

CITY OF KEIZER HEARINGS OFFICER

In the matter of the Application of )  
Brand Land Use, LLC to Subdivide ) Case No. 2022-05  
Approximately .99 acres Into 6 Lots for )  
Property Located at 8015 O'Neil Rd. NE )  
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**ORDER**

**I. Nature of the Application**

This matter comes before the City of Keizer Hearings Officer on the application of Brand Land Use, LLC., on behalf of the owner, Craig Wigginton. The property is located at 8015 O'Neil Rd NE and is identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 23DA Tax Lot 01800.

**II. Relevant Criteria**

The standards and criteria relevant to this application are found in Section 3.108 of the City of Keizer's Development Code (KDC) and are fully evaluated in the Staff Recommendation.

**III. Public Hearing**

The City of Keizer duly held a public hearing on this application on May 31, 2022. At the hearing, the Planning Division file was made a part of the record, as was the audio recording of the hearing.

The following persons submitted written comments and/or appeared at the hearing and provided testimony on the application:

1. Shane Witham, Senior Planner, City of Keizer; Bill Peterson, City Engineer, City of Keizer.
2. Britany Randall, Brand Land Use LLC on behalf of Craig Wigginton, Applicant/Property Owner.
3. Robert Panger.
4. Steven Hobbs.
5. Mark Dodge.
6. Kathryn Dodge.
7. Lisa Davis.
8. Alice Preedy.
9. Stan Rumbaugh.
10. Crystal Huerta.
11. Heidi Kunnelmeyer.

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 the failure to raise all arguments may result in waiver of arguments at subsequent appeal forums. Although concerns were raised about the public notice, the City's records show that notice was properly mailed to every address within the notice area. No objections were raised as to conflicts of interest, or to evidence or testimony presented at the hearing. No objection was raised to the Hearings Officer's jurisdiction over the matter.

Shane Witham explained the nature of the application and recommended approval. City Engineer Bill Peterson provided comments and expert testimony regarding the adequacy and design of public infrastructure.

Members of the public in opposition to the proposal testified about a number of concerns, which the Hearings Officer generally summarizes as being related to the change in the density of development in the area, and, more specifically, categorizes as concerns about existing drainage, ponding and flooding on neighboring properties, increased traffic and inadequate room for off street parking, concerns about the type and nature of the structures and the ownership form, and what would happen with the significant trees on the property. Prior to the close of the hearing, Stan Rumbaugh asked to have the record held open and the Applicant reserved the opportunity to present a final written argument. The record was held open, but no one submitted additional written testimony or evidence during the period the record was open. The Applicant waived the opportunity to present a final written argument by email dated June 8, 2022.

#### **IV. Proposal**

The Applicant (Craig Wigginton) is requesting to subdivide one parcel of approximately .99 acres into 6 lots to build detached single family dwellings. The lots are proposed to range in size from 5,750 – 6,945 square feet. The applicant's Written Statement and preliminary plans are attached to the staff recommendation and, along with the staff recommendation, are part of the record.

#### **V. Findings of Fact**

The Hearings Officer, after careful consideration of the information from the application, staff recommendation, and the testimony and evidence in the record, issues the following findings of fact:

The Hearings Officer notes that the property is located at 8015 O'Neil Rd NE and is identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 23DA Tax Lot 01800. The property is approximately .99 acres in area. The property contains an existing single-family home and multiple outbuildings. Public facilities are available and are proposed to be extended to the site to serve the development.

The Hearings Officer notes that the property is designated Low Density Residential on the Comprehensive Plan Map and is zoned Urban Transition (UT). Section 2.118.10 of the UT zone automatically rezones land within the UT zone to the Single Family Residential (RS) zone once a subdivision plat is approved and recorded.

The Hearings Officer notes that Properties surrounding the subject parcel are developed with detached single-family dwellings. The property directly to the north is also zoned UT and properties to the west, south and east are zoned Single Family Residential (RS).

The proposal is to subdivide the .99 acre parcel into a 6 lot subdivision. Lots 1 and 2 are proposed to have direct access to an existing public right-of-way and lots 3-6 are proposed to gain access from a private access easement.

The May 24, 2022 staff recommendation (including all 12 exhibits) does an excellent and thorough job of explaining how the application satisfies all of the applicable approval criteria and addresses the concerns from the public that were presented as written comments prior to the completion of the staff recommendation. Most of the findings in the staff recommendation were not challenged by any opponents. Similarly, the conditions recommended by staff were not challenged by the applicant, nor did any opponent explain why the proposed conditions did not ensure that the proposed subdivision will comply with the relevant criteria from the Keizer Development Code. Rather than review and repeat all of the unchallenged findings in the staff report, the Hearings Officer adopts and incorporates the findings recommended in the staff report as part of this decision. In addition to the findings adopted and incorporated from the staff recommendation, I will address the following concerns raised in public testimony. Addressing those concerns will largely rely on information already in the staff recommendation and the conditions of approval proposed by staff. I am compelled to explain that repeating or making specific findings relying on the staff recommendation and the proposed conditions of approval should not be seen as altering or removing other conditions of approval incorporated from the staff recommendation by reference. Express inclusion in the decision is largely a matter of calling attention to evidence already in the record.

1. Drainage and flooding.

The Hearings Officer notes that much of the testimony during the hearing involved concerns about how the proposed subdivision will address storm water drainage, and current local flooding or ponding on the property and on neighboring properties. The Hearings Officer notes testimony addressed an aqueduct or swale in back of the property, ponding, the general saturation of the neighboring property, a drainage grate and sump pumps in the area, that water was currently moving across this property onto neighboring properties, and that the neighborhood has historically flooded, with full swales and surface ponding.

The Hearings Officer also notes that Oregon has adopted the civil law of drainage, which is a doctrine that entitles adjoining property owners to have the natural course of drainage maintained. Lower property owners must accept water that naturally drains from higher lands, but are entitled not to have water diverted in a way that substantially increases the quantity or flow from the normal condition. The lower property owners may not obstruct the runoff from the upper land. The cases on this type of drainage are nuanced. Factual information about the natural drainage basin and whether gathering or pumping water prior to discharge on a receiving property damages the receiving property or whether impounding water damages the originating property in some way can have a great impact. The Hearings Officer notes that for purposes of land use planning,

conditions of approval that require further design and approval of engineered solutions must be based on a preliminary determination that a design solution is feasible.

The Hearings Officer notes that City of Keizer has land use standards and criteria that provide for the drainage of surface water from development in the Keizer Development Code, Section 2.306. The Hearings Officer notes that as public testimony regarding ponding and flooding in the areas neighboring the subject property were outlined, the City Engineer was able to provide expert information about the property being located in a critical drainage basin, which will require the developer to design an on site drainage system that must have the capacity to ensure that this development will have no increase in runoff for all storm events up to the 100 year maximum rainfall. Consistent with Section 2.306.06, the proposed subdivision will be required to convey storm water runoff in a manner that does not cause overflowing or damage property. When the Hearings Officer asked where stormwater from the site would go after development, the City Engineer's response was that storm water would need to remain on the site, in order to meet the requirements of the code. The Hearings Officer also notes the testimony by the applicant's representative, that as part of the application process, the applicant provided a considerable amount of information to demonstrate to Public Works as a preliminary matter that dealing with the drainage from the site is feasible. The Hearings Officer agrees that it is feasible for the proposed subdivision to be designed so that the additional stormwater generated by the proposed impervious surfaces associated with new houses, sidewalks, access drives and the like will be retained on the site. The Hearings Officer finds that in doing so, the proposal will meet the requirements in the code and will not make the surface drainage issues worse (and is likely to incrementally improve the surface drainage issues in the area).

The specific findings recommended by the staff and adopted and incorporated by the Hearings Officer are as follows:

*"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. The applicant submitted a preliminary grading and drainage plan and stormwater analysis as part of their application materials, and has indicated they intend to comply with the City's requirements regulating stormwater management. The Public Works Department submitted comments containing requirements that will assure the proposed development can comply with City storm drainage requirements.*

*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. 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 determined by 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. The property being developed is located within a critical drainage basin. All storm water runoff from the property shall be kept on site.*

*A final 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 Department of Public Works 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 placed as conditions of approval, this application complies with this provision.*

In order to ensure that this development complies with the standards and criteria from Section 2.306, the Hearings Officer will impose the following conditions of approval:

- 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. The property being developed is located within a critical drainage basin. All storm water runoff from the property shall be kept on site.
- 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.

The Hearings Officer finds that there is substantial evidence in the record that it is feasible for the proposed development to comply with these conditions of approval. With these conditions of

approval, the Hearings Officer finds that there is substantial evidence in the record to conclude that the subdivision complies with the relevant criteria related to storm drainage.

2. Traffic and parking.

The Hearings Officer notes that members of the public raised a number of issues related to traffic and parking, including the safety of children going to schools, bicycle safety, sidewalk connectivity, whether there will be adequate space for on and off-street parking, and the overall adequacy of the road width and private access width for traffic and emergency vehicles.

The Hearings Officer notes that O'Neil Road NE is developed with City curb and sidewalk on the opposing side of the street to Clear Lake Road NE, but the public curb and sidewalk terminates south of the subject site. Infill development increases density, and as a result more users share the public rights of way that occurs in more rural areas. To address safety and quality of life issues, the City of Keizer has adopted standards for the street and sidewalk systems that ensure the safety and convenience of the public. The Hearings Officer notes that this development will be required, as a condition of development, to provide additional right of way width, and to improve the right of way with curb and sidewalks extending along the frontage of the site. Each lot will be required to satisfy off-street parking standards set out in Section 2.303. The Hearings Officer notes that the private access easement will exceed the City standard width by two feet, and although it is not a cul-de-sac, the private easement will also include a turnaround designed to Marion County Fire District specifications and KDC provisions. Finally, the Hearings Officer notes that the proposed development will need to dedicate an additional 15 feet of new public right-of-way along the O'Neil Road NE frontage of the property, to provide adequate room and improvements to meet public works specifications and standards.

The Hearings Officer notes the following condition of approval recommended by staff related to Street Improvements:

- d.) The frontage along O'Neil Rd. shall be improved to public works design standards. A 5-foot curb line sidewalk shall be constructed on the West side of the O'Neil Rd. Right-of-way will be required to be dedicated to meet City of Keizer Design Standards. The applicant has indicated that 15 feet of additional right-of-way on the west side of O'Neil Road will be dedicated as part of the platting process. The applicant's proposal is acceptable to the Department of Public Works. The half street improvement shall be a minimum of 17 feet from centerline. A striping plan for O'Neil Rd. shall be prepared to provide for a safe and uniform traffic movement along the newly widened street.

The Hearings Officer finds that there is substantial evidence in the record to support the conclusion that with the imposition of this condition, the proposed subdivision satisfies the relevant criteria related to transportation and streets.

The Hearings Officer notes that the City established off-street parking standards in Section 2.303 of the KDC. As set out in the staff recommendation, the parking requirements are regulated through the building permit process, and the applicant has demonstrated

that it is possible to comply with those requirements on a lot-by-lot basis. Public testimony in opposition raises the question of where visitors to the subdivision will park, or where residents of the subdivision who have more drivers and cars than the number of parking spaces required by the standards will park the excess. The Hearings Officer notes that the public right of way is, by definition, a public asset, shared by all members of the public. The Hearings Officer notes that the City of Keizer has enacted a local ordinance regulating parking, limiting the total amount of time that any vehicle might be parked on a public way to 72 hours and prohibiting certain vehicles and inoperative vehicles completely. These regulations are a legislative determination by the City regarding how residents may legally share the public right of way.

The Hearings Officer notes that staff recommends imposing the following condition of approval related to off-street parking requirements:

19. Parking spaces shall be provided for each dwelling unit within the subdivision in accordance with KDC Section 2.303. Parking spaces must be a minimum 9' wide and 18' long.

The Hearings Officer finds that there is substantial evidence in the record to demonstrate that with this condition of approval the proposed subdivision satisfies the relevant criteria related to off-street parking.

### 3. Type/Nature of Structures/Ownership form.

The Hearings Officer notes testimony in opposition and neutral testimony raising concerns that the proposed subdivision might be developed with manufactured homes rather than stick or site-built houses. The Hearings Officer notes the response in the staff recommendation to this issue: state law and the Keizer Development Code do not allow a distinction between manufactured homes or site-built houses on individual lots. The Hearings Officer notes testimony from the applicant at the hearing to the effect that the plan was to build site-built houses. The Hearings Officer notes that this is an issue that has been raised by members of the public in other subdivision hearings, and speculates that part of the concern by the public may be due to the application form (included with the staff recommendation) being titled "Subdivision/PUD/Manufactured Home Park Application". Although the box on the application for "subdivision" is checked, a quick glance at the application may simply raise the concern that the application is for a manufactured home park. That is not the case. Without relevant criteria, the Hearings Officer sees no reason to further address this issue nor can the Hearings Officer impose a condition of approval.

Similarly, the Hearings Officer notes testimony in opposition and in neutral testimony regarding whether the houses in the proposed subdivision would be single story or multiple story in nature, and regarding whether the houses would renter or owner occupied. There are no criteria that would permit the Hearings Officer to require that only single story, or only multiple story, or some specific combination of each must be built in this subdivision. The homes developed on the lots must meet the Keizer Development

Code, which would allow either. The Hearings Officer notes that there are no relevant criteria that would permit the Hearings Officer to require that the subdivision permit only owner or only renter occupied structures, or some specific combination. While testimony at the hearing included some speculation on what the market is likely to bring, without relevant criteria, the Hearings Officer draws no conclusion and has no ability to impose conditions of approval related to these concerns.

#### 4. Significant Trees.

The Hearings Officer notes that testimony in opposition and neutral testimony inquired about the treatment of significant trees on the site, with specific concern about trees that were already removed. The Staff report at the hearing made it clear that significant trees that were removed within the year prior to the application date would still need to be accounted for in the Tree Removal and Replacement Plan required by conditions of approval. The Hearings Officer notes that there is a discrepancy between the possible number of removed trees—from 21 to 26. The applicant's testimony was that it was likely to be 21, but that the Hearings Officer finds that the exact number still need to be confirmed, and the number of replacement trees must be based on the final confirmed number.

The Hearings Officer notes that portion of the staff recommendation addressing Section 2.309—Site and Landscaping Design, and especially that portion addressing Section 2.309.03(B)(7f.). The Hearings Officer notes that the number of replacement trees must be based on the number of trees that are identified as “significant” and that were either removed in the calendar year prior to the application or as part of site development consistent with the application. The Hearings Officer agrees the staff recommendation and imposes the following condition to ensure that this criterion is satisfied:

12. A final Tree Removal and Replacement Plan must be submitted to the Planning department for review and approval to confirm the total number of trees removed (21 or 26) designating locations for placement, or proposing off-site mitigation for required replacement trees. The plan must show the approximate location of all trees to be planted. The plan shall also show the approximate location of required streetscape trees for each lot, which can count toward the overall replacement requirements. Significant trees must be replaced at a 2:1 ratio. It is anticipated that not all replacement trees will be provided on site, and the applicant will provide a fee in lieu, for off-site tree planting to mitigate some of the trees removed.

The Hearings Officer finds that there is substantial evidence in the record to demonstrate that with this condition of approval the proposed subdivision satisfies the relevant criteria related to replacement of significant trees.



## **VI. DECISION OF THE HEARINGS OFFICER**

The Hearings Officer finds that substantial evidence in the record as a whole, including the application, staff recommendation with attachments, public comments and testimony at the public hearing, demonstrates that the subdivision proposal complies with the applicable decision criteria. The Hearings Officer consequently **APPROVES** the proposed subdivision, subject to the following Conditions of Approval, which must be completed, including review and approval by the appropriate department, prior to the timelines outlined below. Compliance with the Conditions of Approval is the sole responsibility of the applicant(s) and/or property owner.

## **VII. CONDITIONS OF APPROVAL:**

### **General Requirements:**

1. The KDC requires the developer to connect to public utility services. The Development Code also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs. The City's System Development Charges for park development, water system improvements and transportation improvements shall be the fee in place at the time of building permit application. These Development charges, as well as those involving the extension of sewer, water, and/or storm drainage, will apply to this request.
2. 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 outside the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will be required unless the owner can provide evidence that the property has previously been assessed for sewer service to the property by the Keizer Sanitary Sewer District. The current rate is \$7,460.00 per acre.

- 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-way s, 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 that serve the subject property.

#### 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 and fire hydrants 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 Marion County Fire District No. 1 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. The property being developed is located within a critical drainage basin. All storm water runoff from the property shall be kept on site.
- 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 frontage along O'Neil Rd. shall be improved to public works design standards. A 5-foot curb line sidewalk shall be constructed on the West side of the O'Neil Rd. Right-of-way will be required to be dedicated to meet City of Keizer Design Standards. The applicant has indicated that 15 feet of additional right-of-way on the west side of O'Neil Road will be dedicated as part of the platting process. The applicant's proposal is acceptable to the Department of Public Works. The half street improvement shall be a minimum of 17 feet from centerline. A striping plan for O'Neil Rd. shall be prepared 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 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 if recorded prior to completion of the public improvements.
- f.) Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property.
- g.) Developer shall coordinate the location of mailboxes with the U.S. Postal Service.
- h.) 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 O'Neil Rd.
- i.) A PUE along all public street right-of-ways shall be shown on the plat for the proposed development.
- j.) 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.

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**Prior to Preliminary Plat Approval:**

6. 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.
  - 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 shall be no more 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:

- g. The preliminary plat shall substantially conform to the proposed subdivision request.
  - h. Include all engineering elements as required by the Department of Public Works.
  - i. 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 and shall be shown on the subdivision plat.
  - j. 10-foot-wide public utility easements (PUE) shall be shown along all dedicated right-of-ways.
  - k. All lots must conform to the lot dimension standards within the RS zone. The final plat must include gross and net area calculations (excluding access easement and turn-around),
  - l. Access easement and turn-around areas shall be shown on the plat and shall comply with City and Marion County Fire District #1 standards. Access easement name to be shown on the plat.
  - m. Include all dedication as required by Public Works.
  - n. Include a signature line for both the City Engineer and the City Manager.
7. With the Preliminary plat, a copy of any 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 trees requirements for each lot.
  - b. Information regarding the maintenance of the access easement, no parking signs, and

fencing along the access easement.

**Prior to Final Plat approval:**

8. 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.
9. 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.
10. A maintenance agreement, homeowners association, or other instrument acceptable to the City and shall be reviewed by the City before the plat is recorded and such instrument must be recorded with Marion County immediately following the recording of the Plat. The agreement shall provide provisions for the maintenance of the access easement, fencing along the access easement, address display signage and "no parking" signs.
11. The existing dwelling, carport, and greenhouse must be removed. The accessory structures on Lot 1 and Lot 3 must either be removed, or prior to recording the final plat, the property owner must provide adequate information to the Planning Department for review to determine how the accessory structures, if retained, will comply with all provisions of KDC Section 2.313. In addition, an improvement agreement or other instrument acceptable to the City will be required to assure that new homes are constructed on Lot 1 and Lot 3 within a year of recording the plat.
12. A final Tree Removal and Replacement Plan must be submitted to the Planning department for review and approval to confirm the total number of trees removed (21 or 26) designating locations for placement, or proposing off-site mitigation for required replacement trees. The plan must show the approximate location of all trees to be planted. The plan shall also show the approximate location of required streetscape trees for each lot, which can count toward the overall replacement requirements. Significant trees must be replaced at a 2:1 ratio. It is anticipated that not all replacement trees will be provided on site, and the applicant will provide a fee in lieu, for off-site tree planting to mitigate some of the trees removed.
13. The construction and paving of the access easement and turn around area, installation of the street addressing signage, required no parking signage, and fencing for screening the access easement, shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement or other instrument acceptable to the City as outlined in Section 2.310.06.P of the KDC. Improvement agreements may be obtained from the Planning Department.
14. 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):**

15. 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.
16. The property owner must submit documentation that the recording has taken place with Marion County for the maintenance of the access easement, fencing along the access easement, address display signage and “no parking” signs before a building permit will be issued.

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

17. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by Marion County Fire District #1 and the City of Keizer Planning Department.
18. Replacement and streetscape trees identified in the revised tree Removal and Replacement Plan referenced in condition # 9 above must be planted on each lot within the subdivision prior to obtaining final building permit approval or Certificate of Occupancy. Trees are to be a minimum 2” caliper when planted.
19. Parking spaces shall be provided for each dwelling unit within the subdivision in accordance with KDC Section 2.303. Parking spaces must be a minimum 9’ wide and 18’ long.
20. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.

DATED: June 27, 2022.

A handwritten signature in black ink, appearing to read "James K. Brewer", written over a horizontal line.

James K. Brewer, Hearings Officer



**KEIZER PLANNING DEPARTMENT  
STAFF RECOMMENDATION  
Subdivision Case 2022-05**

**TO:** Jim Brewer, Keizer Hearings Officer

**FROM:** Shane Witham, Planning Director

**SUBJECT:** Subdivision Case No. 2022-05

**DATE:** May 24, 2022

**I. GENERAL INFORMATION**

- A. **APPLICANT/PROPERTY OWNER:** Craig Wigginton
- B. **AGENT:** Brand Land Use LLC – Brittany Randall
- C. **PROPERTY LOCATION:** The property is located at 8015 O'Neil Rd NE and is identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 23DA Tax Lot 01800. (Exhibit 1)
- D. **EXISTING PARCEL SIZE:** The property is approximately 0.99 acres in area.
- E. **EXISTING DEVELOPMENT AND PUBLIC FACILITIES:** The property contains a single-family home and multiple outbuildings. Public facilities are available and are proposed to be extended to serve the development.
- F. **PLAN DESIGNATION AND ZONING:** The property is designated Low Density Residential on the Comprehensive Plan Map and is zoned Urban Transition (UT). Section 2.118.10 of the UT zone provides for the automatic rezoning of land to Single Family Residential (RS) upon approval and recordation of the plat.
- G. **ADJACENT ZONING AND LAND USES:** Properties surrounding the subject parcel are developed with detached single-family dwellings. The property directly to the north is zoned UT and properties to the west, south and east are zoned Single Family Residential (RS).
- H. **PROPOSAL:** The subject property is proposed to be subdivided into a 6 lot subdivision. Lots 1 and 2 are proposed to have direct access to an existing public right-of-way and lots 3-6 are proposed to gain access from a private access easement. The applicant's written statement, preliminary plans, and preliminary stormwater analysis (Exhibit 2) are attached.
- I. **NOTICE:** Public notice was mailed, published and posted consistent with notice requirements in KDC § 3.204.

## **II. COMMENTS**

### **AGENCY COMMENTS:**

- A.** The Keizer Public Works Department submitted comments which contain development requirements regarding sanitary sewer, water system, street and drainage improvements and other general development requirements (Exhibit 3).
- B.** The Marion County Surveyor's Office submitted comments outlining the requirements for surveying and platting the proposed subdivision in compliance with State requirements (Exhibit 4).
- C.** Marion County Fire District #1 submitted comments (Exhibit 5) with a list of fire code requirements for the project.
- D.** The City of Salem Public Works Department submitted comments (Exhibit 6) regarding sanitary sewer system standards.
- E.** The Salem Keizer School District submitted comments (Exhibit 7) regarding the proposed development and impact on nearby schools.
- F.** The City of Salem Planning Department submitted comments (Exhibit 8) regarding access widths. However, those standards do not pertain to this request since it is located in Keizer.
- G.** The Keizer Police Department submitted they have no comments.

### **CITIZEN COMMENTS:**

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

Robert Panger submitted comments (Exhibit 9) expressing the desire to have the fence between his property and the subject property fixed due to a tree falling from the subject property during an ice storm.

Steven Hobbs submitted comments (Exhibit 10) indicating he does not want manufactured housing developed because of concerns that it will reduce his home's property value.

Mark Dodge submitted comments via email (Exhibit 11) expressing concerns that he did not receive notice of the application, adequate emergency access provisions, and impacts to Forrest Ridge Elementary school.

Kathryn Dodge submitted comments via email (Exhibit 12) citing diminished property values, livability standards, burden on emergency services and potential lack of infrastructure.



## STAFF'S RESPONSE TO CITIZEN COMMENTS:

Staff appreciates the public participation of concerned citizens and has attempted to address the concerns expressed, as appropriate, through the findings and related conditions recommended for this proposal.

Mr. Pangar's concern regarding the fence is not something that is regulated by any review criteria in the Keizer Development Code (KDC) but rather a private issue between property owners. Staff feels that Mr. Pangar's concern is valid and is hopeful the developer will be willing to work toward a resolution regarding the fence.

Mr. Hobbs raised a concern regarding the placement of manufactured homes on the property, and the concern that manufactured homes would devalue his property nearby. The applicant has indicated the intent is to build new homes on the property, and he is not planning to place manufactured homes on the newly created lots. However, state law and the Keizer Development Code do not allow the City to discriminate against the allowance of manufactured homes on individual lots. A manufactured home is allowed to be placed wherever a "stick-built" home can be placed. There are specific design criteria that have to be adhered to for the placement of a manufactured home on an individual lot which are found in KDC Section 2.402.

Mr. Dodge raised concerns over notice, emergency access, and schools. On the issue of notice - staff reviewed the certificate of mailing and found that Mr. Dodge's property is outside the notice area of 250 feet, which is why he did not receive the request for comments or hearing notice in the mail. The property has been posted and staff did respond to Mr. Dodge's email to confirm the hearing information. Staff has included his email as an exhibit to this staff report to assure he has opportunity to participate. On the issue of emergency access - the private access easement proposed to be 22 feet in width, which is actually 2 feet wider than the minimum required by the KDC. In addition, a turnaround is being provided which is designed to the Marion County Fire District #1 specifications and KDC provisions. Comments were received from Marion County Fire District #1 regarding access, and conditions are recommended to assure that emergency access to the newly proposed lots are satisfied. On the issue of schools - the Salem Keizer School District submitted comments regarding the impact on local schools serving the proposed development. In their letter, they indicate the number of projected additional students and that capacity at the schools is adequate.

Mrs. Dodge raised concerns regarding diminished property values and livability, burden on emergency services, and potential lack of infrastructure. Conditions of approval are recommended with this staff report which require adequate access emergency services, as well as adequate infrastructure to serve the development.

## **III. FINDINGS**

The review criteria for a subdivision are listed in Section 3.108.06 of the Keizer Development Code (KDC). The criteria and findings for the subdivision request are listed below:

### **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.**

Section 2.405 KDC contains development standards for manufactured home parks and is therefore not applicable in this situation. 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. 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 placed as conditions of approval this request can 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 subject property is proposed to be subdivided into 6 lots. Lot 1 and Lot 2 are proposed to gain their access from an existing local street and Lots 3-6 will gain their access from a private access easement with a turnaround planned to be located between Lots 4 and 5.

The City has adopted minimum street standards that are found to be 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 specific conditions of approval in conformance with these standards to ensure public convenience and safety which are 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 report. Prior to submitting construction plans for the proposed subdivision a pre-design meeting with the developer's engineer and the Department of Public Works. With the above-mentioned conditions, staff 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 2302.03.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 street connectivity. In this particular case, the property is surrounded by developed single family homes and no additional development potential exists. The proposal is to terminate the access easement. Taking these factors into consideration, staff finds that no continuation of the proposed public street is warranted, so this provision is not applicable.

- 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 so as to ensure safe vehicle travel. No new street is proposed with this application, but rather a private access easement. Therefore, this provision is not applicable.

- 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 subdivision application proposes a new private access easement and does not propose an extension of an existing street; therefore, this provision is not applicable.

- 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:** No new public streets or intersections are proposed. The applicant proposes to create a new private access easement which will intersect with O'Neil Rd and will be regulated through the driveway permit approval process with the Public Works Department. Therefore, this criterion is not applicable.

- 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. In this case, the property has frontage along O'Neil Rd which will necessitate additional right-of-way dedication. The applicant is proposing to dedicate an additional 15 feet of right-of-way for widening and improving O'Neil Rd. The Public Works Department submitted comments which are recommended as conditions of approval for this application, which indicate the applicant's proposal is acceptable. With the Public Works Department comments placed as conditions of approval, staff finds this section 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; therefore, this section is not applicable.

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

**FINDINGS:** A "cul-de-sac" is defined in the City of Keizer Design Standards as "a dead-end street having a circular turnaround area at its terminus." The proposed subdivision is proposed to have two lots access from O'Neil Road NE and 4 lots off of a private access easement. No new cul-de-sac streets are proposed with this application; therefore, this standard does not apply.

- 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. This proposal includes a new private access easement that will serve 4 lots. The access easement will be required to be named and to be numbered to conform to the City's street addressing procedures. The applicant included proposed street names as a part of the submitted application, which is subject to final City approval. The final approved street name for the private access easement must be shown on the

preliminary and final plat. With this placed as a condition of approval, staff finds this proposal will 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, which will regulate the design of the proposed improvements. With these requirements placed 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 propose subdivision will be accessed from an existing local street and proposed private access easement. No frontage streets are proposed. Therefore, this criterion is not applicable.

- 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 located in a residential 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. Frontage improvements are proposed and are required along O'Neil Rd which will include street widening and a curb line sidewalk. The right-of-way design will not provide a landscape strip, and therefore, street landscaping is not required. Staff finds this criterion is not applicable to this request.

- 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:** The proposed subdivision will be accessed from a local street and a proposed private access easement. The developer will be required to obtain driveway permit approval for the individual lots within the subdivision. Staff finds this proposal complies 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 60 feet in width shall be required to plant one streetscape tree. Lots measuring more than 60 feet in width shall be required to plant two streetscape trees.*
  3. *Streetscape trees shall be selected from a list of approved trees.*

**FINDINGS:** The property has frontage along O'Neil Rd. Lot 1 is proposed to be approximately 52 feet in width and Lot 2 is proposed to be approximately 62.96 feet in width. Therefore, it is recommended that one streetscape tree be provided for Lot 1 and two streetscape trees be provided for Lot 2. Streetscape trees will be required to be planted prior to final building permit approval for each of the proposed lots. With this requirement placed as a condition of subdivision approval, staff 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 Public Works Department has submitted comments which have been incorporated into the recommended conditions and requirements of this report, which outline the necessary right-of-way and improvement requirements for this subdivision proposal. As a condition of subdivision approval, the requirements outlined in the Public Works requirements must be adhered to. Right-of-way will be required to be dedicated

along O'Neil Road. The applicant is proposing to dedicate an additional 15 feet of right-of-way along the west side of O'Neil Road as part of the platting process, which is acceptable to the Public Works Department. The half street improvement shall be a minimum of 17 feet from the centerline. With these requirements placed as conditions of subdivision approval, staff finds this proposal can comply 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. Lot 1 and Lot 2 will be served by an existing street (O'Neil Rd) that will be improved to public works specifications. Lots 3-6 will be served by a private access easement. 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 placed as a condition of approval, staff 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. Turn-around; D. Parking; E. Trees Along Access Easements; F. Screening:*

**FINDINGS:** The intent of this provision is to assure private access easements are constructed in a manner consistent with city standards thereby avoiding the creation of a substandard access that might be unusable for vehicular traffic.

**A. Width:** A 20' wide easement with paved width of 16 feet is required for private access easements serving two or more dwelling units. In addition, the easement cannot exceed 300' in length. The improvement of the access easement shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement or other instrument acceptable to the City as outlined in Section 3.202.02.E.3 and 3.202.05.B of the Keizer Development Code. The applicant has indicated in their written statement and site plan that a 22' wide access easement is proposed with 16 feet of paved width that is approximately 251 feet in length, and therefore can comply with these standards.

**B. Maintenance:** Provisions for the maintenance of the access easement, fencing along the access easement, address display signage and "no parking" signs shall be provided in the form of a maintenance agreement, homeowners association, or other instrument acceptable to the City and shall be recorded with the Marion County Clerk. The agreement shall include language stipulating that the agreement cannot be extinguished without written approval from the City of Keizer. Prior to final plat approval, the City of Keizer Planning Department will review and approve the Agreement for recording. The

agreement is to be recorded against the individual parcels in the subdivision immediately following the recording of the subdivision plat. Prior to issuance of any building permits for the new homes, submission of documentation of recording to the City is required.

**C. Turn-around:** The KDC requires a turn-around for access easements serving two or more dwelling units. Turn-arounds shall be either a circular turn-around, or a "tee" or "hammerhead" turn-around. The applicant has submitted a site plan that shows an acceptable turnaround located between Lot 4 and Lot 5. Marion County Fire District #1 submitted comments regarding access requirements for the subdivision.

**D. Parking:** No parking is allowed within the 20' required access easement width or turn-around area. This allows emergency vehicles to be able to access the new lots. All private access easements serving as the sole access for two or more parcels or lots shall display "No Parking" signs approved by the City. The applicant has indicated they will install no parking signs as required. Marion County Fire District #1 submitted comments regarding the installation of No Parking signs and it is recommended that as a condition of approval, no parking signs be provided according to the requirements of Marion County Fire District #1. No parking signs shall be provided at the time of construction of the access easement improvements.

**E. Trees Along Access Easements:** In certain cases, streetscape trees are required along access easements. If required, trees shall comply with the provisions of Section 2.309 of the KDC. Lots measuring along the access easement less than 60' shall plant one streetscape tree and lots measuring more than 60' along the access easement shall be required to plant two streetscape trees. Streetscape trees are selected from a list of approved trees and planted within 10 feet of the access improvements within the boundaries of each lot. Lots 1 and 2 have frontage along O'Neil Rd and are not subject to this standard. Lots 3-6 all measure less than 60' along the access easement and will be required to plant one streetscape tree along the access easement. Planting of streetscape trees on Lots 3-6 is recommended to be placed as a condition of Certificate of Occupancy for each new dwelling. In addition, streetscape trees should be shown on the applicant's tree replacement plan, addressed later in this report.

**F. Screening:** Unless waived in writing by the adjacent property owners, a 6' high sight-obscuring fence, wall, or hedge is required along the exterior side of an access easement to provide screening to any adjacent properties. In this case, a fence will be required along the north side of the access easement. The applicant has indicated they intend to provide a fence to comply with this requirement. It is recommended this requirement be placed as a condition of subdivision approval.

Based upon the submitted site plan, the proposed private access easement can comply with Section 2.302.08, and with the above-mentioned conditions, staff finds this request satisfies this criterion.



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 serving the needs of visitors to the new residences. Required parking spaces must 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. This requirement will be regulated through the building permit review and approval process. With these requirements placed as a condition of approval, staff finds the proposal can meet 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. The applicant submitted a preliminary grading and drainage plan and stormwater analysis as part of their application materials, and has indicated they intend to comply with the City's requirements regulating stormwater management. The Public Works Department submitted comments containing requirements that will assure the proposed development can comply with City storm drainage requirements.

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. 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 determined by 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. The property being developed is located within a critical drainage basin. All storm water runoff from the property shall be kept on site.

A final 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 Department of Public Works 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 placed 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, street lights and easements. This is a development requirement and compliance will be ensured during review of the construction and engineering drawings. These requirements are addressed more in depth elsewhere in this report. Staff finds with appropriate conditions; this proposal will comply with this criterion.

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

- a. *Section 2.309.04(B)(7f) – The City may require significant trees that are removed (including trees that are removed within the year prior to the application) be replaced at the rate of up to two new trees for each significant tree removed or less if a tree specimen which will result in an increased 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.*

**FINDING:** 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 removal plan that shows 26 significant trees are proposed to be removed from the site. However, the applicant’s written statement conflicts with the site plan and identifies that 21 significant trees will be removed. Replacement trees are required to be provided to replace the trees that are removed from the property in order to be consistent with the city’s 2:1 replacement ratio. As a condition of approval, staff recommends the applicant must provide 2 replacement trees for each significant tree removed. This would equate to a total of either 52 trees or 42 trees, depending on the total number of trees removed. The applicant indicated in their written statement that they intend to comply with the City’s requirements and plan to provide some trees on site as well as paying into the City tree mitigation fund to provide for off-site tree plantings. It is recommended that as a condition of subdivision approval, the applicant submit a final tree removal and replacement plan for review and approval by the Planning Department prior to final plat approval, designating alternate locations for placement, or proposing off-site mitigation. It should be noted that streetscape trees are also required with this application, and those streetscape trees should be shown on the final tree replacement plan as well and can count toward the total number of trees provided for

mitigation. Staff finds with the above-mentioned conditions; this request will 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:** The subject property currently is zoned Urban Transition (UT) but will automatically be rezoned to Single Family Residential (RS) upon recordation of the plat, consistent with Section 2.118.10 and so will be bound by the requirements within the RS zone, not the UT zone provisions. Within the RS zone, the minimum lot size for detached single-family dwellings is 4,000 square feet. The applicant's site plan indicates the lots within the proposed subdivision range from 4,502 sq ft (net area) up to 6,849 sq ft, therefore, all lots meet or exceed the city's minimum lot size of 4,000 square feet required within the RS zone, Section 2.102.05. The area for all lot sizes shall be shown on the preliminary and final plat. This is recommended as a condition of subdivision approval to assure this requirement is met. Therefore, staff 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 are regularly shaped and 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.***

**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 lot will meet city standards and the lot can be developed in a manner that will ensure that all building setback requirements are met. Lots 1 and 2 will have frontage on O'Neil Rd in excess of the 40-foot minimum width requirement of the underlying RS zone. Lots 3-6 will have frontage on a private access easement that is proposed to be developed in accordance with the provisions of 2.302.08. Therefore, staff finds 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 so this section 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 with 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 6 rectangular shaped lots. The proposed lot lines run, as far as practicable, at right angles to the street right-of-way and access easement. 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 will be able to be developed with a single-family dwelling on each lot. 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 to avoid a situation where needed easements are not provided as part of the platting of the subdivision, resulting in future problems. The Public Works Department submitted comments requiring adequate utility easements be provided. The PUE, along with all other necessary easements required by the Public Works Department, must be shown on the final plat. This is a development requirement and shall be placed as a condition of approval of this subdivision application. With this placed 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 subdivision will be connected to the existing street system abutting this development via a private access easement. Staff 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 proposed subdivision will provide street frontage improvements along the frontage of O'Neil Road which will be constructed according to the requirements of the Public Works Design Standards. Public Works submitted comments that include requirements for providing these improvements, which are recommended as conditions of subdivision approval. With these requirements placed as a condition 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:** This section is not application as there will be no private streets that will be constructed as part of the proposed subdivision.

- 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:** No new streets are proposed within the subdivision. Therefore, this criterion is not applicable to this request.

- 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. The applicant submitted a preliminary site grading and drainage plan. As a condition of subdivision approval, the developers 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 placed 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 submitted a preliminary utility plan indicating that a new public sanitary sewer will be provided within the access easement area to serve the new lots created in the subdivision. The City of Salem submitted comments indicating that the Salem Design standards require sewer mains to be located in the ROW, that the lots are to be served by individual services from the sewer main in O'Neil Road, and that Salem Public Works must be included in the plan review. The Public Works Department also submitted comments addressing this criterion which have been recommended as conditions of subdivision approval. The subject property is located outside of the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will be required. The current rate is \$7,460.00 per acre. 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 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-way's, 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 sewer services that serve the subject property. With the above-mentioned conditions of approval, staff finds this proposal will 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 that 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 written statement and utility plan indicate the developer intends to provide water service by individual service connections for each of the lots within the subdivision. 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 to the City of Keizer will be required for all public water mains and fire hydrants, if construction is to be outside of public rights-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 Marion County Fire District No. 1 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. Any existing wells on the subject property are to be abandoned in accordance with the Oregon State Water Resources Department requirements. The developer 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 placed as conditions of approval, 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 be constructed in new developments, such as subdivisions, in an effort to enhance the mobility of pedestrians who both will reside in the proposed subdivision, as well as those who may use this facility but will not reside in the new subdivision. There are currently no sidewalks along the frontage of O'Neil Road. The applicant proposes to provide street frontage improvements along O'Neil Road to include a new curb line sidewalk. The Public Works submitted comments which are recommended as a condition of approval requiring a 5-foot-wide curb line sidewalk along the frontage of O'Neil Road. Staff 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. The Public Works Department submitted comments indicating the developer shall create a street lighting district for the new subdivision which will include adequate lighting for the widened portion of O'Neil Road. Therefore, with this placed as a condition of approval, 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 be 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. A street sign will be required to identify the proposed private access easement. With a condition that the location, placement, and type of sign are in accordance with city requirements be placed as a condition of approval, staff finds this proposal will comply with this section.

- 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 application can meet this criterion. This is addressed as a condition of subdivision approval.

- 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, and will be regulated through the Public Construction Permit approval process or through a driveway permit approval process as regulated by the Public Works Department. With this placed 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:** A planter strip will not be required as a part of the improvements. Therefore, this criterion is not applicable. However, trees will be required to be planted along the street frontage of the property, as was addressed previously in this report.

- 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:** This requirement will be placed as a condition of approval.

**13. SECTION 2.310.07 - IMPROVEMENT PROCEDURES**

**FINDINGS:** Section 2.310.07 outlines the standards and process for the installation of improvements. The Public Works Department submitted comments which assure these requirements will be met. These requirements include specifications for plan review, notification, inspection, underground facilities, and final engineering plans. With the recommended conditions of approval, this request satisfies this criterion.

**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 the development is consistent with this standard. The applicant proposes a 6-lot subdivision to be developed with single-family homes. The subject property will be automatically rezoned to RS upon recordation of the plat, and therefore the standards of the RS zone apply.

KDC Section 2.102.05.A requires that each lot to be developed with a residential use and contain a minimum average width of 40 feet and a depth of 70 feet. All of the proposed lots meet this provision. Staff is recommending as a condition, that all dimensions and areas will be required to be shown on the check plat and final plat to assure the lot dimension standards are adhered to.

KDC Section 2.102.05.B regulates required setbacks for residential development. The subject property is currently developed with an existing home and multiple outbuildings. The applicant has requested to keep two of the outbuildings to be used for future homes to be developed and to remove all other structures on the site. One structure is an outbuilding that will be located in the rear yard of proposed Lot 3. The other building is located on proposed Lot 1 and is a detached garage that serves the existing house. While accessory structures are not allowed to be located on an individual lot without an established primary use (home), in order to not create non-conforming uses on the properties, the applicant proposes to enter into an Improvement Agreement to assure new homes are built within one-year after the plat is recorded.

The applicant has indicated the accessory structure on Lot 3 is 596 square feet and will be modified in order to comply with the requirements of KDC Section 2.313 by replacing the metal siding with residential siding that coordinates with the new house to be built on Lot 3. The building is setback 6-feet from the rear property line and 12' from the proposed side property line. The applicant did not provide a square footage for the detached garage on Lot 1, but based on staff's review of the site plan, it appears the structure is approximately 910 square feet in area. KDC Section 2.313 allows accessory structures to be a maximum of 600 square feet in area, or in the case where the home does not have an attached garage, the maximum size allowed is 750 square feet. In either case, the existing detached garage building is larger than what is allowed by the Keizer Development Code. Therefore, the applicant would need to either modify the structure to comply with the provisions of Section 2.313 or incorporate it into the design of the home that is to be built on Lot 1, making it part of the main house and shift the proposed rear lot line so the structure complies with the minimum 14-foot rear yard setback requirement for a one-story structure. The site plan indicates the structure is setback 5 feet from the existing side property line and 11 feet from the proposed rear property line.

Required setbacks for accessory structures are regulated based on the wall height of structures as they face adjacent property lines, but no information was provided regarding building heights or wall heights for either structure. Staff is recommending, as a condition of

approval, that the applicant be required to either remove the accessory structures or provide adequate information to the Planning Department for review to determine how the accessory structures, if retained, will comply with all provisions of KDC Section 2.313 prior to recording the final plat. In addition, an improvement agreement or other instrument acceptable to the City will be required to assure the new homes are constructed within one-year of recording the plat.

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. The proposed subdivision is 0.99 acres in area and is proposed to be subdivided into 6 lots, which is essentially the middle of the density range allowed. This proposal complies with the minimum density requirements of this section of the code.

With the above recommended conditions of approval, staff finds this request can comply with 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, be responsible for providing adequate public facilities as addressed in this report, staff 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 a public problem of 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 street 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 6-lot subdivision for residential development. The development features access from a newly proposed access easement, as well as direct access to an existing public street (O'Neil Road). The proposed development will generate additional vehicle trips per day that will contribute to the cumulative traffic impact of the existing streets. The only dedications and improvements required with this application are for the frontage improvements along O'Neil Road to provide adequate street width and sidewalks consistent with the City of Keizer Public Works Design Standards. The applicant has proposed dedicating 15 feet of right-of-way and providing improvements along the frontage, which is acceptable to the City. Staff finds the required dedication and improvements are roughly proportional to the impact of the subdivision request.

## **VI. RECOMMENDATION AND CONDITIONS FOR SUBDIVISION**

The available evidence indicates the subdivision proposal complies with the decision criteria. Staff recommends approval of the subdivision subject to the following conditions, which shall be completed, including review and approval by the appropriate department, prior to the time lines outlined below. Compliance with the Conditions of Approval shall be the sole responsibility of the applicants and/or property owner.

### **General Requirements:**

1. The KDC requires the developer to connect to public utility services. The Development Code also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs. The City's System Development Charges for park development, water system improvements and transportation improvements shall be the fee in place at the time of building permit application. These Development charges, as well as those involving the extension of sewer, water, and/or storm drainage, will apply to this request.
2. 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 outside the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will be required unless the owner can provide evidence that the property has previously been assessed for sewer service to the property by the Keizer Sanitary Sewer District. The current rate is \$7,460.00 per acre.

- 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 that serve the subject property.

#### 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 and fire hydrants 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 Marion County Fire District No. 1 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. The property being developed is located within a critical drainage basin. All storm water runoff from the property shall be kept on site.

- 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 frontage along O'Neil Rd. shall be improved to public works design standards. A 5-foot curb line sidewalk shall be constructed on the West side of the O'Neil Rd. Right-of-way will be required to be dedicated to meet City of Keizer Design Standards. The applicant has indicated that 15 feet of additional right-of-way on the west side of O'Neil Road will be dedicated as part of the platting process. The applicant's proposal is acceptable to the Department of Public Works. The half street improvement shall be a minimum of 17 feet from centerline. A striping plan for O'Neil Rd. shall be prepared 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 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 if recorded prior to completion of the public improvements.
- f.) Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property.
- g.) Developer shall coordinate the location of mailboxes with the U.S. Postal Service.
- h.) 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 O'Neil Rd.
- i.) A PUE along all public street right-of-way s shall be shown on the plat for the proposed development.
- j.) 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:**

6. 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.
  - 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 shall be no more 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:

- g. The preliminary plat shall substantially conform to the proposed subdivision request.
- h. Include all engineering elements as required by the Department of Public Works.
- i. 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 and shall be shown on the subdivision plat.
- j. 10-foot-wide public utility easements (PUE) shall be shown along all dedicated right-of-ways.
- k. All lots must conform to the lot dimension standards within the RS zone. The final plat must include gross and net area calculations (excluding access easement and turn-around),
- l. Access easement and turn-around areas shall be shown on the plat and shall comply with City and Marion County Fire District #1 standards. Access easement name to be shown on the plat.
- m. Include all dedication as required by Public Works.
- n. Include a signature line for both the City Engineer and the City Manager.



7. With the Preliminary plat, a copy of any 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 trees requirements for each lot.
  - b. Information regarding the maintenance of the access easement, no parking signs, and fencing along the access easement.

**Prior to Final Plat approval:**

8. 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.
9. 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.
10. A maintenance agreement, homeowners association, or other instrument acceptable to the City and shall be reviewed by the City before the plat is recorded and such instrument must be recorded with Marion County immediately following the recording of the Plat. The agreement shall provide provisions for the maintenance of the access easement, fencing along the access easement, address display signage and "no parking" signs.
11. The existing dwelling, carport, and greenhouse must be removed. The accessory structures on Lot 1 and Lot 3 must either be removed, or prior to recording the final plat, the property owner must provide adequate information to the Planning Department for review to determine how the accessory structures, if retained, will comply with all provisions of KDC Section 2.313. In addition, an improvement agreement or other instrument acceptable to the City will be required to assure that new homes are constructed on Lot 1 and Lot 3 within a year of recording the plat.
12. A final Tree Removal and Replacement Plan must be submitted to the Planning department for review and approval to confirm the total number of trees removed (21 or 26) designating locations for placement, or proposing off-site mitigation for required replacement trees. The plan must show the approximate location of all trees to be planted. The plan shall also show the approximate location of required streetscape trees for each lot, which can count toward the overall replacement requirements. Significant trees must be replaced at a 2:1 ratio. It is anticipated that not all replacement trees will be provided on site, and the applicant will provide a fee in lieu, for off-site tree planting to mitigate some of the trees removed.
13. The construction and paving of the access easement and turn around area, installation of the street addressing signage, required no parking signage, and fencing for screening the access easement, shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement or other instrument acceptable to the City as outlined in Section 2.310.06.P of the KDC. Improvement agreements may be obtained from the Planning Department.

14. 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):**

15. 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.
16. The property owner must submit documentation that the recording has taken place with Marion County for the maintenance of the access easement, fencing along the access easement, address display signage and “no parking” signs before a building permit will be issued.

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

17. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by Marion County Fire District #1 and the City of Keizer Planning Department.
18. Replacement and streetscape trees identified in the revised tree Removal and Replacement Plan referenced in condition # 9 above must be planted on each lot within the subdivision prior to obtaining final building permit approval or Certificate of Occupancy. Trees are to be a minimum 2” caliper when planted.
19. Parking spaces shall be provided for each dwelling unit within the subdivision in accordance with KDC Section 2.303. Parking spaces must be a minimum 9’ wide and 18’ long.
20. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.