



October 7, 2021

NOTICE OF HEARINGS OFFICER DECISION

Subdivision Case 2021-13

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 2021-13 for a 4-lot subdivision located at 287 Dearborn Av N, Keizer, OR also identified by Marion County Tax Assessor's Map No. 073W02BC Tax Lot 03300.

Any interested person, including the applicant, who disagrees with this decision, may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Planning Department on an appeal form provided by the City. A fee of \$365.00 is required for any appeal filed. The appeal form is to be submitted to Keizer Planning Department, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. The appeal form and fee must be received by the City by 5:00 pm October 18, 2021. Please see the Section 3.207 (Appeal Provisions) in the Keizer Development Code, for more information.

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

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

CITY OF KEIZER HEARINGS OFFICER

In the matter of the Application of)
287 Dearborn, LLC to Subdivide) Case No. 2021-13
Approximately .463 acres Into 4 Lots for)
Property Located at 287 Dearborn Av N)
)
)

ORDER

I. Nature of the Application

This matter comes before the City of Keizer Hearings Officer on the application of 287 Dearborn LLC. The subject property is located 287 Dearborn Av N; Marion County Tax Assessor’s Map No. 073W02BC Tax Lot 03300.

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).

III. Public Hearing

The City of Keizer duly held a public hearing on this application on September 22, 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; Bill Peterson, City Engineer, City of Keizer.
2. Jerry Horner, Willamette Engineering, Applicant’s Representative.
3. Jeff Alderman, Neighbor, opponent.
4. Wendell Weckert, Neighbor, opponent.
5. Ed Fischer, Neighbor, neutral.

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 representative testified in favor of the application and in rebuttal to opposition

testimony. Jeff Alderman and Wendell Weckert spoke in opposition and Ed Fischer spoke neutrally. Ed and Leila Fischer also wrote a letter included as an exhibit to the staff report. City Engineer Bill Peterson provided answers to questions and explanations of processes that would need to be completed as part of final design and construction. 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 (287 Dearborn LLC) is requesting to subdivide one parcel of approximately .463 acres for detached single family dwellings to be built on 4 lots ranging in size from 3,501 – 4,512 square feet. The property is zoned Single Family Residential (RS) and Low Density Residential on the Comprehensive Plan Map and is located within the River-Cherry Overlay District (RCOD). 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 information from the application, staff report, and testimony and evidence in the record, issues the following findings of fact:

The property is located at 287 Dearborn Ave. North and is identified on Marion County Tax Assessor Map No. 073W02BC Tax Lot 03300. The property is approximately .463 acres in area. The property contains an existing single-family dwelling and associated outbuildings that will be removed. Water and Sewer services are available and will be required to be extended to serve the proposed development. The property is designated Low Density Residential on the Comprehensive Plan Map and is Zoned Single Family Residential (RS). All the adjacent properties are also zoned RS, and all are developed with single-family homes.

The proposal is to subdivide the property.

The Hearings Officer notes that the review criteria for a subdivision are listed in Section 3.108.06 of the Keizer Development Code (KDC). The criteria and findings supporting the staff recommendation to approve the subdivision request for 287 Dearborn Av N 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 of the 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 decision criteria or standards relevant to this subdivision review.

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

FINDINGS: The Hearings Officer finds that 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 the minimum necessary. The applicant will be required to provide the following public facilities: Fire Hydrant (Where required by Fire District), Street Improvements, Water Hook-up, Sewer Hook-up, Storm Drain and Street Lights. In addition, the Hearings Officer will impose conditions of approval based on the comments from the Public Works Department that outline specific requirements for the installation of public facilities. With these items imposed as conditions of approval the Hearings Officer finds this request satisfies 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 Hearing Officer notes that the intent of this provision is to require the layout of new streets in subdivisions and streets along the subdivision and to take into consideration their relationship to other streets and other factors such as topography so as to develop a safe and efficient street system. 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. Based on comments from the Public Works Department, the Hearings Officer will impose specific conditions of approval to comply with these standards and ensure public convenience and safety. Prior to submitting construction plans for the proposed subdivision, a pre-design meeting with the developer's engineer and the Department of Public Works will be required. This will ensure the proposed street improvements and dedications are adequate and appropriate to serve the proposed development and surrounding area.

The proposed subdivision will provide a $\frac{3}{4}$ width new local street to serve the subdivision, with a hammerhead turnaround. This will allow for the future development and completion of the street when the property to the east is developed. This street is proposed and will be required to be built to a Local I street standard at full build out, as outlined in Section 2.302 of the KDC. The requirement is a minimum of 35 feet of right-of-way and a 28-foot curb to curb improvement with a 5-foot sidewalk on the west side of the street when fully completed. The Public Works Department submitted comments requiring that a minimum of 27 feet of right-of-way, with a minimum pavement width of 21 feet from the edge of pavement to the proposed curb face, be provided with this application. A 5-foot wide curb line sidewalk shall be constructed on the west side of the proposed new street. The City Engineer also submitted comments which express some concerns regarding the

constructability of the applicant's proposal and has indicated that additional right-of-way may be needed to construct required improvements to City standards. The Hearing Officer will impose this as a condition of approval to ensure the subdivision complies with the minimum standards.

Additionally, street improvements must be provided along the frontage of Dearborn Avenue providing for a 17-foot half street improvement on the north side of Dearborn with a 6-foot property line sidewalk. The Hearings Officer will impose this as a condition of approval, as requested by the Public Works Department.

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

With the above-mentioned conditions, the Hearings Officer finds this proposal can satisfy this criterion.

The Hearings Officer notes that public testimony raised concerns about whether the streets, sidewalks and crossings would be required to meet ADA standards. As noted by the City Engineer, the design and engineering of the streets and sidewalks will be required to comply with ADA standards.

- b. Section 2.302.03.B - Continuation of Street. Development proposals shall provide for the continuation of, and connection to, existing streets where necessary to promote appropriate traffic circulation in the vicinity of the development. Where necessary to give access or permit a satisfactory future division of land, streets and utilities shall be extended to property boundaries to allow the future extension of streets and infrastructure. A temporary turnaround shall be constructed for stub streets in excess of 150 feet in length. Exemptions from these street extensions can be found in Section 2.302.03.B.1 – 5.***

FINDINGS: The Hearings Office notes that the intent of this provision is for new developments to incorporate the continuation of an existing street as a means to avoid creating new subdivisions which do not provide for any street connectivity. In this particular case, the property is bordered by existing development. The Hearings Officer notes that the applicant is proposing a $\frac{3}{4}$ width street improvement which will allow for the future development of the adjacent property to the east. Due to the lack of adjacent development potential, the Hearings Officer finds that no street extension is warranted. The Hearings Office also finds, however, that the street must be provided in a manner that allows for future widening to serve the adjacent property to the east. Therefore, the Hearings Officer finds this criterion is met.

- 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 Hearings Officer notes that the purpose of this provision is to require that new streets in subdivisions meet the city's alignment and spacing standards to ensure safe vehicle travel. The Hearings Officer notes public testimony suggesting that the development could be reversed, with the new street on the West boundary, rather than the East. The Hearings Officer notes that this criterion requires the new road to be aligned with existing streets to the extent possible. The new street that is proposed has been reviewed by the Public Works Department and City Engineer for consistency with these standards. The new street will be aligned with the existing Elvira St, across Dearborn Avenue to the south. The Hearings Officer will impose condition of approval recommended by the Public Works Department in conformance with these standards to ensure public convenience and safety in vehicular travel for this subdivision and which will be regulated through the public improvement permitting process. The Hearings Officer finds this proposal complies with this criterion.

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

FINDINGS: The Hearings Officer notes that the applicant proposes a new $\frac{3}{4}$ width local street and does not provide for future extension to surrounding properties. The Hearings Officer finds that since the surrounding area is fully developed, extension of the proposed street is not necessary. As addressed previously, future development of the parcel to the east will result in the street being widened to provide a full street width and access to future lots. Frontage improvements will be provided along Dearborn Avenue, with the construction of this subdivision, which will provide pedestrian connectivity to the surrounding neighborhood. The Hearings Officer finds this criterion is not directly applicable to this request.

- e. ***Section 2.302.03.E - Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs. Streets shall have at least 50 feet of tangent adjacent to***

intersections unless topography requires lesser distances. Intersections that are not at right angles shall have minimum corner radii of 15 feet. Major arterial intersections shall have curb radii of not less than 35 feet. Other street intersections shall have curb radii of not less than 20 feet.

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

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

FINDINGS: The Hearings Officer notes that the intent of this provision is to require that developers of new residential subdivisions be responsible for making needed improvements to the existing street systems that are either within, or adjacent to, a proposed subdivision. The subject property has frontage along Dearborn Avenue, which is classified in the City's Transportation System Plan as a Collector street. The Public Works Department submitted comments requiring the applicant to provide street improvements to Dearborn Avenue providing a 17-foot half street improvement on the north side of Dearborn Avenue with a 6-foot property line sidewalk. The Hearings Officer notes that final design will be reviewed as a part of the public improvement permit process. The Hearings Officer notes that adequate right-of-way is available for the required improvement to Dearborn Avenue. Therefore, no additional right-of-way dedication is required. The Hearings Officer finds this criterion is satisfied.

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

FINDINGS: The Hearings Officer notes that the applicant proposes to construct a new local ¾ width street to serve the new lots. The public works department submitted comments pertaining to the design and construction of this new street, which the Hearings Officer imposes as conditions of approval. The minimum paved width of the new street is required, and is shown, to be 21 feet in width. This is acceptable to the City. The Hearings Officer notes that the City Engineer raised concerns regarding the constructability of the ¾ width street as it is shown on the applicant's site plan, and the applicant may need to dedicate additional right-of-way

in order to construct the proposed improvement to City Standards. This will be addressed through the public improvement permitting process. With these conditions, the Hearings Officer finds this criterion can be satisfied.

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

FINDINGS: The Hearings Officer notes that the new proposed street is not a true cul-de-sac since it utilizes an alternate turnaround. However, the street functions similar to a cul-de-sac in that it does not allow for thru traffic or connectivity, and therefore, the Hearings Officer will apply this standard. The proposed street is approximately 162 feet in length, which is significantly less than the maximum length allowed of 800 feet. Therefore, Hearings Officer finds this proposal satisfies this criterion.

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

FINDINGS: The Hearing Officer notes that the purpose of this provision is to ensure that streets are named in accordance with City procedures to avoid duplicate or confusing street names. The applicant's plans show the new public street proposed to serve the development as "Elvira Ct". This street name has not yet been officially approved, but since it aligns with the existing Elvira St and will terminate in a turnaround, it will be named "Elvira Ct". As a condition of approval, the approved street name must be shown on the preliminary and final plat. Therefore, with this recommended condition of approval, the Hearings Officer finds this proposal complies 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 Hearings Office notes that the purpose of this provision is to ensure that new streets are constructed in a manner that is consistent with the city's established street grade standards and to avoid having new streets that may be too steep and potentially endanger public safety. The Hearings Officer notes that the area is relatively flat, and the Hearings Officer notes no concerns regarding the grades of the proposed street improvements. A final grading and drainage plan will be required as a condition of approval to ensure that adequate drainage is provided. Construction permits for the widening and improvements to the existing streets will regulate the design of the proposed improvements. The Hearings Officer notes public comments concerned with storm water draining from this site onto adjoining property. The Hearings Officer notes that the street drainage will help reduce storm water moving to adjoining properties. With these requirements imposed as conditions of approval, this proposal will satisfy this criterion.

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

FINDINGS: The Hearings Officer notes that the purpose of this provision is to minimize impacts that a new development may have on arterial and collector streets. Dearborn is a collector street, but the development proposes to use a new internal street for access. No frontage streets are proposed or required with this application. It should be noted that no access to Dearborn Avenue will be allowed for proposed Lot 1. Access to all lots must come from the new proposed street and will be regulated through the public improvement permitting process. Therefore, the Hearings Officer finds this criterion is not applicable to this proposal.

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

FINDINGS: The property is not located in a commercial or industrial zone and no alleys are proposed. Therefore, the Hearings Officer find this provision is not applicable to this application.

- 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 Hearings Officer notes that the purpose of this provision is to outline the standards relating to providing street landscaping. The applicant's proposal shows that a property line sidewalk will be provided along Dearborn Avenue, which is a requirement for collector street designs. Therefore, street trees must be provided along Dearborn Avenue consistent with this requirement. The Hearings Officer will impose this as a condition of subdivision approval. The

applicant submitted a tree removal and replacement plan which identifies 3 trees will be planted along the Dearborn Avenue frontage in the landscaping strip, which satisfies this requirement. Required trees shall be installed at the time of public improvement construction. The Hearings Officer finds with this imposed as a condition, this criterion can be met.

- n. Section 2.302.03.N – Access Control Standards. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the City of Keizer Transportation System Plan. Major roadways, including arterials and collectors, serve as the primary system for moving people and goods within and through the city. Access management is a primary concern on these roads. Local streets and alleys provide access to individual properties.***

FINDINGS: The Hearings Officer notes that Lot 1 will have frontage onto both the newly proposed street, and Dearborn Avenue, a collector street. The applicant has indicated that all lots are intended to be accessed from the new street. Lot 1 will not be allowed to obtain access from Dearborn Avenue and the proposed street improvement design will not allow for any vehicular access to Dearborn. The public works department submitted comments requiring that driveway locations be approved through the public improvement permitting process. The developer will be required to obtain driveway permit approval for the individual lots within the subdivision, which will ensure this requirement is met. The Hearings Officer finds that this requirement means the 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 Hearings Officer notes that the applicant will be required to plant Streetscape trees consistent with this section. The applicant submitted a tree removal and replacement plan which shows trees will be planted on each of the lots in compliance with this standard. Lot 1 is providing 4 trees along the frontage of Dearborn and the new street. Lot 2 and 3 are providing 1 tree along the frontage of the new street. Lot 4 has an existing tree located at the end of the new street which satisfies this standard. Streetscape trees will be required to be planted prior to final building permit approval for each lot. Trees must be planted consistent with Section 2.309 of the KDC which requires a minimum 2” caliper and 8 feet in height for deciduous trees. With these requirements imposed as conditions of subdivision approval, Hearings Officer finds this proposal complies with this criterion.

The Hearings Officer notes that public testimony raised a concern about a large existing tree that is not identified for removal on the tree removal and replacement plan. The public testimony raised concerns about whether the tree would be safe from windfall once the trees in the plan were removed, and whether paving and construction would damage the roots, raising further risk. The Hearings Officer notes that the KDC does not address this specific situation, so the Hearings Officer is without specific authority to require the removal of the tree as a condition of approval for this subdivision. The Hearings Officer encourages the applicant to contact an arborist or other relevant professional to review whether leaving the tree creates a hazard but specifically notes that this is not a requirement of the subdivision.

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 Hearings Officer notes that the applicant has not requested any modification to the right-of-way or improvement width requirements for public streets. The Public Works Department submitted comments which the Hearings Officer incorporates into the recommended conditions and requirements of this decision. As a condition of subdivision approval, the requirements outlined in Section 2.302.04 and included in the Public Works requirements, must be adhered to. With these requirements imposed as conditions of subdivision approval, the Hearings Officer finds this proposal complies with this criterion.

4. **SECTION 2.302.06 - CONSTRUCTION SPECIFICATIONS**

Construction specifications for all public streets shall comply with the standards of the most recently adopted public works street standards of the City of Keizer. Construction permits are required by the Public Works Department.

FINDINGS: The Hearings Officer notes that the intent of this provision is to ensure that new residential subdivision designs and new streets that are needed to serve the lots within the subdivision, meet all City Standards for street construction. The proposed lots will be served by a ¾ width public street, improved to City standards. Frontage improvements are being required for Dearborn Avenue to bring it up to the current design standards, based upon the street designation. Public improvement permits will be required, and construction drawings must be submitted to the Public Works Department for their review and approval consistent with all applicable adopted construction specifications and standards adopted by the City. With this requirement imposed as a condition of approval, the Hearings Officer finds this provision will be met.

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

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

FINDINGS: The Hearings Officer notes that no private access easements are proposed. Therefore, the Hearings Officer finds that this criterion does not apply to this request.

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

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

FINDINGS: The Hearings Officer notes that the subject property is located within the River Cherry Overlay District (RCOD) and is subject to the minimum off-street parking requirements listed within both the RCOD, as well as Section 2.303.06 of the Keizer Development Code. The City has determined these are the minimum standards necessary to provide adequate parking capacity for specified uses and the standards have been determined by the City to also be the minimum needed to meet the needs of both the residences within the new dwellings and to serve the needs of visitors to the new residences. Because no on-street parking is available, the RCOD requires a minimum of 2 parking spaces with a maximum of 3 parking spaces per single-family dwelling. Required parking spaces will 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 2.130 by providing 3 parking spaces on each of the lots. There will be no on-street parking allowed on the newly created $\frac{3}{4}$ width street. The Public Works Department submitted comments requiring the installation of no parking signs along the street which will be reviewed and regulated through the public construction permit review and approval process. Parking requirements will be regulated through the building permit review and approval process. With these requirements imposed as a condition of approval, the Hearings Officer finds the proposal meets this criterion.

7. **SECTION 2.306 - STORM DRAINAGE**

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

FINDINGS: The Hearings Officer notes that the intent of this provision is to minimize, and avoid, storm drainage and erosion runoff problems that may be associated with

development by requiring that a storm drainage and erosion control plan be submitted for review and approval prior to any development occurring on the site. Comments were received expressing concerns over storm drainage runoff that the proposed development could possibly generate. To assure the design complies with City standards, the Public Works department submitted comments, which the Hearings Officer will impose as a condition of subdivision approval, addressing storm drainage requirements.

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

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 submit an overall storm drainage plan that will provide service to this development that is consistent with the City's Master Storm Drain Plan for this area of Keizer. The developer's engineer shall also 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. Because no public storm drain system exists for the development to connect to, all storm water runoff from the property shall be kept on-site. Roof runoff shall be managed in private collection systems and separate from street runoff and the public system.

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 Public Works Department prior to the issuance of any Public Construction permits for street or storm. Grading and drainage plans shall be in conformance with the City of Keizer Public Works Design Standards. Additional information regarding street grades, site grading, inverts, etc., will be required for review prior to any plan approval. With these requirements imposed as conditions of approval, the Hearings Officer finds this application complies with this provision.

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

FINDINGS: The Hearings Officer notes that to provide adequate services and facilities appropriate for residential development, the applicant must meet the standards set forth in Section 2.307 of the Keizer Development Code relating to water, sanitary sewer, private utilities, streetlights, and easements. This is a development requirement and compliance will be ensured during review of the construction and engineering drawings. PGE submitted comments regarding the applicant's proposal to relocate the existing

power pole located near the east boundary of the property. The applicant will be required to coordinate with the City and PGE on the exact location of where the existing pole will be relocated to. A master utility plan shall be submitted to the Public Works department for review prior to the issuance of construction permits for the proposed project. These requirements are addressed more in depth in the staff report. The Hearings Officer finds with appropriate conditions; this proposal complies with this criterion.

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

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

FINDING: The Hearings Officer notes that the intent of this provision is to require applicants to plant 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”. A significant tree is defined as a tree that is equal to or greater than 50 feet in height or 12 inches in diameter. The applicant submitted a tree plan that shows 8 significant trees are proposed to be removed from the site to allow for the subdivision development. The KDC requires the replacement of trees removed at a 2:1 ratio. A total of 16 trees will be required to be planted to mitigate the trees removed and the applicant submitted a tree removal and replacement plan showing the 16 trees required will be provided. Trees are proposed to be on the individual lots and along Dearborn Avenue, in the right-of-way. The applicant’s plan shows that 1 ½” diameter (or larger) trees are proposed to be planted but does not indicate species. Section 2.309 requires that deciduous trees be a minimum diameter of 2” and evergreen trees must be 8 feet in height and fully branched, which will be imposed as a recommended condition of approval. The applicant’s proposed plan shows the following tree locations:

- Lot 1 = 5 trees (4 streetscape, 1 replacement)
- Lot 2 = 3 trees (1 streetscape, 2 replacement)
- Lot 3 = 3 trees (1 streetscape, 2 replacement)
- Lot 4 = 2 trees (replacement)
- Dearborn right-of-way = 3 street trees

The Hearings Officer finds with the above-mentioned conditions; this request complies 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 Hearings Officer notes that the purpose of this requirement is to allow for the development of the property in a manner consistent with that of the underlying zone district. The subject property is zoned RS and is within the RCOD and is therefore subject to the requirements of Section 2.130.05.A. The minimum lot size within the RCOD is 3,000 square feet for attached dwellings, 3,500 square feet for detached single family dwellings, and 5,000 square feet for duplexes on corner lots. The applicant's site plan shows the lots within the proposed subdivision range in size from 3,501 square feet (Lot 2) up to 4,512 square feet (Lot 1) and therefore, may all be developed with detached single-family dwellings.

The Hearings Officer finds that all of the proposed lots conform to the minimum lot size requirement of RS zoned properties within the RCOD. Lot sizes shall be shown on the preliminary and final plat and lot sizes must comply with the standards of the RCOD. The Hearings Officer will impose this as a condition of subdivision approval to assure this requirement is met. With this condition, the Hearings Officer finds this proposal complies 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 Hearings Officer notes that the purpose for establishing lot width-to-depth ratios is to provide for the orderly, safe, efficient, and livable development of land. The lot width-to-depth ratio also prevents lots from being created that would be practically unbuildable. The proposed lots comply with the lot width-to-depth ratio requirements. The Hearings Officer finds that 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 an access easement developed in accordance with the provisions of Section 2.302.08. Cul-de-sac lots shall have a minimum frontage of 25 feet.***

FINDINGS: The Hearings Officer notes that the intent of this provision is to ensure that all lots have a minimum frontage along a street so access to the lots will meet city standards and that lots can be developed in a manner that will ensure that all building setback requirements are met. The RS zone requires a minimum lot frontage/width of 40 feet except for cul-de-sac lots which allow a minimum of 25 feet. Lot 1 has frontage along Dearborn Avenue and the new proposed street and exceeds the minimum 40-foot lot width. Lots 2 and 3 have frontage along the new public street also exceeding 40 feet in width. Lot 4 is located at the end of the new street and has 27 feet of frontage along the end of the street. While this is not a true cul-de-sac, it functions in a similar manner and the street is not proposed to continue through to the adjacent property to the north. Therefore, the Hearings Officer finds this layout is acceptable and Lot 4 satisfies the intent of this criterion. As a condition

of approval, lot dimensions must be shown on the preliminary and final plat, which will ensure the minimum frontage requirements are met. Therefore, the Hearings Officer finds that with this condition, this proposal satisfies this criterion.

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

FINDINGS: No flag lots are proposed. Therefore, the Hearings Officer finds that this criterion is not applicable.

- e. Section 2.310.03.F - Through Lots. Through lots shall be avoided except where essential to provide separation of residential development from major street, adjacent non-residential activities, or to overcome specific development constraints due to topography or lot orientation.***

FINDINGS: No through lots will be created by this proposal. Therefore, the Hearings Officer finds that 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 Hearings Officer notes that the intent of this provision is to avoid the creation of odd-shaped lots, which may meet minimum lot size but, due to the odd shape, may result in a lot that is too difficult to build on without a variance to the code. The intent is to avoid these types of lots in favor of the creation of regularly shaped lots that can be readily developed. The subject property will result in the creation of regular shaped lots that are rectangular. The proposed lot lines run, as far as practicable, at right angles to the street right-of-way lines. The rear lot lines are all not less than one-half the dimension of the front lot lines. All the lots meet the City's minimum lot standards and can be developed with a single-family dwelling on each lot. The Hearings Officer finds the application complies with this criterion.

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

FINDINGS: The Hearing Officer notes that the intent of this provision is to ensure that utility easements are provided and avoid the situation where they may be needed, but not provided, as part of the platting of the subdivision which could create problems after the platting of the subdivision. The Public Works Department submitted comments requiring adequate utility easements be provided. PGE also submitted comments regarding provisions for public utility easements. This is a development requirement and shall be imposed as a condition of approval of this subdivision application. With this condition of approval, the Hearings Officer finds

that the application complies 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 application does not propose the creation of any blocks within the new subdivision; therefore, the Hearings Officer finds 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 Hearings Officer notes that the intent of this provision is to allow for safe vehicle, pedestrian, and bicycle access from the lots within the subdivision to nearby attractors. The applicant is proposing improvements to the existing streets abutting this development and to serve the residents of the subdivision. Street improvements, including a sidewalk along the west side of the new street will be provided. The Hearings Officer finds the proposed and required improvements are adequate to satisfy this criterion.

12. SECTION 2.310.06 - IMPROVEMENT REQUIREMENTS - SUBDIVISIONS

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

FINDINGS: The Hearings Officer notes that the intent of this provision is to ensure that lots within the proposed subdivision include street improvements in accordance with City standards so as to avoid having substandard streets which could become a safety hazard. The subject property has frontage along Dearborn Avenue. The Public Works department submitted comments that include requirements for frontage improvements. These requirements were also addressed previously in this decision. The exact design and construction of improvements will be regulated through the public improvement permit review and approval process and will be required to comply with the City of Keizer Design Standards. With these requirements imposed as conditions of approval, the Hearings Officer finds this proposal complies 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 only if sidewalks currently exist along the connecting street.*

FINDINGS: The Hearings Officer finds that as no private streets will be constructed as part of the proposed subdivision, this section is not applicable.

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

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

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

FINDINGS: The Hearings Officer finds that the applicant will be responsible for placing appropriate monuments at the street intersection and with this as a condition, this application complies with this criterion.

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

FINDINGS: The Hearings Officer finds that the applicant will be responsible for placing appropriate benchmarks at the street intersection and with this as a condition this application complies 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 Hearings Officer notes that the intent of this section is to require that new developments make use of a drainage system that is in accordance with City requirements, and which will handle the storm drainage from the site and avoid any adverse impacts onto adjacent properties. These requirements were also addressed in Section 2.306 elsewhere in this decision. The applicant submitted a preliminary drainage plan, storm water narrative, and infiltration test results. 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 imposed as conditions of approval, the Hearings Officer finds 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 Hearings Officer notes that 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 requiring additional land and increasing the potential for ground water contamination. The applicant proposes to connect all of the lots to sanitary sewer and to install a new 8-inch main to serve the subdivision. The City of Salem Public Works Department submitted comments regarding sewer main design. The Public Works Department submitted comments addressing this criterion, which the Hearings Officer will impose as conditions of subdivision approval. The subject property is located within the original Keizer Sewer District. Therefore, a sanitary sewer trunk line acreage fee will not be required. The City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the applicant's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City's Master Sewer Plan for the area. Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Appropriate easements will be required for any public sewer mains located within the subject property if the sewer mains are located outside a platted right-of-way. Easements will be required for all private sewer lines that cross private properties. Any septic tank and drain field on the subject property 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 construction of any building permits on the subject property. If a design exception to the City of Salem standards for sewer construction will be required for this project, any submittals for an exception shall be copied to the City of Keizer for review.

These are development requirements and imposed as conditions of approval of this subdivision application. With the above-mentioned conditions of approval, the Hearings Officer finds this proposal complies 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 Hearings Officer notes that 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 site plan and written statement provide conflicting information on the proposed waterline. While the plan shows they intend to install a 4-inch water main to serve the new development, which will be tapped into the existing 4-inch water main located in Dearborn Avenue, the written statement indicates the proposed and existing water mains will be 8-inch. Regardless of the size proposed, this issue will be resolved through the public construction permit review and approval process. 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, fire hydrants, and private services if construction is to be outside of a public right-of-way. Any system development charges for water system improvements will be those in place at the time of individual service connections. Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to issuance of Public Construction permits by the City of Keizer. All required fire hydrants shall be served by an 8-inch water main. Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements. The applicant shall provide evidence to the Public Works department that any abandonment of existing wells has been completed in accordance with such requirements. Location of all water meters to be approved by the Public Works Department. With these requirements imposed as conditions of approval, the Hearings Officer finds this proposal satisfies 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 Hearings Officer notes that the intent of this provision to require that sidewalks are required by new developments, such as subdivisions, in an effort to enhance the mobility of pedestrians who will reside in the proposed subdivision, as well as those not residing in the subdivision. As was addressed earlier in this decision, sidewalks are proposed to be installed along the frontage of Dearborn Avenue, as well as along the west frontage of the new $\frac{3}{4}$ width public street. Therefore, the Hearings Officer finds this proposal complies 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 Hearings Officer notes that the intent of this section is to require that new developments provide streetlights to provide for an adequate level of night-time illumination. A street lighting district, that provides for adequate streetlights along the frontage of all proposed new lots, including the widened section of Dearborn Avenue, is required to be created at the expense of the applicant. This will assure street lighting improvements will provide for a safe, livable development and shall comply with the City regulations and requirements. With this requirement the Hearings Officer finds that this proposal complies 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 Hearings Officer notes that 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. With this imposed as a condition of approval, the Hearings Officer finds that this proposal complies with this criterion.

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

FINDINGS: The Hearings Officer notes that the intent of this provision is to ensure that all facility improvements conform to the requirements and specifications of the Keizer Department of Public Works. The Hearings Officer finds that the application meets this criterion because this is imposed as a condition of subdivision approval and is a development requirement.

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

FINDINGS: This is a development requirement. With this imposed as a condition of approval, the Hearings Officer finds that the application complies with this criterion.

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

FINDINGS: The Hearings Officer notes that the applicant will be providing a separated sidewalk along the Dearborn Avenue frontage. Street trees will be required to be planted in conjunction with the street frontage improvements and consistent with the spacing requirements in Section 2.302. With this condition, the Hearings Officer finds this request complies with this criterion.

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

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

FINDINGS: The Hearings Officer notes that this requirement is imposed as a condition of approval.

13. SECTION 2.314 – STANDARDS FOR SINGLE FAMILY DWELLINGS

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

- 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 Hearings Officer notes that the intent of this provision to ensure that

new residential subdivisions meet the established dimensional and density provisions of the City to assure that the development is consistent with this standard. The Hearings Officer notes that public testimony in opposition raised concerns about the density of the proposed subdivision, given the current development pattern in the area. The Hearings Officer notes that the density requirements of the applicable zoning district must be applied as set out in the KDC, as no variance to those standards is part of the application.

Lot Dimensions: Section 2.102.05.A of the KDC requires properties within the RS zone to have an average depth of 70 feet. Section 2.130.05.A.1 of the KDC also requires properties within the RS zone and located within the RCOD, developed with a single family detached dwelling, a minimum average width of 35 feet. The Hearings Officer finds that all of the proposed lots meet or exceed this provision.

Density Requirements: Section 2.130.05.B.2 specifies a minimum density of 6 units per acre and a maximum density of 10 units per acre for RS zoned property that is subdivided within the RCOD. Section 2.130.05.B.2 also specifies that accessory dwelling units are not included in density calculations in the RS zone. The proposed subdivision is 0.463 acres in area and is proposed to be subdivided into 4 lots. Density is calculated as 8.6 units per acre ($4/0.463=8.6$). The Hearings Officer finds that the proposal complies with the density requirements of this section of the code.

Setback Requirements: Section 2.102.05.B contains the setback requirements in the RS zone. The property contains a single-family home and associated outbuildings which are all proposed to be removed. Removal of all existing structures will be required to allow for the subdivision development and will be imposed as a condition of subdivision approval and must be accomplished prior to final plat approval. Comments were received regarding the possibility of asbestos and other hazardous materials in the existing structures. While the City does not regulate asbestos or other hazardous material, it should be noted that it is the responsibility of the property owner to comply with all DEQ requirements as applicable.

The Hearings Officer finds this proposal complies with the minimum lot dimension and density requirements of this section of the code. With the above-mentioned conditions of approval, Hearings Officer finds this proposal satisfies this criterion.

The Hearings Officer notes that public testimony also raised concerns about whether residences would be one or two story, and whether they would be rentals or owner-occupied structures. The Hearings Officer notes that no relevant criteria in the KDC permits the Hearings Officer to consider these issues as part of the review of subdivision of land.

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

FINDINGS: As previously discussed, public sewer and water are available and can

serve the newly created lots within the proposed subdivision and the applicant will be responsible for complying with the applicable conditions governing the construction and installation of these facility connections. With the requirement that the applicant must be responsible for providing adequate public facilities as addressed in this decision, the Hearings Officer finds this application complies 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 Hearings Officer notes that the City has a legitimate governmental interest in assuring the development does not cause a public problem due to inadequate, unsafe, and inefficient public transportation facilities. This is done by ensuring that adequate streets that logically continue and extend the City's street system are provided to avoid traffic generation that exceeds the street system's carrying capacity causing dangerous or hazardous traffic conditions. The City of Keizer has traditionally required developers to dedicate property for and to 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 of the required street improvements would be cause for denial of the application on the basis that adequate public facilities are not available to serve the site. In this case, street improvements have been imposed to avoid excessive congestion, and negative safety impacts and to 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 4-lot subdivision for residential development. The development fronts on an existing street (Dearborn) and will construct a new internal street to serve the development. No right-of-way dedication is proposed or required for the Dearborn frontage. Street frontage improvements are proposed along Dearborn and will be required. The applicant proposes to dedicate 27 feet of right-of-way to construct a $\frac{3}{4}$ width street to serve the development, which is necessary to provide access to the new lots in the proposed development. The necessary improvement of a street is identified in KDC Section 2.302.04. The table set forth in such section indicates the minimum improvements and right-of-way widths that are required.

The Hearings officer notes that the improvement of streets adjacent to subdivisions is necessary to provide a safe and convenient transportation network to serve the residents of the new subdivision. The KDC requires that new development make road improvements to bring their road frontage up to the designated road classification and construction standards. The legislative adoption of the street standards requires road improvements, and the road construction to be provided by the development as it occurs,

in proportion to its impacts. The residents of the subdivision will utilize road systems constructed by other developments at no cost to them or the applicant. Other benefits which necessarily flow to the future residents of this development, from the completion of the street improvements, include access for vehicles, bicyclists and pedestrians to the arterial road system serving this area of the City and improved access for emergency vehicles to the subject property and its residents.

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

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

SANITARY SEWERS:

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

- a) City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the Applicant's engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City's Master Sewer Plan for the area.
- b) Connecting to existing sewers that serve the general area will be the responsibility of the developer of the property. Each parcel will be required to have its own sanitary sewer service and will be required to

connect to an approved public sanitary sewer line. Plans for connection to the sanitary sewer system shall be submitted to the City of Keizer and the City of Salem for all parcels and shall be permitted by the City of Salem prior to recording of the partition plat.

- c) Appropriate easements will be required for any public sewer mains located within the subject property if located outside of a platted right-of-way. Easements will be required for all private sewer lines that cross private properties.
- d) The property is within the original Keizer Sewer District and is therefore not subject to an acreage fee for sanitary sewer.
- e) Any septic tank and drain field on the subject property 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.
- f) If a design exception to the City of Salem standards for sewer construction will be required for this project, any submittals for an exception shall be copied to the City of Keizer for review.

WATER SYSTEM:

- a) A master water system plan showing proposed routes of public water mains, fire hydrants and individual services shall be prepared prior to submission of construction plans for the development. Appropriate easements to the City of Keizer will be required for all public water mains, fire hydrants and private services if construction is to be outside of a public right-of-way. Any system development charges for water system improvements will be those in place at the time of individual service connections.
- b) Final development plans shall be reviewed by the Keizer Fire District with regard to access and adequate location of fire hydrants prior to any issuance of Public Construction permits by the City of Keizer. All required fire hydrants shall be served by an 8-inch water main.
- c) Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements. The Applicant shall provide evidence to the Public Works Department that any abandonment of existing wells has been completed in accordance with such requirements.
- d) Location of all meters to be approved by the Public Works Department.

STREET AND DRAINAGE IMPROVEMENTS:

- a) Storm water quality and detention improvements will be required in conformance with the City of Keizer Public Works Department Design Standards. The developer's engineer shall conduct on-site percolation tests, (the location and frequency of tests are to be coordinated with the City of Keizer Public Works Department) to determine the suitability of the soils for the proposed disposal system. The percolation test and soil analysis shall be performed by a qualified professional engineer. Storm Water calculations shall be submitted in conjunction with the project design drawings and shall indicate how the development complies with the City of Keizer Public Works Design Standards for the basin. All storm water runoff from the property shall be kept on site. No public storm drain system exists for the development to connect to. Roof runoff shall be managed in private collection systems and separate from street runoff and public system.
- b) 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.
- c) The proposed new street, designated as Elvira Court on the application, shall have a minimum of a 27-foot right-of-way with a minimum pavement width of 21 feet from edge of pavement to the proposed face of curb. A 5-foot curb line sidewalk shall be constructed on the West side of the proposed new street. Full build-out of Elvira Court will require a minimum right-of-way width of 35 feet and 28-foot curb to curb width.

The preliminary plan submitted indicates new pavement up to the existing property line on the east side of the subject property. That will not be allowed by the Department of Public Works and the distance between the new pavement and the property line will depend on the existing topography and the proposed new street grade. The Public Works Department will determine what the minimum distance will be allowed after reviewing existing and proposed grades along the property line. It is anticipated that a minimum of one foot will be required but that may need to be widened based on the proposed engineering plans that are acceptable to the Department of Public Works. The width of Elvira Court right-of-way for this phase of development will be determined by the Public Works

Department after the required preliminary engineering data is submitted for review.

- d) Dearborn Avenue is proposed to be widened to provide for a 17-foot half street improvement on the North side of Dearborn with a 6 foot property line sidewalk. Dearborn Avenue is designated as a Collector Street on the City of Keizer Functional Classification Map. All street improvements proposed for Dearborn Avenue shall comply with the Public Works Design Standards for a Collector Street. The half street improvement shall be a minimum of 17 feet from centerline to the new face of curb. Adequate right-of-way is available for the required Dearborn Avenue improvement. A striping plan for Dearborn Avenue will be required and shall be designed to provide for a safe and uniform traffic movement along the newly widened street.
- e) Due to the width of the proposed Elvira Court street improvement the developer will be required to install "No Parking" signs along the proposed street. The "No Parking" requirement shall remain in effect until the street is widened to its ultimate width at the time of development of the adjacent property.

OTHER:

- a) Construction permits are required by the Public Works Department prior to any public facility construction as well as private utility construction within existing rights-of-way. All services including power and franchise utilities serving the new development shall be installed underground, including street crossings.
- 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) A master utility plan including all proposed power, telephone, gas and cable TV. lines shall be submitted to the Public Works Department for review prior to the Department issuing construction permits for the proposed

project.

- g) Erosion control permits shall be obtained from the City of Keizer prior to the disturbance of any soil on the subject property.
- h) Developer shall coordinate the location of mailboxes with the U.S. Postal Service.
- i) The developer of the proposed project shall create a street lighting district for the new subdivision which will include adequate lighting for the widened portion of Dearborn Avenue.
- j) A PUE along all public street rights-of-way shall be shown on the plat for the proposed development.

Prior to Preliminary Plat Approval:

- 2. A detailed preliminary subdivision plat shall be submitted to the Marion County Surveyor's office for review. Marion County Surveyor's office will then submit the plat to Keizer for review and approval. The Preliminary Plat must be submitted for review prior to submittal of a final plat. The process for plat review and submittal shall be regulated by the Marion County Surveyor's Office. All requirements of the Marion County Surveyor's Office and applicable state statutes shall be followed which may include, but not be limited to the following:
 - a. Subdivision name must be approved per Oregon Revised Statue 92.090.
 - b. Must be surveyed and platted per Oregon Revised Statue 92.050.
 - c. Subdivision plat must be submitted for review.
 - d. Checking fee and recording fees required.
 - e. Per Oregon Revised Statue 92.065 remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
 - f. A current or updated title report must be submitted at the time of review. Title reports 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 rights-of-way) 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 rights-of-way.
 - k. All lots must conform to the lot dimension standards within the RCOD and RS zone. The final plat must show both gross and net area calculations.
 - l. Include all dedication as required by Public Works.
3. With the Preliminary plat a copy of the proposed CC&R's, Owners Agreements, Articles and By-Laws shall be submitted to the Planning Department for review by the City Attorney as outlined in Section 3.108.07 of the Keizer Development Code. The following information should be included within the instrument(s):
- a. Information regarding streetscape and replacement tree requirements for each lot.

Prior to Final Plat approval:

4. The existing dwelling and outbuildings must be removed.
5. The 3 street trees shall be planted as a part of the Dearborn Avenue improvements in the landscaping strip or must be guaranteed for installation at the time of public improvements through an improvement agreement or other instrument acceptable to the City.
6. Upon approval of the detailed preliminary plat and engineering plans, a final plat for the subdivision, which conforms to the preliminary plat approval, must be submitted for review to Marion County Surveyor's Office.
7. Upon approval of the preliminary agreement, a final copy of any CC&R's, Homeowner Agreements, or other instrument shall be submitted to the Planning Department which conforms to the agreements submitted during preliminary plat approval and shall contain language regarding the requirements for streetscape and replacement trees.
8. The final plat for the subdivision shall be recorded within 2 years from the date of final decision on this application. A one-year extension may be approved by the Planning Director. Requests for extensions must be received in writing at least thirty days prior to the one-year time period.

Prior To Obtaining Building Permit(s):

9. No building permits shall be issued until the plat is recorded and all conditions of any construction permits are completed to the satisfaction of the Department of Public Works.

10. Proposed dwellings must comply with the design standards of KDC Section 2.314.

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

11. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by the Keizer Fire District and the Planning Department.

12. Trees identified on the tree replacement plan will be required to be planted prior to final building permit approval for each lot. Trees must be planted consistent with Section 2.309 of the KDC which requires a minimum 2" caliper and 8 feet in height for deciduous trees. Trees shall be planted in the quantities as follows:

- Lot 1 = 5 trees (4 streetscape + 1 replacement)
- Lot 2 = 3 trees (1 streetscape + 2 replacement)
- Lot 3 = 3 trees (1 streetscape + 2 replacement)
- Lot 4 = 2 trees (replacement)

13. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.

DATED: October 6, 2021



James K. Brewer, Hearings Officer