



Staff Report

Meeting Date: December 7, 2020
From Kelly O'Neill, Development Services Director
SUBJECT: File No. 19-050 - Bull Run Terrace ordinance

BACKGROUND:

At the City Council meeting on November 30, 2020 the City Council voted 5-1 to approve the first reading of Ordinance 2020-25. The second reading of Ordinance 2020-25 will occur on December 7, 2020.

Attached to this staff report is a memorandum regarding Bull Run Terrace that I created with input from the City Attorney. This memorandum concerns two topics from the hearing on November 30, 2020. The first topic regards public testimony that was received by the City Council after the public hearing portion of the meeting. The second topic regards a calculation error that was made by city staff during the hearing. The memorandum is based on facts and information already in the record. It does not contain any new evidence and therefore does not require the record to be reopened to permit additional public testimony.

Also attached to this staff report is the email referenced in the first topic of my memorandum, Ordinance 2020-25, and the exhibits referenced in Ordinance 2020-25. As explained in the memorandum and under ORS 197.763(6)(e), the applicant (and no other party) is entitled to submit final written argument within seven days of the close of the record. After discussing these issues with the City Attorney, we understand that the applicant will submit final argument, including a response to Ms. Walker's email, by Friday December 4.

A link to the November 30, 2020 City Council agenda packet, which contains the full 19-050 land use file with all applicable exhibits, [is available here](#).

RECOMMENDATION:

Approve the second reading of Ordinance 2020-25.

SUGGESTED MOTION:

"I move to approve the second reading of Ordinance 2020-25."

LIST OF ATTACHMENTS/EXHIBITS:

Ordinance 2020-25

Email from Kathleen Walker - 11/30/2020

Memo from Development Services Director - 12/02/2020

Applicant's Final Written Argument - 12/04/2020



NO. 2020-25

AN ORDINANCE APPROVING A ZONE MAP AMENDMENT, COMPREHENSIVE PLAN MAP AMENDMENT, A SPECIFIC AREA PLAN AND A TENTATIVE SUBDIVISION PLAN AND IMPOSING CONDITIONS OF APPROVAL.

WHEREAS, the applicant, Roll Tide Properties Corp., submitted a Type IV application (19-050 CPA/ZC/SAP/SUB/TREE) to develop property identified as T2 R5E Section 18CD, Tax Lots 900 and 1000. The application consists of: (1) a request to change the Comprehensive Plan designation on the property; (2) a request to change the zoning designations on the property; (3) a request to place a specific area plan designation on the property; and (4) a request to approve a tentative subdivision plan on the property; and

WHEREAS, the applicant desires to change the Comprehensive Plan Map designation to add Parks and Open Space (POS) and increase density within a village by greater than 20 percent. In this instance the approved increase of 101 dwelling units to 152 dwelling units is a 38.2 percent increase which exceeds the 20 percent threshold; and

WHEREAS, the applicant desires to change the Zoning Map designations for the identified property from Low Density Residential (R-1), Medium Density Residential (R-2), and Village Commercial (C-3) to Low Density Residential (R-1), Medium Density Residential (R-2), High Density Residential (R-3), Village Commercial (C-3), and Parks and Open Space (POS); and

WHEREAS, the applicant requests to add an 'S' for Specific Area Plan to the zoning map; and

WHEREAS, the applicant requests approval of a seven (7) lot subdivision on the property; and

WHEREAS, the City of Sandy sent notice to the Department of Land Conservation and Development (DLCD) on February 13, 2020 in anticipation of public hearings before the Planning Commission and City Council; and

WHEREAS, the City of Sandy sent notices to all property owners within 500 feet of the site on May 21, 2020, July 23, 2020, and November 9, 2020 describing the proposal and the applicable hearing dates before the City Planning Commission and City Council; and

WHEREAS, the Planning Commission held a public hearing to review the application on October 26, 2020 and forwarded a recommendation by a vote of 6:0 to the City Council to approve the application; and

WHEREAS, the City Council held a public hearing to review the application on November 30, 2020.

NOW, THEREFORE, THE CITY OF SANDY ORDAINS AS FOLLOWS:

Section 1. The Council approves the Comprehensive Plan Map amendment for a property identified as T2 R5E Section 18CD, Tax Lots 900 and 1000. The Comprehensive Plan Map designation will be changed from Village to a combination of Village and Parks and Open Space. The plan amendments are shown on the map attached as Exhibit A, incorporated into this ordinance by reference.

Section 2. The Council approves the Zoning Map amendment for a property identified as T2 R5E Section 18CD, Tax Lots 900 and 1000. The Zoning Map designation will be changed from Low Density Residential (R-1), Medium Density Residential (R-2), and Village Commercial (C-3) to Low Density Residential (R-1), Medium Density Residential (R-2), High Density Residential (R-3), Village Commercial (C-3), and Parks and Open Space (POS). The zone amendments are shown on the map attached as Exhibit B, incorporated into this ordinance by reference.

Section 3. The Council approves the Specific Area Plan for the proposed development project.

Section 4. The Council approves the tentative plan for the proposed seven (7) lot subdivision, subject to the conditions of approval contained in the November 23, 2020 staff report for File No. 19-050. Those conditions are incorporated by reference into this ordinance.

Section 5. The City Council adopts and incorporates by reference the findings contained in the November 23, 2020 staff report for File No. 19-050 as its own findings in support of the approvals granted in this ordinance.

Section 6. Staff is directed to take all additional actions that are necessary to implement the adoption of this ordinance, including providing DLCD a copy of this ordinance and other documentation as may be required by law.

This ordinance is adopted by the Common Council of the City of Sandy and approved by the Mayor this 07 day of December 2020

Stan Pulliam, Mayor

ATTEST:

Jeff Aprati, City Recorder

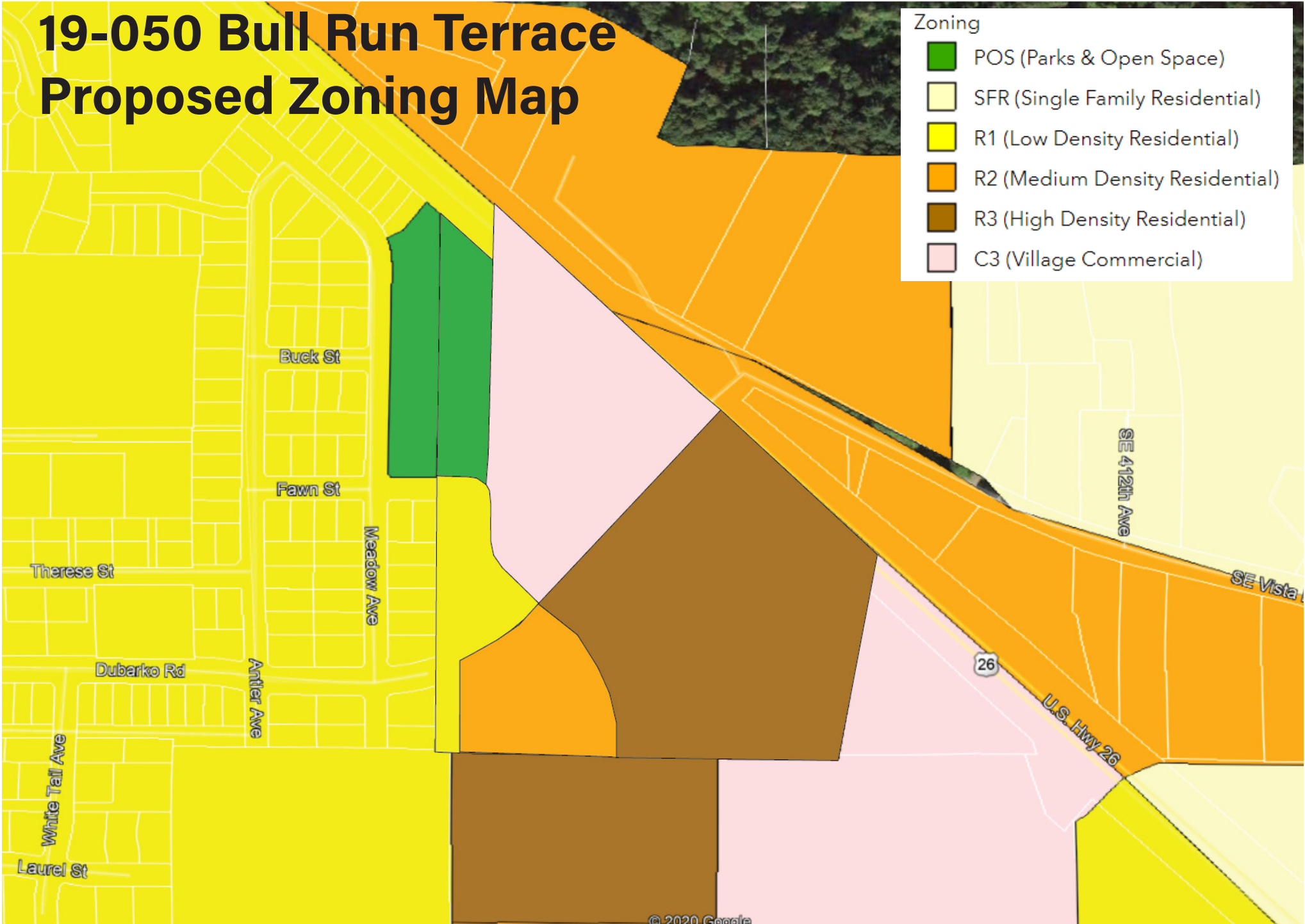
19-050 Bull Run Terrace Proposed Comprehensive Plan Map



19-050 Bull Run Terrace Proposed Zoning Map

Zoning

- POS (Parks & Open Space)
- SFR (Single Family Residential)
- R1 (Low Density Residential)
- R2 (Medium Density Residential)
- R3 (High Density Residential)
- C3 (Village Commercial)



CITY COUNCIL STAFF REPORT
(DRAFT FINDINGS OF FACT and FINAL ORDER
TYPE IV DECISION)

DATE: November 23, 2020

FILE NO.: 19-050 CPA/ZC/SUB/SAP/TREE

PROJECT NAME: Bull Run Terrace

APPLICANT/OWNER: Roll Tide Properties Corp

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

The above-referenced proposal was reviewed concurrently as a Type IV comprehensive plan amendment, zone change, subdivision, and specific area plan overlay with tree removal. The following Findings of Fact are adopted supporting approval of the plan in accordance with Chapter 17 of the Sandy Municipal Code.

EXHIBITS:

Applicant's Submittals:

- A. Land Use Application
- B. Project Narrative (Revised July 2020)
- C. Civil Plan Set (Originally submitted July 2020)
 - Sheet 1 – Cover Sheet, Preliminary Plat Map, and Future Street Plan
 - Sheet 2 – Preliminary Plat Map
 - Sheet 3 – Existing Conditions and Tree Retention Plan
 - Sheet 4 – Tree Tables
 - Sheet 5 – Master Street and Utility Plan
 - Sheet 6 – Street Sections
 - Sheet 7 – Street Tree Plan and Parking Analysis
 - Sheet 8 – Proposed Striping Plan
 - Sheet 9 – Preliminary Grading and Erosion Control Plan
 - Sheet 10 – Slope Analysis
- D. Preliminary Storm Drainage Design and Calculations
- E. Public Need Analysis
- F. Traffic Impact Study
- G. Arborist Report
- H. Wetland Determination Report
- I. Geotechnical Report

- J. Revised Preliminary Plat (Revised September 29, 2020)
- K. Revised Existing Conditions (Revised September 29, 2020)
- L. Revised Tree Tables (Revised September 29, 2020)
- M. Revised Master Street and Utility Plan (Revised September 29, 2020)
- N. Building Footprint Plan for Lots 1-4 (Revised September 29, 2020)
- O. Revised Arborist Report: Tree Retention (Revised September 29, 2020)
- P. Tree Removal Plan
- Q. Screening Concept Plan
- R. Revised Traffic Analysis (Revised September 29, 2020)

Agency Comments:

- S. City Engineer (February 20, 2020)
- T. Sandy Fire District No. 72 (February 25, 2020)
- U. PGE (February 25, 2020)
- V. City of Sandy Transit (February 28, 2020)
- W. City Transportation Engineer (February 28, 2020)
- X. ODOT (March 20, 2020)
- Y. City of Sandy Public Works (April 29, 2020)
- Z. City Transportation Engineer (August 10, 2020)
- AA. City Engineer (August 12, 2020)
- BB. Sandy Fire District No. 72 (August 13, 2020)

Additional Documents from Staff:

- CC. Pre-application Notes from January 10, 2018, October 10, 2018
- DD. Incompleteness Letter dated January 27, 2020
- EE. Completeness Letter dated February 14, 2020

Public Comments:

- FF. Amelia Williams Robinson (April 23, 2020)
- GG. Miriam Chmykhalov (April 23, 2020)
- HH. Tom and Linda Hunt (April 26, 2020)
- II. Vincent and Lynn Mandina (April 28, 2020)
- JJ. Vadim and Miriam Verbelchul (April 28, 2020)
- KK. Nicola Skinner (April 30, 2020)
- LL. Kathleen Walker (May 1, 2020)
- MM. David and Nancy Allan (May 1, 2020)
- NN. Izaak McKenzie (May 1, 2020)
- OO. Ann Ruhl (May 1, 2020)
- PP. Lesley Lowe (May 1, 2020)
- QQ. Lonnie Stermon (May 1, 2020)
- RR. Tom and Linda Hunt (May 5, 2020)
- SS. Gary and Val Roche (May 5, 2020)
- TT. Gary and Val Roche (May 6, 2020)
- UU. Scott Ruehrdanz (May 7, 2020)
- VV. Marion Gunderson (May 26, 2020)
- WW. Christian Vedder (May 27, 2020)

- XX. Ann Smith Vedder (May 27, 2020)
- YY. Susan Dulley (June 2, 2020)
- ZZ. Yoshi Hosaka and Itsuo Hosaka (July 28, 2020)
- AAA. Gary and Val Roche (July 31, 2020)
- BBB. David and Nancy Allan (July 30, 2020)
- CCC. David and Nancy Allan (July 31, 2020)
- DDD. Dennis Fetter (August 3, 2020)
- EEE. Jessica Hutson (August 5, 2020)
- FFF. Lee Grundmeyer (August 6, 2020)
- GGG. Izaac McKenzie (August 7, 2020)
- HHH. Marilyn E. (August 10, 2020)
- III. Ryan Clifford (August 14, 2020)
- JJJ. Ann Ruhl (August 17, 2020)
- KKK. Cameron Strey (August 20, 2020)
- LLL. Katie Smith (August 20, 2020)
- MMM. Scott Ruehrdanz (August 20, 2020)
- NNN. Eileen Suchanek (August 20, 2020)
- OOO. Ann Vedder (August 20, 2020)
- PPP. Ann Vedder (August 20, 2020)
- QQQ. Kelly French (August 20, 2020)
- RRR. Rachael Ruehrdanz (August 20, 2020)
- SSS. Lori Pyles (August 21, 2020)
- TTT. Cameron Zebroff (August 21, 2020)
- UUU. Heather Fitch (August 22, 2020)
- VVV. Lonnie Stermon (August 23, 2020)
- WWW. Nicola A. Skinner (August 24, 2020)
- XXX. Izaac McKenzie (August 24, 2020)
- YYY. Liza Chatterton (August 24, 2020)
- ZZZ. Dough Marshall (August 24, 2020)
- AAAA. Zoey McKenzie (August 24, 2020)
- BBBB. Makoto Lane (August 24, 2020)
- CCCC. Kathleen Walker (August 24, 2020)
- DDDD. Ann Ruhl (October 27, 2020)

Revised Agency Comments

- EEEE. City Engineer (October 9, 2020)
- FFFF. ODOT (October 9, 2020)
- GGGG. City Transportation Engineer (October 8, 2020)

Additional Exhibits

- HHHH. Previous Staff Report (August 14, 2020)
- III. Initial Power Point Presentation (August 24, 2020)
- JJJJ. Memo from Tracy Brown (October 21, 2020)
- KKKK. Email from Mike Robinson (October 26, 2020)
- LLLL. Parks and Trails Advisory Board Minutes from June 10, 2020
- MMMM. Parks and Trails Advisory Board Minutes from July 8, 2020

- NNNN. Parks and Trails Advisory Board Recommendation (November 13, 2020)
- OOOO. Revised Staff Report for Planning Commission (October 19, 2020)
- PPPP. Second Power Point Presentation (October 26, 2020)

FINDINGS OF FACT

General

1. These findings are based on the applicant's submittals received on December 30, 2019, July 14, 2020, September 29, 2020, and other information as detailed in this document. Staff deemed the application incomplete on January 27, 2020. The applicant submitted additional materials on February 11, 2020. The application was deemed complete on February 14, 2020 and the original 120-day deadline was June 13, 2020. However, due to the unforeseen effects of COVID-19 affecting the timing of public hearings, the applicant agreed to a deadline extension of 30 days to July 13, 2020.
2. Staff has retained all original submittal items on file but did not include items that are no longer germane to the proposal as exhibits to this staff report as staff believes the omission of the original materials will make the proposal easier to understand and discuss.
3. On May 13, 2020 the Development Services Director sent the applicant the following: "Instead of requesting 120-day extensions and going back and forth between the applicant and city staff we are going to invoke ORS 227.178 (10) to remove the 120-day clock provisions for the Bull Run Terrace application." Therefore, this application does not have a 120-day deadline as the proposal includes a comprehensive plan map amendment.
4. This report is based upon the exhibits listed in this document, as well as agency comments and public testimony.
5. The subject site is approximately 15.91 acres. The site is located at 40808 and 41010 Highway 26.
6. The parcel has a Comprehensive Plan Map designation of Village and a Zoning Map designation of R-1, Low Density Residential; R-2, Medium Density Residential; and C-3. Village Commercial.
7. This subject property was previously approved for an 88-lot subdivision known as Vista Loop South (File No. 05-029). Vista Loop South received a few tentative plat extensions and one plat reinstatement, but the subdivision was never constructed, and the approval expired in 2015.
8. The applicant, Roll Tide Properties Corp., requests a Type IV Zone Map Amendment, Comprehensive Plan Map Amendment, Specific Area Plan and development of a 7-lot subdivision for two parcels totaling approximately 15.91 acres. Four lots are proposed to have the R-1 zoning designation and are proposed to each contain a single family dwelling. One lot is proposed to have the R-3 zoning designation. One lot is proposed to have the R-2

zoning designation. The exact number of multifamily dwelling units will be determined with a subsequent design review application for these lots, but according to the applicant the maximum number of dwelling units on the R-3 land is 130 units and the maximum number of dwelling units on the R-2 land is 17 units for a total of 147 dwelling units. While the C-3 zoning district will have to contain some commercial development there is a decent chance the C-3 land will also contain some residential dwelling units. The development code allows for multi-family residential in the C-3 zoning district so long as the dwelling units are above, beside or behind a commercial business.

9. On September 29, 2020 the applicant submitted additional information as requested by staff and the Planning Commission. The additional information is included as Exhibits J through R, and include the following modifications:

- A. Revised Plan Sheets, including revised sheets for the Preliminary Plan (Exhibit J), Existing Conditions (Exhibit K), Tree Tables (Exhibit L), and the Master Street and Utility Plan (Exhibit M). These sheets include the following changes:
 - a) The zoning designation proposed for Lot 5 has been modified from R-3 to a combination of R-2 and R-1. With this change the maximum allowed density on this lot is reduced by seven dwelling units from 24 units to 17 units.
 - b) A 20-foot setback line is shown on all lots adjacent to Highway 26, Dubarko Road, and Street B.
 - c) A 40 foot by 40 foot easement is shown at the Northeast corner of Lot 7 to accommodate a future traffic signal.
 - d) The stormwater system is redesigned to eliminate the need for a stormwater easement and utility line along the west property line of Lots 1, 2, and 4. This modification to the stormwater system allows for five existing trees along the west lot line of the subdivision to be retained.
 - e) An additional public stormwater facility has been added as Tract C to the west of Lot 5. New flow control and water quality manholes will also be installed to discharge stormwater into the existing storm system in Dubarko Road from this facility.
 - f) The alignment of “Street B” is modified to provide a 300-foot centerline radius for this street per City of Sandy requirements.
 - g) An additional Storm and Sanitary manhole are added in “Street B” to accommodate the new street geometry for this street.
 - h) A meandering walkway is shown along the east side of the proposed park.
 - i) Five additional trees located on Lots 2 and 4 are proposed to be retained.
- B. A building footprint plan (Exhibit N) for Lots 1 through 4 is included and details that each lot can accommodate a dwelling.
- C. A Revised Arborist Report (Exhibit O) is included detailing five additional retention trees on Lots 2 and 4. Retention of these trees was determined possible with the removal of the stormwater utility line.

- D. A Tree Removal Plan (Exhibit P) is included to describe how tree removal adjacent to the proposed tree preservation easement on Lot 7 will be accomplished.
 - E. A Screening Concept Plan (Exhibit Q) is included detailing additional landscape plantings along the west property line of Lots 1, 2, and 4 and along Tracts B and C that are intended to partially screen this area of the proposed development from existing residences to the west.
 - F. A Revised Traffic Analysis (Exhibit R) is included to address ODOT comments.
10. While this proposal will undoubtedly increase traffic on Dubarko Road the Average Daily Traffic (ADT) concerns that were recently raised during the Bailey Meadows approval process are not present with this land use application. In the Bailey Meadows case, Melissa Avenue is designated a local street and the concerns raised relative to ADT impacted a local street. In the case of Bull Run Terrace, the majority of the anticipated trips will use Dubarko Road which is designated a minor arterial and Street B which is designated as a collector. According to Chapter 17.10 of the Development Code, arterial streets are defined as helping interconnect and support the arterial highway system and link major commercial, residential, industrial, and institutional areas. Also, in Chapter 17.10, the definition for collector streets states they are meant to provide both access and circulation within residential neighborhoods and commercial/industrial areas. While staff is sympathetic of existing residents to the west of the proposed Bull Run Terrace subdivision the extension of Dubarko Road has always been intended to occur and the street has been designed to accommodate high traffic volumes. The only street that ADT concerns are valid is Fawn Street/Street A. The four proposed single family homes in the R-1 zoning district (Lots 1-4) will not cause any concerns, but the potential of trips generated from the C-3 zoned property (Lot 7) could cause additional traffic on Fawn Street/Street A and negatively impact the Deer Pointe subdivision. To alleviate potential traffic concerns and to deter trips from heading west on Fawn Street staff recommends that trip distribution is limited from Lot 7. **The land use application for Lot 7 shall include proposed driveway designs to discourage commercial patrons existing Lot 7 to Street A from entering the Deer Pointe Subdivision on Street A. The designs shall be reviewed and approved by the City Engineer and Public Works Director.**
11. Notification of the proposed application was mailed to affected agencies on February 14, 2020 and to affected property owners within 500 feet of the subject property on April 17, 2020. A correction to the notice was sent on May 5, 2020.
12. Due to concerns raised by City planning staff as well as by surrounding residents, the applicant requested additional time to modify the application for this proposed development. On May 21, 2020, a notification was mailed to affected property owners stating that the Planning Commission meeting was rescheduled to Monday, July 27, 2020 at 7:00 pm. The City Council meeting was rescheduled to Tuesday, September 8, 2020 at 7:00 pm.
13. After additional discussion, the applicant and City staff agreed to move the public hearing dates once more. A notice was sent on July 23, 2020 informing affected property owners that

the Planning Commission meeting will be held on August 24, 2020 and the City Council meeting on October 19, 2020.

14. A legal notice was submitted to the newspaper on August 5, 2020 to be published on August 12, 2020 informing residents of the public hearings.
15. During the Planning Commission meeting on August 24, 2020 the Commission granted a continuance of the public hearing. An additional Planning Commission hearing was scheduled for October 26, 2020.
16. On October 26, 2020 the Planning Commission reconvened to continue the public hearing for Bull Run Terrace. After hearing additional input from staff, the applicant, and the public the Planning Commission made the following motion:

Motion: Motion to recommend to the City Council approval of the application per the staff report, with an additional condition of approval to implement a trip cap per the transportation analysis.

Moved By: Commissioner Mobley

Seconded By: Commissioner Maclean-Wenzel

Yes votes: Carlton, Lesowski, Maclean-Wenzel, Logan, Mobley and Mayton

No votes: None

Abstentions: None

17. Agency comments were received from the City Transportation Engineer, City Engineer, Sandy Transit, Public Works, ODOT, Sandy Fire District No. 72, and PGE. Revised comments were received from the City Engineer, ODOT, and the City Transportation Engineer (Exhibits, EEEE, FFFF, and GGGG).
18. At publication of this staff report 59 written public comments were received. The main concerns expressed by residents include the following:
 - A. The loss of trees, thus lowering the aesthetic quality of the area as well as privacy for existing homes.
 - B. The capacity of the police to effectively patrol multi-family dwelling areas.
 - C. The possibility of criminal activity at multi-family dwelling areas.
 - D. Being previously told that the land would not be developed as residential.
 - E. Acres of commercial land use being put into a deficit.
 - F. Concerns about effects of multi-family housing on property values.
 - G. Requests for developers to pay the full cost of development-related infrastructure improvements.
 - H. The development not being aligned with the city's Comprehensive Plan.
 - I. Concerns about the zoning change not meeting the intent of SDC Chapter 17.26.
19. Staff is sympathetic to all concerns raised by the public but does not know of any research which shows that an increase in multi-family housing decreases property values for single family homes. There is certainly nothing within the Sandy municipal code which relates

multi-family housing and property values, nor is there a way to evaluate this. Furthermore, the existing designation of Medium Density Residential (R-2) allows multi-family dwellings. Multi-family is listed as a permitted outright use in the R-2 zoning district in Section 17.38.10(A)(6). Even if the applicant were not proposing a comprehensive plan map and zoning map amendment the applicant would still have property rights to construct multi-family housing on the existing 5.01 acres of R-2 designated land.

17.24 – Comprehensive Plan Amendment Procedures

20. Chapter 17.24, Comprehensive Plan Amendment Procedures, contains review criteria for Comprehensive Plan amendments. The comprehensive plan map change and zone map change proposes to add High Density Residential (R-3) and Parks and Open Space (POS), increase Village Commercial (C-3), reduce Medium Density Residential (R-2), and reduce Low Density Residential (R-1). The Comprehensive Plan states that area and density increase within a village may be increased or decreased up to 20 percent. Changes greater than 20 percent will require a Plan Map amendment. The applicant's analysis shows that the maximum residential density with the existing zoning designations on the R-2 and R-1 lands is 101 dwelling units. The applicant's analysis shows that the maximum residential density with the proposed zoning designations on the R-3, R-2, and R-1 lands is 152 dwelling units. It should be noted that this doesn't include the potential dwelling units on the C-3 land. Therefore, the potential increase in residential density is 38.2 percent which exceeds the threshold as defined in the comprehensive plan. Therefore, a Plan Map amendment is required.
21. Section 17.24.70 (A) specifies the change being proposed is the best means of meeting the identified public need. This proposal achieves some major goals consistent with long range planning objectives in the City of Sandy, including but not limited to the following:
 - A. Extending Dubarko Road to intersect with Highway 26 consistent with the Transportation System Plan that was adopted in 2011;
 - B. Installing Street B to the south consistent with the Transportation System Plan that was adopted in 2011;
 - C. Extending Fawn Street to the east;
 - D. Expanding the Deer Pointe park consistent with the goals of the Parks and Trails Advisory Board and the current revisions that are being considered for the Parks and Trails Master Plan;
 - E. Creating available commercial land in the C-3 zoning district consistent with the 2040 Plan that was created in 1997;
 - F. Fulfilling housing needs as defined in the Urbanization Study that was adopted in 2015; and,
 - G. Providing a mixture of housing types consistent with the goals of the 2040 Plan that was created in 1997.
22. The City Council adopted an updated Urbanization Study in February 2015 (Ordinance 2015-01). This study projected the land needs for the Urban Growth Boundary to the year 2034 and concluded there is expected to be a surplus of 13.9 acres of high density residential land and a deficit of 51.8 acres of commercial land for the planning period. The proposed change

would increase the commercial land supply by 0.77 acres and reduce the residential land supply by the same amount.

23. The applicant's original proposed modifications would have resulted in the following:

Commercial = deficit of 1.71 acres (previously a surplus of 1.13 acres)
Low Density Residential = surplus of 11.74 acres (previously a surplus of 19.2 acres)
Medium Density Residential = surplus of 12.09 (previously a surplus of 17.1 acres)
High Density Residential = surplus of 23.60 acres (previously a surplus of 12.6 acres)
Industrial is not applicable to this application

24. Because the original proposal would have resulted in a deficit of the 20-year supply of commercial lands and created a Goal 9 violation, the applicant revised their proposal to include commercial land. Additionally, the applicant further revised their application to include R-2 land.

25. The applicant's revised proposal will result in the following:

Commercial = surplus of 1.90 acres (previously a surplus of 1.13 acres)
Low Density Residential = surplus of 11.74 acres (previously a surplus of 19.2 acres)
Medium Density Residential = surplus of 13.32 (previously a surplus of 17.1 acres)
High Density Residential = surplus of 19.28 acres (previously a surplus of 12.6 acres)
Industrial is not applicable to this application

The applicant's surplus numbers on page 11 of their narrative are slightly different, but the above numbers are the correct numbers based on recent comprehensive plan map amendments.

26. Section 17.24.70(B) requires the change to conform to all applicable Statewide Planning Goals.

Goal 1: Citizen Involvement

The application is being reviewed through a Type IV process that requires at least two public hearings. A public notice was sent to adjoining property owners, a legal notice published in the Sandy Post, and a notice of the proposal was sent to the Department of Land Conservation and Development. The Planning Commission reviewed the application at a public hearing on August 24, 2020 and continued the hearing to October 26, 2020. On October 26, 2020 the Planning Commission made a recommendation to approve the request. On November 30, 2020 the City Council will hold a public hearing to most likely make a decision on the request. Because the public will have the opportunity to review and comment on the application, the proposal meets the intent of Goal 1.

Goal 2: Land Use Planning

The City's Comprehensive Plan guides land uses within the City's Urban Growth Boundary. The City's Zoning Ordinance enforces the Comprehensive Plan. Staff has

reviewed the application for conformance with the Comprehensive Plan in review of Chapter 17.24, and Zoning Ordinance in review of Chapter 17.26. The City has sent notification of this proposal to both the Department of Land Conservation and Development as well as the Oregon Department of Transportation.

Goal 3: Agricultural Lands

Not Applicable

Goal 4: Forest Lands

Not Applicable

Goal 5: Natural Resources

The applicant, along with a consultant, have shown that the subject site does not contain any wetland area (Exhibit H). The applicant worked with an arborist to inventory trees and develop a tree retention plan as required in Chapter 17.102 (Exhibit G). The Planning Commission provided a code interpretation that retention trees only have to be protected consistent with Chapter 17.102, and not consistent with the distance requirements in Chapter 17.92. That said, staff finds that to adequately protect the required retention trees on Lot 7 the protection area shall be consistent with Chapter 17.92. **The applicant shall install tree protection fencing at the critical root zone of 1 foot per 1 inch DBH to protect the 64 retention trees on the subject property.** Additional analysis and conditions are contained in the review of Chapter 17.102 in this document.

Goal 6: Air, Water, and Land Quality

The applicant proposes that the application complies with all regulations relative to air, water, and land quality.

Goal 7: Natural Hazards

The site contains minimal steep slopes and no natural hazards are known to exist on the site.

Goal 8: Recreational Needs

The applicant is dedicating up to 1.426 acres of parkland to the City. This dedication helps expand the existing parkland that will eventually be developed as Deer Pointe Park. Expanding the Deer Pointe park is consistent with the goals of the Parks and Trails Advisory Board and the current revisions that are being considered for the Parks Master Plan. Staff finds that parkland dedication is preferable so long as the development to the east of the park is complementary to the parkland. As explained below, Section 17.86.20 has a requirement that all homes must front on the parkland. The applicant is not proposing any houses to the south or east of the parkland, but instead is proposing future commercial development. The applicant's narrative states, "in order to address the spirit of the requirement in this section, the applicant proposes constructing a widened sidewalk along the eastern park frontage adjacent to Lot 7". Staff supports the shift of commercial lands from the east side of Dubarko Road to the west side of Dubarko Road if the parkland is accommodated with adequate landscape buffering, pedestrian amenities, and commercial development (albeit mixed use or traditional commercial) having active

storefronts or patios facing the parkland. The purpose of having homes front the parkland is to provide eyes on the park and increase safety for park users. Having active storefronts or patios facing the park will provide the same safety measures as homes facing the park. Additionally, this kind of “active frontage” creates pedestrian interest and engagement. **Staff recommends that the design review approval for Lot 7 shall be conditioned to incorporate storefronts, patios and usable windows facing the parkland.** An additional consideration should be to connect the sidewalk along Highway 26 to the walkway on the parkland property to accommodate additional pedestrian connectivity. The Revised Master Street and Utility Plan (Exhibit M) details a meandering walkway in the proposed park. While staff appreciates this preliminary walkway location being identified in the revisions, ultimately the location of the walkway will need to be determined with design of Deer Pointe Park. **Staff recommends that the applicant install a walkway along the east side of the park or west side of Lot 7 that connects Fawn Street/Street A to the sidewalk on Highway 26 as determined during design of Deer Pointe Park. Staff also recommends that the design review approval for Lot 7 incorporate a landscape buffer that provides visibility between Lot 7 and the parkland but provides a visually attractive separation.**

Goal 9: Economic Development

Goal 9 requires cities to provide an adequate supply of buildable lands for a variety of commercial and industrial activities and requires plans to be based on an analysis of the comparative advantages of a planning region. With the revised proposal, staff finds that each type of land use in the Comprehensive Plan will continue to be in surplus.

Goal 10: Housing

This proposal to change residential designations on the subject property does not affect compliance with this goal. In fact, the proposed modifications to the comprehensive plan increases the potential diversity in housing types by providing additional multi-family housing.

Goal 11: Public Facilities and Services

Not Applicable

Goal 12: Transportation

The applicant contracted with a Traffic Engineer to prepare a Traffic Impact Study (Exhibit F). With development of this project, Dubarko Road will be extended through the property to connect with Highway 26. The submitted traffic study evaluated five existing intersections to determine if they are expected to operate within capacity under year 2021 traffic conditions either with or without the addition of site trips from the proposed development. The study did not identify any required mitigation. According to the traffic study, the proposed development would produce 71 peak AM trips, 86 peak PM trips, and 1,114 total daily trips. The proposed zone change is projected to result in a significant change to traffic volumes as measured under the “reasonable worst case” development scenarios and therefore will have a significant effect on operation of area roadways and intersections at the planning horizon as defined by Oregon’s Transportation Planning Rule. Accordingly, some form of mitigation is necessary to meet

the requirements of Oregon’s TPR. The City Transportation Engineer (Exhibits AA and GGGG) states that the development will implement a key project in the city’s TSP, namely Dubarko Road. With its connection to Highway 26, Dubarko Road will become increasingly important to the transportation system in Sandy. The traffic analysis makes several references to a right-in/right-out intersection at Dubarko Road and Highway 26. These references are in the context of analysis of the performance of other study intersections examined in the traffic study and not a proposal to construct a right-in/right-out intersection at this location. The adopted Transportation System Plan (TSP) does not contemplate a right-in/right-out intersection at Highway 26 and Dubarko Road. **The intersection of Highway 26 and Dubarko Road shall be constructed as a full-access intersection in compliance with the TSP.** ODOT states (Exhibit FFFF), “The TIS has identified that upon completion of the residential development within the proposed subdivision and the connection of Dubarko Road to Highway 26, it is projected that the intersection of Highway 26 at Dubarko Road will operate with very high delays for the northeast-bound Dubarko Road approach. The study recommends that a trip cap of 340 PM net new peak hour trips be applied to the subject property as a condition of approval for the proposed zone change. ODOT is supportive of the proposed trip cap.” The City Transportation Engineer (Exhibit GGGG) concurs with the importance of applying a trip cap of 340 PM net new peak hour trips. **The subject property shall be subject to a trip cap of 340 PM net new peak hour trips.**

Goal 13: Energy Conservation

Not Applicable

Goal 14: Urbanization

This proposal accomplishes the objectives of this Statewide Planning Goal by accommodating additional residential and commercial growth within the existing Urban Growth Boundary (UGB) as planned for in the adopted Urbanization Study completed in 2015. As shown in Finding 21, the proposed changes will not result in any deficit in available land use.

Goals 15-19

Not applicable for the City of Sandy as these goals relate to the Willamette River and the Oregon Coast.

17.26 – Zoning District Amendments

27. The applicant is proposing a change in zoning districts as shown in the following table:

Zoning District	Existing Acres	Proposed Acres
R-1	8.05	0.59
R-2	5.01	1.23
R-3	0.00	6.50
C-3	2.84	3.61

28. Chapter 17.26 sets forth review criteria and procedural requirements for quasi-judicial and legislative zoning map amendments. The applicant is requesting a quasi-judicial zoning map amendment to modify the zoning district boundaries for the site.
29. Section 17.26.40 outlines the procedures for a quasi-judicial zoning map amendment.
30. Section 17.26.40(B)(1) requires the City Council to determine the effects on City facilities and services. With the proposed development, Dubarko road will be extended from its current terminus through the subject site to connect with Highway 26. This road is identified as a necessary future minor arterial in the City's Transportation System Plan. An existing water line is located in the future alignment of Dubarko Road, and the applicant will accommodate this facility during the construction of this road.
31. Section 17.26.40(B)(2) and (3) requires the Council to assure consistency with the purposes of this chapter and with the policies of the Comprehensive Plan, including the following:
 - A. Maintain sound, stable, and desirable development within the City
 - B. Permit changes in zoning district boundaries where appropriate
 - C. Ensure zoning changes are consistent with the community's land use policies and goals
 - D. Lessen the influence of private economic interests in the land use decision-making process

Given that the proposed development conforms with the Sandy Municipal Code and Comprehensive Plan goals, and that multiple conditions have been put in place to ensure that the development meets the intent of the Code and goals, staff finds that these criteria have been met.

32. Section 17.26.40(B)(4) requires the Council to assure consistency with the Statewide Planning Goals as may be necessary, and any other applicable policies and standards adopted by the City Council.

17.30 – Zoning Districts

33. The total gross acreage for the entire property is 15.91 acres. After removal of the right-of-way and proposed parkland tract, the net site area (NSA) for the subject property is reduced to 11.59 net acres with four zoning districts. The area proposed to be zoned R-1 contains 0.59 net acres. The area proposed to be zoned R-2 contains 1.23 net acres. The area proposed to be zoned R-3 contains 6.50 net acres. The area proposed to be zoned C-3 contains 3.61 net acres.
34. For the area zoned R-1, a minimum of 5 and a maximum of 8 units per acre are allowed. In accordance with Section 17.30.20 (D) a dwelling unit figure is rounded down to the nearest whole number for all total maximum or minimum figures less than four dwelling units. The minimum density for the subject area is $.59 \text{ net acres} \times 5 \text{ units/net acre} = 2.95$ rounded down to 2 units. The maximum density for the subject area is $.59 \text{ net acres} \times 8 \text{ units/net acre} = 4.72$ rounded up to 5 units. The applicant is proposing 4 units which is within the density range.

35. For the area zoned R-2, a minimum of 8 and a maximum of 14 units per acre are allowed. The minimum density for the subject area is $1.23 \text{ net acres} \times 8 \text{ units/net acre} = 9.84$ rounded up to 10 units. The maximum density for the subject area is $1.23 \text{ net acres} \times 14 \text{ units/net acre} = 17.22$ rounded down to 17 units. The applicant has not identified the exact number of units which will be built in the subject area. **This will be reviewed in a future design review process.**
36. For the area zoned R-3, a minimum of 10 and a maximum of 20 units per acre are allowed. The minimum density for the subject area is $6.5 \text{ net acres} \times 10 \text{ units/acre} = 65$ units. The maximum density for the subject area is $6.5 \text{ net acres} \times 20 \text{ units/acre} = 130$ units. The applicant has not identified the exact number of units which will be built in the subject area. **This will be reviewed in a future design review process.**

17.32 – Parks & Open Space (POS)

37. The applicant proposes dedicating some parkland and zoning the land as Parks and Open Space (POS).
38. Section 17.32.10 contains the permitted uses in the POS zoning district. The applicant proposes a park dedication consistent with parkland in the Parks Master Plan per Section 17.32.10 (A)(1).

17.36 – Low Density Residential (R-1)

39. The applicant proposes constructing four single-family dwellings as permitted in this zoning district. As shown in paragraph 19, the applicant is proposing an appropriate number of units given density requirements.
40. Section 17.36.30 contains the design standards for this zone. As shown on Sheet C2 of the plan set (Exhibit C), all lots in the proposed subdivision contain at least 5,500 square feet, have at least 20 feet of street frontage, and contain an average lot width of at least 50 feet as required. Lot 4 has frontage on Dubarko Road, but access is not permitted from this road. Access to this lot will be across an access easement on Lot 3. The proposed building footprints shown on Sheet C2 indicate that all lots are capable of complying with applicable setbacks in the zone. The details of these development standards will be reviewed with the submittal of building permits.
41. Section 17.36.40(A) requires that water service be connected to all dwellings in the proposed subdivision. Section 17.36.40(B) requires that all proposed dwelling units be connected to sanitary service if currently within 200 feet from the site, which it is. Section 17.36.40(C) requires that the location of any real improvements to the property must provide for a future street network to be developed. Section 17.36.40(D) requires that all dwelling units must have frontage or approved access to public streets. The applicant proposes to meet all of these requirements.

42. Section 17.36.50(B) requires that lots with 40 feet or less of street frontage shall be accessed by a rear alley or shared private driveway. No proposed lots have 40 feet or less of street frontage.
43. Staff questioned the building potential of Lots 3 and 4 on the original applicant submission. Since the previous hearing, the applicant provided more information about these lots' buildable areas and staff's concerns have been satisfied.

17.38 – Medium Density Residential (R-2)

44. The applicant is proposing 1.23 net acres of R-2 land. As noted in Finding 33, the applicant will be allowed to develop between 10 and 17 dwelling units on the subject property.
45. **The future design review application will include a review of development standards and requirements.**

17.40 – High Density Residential (R-3)

46. The applicant is proposing 6.5 net acres of R-3 land on one lot. As noted in Finding 34, the applicant will be allowed to develop between 65 and 130 dwelling units on the subject property. The exact number of units in this zoning district will be determined with a future design review application.
47. **The future design review application will include a review of development standards and requirements.**

17.46 – Village Commercial (C-3)

48. The applicant proposes 3.61 net acres of C-3 land. This is an increase in commercial land by 0.77 acres. While the C-3 zoning district will have to contain some commercial development there is a decent chance the C-3 land will also contain some residential dwelling units. The exact number of potential residential units is not known at this time. If residential units are proposed on the C-3 land the dwelling units will be assessed in a future design review.
49. **Any future development on the land zoned C-3 will require a design review in accordance with the development standards found in Section 17.46.30 and the Sandy Municipal Code.**

17.54 – Specific Area Plan Overlay

50. The purpose of a specific area plan overlay zone is to allow development and approval of specific area plans in the city. The City of Sandy Comprehensive Plan, Goal 2, Land Use Designations, Village states: “shifting of the underlying zoning district boundaries to accommodate development constraints and land divisions for specific development proposals may be allowed through approval of a Specific Area Plan.”
51. The applicant proposes shifting zoning district boundaries as noted in this document and has submitted a Specific Area Plan request according to the standards in the chapter as required. The purpose of a specific area plan overlay zone is to allow development and approval of specific area plans in the city. A specific area plan is a master plan coordinating and directing

development in terms of transportation, utilities, open space and land use; however, no phasing or timeline is required. Specific area plans may be located anywhere within the Urban Growth Boundary and are intended to promote coordinated planning concepts and pedestrian-oriented mixed-use development. The City of Sandy Comprehensive Plan, Goal 2, Land Use Designations, Village states: “shifting of the underlying zoning district boundaries to accommodate development constraints and land divisions for specific development proposals may be allowed through approval of a Specific Area Plan”.

52. The applicant proposes shifting of zoning district boundaries and therefore submitted a Specific Area Plan request according to the standards in Chapter 17.54. Staff finds that the only other specific area plan in Sandy, the Bornstedt Village Specific Area Overlay, has additional standards related to additional tree retention, green streets, additional design standards for single family homes, etc. Keeping the Bornstedt Village Overlay in mind, staff recommends that additional consideration is given to additional tree protection for the proposed retention trees. The Planning Commission provided a code interpretation that retention trees only have to be protected consistent with Chapter 17.102, and not consistent with the distance requirements in Chapter 17.92. That said, staff finds that to adequately protect the required retention trees on Lot 7 the protection area shall be consistent with Chapter 17.92. **The applicant shall install tree protection fencing at the critical root zone of 1 foot per 1 inch DBH to protect the 64 retention trees on the subject property.** Additional analysis and conditions are contained in the review of Chapter 17.102 in this document. Consistent with the Bornstedt Village Overlay this development should also consider green streets where practicable. **The applicant shall explore locations for green street swales. If green streets are practicable the plan set shall be modified to detail additional right-of-way to accommodate the swales.**
53. The process to establish a specific area plan shall be initiated by the City Council. The Planning Commission or interested property owners may submit requests to the City Council to initiate the specific area plan process. If owners request initiation of a specific area plan process, the City Council may require an application fee to cover the cost of creating the plan. The applicant requests initiation of this specific area plan and has paid the applicable fees. The comprehensive plan map change and zone map change proposes to add High Density Residential (R-3) and Parks and Open Space (POS), increase Village Commercial (C-3), remove Medium Density Residential (R-2), and reduce Low Density Residential (R-1). The Comprehensive Plan states that area and density increase within a village may be increased or decreased up to 20 percent. Changes greater than 20 percent will require a Plan Map amendment. The applicant’s analysis shows that the maximum residential density with the existing zoning designations on the R-2 and R-1 lands is 101 dwelling units. The applicant’s analysis shows that the maximum residential density with the proposed zoning designations on the R-3 and R-1 lands is 163 dwelling units. Therefore, the potential increase in residential density is 61.9 percent which exceeds the threshold as defined in the comprehensive plan.
54. In accordance with Section 17.54.00(D) a specific area plan shall be adopted through a Type IV process and shall be evaluated for compliance with the criteria for zoning district amendments and/or comprehensive plan amendments where applicable. The applicant states

that this specific area plan request will be reviewed through a Type IV process and shall comply with the criteria for zoning district and Comprehensive Plan amendments. As stated by the applicant the criteria in Chapter 17.24, Comprehensive Plan Amendment Procedures and Chapter 17.26, Zoning District Amendments are reviewed in this document and as reviewed in these chapters, the proposal is found to comply with all required criteria if the conditions of approval as recommended by staff are required.

55. In accordance with Section 17.54.00(G) compliance with specific area plan standards and procedures are required. New construction and land divisions shall meet any development, land division and design standards of the applicable specific area plan. Base zone and land division standards shall apply where no different standard is referenced for the specific plan area. Staff finds that with adequate conditions of approval the proposal will comply with the standards and procedures of a specific area plan.
56. Section 17.54.10 defines eight items that define the specific area plan by providing text and diagrams with the specific area plan application. The eight items relate to the following: plan objectives; site and context; land use diagram; density; facilities analysis; circulation/ transportation diagram; market analysis; and, design and development standards. The eight items are reviewed as follows:
 - A. Plan Objectives. A narrative shall set forth the goals and objectives of the plan. The applicant submitted a robust narrative explaining the proposal for the Bull Run Terrace subdivision. The applicant's narrative elaborates on the objectives of their proposal and the desire to include a few single family dwellings, multi-family dwellings, and village commercial development. The narrative also elaborates on dedications, including 1.43 acres of parkland.
 - B. Site and Context. A map of the site and existing context shall identify the project area. The applicant submitted a 10-sheet plan set that details the project area and proposed improvements.
 - C. Land Use Diagram. The land use diagram shall indicate the distribution and location of planned land uses, including open space and parks, within the area covered by the specific area plan. The applicant's plan set clearly identifies all proposed land uses, with the exception of Lot 7, which is the Village Commercial lot. The development of Lot 7 will need to follow the uses as defined in Chapter 17.46, Village Commercial (C-3). If the applicant or successor-in-interest proposes uses in Section 17.46.20(B), Conditional Uses, the proposal will need to be reviewed by the Planning Commission.
 - D. Density. If residential uses are proposed, a narrative shall describe planned residential densities. Density calculations were included by the applicant in their narrative and are included in review of Chapter 17.30, Zoning Districts in this document.
 - E. Facilities Analysis. The plan shall include an analysis of the general location and extent of major components of sanitary sewer, water, and other essential facilities proposed to be located within the specific plan area and needed to support the land

use and densities described in the plan. A review of existing facilities master plans shall be sufficient if these master plans indicate there is adequate capacity to serve the specific plan area. The applicant included a utility plan within the plan set and a preliminary stormwater report. The Public Works Director reviewed the applicant's submission and has provided analysis and recommended conditions as explained in this document.

- F. Circulation/Transportation Diagram. The circulation diagram shall indicate the proposed street pattern for the specific area plan area, including pedestrian pathways and bikeways. Design standards and street cross sections shall be included, if different than normal City standards. The applicant included a traffic study from Ard Engineering, a future street plan, a master street plan, and street section details. The City's Transportation Engineer, Public Works Director, ODOT, Fire Marshal and the Transit Director reviewed the applicant's submission and have provided analysis and recommended conditions as explained in this document.

- G. Market Analysis. Specific area plans that include amendments to the zoning map affecting the acreage of Village Commercial (C-3) land within the plan area shall include a market analysis of supportable retail space that verifies demand for the proposed acreage of C-3 land. The analysis should include a market delineation, a regional and local economic review, and a retail market evaluation. The applicant submitted an analysis from Johnson Economics. The proposal includes increasing the amount of available commercial lands by 0.77 acres. Johnson Economics explains that the proposal will provide capacity for additional housing options and provide more property that is an active urban use. The analysis states that an increase in multifamily housing will increase local capacity for residential products that can meet a broad range of price points. The analysis goes on to explain that the Highway 26 infrastructure investment requirements were too great to be offset by the value of the underlying property, but that a zone change to allow more residential units will provide the ability of the site to support necessary infrastructure investments. As Johnson Economics correctly identifies the extension of Dubarko Road to Highway 26 and the additional land needed for Deer Pointe park cannot be completed unless the subject site is developed.

- H. Design and Development Standards. If standards differ from normal City standards, design and development standards shall be included in the plan. The applicant states that the proposal is anticipated to comply with all design and development standards. As identified by the applicant the exact details of site and building review will be primarily addressed with submittal of subsequent land use applications for development on Lot 5, 6 and 7.

17.56 – Hillside Development

- 57. The applicant submitted a Geotechnical and Slope Stability Investigation (Exhibit I) showing that the subject site contains a small area of slope exceeding 25 percent. **All recommendations in Section 6 of the submitted Geotechnical and Slope Stability Investigation (Exhibit I) shall be conditions for development.** The Public Works Director

stated the following: “The geotechnical report (2005) submitted with the application is nearly fifteen years old. It does not appear that there have been physical changes to the existing surface of the site in that time span that would impact the findings and recommendations in the geotechnical report but there may have been changes in industry standards or practices since then. As a result, the Applicant shall submit a letter from the original geotechnical engineering firm indicating that the findings and recommendations from the 2005 report remain substantially unchanged or modifying the original findings and recommendations as necessary.” **The applicant shall submit a letter from the original geotechnical engineering firm indicating that the findings and recommendations from the 2005 report remain substantially unchanged or modifying the original findings and recommendations as necessary.**

17.74 – Accessory Development

58. Section 17.74.40 specifies, among other things, retaining wall and fence height in front, side and rear yards. Retaining walls in residential zones shall not exceed 4 feet in height in the front yard, 8 feet in height in rear and side yards abutting other lots, and 6 feet in side and rear yards abutting a street. The submitted plan set does not define any retaining walls with the exception of a retaining wall for the stormwater facility in Tract B. **If retaining walls are proposed the applicant shall submit additional details/confirmation on the proposed retaining walls, including heights meeting code requirements and an architectural finish, for staff review and approval.**

17.80 – Additional Setbacks on Collector and Arterial Streets

59. Chapter 17.80 requires all residential structures to be setback at least 20 feet on collector and arterial streets. Lots 3, 4, 5, 6 and 7 shall adhere to the setback standards in Chapter 17.80 for Highway 26 which is classified as an arterial, Dubarko Road which is classified as a minor arterial and Street B which is classified as a collector. The revised Preliminary Plat (Exhibit J) details the 20-foot setbacks to Highway 26, Dubarko Road, and Street B.

17.82 – Special Setbacks on Transit Streets

60. Section 17.82.20(A) requires that all residential dwellings shall have their primary entrances oriented toward a transit street rather than a parking area, or if not adjacent to a transit street, toward a public right-of-way or private walkway which leads to a transit street. Lot 4 will be accessed by an easement across Lot 3 and will be designed in accordance with this standard. Lot 3 will be located at the corner of Dubarko Road and a new local street. **The dwellings on Lots 3 and 4 shall be designed to meet all of the requirements as specified in Chapter 17.82 and will be assessed in a future design review.**

61. The applicant proposes that all single-family units will meet the requirements of Section 17.82.20(B), which requires that dwellings shall have a primary entrance connecting directly between the street and building interior and outlines requirements for the pedestrian route. **The adherence to this code section for the future multi-family units will be determined in a future design review process.**

62. The applicant proposes that all single-family units will meet the requirements of Section 17.82.20(C), which requires that primary dwelling entrances shall be architecturally

emphasized and visible from the street and shall include a covered porch at least 5 feet in depth. **The adherence to this code section for the future multi-family units will be determined in a future design review process.**

63. Section 17.82.20(D) requires that if the site has frontage on more than one transit street, the dwelling shall provide one main entrance oriented to a transit street or to a corner where two transit streets intersect. **The orientation of the future multi-family units that have frontage on both Highway 26 and Dubarko Road will be determined in a future design review process.**

17.84 – Improvements Required with Development

64. Section 17.84.20(A)(1) requires that all improvements shall be installed concurrently with development or be financially guaranteed. **All lots in the proposed subdivision will be required to install public and franchise utility improvements or financially guarantee these improvements prior to final plat approval.**
65. Section 17.84.30(A)(1) requires that all proposed sidewalks on the local streets will be five feet wide as required by the development code and separated from curbs by a tree planting area that is a minimum of five feet in width.
66. As required by Section 17.84.39(A)(2), six-foot sidewalks are proposed to be constructed along Highway 26, Dubarko Road north of Street B, and on Street B. These frontages will include planter strips as required. As required by Section 17.84.39(A)(4), the applicant intends to construct all sidewalk improvements as required by this section.
67. No exceptions or modifications listed in Section 17.84.39(A)(3) are requested with the application.
68. In relation to Sections 17.84.39(B), 17.84.39(C), 17.84.39(D), and 17.84.39(E), no pedestrian or bicycle facilities other than sidewalks and on-street bicycle lanes have been identified or proposed in the application.
69. Section 17.84.40(A) requires that the developer construct adequate public transit facilities. **The proposed development will require two concrete bus shelter pads and green benches (Fairweather model PL-3, powder coated RAL6028). The required pad size is 7 feet by 9 feet 6 inches and the amenities should be located adjacent to Lot 1 and Lot 5. Engineering specifications are available from the Transit Department.**
70. Section 17.84.50 outlines the requirements for providing a traffic study. The applicant included a Traffic Impact Study with the application (Exhibits F and R). The study did identify some required mitigation. According to the revised traffic study, the proposed residential development (not including the commercial lot) would produce 71 peak AM trips, 86 peak PM trips, and 1,114 total daily trips. The proposed zone change is projected to potentially result in a significant increase in traffic volumes as measured under the “reasonable worst case” development scenarios and therefore may have a significant effect on operation of area roadways and intersections at the planning horizon as defined by

Oregon's Transportation Planning Rule. Accordingly, some form of mitigation is necessary to meet the requirements of Oregon's TPR. The City Transportation Engineer (Exhibit M) states that the development will implement a key project in the city's TSP, namely Dubarko Road. With its connection to Highway 26, Dubarko Road will become increasingly important to the transportation system in Sandy. The traffic analysis makes several references to a right-in/right-out intersection at Dubarko Road and Highway 26. These references are in the context of analysis of the performance of other study intersections examined in the traffic study and not a proposal to construct a right-in/right-out intersection at this location. The adopted Transportation System Plan (TSP) does not contemplate a right-in/right-out intersection at Highway 26 and Dubarko Road. **The intersection of Highway 26 and Dubarko Road shall be constructed as a full-access intersection in compliance with the TSP.** ODOT states (Exhibit FFFF), "The TIS has identified that upon completion of the residential development within the proposed subdivision and the connection of Dubarko Road to Highway 26, it is projected that the intersection of Highway 26 at Dubarko Road will operate with very high delays for the northeast-bound Dubarko Road approach. The study recommends that a trip cap of 340 PM net new peak hour trips be applied to the subject property as a condition of approval for the proposed zone change. ODOT is supportive of the proposed trip cap." The City Transportation Engineer (Exhibit FFFF) concurs with the importance of applying a trip cap of 340 PM net new peak hour trips. **The subject property shall be subject to a trip cap of 340 PM net new peak hour trips.**

71. The proposed street and utility plan depicts Dubarko Road between its current eastern terminus and proposed Street A with a 76 ft. wide right-of-way consisting of a 0.5 foot monumentation strip, a six-foot sidewalk, a five-foot planter strip, a 0.5 foot curb, a five foot bike lane, a 17-foot travel lane and half of an 8 foot median (i.e. 4 feet) for a total half section equaling 38 feet and a full street section equaling 76 feet. The standard section for an arterial street in the TSP consists of 11-foot travel lanes with 5-foot bike lanes. It is unclear to staff as to why the proposed travel lanes are so wide. The portion of Dubarko Road between Street A to the west boundary of the development should be used to provide a transition from the proposed three lane section with median to a two lane section with median to match the existing section. The proposed 17-foot wide travel lanes will be confusing to motorists. **The applicant shall submit a revised cross-section for the portion of Dubarko Road between the existing terminus and Street A with construction plans for City Engineer review and approval.**
72. The extension of Dubarko Road is classified as a minor arterial street and shall meet the standards of Section 17.84.50(B) which states that arterial streets should generally be spaced in one-mile intervals and traffic signals should generally not be spaced closer than 1,500 ft for reasonable traffic progression. The proposed alignment of Dubarko Road is consistent with the TSP and is an extension of an existing arterial street, not a new arterial street. The traffic study concluded that based on warrant analysis a traffic signal is not warranted. The City Transportation Engineer (Exhibit M) states that a traffic signal at Dubarko Road and Highway 26 will be needed in the near future based on future development but did not recommend a traffic signal at this time. The revised Preliminary Plat (Exhibit J) details a 40 foot by 40 foot traffic signal easement. The traffic signal easement could impact the tree retention area. **The applicant shall submit revised plans detailing how the traffic signal**

easement will impact the tree retention area. If the tree retention area is negatively impacted the applicant shall preserve additional trees. Street B (defined as 'New Road in the TSP) is classified as a collector street and does not need to adhere to the standards in Section 17.84.50(B).

73. The alignment of Street B and Dubarko Road does not provide the minimum 100 feet of tangent alignment (as measured from the curb line on Dubarko extended) on Street B as required by Section 17.84.50(H)(5)(a) of the Sandy Municipal Code (SMC). **The alignment of the intersection of Street B and Dubarko Road shall be revised to provide the minimum 100 feet of tangent section to comply with the Development Code or as otherwise approved by the City Engineer.**
74. The widening of Dubarko Road to accommodate the section recommended in the TSP is eligible for Transportation System Development Charge credits. The difference in cost between the required minor arterial improvements and a standard local street section is eligible for credits. **Estimated costs shall be submitted to City staff and reviewed and approved by the City Engineer. The City and the Applicant shall enter into an agreement defining the eligible improvements and estimated costs prior to plat approval. SDC credits shall be based on final audited costs.**
75. Dubarko Road will contain a dedicate left turn and right turn/through lane, a median with street trees, and a dedicated left turn lane to Street B. Highway 26 improvements will include among other things a dedicated right turn lane to Dubarko Road, sidewalks, street trees, and restriping. **The applicant shall adhere to all standards and requirements that are defined by ODOT, including the Dubarko Road connection to Highway 26 and all required improvements along Highway 26 including stormwater facilities constructed as necessary to be consistent with local, ODOT, and ADA standards.** As stated by the Public Works Director any ODOT required improvements on and adjacent to the Highway 26 frontage of the site are not included in the City's TSP or capital plans and as such are not eligible for SDC credits or reimbursement.
76. The proposed development does not include any long straight street segments or cul-de-sac streets and is thus not required to follow the standards in Section 17.84.50(C).
77. Section 17.84.50(D) requires that development sites shall be provided with access from a public street improved to City standards. All single-family homes will gain direct access from a public street improved to city standards with the exception of Lot 4 which will be accessed across an easement on Lot 3. All new streets are proposed as full street improvements with the exception of improvements along Highway 26. No off-site improvements have been identified or are warranted with the construction of this subdivision. All streets are proposed as full streets; with no three-quarter streets being proposed.
78. Section 17.84.50(E) requires that public streets installed concurrent with development of a site shall be extended through the site to the edge of the adjacent property. The proposed street layout results in one temporary dead-end street (Street B) that will be stubbed to the southern property line of the subject property. To accommodate fire apparatus turnaround the

temporary dead-end of Street B shall include turnarounds, subject to the approval of the Fire Marshal. **The applicant shall revise the plan set to detail fire turnaround easements on Lots 5 and 6 as approved by the Sandy Fire District Fire Marshal. The applicant shall also ensure that water supply requirements are in compliance with the adopted Oregon Fire Code.**

79. The proposed development includes the need to name Street B. The street name shall follow the deer related theme in the development to the west and shall be an 'avenue' as it runs north/south. Staff recommends the name Velvet Avenue.
80. Proposed streets meet the requirements of 17.94.50(H). The future street plan (Exhibit C, Sheet 1) shows that the proposed development will facilitate and not preclude development on adjacent properties. Both Dubarko Road and Street B are identified in the TSP and proposed to be constructed with the development. All proposed streets comply with the grade standards, centerline radii standards, and TSP-based right-of-way improvement widths. Dubarko Road will be extended by a continuation of the centerline of the existing section. All proposed streets are designed to intersect at right angles with the intersecting street and comply with the requirements of Section 17.94.50.(H)(5). No private streets are proposed in the development.
81. Section 17.84.60 outlines the requirements of public facility extensions. The applicant submitted a utility plan (Exhibit C, Sheet 5) which shows the location of proposed public water, sanitary sewer, and stormwater drainage facilities. Broadband fiber service will be detailed with construction plans. A private sanitary sewer connection is proposed to serve Lot 7. All other utilities will be public.
82. Franchise utilities will be provided to all lots within the proposed subdivision as required in Section 17.84.80. The location of these utilities will be identified on construction plans and installed or guaranteed prior to final plat approval. The applicant does not anticipate extending franchise utilities beyond the site. All franchise utilities other than streetlights will be installed underground. The developer will make all necessary arrangements with franchise utility providers. The developer will install underground conduit for street lighting.
83. Section 17.84.90 outlines requirements for land for public purposes. The majority of public facilities will be located within public rights-of-way including the existing waterline that will be contained within the Dubarko Road right-of-way. Eight-foot wide public utility easements will be provided along all lots adjacent to street rights-of-way for future franchise utility installations. All easements and dedications will be identified on the final plat as required.
84. Section 17.84.100 outlines the requirements for mail delivery facilities. **The location and type of mail delivery facilities shall be coordinated with the City Engineer and the Post Office as part of the construction plan process.**
85. ODOT recommends that the site layout and development be consistent with the approved and adopted Transportation System Plan, including: the Dubarko Road extension to Highway 26, aligned with the westerly most SE Vista Loop Drive intersection; accommodation of a

Collector road terminating at the southern extents of the subject property to allow the road to extend south from the westernmost leg of the SE Vista Loop Drive intersection; and curb, sidewalks, cross walk ramp, bikeways and road widening along Highway 26 constructed as necessary to be consistent with local, ODOT, and ADA standards.

86. The intersection of Dubarko Road and Highway 26 requires a grant of access from ODOT. **Prior to final plat approval the applicant shall obtain a grant of access or other necessary approval from ODOT for access to Highway 26 at Dubarko Road.**

87. The City Transportation Engineer (Exhibit M) stated that conditions of approval should be included requiring the development comply with the standards and procedures specified by ODOT. He went on to say that ODOT requirements and standards associated with frontage improvements where the development abuts Highway 26 shall be made conditions of approval with the development.

17.86 – Parkland and Open Space

88. The applicant intends to dedicate parkland as outlined in the requirements of Section 17.86.

89. 17.86.10(2) contains the calculation requirements for parkland dedication. The formula is acres = proposed units x (persons/unit) x 0.0043. For the four single family homes, acres = $4 \times 3 \times 0.0043 = 0.05$ acres. For the maximum development of 147 multifamily units, acres = $147 \times 2 \times 0.0043 = 1.26$ acres. Combined, this totals 1.31 acres. The applicant proposes to dedicate 1.426 acres of parkland and is thus in compliance with this requirement.

90. If the applicant proposes multifamily dwellings as part of the development of Lot 7 which is proposed to be zoned C-3 the applicant is eligible for parks fee in-lieu credit up to 0.11 acres (the rounded difference between the required amount of parkland dedication and the proposed amount of parkland dedication). **The applicant can propose up to 13 multifamily units ($13 \times 2 \times 0.0043 = 0.11$ acres) prior to incurring parks fee in-lieu charges. Anything beyond 13 multifamily units on Lot 7 will incur parks fee in-lieu fees per the calculations as defined in the Sandy Development Code. However, if the applicant does not propose any multifamily units on Lot 7 the applicant will not be owed a monetary credit.**

91. Section 17.86.20 has a requirement that all homes must front on the parkland. The applicant is not proposing any houses to the south or east of the parkland, but instead are proposing future commercial development. The applicant's narrative states, "in order to address the spirit of the requirement of this requirement in this section, the applicant proposes constructing a widened sidewalk along the eastern park frontage adjacent to Lot 7". Staff supports the shift of commercial lands from the east side of Dubarko Road to the west side of Dubarko Road if the parkland is accommodated with adequate landscape buffering, pedestrian amenities, and commercial development (albeit mixed use or traditional commercial) having active storefronts or patios facing the parkland. The purpose of having homes front the parkland is to provide eyes on the park and increase safety for park users. Having active storefronts or patios facing the park will provide the same safety measures as homes facing the park. **Staff recommends that the design review approval for Lot 7 shall**

be conditioned to incorporate storefronts, patios and usable windows facing the parkland. An additional consideration should be to connect the sidewalk along Highway 26 to the walkway on the parkland property to accommodate additional pedestrian connectivity. The Revised Master Street and Utility Plan (Exhibit M) details a meandering walkway in the proposed park. While staff appreciates this preliminary walkway location being identified in the revisions, ultimately the location of the walkway will need to be determined with design of Deer Pointe Park. **Staff recommends that the applicant install a walkway along the east side of the park or west side of Lot 7 that connects Fawn Street/Street A to the sidewalk on Highway 26 as determined during design of Deer Pointe Park. Staff also recommends that the design review approval for Lot 7 incorporate a landscape buffer that provides visibility between Lot 7 and the parkland but provides a visually attractive separation.**

92. On June 10, 2020, the applicant brought the parkland dedication proposal to the Sandy Parks and Trails Advisory Board. At the meeting, the Board verbally agreed to provide the applicant SDC credits in exchange for development of the park.
93. The Parks and Trail Advisory Board provided a set of recommendations (exhibit NNNN) which contains a recommendation for the City to pursue a development agreement with the developer to include the following: Allow the developer to make initial improvements to the newly configured Deer Pointe Park in place of paying Systems Development Charges. **The applicant shall work with the City of Sandy to create a mutually agreed upon engineer estimate for the Deer Pointe parkland improvements. The final engineer's estimate shall be used as the basis for an agreement to calculate Park SDC credits for the applicant. If the applicant and City agree to the applicant/developer completing parkland improvements, the park improvements shall be completed prior to final plat approval or as otherwise established in a development agreement.**
94. Section 17.86.30 lists the requirements of the developer prior to acceptance of required parkland dedications. **The applicant shall clear, grade, and seed the proposed parkland as specified by the City in the construction plans. The applicant shall also provide a Phase I Environmental Assessment.**
95. The applicant proposes including two utility easements within the proposed parkland dedication. However, these easements are unavoidable given the location of existing utilities. **The applicant shall define these utilities on the tentative plat.**

17.92 – Landscaping and Screening

96. Section 17.92.10 contains general provisions for landscaping. As required by Section 17.92.10 (C), trees over 25-inches circumference measured at a height of 4.5 feet above grade are considered significant and should be preserved to the greatest extent practicable and integrated into the design of a development. A 25-inch circumference tree measured at 4.5 feet above grade has roughly an eight-inch diameter at breast height (DBH). Based on the Planning Commission interpretation from May 15, 2019, Subsection 17.92.10(C) does not apply to residential subdivisions. Tree protection fencing and tree retention will be discussed in more detail under Chapter 17.102 in this document. **Per Section 17.92.10(L), all**

landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing.

97. Section 17.92.20 lists the requirements for minimum landscaping improvements. **The details of this section will be considered with submittal of a design review application for the proposed multi-family units and commercial property.**

98. Section 17.92.30 specifies that street trees shall be chosen from the City-approved list. As required by Section 17.92.30, the development of the subdivision requires medium trees spaced 30 feet on center along all street frontages. The current street tree plan (Exhibit D, Sheet 7) does not show the distance between trees. **The applicant shall update the Street Tree Plan to show the distance between trees, and this distance shall be 30 feet on center.**

The applicant is proposing to mass grade the buildable portion of the site. This will remove top soil and heavily compact the soil. In order to maximize the success of the required street trees, **the applicant shall aerate the planter strips to a depth of 3 feet prior to planting street trees. The applicant shall either aerate the planter strip soil at the subdivision stage and install fencing around the planter strips to protect the soil from compaction or shall aerate the soil at the individual home construction phase.**

If the plans change in a way that affects the number of street trees (e.g., driveway locations), the applicant shall submit an updated street tree plan for staff review and approval. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and the planter strip shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy. Tree ties shall be loosely tied twine or other soft material and shall be removed after one growing season (or a maximum of 1 year).

99. Section 17.92.40 requires that all landscaping shall be irrigated, either with a manual or automatic system. **As required by Section 17.92.140, the developer and lot owners shall be required to maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period.**

100. Section 17.92.50 specifies the types and sizes of plant materials that are required when planting new landscaping. Street trees are typically required to be a minimum caliper of 1.5-inches measured 6 inches from grade. **All street trees shall be a minimum of 1.5-inches in caliper measured 6 inches above the ground and shall be planted per the City of Sandy standard planting detail. The applicant shall submit proposed trees specifies to City staff for review and approval concurrent with construction plan review.**

101. Section 17.92.60 requires revegetation in all areas that are not landscaped or remain as natural areas. The applicant did not submit any plans for re-vegetation of areas damaged through grading/construction, although most of the areas affected by grading will be

improved. **Exposed soils shall be covered by mulch, sheeting, temporary seeding or other suitable material following grading or construction to maintain erosion control for a period of two (2) years following the date of recording of the final plat associated with those improvements.**

102. Section 17.92.90 has details on screening of unsightly views or visual conflicts. While the proposed lots are not unsightly, they are a big difference from the existing view of the natural landscape. This contrast was identified at the Planning Commission hearing on August 24, 2020 and the applicant was asked to look at some additional screening measures to protect existing trees or add additional landscaping. The applicant took the comments seriously and proposed some additional landscaping along the common property line with the Deer Pointe subdivision (Exhibit Q). The applicant is proposing to retain five additional conifers (Exhibit O), and to plant some maples, incense cedars, katsura, and Silver Queen Port Orford cedars. **The applicant shall retain the additional five trees on Lots 2 and 4 (Tree Nos. 13439, 13440, 13441, 13421, and 13423) and shall plant maples, incense cedars, katsura, Excelsa Western red cedars, and Silver Queen Port Orford cedars or other trees as approved by staff per the Screening Concept Plan (Exhibit Q) along Lots 1, 2, 4, and Tracts B and C. Deciduous trees shall be at least 1.5 inches at planting and the cedars shall be at least 6 to 8 feet in height at planting.**

103. Section 17.92.130 contains standards for a performance bond. The applicant has the option to defer the installation of street trees and/or landscaping for weather-related reasons. Staff recommends the applicant utilize this option rather than install trees and landscaping during the dry summer months. Consistent with the warranty period in Section 17.92.140, staff recommends a two-year maintenance and warranty period for street trees based on the standard establishment period of a tree. **If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.**

17.98 – Parking, Loading, and Access Requirements

104. Section 17.98.10(M) requires that the developer provide a Residential Parking Analysis Plan. This plan identifying the location of parking for the four R-1 zoned lots and is included in Exhibit C, Sheet 7.

105. Section 17.98.20(A) requires that each single family dwelling unit is required to provide at least two off-street parking spaces. **Compliance with this requirement will be evaluated during building plan review. Parking for the proposed multi family units will be evaluated as part of a future design review application.**

106. Section 17.98.60 has specifications for parking lot design and size of parking spaces. No lots are proposed to gain access from an arterial or collector street (17.98.80).

107. Section 17.98.90 requires that all streets proposed will be improved to city standards.
108. Section 17.98.100 has specifications for driveways. The minimum driveway width for a single-family dwelling is 10 feet. The Public Works driveway approach standard detail specifies a maximum of 24 feet wide for a residential driveway approach. Additionally, all driveways will meet vertical clearance, slope, and vision clearance requirements. Staff has concerns with the proposed driveway on Lot 7 as it's within 150 feet of the intersection of Dubarko Road and Highway 26. **Driveway access locations to Lots 5 -7 shall be determined and approved by the City Public Works Director and City Engineer during design review for these lots.**
109. Section 17.98.110 outlines the requirements for vision clearance. **The requirements of this section will be considered in placing landscaping in these areas with construction of homes and will be evaluated with a future design review application for the multi family units.**
110. Section 17.98.130 requires that all parking and vehicular maneuvering areas shall be paved with asphalt or concrete. As required by Section 17.98.130, **all parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.**
111. Section 17.98.200 contains requirements for providing on-street parking spaces for new residential development. Per 17.98.200, one on-street parking space at least 22 feet in length has been identified within 200 feet of each of the 4 lots zoned as R-1 as required. Exhibit C, Sheet 7 shows that 20 on-street parking spaces have been identified in compliance with this standard. No parking courts are proposed by the applicant.

17.100 – Land Division

112. Submittal of preliminary utility plans is solely to satisfy the requirements of Section 17.100.60. **Preliminary plat approval does not connote utility or public improvement plan approval which will be reviewed and approved separately upon submittal of public improvement construction plans.**
113. Pre-application conferences were held with the City on January 10, 2018, June 12, 2018, and October 10, 2018 per 17.100.60(A).
114. As required by Section 17.100.60(E), the proposed subdivision is designed to be consistent with the density, setback, design standards, dimensional standards in the R-1 zoning district. **The details of the development in the R-3 and R-2 districts will be addressed with a future design review application.** As illustrated in Exhibit C, Sheet 1, the proposed street system is consistent with the City's Transportation System Plan and Comprehensive Plan. The City has indicated that all public facilities have capacity to serve the proposed subdivision. All improvements in the proposed development are designed in compliance with City standards. The applicant proposes developing the subdivision in a single phase.

115. Section 17.100.60(E)(1) requires subdivisions to be consistent with the density, setback, and dimensional standards of the base zoning district, unless modified by a Planned Development approval. The application for the subdivision is being processed through a Type IV procedure. The proposal is consistent with density and other dimensional standards of the base zoning district.
116. Section 17.100.60(E)(2) requires subdivisions to be consistent with the design standards set forth in this chapter. Consistency with design standards in this chapter are discussed under each subsection below. Conditions of approval can be adopted where necessary to bring the proposal into compliance with applicable standards.
117. Section 17.100.60(E)(3) requires the proposed street pattern to be connected and consistent with the Comprehensive Plan or official street plan for the City of Sandy. The proposed street pattern is consistent with the Comprehensive Plan and the city's standards, including connecting Dubarko Road to Highway 26 and extending Street B to the south.
118. Section 17.100.60(E)(4) requires that adequate public facilities are available or can be provided to serve the proposed subdivision. All public utilities including water, sewer and stormwater are available or will be constructed by the applicant to serve the subdivision. The applicant also intends to dedicate public parkland, the calculation of which can be found in the review of Chapter 17.86 in this document.
119. Section 17.100.60(E)(5) requires all proposed improvements to meet City standards through the completion of conditions as listed within this final order and as detailed within these findings. The detailed review of proposed improvements is contained in this report. Staff has identified a few aspects of the proposed subdivision improvements requiring additional information or modification by the applicant, but conditions of approval can be adopted to bring the proposal into compliance with City standards. In order to meet the standards as defined in the Sandy Development Code the applicant shall submit items for staff to analyze prior to earthwork, grading, excavation, or construction.
120. Section 17.100.60(E)(6) strives to ensure that a phasing plan, if requested, can be carried out in a manner that meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops. The applicant is not requesting a phased development. That said, the applicant is proposing that the design of the multi family dwellings occurs at a future date.
121. Section 17.100.80 provides standards for denial of a development application due to physical land constraints. The subject site does not contain any physical constraints that would make it unsuitable for the proposed subdivision.
122. The subject property abuts Highway 26 and notification of the proposal was sent to ODOT as required by Section 17.100.90.
123. As required by 17.100.100(A), a traffic impact study prepared in compliance with the City standards was submitted with the application (Exhibit F). With the exception of a revised

striping plan, frontage improvements on the Highway 26 frontage, and applying a trip cap to the subject property, this study does not identify any issues requiring mitigation by the applicant.

124. None of the special traffic generators listed in section 17.100.100(B) are located near the subject site.
125. While 17.100.100(C) calls for a rectangular grid pattern, the proposed street layout is predominantly controlled by the alignment of Dubarko Road that will be extended through the site from the current terminus to connect with Highway 26. The future street plan details Street B extending south consistent with the TSP. The only other street in the subdivision is the extension of Street A into the property. The proposed intersection of Street A and Dubarko Road seems logical and appropriate considering the nearby intersection of Dubarko Road and Highway 26. Staff finds that the proposed street layout represents a logical street pattern.
126. A future street plan in compliance with the requirements of 17.100.100(D) is included in Exhibit C, Sheet 1.
127. Given the requirements in Section 17.100.100(E), the proposed street layout on the subject property is limited because of the alignment of Dubarko Road, Street B, and the location of Fawn Street extended into the property. In addition, because the development type includes two large lot multi family development sites, the street network is further limited. Given these facts, the proposed street layout represents a logical design.
128. All blocks within the proposed subdivision have sufficient width to provide for two tiers of lots as required in 17.100.120(A). The local streets of Fawn Street/Street A meet the maximum block length standards of 400 feet. The block length from Street A to Highway 26 is 437 feet and the block length from Street B to Highway 26 is 434 feet. The block length requirements in Section 17.100.120 are in conflict with the preferred spacing standards on arterial and collector streets. While local streets are required to be spaced 8-10 streets per mile in accordance with Section 17.100.110(E) the spacing standards for arterial and collector streets are required to be spaced at much greater distances. The distance from Highway 26 to Street B is needed to maintain distance between the Highway and the collector street (Street B). Fawn Street/Street A has to be aligned with Street B to create a safe intersection. Furthermore, the City Transportation Engineer did not recommend alternative spacing for the streets proposed in the Bull Run Terrace subdivision. Therefore, all block lengths meet the Sandy development code provisions and staff does not recommend any changes to street spacing. The spacing from Dubarko Road to the east property line of Lot 6 is 431 feet. Staff finds that providing a pedestrian connection along the east side of the Bull Run Terrace subdivision will be vital for providing future connectivity for the subject area and development to the south of Bull Run Terrace. **Staff recommends the applicant install an 8 foot wide concrete walkway with pedestrian scale lighting through Lot 6 from the sidewalk on Highway 26 to the southern property line of Lot 6. This facility shall be contained within a pedestrian access easement or tract recorded prior to any certificate of occupancy on this lot.**

129. As required by 17.100.130, eight-foot wide public utility easements will be included along all property lines abutting a public right-of-way. Because access is limited along Dubarko Road, an access easement is also proposed across Lot 3 to provide access to Lot 4. In addition, a 10-foot PUE/sidewalk easement is proposed along the Highway 26 frontage of Lot 7 and the majority of the frontage of Tract A. A conservation easement is also proposed to be platted across the northern portion of Lot 7 to protect retained trees in this area. The revised Preliminary Plat (Exhibit J) details a 40 foot by 40 foot traffic signal easement.
130. No public alleys, flag lots, or public access lanes are proposed in this development. One residential shared private drive is being proposed by using an easement over Lot 3 to access Lot 4. **Staff recommends the applicant modify the plat to include a vehicular easement on Lot 4 as necessary to accommodate maneuvering for vehicles on Lot 3.**
131. Section 17.100.180(A) requires that intersections are designed with right angles. Both the extension of Fawn Street and Street B are designed to intersect at right angles to Dubarko Road as required. Additionally, Dubarko Road will intersect Highway 26 at a right angle.
132. All streets in the proposed subdivision have a minimum curve radius as required by Section 17.100.180(B).
133. A lighting plan will be coordinated with PGE and the City as part of the construction plan process and prior to installation of any fixtures as required by Section 17.100.210.
134. All lots in the proposed subdivision have been designed so that no foreseeable difficulties due to topography or other conditions will exist in securing building permits on these lots as required by Section 17.100.220(A).
135. All lots in the R-1 zone comply with the minimum standards in that zone as required by Section 17.100.220(B). No lots are proposed to contain more than double the minimum lot size.
136. Section 17.100.220 states that all new lots shall have at least 20 feet of street frontage. All lots in the proposed subdivision contain at least 29 feet of frontage along a public street therefore meeting the requirements of Section 17.100.220(C).
137. Lots 6 and 7 both contain frontage on Highway 26 and Dubarko Road. Because no direct access to Highway 26 is allowed the creation of these double frontage lots is unavoidable and is thus allowed as required by Section 17.100.220(D).
138. The applicant shall install all water lines and fire hydrants in compliance with the applicable standards in Section 17.100.230, which lists requirements for water facilities. According to the Public Works Director the existing 8-inch diameter water line resides in an easement granted to the City of Sandy recorded at 2004-110340. **The applicant shall replace the existing waterline with an 8-inch diameter water line at a depth approved by the City Engineer.** There will be no compensation or credits for replacement of the existing water

line. This pipe is a standard pressure line and will be used to provide domestic water service to the development. The City's water master plan shows an 18-inch diameter water line in Dubarko Road south of Highway 26. **The applicant shall install an 18-inch water line in Dubarko Rd. connected to the existing 18-inch water line at the west end of the site and the existing 12-inch line on Highway 26.** Due to the elevation of the site relative to the existing water reservoirs on Vista Loop Drive this line will be a low-pressure, high volume line and will be used for fire protection. The cost difference between a standard diameter water line and the required 18-inch water line is eligible for Water System Development Charge (SDC) credits. The amount of the credit provided will be based on the Water System Construction Cost Credit table in the Water System Development Charge Methodology adopted by City Council motion on September 5, 2017. Section 17.84.60D SMC states: "As necessary to provide for orderly development of adjacent properties, public facilities installed concurrent with development of a site shall be extended through the site to the edge of adjacent property(ies)". **The applicant shall extend the existing 12-inch water main in Highway 26 east from the proposed intersection of Dubarko Road and Highway 26 to the east boundary of the site.** The cost difference between a standard diameter (8 inch) water line and the required 12-inch water line is eligible for Water System Development Charge (SDC) credits. The amount of the credit provided will be based on the Water System Construction Cost Credit table in the Water System Development Charge Methodology adopted by City Council motion on September 5, 2017.

139. The applicant intends to install sanitary sewer lines in compliance with applicable standards in Section 17.100.240. All lots except Lot 7 are designed to gravity drain to the sanitary sewer line in Dubarko Road. Due to grade, Lot 7 is not able to drain to the line in Dubarko Road but is proposed to connect to the existing sanitary sewer line at the north end of the park property. According to the Public Works Director the recently adopted Wastewater System Facilities Plan (2019) identified a capacity deficiency in the Southeast pump station and force main as well as several conveyance lines downstream. The City will adopt a Sanitary Sewer SDC surcharge on each Equivalent Residential Unit developed in the basin served by the Southeast pump station. The surcharge amount will be calculated by dividing the estimated cost of the required capacity improvements by the estimated number of dwelling units that can be built in the pump station drainage basin. The surcharge will be collected with each building permit issued in the basin.
140. Section 17.100.250(A) details requirements for stormwater detention and treatment. A public stormwater quality and detention facility is proposed as Tract B to be located north of Lot 1 and south of the Fawn Street extension. This facility has been sized and located to accommodate the water quality and stormwater detention needs of all streets in addition to Lots 1-4. The applicant submitted a revised utility plan (Exhibit M) detailing a second stormwater facility identified as Tract C in the SW corner of the property. The revised utility plan also removed the 15 foot wide public stormwater easement and utilities along the west lot line of Lots 1, 2, and 4. The water quality and detention needs of Lots 5-7 will be accommodated on each of those lots and stormwater from Lots 5 and 6 will be routed to flow through Tract B. After onsite detention and water quality treatment, stormwater from Lot 7 will be piped and connected to the existing storm line in the park. **All site runoff shall be detained such that post-development runoff does not exceed the predevelopment**

runoff rate for the 2, 5, 10 and 25 year storm events. Stormwater quality treatment shall be provided for all site drainage per the standards in the City of Portland Stormwater Management Manual (COP SWMM).

141. Section 17.100.260 states that all subdivisions shall be required to install underground utilities. **The applicant shall install utilities underground with individual service to each lot.**
142. Planter strips will be provided along all frontages as required in Section 17.100.290. Street trees in accordance with City standards will be provided in these areas. A Street Tree Plan is included in Exhibit C, Sheet 7.
143. Grass seeding shall be completed as required by Section 17.100.300. The submitted preliminary Grading and Erosion Control Plan (Exhibit C, Sheer 9) provides additional details to address erosion control concerns. A separate Grading and Erosion Control Permit will be required prior to any site grading. Erosion control requirements are defined in greater detail in Chapter 15.44 of this document.

17.102 – Urban Forestry

144. Section 17.102.20 contains information on the applicability of Urban Forestry regulations. An Arborist Report is included as Exhibit G. The arborist inventoried all trees eleven inches and greater DBH for the portion of the property proposed to satisfy tree retention requirements as required in 17.102.50. The inventory is included in Exhibit C, Sheet 4 and the proposed retention trees are shown in Exhibit C, Sheet 3.
145. The property contains 15.91 acres requiring retention of 48 trees, 11 inches and greater DBH ($15.91 \times 3 = 47.73$). The applicant is proposing to retain an additional five trees on Lots 2 and 4 (Tree Nos. 13439, 13440, 13441, 13421, and 13423). The revised submitted plan (Exhibit O) identifies 64 trees that will be retained. All of the trees proposed for retention are conifers, primarily Doug fir, at least 11 inches DBH, and in good condition as identified by the arborist.
146. A majority of the proposed retention trees are located along Highway 26 in Lot 7, which is proposed to be zoned C-3, Village Commercial. As indicated on the Preliminary Plat (Exhibit C, Sheet C-2), the applicant is proposing to place a conservation easement over an area that encompasses the retention trees along Highway 26, including their critical root zones. Staff believes there could be a future conflict between retention trees along the Highway and future commercial property visibility on Lot 7.
147. The Arborist Report (Exhibit G) provides recommendations for protection of retained trees including identification of the recommended tree protection zone for these trees. The requirements of 17.102.50(B) will be complied with prior to any grading or tree removal on the site. **The applicant shall install tree protection fencing at the critical root zone of 1 foot per 1 inch DBH to protect the 64 retention trees on the subject property as well as all trees on adjacent properties. The tree protection fencing shall be 6 foot tall chain link or no-jump horse fencing and the applicant shall affix a laminated sign (minimum**

8.5 inches by 11 inches) to the tree protection fencing indicating that the area behind the fence is a tree retention area and that the fence shall not be removed or relocated. No construction activity shall occur within the tree protection zone, including, but not limited to, dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall request an inspection of tree protection measures prior to any tree removal, grading, or other construction activity on the site. Up to 25 percent of the area between the minimum root protection zone of 0.5 feet per 1-inch DBH and the critical root zone of 1 foot per 1 inch DBH may be able to be impacted without compromising the tree, provided the work is monitored by a qualified arborist. The applicant shall retain an arborist on site to monitor any construction activity within the critical root protection zones of the retention trees or trees on adjacent properties that have critical root protection zones that would be impacted by development activity on the subject property.

148. The Tree Preservation Plan (Exhibit C) details a number of trees being removed right next to the trees proposed for retention. **The trees proposed for removal that are adjacent to retention trees shall be removed in a way that does not harm or damage adjacent trees.** The applicant submitted a Tree Removal Plan (Exhibit P) from Teragan and Associates, Inc. The Tree Removal Plan identifies tree removal options, including directional felling, piece removal, and crane removal. The arborist also identifies options for stumps, including retention or careful surface grinding. Staff recommends that the applicant not fully remove all the trees adjacent to the retention trees but rather leave snags. **Tree removal and/or snag creation shall be completed without the use of heavy equipment in the tree protection zone; trunks and branches of adjacent trees shall not be contacted during tree removal or snag creation. The applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist to ensure none of the retention trees were damaged during construction.**

149. **To ensure protection of the required retention trees, the applicant shall record a tree protection covenant specifying protection of trees on the subject property and limiting removal without submittal of an Arborist's Report and City approval.**

15.30 – Dark Sky

150. Chapter 15.30 contains the City of Sandy's Dark Sky Ordinance. The applicant will need to install street lights along all street frontages wherever street lighting is determined necessary. **The locations of these fixtures shall be reviewed in detail with construction plans. Full cut-off lighting shall be required. Lights shall not exceed 4,125 Kelvins or 591 nanometers in order to minimize negative impacts on wildlife and human health.**

15.44 – Erosion Control

151. The applicant submitted a Geotechnical Engineering Report (Exhibit I) prepared by GeoPacific Engineering, Inc., dated August 16, 2005. The Public Works Director stated the following: "The geotechnical report (2005) submitted with the application is nearly fifteen years old. It does not appear that there have been physical changes to the existing surface of the site in that time span that would impact the findings and recommendations in the geotechnical report but there may have been changes in industry standards or practices since

then. As a result, the Applicant shall submit a letter from the original geotechnical engineering firm indicating that the findings and recommendations from the 2005 report remain substantially unchanged or modifying the original findings and recommendations as necessary.” **The applicant shall submit a letter from the original geotechnical engineering firm indicating that the findings and recommendations from the 2005 report remain substantially unchanged or modifying the original findings and recommendations as necessary.**

152. **All the work within the public right-of-way and within the paved area should comply with American Public Works Association (APWA) and City requirements as amended. The applicant shall submit a grading and erosion control permit and request an inspection of installed devices prior to any additional grading onsite.** The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. **All erosion control and grading shall comply with Section 15.44 of the Municipal Code. The proposed subdivision is greater than one acre which typically requires approval of a DEQ 1200-C Permit. The applicant shall submit confirmation from DEQ if a 1200-C Permit will not be required.**

153. Section 15.44.50 contains requirements for maintenance of a site including re-vegetation of all graded areas. **The applicant’s Erosion Control Plan shall be designed in accordance with the standards of Section 15.44.50.**

154. Recent development has sparked unintended rodent issues in surrounding neighborhoods. Prior to development of the site, **the applicant shall have a licensed pest control agent evaluate the site to determine if pest eradication is needed.**

RECOMMENDATION:

The Planning Commission recommends the City Council **approve** the Type IV comprehensive plan amendment, zone change, subdivision, and specific area plan overlay with tree removal associated with the proposed development subject to the conditions of approval below. This proposal achieves some major goals consistent with long range planning objectives in the City of Sandy, including but not limited to the following:

- 1) Extending Dubarko Road to intersect with Highway 26 consistent with the Transportation System Plan that was adopted in 2011;
 - 2) Installing Street B to the south consistent with the Transportation System Plan that was adopted in 2011;
 - 3) Extending Fawn Street to the east;
 - 4) Expanding the Deer Pointe park consistent with the goals of the Parks and Trails Advisory Board and the current revisions that are being considered for the Parks and Trails Master Plan;
 - 5) Creating available commercial land in the C-3 zoning district consistent with the 2040 Plan that was created in 1997;
 - 6) Fulfilling housing needs as defined in the Urbanization Study that was adopted in 2015;
- and,

- 7) Providing a mixture of housing types consistent with the goals of the 2040 Plan that was created in 1997.

CONDITIONS:

A. The applicant shall submit a complete set of revised plans to the Planning Division with the following revisions:

1. Fire turnaround easements on Lots 5 and 6 as approved by the Sandy Fire District Fire Marshal.
2. Detail the alignment of the intersection of Street B and Dubarko Road to provide the minimum 100 feet of tangent section or as otherwise approved by the City Engineer.
3. Modify the plat to include a vehicular easement on Lot 4 as necessary to accommodate maneuvering for vehicles on Lot 3.

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

1. Apply for a grading and erosion control permit in conformance with Chapter 15.44. The grading and erosion control plan shall include a re-vegetation plan for all areas disturbed during construction of the subdivision. (*Submit 2 copies to Planning/Building Department.*)
2. Submit proof of receipt of a Department of Environmental Quality 1200-C permit or submit confirmation from DEQ if a 1200-C Permit will not be required. (*Submit to Planning/Building Department.*)
3. Submit a letter from the original geotechnical engineering firm indicating that the findings and recommendations from the 2005 report remain substantially unchanged or modify the original findings and recommendations as necessary.
4. Submit proof that a licensed pest control agent evaluated the site to determine if pest eradication is needed.
5. Submit revised plans detailing how the traffic signal easement will impact the tree retention area.
6. Install tree protection fencing at the critical root zone of 1 foot per 1 inch DBH to protect the 64 retention trees on the subject property as well as all trees on adjacent properties. The tree protection fencing shall be 6 foot tall chain link or no-jump horse fencing and the applicant shall affix a laminated sign (minimum 8.5 inches by 11 inches) to the tree protection fencing indicating that the area behind the fence is a tree retention area and that the fence shall not be removed or relocated. No construction activity shall occur

within the tree protection zone, including, but not limited to, dumping or storage of materials such as building supplies, soil, waste items, equipment, or parked vehicles. The applicant shall request an inspection of tree protection measures prior to any tree removal, grading, or other construction activity on the site. Up to 25 percent of the area between the minimum root protection zone of 0.5 feet per 1-inch DBH and the critical root zone of 1 foot per 1 inch DBH may be able to be impacted without compromising the tree, provided the work is monitored by a qualified arborist. The applicant shall retain an arborist on site to monitor any construction activity within the critical root protection zones of the retention trees or trees on adjacent properties that have critical root protection zones that would be impacted by development activity on the subject property. Tree removal and/or snag creation shall be completed without the use of heavy equipment in the tree protection zone; trunks and branches of adjacent trees shall not be contacted during tree removal or snag creation. The applicant shall submit a post-construction report prepared by the project arborist or other TRAQ qualified arborist to ensure none of the retention trees were damaged during construction.

7. Request an inspection of erosion control measures and tree protection measures as specified in Section 17.102.50 C. prior to construction activities or grading.

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

1. Submit estimated costs of widening Dubarko Road to City staff for review and approval by the City Engineer. The City and the Applicant shall enter into an agreement defining the eligible improvements and estimated costs prior to plat approval. SDC credits shall be based on final audited costs.
2. Work with the City of Sandy to create a mutually agreed upon engineer estimate for the Deer Pointe parkland improvements. The final Engineer's estimate shall be used as the basis for an agreement to calculate Park SDC credits for the applicant.
3. All on-site earthwork activities including any retaining wall construction should follow the requirements of the City of Sandy Development Code and the current edition of the Oregon Structural Specialty Code (OSSC).
4. Submit written confirmation from the Sandy Fire District regarding the number and location of required fire hydrants. Submit a revised Residential Parking Access Plan if required fire hydrants affect on-street parking spaces.
5. Submit a revised cross-section for the portion of Dubarko Road between the existing terminus and Street A.
6. Specify the locations of street lights on all streets being improved within and adjacent to the subdivision. Street lights shall be full cut-off, shall not exceed 4,150 Kelvins, and

shall conform to the Dark Sky standards of Chapter 15.30. The locations of light fixtures shall be reviewed in detail with construction plans.

7. Submit a detailed drainage report meeting the water quality and water quantity criteria as stated in the City of Sandy Development Code (SDC) 13.18 Standards and the most current City of Portland Stormwater Management Manual (SWMM) Standards that were adopted by reference into the Sandy Development Code.
8. Submit additional details/confirmation on any proposed retaining walls, including heights meeting code requirements and an architectural finish.
9. Submit a mail delivery plan, featuring grouped lockable mail facilities, to the City and the USPS for review. Mail delivery facilities shall be provided by the applicant in conformance with 17.84.100 and the standards of the USPS.
10. Submit a revised utility plan to include broadband fiber locations as detailed by the SandyNet Manager.
11. Call PGE Service Coordination at 503-323-6700 when the developer is ready to start the project.
12. Explore locations for green street swales. If green streets are practicable the plan set shall be modified to detail additional right-of-way to accommodate the swales.
13. Detail a walkway along the east side of the park or west side of Lot 7 that connects Fawn Street/Street A to the sidewalk on Highway 26 as determined during design of Deer Pointe Park. If Deer Pointe Park is not designed prior to construction plan submission the applicant shall revise the construction plans with the walkway modifications once the Deer Pointe Park design is complete.

D. Prior to Final Plat approval, the applicant shall complete the following tasks or provide assurance for their future completion:

1. Submit two paper copies of a Final Plat and associated fee.
2. Pay plan review, inspection and permit fees as determined by the Public Works Director.
3. Pay addressing fees at \$40 for the subdivision plus \$5 per lot.
4. Obtain a grant of access or other necessary approval from ODOT for access to Highway 26 at Dubarko Road.
5. Install all public and private improvements consistent with this decision and the ODOT improvements consistent with the grant of access, the approved construction plans, and the Sandy Municipal Code, including, but not limited to the following:

- a) A walkway along the east side of the park or west side of Lot 7 that connects Fawn Street/Street A to the sidewalk on Highway 26;
 - b) Two concrete bus shelter pads and green benches (Fairweather model PL-3, powder coated RAL6028). The required pad size is 7 feet by 9 feet 6 inches and the amenities should be located adjacent to Lot 1 and Lot 5. Engineering specifications are available from the Transit Department.
 - c) Replace the existing waterline with an 8 inch diameter water line at a depth approved by the City Engineer.
 - d) An 18 inch water line in Dubarko Rd. connected to the existing 18 inch water line at the west end of the site and the existing 12 inch line on Highway 26.
 - e) Extend the existing 12 inch water main in Highway 26 east from the proposed intersection of Dubarko Road and Highway 26 to the east boundary of the site.
6. Clear, grade, and seed the proposed parkland as specified by the City in the construction plans. The applicant shall also provide a Phase I Environmental Assessment. If the applicant and City agree to the applicant/developer completing parkland improvements, the park improvements shall be completed prior to final plat approval or as otherwise established in a development agreement.
 7. Retain the additional five trees on Lots 2 and 4 (Tree Nos. 13439, 13440, 13441, 13421, and 13423) and plant maples, incense cedars, katsura, Excelsa Western red cedars, and Silver Queen Port Orford cedars or other trees as approved by staff per the Screening Concept Plan (Exhibit Q) along Lots 1, 2, 4, and Tracts B and C. Deciduous trees shall be at least 1.5 inches at planting and the cedars shall be at least 6 to 8 feet in height at planting.
 8. Aerate the planter strips to a depth of 3 feet prior to planting street trees. The applicant shall either aerate the planter strip soil at the subdivision stage and install fencing around the planter strips to protect the soil from compaction or shall aerate the soil at the individual home construction phase.
 9. Record a tree protection covenant specifying protection of trees on the subject property and limiting removal without submittal of an Arborist's Report and City approval.
 10. Submit a true and exact reproducible copy (Mylar) of the Final Plat for final review and signature.

E. Conditions related to future development of the lots:

1. Design review approval for Lot 7 shall incorporate storefronts, patios and usable windows facing the parkland.
2. Design review approval for Lot 7 shall incorporate a landscape buffer that provides visibility between Lot 7 and the parkland but provides a visually attractive separation.

3. Any future design review application on Lot 5 will include a review of development standards (17.38.30), minimum requirements (17.38.40) and additional requirements (17.38.50) for R-2 zoned development.
4. Any future design review application on Lot 6 will include a review of development standards (17.40.30), minimum requirements (17.40.40) and additional requirements (17.40.50) for R-3 zoned development.
5. Any future development on the land zoned C-3 (Lot 7) will require a design review in accordance to the development standards found in Section 17.46.30 and the Sandy Municipal Code.
6. If the applicant proposes multifamily dwellings as part of the development of Lot 7 which is proposed to be zoned C-3 the applicant is eligible for parks fee in-lieu credit up to 0.11 acres (the rounded difference between the required amount of parkland dedication and the proposed amount of parkland dedication). The applicant can propose up to 13 multifamily units ($13 \times 2 \times 0.0043 = 0.11$ acres) prior to incurring parks fee in-lieu charges. Anything beyond 13 multifamily units on Lot 7 will incur parks fee in-lieu fees per the calculations as defined in the Sandy Development Code. However, if the applicant does not propose any multifamily units on Lot 7 the applicant will not be owed a monetary credit.
7. The dwellings on Lots 3 and 4 shall be designed to meet all of the requirements as specified in Chapter 17.82 and will be assessed in a future design review.
8. Orientation of the future multi-family units that have frontage on both Highway 26 and Dubarko Road will be determined in a future design review process.
9. Install an 8 foot wide concrete walkway with pedestrian scale lighting through Lot 6 from the sidewalk on Highway 26 to the southern property line of Lot 6. This facility shall be contained within a pedestrian access easement or tract recorded prior to any certificate of occupancy on this lot.
10. Driveway access locations to Lots 5 -7 shall be determined and approved by the City Public Works Director and City Engineer during design review for these lots.
11. The land use application for Lot 7 shall include proposed driveway designs to discourage commercial patrons existing Lot 7 to Street A from entering the Deer Pointe Subdivision on Street A. The designs shall be reviewed and approved by the City Engineer and Public Works Director.

F. General Conditions of Approval:

1. The Final Plat shall be recorded as detailed in Section 17.100.60 (I).

2. Public plans are subject to a separate review and approval process. Preliminary Plat approval does not connote approval of public improvement construction plans, which will be reviewed and approved separately upon submittal of public improvement construction plans.
3. The subject property shall be subject to a trip cap of 340 PM net new peak hour trips.
4. If entry signs are desired, the applicant shall submit a detailed plan showing the location of such signage and a sign permit application.
5. All parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.
6. All work within the public right-of-way and within the paved area shall comply with the American Public Works Association (APWA) and City requirements as amended and should be constructed to the City's structural streets standards.
7. All on-site earthwork activities including any retaining wall construction shall follow the current requirements of the current edition of the Oregon Structural Specialty Code (OSSC).
8. All recommendations in Section 6 of the submitted Geotechnical and Slope Stability Investigation (Exhibit I) shall be conditions for development.
9. All utilities shall be installed underground and in conformance with City standards. The applicant shall install utilities underground with individual service to each lot.
10. The applicant shall be responsible for the installation of all improvements detailed in Section 17.100.310, including fiber facilities. SandyNet requires the developer to work with the City to ensure that broadband infrastructure meets the design standards and adopted procedures as described in Section 17.84.70.
11. All public utility installations shall conform to the City's facilities master plans.
12. The intersection of Highway 26 and Dubarko Road shall be constructed as a full-access intersection in compliance with the TSP.
13. As required by Section 17.98.130, all parking, driveway and maneuvering areas shall be constructed of asphalt, concrete, or other approved material.
14. Water line sizes shall be based upon the Water Facilities Master Plan and shall be sized to accommodate domestic fire protection flows on the site.
15. All new public sanitary sewer and waterlines shall be a minimum of 8 inches in diameter.

16. All stormwater drains shall be a minimum of 12 inches in diameter and shall be extended to the plat boundaries where practical to provide future connections to adjoining properties.
17. All site runoff shall be detained such that post-development runoff does not exceed the predevelopment runoff rate for the 2, 5, 10 and 25 year storm events. Stormwater quality treatment shall be provided for all site drainage per the standards in the City of Portland Stormwater Management Manual (COP SWMM).
18. If the applicant chooses to postpone street tree and/or landscaping installation, the applicant shall post a performance bond equal to 120 percent of the cost of the street trees/landscaping, assuring installation within 6 months. The cost of the street trees shall be based on the average of three estimates from three landscaping contractors; the estimates shall include as separate items all materials, labor, and other costs of the required action, including a two-year maintenance and warranty period.
19. If the plans change in a way that affects the number of street trees (e.g., driveway locations), the applicant shall submit an updated street tree plan for staff review and approval. Street trees are required to be a minimum caliper of 1.5-inches measured 6 inches from grade and shall be planted per the City of Sandy standard planting detail. Trees shall be planted, staked, and the planter strip shall be graded and backfilled as necessary, and bark mulch, vegetation, or other approved material installed prior to occupancy. Tree ties shall be loosely tied twine or other soft material and shall be removed after one growing season (or a maximum of 1 year).
20. As required by Section 17.92.10(L), all landscaping shall be continually maintained, including necessary watering, weeding, pruning, and replacing. As required by Section 17.92.140, the developer shall maintain all vegetation planted in the development for two (2) years from the date of completion, and shall replace any dead or dying plants during that period.
21. Exposed soils shall be covered by mulch, sheeting, temporary seeding or other suitable material following grading or construction to maintain erosion control for a period of two (2) years following the date of recording of the final plat associated with those improvements.
22. Successors-in-interest of the applicant shall comply with site development requirements prior to the issuance of building permits.
23. All improvements listed in Section 17.100.300 shall be provided by the applicant including drainage facilities, monumentation, mail facilities, sanitary sewers, storm sewer, sidewalks, street lights, street signs, street trees, streets, traffic signs, underground communication lines including telephone and cable, underground power lines, water lines and fire hydrants.

24. Comply with all standards required by Section 17.84 of the Sandy Development Code. Public and franchise improvements shall be installed or financially guaranteed in accordance with Chapter 17 of the Sandy Municipal Code prior to temporary or final occupancy of structures. Water lines and fire hydrants shall be installed in accordance with City standards. All sanitary sewer lines shall be installed in accordance with City standards.
25. Comply with all other conditions or regulations imposed by the Sandy Fire District or state and federal agencies. Compliance is made a part of this approval and any violations of these conditions and/or regulations may result in the review of this approval and/or revocation of approval.
26. Adhere to all standards and requirements that are defined by ODOT, including the Dubarko Road connection to Highway 26 and all required improvements along Highway 26 including stormwater facilities constructed as necessary to be consistent with local, ODOT, and ADA standards.

November 30, 2020

Dear City Council:

Regarding the Bull Run Terrace proposal, this large change in zoning must be in the interest of the Sandy residents. The planner consistently ignored the 72 units that could be developed on the commercial land. Below is the potential numbers that could be developed based on acres by zone that were posted in October. The fact that is not clearly articulated by staff is that the all the commercial ALLOWS the same density as HIGH DENSITY. And they are asking for more acres of commercial.

The parkland has to be dedicated regardless of this development. It is the City's discretion and since we already have a park there, the City would choose land. It is not a bonus we are getting. The development of the park could be done by any developers working on developing this site. The developers are getting reimbursed for their expenses. Again, this is not a unique proposal, nor a special benefit.

This proposal implies that it is being done under a Specific Area Plan under 17.54.00 That direction says that SAPs are initiated BY the City Council – and not a developer. It goes on to recommend that the City form an Advisory Committee as part of the process. None of the requirements in this code have been implemented. For the planner to say that he does not agree with this section of code or that it needs to be updated, does not mean that this code should not be implemented. It certainly should be and was implemented during Borntedt Village.

There are a large number of acres in this City that are ALREADY ZONED as high density. When we choose to review and amend our Comp Plan, we will likely not get to downzone high density to low density as landowners may be able to claim a takings! That means that the BALANCE that we currently have of low, moderate and high density is being disrupted everywhere we keep allowing for up zoning (increasing densities).

The staff and lawyer keep arguing spot zoning does not exist. You can call it what you want – lets call it case by case zoning! When you start changing zoning, based on individual developers wishes, without looking at how that affects the balance, then we are doing case by case zoning. In that case, we should throw out the plan and just let the developers develop whatever they want – wherever they want.

I hope your legacy is not to go the way Gresham went and greatly increase the number of apartments and increasing density here in Sandy. Our existing zoning allows for the needed high density and medium density apartments. What benefit is there to allowing more high density development? My experience is that no one I talked to in town or on Facebook wants us to encourage more development or increase denities. They know we cannot stop growth under exiting allocations, but why allow more than we currently need to? Just say no!

Sincerely,

Kathleen Walker

15920 SE Bluff Rd.

BULL RUN TERRACE EXISTING AND PROPOSED ZONING AND POTENTIAL UNITS TO BE CONSTRUCTED

Zoning Designation	Existing Acres	Proposed Acres	Potential min units – max units	Potential Units Existing Zoning	Potential Units New Zoning	Proposed Units
Low Density Residential (R-1)	5.18	0.59	5-8 units/net acre	26 to 41	3 to 5	4
Medium Density Residential (R-2)	4.63	1.23	8-14 unit/net acre	37 to 65	10 to 17 units	Possibly 17
High Density Residential (R-3)	0.00	7.91	10-20 unit/ net acre		65 to 130 units	Possibly 130
Village Commercial	2.30	3.61	10-20 unit/ net acre	23 to 46	36-72 units	Not disclosed
Road Right of way	2.21	2.21				
Parkland	1.426	1.426				
Stormwater tract	0.16	0.16				
TOTALS	15.91	15.91		86 to 152 units	114 to 224 units	

December 2, 2020

Subject: Bull Run Terrace, Land Use File No. 19-050

Mayor and Council,

This memorandum is intended to clarify late testimony that was submitted by email after the close of public testimony on Monday night, address the applicant's right to respond to that email and its right to final written argument, and clarify the density calculation that was made during the meeting on November 30, 2020. I have divided this memo into two primary topics. What follows is based on facts and information already in the record. It does not contain any new evidence and therefore does not require the record to be reopened to permit additional public testimony.

TOPIC #1

The first topic regards an email that was submitted from Kathleen Walker to the City Council at 7:43 PM on November 30, 2020. This additional testimony was submitted after public testimony had ended at 6:50 PM but prior to the close of the hearing. The applicant did not receive the email prior to the close of the hearing. In submitting this information directly to the City Council and considering that Council likely read the email after the close of public testimony, the applicant has requested an opportunity to respond to the email. Under ORS 197.763(6)(e), the applicant (and no other party) is entitled to submit final written argument within seven days of the close of the record. After discussing these issues with the City Attorney, we understand that the applicant will submit final argument, including a response to Ms. Walker's email, by Friday December 4. Except for the applicant's final argument, no additional public testimony will be accepted into the record for this matter.

TOPIC #2

The second topic concerns the difference between maximum density based on existing zoning and the proposed maximum density as identified in the applicant's proposal. The calculation regarding existing density completed by Associate Planner Denison during the meeting was based on gross acreage instead of net acreage. Basing the calculation on gross acres instead of net acres likely underestimated the difference between existing density and proposed density.

Staff cannot say with certainty what the exact difference will be, because we do not yet know how much of the property would be "netted out" for public purposes (that is, how much of the property would be used for infrastructure such as roads, storm and sewer facilities, parks, etc.). This determination would occur at the time of design review and would vary based on the zoning. However, by using net acreage instead of gross, it is reasonable to believe the difference will be higher. Staff estimates the difference between the proposed residential zoning versus the existing residential zoning could be 35 to 40 additional units, instead of 14 units as explained by Associate Planner Denison.

For the Village Commercial (C-3) zoning, it is next to impossible to estimate how many additional dwelling units the proposed rezoning may yield. The code does not provide a basis to make this calculation and arriving at a net acreage depends heavily on the level of commercial uses versus residential uses the applicant may choose to develop within the area proposed as C-3. In her email, Ms. Walker gives a range of dwelling units that could be built in the C-3, but she doesn't explain how she arrived at that range and no range is found in the code.

Ultimately, the rezoning will allow for additional dwelling units, and likely more than staff estimated during the hearing. However, it is important to remember that the rezoning will result in about 1.5 acres of additional parkland (which would not be assured if development proceeded under the current zoning). The proposal will also result in an extension of Dubarko Road, which has been a goal of the City for a long time. Finally, as discussed during the hearing, the approval will be subject to a trip cap condition, which will effectively limit the number of dwelling units and overall intensity of the development and actually result in *fewer* vehicle trips than would be allowed under the current zoning.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelly O'Neill Jr.", is positioned above the typed name.

Kelly O'Neill Jr.
Development Services Director

December 4, 2020

Michael C. Robinson
Admitted in Oregon
T: 503-796-3756
C: 503-407-2578
mrobinson@schwabe.com

VIA E-MAIL

Mr. Stan Pulliam, Mayor
Sandy City Council
Sandy City Hall
39250 Pioneer Boulevard
Sandy, OR 97055

RE: City of Sandy File No. CPA ZC SUB SAP TREE; Applicant's Final Written
Argument Allowed Under ORS 197.763(6)(e)

Dear Mayor Pulliam and Members of the Sandy City Council:

This office represents the Applicant, Roll Tide Properties Corp. This letter is the Applicant's final written argument without new evidence allowed in quasi-judicial hearings under ORS 197.763(6)(e). ORS 197.763(9)(a) and (b) define the words "argument" and "evidence," respectively. A final written argument letter based entirely on evidence already in the record is not new evidence. *Setniker v. Polk County, 63 Or LUBA 38 (2011)*. This Type IV Application has been processed as a quasi-judicial application under ORS 197.763. Sandy Development Code ("SDC") 17.12.40. The Applicant did not waive its right to final written argument prior to the conclusion of the City Council's November 30, 2020 *de novo* hearing.

This letter responds to the November 30, 2020 letter from Ms. Walker submitted after the Applicant's opportunity to respond to opposing testimony had ended. *See* December 2, 2020 memorandum from Sandy Planning Director Kelly O'Neill to the Sandy City Council under Topic #1. The City Council received two other letters on November 30, 2020 after the Applicant's opportunity to respond to opposition testimony had ended but this final written argument does not address those letters.

Had Ms. Walker not submitted her letter directly to the City Council, then the Applicant might have been able to address her letter at the hearing and would not have needed this final written argument. It would be unfair to allow Ms. Walker to have the last word when it is the Applicant that bears the burden of proof and this is why the Applicant has asserted its right to final written argument.

1. Response to Issues Raised in Ms. Walker’s November 30, 2020 Letter.

A. The Number of Additional Dwelling Units Asserted by Ms. Walker is Incorrect but Regardless of the Number of Additional Dwelling Units, Public Facilities and Services Are Sufficient to Serve the Development.

Ms. Walker asserts that 72 dwelling units can be developed in the area zoned C-3, “Village Commercial,” zone. SDC Chapter 17.46. As explained by Mr. O’Neill in his December 2, 2020 memorandum under Topic #2, the number of dwelling units cannot be determined now (and the Application does not propose either commercial or residential development in the C-3 zone). He also correctly points out that the C-3 zone does not provide for a specified residential density. SDC 17.46.30, C-3, dimensional standards do not list residential density.

The Staff Report to the City Council explained that the Application did **not** propose dwelling units in the C-3 zone and that future development in the C-3 zone would be subject to Design Review under SDC Chapter 17.90. Staff Report at Pages 8 and 20, Findings 20 and 48-49. Further, the Staff Report noted that the Application proposed a *maximum* of 152 dwelling units without the C-3 zone and that is what the Application was reviewed under. Staff Report at Page 8, Finding 20. There may or not be dwelling units in the future in the C-3 zone but none are approved by this City Council decision and a future decision on C-3 development will be based on a subsequent application and public review process.

Finally, as explained below, even though this Application will result in more than 14 additional dwelling units, the City Council can find that the Application satisfies the relevant approval criteria and the vehicle trip cap limits the number of additional vehicle trips so that the number of dwelling units are limited to no more than allowed by the trip cap, which means that the transportation impacts will be no greater than the existing zoning.

B. The Approval Criteria are the Basis for the City Council’s Decision, not the Number of Opponents nor the Fear of High-Density Development.

Ms. Walker notes that no one she knows of supports more development but that’s not an approval criterion. The Zoning Map amendment is subject to the approval criteria in SDC 17.26.40.B and the Comprehensive Plan (the “Plan”) map amendment is subject to the approval criteria in SDC 17.24.70. The Staff Report to the City Council contains extensive findings explaining why the approval criteria are satisfied. Ms. Walker’s letter contains **NO** approval criteria that she asserts are not met. Her position is that because of general opposition to apartments and the fact that she knows of no supporters, then the City Council should summarily deny the Application. The City Council knows better; its decision on this quasi-judicial Application is based on approval criteria and whether the Applicant has satisfied the approval criteria with substantial evidence.

The record supporting approval of the Application contains not only the Staff Report findings and the Application evidence but also letters from the City Engineer and City Transportation

Engineer that the relevant public facilities will be sufficient to serve the proposed development. Staff Report Exhibit EEEE, October 9, 2020 Letter from City Engineer, Curran-McLeod stating that stormwater, water and public street standards are met and Exhibit GGGG , October 8, 2020 letter from City Transportation Engineer John Replinger of Replinger & Associates, LLC, stating that he agrees with the Applicant's Transportation Analysis and noting that the Application is subject to a trip cap condition of approval. *See* Staff Report Page 21, Finding 70, limiting vehicle trips to no more than 340 P.M. peak hour trips, a condition of approval also supported by the Oregon Department of Transportation ("ODOT") and, Exhibit FFFF, October 9, 2020 letter from ODOT. The trip cap is found at Page 14 of the Applicant's Traffic Impact Study and shows that the trip cap will result in *no more vehicle trips* than would be allowed under the current zoning (340 P.M. peak hour trips), a point also made by Mr. O'Neill.

Finally, if the City Council were to deny this Application, the property would develop under the current zoning and with the implementation of HB 2001, each single-family lot could gain another dwelling unit, adding at least another 46 dwelling units and more vehicle trips than this Application because its vehicle trips are limited by the trip cap condition.

There is no contrary substantial evidence on adequacy of public facilities in the record, so there is no legal basis to reach a different conclusion. The public facilities are adequate to serve the proposed development not in the prior appeal.

C. A Public Park is Not a Certainty Without the Applicant's Consent and it Certainly Wouldn't be Improved Without the Applicant's Volunteering to Do So.

Ms. Walker asserts that the public park is not a public benefit because the City would obtain it anyway. First, she ignores the fact that even if the City obtained dedication of land for a public park, it would not be developed, as is the case here, with the Applicant's voluntary initial development of the public park. The City will have an initially-developed park, not an undeveloped lot, because of the Applicant's proposal. Second, as the Applicant said in its rebuttal, the City Council's default policy choice has been a fee-in-lieu payment, not dedication. Finally, Oregon law would not necessarily support a dedication requirement but that argument does not need to be reached because the Applicant has proposed both the dedication of the land and initial development of the park, a proposal supported by the Sandy Parks and Trails Advisory Board (the "Board"). Staff Report Exhibit NNNN, November 13, 2020 recommendation to the Sandy City Council, including a recommendation that additional land or fee-in-lieu payments will be required for more than 13 dwelling units in the C-3 zone and finding that the Applicant's proposal will result in a "usable park for the neighborhood."

D. Ms. Walker Raised the Issue of Spot Zoning in Her Testimony to the Planning Commission but Oregon Law Does Not Recognize this Concept.

Ms. Walker argued at the first Planning Commission hearing that the Application constitutes "spot zoning." Both the Applicant and the staff pointed out that Oregon law does not recognize

spot zoning. *See NWDA v. City of Portland*, 47 Or LUBA 533, 571 (2004), *aff'd in part and rem'd in part on other grounds*, 198 Or App 286, *rev den*, 338 Or 681 (2005). The reason that this is so is because the Plan provides the basis for City land use decisions and if the City Council approves the Plan map amendment, then the Zoning Map amendments must implement the Plan map amendments. Following this legal path assures that the approval criteria are always considered and, by doing so, the City assures that its land use vision is assured and not on a spot basis without any relation to the Plan.

Ms. Walker also seems to think that this Application should not have been allowed to have been submitted, now changing her term and referring to the Application as “case by case” zoning. As the Applicant told the Planning Commission, it is routine for applicants to submit requests to change map designations to account for changing needs. In the words of the document that Ms. Walker submitted, land use is “not engraved in stone.” If the approval criteria are met, then the Application can be approved.

The approval criteria are the City's yard stick by which applications are measured. There is a huge difference between this routine and lawful practice and spot zoning, which is not a recognized concept and would be unlawful under Oregon's land use program. Ms. Walker's claim that this Application “throws out” the Plan is, in fact, what she is urging: decision making unbound by the Plan's and the SDC's approval criteria.

Ms. Walker's vision of land use decision making based on how many opponents there are is out of touch with legal requirements and should be of concern to the City Council because it fails to consider the approval criteria, which is how the City Council's discretion is legally applied.

E. The Application Complies with the Applicable Specific Area Plan (“SAP”) in SCD Chapter 17.54.

The City properly processed the Specific Area Plan (“SAP”) Application. It is true that a SAP must be initiated by other than the Applicant but as the Staff Report at Page 16, Finding 53 notes, either the Planning Commission's or the City Council's approval of the SAP is the initiation of the SAP Application, for which the Applicant paid the required fee. The City is not required to appoint an advisory committee because SDC 17.54.00.C provides only that an advisory committee *may* be appointed. The fact that the initiation may not have occurred before either of the decision maker's actions does not mean that the SAP may not be approved because, the method of initiation is not specified in SDC Chapter 17.54 and all of the substantive requirements of SDC Chapter 17.46 have been satisfied.

F. The Application Satisfies the Applicable Statewide Planning Goals (the “Goals”).

Ms. Walker asserted that Goal 2, “Land Use Planning,” is not met. The City Council can find that Goal 2 and the other applicable Goals are met. The Staff Report at Pages 9-12, Finding 26

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explains how the Goals are met. The Applicant's October 26, 2020 memorandum explains why each applicable Goal is met.

The City Council can find that the applicable Goals are met, thus satisfying SDC 17.24.70.B and 17.26.40.B.4.

2. Conclusion.

This Application does not undo the City's Plan because it is consistent with the approval criteria and because of that, it should be approved. The evidence is clear that the Application will have less traffic impacts than the current zoning. Finally, the basis for Ms. Walker's argument is that there is something wrong with apartments. There is nothing wrong with providing another type of dwelling unit especially where the apartments are properly buffered from an existing single-family area.

The Applicant respectfully requests that the City Council approve the Ordinance on second reading.

Very truly yours,



Michael C. Robinson

MCR:jmhi

cc: Mr. Kelly O'Neill, Jr. (*via email*)
Ms. Shelley Dennison (*via email*)
Mr. David Doughman (*via email*)
Mr. Dave Vandehey (*via email*)
Mr. Alex Reverman (*via email*)
Mr. Carey Sheldon (*via email*)
Mr. Tracy Brown (*via email*)
Mr. Ray Moore (*via email*)
Mr. Mike Ard (*via email*)

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