

# EXHIBIT EE



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## Technical Memorandum

EXPIRES: 12/31/2021

**To:** Dave Vandehey, Roll Tide Properties Corporation  
**From:** Michael Ard, PE  
**Date:** September 27, 2021  
**Re:** **Deer Meadows Subdivision – Response to Agency Comments**

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During review of the proposed Deer Meadows Subdivision project, several questions and concerns have been raised regarding traffic and transportation impacts and facilities within and near the proposed development. This memorandum is written to provide responses to the transportation-related comments raised by the city's on-call Transportation Engineering consultant John Replinger, the Oregon Department of Transportation, City of Sandy staff, and the general public.

### ***COMMENTS BY JOHN REPLINGER, P.E.***

John Replinger raised several concerns in his review letter dated August 30, 2021. Each concern is quoted along with a response below.

*“Key deficiencies include a failure to provide for the extension of Dubarko Road to connect with US 26 as specified in the TSP and a failure to account for development of or access to the commercially zone[d] land (approximately 3 acres) that comprises a portion of ‘Lot 32’ in the proposed development” (pages 1-2).*

As detailed by the applicant's attorney, the City's Transportation System Plan has not been properly incorporated into the city's code requirements. Since the proposed development consists of permitted uses within the underlying zones and does not propose any plan amendments or zone changes which would require a long-range planning analysis, the obligation of the applicant is to address the near-term impacts of the actual development proposed. There is no legal obligation or authority to require consideration of transportation facilities or future development that is not proposed as part of this application. Future development within the C-3 zone will require a separate transportation impact analysis; however, that analysis cannot be required as part of a separate project that does not propose development within the C-3 zone, and any analysis of development within the C-3 zone would be purely speculative since the mix of future uses is not currently known.

As detailed in the updated traffic study dated September 27, 2021, operation and safety of the intersection of Highway 211 at Dubarko Road will be improved following completion of the proposed development and the associated mitigation (all-way stop control). All other study intersections and roadways meet the respective operational and safety requirements of ODOT and the City of Sandy.



*“The engineer’s use of pre-COVID-19 counts is understandable, but new analysis needed to address the full impact of the development should be based on new traffic counts” (page 2).*

An updated traffic impact study has been prepared using count data collected in June and September of 2021. These updated counts are all within one year and therefore fully address the cited deficiency.

Having conducted the analysis based on pre-COVID counts while applying a growth factor to determine the appropriate design traffic volumes **and** based on current year counts while applying a COVID adjustment factor to determine the appropriate design traffic volumes, the results are substantially similar. No changes to the recommendations of the prior report were necessary based on the newer count data.

*“By failing to [show] any development of the commercially zoned land, the applicant has not shown the impact of the proposed removal of a key element of the TSP – namely Dubarko Road, which is shown connecting with US 26 at Vista Loop Drive (West)” (page 3).*

This comment reiterates the concern raised in the first comment. The response is similar. The applicant has no responsibility to provide the city with long-range transportation impact analysis or construction of physical facilities for the city’s long-range planning goals when the city has not properly incorporated the Transportation System Plan into the city’s code requirements. Because this is not a plan amendment or an amendment to a land use regulation, the Transportation Planning Rule as set forth in OAR 660-012-0060(1) does not require the applicant to analyze potential transportation impacts beyond those associated with the actual land use currently proposed in the Deer Meadows Subdivision application.

*“On a city-wide scale, the trip distribution seems reasonable. However, the proposed elimination of Dubarko Road results in localized impacts in the immediate vicinity that will result in different travel patterns than anticipated in the TSP” (page 3).*

The traffic impact studies provided for the proposed development contemplated the distribution of site trips based on the actual street connections proposed. Accordingly, the near-term impacts of the development were properly considered. Again, the applicant has no responsibility to assess or address potential inadequacies of the city’s long range transportation plan in conjunction with an allowed use on this property.

*“Since the TIS did not examine the impact of development of the commercially zoned portion of the site, it is not clear that LOS D would be achieved with full development of the subject property. It appears that only a little more development in Sandy would push the Dubarko Road Highway 211 intersection to LOS E and cause the need for mitigation” (page 4).*



Per the updated traffic impact study, the intersection of Highway 211 at Dubarko Road is projected to operate at level of service E, which does not meet the city's operational standards. However, conversion of the intersection to all-way stop control is sufficient to reduce average delays for the critical movement as compared to background conditions. As such, the proposed mitigation is sufficient to address the impacts of the development and additional mitigation cannot lawfully be required since the request would be disproportionate to actual impacts.

It is anticipated that future development within the commercially zoned property will require a separate transportation analysis and it is very likely that additional operational mitigation will be required at that time to ensure that operation of this intersection is not degraded by future development. Determination of the appropriate type and scale of mitigation for this future project should be based on the actual characteristics of the future development. This determination lawfully must be made in conjunction with the future land use application for that property.

*“The site plan makes no provision for access to the commercially zoned land (a portion of ‘Lot 32’). The site plan does not show a new subdivision street abutting the commercially zoned portion of ‘Lot 32.’ The applicant appears to be assuming that the commercially zone portion of ‘Lot 32’ would have direct driveway access to US 26, though this appears to conflict with ODOT access control policies. Alternatively, the applicant may be assuming some type of cross-easements or shared driveway connections involving the residentially zoned portion of ‘Lot 32’ would be acceptable. Neither option appears viable.*

*The engineer failed to explain how the site would be developed to serve all uses in the absence of the Dubarko Road extension identified in the TSP. I think this is a serious deficiency. I recommend delaying any approvals until issues of access are fully developed and justified” (page 5).*

No access is proposed to Highway 26 as part of the subdivision application. The proposed street network includes “Street B” extending south from Dubarko Road. This street abuts the undeveloped property within Lot 32 and can provide access to future development on the east side of Street B. Future development within Lot 32 will be subject to Design Review, at which time it will be appropriate to assess how circulation works within this lot. However, there is no clear and objective code standard which requires assessment of access to the C-3 portion of the site as part of this subdivision application.



***ADDITIONAL INFORMATION***

Although not raised explicitly in Mr. Replinger’s review of the traffic study, one other deficiency was addressed in the updated traffic impact analysis. The city’s development code requires that local streets carry no more than 1,000 average daily trips. Several local streets will be impacted by the proposed development, and no explicit assessment of daily traffic volumes was included in the traffic study dated June 6, 2021. This omission has been corrected in the updated traffic study dated September 27, 2021. Based on the analysis, no local streets will experience average daily traffic volumes in excess of the 1,000 ADT limit upon completion of the proposed development.

***ODOT COMMENTS***

The Oregon Department of Transportation has provided comments into the record in the form of a response memo dated September 1, 2021.

The ODOT comments requested that the Dubarko Road extension be completed and that frontage improvements be constructed along Highway 26. It was also noted that “...additional highway access could be dangerous and difficult to approve, particularly for any commercially zoned property such as the parcel on the east side of the proposed development.

Similar to the response to Mr. Replinger’s review, the applicant cannot be required to complete improvements contemplated in the city’s Transportation System Plan since the TSP has not been properly incorporated into the city’s development code. Additionally, since the proposed subdivision does not include a plan amendment or an amendment to a land use regulation, the Transportation Planning Rule as set forth in OAR 660-012-0060(1) does not require the applicant to analyze potential transportation impacts beyond those associated with the actual land use currently proposed in the Deer Meadows Subdivision application.