



June 25, 2021

NOTICE OF HEARINGS OFFICER DECISION

Subdivision Case 2021-05

You are receiving this Notice of the Hearings Officer's decision because you provided either written or verbal testimony on a proposed subdivision. Attached is a copy of the Hearings Officer's decision approving Subdivision Case 2021-05 for a 4-lot subdivision located within Keizer Station Area D of the Keizer Station and identified by Marion County Tax Assessor's Map No. 063W36D tax lot 00400.

Any interested person, including the applicant, who disagrees with this decision, may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Community Development Department on an appeal form provided by the City. A fee of \$365.00 is required for any appeal filed. The appeal form is to be submitted to Keizer Community Development Department, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. The appeal form and fee must be received by the City by 5:00 pm July 6, 2021. Please see the Section 3.207 (Appeal Provisions) in the Keizer Development Code, for more information.

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

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

CITY OF KEIZER HEARINGS OFFICER

In the matter of the Application of)
Chemawa Station LLC) Case No. 2021-05
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ORDER

I. Nature of the Application

This matter comes before the City of Keizer Hearings Officer on the application of Chemawa Station LLC. The subject property is located within Area D of the Keizer Station and is identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 36D; Tax Lot 00400.

II. Relevant Criteria

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

III. Public Hearing

The City of Keizer duly held a public hearing on this application on June 10, 2021. 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 appeared at the hearing and provided testimony on the application:

1. Shane Witham, Senior Planner, City of Keizer
2. Alan Roodhouse, Applicant’s Representative
3. Daniel McCue, Applicant’s Representative
4. Josh Wells, Applicant’s Representative

At the beginning of the hearing, the Hearings Officer made the declaration 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 failure to raise all arguments may result in waiver of arguments at subsequent appeal forums. No objections were raised as to notice, justifications, 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. The applicant’s representatives all testified in favor of the application. No other people spoke in

favor, in opposition, or neutrally. Prior to the close of the hearing, the Applicant waived the opportunity to present a final written argument.

IV. Proposal

The Applicant (Chemewa Station LLC) is requesting to subdivide one parcel of approximately 15.68 acres into 4 lots ranging in size from approximately .37 acres to 12.20 acres. The property is zoned Industrial Business Park (IBP) and Campus Light Industrial on the Comprehensive Plan Map and is known as Keizer Station Area D and Chemewa Station. The applicant's Written Statement and preliminary plans are attached to the staff report and are part of the record.

V. Findings of Fact

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

The property is located within Area D of the Keizer Station and is identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 36D; Tax Lot 00400. The property is approximately 15.68 acres in area. The property contains an existing water storage tower and is currently being developed with a convenience store/gasoline service station and a drive-thru restaurant. There is an existing street (Ulali Drive) bisecting the property which is fully developed and constructed to City standards. The existing roadway is currently not dedicated as right of way but rather is within a permanent "public use road" easement. The property is served by both water and sewer and these utilities will be extended to serve the proposed development.

The Hearings Officer notes that this is a somewhat unique application, as the subdivision application was filed after the City Council has already made previous decisions approving masterplans: Master Plan Amendment/Major Variance Case 2020-10 was approved by Council Order on September 8, 2020. Master Plan Amendment Case 2020-21 was approved by Council Order on and February 16, 2021. As the staff report points out, development of the property, including subdividing the property, must adhere to conditions and requirements outlined in the adopted Council Orders, and development of infrastructure, particularly the alignment and construction of Ulali Drive, is already complete. While the street does need to be dedicated, rather than held as a "public use road," no additional street dedication is required, although public utility easements will be needed on both sides of the street. The Hearings Officer notes the rough proportionality analysis in the staff report for the application, and specifically agrees with the conclusion that the required dedication in this case is roughly proportionate to the impact of the subdivision request, for the reasons set out in that analysis.

The Hearings Officer notes that the June 3, 2021 staff report does a thorough and excellent job of capturing agency comments and explaining how the application satisfies all of the applicable approval criteria. None of the findings in the staff report are challenged by any opponents (in fact, no one provided any comments or testimony in opposition). Therefore, as the application and staff report are uncontested, it would be a waste of the City's money

and resources to review and repeat all of the unchallenged findings in the staff report. The Hearings Officer has reviewed the staff report and agrees with those findings. The Hearings Officer agrees that with the recommended conditions of approval, the application satisfies the relevant review criteria. The Hearings Officer therefore adopts and incorporates the findings from the staff report in this decision, and sets out the conditions copied from the staff report as part of this decision, without exception.

V. Decision of the Hearings Officer

The Hearings Officer **APPROVES** the subdivision application subject to the following conditions of approval:

VI. Conditions of Approval

GENERAL REQUIREMENTS:

1. All conditions and requirements outlined in the Council Orders approving Master Plan Amendment/Major Variance Case 2020-10 and Master Plan Amendment Case 2020-24 must be adhered to as applicable.
2. The following requirements are regulated by and must be met to the satisfaction of the Public Works Department regarding sanitary sewers, water systems, street and drainage improvements, and other requirements:

Approved civil plans have been submitted, approved, permitted and issued for Parcels 1, 2, and 3. The following Public Works Department Requirements are primarily intended to address undeveloped Parcel 4 when development occurs. However, some requirements for this Subdivision case will affect Proposed Parcels 1, 2 and 3 as described below.

SANITARY SEWERS:

The subject property is located outside the original Keizer Sewer District. The sewer acreage fees for Parcels 1, 2, and 3 have been satisfied through an earlier payment to the City. Parcel 4 will be required to pay the required sewer acre fee at the time of development.

- a.) City of Salem approval for local sewer permits for Parcels 1, 2, and 3 have been granted and all conditions of the permits will need to be satisfied.
- b.) Appropriate easements will be required for any public sewer or private sewer mains located within the subject property, if constructed outside of platted right-of-ways and will need to be shown on the subdivision plat for the development. Any public sanitary sewer easements shall be in favor of the City of Keizer.

WATER SYSTEM:

- a.) Appropriate easements to the City of Keizer will be required for all public water mains, fire hydrants and service lines located within the subject property, if constructed outside of public right-of-ways. Any system development charges for individual water service connections will be those in place at the time service is requested.
- b.) Final development plans shall be reviewed by the Keizer Fire District, with regard to access and adequate location of fire hydrants, prior to any issuance of public construction permits by the City of Keizer. All required fire hydrants shall be served by an 8-inch water main.
- c.) 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 is consistent and subject to the Adopted Order for the Keizer Station Master Plan (Area D – Keizer Station).
- b.) Stormwater quality and detention improvements will be required in conformance with the City of Keizer Public Works Department Design Standards. Stormwater 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 drainage basin.
- c.) A grading and drainage plan shall be prepared for undeveloped Parcel 4 when development occurs. Details shall include adequate conveyance of stormwater 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 in place at the time of development. Additional information regarding street grades, site grading, inverts, etc., will be required for review prior to any plan approval.
- d.) Existing Ulali Drive services the subject property and fronts on proposed Parcels 1 thru 4 and is located within a Public Access Easement granted to the City of Keizer. Site Plans were submitted as part of the Subdivision Case Application and as illustrated on Sheet C 1.0, a New Public Access and Utility Easement is being proposed. The New Public Access and Utility Easement is in the location of the proposed intersection that will serve Parcels 1 thru 4. The existing Public Access Easement and proposed New Public Access and Utility Easement shall be dedicated as a public right-of-way on the plat for the subdivision. A 10-foot public utility easement shall be included on both sides of the proposed street dedication.
- e.) All Public Works Department Requirements for Master Plan Amendment Case No. 2020-24 regarding a traffic signal for the new intersection shall be

completed prior to the issuance of any occupancy permits for any buildings within the proposed subdivision.

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 any future development of Parcel 4.
- f.) A master utility plan including all proposed power, telephone, gas and cable television lines shall be submitted to the Public Works Department for review prior to the department issuing construction permits for the proposed project.
- g.) Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property. Additionally, if required by the Oregon Department of Environmental Quality, a 1200-C permit will be required from the Oregon Department of Environmental Quality and furnished to the City of Keizer by the developer prior to issuance of an erosion control permit.
- h.) Developer shall coordinate the location of mailboxes with the U.S. Postal Service.

Prior to Preliminary Plat Approval:

- 3. 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 less than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

The detailed preliminary plat shall include the following provisions:

- 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.) A 10-foot wide public utility easements (PUE) shall be shown along all dedicated right of ways.
 - k.) Include all dedication as required by Public Works.
4. 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.
 5. The proposed reciprocal cross-over agreement/easement for lots 1, 2, and 3 shall be submitted to the Planning Department for review by the City Attorney to assure all parcels have adequate means of access.

Prior to Final Plat approval:

6. 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.
7. A final copy of the reciprocal cross-over agreement/easement for lots 1, 2, and 3 shall be submitted to the Planning Department which conforms to the agreement submitted during preliminary 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. 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 Final for each building within the Subdivision:

10. The address requirements found in the Oregon Uniform Fire Code shall be completed as approved by the Keizer Fire District and Planning Department.
11. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.

DATED: June 24, 2021



James K. Brewer, Hearings Officer