



April 25, 2024

NOTICE OF HEARINGS OFFICER FINAL DECISION

Subdivision/Variance Case 2024-03

You are receiving this Notice of Decision from the Hearing's Officer because you provided either written or verbal testimony on a proposed subdivision. Attached is a copy of the Hearings Officer's decision Subdivision/Variance Case 2024-03 for a 21-lot subdivision located at 1135 Clear Lake Road NE, Keizer, OR also identified by Marion County Tax Assessor's Map No. 063W23AC Tax Lot 05300.

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 \$440.00 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 **May 6, 2024**. 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 documents for this case can be viewed at:

<https://www.keizer.org/maps/location/SubdivisionandMinorVariance2024-03>



**BEFORE THE HEARINGS OFFICER
FOR THE CITY OF KEIZER, OREGON**

**In the matter of the application of
Trademark Enterprises, LLC to subdivide
1.70 acres into 21 lots, and for a variance, as
to a parcel located at 1135 Clear Lake Road
NE in Keizer, Oregon**

Case No. 2024-03

LAND USE ORDER

I. INTRODUCTION AND NATURE OF THE APPLICATIONS

This matter came before the City of Keizer Hearings Officer on the application of Trademark Enterprises, LLC, as applicant and property owner (herein, “Applicant”), for approval of a subdivision and a minor variance. The premises are located at 1135 Clear Lake Road NE in the City of Keizer, Oregon (the “Premises”). The Premises are also identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 23AC Tax Lot 05300.

Applicant requested approval to subdivide one parcel of approximately 1.70 acres into 21 lots to construct 20 townhomes and one storm water quality facility. Applicant also requested variance approval to reduce the minimum lot width for 10 lots to construct a required internal street system whilst maintaining allowable density and promoting architectural interest.

II. CRITERIA FOR DECISION

The standards and criteria that apply to the subdivision arise under Keizer Development Code (KDC) Section 3.108 and sections cited therein. The standards and criteria that apply to the variance arise under KDC Section 3.105. The Staff Report dated April 3, 2024, fully recited the criteria and explained pertinent rationales and intentions embodied in the criteria.

III. PUBLIC HEARING

Following public notice, the City of Keizer (City) held a public hearing on the applications on April 10, 2024. The Planning Department file was made a part of the record, as was the audio recording of the proceedings.

The Applicant was represented by Jeremy Grenz and Ryan Bloedel, who provided testimony on their applications. City Staff were represented by Planning Director Shane Witham and City Engineer Richard Walker, each of whom provided testimony, and Assistant Planner Dina Horner, who supported the presentation and hearing. Members of the public appeared and testified, and they are identified below.

At the beginning of the hearing, I made the declarations required by ORS 197.797. I had no ex parte contacts to disclose, nor biases or conflicts of interest to report. The pre-hearing statement identified the criteria in the Staff Report; directed any comments be addressed to those criteria; and cautioned attendees that failure to raise issues or arguments in a manner that allowed persons to respond could preclude further appeal based on such issues. No person objected to the jurisdiction of the city or its hearings officer to hear and decide the applications.

Planning Director Witham reviewed the application with a detailed summary. He also explained recent statewide legislation that required the City of Keizer and many other jurisdictions to amend their land use regulations regarding allowable housing choices in residential land use zones. He recommended approval of both applications.

Applicant’s representative Jeremy Grenz appeared and presented highlights of the application.

Members of the public appeared and testified at the hearing. Several of these attendees had also previously supplied written testimony. The following table lists the people who testified, including persons who appeared in writing, and identifies the issues they raised. A key to the issues appears in the next section of this Land Use Order (the “Order”).

Name	Oral or Written	Issues raised:
Mavis & Greg Maki	Both	A, B, C
Daryl Miller	Both	C, F, H, I
James Ashton	Both	D, E, F, H
Leah and Don Hendrickson	Both	A, C, G, H, I, L
Jessica Saltalamachia	Written	A, F
Roger and Gayle Holderby	Written	G, H, I
Jack and Sharon Evans	Both	A, E, F
Leticia Villereal	Written	C
Alicia and Shawn Palmer	Written	A, E, F, I,
Ben Waldon	Both	A, C, H, I
Bob Ohryn and Pam Kingsbury	Written	A, J
Tammy [no last name]	Written	K
James Brown	Orally	I
Leslie Brown	Orally	Opposes the project
Tom & Cathy Williams	Orally	B, C, H
Bruce Anderson	Orally	C
Laura Jamieson	Orally	A, H, I

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IV. FACTS AND FINDINGS

I have carefully considered the information in the staff report, the application, and the exhibits attached to both such sources. Moreover, I have considered the testimony and evidence presented at the public hearing.

After taking the matter under advisement, I issue the following findings of fact and decision. First, I find that the application properly identified the property by location and ownership. The property contains existing development, which Applicant proposes to replace with single family townhome residences. There are adequate public facilities available to serve the development.

Next, as Staff has explained, the property is designated Low Density Residential and zoned Urban Transition (UT). The development code indicates that by operation of law, the zoning will convert to the Single-Family Residential (RS) designation upon approval and recordation of a subdivision plat. Properties to the west, north, and east of the Premises are zoned UT and improved with single-family detached dwellings. To the south, properties are zoned RS and also improved with single-family detached dwellings.

Third, the 139-page Staff Report dated April 3, 2024, is a thorough, balanced, and reasoned explication of the criteria and the evidence that relates to the criteria. The Staff Report does an exemplary job of presenting a neutral yet thorough explanation of how the applications, with conditions, satisfy the criteria. I find no evidence in the record that would overcome any of the Staff analysis, nor displace any of the recommended conditions of approval. In lieu of repeating the unchallenged findings of the Staff Report, I adopt and incorporate the Staff Report by reference in its entirety as grounds for this Order.

Finally, this Order addresses the concerns raised orally and in writing at the public hearing. To do so, the findings identify the key issues in the table above by a letter, and below explain the issue and findings as to each such issue. This constitutes a “key” to the table of issues set forth above. To some extent, the findings below refer to or rely on the findings and conditions in the Staff Report, but the findings below do not disturb or remove findings or conditions set forth in the incorporated Staff Report.

A: Traffic & transportation concerns: subdivision will add excessive traffic to Barbara Avenue, Clear Lake Road, or both.

Findings:

Several members of the public raised issues related to traffic and future use of the local street system. These issues included but were not limited to turning movements onto Clear Lake Road, increased congestion on Clear Lake Road and adjacent streets, traffic impacts on nearby schools, and adequacy of the overall street system to accommodate increased vehicle trips or vehicle access into and out of the project site.

Certainly, increasing density with up to twenty single family homes in this location will add vehicular trips to the vicinity. As Staff has indicated, the addition of twenty homes does not trigger the Development Code requirement for a Transportation Impact Analysis. Thus Staff found, and I agree, that the city should evaluate the proposal under requirements for adequate street improvements and satisfying city standards. Staff explained the city standards, which arise under KDC Section 2.302 and which are further supported by implementing conditions of approval for these applications.

As to impacts upon Barbara Avenue NE, members of the public are correct that existing segments of Barbara Avenue NE near the project site are not currently built to full city standards. The applicant's presentation confirmed that the project will build new segments of Barbara Avenue NE out to the subject parcel property lines, but that this new right-of-way will not connect to existing Barbara Avenue right-of-way segments in connection with this project. Staff explained in detail, orally and in writing, that future public processes will occur before traffic from this or other future development might access the existing segments of Barbara Avenue NE. Because this application will leave the two segments disconnected, I find that this project requires no approval conditions as to existing segments of Barbara Avenue NE.

I additionally note that proposed new streets, particularly Mykala Road NE, Barbara Avenue NE, and the interior private access easement, will be built and conditioned to meet City standards. This includes vehicular turnarounds for stubbed street ends, which Applicant testified will be adequately sized for motor vehicle turnaround, and that adequate space exists on the site to construct all required turnarounds. There was also no evidence that the project would fail to stub public streets out to the property lines, thus ensuring the project can meet the important public policy of providing street connectivity up to adjoining parcels (thus avoiding "spite strips") as the City evolves with land use projects to be proposed or built over time. An additional condition of approval (No. 22) will further set apart the subdivision as served by an interior easement.

In sum, the record contains substantial evidence that with conditions, the application satisfies the criteria as to transportation and rights of way.

B: Inequitable transportation funding: Existing Barbara Avenue residents have funded street improvements.

Findings:

Members of the public testified that in times past, one or more families or individuals contributed funds to the upkeep of Barbara Avenue NE located near the project site. I accept the testimony, and understand the participants to mean that despite Barbara Avenue NE being a public street, private individuals have funded one or more efforts

over time towards the upkeep of the passageway, and that there is inequity if additional public trips from this development are allowed to use the current segments of Barbara Avenue NE.

I believe that the development code and the development process have the potential to positively adjust or rebalance the equities over time. The evidence in the record indicates that Barbara Avenue segments are improved at the present to resemble a narrow one-lane street. However, the evidence also indicates that improved areas comprise less than the total dedicated right-of-way area. Similarly, under the Development Code, a fully constructed street section of Barbara Avenue will amount to a 46-foot-wide right-of-way assuming that future development improves streets in a similar fashion proposed by the within Applicant. The future streets will be substantially wider and fully improved relative to the slender improvement that currently exists. The value needed to construct full buildout (such as to fund materials, labor, design, entitlements, and the like) is likely to far exceed any value contributed by the current adjacent landowners towards Barbara Avenue NE projects at the current sub-standard pavement widths.

Thus, though there are no criteria or approval conditions on which these concerns directly bear, I believe the future land use or other processes, devoted to Barbara Avenue NE improvements, will almost certainly greatly offset any value contributed by current or former Barbara Avenue NE residents.

C: Incompatible development type: Townhomes are multi-family housing which are inconsistent with single-family zoning of the project area.

Findings:

The Staff Report identified that there could be confusion about the land uses allowed in the City's RS zone. At the public hearing, Staff elaborated on their analysis that townhomes are an outright permitted use in the RS zone. Staff explained that recent state law changes recognized a statewide concern regarding housing types. Staff further explained that these laws required cities over a certain size (which includes Keizer) to amend their land use regulations to allow attached development types such as single-family residential development within zones such as the RS zone.

Moreover, the proposed development is situated within the urban growth boundary. This is consistent with the City's legislative determination to allow urban densities on the subject property.

Accordingly, I cannot identify any factual basis in these concerns to deny either of the subject applications.

D: Flooding risk: Project area will be at a higher elevation than existing Barbara Avenue developments, creating a flooding risk.

Findings:

There was testimony during the hearing that grading of the project site, to construct townhomes, could cause storm water on the site to flood adjacent properties situated at lower elevations, including on adjacent rights-of-way.

It is true that buildout of this site will increase the total hard surfaces on the site by adding roofs, driveways, and patios. To explain the project's capacity to handle such runoff, the Applicant submitted preliminary plans for grading and drainage, and also submitted storm water analysis.

Pertinently, the Applicant's plans confirmed that Applicant will develop a rain garden type of storm water quality facility (SWF) on Lot 21 of their site plan. Applicant's proposal will meet the City's requirements to treat stormwater on site, in the SWF, with an initial emergency overflow facility on the site, followed by another emergency overflow to city facilities in the right-of-way. The city's Public Works Department developed numerous approval conditions which Staff evaluated as thorough and sufficient to result in compliance with the criteria, which is a conclusion that I share.

The proposal also satisfies the criteria as to stormwater from the hard surfaces of the new streets and access easement to be constructed on the subject property. At the public hearing, the City Engineer verified that this storm water will be treated on site, in the SWF on Lot 21, and noted this further justified the city's maintenance of that facility.

In sum, the record contains substantial evidence that the application sufficiently mitigates any flooding risks. With conditions, the application satisfies the criteria as to drainage and the storm water system.

E. Adverse impacts: Developing a 20-townhome site will induce theft, noise, and trespassing activity into a rural neighborhood.

Findings:

As to theft and trespassing impacts, such complaints raise issues of law infractions and conduct offenses. The Development Code does not regulate such crimes or offenses. Even if the evidence established a nexus between increased urban density and increased property offenses, regulating such activity is beyond the scope and purpose of a zoning ordinance.

As to noise, some public testimony raised concerns that future subdivision residents may generate noise that impacts adjacent residential properties. These assertions resemble concerns about increased density resulting from townhome development.

To my view, the evidence does not support a conclusion that increasing the number of residents will automatically increase the noise that residents will generate. Pertinently, the City has a noise ordinance codified as a general police power ordinance and not as a matter of land use. There was no evidence that the City's code or law enforcement authorities would fail to enforce noise regulations or would be incapable of enforcing such regulations. That said, Condition 22 as the access easement may indirectly address some of these concerns.

Accordingly, I cannot identify any factual basis in these concerns to deny either of the subject applications.

F. Reduction in country living: Townhome development is inconsistent with the country feel or farm-oriented uses in the area, such as hops land, orchards, nurseries, and natural areas.

As set forth above for issue "C," the Staff report identified that there could be confusion about the land uses allowed in the City's RS zone. At the public hearing, Staff elaborated on their analysis that townhomes are an outright permitted use in the RS zone. Staff explained that recent state law changes recognized a statewide concern regarding housing types. Staff further explained that these laws required cities over a certain size (which includes Keizer) to amend their land use regulations to allow attached development types as single-family residential development within zones such as the RS zone.

Moreover, the proposed development is situated within the urban growth boundary. This is consistent with the city's legislative determination to allow urban densities on the subject property.

Accordingly, I cannot identify any factual basis in these concerns to deny either of the subject applications.

G. Excessive building height: Townhomes will be excessively tall, have too many building stories, and impede views.

Findings:

There was public testimony that townhomes could be constructed to elevations which would be unduly tall and invade privacy concerns of neighboring parcels. As an initial matter, the Development Code's criteria did not require Applicant to procure precise architectural elevations as part of its application submittal, as such elevations would not be germane to the overall thrust of the subdivision standards which are intended to

facilitate the limited, orderly, and well-supported platting of individual lots and their accessways such as streets and sidewalks.

Given those policies, the Development Code is silent on whether homes should be single story or multiple story. As there are no such criteria, the city may not condition development in that way. As Staff explained at the public hearing, the homes developed on the lots must not exceed 35 feet in height. I find that the building permit process will adequately oversee the maximum height limitations and it would be redundant to impose such a condition in this land use approval.

It is also the case that even were this project to propose detached single-family dwellings, the buildings could be sited on lots and obey setback minimums and height maximums in ways that resemble siting the proposed townhomes.

Accordingly, I cannot identify any factual basis in these concerns to deny either of the subject applications.

H. Insufficient parking: The proposed new streets will not offer this development sufficient car parking opportunities.

Findings:

Some project opponents testified that the subdivision's buildout may challenge residents and visitors to limit car parking to the individual lots, resulting in excessive street parking within the subdivision and possibly outside the subdivision.

While it may seem, to some, that excessive vehicle parking is a foregone conclusion, I do not believe the evidence points this direction, or does not automatically point this direction. First, the KDC requires off-street parking in conformance with KDC Section 2.303. Under this section, each townhome must provide one vehicular parking space. The applicant has discretion on how to construct this requirement. To this end, approval condition no. 20 will require a minimum 9' by 18' parking space area.

Relevant too, on-street parking is a shared public right by virtue of the right-of-way being available to the public. In accordance with its prerogative to manage the right-of-way for the common good, the City has enacted parking restrictions which are enforceable as to all persons parking on the street, residents or visitors. These include limiting an individual vehicle to 72 hours of total parking time on a street. These also include prohibiting parking of certain vehicles and inoperable vehicles. There was no evidence that the City would fail to enforce its parking ordinance, or downgrade its prohibitions for some reason.

On the whole, I find that with conditions, the record contains substantial evidence that the proposed subdivision will satisfy the City’s criteria related to vehicular parking.

I. Improvident use of the variance: The variance is an unsound request and not necessary to facilitate residential construction.

Findings:

Project opponents correctly asserted that the subdivision could be approved and built without the application for variance approval. Moreover, Staff and Applicant acknowledged that a developer could construct the same number of lots with or without the variance.

That said, I do not find any language in the variance criteria which cabin or constrain the act of seeking a variance. Similarly, I find no provisions that limit approvals only to situations involving impossible, dire, or unfortunate circumstances. Thus, I find Applicant’s request to be both within the City’s jurisdiction and proper for decision.

In that vein, I am persuaded that Applicant’s variance request is not just approvable, but exemplary. The evidence demonstrates that the variance may lead to a finished project that is substantially more visually and aesthetically pleasing relative to a project without variance. At the public hearing, Applicant acknowledged the phenomenon of building “massing,” meaning that buildings have a certain bulk that humans may see, perceive, or feel. Instead of creating three long “rows” of uninterrupted townhomes under the unmodified development criteria, the variance will allow the developer to divide certain groups of townhomes with open spaces. This will have the effect of lowering the perceived “massing” of the development, leading to a more pleasing eye feel.

Moreover, the variance will assist the developer with “articulation” of certain of the front and rear building facades. “Articulation” refers to the phenomenon whereby two or more adjacent structures (here, townhomes) have facades at a different distance relative to the viewpoint of a stationary observer. Applicant acknowledged the phenomenon of articulation at the hearing and illustrated articulation opportunities on the sidewalk plan sheet of its plan set, bearing sheet number 702. To cite an example from this exhibit, homes on lots 1 through 9 could have articulated front and rear facades assisted by the reduced massing. This is illustrated in a specific example by how the rear facades of homes 4 and 5 retreat inwards, emphasizing the open visual corridor facilitated by the variance. I find that the resulting articulation joins with reduced massing to substantially increase the visual appeal of the proposed development.

In conclusion, these factors join with the facts and findings developed in the application and analyzed in the staff report, and support approval of the variance.

J. Development pressure on nearby farmland: New dwelling units near farmland will pressure adjacent agricultural activity if residents object to the potential of farming activities to generate noise during night or pre-dawn hours.

Findings:

I evaluate this contention as raising a concern that the City should not permit residential or other development to pressure farmlands to the detriment of their agricultural potential.

It appears to me that the City is aware of this phenomenon. In its awareness, the City has addressed this dichotomy by assigning the Exclusive Farm Use (EFU) and Special Agricultural (SA) zones to certain parcels.

Here, the subject property is zoned Residential Single Family (RS). This is not a resource zoning. Thus, the subject parcel is more properly evaluated as within the urban growth boundary and committed to future urban uses. Indeed, the location of the boundary itself embodies a judgment of the City and of other agencies as to a separation of urban and resource uses. I find that the proposed subdivision is an urban use consistent with the City's long-term vision for the RS zone. Accordingly, I cannot identify any basis within this concern to deny either of the subject applications.

K. Conversion of new dwelling units to rental units: Townhomes resulting from the proposed development may become rental units and increase adverse impacts on the neighborhood.

Findings:

As Staff explained at the hearing, there are virtually no avenues for local governments to regulate or prohibit property owners' rental of their residential housing units, and this is especially the case in the City's RS zone, which provides for single-family dwellings. Moreover, my review of the Keizer Development Code reveals no criteria which would permit only owner-occupied structures or allow a ceiling of renter-occupied units.

While it is true that testimony at the hearing included some inferences or suggestions of what activities may result from full occupancy of the subdivision at buildout, the criteria offer me no pathway for conclusions or conditions to address the testimony.

Accordingly, I make no conclusions nor render conditions related to these concerns.

V. DECISION AND CONDITIONS OF APPROVAL

I find that the record as a whole contains substantial evidence, including but not limited to the application, Staff Report with attachments, public testimony, and written comments. The substantial evidence indicates that the subdivision and variance applications comply with all

applicable criteria. Accordingly, I **APPROVE** the applications subject to the following Conditions of Approval.

The Applicant must complete such Conditions, including by affording sufficient time for public agency reviews and approvals, in accordance with timelines contained within the Conditions. Trademark Enterprises—which is the Applicant and property owner—has the sole responsibility to comply with all these Conditions.

General Requirements:

1. The KDC requires the developer to connect to public utility services. The Development Code also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs. The City's System Development Charges for park development, water system improvements and transportation improvements shall be the fee in place at the time of building permit application. These Development charges, as well as those involving the extension of sewer, water, and/or storm drainage, will apply to this request.
2. No vehicular access to Clear Lake Rd will be allowed for the development. Appropriate notations on the plat, deed restrictions, homeowner's association, or other instrument acceptable to the City must ensure that future property owners know this restriction exists.
3. A turnaround must be provided for the access easement and must be shown on the plat.
4. **PUBLIC WORKS DEPARTMENT REQUIREMENTS.** The Public Works Department has reviewed the development application and minor variance request. The information provided demonstrates the development can reasonably conform with adopted Design Standards with the following conditions and development requirements.

GENERAL

- a) Public Works takes no exception to the requested minor variance.
- b) Construction permits will be required for any construction within a public street, right-of-way, or City easement, for any public infrastructure on private property, and for erosion control and stormwater management on private property. (KDC 2.302.06)
- c) Street opening permits are required for any work within the City right-of-way or easements that is not covered by a construction permit. (KDC 2.302.06)

- d) Erosion control permits shall be obtained from the City prior to the disturbance of any soil on the subject property. (KDC 2.306.05)
- e) A pre-design meeting with the City Public Works Department will be required prior to the submittal of public improvement plans to either the City of Keizer or the City of Salem for review.
- f) An improvement agreement or performance security in a form acceptable to the City shall be required prior to issuance of permits for construction of the public improvements. (KDC 3.202.05.B)
- g) A pre-construction conference shall be required prior to commencement of any construction under permits issued by the City.
- h) The Applicant shall coordinate the location of individual or cluster box unit (CBU) mailboxes with the U.S. Postal Service.
- i) Electricity, gas, and communications services to serve the subdivision shall be installed underground and pursuant to the requirements of the company serving the development. (KDC 2.307.02.C)

STREETS

- a) Dedicate right-of-way along the development side of Clear Lake Road NE to half of the standard 68-foot-wide collector street right-of-way – 34 feet measured from the right-of-way centerline. (KDC 2.302.03.F; 2.302.04)
- b) Dedicate a minimum 46-foot-wide right-of-way for the extension of Mykala Road NE and construction of Barbara Avenue NE within the subject property. The right-of-way dedication shall accommodate 25-foot-radius curb returns at the intersection with Clear Lake Road NE; and accommodate 20-foot-radius curb returns at the internal intersection. The Applicant may request a design exception for the curb returns on the east side of Mykala Road NE if necessary. (KDC 2.302.04)
- c) Dedicate a 10-foot public utility easement (PUE) along the frontage of all street rights-of-way. (KDC 2.302.04)
- d) Construct street improvements along the development side of Clear Lake Road NE to collector street standards – 18 feet from roadway centerline to the face of curb. (Keizer Design Standards 3.04)
- e) Construct internal streets to local street standards (minimum 32 feet between curbs). The sidewalk along the east side of Mykala Road NE may be deferred until development occurs on that side of the street. (Keizer Design Stds. 3.04).

- f) The alignment of the extension of Mykala Road NE into the subdivision shall be in alignment with Mykala Road NE to the south by continuation of the existing centerline. (KDC 2.302.03.C)
- g) The Barbara Avenue NE right-of-way dedication and street improvements shall be aligned to provide for the continuation of the street to the existing Barbara Avenue NE right-of-way to the west. A temporary turnaround shall be provided on Barbara Avenue NE. (KDC 2.302.03.B)
- h) Close the existing driveway onto Clear Lake Road NE. (KDC 2.302.03.N)
- i) Vehicular access to proposed lots 17 through 20 shall be provided from the 25-foot access and utility easement. (KDC 2.302.03.N)
- j) Create a street lighting district for the subdivision, to include installation of adequate lighting for the widened portion of Clear Lake Road NE in addition to the internal street lighting. (KDC 2.310.04.D)

SANITARY SEWER SYSTEM

- a) The subject property is located outside of the original Keizer Sewer District. The Applicant is required to pay a Sewer Acreage Fee of \$7,460.00 per acre unless they can provide evidence that the Fee has already been paid for this property.
- b) 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.
- c) It will be the responsibility of the Applicant’s engineer to locate any existing sewer services that serve the subject property and provide evidence that it is available for reuse. Any septic tank and drainfield located on the subject property and within the City of Keizer shall be abandoned according to the requirements of the appropriate agency and evidence of compliance submitted to the City prior to issuance of any building permits on the subject property.

WATER SYSTEM

- a) The proposed water main along Barbara Avenue NE shall be constructed on the south side of the street in conformance with City requirements and to avoid conflict with the sanitary sewer when the main is extended to serve existing Barbara Avenue properties west of the development. (Keizer Design Standards 5.12.b)

- b) Final development plans shall be reviewed by Marion County Fire District No. 1 regarding 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 or larger 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 water meters shall be approved by the Public Works Department.

STORM DRAINAGE SYSTEM

- a) The existing 36-inch storm drain in Clear Lake Road NE may be used as the Overflow Route for the proposed storm drainage system serving the development. (Keizer Design Standards 400.2.C)
- b) Stormwater collection, conveyance, treatment, and retention facilities shall be designed to accommodate new impervious surfaces in the rights-of-way and future impervious surfaces on all proposed lots, in accordance with Keizer Design Standards Chapter 400.
- c) Provide pre-treatment for stormwater runoff from the private access and utility easement prior to entering the proposed Stormwater Quality Facility or public stormwater system.
- d) The tract of land containing the Stormwater Quality Facility shall be dedicated to the City of Keizer, in a form acceptable to the City, prior to acceptance of the public improvements.
- e) Public Works has reviewed the preliminary stormwater plans and report provided with this application. The information provided demonstrates reasonable conformance with the requirements of Chapter 400 of the Keizer Design Standards. The Applicant’s engineer shall submit a final overall storm drainage plan and design calculations, demonstrating conformance to the Standards, for review and approval prior to the start of development.
- f) A grading and drainage plan shall be developed for the subject property in conformance with the Keizer Design Standards. The plan shall include details of adequate stormwater conveyance 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 erosion control or construction permits for the development.

5. [Reserved]

Prior to Preliminary Plat Approval:

6. A detailed preliminary subdivision plat shall be submitted to the Marion County Surveyor's office for review. Marion County Surveyor's office will then submit the plat to Keizer for review and approval. The Preliminary Plat must be submitted for review prior to submittal of a final plat. The platting process must comply with State statutes and the requirement of the Marion County Surveyor's Office.
- a. Subdivision name must be approved per Oregon Revised Statue 92.090.
 - b. Must be surveyed and platted per Oregon Revised Statue 92.050.
 - c. Subdivision plat must be submitted for review.
 - d. Checking fee and recording fees required.
 - e. Per Oregon Revised Statue 92.065 remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
 - f. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

The detailed preliminary plat shall include the following provisions:

- g. The preliminary plat shall substantially conform to the proposed subdivision request.
- h. Include all engineering elements as required by the Department of Public Works.
- i. For all public water mains, fire hydrants and any public sewer mains located within the subject property (if located outside platted 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 RS zone, with the exception that, lots 2, 3, 6, 7, 8, 11, 12, 13, 14, and 15 may have a lot width of 18

feet per minor variance approval. The final plat must include gross and net area calculations (excluding access easement and turnaround).

- l. Access easement and turn-around area shall be shown on the plat and shall comply with City standards. Access easement name to be shown on the plat.
 - m. Include all dedication as required by Public Works.
 - n. Include a signature line for both the City Engineer and the City Manager.
7. With the Preliminary plat, if proposed, a copy of any proposed CC&R's, Owners Agreements, Articles and By-Laws shall be submitted to the Planning Department for review by the City Attorney as outlined in Section 3.108.07 of the Keizer Development Code. The following information should be included within the instrument(s):
- a. Information about streetscape and replacement trees requirements for each lot.
 - b. Information regarding the maintenance of the access easement, address display signage, and no parking signs along the access easement.
 - c. Information indicating that no vehicular access to Clear Lake Rd is allowed for lots 17-20.
8. A street naming application shall be submitted to the City for naming the private access easement.

Prior to Final Plat approval:

9. 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.
10. 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.
11. A maintenance agreement, homeowners association, or other instrument acceptable to the City and shall be reviewed by the City before the plat is recorded and such instrument must be recorded with Marion County immediately following the recording of the Plat. The agreement shall provide provisions for the maintenance of the access easement, address display signage and "no parking" signs.
12. The existing dwelling and outbuildings must be removed prior to recording the final plat.

13. A final Tree Planting Plan must be submitted to the Planning department for review and approval to confirm the total number of trees removed and required to be planted on-site. The plan shall identify streetscape trees, street trees, and replacement trees that are to be planted.
14. The construction and paving of the access easement and turn around area, installation of the street addressing signage, and required no parking signage shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement or other instrument acceptable to the City as outlined in Section 2.310.06.P of the KDC. Improvement agreements may be obtained from the Planning Department.
15. 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):

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

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

18. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by Marion County Fire District #1 and the City of Keizer Planning Department.
19. Replacement and streetscape trees identified in the “final” tree Planting Plan referenced in condition #13 above must be planted on each lot within the subdivision prior to obtaining final building permit approval or Certificate of Occupancy. Trees are to be a minimum 2” caliper when planted.
20. Parking spaces shall be provided for each dwelling unit within the subdivision in accordance with KDC Section 2.303. Parking spaces must be a minimum 9’ wide and 18’ long.
21. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.
22. To facilitate recognition of this parcel as constructed with an access easement as a type of frontage street, and unless waived in writing by an immediately adjacent property owner,

Applicant shall provide a six-foot tall sight obscuring fence running from the southeastern corner of lot 20, along the southern perimeter of the subdivision, thence along the western and northern perimeters, thence on the eastern perimeter terminating at the southeastern corner of lot 9. In the planning and constructing of such fencing, Applicant must also observe the following:

- a. Unless otherwise specified below, all fencing constructed under this condition must be completed prior to issuance of city occupancy permits;
- b. Applicant to follow through on their oral assent with the owner of 1220 Jays Drive NE to remove a Douglas Fir tree on that property which is situated on the future fence line. Such removal must occur no later than the time Applicant constructs fencing along its side of this property line;
- c. Collaborate with the owner of 1155 Clear Lake Avenue NE to construct six-foot sight-obscuring fencing or equivalent that applicant and such owner mutually agree to construct. The following apply to this requirement:
 - i. Because this side of the development consists of right-of-way and not lots, fencing in this area cannot be built in any part of the right-of-way; rather, it must be installed adjacent to the property line on the side belonging to 1155 Clear Lake Avenue NE;
 - ii. Fencing in this location must be installed no later than the time the Applicant completes public improvements to Mykala Road NE;
 - iii. Fencing that is installed by the time Applicant completes such public improvements is deemed mutually agreed upon. Fencing or other measures not constructed or placed by this time are deemed not mutually agreed upon and not subject to this condition;
 - iv. No later than the time of final plat approval, Applicant must provide City planning staff with a written description of whatever fencing is mutually agreed upon, supported with a drawing or photograph that supports the statement; and
 - v. Because this fencing will be improved on private property off site of the subject Premises, after installation of measures under this subsection (c), ownership, maintenance, liability for, and insurability of such measures belongs solely to the owner of 1155 Clear Lake Avenue NE.

VI. APPEAL RIGHT

Any person who participated orally or in writing and who is not satisfied with this decision may appeal to the City Council within ten (10) days of the date this written decision is mailed. Any

<i>City of Keizer Case No. 2024-03 (Trademark Enterprises, LLC)</i>	<i>Hearings Officer Land Use Order Page 18 of 19</i>
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appeal must be 1) timely; 2) made on forms provided by the City; and 3) be accompanied by the fee established by Keizer Development Code Section 3.208.

DATED: April 24, 2024



Theodore Naemura
Hearings Officer