



August 10, 2021

## **NOTICE OF HEARINGS OFFICER DECISION**

Subdivision Case 2021-07

You are receiving this Notice of the Hearings Officer's decision because you provided either written or verbal testimony on a proposed subdivision. Attached is a copy of the Hearings Officer's decision approving Subdivision and Minor Variance Case 2021-07 for a 14-lot subdivision located at 2450 Tepper Lane NE, Keizer, OR also identified by Marion County Tax Assessor's Map No. 063W36BA Tax Lot 00300.

Any interested person, including the applicant, who disagrees with this decision, may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Planning Department on an appeal form provided by the City. A fee of \$365.00 is required for any appeal filed. The appeal form is to be submitted to Keizer Planning Department, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. The appeal form and fee must be received by the City by 5:00 pm August 20, 2021. Please see the Section 3.207 (Appeal Provisions) in the Keizer Development Code, for more information.

If you any questions, concerns or comments regarding this decision, please contact the Keizer Planning Department at (503) 856-3439 or 856-3442.

All attachments can be viewed at  
<https://www.keizer.org/maps/Subdivisions>

CITY OF KEIZER HEARINGS OFFICER

In the matter of the Application of	}	Subdivision/Minor Variance Case No. 2021-
Trademark Enterprises, LLC to Subdivide		
2.04 Acres into 14 lots for property located at		
2450 Tepper Lane NE, Keizer, Oregon.		
	}	07
	}	
	}	
	}	

---

**ORDER**

**I. Nature of the Application**

This matter comes before the City of Keizer Hearings Officer on the application of Trademark Enterprises, LLC. The subject property is located at 2450 Tepper Lane NE and is identified on Marion County Tax Assessor Map as Township 6 South; Range 3 West; Section 36BA; Lot 00300.

**II. Relevant Criteria**

The standards and criteria relevant to this application are found in the City of Keizer’s Development Code (KDC), especially Section 3.108.06.A and Section 3.105.04.

**III. Public Hearing**

A public hearing was duly held on this application on July 21, 2021. At the hearing, the Planning Division file, including the staff recommendation dated July 14, 2021 was made a part of the record, as was the audio recording of the hearing.

The following persons appeared at the hearing and provided testimony on the application:

1. Shane Witham, Senior Planner, City of Keizer
2. Jeremy Grenz, from Multi-Tech Engineering, as Applicant’s Representative
3. Elizabeth Martino, public testimony

At the beginning of the hearing, the Hearings Officer made the declarations required by ORS 197.763. The Hearings Officer disclaimed any ex parte contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and that failure to raise all arguments may result in waiver of arguments at subsequent appeal forums. No objections were raised as to jurisdiction, notice, justifications, conflicts of interest, or to evidence or testimony presented at the hearing; no one requested a continuance or to have the record held open.

Shane Witham provided the staff report, explained the nature of the application and recommended approval. Jeremy Grenz provided the applicant’s presentation and expressed the applicant’s concurrence with the conditions as recommended by staff.

Elizabeth Martino spoke generally in favor of the application, addressing Oregon’s shortage of affordable housing and stating that if the housing were affordable, she would be interested as it would allow her to live closer to a nearby family member.

A letter requesting comments was sent to the surrounding property owners within 250 feet of the subject property. Comments were received from the following:

Ken Friedman, Owner of Stadium Village Mobile Home Park submitted a letter with comments (Exhibit 6) regarding the proposed development. The letter supports the development and expresses concerns relating to access, drainage, tree removal, and the placement of a fence.

Jacki and Steve Wolf of 6477 Northmont Ln NE submitted a letter with comments (Exhibit 7) regarding the proposed development. The letter specifically requests a row of arborvitaes to be planted along the western boundary of the proposed subdivision. At the conclusion of the hearing, Mr. Grenz waived the applicant’s opportunity to provide final written argument.

#### **IV. Findings of Fact**

The Hearings Officer, after careful consideration of the testimony and evidence in the record, issues the following findings of fact:

The review criteria for a subdivision are listed in Section 3.108.06 of the Keizer Development Code (KDC). The Hearings Officer adopts the following analysis and findings regarding the applicable criteria supporting the staff recommendation to approve the subdivision request for 2450 Tepper Lane NE:

#### **A. SECTION 3.108.06.A – THE PROPOSAL SHALL COMPLY WITH THE APPLICABLE DEVELOPMENT STANDARDS IN SECTION 2.405 AND SECTION 2.3 AS APPROPRIATE, INCLUDING PROVISIONS FOR STREETS AND UTILITIES.**

The Hearings Officer finds that Section 2.405 KDC contains development standards for manufactured home parks and is therefore not applicable in this situation. The Hearings Officer notes that Section 2.3 contains the standards which guide all development approvals within the City of Keizer. Listed below are the applicable development standards contained in Section 2.3 that are pertinent to this subdivision review.

#### **1. SECTION 2.301.03 - APPLICATION OF PUBLIC FACILITY STANDARDS**

**FINDINGS:** In order to promote and maintain healthy, safe environments and to minimize development impacts upon surrounding properties and neighborhoods the public facilities improvement requirements specified in the table found in Section 2.301.03 are found to be the minimum necessary. The applicant will be required to provide the following public facilities: Fire Hydrant (where required by Fire District), Street Improvements, Water Hook-up, Sewer Hook-up, Storm Drain and Street Lights. In addition, the Public Works Department has submitted comments which have been incorporated into the recommended conditions of approval that outline specific requirements for the installation of public facilities. With these items imposed as conditions of approval this request will meet this criterion.

2. **SECTION 2.302.03 - STREET STANDARDS – GENERAL PROVISIONS**

***a. Section 2.302.03.A - General Requirement. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of the land to be served by the streets.***

**FINDINGS:** The intent of this provision is to require applicants planning the layout of new streets in subdivisions and the layout of streets along the subdivision to take into consideration their relationship to other streets and other factors, such as topography, to develop a safe and efficient street system. The proposed subdivision will provide a new local street to serve the subdivision, which will terminate in a cul-de-sac turnaround. The applicant proposes, and the City will require, the street to be built to a Local II street standard, as outlined in Section 2.302 of the KDC. This will require a minimum of 42 feet of right of way and a 30-foot curb to curb improvement with 5-foot sidewalks on each side. This will be imposed on the subdivision as a condition of approval, as required by the Public Works Department.

Additionally, right of way dedication and street improvements will be provided along the frontage of Tepper Lane, with a 5-foot sidewalk that must be constructed at the time of street improvements. This will require a minimum of 23 feet of right of way from the centerline of Tepper Lane and a half street improvement of 16 feet from the centerline of Tepper Lane. This will be imposed as a condition of approval, as required by the Public Works Department.

The location, width, and grade of the proposed street improvements are consistent with the adopted standards of the KDC, which is designed to promote public convenience and safety for residential development. There are no topographical considerations, since the area is relatively flat. The Public Works department submitted comments requiring curb ramps and striping to be provided to ensure safety and uniform traffic movement.

The City has adopted minimum street standards that the Hearings Officer finds are necessary to promote and maintain a healthy environment and to minimize impacts from the development upon surrounding properties and the area. These standards can be found in Section 2.302 and the Public Works Department comments include requests for specific conditions of approval in conformance with these standards to ensure public convenience and safety. These conditions will be adopted into the recommended conditions of approval for this subdivision. Details on right of way dedication and street improvement requirements will be further addressed later in this decision. Prior to submitting construction plans for the proposed subdivision a predesign meeting with the developer's engineer and the Department of Public Works will be required, which will ensure the proposed street improvements and dedications are adequate and appropriate to serve the proposed development and surrounding area. With the above-mentioned conditions, the Hearings Officer finds this proposal can satisfy this criterion.

***b. Section 2.302.03.B - Continuation of Street. Development proposals shall provide for the continuation of, and connection to, existing streets where necessary to promote appropriate traffic circulation in the vicinity of the development. Where necessary to give access or permit a satisfactory future division of land, streets and utilities shall be***

***extended to property boundaries to allow the future extension of streets and infrastructure. A temporary turnaround shall be constructed for stub streets in excess of 150 feet in length. Exemptions from these street extensions can be found in Section 2.302.03.B.1 – 5.***

**FINDINGS:** The intent of this provision is for new developments to incorporate the continuation of a street as a means to avoid creating new subdivisions which do not provide for any street connectivity. In this particular case, the property is bordered by existing development, and the manufactured home park to the east specifically commented that no connectivity should be provided to their private accessway. The new street for the subdivision (shown as Jacobe Ct on the applicant's plans) will terminate in a cul-de-sac and will not connect to the private access of the neighboring manufactured home park.

Due to the lack of adjacent development potential, the Hearings Officer finds that no street extension is warranted. Therefore, the Hearings Officer finds this criterion is not applicable to this request.

***c. Section 2.302.03.C - Alignment. All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. The staggering of street alignments resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 100 feet.***

**FINDINGS:** The purpose of this provision is to require that new streets in subdivisions meet the City's alignment and spacing standards in order to ensure safe vehicle travel. The new street that is proposed has been reviewed by the Public Works Department and City Engineer for consistency with these standards. Public Works Department comments include requests for specific conditions of approval in conformance with these standards to ensure public convenience and safety. These are adopted into the recommended conditions of approval for this subdivision. The Hearings Officer finds this proposal complies with this criterion.

***d. Section 2.302.03.D – Future extension of streets. When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, streets, bicycle paths and/or pedestrian accessway facilities shall be platted and built to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department finds a turnaround is necessary for reasons of traffic safety. Any street extension exceeding 150 feet in length shall be provided with an approved turnaround as set forth in Section 902.2.2.4 “Dead Ends” of the Uniform Fire Code, 1994 edition.***

**FINDINGS:** The proposed new street is proposed as a cul-de-sac and does not provide for future extension to surrounding properties. The Hearings Office finds that extension of the proposed street is not necessary since the surrounding area is fully developed and no future subdivision, adjacent acreage or area attractor is likely. The Hearings Officer notes that frontage improvements will be provided along Tepper Lane, which will provide pedestrian connectivity to

the surrounding neighborhood. The Hearings Officer finds this criterion in not applicable to this request.

***e. Section 2.302.03.E - Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs. Streets shall have at least 50 feet of tangent adjacent to intersections unless topography requires lesser distances. Intersections that are not at right angles shall have minimum corner radii of 15 feet. Major arterial intersections shall have curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet.***

**FINDINGS:** The purpose of this provision is to require that new public street intersections are constructed consistent with City standards. The proposed development of the new street serving the subdivision will be, as far as practical, at right angles to Tepper Lane. The Public Works department submitted comments pertaining to the street improvement requirements for this proposal. The Hearings Officer finds this request satisfies this criterion.

***f. Section 2.302.03.F - Existing Streets. Whenever existing public streets adjacent to or within a tract are of a width less than the street design standards, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.***

**FINDINGS:** The intent of this provision is to require that developers of new residential subdivisions be responsible for making needed improvements to the existing street systems that are either within, or adjacent to, a proposed subdivision. The subject property has frontage along Tepper Lane which is classified in the City's Transportation System Plan as a local street. The Public Works Department submitted comments requiring the applicant to dedicate approximately 23 feet of right of way from the existing centerline of Tepper Lane, with a half street improvement of 16 feet from centerline. The Hearings Officer notes that final design of the right of way and the dedication requirements for this subdivision will be reviewed as a part of the public improvement permit process. All right of way dedication must be shown on the preliminary and final plat. The Hearings Officer finds that with this imposed as a condition of approval, this criterion is satisfied.

***g. Section 2.302.03.G - Half-streets may be approved where essential to the reasonable development of an area and when the City finds it to be practical to require the dedication of the other half when the adjoining property is developed. When a ¾ width street can reasonably be developed, as determined the Department of Public Works, a half street will be constructed with an additional 10 feet of pavement on the opposite side of the street from full improvement.***

**FINDINGS:** No half street will be constructed, so therefore this section is not applicable.

***h. Section 2.302.03.H - Cul-de-sacs. The maximum length shall be 800 feet.***

**FINDINGS:** The new proposed street is a cul-de-sac of approximately 350 feet, which is significantly less than the maximum length allowed of 800 feet. Therefore, the Hearings Officer finds this proposal satisfies this criterion.

***i. Section 2.302.03.I - Street names and numbers shall conform to the established standards and procedures in the City.***

**FINDINGS:** The purpose of this provision is to ensure that streets are named in accordance with City procedures to avoid duplicate or confusing street names. The applicant's plans show the new public street proposed to serve the development as "Jacobe Ct NE". This street name has not yet been approved, but will be required to be approved prior to submitting the plat for review. As a condition of approval, the approved street name must be shown on the preliminary and final plat. Therefore, with this recommended condition of approval, the Hearings Officer finds this proposal can comply with this criterion.

***j. Section 2.302.03.J - Grades shall not exceed 7 percent on arterials, 10 percent on collector streets or 15 percent on any other street. Street grades of 15 percent shall not exceed 200 feet in length. To provide for adequate drainage, all streets shall have a minimum slope of 0.5 percent. On arterials there shall be a tangent of not less than 100 feet between reversed curves.***

**FINDINGS:** The purpose of this provision is to ensure that new streets are constructed consistent with the City's established street grade standards and avoid having new streets that may be too steep and potentially endanger public safety. The area is relatively flat and there are no concerns regarding grades of the proposed street improvements. A preliminary grading and drainage plan was submitted as a part of this application. A final grading and drainage plan will be required as a condition of approval to ensure that adequate drainage is provided, as well as construction permits for the widening and improvements to the existing streets, which will regulate the design of the proposed improvements. The Hearings Officer finds that with these requirements imposed as conditions of approval, this proposal will satisfy this criterion.

***k. Section 2.302.03.K - Frontage Streets. If a development abuts or contains an existing or proposed arterial or collector street, the City may allow frontage streets, or may require reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be necessary for adequate protection of residential properties, to afford separation of through and local traffic, and to preserve the capacity and safety of the collector or arterial street.***

**FINDINGS:** The purpose of this provision is to minimize impacts that a new development may have on arterial and collector streets. The Hearings Officer notes that Tepper Lane is a local street; therefore, this criterion is not applicable to this proposal.

***l. Section 2.302.03.L - Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided. The corners of alley intersections shall have radii of not less than 10 feet.***

**FINDINGS:** The property is not located in a commercial or industrial zone and no alleys are proposed. Therefore, this provision is not applicable.

***m. Section 2.302.03.M. - Street Landscaping. Where required as part of the right-of-way design, planting strips shall conform to the following standards:***

- 1. Street trees shall be planted at a ratio of no less than one tree per 30 feet of property frontage. Street trees shall conform with the list of acceptable trees included in the City's Street Tree Ordinance. Installation of street trees shall be included in any improvement agreement covering the installation of public facilities and services on a property.***
- 2. Planting strips shall be planted and maintained in predominantly living groundcover materials with hard surfaces consisting of bricks, pavers, rocks, decorative concrete work, etc., only being included as part of an overall landscape design where living plant material is predominant. In no case shall asphalt be used within the planting strip.***

**FINDINGS:** The purpose of this provision is to outline the standards relating to providing street landscaping. The applicant's proposal shows that curb tight sidewalks are proposed to be provided; therefore, this criterion is not applicable.

It should be noted that if the applicant modifies the street improvement design through the public construction permitting process, and landscape strips are incorporated into the street design, street trees must be provided according to the provisions of the KDC.

***n. Section 2.302.03.N.5 – Access Control Standards. Double Frontage Lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification.***

**FINDINGS:** Lots 1 and 14 will have frontage onto both the newly proposed street, as well as Tepper Lane, which are both designated as local streets. The applicant has indicated that all lots are intended to be accessed from the new street. The public works department submitted comments requiring that driveway locations be approved through the public improvement permitting process. The developer will be required to obtain driveway permit approval for the individual lots within the subdivision, which will ensure this requirement is met. The Hearings Officer finds this proposal will comply with this criterion.

***o. Section 2.302.03.O. – Trees along Public Streets. Streetscape trees are required along public streets, shall comply with the provisions of Section 2.309, and must be located according to the following provisions:***

- 1. Streetscape trees shall be planted within the boundaries of each lot within 10 feet of street improvements.***
- 2. Lots measuring less than 45 feet in width shall be required to plant one streetscape tree. Lots measuring more than 45 feet in width shall be required to plant two streetscape trees.***
- 3. Streetscape trees shall be selected from a list of approved trees.***

**FINDINGS:** Streetscape trees will be required to be planted consistent with this section.

Based upon the applicant's proposed subdivision plan and lot frontages for each parcel, streetscape trees shall be planted in the quantities as follows:

- Lots 1 and 14 = 2 trees along Tepper Ln + 2 trees along new public street (total of 4)
- Lots 2-5 and 10-13 = 2 trees along new public street
- Lots 6-9 = 1 tree along the new public street

Streetscape trees will be required to be planted prior to final building permit approval for each lot, unless otherwise provided as a part of the right of way landscaping. Trees must be planted consistent with Section 2.309 of the KDC which requires a minimum 2" caliper and 8 feet in height for deciduous trees. As a condition of approval, streetscape trees shall be shown on the required tree replacement plan discussed elsewhere in this report. With these requirements imposed as conditions of subdivision approval, the Hearings Officer finds this proposal can comply with this criterion.

**3. SECTION 2.302.04 - GENERAL RIGHT-OF-WAY AND IMPROVEMENT WIDTHS**

*The standards outlined in this section shall be the minimum requirements for all streets, except where a variance is requested as permitted under Subsection 2.302.05.*

**FINDINGS:** The applicant has not requested any modification to the right-of-way or improvement width requirements for public streets. The Public Works Department has submitted comments which have been incorporated into the recommended conditions and requirements of this report. As a condition of subdivision approval, the requirements outlined in section 2.302.04 and included in the Public Works requirements must be adhered to. With these requirements placed as conditions of subdivision approval, the Hearings Officer finds this proposal complies with this criterion.

**4. SECTION 2.302.06 - CONSTRUCTION SPECIFICATIONS**

*Construction specifications for all public streets shall comply with the standards of the most recently adopted public works street standards of the City of Keizer.*

**FINDINGS:** The intent of this provision is to ensure that new residential subdivisions design and construct new streets that are needed to serve the lots within the subdivision to meet all City standards for street construction. The proposed lots will be served by a public street, improved to City standards. Frontage improvements are being required for Tepper Lane to bring it up to the current design standards based upon the street designation. Public improvement permits will be required and construction drawings must be submitted to the Public Works Department for their review and approval consistent with all applicable adopted construction specifications and standards adopted by the City. With this imposed as a condition of approval, the Hearings Officer finds this provision will be met.

**5. SECTION 2.302.08 - PRIVATE ACCESS EASEMENTS.**

*A private access easement created as the result of an approved partitioning or subdivision shall conform to standards governing the following: A. Width; B. Maintenance; C. Turnaround; D. Parking; E. Trees Along Access Easements; F. Screening:*

**FINDINGS:** No private access easements are proposed. Therefore, this criterion is not applicable to this request.

**6. SECTION 2.303 - OFF-STREET PARKING AND LOADING**

***Parking shall be provided to ensure adequate areas for the parking, maneuvering, loading, and unloading of vehicles and bicycles for all land uses in the City of Keizer.***

**FINDINGS:** The minimum off-street parking requirements listed within Section 2.303.06 of the Keizer Development Code have been determined to be the minimum necessary to provide adequate parking capacity for specified uses. This has been determined by the City to be the minimum needed to meet both the needs of the residences within the new dwellings as well as serve the needs of visitors to the new residences. Required parking spaces should be installed at the time homes are constructed on each of the lots within the subdivision. The applicant's site plan and written statement address parking requirements and their intention to comply with the provisions of Section 2.303. The applicant's written statement indicates that 2 on-site parking spaces will be provided on all lots within the subdivision. On-street parking will be allowed as well. Parking requirements will be regulated through the building permit review and approval process. With these requirements imposed as a condition of approval, the Hearings Officer finds the proposal meets this criterion.

**7. SECTION 2.306 - STORM DRAINAGE**

***No construction of any facilities in a development included in Subsection 2.306.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer and approved by the City. These provisions shall also apply to any cut or fill on a property, which may impact the velocity, volume, or quality of surface water on adjacent property, or may impact any permanent natural body of water.***

**FINDINGS:** The intent of this provision is to minimize, and avoid, storm drainage and erosion runoff problems that may be associated with development by requiring that a storm drainage and erosion control plan be submitted for review and approval prior to any development occurring on the site. Comments were received expressing concerns over the proposed development possibly creating impacts that may result from development of the site in relation to storm drainage runoff. The Public Works department submitted comments which are recommended as a condition of subdivision approval which address storm drainage requirements, to assure the design complies with City standards.

Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property. The applicant submitted a preliminary grading and drainage plan. The Public Works Department submitted comments containing requirements that will assure the proposed development will comply with City storm drainage requirements.

The applicant's engineer shall submit an overall storm drainage plan that will provide service to this development consistent with the City's Master Storm Drain Plan for this area of Keizer. Storm water quality and detention improvements will be required in conformance with the City

of Keizer Public Works Department Design Standards. The developer's engineer shall conduct on-site percolation tests, (the location and frequency of tests are to be coordinated with the City of Keizer Public Works Department) to determine the suitability of the soils for the proposed disposal system. The percolation test and soil analysis shall be performed by a qualified professional engineer. Storm Water calculations shall be submitted in conjunction with the project design drawings and shall indicate how the development complies with the City of Keizer Public Works Design Standards for the basin. All storm water runoff from the property shall be kept on site. No public storm drain system exists for the development to connect to.

A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from all contributing areas across the subject property and shall include existing elevations and proposed lot corner elevations. The plan shall be submitted to and approved by the Public Works Department prior to the issuance of any Public Construction permits for street or storm drainage for the subject property. Grading and drainage plans shall be in conformance with the City of Keizer Public Works Design Standards. Additional information regarding street grades, site grading, inverts, etc., will be required for review prior to any plan approval. With these requirements imposed as conditions of approval, this application complies with this provision.

#### **8. SECTION 2.307 - UTILITY LINES AND FACILITIES**

**FINDINGS:** To provide adequate services and facilities appropriate for residential development, the applicant shall meet the standards set forth in Section 2.307 of the Keizer Development Code relating to water, sanitary sewer, private utilities, streetlights and easements. This is a development requirement, and compliance will be ensured during review of the construction and engineering drawings. A master utility plan shall be submitted to the Public Works department for review prior to the issuance of construction permits for the proposed project. These requirements are addressed more in depth elsewhere in this report. The Hearings Officer finds with appropriate conditions; this proposal will comply with this criterion.

#### **9. SECTION 2.309 – SITE AND LANDSCAPING DESIGN**

**a. *Section 2.309.04(C)(a) ...Significant trees removed (including trees that are removed within the two years prior to the application) must be replaced at the rate of two new trees for each significant tree removed or less if a large tree specimen size is planted....in lieu of an on-site tree replacement plan, an off-site tree mitigation plan may be submitted to the Planning Director for approval...*(b) *The above provisions include and apply to all significant trees located on the subject property or an any adjacent public right of way...***

**FINDINGS:** The intent of this provision is to require planting of new trees to replace trees that are cut down as part of the development of a subdivision. In particular, this provision aims to replace trees that are identified as being “significant trees,” which are trees that are equal to or greater than 50 feet in height or 12 inches in diameter. The applicant submitted a tree plan that shows all 176 trees are proposed to be removed from the site to allow for the subdivision development. The KDC requires the replacement of trees removed at a 2:1 ratio. Therefore, a total of 352 trees will be required to be planted to mitigate the trees removed if

all 176 trees are “significant” trees. It should be noted the applicant’s site plan was unclear as to whether all of the existing trees qualify as “significant” according to the standards of the KDC.

Staff recommends the applicant submit a revised tree removal and replacement plan for review and approval by the Planning Department prior to final plat approval. The tree removal plan shall identify only existing “significant” trees that will be removed. The tree replacement plan shall identify how many trees will be planted on each lot and shall include the location and quantities of required streetscape trees previously addressed in this report as well. While it is clearly not practical to plant a total of 352 trees within the subdivision, the applicant could propose larger specimen trees to be planted to reduce the overall number of replacement trees or provide trees through off-site mitigation.

In addition to the 28 streetscape trees that are required to be provided (previously addressed in this report), a minimum of 1 replacement tree per lot should be provided within the subdivision, with the remaining replacement trees accounted for through off-site mitigation. Replacement trees designated on the approved replacement plan will be required to be planted prior to final building inspection approval for each of the individual lots, and will be required to be a minimum of 2” caliper for deciduous trees and 8 feet in height and fully branched for evergreen trees.

Staff is recommending that as a condition of approval, the applicant must submit a modified tree removal and replacement plan. The final tree replacement plan will be required to be submitted to and approved by the Planning Department prior to final plat approval. Staff finds with the above-mentioned conditions; this request will comply with this criterion.

***b. Section 2.309.05 – Screening and Buffering. Screening and buffering shall be used to mitigate visual impacts, dust, or noise, and to provide for compatibility between dissimilar adjoining uses ...***

**FINDINGS:** The intent of this provision is to require screening and buffering in specific designated circumstances such as when commercial/industrial development abuts residential uses, or when multi-family development abuts residential uses. While this proposal does not specifically fall within the criteria and the requirements to require screening and buffering outright, staff is recommending that a six-foot tall, sight-obscuring fence or evergreen vegetative hedge be required along the east, south and west perimeter of the subdivision. The property is bounded by two separate accessways on the west and east. Comments were received from surrounding neighbors expressing concerns over the loss of vegetation on the existing site and impacts to the surrounding property owner’s privacy. Staff feels it is appropriate in this case, and justifiable, to require that a six-foot tall, sight-obscuring fence or vegetative hedge be provided on the perimeter of the subdivision to mitigate impacts to adjacent properties. As a condition of approval, staff recommends fencing of vegetation be installed at the time homes are constructed on each of the individual lots along the boundaries of the subdivision. This is recommended to be imposed as a condition of final building inspection approval for each of the individual lots in the subdivision. With these conditions, this request can comply with this criterion.

**10. SECTION 2.310 - DEVELOPMENT STANDARDS FOR LAND DIVISIONS**

***a. Section 2.310.03.A - Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcels are located.***

**FINDINGS:** Within the RS zone, the minimum lot size for a detached single-family dwelling is 5,000 square feet, and the minimum lot size for an attached or zero side yard dwelling is 4,000 square feet. The applicant's site plan indicates lots range in size from 5,001 square feet (Lot 1) up to 5,011 square feet (Lot 8) which all exceed the minimum lot size required within the RS zone in Section 2.102.05. The Hearings Officer finds that all the proposed lots conform to the minimum lot size requirement of the RS zone district. Both gross and net area for all lot sizes shall be shown on the preliminary and final plat and lot sizes must comply with the standards of the RS zone. This is recommended as a condition of subdivision approval to assure this requirement is met. Therefore, the Hearings Officer finds this proposal can comply with this criterion.

***b. Section 2.310.03.C - Lot width and depth. The depth of a lot or parcel shall not be more than 3 times the width of the parcel.***

**FINDINGS:** The purpose for establishing lot width-to-depth ratios is to provide for the orderly, safe, efficient, and livable development of land. The lot width-to-depth ratio also prevents lots from being created that would be practically unbuildable. The proposed lots comply with the lot depth to width ratio requirements. All lots within the proposed subdivision are shown to meet this criterion.

***c. Section 2.310.03.D - Access. All lots and parcels shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. Residential lots or parcels may be accessed via a private street or access easement developed in accordance with the provisions of Section 2.302.08. Cul-de-sac lots shall have a minimum frontage of 25 feet.***

**FINDINGS:** The intent of this provision is to ensure that all lots have a minimum frontage along a street so that access to serve the lots will meet City standards and that lots can be developed in a manner that will ensure that all building setback requirements are met. Lots 1-5, and Lots 10-14 have frontage along the new public street exceeding 40 feet in width, which is the minimum lot width in the RS zone. Lots 6-9 have 25 feet of lot frontage and all front on the cul-de-sac bulb, which complies with this criterion. As a condition of approval, lot dimensions must be shown on the preliminary and final plat, which will ensure the minimum frontage requirements are met. Therefore, The Hearings Officer finds with this condition, this proposal satisfies this criterion.

***d. Section 2.310.03.E -Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed and when in compliance with Section 2.302.03.B. If a flag-lot is permitted, the following standards shall be met:***

***1. The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12-foot-wide paved driveway and paved encroachment***

*which meet applicable City standards.*

**2. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Ordinance.**

**FINDINGS:** No flag lots are proposed. Therefore, this criterion is not applicable.

***e. Section 2.310.03.F - Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from major street, adjacent non-residential activities, or to overcome specific development constraints due to topography or lot orientation. Through lots shall be no less than 100 feet in depth. Lots having their access off a private access easement or adjacent to a private access easement shall not be construed as qualifying as through lots. Screening or buffering, pursuant to the provision of Section 2.307, may be required by the City during the review of the land division request.***

**FINDINGS:** No through lots will be created by this proposal. Therefore, this criterion is not applicable to this request.

***f. Section 2.310.03.G - Lot Lines. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than 1/2 the dimension of the front lot line.***

**FINDINGS:** The intent of this provision is to avoid the creation of odd-shaped lots which may meet minimum lot size but owing to its shape may result in a lot that is too difficult to build on without a variance to requirements within the code. The intent is to avoid these types of lots in favor of the creation of lots that can be readily developed. The subject property will result in the creation of mostly regular shaped lots, with the exception that some of the lots are pie shaped, due to the fact they front on a cul-de-sac. The proposed lot lines run, as far as practicable, at right angles to the street right-of-way lines. The rear lot lines are all not less than one-half the dimension of the front lot lines. All the lots meet the City's minimum lot standards and can be developed with a single-family dwelling on each lot. The Hearings Officer finds the application complies with this criterion.

***g. Section 2.310.03.H - Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities. Such easements shall have a minimum total width as specified in Section 2.302.04 of this Code.***

**FINDINGS:** The intent of this provision is to ensure that utility easements are provided and avoid the situation where they may be needed but since no easements were provided as part of the platting of the subdivision it creates problems after the platting of the subdivision. The Public Works Department submitted comments requiring adequate utility easements be provided. This is a development requirement and shall be imposed as a condition of approval of this subdivision application. With this imposed as a condition of approval, the application can comply with this criterion.

## **11. SECTION 2.310.04 - ADDITIONAL DESIGN STANDARDS FOR SUBDIVISIONS**

***a. Section 2.310.04.A - Standards for Blocks:***

1. **General:** *The length, width, and shape of blocks shall be designed with regard to providing adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic; and recognition of limitations and opportunities of topography.*

2. **Sizes:** *Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.*

**FINDINGS:** The proposed subdivision will not result in the creation of any blocks within the proposed subdivision; therefore, this provision is not applicable.

b. **Section 2.310.04.B - Traffic Circulation.** *The proposed subdivision shall be laid out to provide safe and convenient vehicle, bicycle and pedestrian access to nearby residential areas, transit stops, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe and convenient traffic circulation. At a minimum, "nearby" is interpreted to mean uses within ¼ mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably be expected to be accessed by bicyclists.*

**FINDINGS:** The intent of this provision is to allow for safe vehicle, pedestrian, and bicycle access from the lots within the subdivision to nearby attractors. The applicant is proposing improvements to the existing streets abutting this development and to serve the residents of the subdivision. Street improvements, including sidewalks along both streets, will be provided. In addition, the new street is being extended to the adjacent property, so that in the future connection to the adjacent neighborhood can be provided. The Hearings Officer finds the proposed and required improvements are adequate to satisfy this criterion.

## 12. **SECTION 2.310.06 - IMPROVEMENT REQUIREMENTS – SUBDIVISIONS**

a. **Section 2.310.06.A - Frontage Improvements.** *Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.303 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.*

**FINDINGS:** The intent of this provision is to ensure that lots within the proposed subdivision include street improvements in accordance with City standards so as to avoid having substandard streets which could become a safety hazard. The subject property has frontage along Tepper Lane. The Public Works department submitted comments that include requirements for frontage improvements. These requirements were also addressed previously in this report. The exact design and construction of improvements will be regulated through the public improvement permit review and approval process and will be required to comply with the City of Keizer

Design Standards. With these requirements imposed as conditions of approval, this proposal will comply with this criterion.

***b. Section 2.310.06.B - Walkways for Private Streets. Sidewalks shall be required in accordance with applicable provisions in Sections 2.302 and 2.316 only if sidewalks currently exist along the connecting street.***

**FINDINGS:** There will be no private streets that will be constructed as part of the proposed subdivision, so this section is not applicable.

***c. Section 2.310.06.C - Project Streets. All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.***

**FINDINGS:** The intent of this provision is to ensure that lots within the proposed subdivision include street improvements in accordance with City standards so as to avoid having substandard streets. The required improvements will be required to be consistent with Section 2.302. With this condition of approval, the proposal will comply with this criterion.

***d. Section 2.310.06.D - Monuments. Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.***

**FINDINGS:** The applicant will be responsible for placing appropriate monuments at the street intersection and with this as a condition this application will comply with this criterion.

***e. Section 2.310.06.E - Bench Marks. Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a brass cap set in a curb or other immovable structure.***

**FINDINGS:** The applicant will be responsible for placing appropriate bench marks at the street intersection and with this as a condition this application will comply with this criterion.

***f. Section 2.310.06.F - Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas. Drainage shall be designed to avoid impacts on adjacent property.***

**FINDINGS:** The intent of this section is to require that new developments make use of a drainage system that is in accordance with City requirements and which will handle the storm drainage from the site and avoid any adverse impacts onto adjacent properties. These requirements were also addressed in Section 2.306 elsewhere in this report. The applicant submitted a preliminary site grading and drainage plan. As a condition of subdivision approval, the developer's engineer shall submit an overall storm drainage plan that will provide service to this development consistent with the City's Master Storm Drain Plan for this area of Keizer. With

these requirements imposed as conditions of approval, this application complies with this provision.

***g. Section 2.310.06.G - Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.***

**FINDINGS:** The intent of this provision is to require that all of the lots in a new subdivision connect to a sanitary sewer system thereby eliminating the need for the installation of any on-site private septic systems which require additional land and increase the potential for ground water contamination. The applicant proposes to connect all of the lots to sanitary sewer. The City of Salem Public Works Department submitted comments expressing concern with the preliminary sewer main design provided by the applicant regarding a lack of adequate depth of cover. The Public Works Department submitted comments addressing this criterion, which have been recommended as conditions of subdivision approval. The subject property is located within the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will not be required. City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the applicant's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City's Master Sewer Plan for the area. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Appropriate easements for any public sewer mains located within the subject property, if located outside platted right of ways, will need to be recorded in a form which meets the City of Salem Design Standards and shown on the subdivision plat. Any sanitary sewer easements shall be in favor of the City of Keizer. It will be the responsibility of the applicant's engineer to locate any existing wells (including those serving the adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. The applicant, prior to platting of the proposed subdivision, shall eliminate any conflicts between existing wells and proposed sanitary sewers. If a design exception to the City of Salem standards for sewer construction will be required for this project, any submittals for an exception shall be copied to the City of Keizer for review.

These are development requirements and shall be imposed as conditions of approval of this subdivision application. With the above-mentioned conditions of approval, the Hearings Officer finds this proposal can comply with this criterion.

***h. Section 2.310.06.H - Water System. Water lines with valves and Fire District approved fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed and operating prior to start of combustible construction. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the developer will be responsible for water main sizes necessary to meet minimum fire flow requirements per Uniform Fire Code. The City will not expect the developer to pay for the extra pipe material cost of mains exceeding 8 inches in size.***

**FINDINGS:** The intent of this provision is to ensure that in addition to a safe potable water supply, adequate water flow and fire hydrants are provided to ensure fire protection service is

provided for each new lot in the proposed subdivision. The applicant's plan shows they intend to install an 8-inch water main to serve the new development, which will be tapped into the existing 12-inch water main located in Tepper Lane. The Public Works Department submitted comments addressing this criterion, which have been recommended as conditions of subdivision approval. The comments received indicate that a master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements for all public water mains, fire hydrants, and private services will be required if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections. Final development plans shall be reviewed by the Keizer Fire District regarding access and adequate location of fire hydrants prior to issuance of Public Construction permits by the City of Keizer. All required fire hydrants shall be served by an 8-inch water main. Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements. The applicant shall provide evidence to the Public Works department that any abandonment of existing wells has been completed in accordance with such requirements. Location of all water meters to be approved by the Public Works Department. With these requirements imposed as conditions of approval, the Hearings Officer finds this request will meet this criterion.

***i. Section 2.310.06.I - Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. The City may defer sidewalk construction until the dwellings or structures fronting the sidewalk are constructed. Any required off-site sidewalks (e.g., pedestrian walkways) or sidewalks fronting public property shall not be deferred.***

**FINDINGS:** The intent of this provision is to require that sidewalks are required by new developments such as subdivisions in an effort to enhance the mobility of both pedestrians who will reside in the proposed subdivision and those who may use this facility but will not reside in the new subdivision. As was addressed earlier in this report, sidewalks are proposed to be installed along the frontage of Tepper Lane, as well as along the frontage of the new public street. Therefore, The Hearings Officer finds this proposal will comply with this criterion.

***j. Section 2.310.06.J - Street Lights. The installation of street lights is required at locations determined to be appropriate by the City and shall be of a type required by City standards.***

**FINDINGS:** The intent of this section is to require that new developments provide street lights to provide for an adequate level of night-time illumination. A street lighting district will be required for the proposed development and shall be created at the expense of the applicant to provide for adequate street lights along the frontage of all proposed new lots. This will assure street lighting improvements will provide for a safe, livable development and shall comply with the City regulations and requirements. The Hearings Officer finds this proposal will comply with this criterion.

***k. Section 2.310.06.K - Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Each street sign shall display the one hundred block range. Street signs shall be installed prior to obtaining building permits.***

**FINDINGS:** The intent of this provision is to require that the installation of street name signs and traffic control signs are placed at locations determined to be appropriate by the City and shall be of a type required by City standards so as to avoid signs that are in wrong locations or a design that are not consistent with City standards. With this imposed as a condition of approval, the Hearings Officer finds this proposal will comply with this criterion.

***l. Section 2.310.06.L - Public Works Requirements. All facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works.***

**FINDINGS:** The intent of this provision is to ensure that all facility improvements shall conform to the requirements and specifications of the Keizer Department of Public Works. The Hearings Officer finds that this application can meet this criterion. The Hearings Officer notes that this requirement is addressed in a condition of subdivision approval and is a development requirement.

***m. Section 2.310.06.M - Curb Cuts. Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards.***

**FINDINGS:** This is a development requirement. The Hearings Officer finds that with this requirement imposed as a condition of approval, the application will comply with this criterion.

***n. Section 2.310.06.N - Street Trees. Street tree planting is mandatory where a planting strip is part of the street design. Plantings shall conform to Section 2.302.03(M).***

**FINDINGS:** The applicant is not proposing a planting strip or separated sidewalk. Therefore, the Hearings Officer finds this criterion is not applicable to this request.

***o. Section 2.310.06.O - Grading & Fills. All grading which results in fills in excess of 3 feet located within the identified building envelope on a subdivision lot or parcel must be engineered.***

**FINDINGS:** The property is relatively flat. The submitted materials do not show that fill will be brought into the site; however, this requirement is a State Building Code requirement and is intended as advisory at this point of the subdivision review.

***p. Section 2.310.06.P - Financial Requirements. All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.***

**FINDINGS:** The Hearings Officer finds that because this requirement will be imposed as a condition of approval, the criterion is satisfied.

**13. SECTION 2.314 – STANDARDS FOR SINGLE FAMILY DWELLINGS**

**FINDINGS:** This section contains the design standards for all new single-family dwellings constructed within the RS zone. These design requirements will be regulated through the building permit review and approval process and these standards are intended to be advisory at this point.

**14. SECTION 2.316 – INFILL DEVELOPMENT STANDARDS**

**a. Section 2.316.03-Infill Development Parcel Criteria. An infill development is any residential development less than two (2) acres in size, and which directly abuts an existing residential neighborhood.**

**FINDINGS:** The applicant submitted survey information which demonstrates this property is slightly larger than 2 acres in area. Therefore, the Hearings Officer finds that this criterion is not applicable to this request.

**B. SECTION 3.108.06.B - EACH LOT SHALL SATISFY DIMENSIONAL STANDARDS AND DENSITY STANDARDS OF THE APPLICABLE ZONING DISTRICT, UNLESS A VARIANCE FROM THESE STANDARDS IS APPROVED.**

**FINDINGS:** The intent of this provision is to ensure that new residential subdivisions meet the established dimensional and density provisions of the City to assure that the development is consistent with this standard. The applicant has indicated that all the lots will be developed with single-family homes. Section 2.102.05.A requires that each lot to be developed with a residential use contain a minimum average width of 40 feet and a depth of 70 feet. All the proposed lots meet or exceed this provision with the exception of lots 5 and 10 which are less than 70 feet in depth, partly due to the nature and dimensions of the cul-de-sac bulb. A minor variance is requested as a part of this subdivision application and is addressed later in this decision. The Hearings Officer will follow the staff recommendation to approve the minor variance to lot depth. The Hearings Officer notes that several of the lots are pie shaped, due to the cul-de-sac configuration. But on average, they exceed 40 feet of average width. Section 2.102.06.I specifies a minimum density of 4 units per acre and a maximum density of 8 units per acre for property that is subdivided in the RS zone. The proposed subdivision is 2.04 acres in area (according to the Survey submitted by the applicant) and is proposed to be subdivided into 14 lots. This complies with the density provisions of the RS zone and is equal to a density of 6.86 dwelling units per acre.

Section 2.102.05.B contains the setback requirements in the RS zone. The property contains a single-family home and associated outbuildings which are all proposed to be removed. Removal of all existing structures will be required to allow for the subdivision development. Removal of the existing structures will be imposed as a condition of subdivision approval and must be accomplished prior to final plat approval.

The Hearings Officer finds this proposal, including the proposed variance, complies with the minimum lot dimension and density requirements of this section of the code. With the above-

mentioned conditions of approval, the Hearings Officer finds this proposal will satisfy this criterion.

**C. SECTION 3.108.06.C - ADEQUATE PUBLIC FACILITIES SHALL BE AVAILABLE TO SERVE THE EXISTING AND NEWLY CREATED PARCELS.**

**FINDINGS:** As previously discussed, public sewer and water are available and can serve the newly created lots within the proposed subdivision, and the applicant will be responsible for complying with the applicable conditions governing the construction and installation of these facility connections. With the requirement that the applicant must be responsible for providing adequate public facilities as addressed in this decision, the Hearings Officer finds this application will comply with this criterion.

**D. SECTION 3.108.06.D - ROUGH PROPORTIONALITY. IMPROVEMENTS OR DEDICATIONS REQUIRED AS A CONDITION OF DEVELOPMENT APPROVAL, WHEN NOT VOLUNTARILY ACCEPTED BY THE APPLICANT, SHALL BE ROUGHLY PROPORTIONAL TO THE IMPACT OF DEVELOPMENT. FINDINGS IN THE DEVELOPMENT APPROVAL SHALL INDICATE HOW THE REQUIRED IMPROVEMENTS OR DEDICATIONS ARE ROUGHLY PROPORTIONAL TO THE IMPACT.**

**FINDINGS:** The City has a legitimate governmental interest in assuring the development does not cause public problems associated with inadequate, unsafe, and inefficient public transportation facilities. This is done by ensuring that adequate streets that logically continue the City's street system are provided in order to avoid traffic generation that exceeds the street system's carrying capacity, which then causes dangerous or hazardous traffic conditions. The City of Keizer has traditionally required developers to dedicate property for and construct standard street, sidewalk, sanitary sewer, storm drain and water supply improvements in subdivisions to meet the basic needs created by the development. The absence, in this instance, of the required street improvements would be cause for denial of the application on the basis that adequate facilities are not available to serve the site. These traditional street improvements have been imposed to avoid excessive congestion, negative safety impacts, and provide basic services to preserve the health of the community and the residents of the proposed development. Such street improvements and dedications are now, and have traditionally been, part of the cost considered in the developer's reasonable investment-backed expectations for constructing the subdivision.

The applicant proposes a fourteen (14) lot subdivision for residential development. The development features access from an existing street and will construct a new internal street to serve the development. Right of way dedication is proposed and will be required for Tepper Lane to allow for appropriate street frontage improvements. The requirement to provide the necessary improvement of a street is identified in Keizer Development Code Section 2.302.04. The table set forth in such section indicates the minimum improvements and right of way widths required.

The improvement of streets adjacent to subdivisions is necessary to provide a safe and convenient transportation network to serve the residents of the applicant's subdivision. The Keizer Development Code requires that new development make road improvements to bring

their road frontage up to the designated road classification and construction standards. The legislative adoption of the street standards requires road improvements and the road construction to be provided by the development as it occurs in proportion to its impacts. The residents of the subdivision will utilize road systems constructed by other developments at no cost to them or the applicant. Other benefits which necessarily flow to the future residents of this development from the completion of the required street improvements include access for vehicles, bicyclists and pedestrians to the arterial road system serving this area of the City and improved access for emergency vehicles to the subject property and its residents.

The functional classification of the fronting streets is based on the cumulative traffic impacts from the development of properties in the area which will use the streets. Tepper Lane is identified as a local street. Functional classification is established in order to ensure that the streets have adequate carrying capacity for the traffic which will utilize it to avoid traffic generation that would cause dangerous or hazardous traffic conditions. The proposed development will generate additional vehicle trips per day that will contribute to the cumulative traffic impact of the streets. These dedications are necessary to comply with the adopted street standards and provide for traffic safety for the proposed development. The Hearings Officer finds the required dedication and improvements are roughly proportional to the impact of the subdivision request since they are solely necessitated by the subdivision development.

#### **IV. FINDINGS: MINOR VARIANCE**

The applicant requests a minor variance to reduce the minimum lot depth for lots 5 and 10 below the 70-foot lot depth requirement due to the configuration of the proposed cul-de-sac bulb. A minimum average lot depth of 70 feet is required by Residential Single Family (RS) Zone Section 2.102.05.A for residential uses. Therefore, variance approval is needed. The review criteria for a minor variance are found in Section 3.105.04 of the Keizer Development Code. The following findings support the Hearings Officer's approval of the minor variance request:

##### **Section 3.105.04:**

***A. The intent and purpose behind the specific provision sought to be varied is either clearly inapplicable under the circumstances of the particularly proposed development; or, the variance requested is consistent with the intent and purpose of the provision being varied; or the applicant in good faith is unable to comply with the standard without undue burden which is grossly disproportionate to the burden born by others affected by the specific provisions of the code sought to be varied.***

**FINDINGS:** The Hearings Officer notes that lot depth requirements in the RS zone have been established to assure residential development adheres to the minimum requirements of the underlying zoning designation. These minimum requirements are established in order to provide for the orderly development of parcels, which are otherwise of an adequate dimension to allow the development of a single-family home and provide appropriate setbacks to property lines and open space between adjacent uses. These standards help to ensure an overall aesthetically consistent and pleasing pattern of development in residential neighborhoods, and to allow for landscaped areas and open space around residences for personal use. The applicant provided a floor plan example (Exhibit 8) which demonstrates the lots can be developed with homes that will still comply with all setback and lot coverage provisions outlined in the development code.

The applicant is requesting variance approval to allow for an approximate 17% reduction in the lot depth of 2 lots within the subdivision in order to accommodate the configuration of the proposed cul-de-sac bulb. The Hearings Officer notes that no other modifications to lot dimensions or required setbacks are proposed, only the reduction in lot depth. In this case minimum lot size standards of the zone are still being met. Granting the variance does not create additional density beyond what is planned for in the City's Comprehensive Plan and is consistent with the density requirements of the KDC.

As a condition of variance approval, the applicant will be limited to variance approval only for that which is proposed. The Hearings Officer notes staff's analysis that this request demonstrates consistency with the intent and purpose of the lot area requirements outlined in the development code. The Hearings Officer finds this request satisfies this criterion.

***B. The impact of the development due specifically to the varied standards will not unreasonably impact adjacent existing or planned uses and development.***

**FINDINGS:** The Hearings Officer notes that the property is proposed to be subdivided into a 14-lot subdivision, with each lot containing a single-family dwelling. Adjacent properties are developed with residential uses, and the zoning of the parcel is RS, which allows for low density residential neighborhoods. The applicant is not requesting a variance to setbacks or lot coverage requirements, but rather only a reduction for minimum lot depth, due to the configuration and size of the cul-de-sac bulb serving the new development. Realistically, the only properties impacted by this variance proposal are the lots requesting the variance themselves. No reductions to building setbacks or lot coverage are proposed, so the proximity of the proposed structures to adjacent uses will be no different than if no variance were to be granted. The requested variance will allow for detached single family dwellings to be established on each lot of the subdivision, while providing setbacks between all buildings according to the provisions of the KDC.

Taking all of these factors into consideration, the Hearings Officer finds the proposal will not unreasonably impact adjacent existing or planned uses. Therefore, the Hearings Officer finds this request satisfies this criterion.

***C. The minor variance does not expand or reduce a quantifiable standard by more than 20 percent and is the minimum necessary to achieve the purpose of the minor variance.***

**FINDINGS:** The Hearings Officer notes the required lot depth for residential uses in the RS zone is 70 feet. The applicant is requesting to be allowed to configure lots 5 and 10 with less than 70 feet of average lot depth. The applicant's written statement indicates the reduction is an average of 17% for the proposed lot depths. However, the information submitted in the written statement creates confusion for determining the lot depth, as it does not exactly match the applicant's site plan. In reviewing the applicant's site plan, staff has determined the request qualifies as a minor variance reduction to lot depth. Since the lots are on the cul-de-sac bulb, there is a varying depth for each of the lots. At the shortest point, the lots are approximately 55 feet. The depth at the northern corner of the lots is approximately 68 feet and the depth at the southern corner of the lots is approximately 58 feet. Averaging the 3 measurements results in an overall lot depth of approximately 60 feet, which is a 14.3% reduction. Therefore, minor

variance approval is requested, and the Hearings Officer finds that it is the minimum necessary to allow for this proposal. As a condition of variance approval, the proposed lot depths for lot 5 and 10 must substantially conform to what is proposed. This requirement will be regulated as part of the subdivision check plat and Mylar review and approval process. The Hearings Officer finds this request satisfies this criterion.

***D. There has not been a previous land use action approved on the basis that a minor variance would not be allowed.***

**FINDINGS:** There are no other previous land use actions that would not allow this particular variance. The Hearings Officer finds this request satisfies this criterion.

### **DECISION**

The Hearings Officer approves the subdivision and minor variance, subject to the following conditions of approval:

#### **General Requirements:**

1. The following requirements are regulated, and must be met to the satisfaction of the Public Works Department, regarding sanitary sewers, water systems, street, and drainage improvements, and other requirements:

#### **SANITARY SEWERS:**

The subject property is located within the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will not be required.

- a) City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the Applicant's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City's Master Sewer Plan for the area.
- b) Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Appropriate easements for any public sewer mains located within the subject property, if located outside platted right of ways, will need to be recorded in a form which meets the City of Salem Design Standards and shown on the subdivision plat. Any sanitary sewer easements shall be in favor of the City of Keizer.
- c) It will be the responsibility of the Applicant's engineer to locate any existing sewer services within Tepper Lane (including those serving the adjacent property) in the vicinity of the proposed new sanitary sewer lines for the subject property. The Applicant, prior to platting of the proposed subdivision, shall eliminate any conflicts between existing wells and proposed sanitary sewers.
- d) If a design exception to the City of Salem standards for sewer construction will be

required for this project, any submittals for an exception shall be copied to the City of Keizer for review

WATER SYSTEM:

a.) A master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements to the City of Keizer will be required for all public water mains, fire hydrants and private services if construction is to be outside of public right of ways. Any system development charges for water system improvements will be those in place at the time of individual service connections.

b.) Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of Public Construction permits by the City of Keizer. All required fire hydrants shall be served by an 8 inch water main.

c.) Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements. The Applicant shall provide evidence to the Public Works Department that any abandonment of existing wells has been completed in accordance with such requirements.

d.) Location of all meters to be approved by the Public Works Department.

STREET AND DRAINAGE IMPROVEMENTS:

a.) The applicant's engineer shall submit an overall storm drainage plan that will provide service to this development consistent with the City's Master Storm Drain Plan for this area of Keizer.

b.) Storm water quality and detention improvements will be required in conformance with the City of Keizer Public Works Department Design Standards. The developer's engineer shall conduct on-site percolation tests, (the location and frequency of tests are to be coordinated with the City of Keizer Public Works Department) to determine the suitability of the soils for the proposed disposal system. The percolation test and soil analysis shall be performed by a qualified professional engineer. Storm Water calculations shall be submitted in conjunction with the project design drawings and shall indicate how the development complies with the City of Keizer Public Works Design Standards for the basin. All storm water runoff from the property shall be kept on site. No public storm drain system exists for the development to connect to.

c.) A grading and drainage plan shall be developed for the subject property. Details shall include adequate conveyance of storm water from all contributing areas across the subject property and shall include existing elevations and proposed lot corner elevations. The plan shall be submitted to and approved by the Public Works Department prior to the issuance of any Public Construction permits for street or storm drainage for the subject property. Grading and drainage plans shall be in conformance

with the City of Keizer Public Works Design Standards. Additional information regarding street grades, site grading, inverts, etc., will be required for review prior to any plan approval.

d.) The proposed new street, designated as Jacob Court on the application, shall have a minimum of a 42 foot right of way with a minimum of 30 feet curb to curb street improvement with 5 foot sidewalks on each side of the street. Tepper Lane shall be improved to local street standards on the south side of the street with a 5 foot sidewalk constructed at the time of the street improvement. The half street improvement shall be a minimum of 16 feet from centerline. The right of way required from the centerline of Tepper Lane shall be a minimum of 23 feet. Due to the location of the existing drop curbs on Jacobe Street to the North of the subject property, a double curb ramp will be required at the northwest corner of the intersection of proposed Jacob Court. The curb ramp on the widened portion of Tepper Lane shall be aligned as close as possible to the existing curb ramp at the southeast corner of the intersection of Tepper Lane and Jacobe Street. A striping plan for Tepper Lane will be required to provide for a safe and uniform traffic movement along the newly widened street.

#### OTHER

a.) Construction permits are required by the Public Works Department prior to any public facility construction.

b.) A Pre-design meeting with the City of Keizer Public Works Department will be required prior to the Developer's Engineer submitting plans to either the City of Keizer or the City of Salem for review.

c.) Street opening permits are required for any work within the City Right of Way that is not covered by a Construction Permit.

d.) A Pre-construction conference shall be required prior to commencement of any Subdivision/Minor Variance  
Case No. 2021-07 Page 26 Of 28  
construction under permits issued by the City.

e.) An improvement agreement shall be executed between the developer and the City of Keizer prior to recording of the subdivision plat.

f.) A master utility plan including all proposed power, telephone, gas and cable TV. lines shall be submitted to the Public Works Department for review prior to the Department issuing construction permits for the proposed project.

g.) Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property.

h.) Developer shall coordinate the location of mailboxes with the U.S. Postal Service.

i.) The developer of the proposed project shall create a street lighting district for the new subdivision which will include adequate lighting for the widened portion of Tepper Lane.

j.) A PUE along all public street right of ways shall be shown on the plat for the proposed development.

k.) Any septic tank and drain field located on the subject property and within the City of Keizer shall be abandoned according to the requirements of the appropriate agency. Evidence of satisfactory compliance shall be submitted to the City of Keizer prior to issuance of any building permits on the subject property.

**Prior to Preliminary Plat Approval:**

2. A detailed preliminary subdivision plat shall be submitted to the Marion County Surveyor's office for review. Marion County Surveyor's office will then submit the plat to Keizer for review and approval. The Preliminary Plat must be submitted for review prior to submittal of a final plat. The process for plat review and submittal shall be regulated by the Marion County Surveyor's Office. All requirements of the Marion County Surveyor's Office and applicable state statutes shall be followed which may include, but not be limited to the following:

- a. Subdivision name must be approved per Oregon Revised Statue 92.090.
- b. Must be surveyed and platted per Oregon Revised Statue 92.050.
- c. Subdivision plat must be submitted for review.
- d. Checking fee and recording fees required.
- e. Per Oregon Revised Statue 92.065 remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
- f. A current or updated title report must be submitted at the time of review. Title reports should be no less than 15 days old at the time of approval of the Plat by the Surveyor's Office, which may require additional updated reports.

The detailed preliminary plat shall include the following provisions:

- a. The preliminary plat shall substantially conform to the proposed subdivision request.
- b. Include all engineering elements as required by the Department of Public Works.
- c. For all public water mains, fire hydrants and any public sewer mains located within the subject property (if located outside platted right of ways) easements will be required and will need to be recorded. These easements shall meet the City of Keizer or City of Salem (where applicable) Design Standards shall be shown on the subdivision plat.
- d. 10 foot wide public utility easements (PUE) shall be shown along all dedicated right of ways.

- e. All lots must conform to the lot dimension standards within the RS zone (lots 5 and 10 may be less than 70 feet in depth per variance approval). The final Plat must show both gross and net area calculations.
  - f. Include all dedication as required by Public Works.
3. With the Preliminary plat a copy of the proposed CC&R's, Owners Agreements, Articles and By-Laws shall be submitted to the Planning Department for review by the City Attorney as outlined in Section 3.108.07 of the Keizer Development Code. The following information should be included within the instrument(s):
    - a. Information regarding streetscape and replacement tree requirements for each lot.

**Prior to Final Plat approval:**

4. The existing dwelling and outbuildings must be removed.
5. The applicant shall submit a revised Tree Removal and Replacement Plan to the Planning department for review and approval, showing the approximate location of all streetscape and replacement trees to be planted. Significant trees removed shall be replaced at a ratio of 2 replacement trees for every 1 tree removed.

If all 176 trees qualify as significant trees and are removed, a total of 352 replacement trees shall be provided within the subdivision or accounted for in an off-site mitigation plan. Off-site mitigation should be utilized to avoid overcrowding. Payment into the City's landscape mitigation fund must be made prior to plat approval. If the applicant wishes to propose larger specimen trees for replacement, the Planning Director may reduce the total number of replacement trees required. Regardless of how many trees are provided through off-site mitigation, streetscape trees will be required (28 total within the subdivision) to be planted for each lot according to the quantities identified in this report. In addition to streetscape trees a minimum of 1 replacement tree must be provided on each lot.

6. Upon approval of the detailed preliminary plat and engineering plans, a final plat for the subdivision, which conforms to the preliminary plat approval, must be submitted for review to Marion County Surveyor's Office.
7. Upon approval of the preliminary agreement, a final copy of any CC&R's, Homeowner Agreements, or other instrument shall be submitted to the Planning Department which conforms to the agreements submitted during preliminary plat approval and shall contain language regarding the requirements for streetscape and replacement trees, and fencing.
8. The final plat for the subdivision shall be recorded within 2 years from the date of final decision on this application. A one year extension may be approved by the Planning Director. Requests for extensions must be received in writing at least thirty days prior to the one year time period.

**Prior To Obtaining Building Permit(s):**

9. No building permits shall be issued until the plat is recorded and all conditions of any construction permits are completed to the satisfaction of the Department of Public Works.
10. Proposed dwellings must comply with the design standards of KDC Section 2.314.

**Prior to Obtaining Building Permit Final for each dwelling within the Subdivision:**

11. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by the Keizer Fire District and the Planning Department.
12. Streetscape trees will be required to be planted prior to final building permit approval for each lot. Trees must be planted consistent with Section 2.309 of the KDC which requires a minimum 2" caliper and 8 feet in height for deciduous trees. Streetscape trees shall be planted in the quantities as follows:
  - Lots 1 and 14 = 2 trees along Tepper Ln + 2 trees along new public street (total of 4)
  - Lots 2-5 and 10-13 = 2 trees along new public street
  - Lots 6-9 = 1 tree along the new public street
13. Trees designated as replacement trees from the final approved Tree Replacement Plan must be planted within the subdivision for each individual lot as required.
14. A six-foot tall sight obscuring fence or vegetative hedge must be provided for the perimeter of the subdivision. Fencing or vegetation must be installed along the west, south and east boundary of the subdivision on each individual lot as it is developed.
15. The Applicant or any contractors building on lots shall comply with all applicable City regulations regarding noise, dust, times of construction, etc.

Any participant not satisfied with this decision may appeal to the City Council within 10 days of the date this written decision is mailed. Any appeal must be timely, on forms provided by the Administrator and accompanied by the fee established by Keizer Development Code Section 3.208.

DATED: August 3, 2021



---

James K. Brewer, Hearings Officer