. The tree fencing shall be installed prior to any development activity on the site, including clearing, tree removal, grading, and erosion control measures 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].”
  - 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.
4. Once the tree protection fencing is approved the applicant shall adhere to the following conditions when performing tree removal or other development activity on the site:
- a. 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.
  - b. 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.
  - c. 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.

- d. Staff recommends all trees within the critical root zones of retention trees shall be left as snags rather than completely removed in order to minimize negative impacts to the remaining retention trees. If the Planning Commission does not require this and the applicant opts to not retain the trees proposed for removal from within the critical root zones of protected retention trees as snags, those trees shall be removed in a way that does not harm or damage adjacent trees. If the trees proposed for removal from within the critical root zones of protected retention trees are removed, their removal 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. 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 arborist report.
  - e. Trees proposed for removal that are located in Tract A shall be left as snags rather than completely removed in order to minimize negative impacts to the remaining retention trees and stream/wetlands.
  - f. Tree removal and/or snag creation shall be completed without the use of vehicles, or heavy equipment in the tree protection zone.
  - g. Trunks and branches of adjacent trees shall not be contacted during tree removal or snag creation.
  - h. 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 rat 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. Submit additional details on the pedestrian path in Tract A and the tree, wetland, and stream protection tract between Lots 10 and 11, with gravel compaction at a depth approved by the Parks and Recreation Director.
5. 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.
6. 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. Work with the Fire Marshal to determine an alternate method of construction to address the Oregon Fire Code access roadway grade requirement. The applicant shall meet the minimum turning radius requirements of the Fire Code Application Guide.
7. Obtain a Development Permit from the Clackamas County Engineering Division for design and construction of required improvements, utility installation, and access to Bornstedt 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.
8. 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. The stormwater calculations and detention pond sizing shall include the offsite contribution if all flow is discharging into the detention basin.
9. Submit calculations demonstrating that the proposed water line can furnish the required fire flows and domestic flows.
10. The applicant shall call the PGE Service Coordinators at 503-323-6700 when they are ready to start the project.
11. Broadband fiber service shall be detailed with construction plans. The applicant shall coordinate with the SandyNet General Manager. The applicant shall provide PGE preliminary or final plans to Greg Brewster (gbrewster@ci.sandy.or.us) for design and joint use of common dry utility trench as well as material requirements and standards.
12. The applicant shall bore the sanitary sewer line through the existing 10-foot-wide public

utility easement along the shared property line of 38928 and 38940 Jerger Street to limit disturbance to the existing properties.

13. Prior to any proposed development on lots with slopes of 25 percent or greater, the applicant shall submit a geotechnical report for slope stability.

**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. Pay a fee-in-lieu of parkland dedication in the amount of \$132,550 to the City prior to final plat approval, or \$72,875 if half is deferred to building permit issuance.
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. Five-foot sidewalks along Tract A and any other tract that is ultimately dedicated to the City of Sandy, including a 5-foot-wide planter strip.
  - b. Full street improvements on Maple Street, Averill Parkway, Street A, and Street B. The new roadway connection onto Bornstedt Road shall be constructed directly opposite to Maple Street and controlled by a stop sign. The Maple Street roadway extension shall consider how to accommodate the existing improvements east of Averill Parkway. Minimum AASHTO sight distance requirements shall be met at the site access. The proposed Maple Street approach at Bornstedt Road shall be constructed to provide a minimum of 500 feet of intersection sight distance based on the 45 mile per hour posted speed on Bornstedt Road. Vegetation and grading shall be cut back, as required, to provide adequate sight distance. The available sight distance shall be reevaluated by the applicant and approved by the City engineer prior to final site plan approval. Profile and survey information shall be provided demonstrating adequate intersection sight distance.
  - c. Half street improvements on Bornstedt Road. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with Clackamas County Roadway Standards. The applicant shall grant an 8-foot-wide public easement for signs, slope, and public utilities along the entire Bornstedt Road right-of-way frontage. All required improvements shall be constructed and inspected, or financially guaranteed in the form of a performance bond when access has met minimum Substantial Completion requirements, per Roadway Standards Section 190. Performance bonds shall be in the amount of 125 percent of the approved engineer's cost estimate of the required improvements. Minimum improvements on the Bornstedt Road frontage consistent with *Clackamas County's Roadway Standards* include, but are not limited to, up to a one half-street improvement, including:
    - i. Up to a minimum 20-foot wide, one half-street improvement shall be constructed along the entire site frontage to arterial roadway standards, with a structural section per Clackamas County Roadway Standards Standard Drawing C100.

- ii. The half street improvement design shall include cross sections every 25 feet per Roadway Standards Section 250.7.5. The design shall demonstrate that the new curb line and cross slope to the existing centerline allow for construction of a curb on the opposite side of the road with cross slopes that meet minimum standards.
  - iii. Lane transitions shall be provided per Roadway Standards Section 250.6.4 based on a 45 MPH design speed.
  - iv. Standard curb, or curb and gutter if curbline slope is less than one percent.
  - v. Adjacent to the curb, a 5-foot landscape strip, including street trees shall be constructed along the entire site frontage.
  - vi. A minimum 6-foot-wide unobstructed sidewalk shall be constructed along the entire site frontage. If the sidewalk does not connect to sidewalk on adjacent property, the end of the sidewalk shall require the construction of a concrete ramp, adjacent to the end of the sidewalk, providing a transition from the new sidewalk to the edge of the pavement. The ramps shall meet ADA guidelines.
  - vii. Dual curb ramps shall be constructed per Oregon Standard Drawing (RD 900 Series) at the SE Maple Street intersection with Bornstedt Road.
  - viii. The intersection of Maple Street with Bornstedt Road shall be constructed at a 90-degree angle, per Section 250.8.2 and 250.8.4 of the Roadway Standards. A minimum 50-foot-long landing shall be constructed with an average grade of no more than 5 percent, per Roadway Standards Section 250.7.3
  - ix. Provide minimum intersection sight distance of 500 feet north and south at the Maple Street intersection with Bornstedt Road per Section 240 of the Clackamas County Roadway Standards. Profile and survey information shall be provide demonstrating adequate intersection sight distance.
  - x. Drainage facilities shall be provided in conformance with Clackamas County Roadway Standards, Chapter 4.
- d. Street lighting in conformance with city standards.
  - e. ADA ramps to meet the most current PROWAG requirements.
  - f. Retaining walls.
  - g. Compacted gravel pedestrian path in Tract A and in the tree, wetland, and stream protection tract between Lots 10 and 11. The trail shall be located outside of the critical root zone (of 1 foot per 1 inch DBH) of all protected retention trees.

3. Plant street trees along Tract A and any other required tracts. 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.
4. Install fences along the property lines that abut the wetland, stream, and tree protection tract between Lots 10 and 11, along the Lot 26 and Lot 27 property lines that abut the tree protection tract adjacent to the stormwater detention facility, and around the stormwater detention facility to prevent encroachment into the natural area. The fences shall be black powder coated chain link. The pedestrian path on Tract A shall be located outside of the stormwater detention facility fencing.
5. Install a decorative fence on the Bornstedt Road facing side of Lots 14-18 to enhance the visual appeal of these lots from the adjacent street and match the existing fencing along the west side of Bornstedt Road installed with the Marshall Ridge subdivision. The fence shall include the following design details:
  - Constructed of vertical black metal or faux metal fencing material.
  - No less than 3-inch gap between vertical pickets.
  - 4-feet to 6-feet in height.
6. Vehicle Non-Access Reserve (VNAR) strips shall be depicted on the plat for the Bornstedt Road frontage of Lots 14-18 to comply with Section 17.98.80(A). A VNAR strip shall also be depicted on the plat for the Maple Street frontages of Lots 14, 15, and 27 and the south terminus of Averill Parkway, the south terminus of Street B, the south and north termini of Street A, and east end of Maple Street.
7. 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, including tree, wetland, and stream protection tracts, if dedicated to the City. The results of this study shall indicate a clean environmental record. The applicant shall adhere to the requirements of Section 17.86.30(A.1 and 2) with the exception that the applicant shall not clear, fill, and/or grade the tree, wetland, and stream protection tracts.
8. Dedicate the following:
  - a. Tract A shall be dedicated to the City for stormwater management and for pedestrian access.
  - b. Any other tract that is conditioned with approval of this subdivision, including a tree protection tract at the north end of Lot 27 and a tree, wetland, stream, and pedestrian access tract between Lots 10 and 11 if dedicated to the City rather than kept in private ownership.

9. 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.
10. 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.
11. 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.
12. 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 critical root zones of each retention tree at 1 foot per 1 inch DBH. This covenant shall be finalized after the post-construction arborist report.
13. Meet the requirements for Substantial Completion Section 190 of the Clackamas County Roadway Standards.
14. Record a fire apparatus easement for the required fire apparatus turnarounds and provide a copy to Planning Division staff.
15. 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.
16. 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.
17. Submit a cash payment to cover half the estimated cost of terminating the temporary fire turnaround easements, removing the paved fire turnarounds on the private lots and replacing with landscaping, and removing the driveway approaches and replacing them with curb, planter strip, and street trees.
18. Pay addressing fees for the subdivision as identified in the most updated fee schedule.



19. The street names shall be related to the east coast town/college theme.
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 critical root zones of each retention tree at 1 foot per 1 inch DBH.
  - Deeds identifying dedications to the City.
  - Fire apparatus easements.

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

1. Submit a digital drawing of the final plat survey.
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 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) in parks fee in-lieu with the building permit for that lot or duplex addition.
2. If the applicant chooses to defer parks fee in-lieu 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.
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. All driveways shall meet the requirements of Section 17.98.100. No driveway shall exceed a grade of 15 percent at any point along the driveway length, measured from the right-of-way line to the face of garage or furthest extent of the driveway. 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. 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. The location, number, and width of all driveway approaches shall not exceed the spacing and dimensional standards in Section 17.98.100.

6. All structures on Lots 14-18 shall have a minimum setback of 20 feet to Bornstedt Road.
7. The applicant shall comply with the setback standards in Chapter 17.34 and Chapter 17.80. The applicant shall not propose building footprints that encroach into the critical root zone of 1 foot per 1 inch DBH as detailed on the Tree Retention and Protection Plan (Exhibit C, Sheet C7).
8. Install sidewalks and planter strips on all local 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. The development shall pay transportation

system development fees based on the estimated new vehicle trips generated by the development.

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 located on the dwelling and shall be 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.
17. The individual or combined height of a fence and/or retaining wall in the front yard of Lot 26 shall not exceed 4 feet.
18. Install interception swales or trenches where the existing drainages intersect with the property boundaries of Lots 19, 20, 21, 24, and 27 and shall reroute the surface runoff around the lots or propose an alternative method for review and approval by the City Engineer.
19. Add additional design elements along the Bornstedt Road facing sides of Lots 14-18 per the following:
  - Builders of individual lots shall incorporate all of the following design details on the Bornstedt Road elevations of Lots 14-18 where applicable:
    - Decorative gables – including three or more of the following:
      - A window with grids.
      - A trimmed vent. The trim must match the trim on the windows and the vent must be at least 4 square feet in area.
      - Cross or diagonal bracing, shingles, trim, corbels, exposed rafter ends, or brackets.
      - Decorative ‘belly-band’ with an alternative paint color to the siding color, between building floors.
    - Mixture of siding materials, including shake or horizontal lap siding with an alternative paint color to the primary siding color.
    - Recessed or covered rear entries.

- The covered area must be at least 48 square feet and a minimum of 8 feet wide.
- The recessed entry must feature vertical support posts.
- Minimum four-inch wide trim or 12-inch wide shutters around all windows.

Builders shall submit proposed elevation designs for staff review and approval.

## **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. A more thorough review shall be required once the construction plans and details are provided.
3. 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 486B and OAR 340-052 and in particular OAR 340-052-0040(2).
4. 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.
5. All public infrastructure improvements shall comply with the City of Sandy standards and Public Works requirements. All frontage improvements in, or adjacent to Clackamas County right-of-way, shall be in compliance with Clackamas County Roadway Standards.
6. The applicant shall adhere to all recommendations contained in the arborist report including, but not limited to, the following:
  - 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. No vehicles or heavy equipment shall be permitted within the tree protection zones during tree removal operations. No excavation of soil shall be done within the trees RPZ without Arborist supervision. Demolition should be done by hand to minimize compaction of soil and tree roots. Air Spading is recommended prior to any excavation. A Certified

Arborist must be on site to monitor and/or perform any root pruning that may be deemed necessary.

- The stumps of the trees to be removed from within the tree protection zones shall either be retained in place or stump ground to protect the root systems of the trees to be retained.
- Care will need to be taken to not contact or otherwise damage the crowns of the trees that may extend into the construction area.
- It will be important to reassess and monitor the trees along the newly exposed tree grove edges following site clearing and periodically during construction and after high wind events to ensure they do not pose a high risk. This monitoring should occur for the next two to three storm seasons following site clearing. All preserved trees should be monitored annually for changes and/or signs of stress after construction activities are completed.
- Shift sediment fencing to outside the tree protection zones. If erosion control is required inside the tree protection zones, use straw wattles to minimize root zone disturbance of the trees to be retained.
- Notify all contractors of tree protection procedures. For successful tree protection on a construction site, all contractors must know and understand the goals of tree protection.
- Hold a tree protection meeting with all contractors to explain the goals of tree protection. Have all contractors sign memoranda of understanding regarding the goals of tree protection. The memoranda should include a penalty for violating the tree protection plan. The penalty should equal the resulting fines issued by the local jurisdiction plus the appraised value of the tree(s) within the violated tree protection zone per the current Trunk Formula Method as outline in the current edition of the Guide for Plant Appraisal by the Council of Tree & Landscape Appraisers. The penalty should be paid to the owner of the property.
- The project arborist should be notified prior to the cutting of woody roots from trees that are to be retained to evaluate and oversee the proper cutting of roots with sharp cutting tools. Air spading is a less invasive option and is recommended. Do not use an excavator to pull or cut roots. Dig out around the exposed or severed root by hand prior to cutting. Only use tree pruning tools with sharpened blades to provide a clean cut. Tree pruning to compensate for potential root loss may be recommended before root pruning. Cut roots should be immediately covered with soil or mulch to prevent them from drying out. Trees that have roots cut should be provided supplemental water during the summer months.
- Any necessary passage of utilities through the tree protection zones should be by means of tunneling under woody roots by hand digging or boring with oversight by the project arborist.
- After Construction, carefully landscape the areas within the tree protection zones. Do not allow trenching for irrigation or other utilities within the tree protection zones. Carefully plant new plants within the tree protection zones. Avoid cutting the woody roots of trees that are retained. Do not install permanent irrigation within the tree protection zones unless it is drip irrigation to support a specific planting or the irrigation is approved by the project arborist. Provide adequate drainage within the

- tree protection zones and do not alter soil hydrology significantly from existing conditions for the trees to be retained. Provide for the ongoing inspection and treatment of insect and disease populations that are capable of damaging the retained trees and plants. The retained trees may need to be fertilized if recommended by the project arborist. Any deviation from the recommendations in this section should receive prior approval from the project arborist.
7. If the plans change in a way that affects the number of street trees (e.g., driveway or utility locations), the applicant shall submit an updated street tree plan for staff review and approval.
  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. 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).
  13. The stormwater detention pond in Tract A shall be fenced per the requirements in the City of Portland SWMM and access shall be provided for equipment to enter if needed.
  14. The applicant shall be responsible for the installation of all improvements detailed in Section 17.100.310, including fiber facilities.
  15. 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.
  16. 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.

17. 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.
18. 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.
19. 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.
20. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
21. 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.