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VIA EMAIL

Hon. Stan Pulliam
c/o Kelly O'Neill, Jr.
Development Services Director
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Sandy City Hall
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RE: Roll Tide Properties Corp. / Deer Meadows Subdivision Appeal 21-061 AP
(Appeal of File No. 21-014 SUB/TREE)

Dear Mayor Pulliam and Councilors:

This firm represents Roll Tide Properties Corp., the Applicant in the above-referenced file. This letter sets forth the Applicant's response to the Council Staff Report for the April 18, 2021 Council hearing, which recommends denial of the Applicant's appeal and by extension, denial of the Applicant's subdivision application. For the reasons below, the Council should grant the Applicant's appeal and reverse the Planning Commission's decision.

On February 22, 2022, the Applicant requested and the Council granted a continuance to April 18, 2022 to allow the Applicant and staff to work together on an updated design that would address some of staff's concerns regarding dimensional standards and which would propose a parkland dedication to satisfy the City's stated requirement for 0.93 acres of parkland. The Applicant and staff did, in fact, work together to reduce the number of compliance issues that staff had identified in its original Staff Report. Attached is revised subdivision concept which demonstrates how all clear and objective criteria can be satisfied, which the Applicant offers as a proposed condition of approval. **Exhibit 1**. The proposed concept also shows how the Applicant could dedicate 1.08 acres of new parkland, which would connect to the existing Deer Pointe Park via pathways through the property and across proposed Street A, as well as some additional parkland directly abutting the Deer Pointe Park property.

ORS 197.522(3) provides as follows:

“If an application is inconsistent with the comprehensive plan and applicable land use regulations, the local government, prior to making a final decision on the application, shall allow the applicant to offer an amendment or to propose conditions of approval that would make the application consistent with the plan and applicable regulations.”

As the revisions shown in **Exhibit 1** resolve any inconsistencies with applicable clear and objective standards and criteria, the Council should impose a condition of approval requiring the final subdivision plat to be consistent with **Exhibit 1** to this letter. And, while the Applicant does not concede that the City's park dedication requirements are either clear and objective or sustainable without just compensation, the Applicant offers the proposed condition requiring the parkland shown on **Exhibit 1** pursuant to ORS 197.522(3) in order to satisfy the City's request for parkland dedication, regardless of the City's justification for that requirement.

Exhibit 1 does not show an extension of Dubarko Road to Highway 26 for two reasons, one practical and the other legal. The first reason is that the Council and public raised concerns regarding a Dubarko Road extension during its consideration of the prior plan amendment and subdivision for this property (known as "Bull Run Terrace"). The second reason, which has been explained in the Applicant's prior arguments and summarized below, is that the City lacks a legal basis to require a Dubarko Road extension under the applicable standards and criteria.

Thus, the revisions shown on **Exhibit 1** represent a genuine effort on the part of the Applicant to propose a condition on the Application that will make the Application desirable to the Council and the City while also resolving as many of Staff's concerns as is feasible. In fact, of the twelve issues identified in the original Staff Report, only four remain, which are entirely derivative of the key issues discussed below. The Applicant sincerely appreciates the hard work of City Staff on these revisions and the additional time staff took to revise the Staff Report to reflect them.

1. Key issues.

As noted above, with many of the Staff's concerns resolved with the updated subdivision proposal, there remain two primary issues and one secondary issue. These are summarized and addressed below.

A. Parkland dedication.

According to City Staff, the proposed development requires approximately .93 acres of parkland based on the City's dedication methodology set forth in Sandy Development Code ("SDC") 17.86.10. The Application now proposes 1.08 acres of parkland, which is approximately 14 percent above the minimum under the City's current dedication formula, and would meet SDC 17.86.10.

The remaining concerns about parkland stated in the Staff Report for the April 18th hearing appear to be that the parkland does not abut the Deer Pointe Park property. Locating the park improvements here would prevent much of the property from being developed for single family uses and would make the project financially infeasible. The additional public parkland shown in **Exhibit 1** would be connected to the existing Deer Pointe Park property with a pedestrian trail that can be easily accessed from the park across proposed Street A; this also has the advantage of creating a public park access to Highway 26.

The proposed parkland represents the best possible accommodation of parkland that the Applicant can offer while still maintaining a feasible development. While the Applicant does not concede or waive any arguments regarding the inapplicability of the parkland dedication requirement, the Council can find that the proposed public park tract is sufficient to satisfy the City's parkland dedication requirements as stated in SDC 17.86.10.

The proposed parkland would meet the standards of SDC 17.86.20 because homes front on the parkland, because the parkland is proposed as a contiguous unit, and because the parkland is sufficiently large to meet the active use requirements of SDC 17.86.20.C.

Finally, despite any recommendations from the City's Parks and Trails Advisory Board, the City's 1997 Parks and Trails Master Plan has not been incorporated into the SDC and is therefore inapplicable under ORS 197.195(1). Even if it were, there is no provision in that plan that specifically requires the Applicant to dedicate additional parkland at this, or any other, particular location on the subject property. That said, the Applicant has laid out the proposed park to provide the maximum connectivity and synergy with the Deer Pointe Park property.

B. Dubarko Road.

The updated subdivision proposal does not include an extension of Dubarko Road, which is the key issue animating Staff's findings nos. 19–22, 28–30, 30.A and .C, 33, and 51. As stated above, the prior application (Bull Run Terrace) was denied by the Council largely because of the then-proposed Dubarko Road extension. While an applicant may voluntarily construct such an improvement, in this limited-land use decision context the City lacks a clear and objective mechanism in the SDC to force the Applicant to make such a connection.

C. House orientation and frontage improvements on Highway 26.

There are serious livability downsides to orienting dwellings to face Highway 26. The proposed public park tract would provide a meaningful buffer between dwellings and the highway. For these reasons, the Applicant does not propose to place single-family lots directly on Highway 26, except for Lots 23 and 24, which must abut Highway 26 due to the triangular shape of the subject property. The Application can meet SDC 17.82.20 by orienting homes on those lots to Highway 26 and there is no evidence in the record that the Application cannot meet that standard. Pursuant to ORS 197.522(3), the Council should impose a condition to meet this standard if the Council finds that it applies.

The Applicant does not propose frontage improvements on Highway 26 because the proposed development will not utilize Highway 26 for access. The legal aspects of requiring such frontage improvements are discussed in detail, below.

D. The City may apply only clear and objective standards, conditions, and procedures to the Application.

ORS 197.307(4) provides that local governments may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of housing, including needed

housing, and precludes governments from unreasonably increasing the cost of housing or causing unreasonable delay. ORS 227.173(2) provides that “when an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.”

Land use regulations are not clear and objective if they impose “subjective, value-laden analyses that are designed to balance or mitigate impacts of the development on (1) the property to be developed or (2) the adjoining properties or community.” *Rogue Valley Assoc. of Realtors v. City of Ashland*, 35 Or LUBA 139, 158 (1998), *aff’d*, 158 Or App 1, 970 P2d 685, *rev den*, 328 Or 594 (1999). And, regardless of whether a given regulation is “designed to balance or mitigate impacts,” it must also be *both* clear *and* objective. *Id.* at 155–56 (“Dictionary definitions of ‘clear’ and ‘objective’ suggest that the kinds of standards frequently found in land use regulations lack the certainty of application required to qualify as ‘clear’ or ‘objective.’”). More fundamentally, standards that are susceptible to multiple interpretations are not clear and objective. *Parkview Terrace Development, LLC v. City of Grants Pass*, 70 Or LUBA 37, 52–53 (2014); *see also Walter v. City of Eugene*, 73 Or LUBA 356, 360–64 (2016) (citing a standard’s “multiple possible interpretations” as a basis to find it not clear and objective).

The Application is for needed housing.¹ ORS 197.522(2) and ORS 197.522(4) require local governments to approve needed housing applications that are consistent with, or can be made consistent with through reasonable conditions of approval, the comprehensive plan and applicable land use regulations, and to deny applications that are not. Relatedly, ORS 197.522(3),² allows an applicant to amend its application or to propose reasonable conditions to make its application consistent with the comprehensive plan and applicable land use regulations. What this means is that, if the Applicant proposes a condition of approval that would satisfy a given approval criterion that the Application does not otherwise meet, the Council must impose the proposed condition of approval in lieu of denying the Application.

Many of the reasons set forth in the Staff Report that form the basis of Staff’s recommendation of denial do not stand up to Oregon’s needed housing statutes. Many standards in the SDC are not clear and objective on their face or even when interpreted, and as such, cannot be applied to the Application under Oregon’s needed housing rules; examples of these standards are highlighted in the Applicant’s September 24, 2021 letter to the Planning Director. Further, the City does not offer a clear and objective approval process for subdivisions under ORS 197.307(6). And, the Council cannot deny an application that is consistent with the comprehensive plan and applicable land use applications and/or that can be made consistent by

¹ This Application is a “needed housing application” because a need has been shown for additional dwelling units at all density levels in the planning period between 2014 and 2034. This is reflected in the City’s Urbanization Study adopted in Jan. 2015 (Rod. 2015-01). **Exhibit 2** includes excerpts of this study which identify the City’s additional housing need.

² “If an application is inconsistent with the comprehensive plan and applicable land use regulations, the local government, prior to making a final decision on the application, shall allow the applicant to offer an amendment or to propose conditions of approval that would make the application consistent with the plan and applicable regulations.”

the imposition of reasonable conditions of approval. ORS 197.522(2)-(4). Finally, under ORS 197.522(3), the Council must allow the Applicant to amend the Application or to propose reasonable conditions that will cause the Application to meet all relevant approval criteria.

E. The City cannot require dedication of parkland because the Development Code's procedures for such requirement are not clear and objective.

The regulatory scheme created for park dedication is not clear and objective, and therefore is not applicable under ORS 197.307(4). SDC 17.86.10 includes a requirement that all residential development dedicate a certain amount of parkland based on the formula in SDC 17.86.10.B. Alternatively, an applicant may pay a fee-in-lieu for required parkland under SDC 17.86.40. While Staff contends that the formula for parkland dedication is clear and objective, that is not all that ORS 197.307(4) requires. It also requires that local governments “[...] apply only clear and objective [...] procedures regulating the development of housing,” and that the “standards, conditions and procedures...may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.” Emphasis added.

The SDC is without any clear and objective guideposts as to whether a developer must provide a fee-in-lieu payment or parkland dedication, and neither decision can be made without the inherent consideration of the other option because SDC Chapter 17.86 provides for both. Thus, the decision maker must exercise discretion in deciding to require one or the other, and it is the required exercise of discretion that makes the parkland dedication requirement inapplicable under ORS 197.307(4). Consequently, Staff is unable to explain how its recommendation that parkland be dedicated next to Deer Pointe Park was based on a clear and objective procedure. It is also worth noting that City staff now proposes to amend this section to make it clear and objective, which supports the Applicant's point that it is currently not. See **Exhibit 3**.

Finally, it is irrelevant that the proposed lots are not arranged as required by SDC 17.86.20 because there is no clear and objective method by which an applicant can predict whether parkland dedication or a fee-in-lieu will be required. More importantly, it is not clear how any parcel that is not a perfect square could be laid out as shown in 17.86.20.A, nor whether higher- or lower-density zoning could allow parkland development “as shown” in that section. As such, there is no way, as a practical matter, for Subsection A to be applied in a clear and objective manner. Subsection B is not clear and objective because there is no definition of “continuous unit” in the SDC. Subsection C is not clear and objective because it provides no objective benchmarks for determining how parkland can “accommodate place structures, play fields, picnic areas, or other active park use facilities. **Exhibit 3** provides evidence that at least City Staff agrees that these standards are not clear and objective and cannot be enforced.

2. The City may not require dedication of parkland, extension of Dubarko Road through the Subject Property, or frontage improvements on Highway 26.

A. The Transportation System Plan (“TSP”) and Parks and Trails Master Plan are not expressly incorporated into the land use regulations.

The Applicant has submitted an application for a subdivision, which is a limited land use decision as defined by ORS 197.015(12). Under ORS 197.195(1), cities are required to incorporate all comprehensive plan standards applicable to limited land use decisions into their land use regulations. The City of Sandy’s approval criteria governing review of a tentative plat for a subdivision fails to expressly incorporate the Sandy Comprehensive Plan or TSP. Specifically, SDC 17.100.60(E)(3) requires a showing that the “proposed street pattern is connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy.” This is not sufficient to meet the incorporation requirements of ORS 197.195(1) because it merely refers generally to the Comprehensive Plan and the City’s official street plan.

Staff also recommends denial because the Application does not propose to dedicate parkland adjacent to Deer Point Park, as that park is designated on the 1997 Parks Master Plan. Consequently, according to Staff, the Application violates SDC 17.86.10 and/or 17.86.40. Staff’s conclusions are incorrect. The Parks Master Plan is not applicable to the Application because, as explained above, the Application is a limited land use decision. Limited land use decisions are not subject to comprehensive plans or their elements unless such provisions are expressly incorporated into a city’s land use regulations. ORS 197.195(1). As evidenced by **Exhibit 3**, the Parks Master Plan is not incorporated into the SDC. Therefore, the Parks Master Plan does not supply any criteria or standards applicable to the Application.

Indeed, all references to the City’s TSP, Parks Master Plan, street plans, and Comprehensive Plan found in Chapter 17.84 and Chapter 17.100 of the SDC are not incorporated because none specify which policies and standards actually apply. Thus, these requirements cannot be applied to the Application.

B. In order to require dedication of parkland, an extension of Dubarko Road and or frontage improvements along Highway 26, the City must demonstrate that those requirements have an essential nexus and are roughly proportional to the project’s impacts on those facilities.

The Staff Report suggests that the Applicant should be required to dedicate certain land as parkland to expand Deer Pointe Park, to extend Dubarko Road to Highway 26, and to provide frontage improvements on Highway 26. Such dedications are subject to the Takings Clause of the Fifth Amendment of the U.S. Constitution.

Requiring a landowner to convey its private property rights in exchange for development approval is a takings (unconstitutional condition) unless there is an “essential nexus” between the condition and the government interest. *Nollan v. California Coastal Com.*, 483 U.S. 825, 836-37 (1987). Additionally, to withstand a legal challenge, the condition must be “roughly

proportional” to the expected impacts caused by the proposed development. *Dolan v. City of Tigard*, 512 U.S. 374, 391-395 (1994). The *Nollan* and *Dolan* takings analysis must be done on a case-by-case basis, and the City carries the burden of demonstrating in the first instance that any exaction has a nexus to and is roughly proportional to the nature and degree of the projected impacts of the project. The City is required to make an “individualized determination” and “some effort to quantify” evidence in the findings to support a conclusion of rough proportionality. *Dolan*, 512 U.S. at 391. The *Nollan/Dolan* analysis applies to requirements to pay money or make public improvements in addition to requirements to dedicate property. *Koontz v. St. Johns River Water Management District*, 570 U.S. 595 (2013).

There is no demonstration in the record that the requirements for the Dubarko Road extension and parkland dedication have a nexus to any governmental interest other than the City’s general policies showing the street extension and parkland dedications. However, such policies do not constitute the required nexus; rather, a local government must show that “the proposed project’s impacts, either alone or in combination with other construction, are ones that ‘substantially impede’ the interest identified by the government.” *Hill v. City of Portland*, 293 Or App 283, 290-291 (2018).

Staff has made no attempt to identify the essential nexus between the impact of the project on the City’s park system and the dedication requirement, and no attempt to explain how the requirement is roughly proportional to the project’s impacts. Relying on a broadly-applicable dedication formula is insufficient because such a determination must be individualized. *Dolan*, 512 U.S. at 391. Moreover, simply imposing the same level of exaction on all housing projects does not prove there actually is a nexus between that housing as the parks dedication requirement itself. *Hill*, 293 Or. App. at 290-291.

The City’s requirement for frontage improvements on Highway 26 also fails to pass constitutional muster. Even with the proposed revised plan, the Application does not propose any direct vehicular, bike, or pedestrian access to Highway 26. Under *Hill v. City of Portland*, 293 Or App 283, 290 (2018), and *Brown v. City of Medford*, 251 Or App 42, 53 (2012), the City cannot, as a matter of constitutional law, require frontage improvements to a road or highway that is not to be used for access.

Finally, there is nothing in the record or the Staff Report even approaching a showing that the parkland dedication, Dubarko Road extension, and Highway 26 frontage improvements are “roughly proportional” to the impacts of the proposed development.

C. SDC 17.100.100.G.2 prohibits the City from requiring an extension of Dubarko Road through the site.

SDC 17.100.100 governs street requirements for subdivisions. SDC 17.100.100.G establishes exemptions from otherwise-applicable street requirements. Subsection G.2 provides:

“Standards for street connections do not apply to freeways and other highways with full access control.”

As explained in ODOT's September 1, 2021 letter (which is listed as Exhibit N to the original Staff Report), Highway 26 is access controlled. Therefore, the City unambiguously lacks the authority to require a connection of Dubarko Road to Highway 26.

D. OAR 660-012-0045 does not apply to the proposed development.

Staff and the Planning Commission cite to OAR 660-012-0045 as a basis for denial. This is improper for at least two reasons. For one, this administrative rule is not an approval criterion and as such cannot be the basis for denial of the Application. Moreover, it establishes obligations for a local government's plan and land use regulations; it does not apply directly to review of subdivision application. Even if it did, it establishes obligations that the *City* must meet, not the Applicant. As such, it cannot be used as a basis to deny the Application.

3. Planning Staff's recommendation for denial is inconsistent with applicable law.

The original Staff Report identified twelve reasons for denial. With the Applicant's revisions, Staff has reduced its original list to only four reasons for denial. The Applicant addresses each of the four bases for Staff's recommendation for denial, below, and uses the numbering used in the updated Staff Report.

1) The subdivision proposal does not meet subdivision Criteria 17.100.60 (E)(1), (2), (3), (4), (5), and (6).

RESPONSE: Staff's conclusion is incorrect for the following reasons.

- *17.100.60.E.1. "The proposed subdivision is consistent with the density, setback and dimensional standards of the base zoning district, unless modified by a Planned Development approval."*
 - This criterion is not clear and objective as required by ORS 197.307(4) because the phrase "consistent with" is not clear and objective.
 - The Application satisfies the density requirements in the applicable zones.
 - Staff's only basis for finding that frontage standards are not met is due to the Applicant's plan not to extend Dubarko Road. Staff's position does not make sense because there is no basis within the SDC to require frontage improvements along a street that is not actually proposed by the Application.
 - Chapter 82's requirement that homes "face a transit street" is not applicable because, as noted above, the City's TSP and Pedestrian Mater Plans are not incorporated into the City's Land Use Regulations. ORS 197.195.
 - Pursuant to ORS 197.522(3), if the transit street orientation requirement in SDC 17.82.20.A did apply, it could be met with the following condition:

“All residential structures on lots abutting Highway 26, Dubarko Road, and Street B shall have their primary entrances oriented to Highway 26, Dubarko Road, or Street B. If a lot abuts two or more of these streets the residential structure shall be oriented to the highest classification of street.”

This condition was apparently proposed in paragraph 42 of the original Staff Report. Under ORS 197.522(3), the Council is required to impose this condition in lieu of denial because it would ensure satisfaction the frontage orientation requirement.

- 17.100.60.E.2. *“The proposed subdivision is consistent with the design standards set forth in this chapter.”*
 - As an initial matter, 17.100.60.E.2 cannot apply to the application because the phrase “consistent with” is not clear and objective as required by ORS 197.307(4) and similarly, E.2 does not identify which “design standards” apply.
 - Staff’s basis in finding 29 of the revised Staff Report for concluding that subsection E.2 is not met relies upon the following arguments:
 - That the project does not provide a Dubarko Road connection to Highway 26;
 - That the project does not meet the “Street Connectivity Principle”;
 - That the project “does not provide safe and convenient options for cars, bikes, and pedestrians”;
 - That the project “does not create a logical, recognizable pattern of circulation” and “does not provide a future street plan that promotes a logical, connected pattern of streets.”
 - That the project “does not spread traffic over many streets so that key streets such as Langensand Road and Highway 211 are not overburdened”;
 - That the project does not “provide connectivity to other streets within the development and to existing and planned streets outside the development”; and
 - That the applicant did not submit information on block lengths.
 - Staff is incorrect in the above findings for the following reasons:

- As explained above, the City cannot require an extension of Dubarko Road to Highway 26 because such a requirement is not incorporated into the City’s land use regulations. Moreover, SDC 17.100.100.G.2 provides that “standards for street connections do not apply to freeways and other highways with full access control.” Highway 26 is access controlled by ODOT.
- The “Street Connectivity Principle”³ does not apply because it is not clear and objective as required by ORS 197.307(4).
- The Application already shows the pattern of existing and proposed streets as required by SDC 17.100.100.E. Regardless, subsection E is not clear and objective because it includes the requirement that the plan “promote a logical, connected pattern,” which is not clear and objective as required ORS 197.307(4); nor is the requirement that a plan show new street extensions to adjacent parcels “where development may practically occur.” If the Council concludes that a different future street plan is required, it can require that as a condition of approval pursuant to ORS 197.522(3).
- The requirement in SDC 17.100.100.F that “all streets, alleys and pedestrian walkways shall connect to other streets within the development and to existing and planned streets outside the development and to undeveloped properties that have no future street plan” is not applicable because it is not clear and objective, as required by ORS 197.307(4). Even if it were, the plan clearly demonstrates how the proposed internal street systems connect with other streets in the vicinity.
- The requirements that the project “create a logical, recognizable pattern of circulation,” “provide a future street plan that promotes a logical, connected pattern of streets,” and “spread traffic over many streets so that key streets such as Langensand Road and Highway 211 are not overburdened” are not clear and objective.

³ The “Street Connectivity Principle” is set forth in SDC 17.100.100.A as follows: “A. Street Connectivity Principle. The pattern of streets established through land divisions should be connected to: (a) provide safe and convenient options for cars, bikes and pedestrians; (b) create a logical, recognizable pattern of circulation; and (c) spread traffic over many streets so that key streets (particularly U.S. 26) are not overburdened.” This is not clear and objective because it does not define the following terms: “safe and convenient,” “a logical, recognizable pattern of circulation,” “spread traffic,” “many streets,” and “overburdened.” It is also not clear and objective because it does not explain *how* a “pattern of streets” should be “connected.”

- The block length standards in SDC 17.100.120 are as follows:
 - “A. Blocks. Blocks shall have sufficient width to provide for two tiers of lots at appropriate depths. However, exceptions to the block width shall be allowed for blocks that are adjacent to arterial streets or natural features.
 - B. Residential Blocks. Blocks fronting local streets shall not exceed 400 feet in length, unless topographic, natural resource, or other similar physical conditions justify longer blocks. [...]”

These standards are not clear and objective because the terms “appropriate depths,” and the phrase “unless topographic, natural resource, or other similar physical conditions” are ambiguous.
- Regardless, block length information is available because the subdivision plan sheets are to scale. This is a submittal requirement and does not provide a basis for denial of the Application. **Exhibit 1** demonstrates how block length standards are met.
- *17.100.60.E.3. “The proposed street pattern is connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy.”*
 - As explained above, this criterion is not applicable because the City’s Comprehensive Plan and TSP have not been incorporated into the City’s land use regulations as required by ORS 197.195.
 - As explained above, the City has not demonstrated the required essential nexus and rough proportionality required by *Nollan* and *Dolan*.
 - The Applicant is not required to extend Dubarko Road under SDC 17.100.100.G.2 because Highway 26 is access controlled by ODOT.
 - The Bull Run Terrace application materials are not in the record of this Application; therefore any Applicant statements in those materials are not relevant to the approval criteria. Regardless, that application was for a post-acknowledgement plan amendment which is not subject to ORS 197.195.
- *17.100.60.E.4. “Traffic volumes shall not exceed average daily traffic (ADT) standards for local streets as detailed in Chapter 17.10, Definitions.”*
 - Mike Ard, the Applicant’s transportation engineer, provided an updates to the existing transportation impact study (TIS) dated September 27, 2021 which demonstrates that the Application satisfies this section.

- *17.100.60.E.5. “Adequate public facilities are available or can be provided to serve the proposed subdivision.”*
 - This standard is not applicable under ORS 197.307(4) because the phrase “adequate public facilities” is ambiguous and subjective.
 - The Applicant incorporates in its response to this argument its above responses to the requirements for parkland dedication, an extension of Dubarko Road, and the requirement for frontage improvements along Highway 26.
- *17.100.60.E.6. “All proposed improvements meet City standards.”*
 - In finding 33 of the revised Staff Report, Staff identified three reasons why it believed the above criterion is not met. These are (1) the lack of an extension of Dubarko Road to Highway 26, (2) the lack of frontage improvements on Highway 26, and (3) the lack of dedicated parkland. As explained above, these are not legally permissible bases for denial.
 - Regardless, the above criterion is not applicable under ORS 197.307(4) because the criterion does not identify which City standards are applicable, and does not explain what is sufficient to “meet” those standards.

7) The applicant does not propose to extend Dubarko Road to intersect with Highway 26 consistent with the requirements of the Sandy Development Code or the 2011 Transportation System Plan.

RESPONSE: As explained in detail above, the City cannot require an extension of Dubarko Road to Highway 26 because such a requirement is not incorporated into the City’s land use regulations. Moreover, SDC 17.100.100.G.2 provides that “standards for street connections do not apply to freeways and other highways with full access control.” Highway 26 is access controlled by ODOT. Finally, as explained above, the City has not met its burden of demonstrating an essential nexus or rough proportionality for this requirement, as required by *Nollan* and *Dolan*.

8) The applicant does not include highway frontage improvements along Highway 26 consistent with the Sandy Development Code.

RESPONSE: Under *Hill v. City of Portland*, 293 Or App 283, 290 (2018), and *Brown v. City of Medford*, 251 Or App 42, 53 (2012), the City cannot, as a matter of constitutional law, require frontage improvements to a road or highway that is not proposed for access. As the City cannot require such frontage improvements, the above statement is not a permissible reason for denial.

Regardless, if the Council believes that this requirement can pass constitutional muster, pursuant to ORS 197.522(3) the Council should impose a condition of approval requiring frontage improvements along Highway 26 consistent with the requirements of the SDC.

12) This subdivision proposal does not propose to dedicate 0.93 acres of parkland as required by Chapter 17.86. The additional .96 acres could expand Deer Pointe Park consistent with the Parks and Trails Master Plan that was adopted in 1997.

RESPONSE: As explained in detail above, the City cannot *require* dedication of 0.93 acres to add to Deer Pointe Park for the following reasons:

- The City’s Parks and Trail Master Plan is not incorporated into the City’s land use regulations as required by ORS 197.195, and is therefore inapplicable to the Application.
- The process by which the City can require parkland dedication as opposed to a fee-in-lieu is not clear and objective; therefore, the parkland dedication requirement cannot apply under ORS 197.307(4).
- Staff has made no attempt to demonstrate an essential nexus or rough proportionality of the parkland dedication requirement, as required by *Nollan* and *Dolan*.

Regardless, **Exhibit 1** demonstrates how the Applicant could provide the minimum required park area. Pursuant to ORS 197.522(3), if the Council nonetheless concludes that it is not barred from requiring the park dedication, it can impose a condition of approval requiring a park area as shown on **Exhibit 1** of this letter. The proposed park area consists of 1.08 acres, which exceeds the minimum parkland dedication amount by 14 percent. As explained above, there is no enforceable requirement that the park be dedicated to abut the existing Deer Pointe Park property.

4. Response to Additional Staff Findings.

Staff made some additional findings in its revised Staff Report which, while not stated as bases for denial, the Applicant responds to, below.

- A. The applicant proposes two cul-de-sacs but does not propose a pedestrian connection to streets beyond the cul-de-sacs as required by Section 17.84.30.**

RESPONSE: Staff’s conclusion in finding 64 is incorrect for the following reasons.

- SDC 17.84.30(B) is not clear and objective and therefore inapplicable under ORS 197.307(4), for the following reasons:
 - The phrase “safe and convenient pedestrian and bicyclist facilities that strive to minimize travel distance to the extent practicable shall” is ambiguous, subjective, and requires the use of discretion in its application.
 - The definition of “safe and convenient” in subsection (B)(1) does not make the phrase clear and objective because the definition itself relies on ambiguous

and subjective terminology, including “reasonably free from hazards,” “interfere with or discourage travel for short trips,” “a direct route of travel between destination” and “meet the travel needs of pedestrians and bicyclists.” None of these phrases are capable of objective measurement.

- SDC 17.84.30 does not require pedestrian pathways to “streets beyond the cul-de-sacs.” Rather, it subjectively requires pedestrian and bicycle facilities “within and between new subdivisions, commercial developments, industrial areas, residential areas, public transit stops, school transit stops, and neighborhood activity centers such as schools and parks.” Staff’s conclusion is incorrect because “streets,” as a general matter, are not on this list.
- SDC 17.84.30(B)(2) does not expressly require pedestrian connections from cul-de-sacs; it only requires pedestrian connections to be a minimum of 15 feet wide where they are proposed.
- There is no specific requirement in the SDC for the Applicant to provide a pedestrian path directly from the cul-de-sacs to Highway 26 because the SDC does not specifically require pedestrian paths between cul-de-sacs and streets which do not abut cul-de-sacs.
- Even if this standard were clear and objective, the Council can find that it is met with the public pedestrian easements to the proposed parkland shown on **Exhibit 1**, which abuts Highway 26.

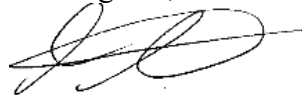
B. The revisions do not include a revised street parking plan.

RESPONSE: This is a submittal requirement, not a criterion. Staff has not argued that a lack of a revised street parking plan causes the Application to not comply with any applicable criterion or standard.

5. Conclusion.

For the above reasons, the City Council should grant this Appeal and approve the Application with a condition requiring the tentative subdivision plan to be consistent with **Exhibit 1**.

Best regards,



Garrett H. Stephenson

GST:jmhi
Enclosures

cc: Chris Crean (*via email*) (*w/enclosures*)

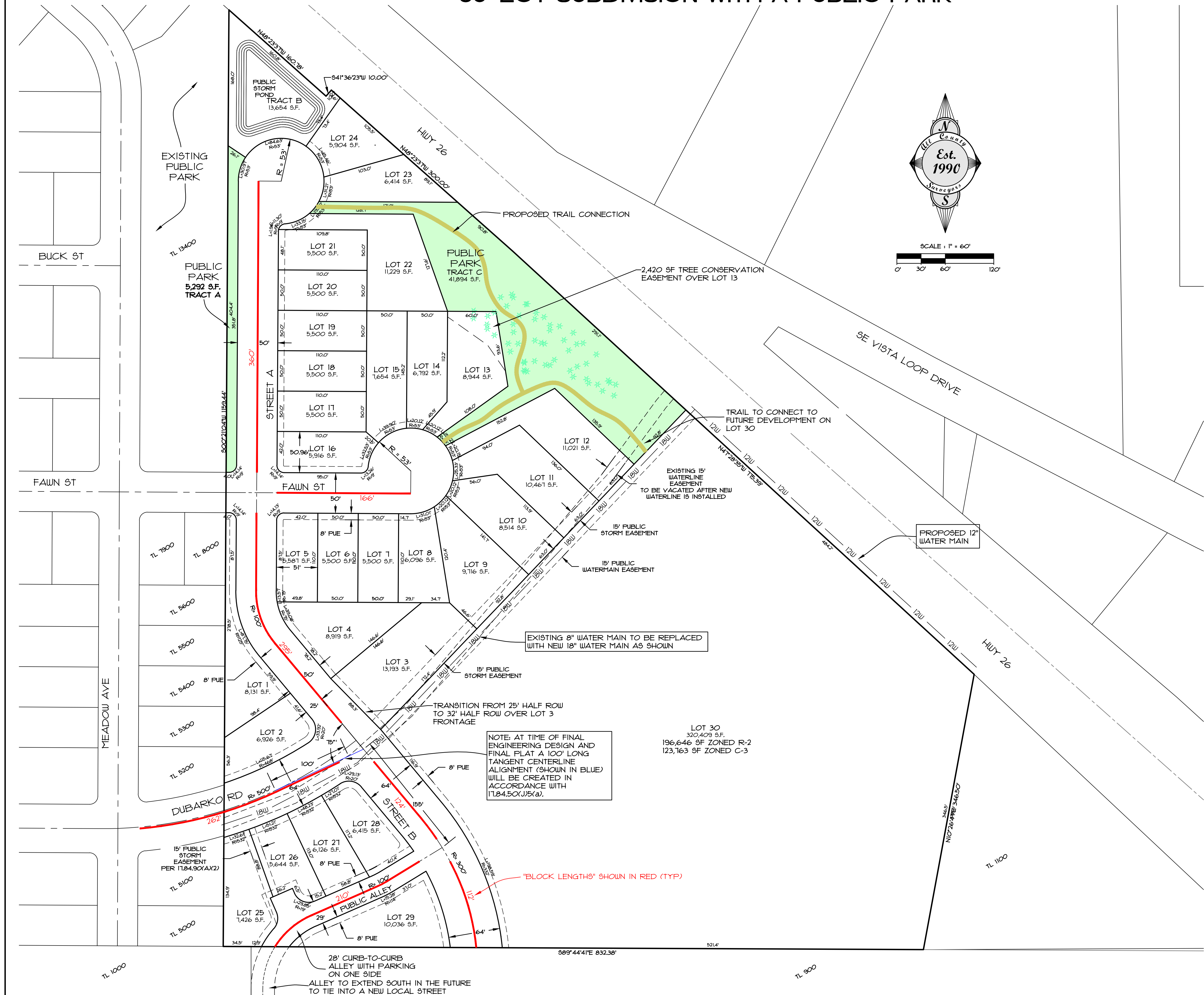
Hon. Stan Pulliam
April 15, 2022
Page 15

Dave Vandehey (*via email*) (*w/enclosures*)
Ray Moore (*via email*) (*w/enclosures*)
Mike Ard (*via email*) (*w/enclosures*)
Tracy Brown (*via email*) (*w/enclosures*)
Tyler Henderson (*via email*) (*w/enclosures*)
Alex Reverman (*via email*) (*w/enclosures*)
Carey Sheldon (*via email*) (*w/enclosures*)

PDX\126769\255102\GST\33422456.2

DEER MEADOWS

30-LOT SUBDIVISION WITH A PUBLIC PARK



CLIENT
 ROLL TIDE PROPERTIES CORPORATION
 PO BOX 103
 CORNELIUS, OR 97113

SURVEYOR/ENGINEER
 ALL COUNTY SURVEYORS & PLANNERS, INC.
 PO BOX 955
 SANDY, OR 97055

PLANNER
 TRACY BROWN PLANNING CONSULTANTS, LLC
 17015 FIR DR.
 SANDY, OR 97055

LEGEND

PARKLAND DEDICATION SHOWN AT 4/-1 ACRE. MINIMUM REQUIRED AT TIME OF FINAL PLAT TO BE 0.93 ACRES (40,511 SF). ADJUSTMENTS TO LOT LINES WILL BE MADE AT TIME OF FINAL PLAT TO PROVIDE 0.93 ACRES OR MORE.

NOTES

- THIS IS NOT A BOUNDARY SURVEY. NO LIABILITY IS ASSUMED BY ALL COUNTY SURVEYORS AND PLANNERS FOR THE EXISTENCE OF ANY EASEMENTS, ENCUMBRANCES AND DISCREPANCIES IN BOUNDARY OR TITLE DEFECTS.
- LOT 30 TO BE DEVELOPED UNDER SEPARATE DESIGN REVIEW PROCESS AT FUTURE DATE.

BY:	REVISION	SHEET
DATE	NO.	P1
DESIGNED:	CTH	OF
DRAWN:	CTH	1
CHECKED:	RLM	
APPROVED:	RLM	

SCALE	VERT. N/A	HORIZ. 1"=60'
DATE:	3-1-22	
FILE:	19-035-PARK-B.dwg	
SECTION	TWP. 18	RANGE 29
LEGAL	SECTION 18	RANGE 29
		5E

DEER MEADOWS SUBDIVISION
 REVISED PLAT WITH
 PARKLAND DEDICATION

PROJECT: DEER MEADOWS SUBDIVISION
 LOCATION: 40808 & 41010 HWY 26, SANDY, OR 97055

Surveyors & Planners, Inc.
 Surveying, Planning and
 Civil Engineering

P.O. Box 955, Sandy, OR 97055
 Phone: (503) 668-4730
 Fax: (503) 668-4730

CLIENT:
 ROLL TIDE PROPERTIES CORPORATION
 PO BOX 103
 CORNELIUS, OR 97113



City of Sandy Urbanization Study

Prepared by the City of Sandy
Planning Department

Final Report

January 2015

*Adopted: February 2015
Ordinance 2015-01*

How much buildable land does Sandy currently have?

The Sandy Urban Growth Boundary (UGB) currently contains about 2,110 acres of land (Table S-2). It is estimated that about 345 acres of this land contains development constraints resulting in about 1,765 net acres of buildable land.

Table S-2. Total land, gross acres, Sandy UGB, 2014

Zone	Tax Lots	Gross Acres	Constrained Acres	Net Acres	Percent of Total
LDR	1,891	844.7	194.0	650.7	36.9%
MDR	430	249.5	50.3	199.2	11.3%
HDR	564	177.0	27.0	150.0	8.5%
C	331	295.8	25.4	270.4	15.3%
I	68	220.1	29.2	191.0	10.8%
Village C	8	10.7	0.0	10.7	0.6%
Village LDR	583	256.3	17.1	239.2	13.5%
Village MDR	174	47.1	1.6	45.6	2.6%
Village HDR	134	8.9	0.4	8.5	0.5%
Total	4,183	2,110.1	344.8	1,765.3	100.0%

Source: City of Sandy

How many dwelling units will Sandy have?

Sandy will need to provide about 3,180 dwelling units to accommodate growth between 2014 and 2034. Approximately 2,188 dwelling units (68.8 percent) will be single-family types, including single-family detached and attached dwellings, manufactured dwellings, row homes, and condos. Approximately 992 dwelling units (31.2 percent) will be multi-family housing. The density percentage for the residential plan designation is based on the existing land classification breakdown, with 68.8 percent designated Low Density Residential (LDR), 18.9 percent Medium Density Residential (MDR), and 12.3 percent High Density Residential (HDR). The proposed housing mix allows for up to 31.2 percent multi-family and a minimum of 68.8 percent single-family.

How much land will be required for housing?

Table S-3 shows the forecast of needed acreage for the 3,180 dwelling units for the 2014 to 2034 period. Semi-public uses are projected to locate within land designated for residential uses. The results lead to the following findings:

- ≠ The current UGB has the capability of supplying 341.3 net acres for residential uses.
- ≠ 575.7 net acres are needed to accommodate projected housing needs for the planning period.

Table S-3. Residential land needed for housing, Sandy UGB, 2014-2034

Zones	Percent	Units Needed	Net Acres	ROW Acres	Gross Acres
LDR (SFR density)	52.4%	1,666	395.3	78.4	473.7
LDR (R-1 density)	16.4%	522	80.2	13.4	93.6
MDR	18.9%	601	60.9	10.7	71.6
HDR	12.3%	391	39.3	7.5	46.8
Total	100.0%	3,180	575.7	110.0	685.7

Source: City of Sandy

Table S-4 shows the residential land needed for the projected land capacity deficit. The results show the net and gross residential acres needed.

Table S-4. Residential land needed for housing capacity deficit, Sandy UGB, 2014-2034

Zone	Units Needed	Supply Units	Replacement Units	Unit Surplus (Deficit)	Net Acres	ROW Acres	Gross Acres
LDR (SFR density)	1,666	770	35	(931)	(211.6)	(42.3)	(253.9)
LDR (R-1 density)	522	421	23	(124)	(19.1)	(3.8)	(22.9)
MDR	601	579	19	(41)	(3.7)	(0.7)	(4.5)
HDR	391	632	32	209	13.9	---	13.9
I/C	---	34	34	---	---	---	---
Total	3,180	2,436	143				

Source: City of Sandy

How many employees will Sandy have?

Employment forecasts indicate that Sandy will add 3,719 jobs between 2014 and 2034. About 2,789 employees (75 percent) will be retail/service, 558 employees (15 percent) will be industrial, and 372 employees (10 percent) will be government.

How much land will be required for employment?

Table S-5 shows the forecast of needed net acres for employment growth and existing net acres for employment lands within the Sandy UGB for the 2014 to 2034 period. The results lead to the following findings:

- ≠ The Sandy UGB has the capability of supplying 241.1 net acres for employment uses. The growth industry breakdown is 132.0 net acres for retail/service, 91.5 net acres for industrial, and 17.6 net acres for government.
- ≠ The Sandy UGB needs 244.1 net acres to accommodate employment uses. The growth industry breakdown is 174.3 net acres for retail/service, 46.5 net acres for industrial, and 23.3 net acres for government.

Dwelling unit and land deficiency, 2014 - 2034

Supply for needed dwelling units and needed land is based on comparing the existing land supply to the land demand for the planning period. The following sections step through that logic and describe the deficiency for dwelling units and land in the Sandy UGB.

Existing dwelling unit capacity

The final step in the housing needs analysis is to allocate housing needs by plan designation to determine the number of needed housing units and gross acres required to meet identified housing needs for the 20-year period. It also provides an estimate of the net acres required in each zone to accommodate needed housing units. Table 3-18 shows net acres by Comprehensive Plan designation and by buildable lands classification.

Table 3-18. Net acres by Comprehensive Plan designation and by buildable lands classification, Sandy UGB, March 2014

Zone	Net Vacant Acres	Significant Redevelopment Acres	Moderate Redevelopment Acres	Total Net Acres
LDR	85.8	14.0	7.9	107.7
MDR	20.9	5.2	1.2	27.3
HDR	24.6	4.7	0.4	29.7
Village LDR	42.1	28.0	5.1	75.2
Village MDR	8.2	3.6	0.8	12.6
Village HDR	0.0	0.0	0.4	0.5
Total	181.6	55.5	15.9	253.0

Source: City of Sandy

Sandy will need to accommodate 3,180 dwelling units for the planning period. Table 3-18 shows that existing residential land within the UGB that is not platted or tentatively platted can supply 253.0 net acres. There is an additional 88.3 net acres of platted or tentatively platted land that is planned to accommodate an additional 621 dwelling units. Table 3-19 provides the total number of housing units that can be provided on the 341.3 acres of land, including 2,197 new dwelling units and 143 replacement dwelling units. As explained earlier in this chapter, approximately 109 replacement dwelling units are located on residential zoned land, while 34 replacement dwelling units are located on commercial and industrial zoned lands. Replacement units are not counted as fulfilling demand for residential dwelling units as they are assumed to replace existing dwellings at the same site, or in the case of commercial/industrial land in conjunction with adjacent residential development.

In addition, this analysis assumes that 34 additional dwelling units will be constructed in the mixed-use downtown Central Business District (C-1). The C-1 zoning district currently contains 10 mixed-use dwelling units and it is anticipated an additional 34 units will be constructed from 2014 to 2034 to offset the number of dwelling units removed from employment lands.

Table 3-19. Dwelling units accommodated on residential lands, Sandy UGB, 2014-2034

Zone	Platted/ Tentative Vacant	Platted/ Tentative Redevelop- ment	Vacant	Significant Redevelop- ment	Moderate Redevelop- ment	Total
LDR	143	50	378	62	35	668
MDR	56	0	230	57	13	356
HDR	102	29	368	70	6	575
Village LDR	82	25	206	174	32	519
Village MDR	84	0	90	40	9	223
Village HDR	50	0	0	1	6	57
Total Dwellings	517	104	1,272	403	101	2,398

Source: City of Sandy

Dwelling Unit Calculations:

- 2,255 (new dwelling unit capacity) + 143 (replacement dwelling units) = 2,398 *dwelling unit capacity in residential land classifications*
- 2,398 (dwelling unit capacity on residential land) – 143 (replacement dwelling units) + 34 (new C-1 mixed-use dwelling units) + 4 (vacant lots identified by Filter 2) = 2,293 *dwelling unit capacity in all land classifications*
- 3,180 (needed dwelling units) – 2,293 (dwelling unit capacity in all land classifications) = *minimum of 887 additional dwelling units needed*

The 3,180 needed dwelling units require approximately 685.7 gross residential acres. The density percentage for the residential plan designation is based on the existing land classification breakdown, with 68.8 percent designated Low Density Residential (LDR), 18.9 percent Medium Density Residential (MDR), and 12.3 percent High Density Residential (HDR). This analysis combines non-Village and Village Plan Designations together as density requirements are the same.

Table 3-20. Residential land needed for housing, Sandy UGB, 2014-2034

Zones	Percent	Units Needed	Net Acres	ROW Acres	Gross Acres
LDR (SFR density)	52.4%	1,666	395.3	78.4	473.7
LDR (R-1 density)	16.4%	522	80.2	13.4	93.6
MDR	18.9%	601	60.9	10.7	71.6
HDR	12.3%	391	39.3	7.5	46.8
Total	100.0%	3,180	575.7	110.0	685.7

Source: City of Sandy

Table 3-21 details the amount of residential land needed to accommodate the identified housing capacity deficit. Table 3-21 includes the 143 replacement dwelling units that add to the deficit and the 34 mixed-use dwelling units in the C-1 zoning district that reduce the overall deficit, as explained above. Based on the housing mix of 68.8 percent single-family and 31.2 percent multi-family within the land classifications at the identified percentages, the deficit of 1,055 dwelling units in the LDR land classification, the deficit of 41 dwelling units in the MDR land classification, and the surplus of 209 dwelling units in the HDR land classification requires an additional 281.3 gross acres to accommodate residential land needs (Table 3-21). The acreage deficit is a portion of the required 685.7 acres identified in Table 3-20.

Based on the above analysis, the existing residential land within the UGB can only supply the needed land for 2,293 dwelling units. As detailed in Table 3-21, the dwelling unit shortage of 1,096 dwelling units need an additional 281.3 gross acres of land. Because land classifications are separate from one another the LDR and MDR lands require an additional 209 dwelling units above the minimum 887 additional dwelling units needed.

Table 3-21. Residential land needed for housing capacity deficit, Sandy UGB, 2014-2034

Zones	Units Needed	Supply Units*	Replacement Units	Unit Surplus (Deficit)	Net Acres	ROW Acres	Gross Acres
LDR (SFR density)	1,666	770	35	(931)	(211.6)	(42.3)	(253.9)
LDR (R-1 density)	522	421	23	(124)	(19.1)	(3.8)	(22.9)
MDR	601	579	19	(41)	(3.7)	(0.7)	(4.5)
HDR	391	632	32	209	13.9	---	13.9
I/C	---	34	34	---	---	---	---
Total	3,180	2,436	143				

Source: City of Sandy

Note: *The supply units include the four dwelling units on vacant lots that were identified by Filter 2.

Based on the housing needs analysis, the following assumptions were made for housing by plan designation and type:

- 68.8 percent of housing will be single-family (including manufactured, condos and townhomes) and 31.2 percent multi-family. This proportion is consistent with the findings in this chapter.
- 52.4 percent of needed dwelling units will locate in the Single Family Residential zoning district within the LDR Plan Designation which allows single-family detached, single-family manufactured outright, and single-family attached or duplexes with an approved minor conditional use permit.
- 16.4 percent of needed dwelling units will locate in the Low Density Residential zoning district within the LDR Plan Designation which allows single-family detached, single-family attached, single-family manufactured (on individual lots and in manufactured home parks), row houses, and duplexes outright.
- 18.9 percent of needed dwelling units will locate in the Medium Density Residential Plan Designation which allows single-family detached, single-family attached, single-

family manufactured (on individual lots and in manufactured home parks), row houses, duplexes, and multi-family outright.

- 12.3 percent of needed dwelling units will locate in the High Density Residential Plan Designation which allows single-family detached (in conjunction with a planned development), single-family attached, manufactured home parks, row houses, duplexes, multi-family, boarding houses, and residential facilities.
- A portion of the land within the Urban Reserve Boundary has the Village designation. The Village designation allows all housing types allowed in the R-1, R-2, and R-3 zones, including single-family detached, single-family attached, row homes, manufactured homes in parks, duplexes, and multi-family dwellings. The percentage of land designated with the Village designation will be determined during the future UGB expansion process.

Summary

The conclusions of the housing needs analysis for Sandy for the 2014 to 2034 planning period include the following:

- 3,180 new dwelling units will be needed for the planning period in a range of housing types including: single-family attached and detached, manufactured homes, duplexes, multi-family, and government assisted housing.
- Housing is needed to accommodate a range of income-levels, especially those types affordable to low-income households.
- The housing mix is 68.8 percent single-family (including manufactured, condos and townhomes) and 31.2 percent multi-family with 63.7 percent owner-occupied and 36.3 percent renter occupied.
- Housing development will result in an average density of 5.52 dwellings per net buildable acre.
- The safe harbor approach allows local government to estimate that the 20-year land needs for rights-of-way, schools, and park land will together require an additional amount of land equal to 25 percent of the net buildable acres for residential zoning designations.
- The existing UGB contains 341.3 net acres of residentially designated land.
- To accommodate projected housing for the planning period 575.7 net acres or 685.7 gross acres of residentially designated land are needed.
- The current Sandy UGB contains a gross acre deficit of 276.8 acres of low density residential land, a deficit of 4.5 acres of medium density residential land, and a surplus of 13.9 acres of high density residential land to accommodate housing and other public land needs for the 2014 to 2034 period.



City of Sandy
39250 Pioneer Blvd.,
Sandy, OR 97055

Meeting Date: April 13, 2022
To: Parks and Trails Advisory Board
From: Rochelle Anderholm-Parsch, Parks and Recreation Director
Subject: Revised code to Chapters 17.32 and 17.86

DECISION TO BE MADE:

Understand the proposed code changes to Chapters 17.32 Parks and Open Space (POS), and 17.86 Parkland and Open Space of the Sandy Development Code and provide any final comments before the edits are brought to the Planning Commission on April 25, 2022.

PURPOSE / OBJECTIVE:

Support the revised code as presented in order to facilitate successful implementation of the Parks and Trails Master Plan.

BACKGROUND / CONTEXT:

In conjunction with the adoption of the new Parks and Trails Master Plan, the City is revising two municipal code chapters that regulate parkland and open space development. The two development code chapters that are proposed to be modified are Chapter 17.32, Parks and Open Space (POS) and Chapter 17.86, Parkland and Open Space.

The code modifications will remove antiquated requirements, add 21st century industry terminology and best practices, solidify clear and objective code requirements, and incorporate recommendations from the new Parks and Trails Master Plan.

Staff met all noticing requirements by sending a post-acknowledgement plan amendment (PAPA) to DLCDC on March 21, 2022, and by publishing a legal notice in the Sandy Post.

In addition, the code amendments include grammatical edits as well as the incorporation of gender-neutral terminology, as requested by the Planning Commission.

The following is a list of some of the most significant changes*:

Chapter 17.32¹

1. Removed the references to public and private ownership in the intent statement as there is no need to distinguish between public and private parks and open space, or those that are “designated or proposed.” Our legal counsel has informed staff that this is uncommon in

¹ *Full revised code edits are located in the attachments.

an ‘intent’ statement, and it is enough to say that the chapter is intended to provide for parks and open space.

2. Added an applicability section.
3. Added additional clarity to the primary permitted uses and accessory permitted uses.

Chapter 17.86²

1. Added clarity to Section 17.86.10 to expressly incorporate the 2022 Amended Parks and Trails Master Plan by reference for limited land use decisions.
2. Increased the ratio to 0.0068 of an acre of parkland per person as recommended by ESA.
3. Added section 17.86.10 (C) specifies when an applicant shall pay a fee in lieu as it relates to the size of dedicated land.
4. Added additional clear and objective requirements for minimum parkland development standards in Section 17.86.20.
5. Removed the diagram in Section 17.86.20 as it was not clear and objective. It also set burdensome precedent by requiring streets around all sides of parks which is expensive to construct as the Parks SDC account has to pay for half street improvements along parkland.
6. Modified Section 17.86.30 to make the dedication process clear and objective and to better define the environmental testing requirements.
7. Added additional clear and objective requirements for fee in lieu of dedication in Section 17.86.40, including a level of service reference and stated that the City of Sandy does not want parkland less than one-quarter of an acre unless for trail needs.

Previous meetings and discussions include the following. The Planning Commission held two hearings (August 23, 2021 and September 27, 2021) to discuss the code amendments. The Parks and Trails Advisory Board held a meeting on October 6, 2021 to discuss the amendments. A memo dated October 7, 2021 that includes the Parks Board comments is attached. Staff has worked closely with the Parks and Trails Master Plan consultant, Environmental Science Associates (ESA), the city attorney’s office, the Parks and Trails Advisory Board Chair, and former Parks and Trails Advisory Board Chair / current City Councilor on the proposed amendments.

RECOMMENDATION:

Staff recommends the Parks and Trails Advisory Board review the proposed code amendments and make a recommendation to the Planning Commission.

BUDGETARY IMPACT:

1. Likely a cost savings for Parks SDCs with removal of the requirement to require streets around all sides of parks.
2. Likely additional parkland dedication or fee in lieu of land will be collected as the acre of parkland per person is proposed to increase.
3. Likely a reduction in legal costs by having an updated municipal code that is easier for staff to enforce.

² *Full revised code edits are located in the attachments.

SUGGESTED MOTION LANGUAGE:

I move that the Parks and Trails Advisory Board forward a recommendation of approval to the Planning Commission on the proposed code modifications to Chapters 17.32 and 17.86 of the Sandy Development Code.

LIST OF ATTACHMENTS / EXHIBITS:

- Chapter 17.32 - Edits for 21-032 DCA revised for April 13 Parks Board
- Chapter 17.86 - Edits for 21-032 DCA revised for April 13 Parks Board
- Memo from Sarah Richardson on behalf of the Parks and Trails Advisory Board

STAFF CONTACT:

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Development Services Director
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koniel@ci.sandy.or.us

Rochelle Anderholm-Parsch
Parks and Recreation Director
503-489-2157
randersholmparsch@cityofsandy.com

CHAPTER 17.32 PARKS AND OPEN SPACE (POS)¹

Sec. 17.32.00. Intent.

This ~~district~~ chapter is intended to ~~provide for~~ ~~recognize those publicly owned lands designated or proposed for~~ parks and open spaces. Parks include ~~publicly developed parks, and undeveloped park land~~ open space, and natural areas where ~~typical~~ uses include ~~both~~ active and passive outdoor recreation activities, trails, ~~open space,~~ cultural activities, park buildings and structures, concessions, general park operations and maintenance, and storm drainage facilities. Open space includes ~~publicly developed and undeveloped lands and sensitive natural areas~~ where uses include passive recreation activities such as trails, interpretive displays, viewpoints, picnic and seating areas, as well as environmentally sensitive areas such as wildlife habitats, wetlands, riparian corridors, steep slopes, forested areas, and stream corridors, and areas that support unique and/or endangered plant and animal species.

Sec. 17.32.10. Applicability

This chapter applies to all land designated or proposed for parks and open spaces. Where land is subject to a specific park master plan, such as Bornstedt Park or Sandy River Park, compliance with the specific master plan is required.

Sec. 17.32.~~10~~20. Permitted uses.

A. Primary Uses Permitted Outright:

1. Parks, natural areas and open space, and special use areas ~~improvements~~ identified in Map 5 Existing Park Inventory, Map 8 Proposed Park System, Table 12 Tier 1 Capital Improvement Plan, or Table A-3 Proposed Park Capital Improvement Plan of the 2022 Parks and Trails Master Plan; or Park Specific Master Plans adopted by the City Council.
2. Trails identified in Map 6 Existing Trail Inventory, Map 14 Proposed Trail System, Table 12 Tier 1 Capital Improvement Plan, or Table A-4 Proposed Trail Capital Improvement Plan; in otherwise undeveloped open space.
3. Other uses similar in nature as listed in the 2022 Parks and Trails Master Plan.

B. Accessory Uses Permitted Outright:

1. Accessory structures, detached or attached~~;~~
2. Educational activities in accordance with the primary purposes of the zone~~;~~
3. Interpretive displays~~;~~
4. Skate parks;

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-11, effective December 18, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

{00796137; 1 }

5. Splash pads;

6. Community gardens;

7. Disc golf courses;

8. Pump tracks;

9. Climbing walls;

10. Off-leash dog parks;

11. Sports fields and courts;

411. Park furnishings, including arbors, barbeques, benches, bicycle racks, drinking fountains, gazebos, kiosks, picnic tables, play equipment and signage--;

512. Public driveways and parking areas for uses permitted in this zone--;

613. Public restroom facilities--;

14. Other uses similar in nature as listed in the 2022 Parks and Trails Master Plan.

Sec. 17.32.2030. Minor conditional uses and conditional uses.

A. *Minor Conditional Uses:* None

B. *Conditional Uses:*

1. Campgrounds;

2. Swimming pools and aquatic facilities;

3. Community centers;

43. Other uses similar in nature.

Sec. 17.32.3040. Sandy River Park.

The above uses are inapplicable to the Sandy River Park property owned by the City of Sandy. This section contains requirements specific to Sandy River Park. Development of the Sandy River Park is guided by and limited to the uses identified in the Sandy River Park Master Plan dated June 3, 2010, and any future Sandy River Park Master Plan amendments adopted by the City Council. The primary uses specified in the plan include hiking, nature study, ~~and~~ habitat restoration and the construction of a trail system to facilitate ~~this~~ these uses. Accessory structures identified in the plan include installation of interpretative signage, benches, picnic tables, restroom facilities, and limited parking.

Sec. 17.32.4050. Development standards.

Parks and Open Space	
Lot Area	No minimum
Lot Dimension	No minimum
Setbacks	No minimum or maximum
Lot Coverage	No maximum
Structure Height	35 ft. maximum
Off-Street Parking	See Chapter 17.98
Design Review Standards	See Section 17.90.120

{00796137; 1 }

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(Supp. No. 1, Update 2)

Sec. 17.32.5060. Additional requirements.

- A. ~~Where applicable, p~~Park improvements shall comply with ~~city design standards-~~Chapter 17.90 Design Standards.
- B. Provisions for pedestrian and vehicular off-street access ~~to adjoining properties~~ shall be included in individual park specific master plans.

DRAFT

{00796137; 1 }

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(Supp. No. 1, Update 2)

Page 3 of 3

CHAPTER 17.86 PARKLAND AND OPEN SPACE¹

Sec. 17.86.00. Intent.

The availability of parkland and open space is a critical element in maintaining and improving the quality of life in Sandy. Land that features trees, grass and vegetation provides not only an aesthetically pleasing landscape but also buffers incompatible uses, and preserves sensitive environmental features and important resources. Parks and open space, together with support facilities, also help to meet the active and passive recreational needs of the population of Sandy residents. This chapter implements policies of Goal 5 and Goal 8 of the Comprehensive Plan and the 2022 Parks and Trails Master Plan by outlining provisions for parks and open space in the City of Sandy.

Sec. 17.86.10. Minimum parkland dedication requirements.

Parkland Dedication: ~~New residential subdivisions, planned developments, Residential subdivisions and partitions, single-family or~~ multi-family ~~developments, or~~ and manufactured home park developments shall be required to provide parkland to serve ~~existing and future~~ residents of those developments. ~~Congregate M~~ multi-family ~~housing~~ developments ~~which that~~ provides ~~some "congregate"~~ services and/or facilities, ~~such as group transportation, dining halls, emergency monitoring systems, etc., but which have individual dwelling units rather than sleeping quarters only, as defined in Chapter 17.10 of the City's Municipal Code,~~ are considered to be multi-family developments for the purpose of parkland dedication. Licensed adult congregate ~~care~~ living facilities, nursing homes, and all other ~~similar residential care~~ facilities ~~which that~~ provide ~~their~~ clients with individual beds and sleeping quarters, but in which all other care and services are communal and provided by facility employees, are ~~specifically~~ exempt from parkland dedication. ~~and system development fee requirements. The dedication or provision of parks, open space, trails, and amenities shall comply with the 2022 Parks and Trails Master Plan, dedicated pursuant to the formula in Section 17.86.10 (B), and in compliance with the improvement standards in Section 17.86.20. The level of service standards as well as the park and trail level of service needs as identified in Chapter 4, Table 10, of the 2022 Parks and Trails Master Plan are specifically incorporated by this reference.~~

- A. The required parkland shall be dedicated as a condition of approval for the following:
1. ~~Single-family and duplex building permits;~~
 2. ~~Tentative plat for a subdivision or partition;~~
 2. ~~Planned Development conceptual or detailed development plan;~~
 3. Design review for a multi-family development or manufactured home park; and
 4. Replat or amendment of any site plan for multi-family development or manufactured home park where dedication has not previously been made or where the density of the development involved will be increased.
- B. Calculation of Required Dedication: The required parkland acreage to be dedicated ~~is~~ shall be based on ~~a calculation of~~ the following formula:

¹Editor's note(s)—Pre-republication, this chapter was last revised by Ord. No. 2013-03, effective July 3, 2013. Any amendments occurring post-republication have a history note in parenthesis at the bottom of the amended section.

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Required parkland dedication (acres) = (proposed dwelling units) x (persons/dwelling unit) x 0.00430.0068 (per person park land dedication factor)

1. Population Formula: The following table shall be used to determine the number of persons per unit to be used in calculating required parkland dedication:

Type of Unit	Total Persons Per <u>Dwelling Unit</u>
Single family dwelling unit	3.0
Duplex dwelling unit	3.0*
Standard multi-family unit	2.0
Manufactured dwelling unit	2.0
Congregate multi-family unit	1.5

* The total persons per unit for the entire duplex (both units) would be six.

~~Persons per unit, age distribution, and local conditions change with time.~~ The specific formula for the dedication of land will, therefore, be subject to periodic review and amendment. ~~The A~~ fee-in-lieu under Section 17.86.40 shall be based on the number and type of dwelling units proposed at time of plat, but an additional fee in-lieu will be ~~necessary~~ required and calculated on a per lot basis if any lots are constructed or converted to add additional dwelling units. For example, if an existing single family dwelling unit is converted into a duplex dwelling unit the existing single family ~~home~~ dwelling unit shall receive a credit, but the new dwelling unit shall pay the difference in persons per dwelling unit. This would equate to one proposed dwelling unit multiplied by three additional persons multiplied by 0.00430.0068 for the above example.

2. Per Person Parkland Dedication Factor: The total parkland dedication requirement shall be 0.00430.0068 of an acre per person based on the adopted standard of ~~4.36.8~~ acres of land per 1,000 of ~~ultimate~~ population per the 2022 Parks and Trails Master Plan.² This standard represents the citywide land-to-population ratio for city parks at 5.25 acres of land per 1,000 of population, and land for trails at 1.55 acres of land per 1,000 of population, ~~and may be adjusted periodically through amendments to the Parks Master Plan.~~

(Ord. No. 2021-03 , § 8(Exh. H), 5-17-2021)

C. Notwithstanding Section 17.86.10 (A) above, when the amount of land to be dedicated is less than one quarter acre, or the level of service standards for mini parks in the 2022 Parks and Trails Master Plan have been met for the subject site, the applicant shall pay a fee in lieu of dedication as provided in Section 17.86.40 (B), with the following exceptions:

1. When the land to be dedicated is for a trail identified in Map 14 Proposed Trail System, Table 12 Tier 1 Capital Improvement Plan, or Table A-4 Proposed Trail Capital Improvement Plan of the 2022 Parks and Trails Master Plan;
2. When the land to be dedicated abuts existing or planned parkland that necessitates additional acreage to meet the identified parkland acreage needs as identified in Map 8 Proposed Park

²Editor's note(s)—~~Parks Master Plan, Implementation Plan section, Pages 4 and 5 indicate a required park acreage total of 64.5 acres. This number, divided by population (2015) of 15,000 equates to 4.3 acres per 1000 population or 0.0043 per person.~~ 2022 Parks and Trails Master Plan, Section 4.2, Park and Trail Needs, Table 10 (Park and Trail Needs Analysis).

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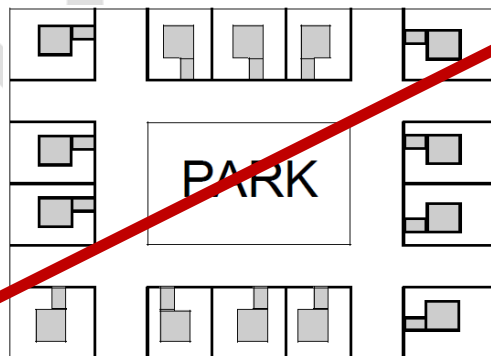
(Supp. No. 1, Update 2)

System, Table 12 Tier 1 Capital Improvement Plan, or Table A-3 Proposed Park Capital Improvement Plan of the 2022 Parks and Trails Master Plan.

Sec. 17.86.20. Minimum parkland standards.

Land required or proposed for parkland dedication shall be contained within a continuous unit and ~~must shall be suitable for active~~ accommodate use as a mini, neighborhood, or mini-community-park, as defined in the 2022 Parks and Trails Master Plan, based on the following criteria:

- A. ~~Homes must~~ The primary entrance of single-family homes and duplexes front shall face towards parkland when separated by street right-of-way, on the parkland as shown in the example below: Residential through lots or corner lots that abut more than one street with one of the streets defined as an arterial or collector street shall have the front door face the arterial or collector street as defined by Chapter 17.82.
- B. On the sides of the parkland not fronting onto a street, a pedestrian and bicycle access way shall be provided with a minimum improved surface of ten feet within a 15-foot right-of-way or tract. If the parkland abuts land to be developed for multi-family development or a manufactured home park the multi-family development or manufactured home park shall include a pedestrian and bicycle access way in a public easement from any abutting street right-of-way through the property with multi-family development or a manufactured home park to the parkland.
- C. In all zones where property abuts parkland, a fence no higher than six feet shall separate the use from the parkland. Barbed wire is not permitted on fences abutting parks.
- D. ~~Any~~ retaining wall constructed at the perimeter of ~~the a~~ park adjacent to a public right-of-way or private street shall not exceed four (4) feet in height.
- E. The required parkland dedication for parks one acre or greater shall be abutted by street right-of-way for at least 400 linear feet, with the following exceptions for trails and parks less than one acre:
 - 1. Land dedicated for trails as identified in the 2022 Parks and Trails Master Plan only need to abut street right-of-way for a total of 15 linear feet.
 - 2. If the land dedication is between half-acre and one-acre the parkland shall be abutted by street right-of-way for at least 200 linear feet.
 - 3. If the land dedication is less than half-acre the parkland shall be abutted by street right-of-way for at least 100 linear feet.



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(Supp. No. 1, Update 2)

- ~~F.~~ The required dedication shall be contained as a contiguous unit and not separated into pieces or divided by ~~roadways, streets or other pedestrian barriers.~~
- ~~G.~~ The parkland ~~must shall be able to accommodate provide for park facilities, such as~~ play structures ~~and~~ play fields, ~~picnic areas, or other active park use facilities. as described in the 2022 Parks and Trails Master Plan, subject to the following standards: The average slope of the active use parkland shall not exceed 15 percent.~~
- ~~1.~~ Neighborhood Parks or Community Parks: Not more than 20 percent of the park may exceed 15 percent slope. Zero percent of the park shall include wetlands.
 - ~~2.~~ Mini Parks: Not more than 10 percent of the park may exceed 15 percent slope. Zero percent of the park shall include wetlands.
- ~~E.~~ ~~Once dedicated, the City will assume maintenance responsibility for the neighborhood or mini parkland.~~

Sec. 17.86.30. Dedication procedures.

~~Land dedicated to the City as parkland shall be dedicated on the final plat, or by recording a deed, easement, or other appropriate document when there is not a plat. Prior to approval of the final plat, the developer shall dedicate the land as previously determined by the City in conjunction with approval of the tentative plat.~~ Dedication of land in conjunction with multi-family development shall be required prior to issuance of building permits, ~~and commencement of construction.~~

- A. Prior to ~~acceptance of required parkland dedications~~ final plat approval, the applicant/~~developer~~ shall complete the following items for all proposed dedication areas:
1. The ~~developer~~ applicant shall clear, fill, and/or grade all land ~~to the satisfaction of the City in accordance with the approved grading plan~~, install curb, gutter, and sidewalks in accordance with the Transportation System Plan on the park land adjacent to any street, and seed the park-land; and,
 2. The ~~developer~~ applicant shall submit a Phase I Environmental Site Assessment of the parkland to the City, 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 prior to dedication.
 - a. In the event that the Phase 1 Environmental Site Assessment detects the potential for contaminated soil, the applicant shall perform further assessment, testing and sampling as needed to determine the type and extent of contamination present, and potential remediation steps needed.
 - b. If contaminated conditions are present the applicant shall either remediate the condition and submit a report to the City documenting the procedures and final soil conditions or select other property for the parkland dedication.
- B. Additional Requirements.
1. ~~In addition to a formal dedication on the plat to be recorded, the subdivider shall convey the required lands to the city by general warranty deed. The developer of a multi-family development or manufactured home park shall deed the lands required to be dedicated by a general warranty deed. In any of the above situations, the land so Land dedicated and deeded or restricted for use as parkland shall not be subject to any other easements, reservations of record, or encumbrances of any kind or easements which, in the opinion of the Director, will that interfere with the use of the land for park, open space, or recreational purposes.~~

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(Supp. No. 1, Update 2)

~~The subdivider or developer shall be required to present to the City a title insurance policy on the subject property ensuring the marketable state of the title.~~

2. Where ~~any~~ reservations, encumbrance~~s~~ or easement~~s~~ exist~~s~~, the applicant may propose an alternative lot or parcel for parkland dedication or the City may require payment in lieu of the dedication of lands, ~~unless it chooses to accept the land subject to encumbrances.~~

- ~~C.3. Phased Developments.~~In a phased development, the required park land for the entire development shall be dedicated ~~prior to approval of the~~ on the final plat for the first phase of the development. Improvements to the land as required by Section 17.86.30.A.1. shall be ~~made~~ completed or bonded per the standards in Chapter 17.100 prior to approval of the final plat for the phase that includes the park-land.

Sec. 17.86.40. Cash Fee in lieu of dedication.

~~At the city's discretion only, the city may accept payment of a fee in lieu of land dedication. The city may require payment in lieu of land when the park land to be dedicated is less than three acres.~~ A payment in lieu of land dedication is separate from Park Systems Development Charges (SDCs), and is not eligible for a credit of Park Systems Development Charges SDCs. The amount of the fee in lieu of land dedication (in dollars per acre) shall be set by City Council Resolution based on relevant economic indices, and ~~it shall be based on~~ the typical market value of developed property (finished lots) in Sandy net of related development costs.

- A. ~~The following factors shall be used in the choice of whether to accept land or cash in lieu:~~
 1. ~~The topography, geology, access to, parcel size, and location of land in the development available for dedication;~~
 2. ~~Potential adverse/beneficial effects on environmentally sensitive areas;~~
 3. ~~Compatibility with the Parks Master Plan, Public Facilities element of the Comprehensive Plan, and the City of Sandy Capital Improvements Program in effect at the time of dedication;~~
 4. ~~Availability of previously acquired property; and~~
 5. ~~The feasibility of dedication.~~
- A. The City shall accept a fee in lieu of dedication from an applicant if the land area proposed to be dedicated is not identified in Map 14 Proposed Trail System, Table 12 Tier 1 Capital Improvement Plan, or Table A-4 Proposed Trail Capital Improvement Plan of the 2022 Parks and Trails Master Plan or is not in compliance with the improvement standards in Section 17.86.20.
- B. The City shall accept a fee in lieu of dedication from an applicant if the land area proposed to be dedicated is not identified in Map 8 Proposed Park System, Table 12 Tier 1 Capital Improvement Plan, or Table A-3 Proposed Park Capital Improvement Plan of the 2022 Parks and Trails Master Plan or is not in compliance with the improvement standards in Section 17.86.20.
- C. The City shall accept a fee in lieu of dedication from an applicant if the park area to be dedicated is less than one-quarter acre, or the level of service standard for mini parks described in the 2022 Parks and Trails Master Plan has been satisfied, with the following exceptions:
 1. When the land to be dedicated is for a trail identified in Map 14 Proposed Trail System, Table 12 Tier 1 Capital Improvement Plan, or Table A-4 Proposed Trail Capital Improvement Plan of the 2022 Parks and Trails Master Plan;

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(Supp. No. 1, Update 2)

2. When the land to be dedicated abuts existing or planned parkland that necessitates additional acreage to meet the identified parkland acreage needs as identified in Map 8 Proposed Park System, Table 12 Tier 1 Capital Improvement Plan, or Table A-3 Proposed Park Capital Improvement Plan of the 2022 Parks and Trails Master Plan.

~~B.D.~~ ~~Cash.~~ The fee in lieu of parkland dedication for a residential subdivision shall be paid prior to approval of the final plat or as specified below:

1. Fifty (50) percent of the payment shall be paid prior to final plat approval, and
2. The remaining 50 percent of the payment, plus an administrative surcharge specified by City Council resolution, shall be pro-rated equally among the lots and paid at the time of building permit issuance for each lot, ~~plus an administrative surcharge as determined by the City Council through a resolution, will constitute a lien against the property payable at the time of sale.~~

E. The fee in lieu of dedication for a single-family dwelling, duplex, or multi-family dwelling not in conjunction with a residential subdivision shall be paid at the time of building permit issuance for the subject lot or parcel.

Sec. 17.86.50. Minimum standards for open space dedication.

~~The applicant through~~ An application for a subdivision, partition, replat or design review ~~process~~ may propose the ~~designation~~ dedication and protection of open space areas as part of that process. ~~This~~ However, this open space ~~will shall not be eligible to , however, be~~ counted toward the parkland dedication requirement of Sections 17.86.10 through 17.86.40.

- A. The types of open space that may be provided are ~~as follows~~:
1. *Natural Areas*: areas of undisturbed vegetation, steep slopes, stream corridors, wetlands, wildlife habitat areas, riparian corridors, or areas replanted with native vegetation after construction.
 2. *Greenways*: linear green belts ~~areas~~ linking residential areas with ~~other~~ open space areas. These greenways may contain bicycle paths or footpaths. Connecting greenways between residences and recreational areas ~~are is~~ encouraged.
- B. A subdivision, partition, replat, or design review application proposing designation of open space shall include the following information as part of ~~this~~ the application:
1. Designate the boundaries of all open space areas; and
 2. Specify the manner in which the open space shall be ~~perpetuated~~ owned, maintained, and administered; and
 3. Provide for public access to trails included in the 2022 Parks and Trails Master Plan, including but not limited to the Tickle Creek Path ~~Trail~~.
- C. Dedication of open space may occur concurrently with development of ~~the a~~ project. ~~At the discretion of the city~~ City, ~~for~~ phased development ~~that will be phased~~, the open space may be set aside in totality and/or dedicated in conjunction with the first phase of the development or incrementally set aside and dedicated in proportion to the development occurring in each phase.
- D. Open space areas shall be maintained so that the use and enjoyment thereof ~~is not diminished or destroyed~~ remain safe, healthy, and functional. Open space areas may be owned, preserved, and maintained by any of the following mechanisms or combinations thereof:
1. Dedication to the City of Sandy or ~~an appropriate~~ another public agency, ~~approved by the City,~~ if there is a public agency willing to accept the dedication. Prior to acceptance of proposed open

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(Supp. No. 1, Update 2)

space, the City ~~may~~ shall require the ~~developer~~ applicant to submit a Phase I Environmental Site Assessment of the open space area 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 prior to dedication.

a. In the event that the Phase 1 Environmental Site Assessment detects the potential for contaminated soil, the applicant shall perform further assessment, testing and sampling as needed to determine the type and extent of contamination present, and potential remediation steps needed.

b. If contaminated conditions are present the applicant shall either remediate the condition and submit a report to the City documenting the procedures and final soil conditions or, select another area for parkland dedication.

2. Common ownership by a homeowner's association that assumes full responsibility for its maintenance;
 3. Dedication of development rights to ~~an appropriate~~ another public agency with ownership remaining with the developer or homeowner's association. Maintenance responsibility will remain with the property owner; and/or
 4. Deed-restricted private ownership preventing development and/or subsequent ~~subdivision-land~~ division and providing for ongoing maintenance responsibilities.
- E. In the event that ~~any private~~ an owner of private open space fails to maintain it according to the standards of this Code, the City of Sandy, following reasonable notice, may demand that the deficiency of maintenance be corrected, and may enter the open space for maintenance purposes. All costs thereby incurred by the City shall be charged to those persons having the primary responsibility for maintenance of the open space. The City shall enforce the maintenance requirement, pursuant to Sandy Municipal Code Sections 1.18 or 8.16.

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(Supp. No. 1, Update 2)

Page 7 of 7



Staff Report
City of Sandy
39250 Pioneer Blvd.,
Sandy, OR 97055

To: City Council

Date: October 7, 2021

From: Sarah Richardson, Staff Liaison Parks and Trails Advisory Board

Subject: Municipal Code Chapters 17.32, 17.86

Attachments: None

I am sending this communication on behalf of the Sandy Parks and Trails Advisory Board at their direction.

The Parks and Trails board is grateful to have the opportunity to review for clarification and provide input on this important effort. The Board recognizes the hard work and diligence of Development Services Director Kelly O'Neill, the City Attorney and others who have been dedicated to reaching this point in the process.

At our meeting on October 6, 2021 the board looked closely at the proposed changes and obtained clarification on several areas of the code.

We understand that the Council will be taking up discussion on this topic and wanted to register our specific code recommendations as well as general input from discussions generated during the meeting.

Recommendations and input include the following:

1. Sec. 17.86.20. Minimum parkland standards.

The board asks that this section clearly state that wetlands cannot be dedicated. The wording seems unclear and the board requests that it be looked at closely for clarification and legal interpretation. The city would still maintain the flexibility to accept wetlands, but it is important that it is at the city's discretion and not something that can be dedicated outright by the landowner/developer.

1. Neighborhood Parks or Community Parks: Not more than 25 percent of the park may exceed 15 percent slope or contain wetlands.

4-2. Mini Parks: Not more than 10 percent of the park may exceed 15 percent slope or contain wetlands.

2. Trails.

The board requests that the code clearly states in applicable sections that it includes trails. It is understood that the code intends to address trails, but the board wants to be sure it is clear in legal terms.

3. Sec. 17.86.40. Fee in Lieu of Dedication

The board understands that with the 2021 Parks and Trails Master Plan expressly incorporated into the code that the city will be in a stronger position to enforce their ability to require Land Dedication and only accept a Fee in Lieu at the city's discretion.

4. Land Acquisition/Land Bank

The board notes that the city has a surplus of Mini Parks and a deficit in Neighborhood Parks. The land for Bornstedt Park was purchased by the city, and the city may need to consider purchasing more land in the future to meet the need for the larger parks. Acquiring the needed land from developers is challenging when the developments in an area with a park deficit are often small and involve more than one developer/landowner which can make it difficult to acquire enough contiguous parcels. Another possibility is a combination of city purchased and land dedication. A planned neighborhood approach might also be worth exploring. Land dedication has been very successful in building Sandy's current Parks and Trails system. As the city grows, the Board is concerned the future may require considering additional approaches.

5. 17.32.40. Permitted Uses

The board would recommend that sports fields and all the amenities that go along with a sports complex are included within this section. The board would like to see this added as both a primary and accessory use to be sure all the "bases" are covered. The board would like to reserve the opportunity to build a dedicated sports complex, while at the same time leave open the opportunity to add a field to a multi-purpose park.

Recommend that a Community Center building be added as a conditional use.

The board appreciates the Development Services Director taking the time to meet with the board to clarify sections of the code and to answer the board's questions. This effort has benefitted from the input of many and collating all the edits has required a great deal of time from Development Services, ESA and the City Attorney. The outcome will provide the city a stronger position to realize the vision of the 2021 Parks and Trails Master Plan and that is very exciting going forward.

Staff Contact:

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