

## NOTICE OF KING CITY PLANNING COMMISSION MEETING

The City Planning Commission of the City of King City will hold a Regular Session at 9:30 A.M.,  
Wednesday, February 26, 2020, at City Hall 15300 SW 116<sup>th</sup> Ave, King City, Oregon 97224

AGENDA		Action Item
<b>***SESSION***</b>		
9:30 a.m.	1. <b>CALL TO ORDER</b>	Time:
	2. <b>ROLL CALL</b>	
	3. <b>APPROVAL OF MINUTES:</b> <b>January 29th, 2020</b>	M S A
9:35 a.m.	4. <b>TO CONSIDER THE FOLLOWING ITEMS:</b>	
	4.1 <u><b>PUBLIC MEETING, NON-PUBLIC HEARING - MOTION FOR RECONSIDERATION FILED BY ERIC DEITCHLER;</b></u>	M S A
	4.2 <u><b>TRAINING – OREGON’S LAND USE PLANNING FRAMEWORKS – CITY ATTORNEY PETER WATTS</b></u>	M S A
10:20 a.m.	5. <b>COMMISSIONERS REPORT</b>	
10:25 a.m.	6. <b>STAFF REPORT</b>	
10:40 a.m.	7. <b>ADJOURN</b>	
<b>NEXT SCHEDULED MEETING</b> <b>MARCH 25, 2020</b>		Time:
The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Ronnie Smith, City Recorder, 503-639-4082.		

**CITY OF KING CITY  
PLANNING COMMISSION MEETING MINUTES**

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**Call to Order:** A regular meeting of the King City Planning Commission was held at City Hall in the Council Chamber located at 15300 SW 116<sup>th</sup> Ave, King City, Oregon beginning at 9:30 a.m. on Wednesday, January 29, 2020. Pro-temp Chair Commissioner Petrie called the regular Planning Commission to Order at 9:31 a.m.

**Roll Call:** **The following Planning Commission members were present:**

Commissioner Laurie Petrie  
Commissioner John Walter  
Commissioner Marc Manelis  
Commissioner Ann Marie Paulsen  
Commissioner Carol Bellows  
Commissioner Billie Reynolds

**Absent:**

Commissioner Shawna Thompson - Excused

**Staff present included:**

City Manager (CM) Mike Weston  
City Planner (CP) Keith Liden  
City Engineer (CE) Fulgence Buggingo (MurrySmith Associates)  
City Recorder (CR) Ronnie Smith

**Approval of Minutes None**

The first order of business was to elect a chair and vice-chair.  
Commissioner Petrie requested nominations for the chair.

**MOTION MADE BY COMMISSIONER MANELIS TO NOMINATE  
COMMISSIONER LAURIE PETRIE, SECONDED BY  
COMMISSIONER PAULSEN.**

**VOICE VOTE: 6-AYES – 0-NEYS – 0 ABSTENTIONS– 0- RECUSED  
THE MOTION CARRIED 6-0.**

Commissioner Petrie requested nominations for the vice-chair.

**MOTION MADE BY COMMISSIONER PETRIE TO NOMINATE  
COMMISSIONER MARC MANELIS, SECONDED BY  
COMMISSIONER WALTER.**

**VOICE VOTE: 6-AYES – 0-NEYS – 0 ABSTENTIONS– 0- RECUSED  
THE MOTION CARRIED 6-0.**

### **Agenda Item 3 a: Public Hearing:**

Chair Petrie opened the public hearing on LU 19-02 at 9:31 p.m. The Chair explained the rules for the public hearing.

#### **Staff Presentation:**

Keith Liden – presented the staff report to the commissioners.  
Density is 10 – 12 lots

#### **Wetlands**

No work will be done in the Deer Creek wetlands to the far west of the property.

#### **Trees**

The applicant indicates there are 83 mature trees found throughout the property. There is a significant number of additional trees, which are on adjacent properties. The trees and their locations are provided in the arborist's report and Sheets C 121 and C122).

### **Subdivision**

#### ***Lots and Phasing***

The applicant proposes to divide the property into a 12-lot subdivision (11 new lots plus the existing home) in one phase. Including the 22,453 square-foot lot for the existing home, the average lot size is 3,872 square feet (Sheet C040). The average for the 11 developable lots is approximately 2,183 square feet. One lot is proposed to be 1,862 square feet, which is less than the 2,000 square foot minimum standards for the R-9 Zone. The remaining 10 lots range between 2,141 and 2,782 square feet. Dimensions for the 11 smaller lots range between 20 and 30 feet in width and approximately 88 feet in depth. The minimum lot width and depth standards for attached single-family dwellings in the R-9 Zone are 24 and 60 feet, respectively.

#### ***Street System***

Access to the subdivision will be provided by the northerly extension of SW Caesar Terrace. This will be designed as a local street with a curb-to-curb width of 22 feet, curbs, and sidewalk and planter strip on the west side (Sheets C200 and C201). This improvement would extend to the northern property boundary. A subsequent northerly street extension would allow the planned connection with SW Shakespeare Street. The street alignment and design will allow for the installation of a sidewalk on the east side of the street should the properties to the east redevelop. Parking will be prohibited on this street due to its narrow width.

#### ***Street Trees***

The preliminary plat application includes a street tree plan (Sheet L101). Two trees, Green Vase Zelkova, are proposed on the west side of the SW Caesar Terrace, and two additional trees, October Glory Maple, are proposed on the south side of the dead-end street. The applicant is requesting an exemption to allow fewer trees than would normally be required due to space constraints caused by driveways and street light fixtures.

#### ***Agency Comments***

Can be found in the packet. They include comments from the City engineer, TVF&R, Clean Water Services.

## FINDINGS AND CONCLUSIONS

CP Liden highlighted a few high points:

### **Chapter 16.84 – Small Lot and Attached Residential Zone (R-9)**

Lot 2 is the smallest with a proposed area of 1,862 square feet and 20-foot width. The remaining 11 lots are equal to or larger than 2,141 square feet and have minimum widths of 23 feet (Lots 3-10), 30 feet (Lot 1), and 24 feet (Lot 11). The average size of 3,872 square feet for the 12 lots satisfies the average minimum lot size standard of 2,400 square feet. The lot dimensional standards must be satisfied for each individual lot, and not averaged. Therefore, only Lots 1 and 11 satisfy the minimum lot width standard of 24 feet for attached single family residences. For Lot 12 and the existing detached home, a minimum width of 30 feet is easily satisfied. All lots exceed the minimum lot depth of 60 feet. Variance approval is necessary for the proposed size of Lot 2 and the widths for Lots 2-11. The variance standards are addressed later in this report.

With a gross buildable area of 1.39 acres, the project is required to have between 10 and 12 units. The subdivision is proposed to have 12 units (11 new units plus the existing house). Additional findings regarding density are provided under Chapter 16.146 Residential Density Calculation.

### **Chapter 16.128 – Tree Removal**

Section 16.128.050 B. requires consideration of the following criteria:

1. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services or pedestrian or vehicular traffic safety.

The primary issue is a significant number of the trees will interfere with construction of the subdivision.

2. The necessity to remove trees in order to construct proposed improvements, or to otherwise utilize the applicant's property in a reasonable manner.

For virtually any urban density development, it is very difficult to retain a significant percentage of the existing trees. Construction requirements and standards for streets, utilities, proper site drainage, required densities, and homes all contribute to the need to clear much of a construction site. In this case, retaining all or most of the trees on the site would prohibit development as envisioned in the West King City Plan.

3. The topography of the land and the effect of tree removal on erosion, soil retention, stability of earth, flow of surface waters, protection of nearby trees and wind breaks.

As shown on the Sheets C121 and C122, the trees within the 50-foot buffer area for Deer Creek will not be affected by the development. The retention of these trees will minimize the potential for erosion and slope instability. The remainder of the site and surrounding properties

have minimal slope and potential for erosion and related problems due to tree removal.

4. The number and density of trees existing in the neighborhood, the character and property uses in the neighborhood, and the effect of the tree removal upon neighborhood characteristics, beauty and property values.

The removal of the trees proposed and the development to follow will obviously change the present semi-rural character of the property. However, the potential adverse impact on the neighborhood will be reduced by:

- Retaining the Deer Creek buffer, which will continue to provide an important forested backdrop for the development and the neighborhood;
- Retaining the trees that are on the southern boundary or have driplines within the subject property (with the exception of the neighboring trees removed for street improvements); and
- Planting street trees and additional homeowner landscaping.

5. The tree(s) is necessary to comply with conditions of development approval or compliance with provisions of Chapter 16.124.

None of the existing trees are specifically required to be retained through previous approvals or Chapter 16.124.

6. The adequacy of the applicant's proposals, if any, to plant new trees or vegetation as a substitute for the trees to be cut.

As noted in this application, the development will include retaining trees near Deer Creek and providing street trees. In addition, homeowners will have the option of planting new trees after construction is complete.

#### **Chapter 16.132 – Parking and Loading**

CP Liden mentioned that the current code allows for one parking space per resident mandated by Metro.

All of the lots will allow for house designs and driveways that will provide a one car garage, and an additional space on the driveway. The one parking space per residence standard will be satisfied.

The parking plan shown on Sheet C260 shows 11 on-street spaces, but it is not approved by TVFR, as noted in this agency's comments (Exhibit B). A revised on-street parking plan is required as a condition of approval.

#### **Chapter 16.164 – Variance**

*This chapter of the CDC contains the approval criteria for granting variances. The application requires the approval of two variances for 1) creating a lot of 1,862 square feet where a minimum of 2,000 square feet is required; and 2) creating 9 lots*

*that have widths of 20 or 23 feet where 24 feet is required. The criteria and findings are below:*

1. The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;

The purpose of the minimum lot width is to provide a building site that will be able to successfully accommodate a residence that meets the other applicable CDC requirements for property development and especially residences in this case. The proposed 20-foot width and 1,862 square-foot area is the only one intended for a dwelling that will be attached on both sides. Because there will be no side yard, the available building width will be comparable to the remaining lots, which will have a minimum 3-foot side yard on one side. The R-9 Zone (applicable here) and the R-12 Zone both allow this type of attached housing. However, because higher density is allowed in the R-12 Zone, the minimum attached single family lot size is 1,600 square feet. The reduced size for Lot 2 is consistent with the type of residential unit it is designed for, and it is equal to what is required for similar residences in the R-12 Zone.

The proposed 23-foot wide lots (3 – 11) will only be 1-foot shy of the 24-foot standard and they satisfy the minimum lot size standard. They will be able to accommodate building widths of 20 feet and will be capable of meeting the other applicable dimensional standards and building design requirements of the R-9 Zone.

2. There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;

When redeveloping a property and retaining an existing home, it can be more challenging than an undeveloped property to meet all of the dimensional requirements of the CDC. The available developable property is further diminished due to the required alignment of SW Caesar Terrace, which was skewed to the west in Castle Oaks South. This was done to accommodate the owners with the highest apparent development interest (Gates and Bruce), but it does mean that this development is responsible for a greater share of the total width of SW Caesar Terrace. This in turn, has reduced the east-west dimension available for this subdivision. Finally, without the participation of the property to the north (Bruce), the turnaround had to be provided solely on the applicant's property, further constraining the east west dimension of the developable area. This all resulted in the need for a variance to the size of Lot 2 and the reduced lot width for Lots 2 – 11.

3. The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this code must be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

The attached single family buildings are permitted in the R-9 Zone. These are the only two variances requested, and the remainder of the development is proposed to meet, or will be conditioned to meet all other CDC standards.

4. Existing physical and natural systems, such as but not limited to, transportation facilities, utilities and sensitive lands, must not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title; and

As noted above, part of the need for the lot area and lot width variances relates to the provision of public street access that meets city standards. All utilities can be provided for this development. Finally, the development will totally avoid the sensitive lands associated with the Deer Creek corridor.

5. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

As indicated above there are special circumstances relating to the size and shape of the property, existing home, and street improvement and alignment requirements, which in turn limited development options. The proposed lot width and lot area variances represent the minimum necessary to alleviate the hardship.

CP Liden also pointed out the existing Easement for access. This easement is not suitable for public access; He mentioned that this easement shall be closed to public use along SW Caesar Terrace. This may be accomplished in one of three ways, which must be approved by the City Manager:

- a) Extension of the proposed eastern curb on SW Caesar Terrace to the northern edge of the easement and removal of the driveway pavement within the SW Caesar Terrace right-of-way by the applicant.
- b) If the owner of Tax Lot 1800 wishes to retain access to the common driveway, a lockable gate shall be installed to prevent public access at the owner's expense.
- c) An alternate solution proposed by the four property owners with an interest in the easement (Tax Lots 1600, 1700, 1800, and 1900) to prevent public access.

CP Liden reported that based upon the facts, findings, and conclusions the planning consultant recommends the Planning Commission approve the proposed subdivide with the conditions in the staff report.

### **Commissioners Questions to Staff:**

Commissioner Paulsen asked if we have any other examples of the lot size?

CP Liden mentioned that we allowed for this type of thing since 2002.

CM Weston said the close examples that we have are in Rivers Edge.

Commissioner Bellows asked: Variance is given to only in extenuating circumstances can you explain the extenuating circumstances here.

CP Liden Mentioned that it's a jument call for the Planning Commissioners to consider.

Commissioner Walter asked: Is there going to be transportation Impacts?

CP Liden mentioned he doesn't think so. This area will still be under the 120 car for the collector. He also mentioned that for a total of 42 homes in this area, the traffic count would be estimated at around 500.

Commissioner Manelis asked: what is the length of the local street, and would the fire truck be able to turn around?

CP Liden said yes, the fire truck would be able to turn around.  
CM Weston mentions this local street is estimated at 220 feet.

Commissioner Bellows asked: could more street trees be planted?

CP Liden mentioned that the applicant would have a chance to answer that in a moment. He also mentioned that he is no objections to adding more street trees.

Commissioner Reynolds asked: Is concerned about the creek in that area. What is being done with stormwater treatment and who is responsible?

CE Fulgance mentioned that Clean Water Service is typically responsible for the stormwater runoff.

### **Applicant:**

Andrew Tull with 3J consulting presented the applicant's arguments:

- Entry-level – middle-income housing;
- Mr. Tull mentioned that they just made a late submittal this morning, including an additional easement and fire turn around;
- Parking will only be on one side of the street;
- He mentioned that they will try to look at getting more trees if possible subject to city staff, city engineer, city planner and city manager approval;

### **In Support:**

Mimi Doukes from AKS – representing David Bruce of 17425 SW 131 Ave: discussed with applicants teams yesterday resulting in additional easement: accommodating unknown future development and fire turnaround.

Sam Locklin 17455 SW 131<sup>st</sup> Ave: Submitted a document dated January 14<sup>th</sup>, 2020 titled "Esaments Concerns due to Development Proposal of Ponderosa Pines Subdivision" this document is part of the planning commission minutes and will be attached to the minutes.



Sam has concerns that if the easement will be used as a short cut and is in favor of the proposed curb extensions on page 22 4a of the staff report. He also mentioned that he would like to see all the easements that will no longer be used by the applicant released.

On the third page of Sam Locklin's document mentions future variances possibilities on lots 4 and 5 due to applicants development.

Sam mentioned that the applicant's plan talk about capping the utility line at the end of his property. He wanted to know if the city has anything to say about where they are going to cap it off. He has concerns about the water line leaking at a later date and the responsibility of repairing the line.

Eric Diekster 17415 SW 131 Ave: He approves the concept, but would prefer the subdivision was not granted with the variances.

**Opposition:**

Todd Thompson: Has parking concerns on Ceasar Terrace.

Damon Webb 13252 SW Bedford St: The SFD vs. duplex-triplex is not in character of the surrounding neighborhood. He also has concerns about parking on Bedford street. He would like to see a parking permits for the surrounding areas.

Steve Brown 12225 Castle Oaks South: Has concerns on the parking in the neighborhoods.

**Neutral: None**

**Applicants Rebuttal:**

Andrew Tull mentioned that they are aware of the access easement that Sam Locklin brought up in his testimony. He mentioned that they would take care of this at the end of construction

Andrew said that the applicant's water meter would be removed at 131<sup>st</sup> ave, but the dried pip line will still be there.

He also mentioned that they would likely go with the condition of approval 4a page 22 concerning the access easement.

Andrew also brought up that the city has specific approval criteria – for singal family housing, the criteria are one parking spot per resident. Andrew mentioned that they have gone beyond that and have added two parking spots per lot and about 6 on the street and 2 around the turnaround.

Commissioner Walter asked a question for a resident that lived on Bedford: what is the current parking situation on Bedford.

Kelly Webb: lot of cars are parking on Bedford already.

Chair Petrie asked for a motion to either close or continue the public hearing.

**MOTION MADE BY COMMISSIONER REYNOLDS TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER PAULSEN.**

**VOICE VOTE: 6-AYES – 0-NEYS – 0 ABSTENTIONS– 0- RECUSED THE MOTION CARRIED 6-0.**

**CHAIR PETRIE DECLARED THE PUBLIC HEARING CLOSED AT 11:16 A.M.**

Chair Petrie asked commissioners what they wanted to do? Do you wish to approve, approve with conditions or deny?

Commissioner Bellows mentioned that the subdivision could be accomplished without variance frontage requirements.

CP Keith Liden read from the staff report and explained the variance and criteria.

**MOTION MADE BY COMMISSIONER BELLOW TO DENY THE VARIANCE FOR ALL THE LOTS, SECONDED BY COMMISSIONER WALTER.**

**CHAIR CALLED FOR DISCUSSION**

**VOICE VOTE: 3-AYES – 3-NEYS – 0 ABSTENTIONS– 0- RECUSED THE MOTION FAILS FOR LACK OF MAJORITY 3-3.**

**MOTION MADE BY COMMISSIONER BELLOW TO DIRECT STAFF TO FIND MORE ROOM FOR STREET TREES, SECONDED BY COMMISSIONER PETRIE.**

**VOICE VOTE: 6-AYES – 0-NEYS – 0 ABSTENTIONS– 0- RECUSED THE MOTION PASSES 6-0**

Chair called for motions

**MOTION MADE BY COMMISSIONER BELLOW TO APPROVE THE APPLICATION WITH THE CONDITIONS OF APPROVAL STATED IN THE STAFF REPORT, SECONDED BY COMMISSIONER MANELIS.**

**Roll Call:**

Commissioner John Walter – No  
Commissioner Carol Bellows – No  
Commissioner Laurie Petrie - Yes  
Commissioner Marc Manelis – Yes

Commissioner Billie Reynolds – Yes  
Commissioner Ann Marie Paulsen – Yes

**Motion passes 4 – 2**

Chair Petrie read from the script, “If you desire to appeal this decision to the City Council, you must make application, stating the grounds for your appeal, to the City Recorder within fifteen (15) days of the mailing of the decision notice. The decision notice is normally mailed within one week following the decision”.

The chair called for a short recess.

**Agenda Item 3 b:**

Staff presented a short memo pertaining to ADU.

**Agenda Item 4:** Commissioners Report: None

**Agenda Item 5:** Staff Report:  
Upcoming Planning items  
Staff also discussed the TSP and Master plan updates that are going on.

**Agenda Item 6:** Adjournment

**MOTION MADE BY COMMISSIONER BELLOW TO  
ADJOURNMENT, SECONDED BY COMMISSIONER PAULSEN.  
THE MEETING ADJOURNED AT 12:10 P.M.**

Respectfully Submitted by:

Attested by:

\_\_\_\_\_  
Ronnie Smith  
City Recorder

\_\_\_\_\_  
Mike Weston  
City Manager

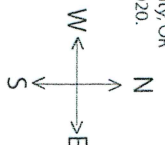
# Easement Concerns Due to Development Proposal of Ponderosa Pines Subdivision January 14, 2020

Drawings prepared by Sam Locklin - Owner of property  
at 17445 SW 131st Ave, King City, OR  
Tax Lot 1600 on January 10, 2020.

Driveway to 17425 SW 131st Ave, Lot 1800

Driveway to 17415 SW 131st Ave, Lot 1900

Driveway crosses onto Lot 1900 7.5' easement where a chain link fence exists.



Area regarding  
Note 1

Easement Private Drive

Proposed Curb extension  
Page 22 4a of staff report  
extends curb across  
private drive.

Proposed Planter Strip

Ditch runs along side of private drive

Easement 25'

17.5' Easement on Lot 1600

Caesar Terrace Proposed Public Road

Gray area is Tax Lot 1600

Tax Lot 1600

Asphalt Driveway

Stamped  
Concrete  
Pool  
Deck  
Existing Home  
and Pool  
17445 SW 131st Ave.

Building

Carport and Garage

Road to  
17435 SW  
131st Ave  
Lot 1700

Stubbed Street  
currently ends  
here

**Note 1:** Proposed Caesar Terrace Road intersects with driveway at 17425 SW 131st Avenue (Lot 1800) and private drive easement on property at 17445 SW 131st Ave (Lot 1600). Jim Gates agreed to release all easement rights for new development (Lot 1800) but owners at Lot 1800 have not agreed to release their easement rights at the time of this writing even though they will have access to a public road and utilities through the new proposed development. This presents an issue whereas drivers on public roads will have a direct access shortcut through a private drive between Caesar Terrace and 131st Avenue.

The private drive is approx 10' wide and not intended to support through traffic for more than two homes. Original zoning in 1987 was one home per five acre parcel and a Consent and Waiver stated the following, "This consent and waiver is given in consideration of approval of land use action a Minor Land Particular to Create **Two** Parcels, Item No. 86-406-WP". This being two landlocked parcels at Lots 1700 and 1800. The zoning was changed to R9 much later. The private drive is in need of repair and presents a safety issue for future traffic and neighbors when the development is completed of which it was never intended. The CC&R's states that anyone using the easement from Lots 1700 and 1800 are responsible for maintenance and repairs based on their percentage of the road in which they use accounting for approx. 70% of the overall cost for the entire road easement. There would be no way to hold users of the private drive who have access to the public roads accountable for repairs and maintenance other than anyone who owns the rights to the easement. This puts an undue burden on myself for easement road maintenance and repairs and liability due to city planning that did not take this issue into account.

I feel that it is the responsibility of King City to work out a solution with Lot 1800 owners so that I can move forward with land improvements. I am open to any discussions and possibilities to resolve this issue.

Sam Locklin  
Cell: 503-313-1199  
email: samlocklin@gmail.com

17445 SW 131st Avenue  
King City, OR 97224-2040

Driveway to 17425 SW 131st Ave. Lot 1800

Driveway crosses onto Lot 1900 7.5' easement whe

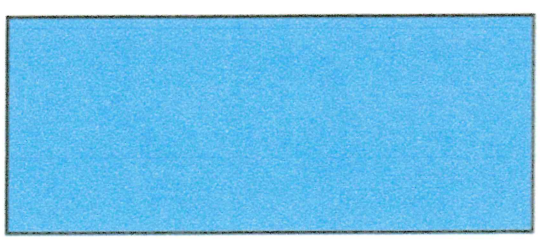
Area regarding  
Note 1

Easement Private D

Proposed Curb extension  
Page 22 4a of staff report  
extends curb across  
private drive.

Proposed Planter Strip

sed Public Road

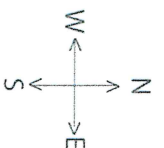


Star  
Conc  
Pool  
Deck

**Prepared by Sam Locklin on January 9, 2020.**  
This is to scale and was prepared to show possible future development plans. This plan is for single family homes with two car garages. It is being submitted for information only and not an application for development.  
Future plans could change.

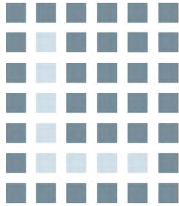
This is to scale and was prepared to show possible future development plans. This plan is for single family homes with two car garages. It is being submitted for information only and not an application for development. Future plans could change.

Driveway to 17415 SW 131st Ave. Lot 1900



17445 SW 131st Avenue  
King City, OR 97224-2040





**Keith Liden, AICP** PLANNING CONSULTANT

503.757.5501  
keith.liden@gmail.com

4021 SW 36th Place  
Portland, OR 97221

## MEMORANDUM

TO: King City Planning Commission  
FROM: Keith Liden, Planning Consultant  
SUBJECT: Ponderosa Pines Subdivision (Case No. 19-02)  
Motion for Reconsideration  
DATE: February 19, 2020

### Introduction

On January 29, 2020, the Planning Commission approved the Ponderosa Pines Subdivision subject to conditions. The application included four land use actions:

1. Subdivision to create 12 residential lots.
2. Tree Removal Review to remove 62 trees on the site.
3. Goal 5 Safe Harbor Review regarding the drainageway and habitat on the west edge of the property.
4. Variance to create lots that are less than the 2,000 square-foot and lot width minimum standards.

### Motion for Reconsideration - Process

A motion for reconsideration has been filed by Eric Deitchler, as provided in Community Development Code (CDC) Chapter 16.64 Reconsideration of Administrative, City Manager and Planning Commission Decisions, if they believe that a mistake of law and fact occurred. CDC 16.64.040 provides that a Planning Commission decision shall be decided as a non-public hearing item by the Planning Commission. Because a motion for reconsideration does not affect the 14-day appeal period for the Planning Commission decision, Mr. Deitchler has also filed an appeal to the City Council. In a meeting with Mr. Deitchler, City Attorney, and staff, it was agreed that the process for this non-public hearing will include:

- Legal notice of the non-public hearing done in the same manner as the original hearing (already completed at the time of the meeting);
- A written staff report and recommendation;
- Presentation and rebuttal by Mr. Deitchler;
- No other testimony from the public or the applicant for the subdivision;
- Questions of the staff or Mr. Deitchler from the commissioners; and
- A decision by the Planning Commission regarding the motion.

CDC 16.64.050 B. provides that a reconsideration of the decision shall be limited to the issues raised in the motion for reconsideration and the merits of the issues raised. The Planning Commission shall only consider the allegations in the motion for reconsideration, the decision criteria in CDC 16.64.010 (noted below), and make a decision to either:

1. Deny the motion and uphold the decision of January 29, 2020; or
2. Determine that the motion for reconsideration has merit based on CDC 16.64.010 and schedule a public hearing before the Planning Commission to reconsider the application. At this hearing the Planning Commission would consider additional testimony and decide to uphold or modify the decision made on January 29, 2020.

## **Motion for Reconsideration – Alleged Mistakes**

The motion for reconsideration submitted by Mr. Deitchler lists five objections alleging that:

1. Proper public notice was not provided;
2. The R-9 Zone does not allow triplexes;
3. The lot width variances for 10 of the 12 lots do not meet relevant approval criteria;
4. Erroneous statements were made during the hearing stating that triplex housing currently exists in the R-9 Zone district; and
5. The variance would set a precedence to inappropriately amend the use provisions of the R-9 Zone to allow triplex units.

The full text of the motion for reconsideration is provided in Attachment A.

## **Staff Findings**

CDC 16.64.010 states that in order to approve a motion for reconsideration and schedule a second public Planning Commission hearing to reconsider the application, the Planning Commission must determine that the following three criteria are satisfied:

- A. *The party requesting reconsideration has sufficiently alleged in writing that a mistake of law or fact occurred;*
- B. *The alleged mistake, if found to have occurred, was a substantial factor in the decision; and*
- C. *Reconsideration is appropriate to avoid delay or hardship which may be caused by an appeal.*

The five reasons for the motion for reconsideration are addressed below according to the three criteria in CDC 16.64.010.

- A. *The party requesting reconsideration has sufficiently alleged in writing that a mistake of law or fact occurred.*
  1. Public notice was provided indicating that a “variance to create a lot that is less than the 2,000 square-foot minimum standard” was proposed. The notice itemized the relevant CDC criteria including Chapter 16.84 Small Lot and Attached Residential Zone (R-9), where the lot size and dimensional standards are found and Chapter 16.164 Variance, that includes the



variance approval criteria. The application materials that were available at City Hall and on-line showed the proposed area and dimensions of the subdivision lots.

2. Triplexes are not allowed in the R-9 Zone, but as noted in the staff report and Planning Commission decision, the three proposed units in the subdivision will be on separate lots meaning the homes will be attached single family units as defined in the CDC.
3. The Planning Commission discussed the variance approval criteria and determined that the variances pertaining to lot size and lot width were appropriate.
4. During the hearing, there was some discussion about where similar attached single family units are found in King City. The staff stated that similar single family attached residences could be found in River's Edge subdivision, but did not assert there were triplexes in the R-9 Zone.
5. The assertion that the lot size and width variances would amend the use provisions of the R-9 Zone is not accurate because three attached single family residences are proposed (not a triplex), and this housing type is a permitted use in the R-9 Zone.

**Conclusion:** The notice could have been more accurate by including the additional variance to the minimum width standard (20 feet proposed for one lot and 23 feet proposed for the 9 others). However, the applicable standards and criteria along with application materials accurately portraying the subdivision lots and dimensions were identified in the notice and available for public review prior to the hearing. In addition, the staff report to the Planning Commission made it clear that single family attached residences were proposed – not triplexes, the commissioners were clear about the facts of the case, and a decision to approve the proposed lot dimensions was appropriately made.

*B. The alleged mistake, if found to have occurred, was a substantial factor in the decision.*

Of the five points alleged in the motion for reconsideration, there were no mistakes made pertaining to points 2 through 5. As noted above, the application description in the public notice could have more accurately described the full breadth of the variance, but all of the factual information regarding applicable standards, approval criteria, and the subdivision plans were properly described and available to the public.

**Conclusion:** No mistakes were made to become a substantial factor in the Planning Commission decision.

*C. Reconsideration is appropriate to avoid delay or hardship which may be caused by an appeal.*

The time involved for reconsideration versus an appeal to the City Council is similar, and therefore, the staff concludes this criterion is not relevant in this case.

## **Recommendation**

The staff recommends denying the motion for reconsideration because the three criteria in CDC 16.64.010 have not been met.

February 4, 2020

To: King City Planning Commission

I am submitting this reconsideration under Chapter 16.64 regarding the Planning Commission decision on January 29, 2020 for Case No. 19-02. I believe a mistake of law and fact occurred.

1. The mailed public notice and community meeting on December 9, 2019 did not address or disclose that a variance was needed for 10 of the 11 new lots that are under the 24' minimum width requirement. The public did not have knowledge and therefore was unrepresented. The mailed public notice ONLY requested "a variance to create a lot that is less than the 2,000 square-foot minimum standard". The proposed plat map was not available for viewing until the start of the meeting on January 29, 2020.
2. R-9 does not allow 3-plexes (16.84.020). Plus unlisted use under provision 16.82 states all approval standards must be met (16.82.040) to allow unlisted use. ALL standards were not met. This is a mistake of law. Also, at the January 29, 2020 meeting it was stated that triplexes were permitted in R-9 zones. This was a mistake of fact.
3. The 10 variances granted of less than minimum width and one smaller than 2,000 square feet do not meet approval criteria evaluation (16.164.050). This is a mistake of law. Also, they do not meet the variance purpose (16.164.010).
4. It was stated at the January 29, 2020 meeting there are other attached housing in R-9 within the King City West zone. This is NOT true. In fact, there are no triplex housing in any R-9 or R-12 zones within King City West zone. This is a mistake of fact.
5. It was stated at the January 29, 2020 meeting that the variances would not create precedence. Municipal code 16.82.030 states that approval of a variance will have the same effect as an amendment to the use provisions of the applicable zone. This was another mistake in fact.

This subdivision is more than the property can handle. Ten out of the eleven new lots are too narrow, one lot is too narrow AND under 2000 sq. feet. It is so tight that the developer cannot even put the required number of street trees. The elimination of one or two lots alleviates all three areas of concern and is warranted by current code. As per 16.64.020, I am requesting a motion for reconsideration for the reasons in this document.

Respectfully submitted,



Eric Deitchler  
17415 SW 131<sup>st</sup> Ave  
King City, OR 97224



## Chapter 16.64

**16.64.030 Motion for reconsideration does not stop appeal period from running.**

**16.64.040 Motion for reconsideration as non-public hearing item.**

**16.64.050 Process for reconsideration.**

**16.64.060 Reconsideration and appeals.**

**16.64.070 Limited reconsiderations.**

**16.64.010 Reconsideration as extraordinary remedy.**

Reconsideration of an administrative, city manager or planning commission decision is available only as an extraordinary remedy upon a determination by the approval authority that:

A. The party requesting reconsideration has sufficiently alleged in writing that a mistake of law or fact occurred;

B. The alleged mistake, if found to have occurred, was a substantial factor in the decision; and

C. Reconsideration is appropriate to avoid delay or hardship which may be caused by an appeal. (Ord. 96-4 § 1 (part), 1996)

**16.64.020 Motion for reconsideration.**

A motion for reconsideration must be filed in writing with the manager within seven calendar days of the date the notice of decision is provided. The motion shall address the factors set forth in Section 16.64.010 of this chapter. The applicable fee adopted by the city council shall be submitted with the request.

A motion for reconsideration may be filed by the applicant, the manager or a party of record. (Ord. 96-4 § 1 (part), 1996)

**16.64.030 Motion for reconsideration does not stop appeal period from running.**

Filing a motion for reconsideration is not a precondition to appealing the decision and does not stay the deadline for filing an appeal. To preserve the right to appeal, a party must file a petition for review as provided in Chapter 16.68. If the initial approval authority grants reconsideration, and ultimately rules

in favor of the party filing for reconsideration, the party may terminate its appeal. (Ord. 96-4 § 1 (part), 1996)

**16.64.040 Motion for reconsideration as non-public hearing item.**

Motions seeking reconsideration of a planning commission decision shall be summarily decided by the approval authority as a non-public hearing item at the first reasonably available opportunity. Motions seeking reconsideration of an administrative or city manager decision shall be summarily decided by the manager within fourteen calendar days of the receipt of the motion. Within seven calendar days, the approval authority shall issue a written notice of the decision to grant or deny the motion for reconsideration to the party requesting reconsideration. The decision as to whether to reconsider is not subject to appeal. (Ord. 96-4 § 1 (part), 1996)

**16.64.050 Process for reconsideration.**

A. Upon granting the motion to reconsider a planning commission decision, the manager shall schedule and notify the parties of a new public hearing on the merits of the issues raised. The reconsideration of the decision shall be limited to the issues raised in the motion for reconsideration and the merits of the issues raised. Such a hearing shall be held at the next reasonably available opportunity.

B. Upon granting the motion to reconsider a city manager decision, the manager shall notify the parties of the reconsideration of the application on the merits of the issues raised. The reconsideration of the decision shall be limited to the issues raised in the motion for reconsideration and the merits of the issues raised. The review shall be done at the next reasonably available opportunity. (Ord. 96-4 § 1 (part), 1996)

**16.64.060 Reconsideration and appeals.**

If the motion for reconsideration is denied or the decision is not altered upon reconsideration, any appeal timely filed shall be processed in accordance with Chapter 16.68. If the motion is granted and the approval authority modifies the previous decision,

*Only mailed Public Notice (Page 1)*

## **REQUEST FOR COMMENTS**

The King City Planning Commission, at its meeting on January 29, 2020, at 9:30 a.m., shall conduct a public hearing to consider the following land use application:

### **FILE TITLE**

Case No. 19-02  
Subdivision, Tree Removal, Goal 5 Safe Harbor Review, and Variance

### **APPLICANT**

James A. Gates  
Pin Oaks Development Company, Inc.  
17435 SW 131<sup>st</sup> Avenue  
King City, OR 97224

### **ZONING**

R-9 Small Lot and Attached Residential Zone

### **REQUEST**

Approval of: a subdivision to create 12 residential lots; a tree removal permit to remove 62 trees on the site; Goal 5 Safe Harbor review regarding the drainageway and habitat on the west edge of the property; and variance to create a lot that is less than the 2,000 square-foot minimum standard.

### **LOCATION**

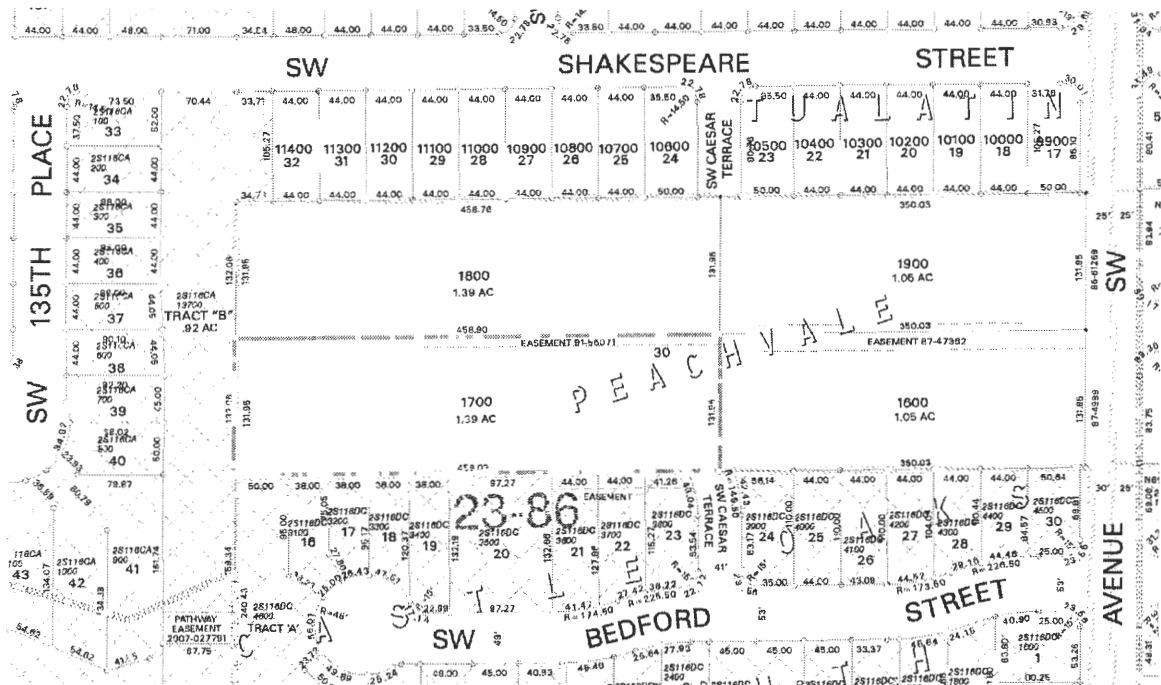
17435 SW 131<sup>st</sup> Avenue (Assessors Map No. 2S1 16DB, Tax Lot 01700). See map.

### **APPLICABLE REVIEW CRITERIA**

King City Community Development Code Chapter 16.46 Requirement for Community Meetings; Chapter 16.84 Small Lot and Attached Residential Zone (R-9); Chapter 16.124 Landscaping and Beautification; Chapter 16.128 Tree Removal; Chapter 16.132 Parking and Loading; Chapter 16.136 Circulation and Access; 16.144 Vision Clearance; Chapter 16.142 Goal 5 Safe Harbor Review; Chapter 16.146 Residential Density Calculation; Chapter 16.164 Variance; Chapter 16.196 Subdivision; Chapter 16.208 Improvements; and Chapter 16.212 Neighborhood Circulation.



# Parcel Map



## PUBLIC HEARING PROCESS

The Planning Commission shall review the application to make a decision regarding the application. The hearing shall be held in the City Council Chambers of the City Hall, 15300 SW 116th Avenue, King City, Oregon 97224. The public hearing on this matter will be conducted in accordance with the rules contained in the King City Community Development Code, which is available at City Hall.

The application and all relevant documents are available at City Hall. At least seven days prior to the hearing, a copy of the staff report will also be available. All documents may be examined at no cost or copies can be obtained for 25 cents per page.

Interested persons are invited to testify before the Planning Commission or to submit written testimony prior to the close of their respective hearings. Approval or disapproval of the requests by the commission or council will be based only upon the criteria included in this notice. At the hearing it is important that comments relating to the request pertain specifically to the applicable criteria listed. Failure to raise an issue in person or by letter precludes an appeal, and failure to specify the criterion from the relevant city ordinances or comprehensive plan at which a comment is directed precludes an appeal based on that criterion.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

For further information please contact King City Hall, at 503-639-4082, 15300 SW 116th Avenue, King City, Oregon 97224.

#### **16.80.080 Other requirements.**

A. No temporary structure, trailer, recreational vehicle or other structure shall be placed on a lot for dwelling purposes, except during periods of construction when one such dwelling is allowed and approved by the city manager for a building project.

B. No signs or other advertising devices except real estate signs shall be placed on a lot without the express permission of the city manager.

C. A garage is required of each dwelling, which shall conform generally in architectural style and exterior materials and finish to the house. (Ord. O-99-6 § 1 (part), 1999; Ord. 96-4 § 1 (part), 1996)

### **Chapter 16.82**

#### **UNLISTED USE: AUTHORIZATION OF SIMILAR USE**

##### **Sections:**

- 16.82.010 Purpose.**
- 16.82.020 Definition.**
- 16.82.030 Administration.**
- 16.82.040 Approval standards.**

##### **16.82.010 Purpose.**

A. It is not possible to contemplate all of the various uses which must be compatible within a zoning district. Therefore, unintentional omissions occur.

B. The purpose of this chapter is to establish a procedure for determining whether certain specific uses would have been permitted in a zoning district had they been contemplated and whether such unlisted uses are compatible with the listed uses. (Ord. O-99-6 § 1 (part), 1999; Ord. 96-4 § 1 (part), 1996)

##### **16.82.020 Definition.**

An unlisted use is a use which is not listed as either a use permitted outright or a conditional use in a particular zone. (Ord. O-99-6 § 1 (part), 1999; Ord. 96-4 § 1 (part), 1996)

#### **16.82.030 Administration.**

A. The city manager shall maintain a list by zoning district of unlisted uses approved by the planning commission and the list shall have the same effect as an amendment to the use provisions of the applicable zone.

B. Requests to approve an unlisted use shall be administered as a planning commission review in accordance with Article II of this title. (Ord. O-99-6 § 1 (part), 1999; Ord. 96-4 § 1 (part), 1996)

#### **16.82.040 Approval standards.**

The planning commission shall approve an unlisted use application based on findings that all of the following criteria are satisfied:

- A. The use is not specifically listed in another zone as either a permitted use or a conditional use;
- B. The use is consistent with the comprehensive plan;
- C. The use is consistent with the intent and purpose of the applicable zoning district;
- D. The use is similar to and of the same general type as the uses listed in the zoning district;
- E. The use has similar intensity, density and offsite impacts as the uses listed in the zoning district; and
- F. The use has similar impacts on the community facilities as the listed uses. (Ord. O-99-6 § 1 (part), 1999; Ord. 96-4 § 1 (part), 1996)

### **Chapter 16.84**

#### **SMALL LOT AND ATTACHED RESIDENTIAL ZONE (R-9)\***

##### **Sections:**

- 16.84.010 Purpose.**
- 16.84.020 Permitted uses.**
- 16.84.030 Conditional uses.**
- 16.84.040 Dimensional and density requirements.**
- 16.84.050 Design requirements.**

\* Prior ordinance history: Ords. 96-4 and O-99-6.



**16.84.010 Purpose.**

The purpose of the R-9 zone is to provide land for housing opportunities for individual households. The zone implements the comprehensive plan policies and regulations that are intended to create, maintain and promote single-family residential neighborhoods. This land use designation is intended to generally apply to annexed properties that were designated as R-9 in Washington County or in the West King City planning area. (Ord. O-02-4 § 2 (part), 2002)

**16.84.020 Permitted uses.**

A permitted use is a use, which is allowed outright, but is subject to all applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Chapter 16.82. Permitted uses in the R-9 zone are:

- A. Dwelling, single-family detached;
- B. Dwelling, single-family attached;
- C. Duplex;
- D. Manufactured home on an individual lot;
- E. Residential home;
- F. Manufactured/Mobile home parks and subdivisions;
- G. Family day care (family care);

**16.84.040 Dimensional and density requirements.**

The dimensional and density requirements of the R-9 district are:

H. Park and open space created as part of a subdivision or planned development; and

I. Dwelling, accessory.

(Ord. O-03-2 § 1 (part), 2003; Ord. O-02-4 § 2 (part), 2002)

**16.84.030 Conditional uses.**

A conditional use is a use, which is subject to a discretionary decision by the planning commission. The approval criteria are set forth in Chapter 16.156. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 16.82. Conditional uses in the R-9 district are:

- A. Schools;
- B. Utilities;
- C. Community services;
- D. Parks and open space not created as part of a subdivision or planned development;
- E. Religious assembly;
- F. Public safety facilities;
- G. Day care group home (family care); and
- H. Recreation vehicle and boat storage serving only the residents within the development. (Ord. O-02-4 § 2 (part), 2002)

**Dimensional Requirements Table**

<b>Minimum and average lot size/land area per unit</b>	
Single-family detached units	2,400 min./2,800 avg. square feet
Duplex	4,400 min./4,800 avg. square feet
Single-family attached and 0-foot setback units	2,000 min./2,400 avg. square feet
<b>Minimum average lot width (per lot)</b>	
Single-family detached units	30 feet
Duplex	48 feet
Single-family attached and 0-foot setback detached units	24 feet
<b>Minimum average lot depth (per lot)</b>	
Single-family detached units	60 feet
Duplex	60 feet

## 16.164 Variance

### 16.164.010 Purpose.

The purpose of this chapter is to provide standards for the granting of variances from the applicable provisions of this title where it can be shown that, owing to special and unusual circumstances, the literal interpretation of these provisions would cause an undue or unnecessary hardship without a corresponding public benefit. (Ord. 96-4 § 1 (part), 1996)

### 16.164.020 Applicability of provisions.

A variance application may be requested relating to any provision of this title, except that a variance request to the permitted or conditional use requirements in Chapters 16.80 through 16.112 shall not be granted. (Ord. 96-4 § 1 (part), 1996)

### 16.164.030 Administration.

Variance applications shall be administered and reviewed as a planning commission review in accordance with Article II of this title. (Ord. 96-4 § 1 (part), 1996)

### 16.164.040 Submittal requirements.

A. In addition to the application form and information required in Section 16.44.030, the applicant shall submit each of the following:

1. A narrative and/or site plan, with the number of copies to be determined at the preapplication conference, which explains the variance satisfies the relevant approval criteria, and:

a. The site plans and required drawings shall be drawn on sheets preferably not exceeding eighteen inches by twenty-four inches;

b. The scale for the site plan shall be an engineering scale; and

c. All drawings of structure elevations or floor plans shall be a standard architectural scale of one-fourth inch or one-eighth inch equals one foot.

B. The manager may require information in addition to that required by this chapter when it is found that certain information is necessary to properly evaluate the application.

C. The manager may waive a specific requirement for information when it is found that such in-

formation is not necessary to properly evaluate the application. (Ord. 96-4 § 1 (part), 1996)

### 16.164.050 Approval criteria.

The planning commission shall approve, approve with conditions or deny an application for a variance based on an evaluation of all of the following criteria:

A. The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;

B. There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;

C. The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this code must be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

D. Existing physical and natural systems, such as but not limited to transportation facilities, utilities and sensitive lands, must not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title; and

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship. (Ord. 96-4 § 1 (part), 1996)

## Chapter 16.168

### TEMPORARY USES

#### Sections:

- 16.168.010 Purpose.
- 16.168.020 Applicability of provisions.
- 16.168.030 Administration.
- 16.168.040 Submission requirements.
- 16.168.050 Approval standards.



**NOTICE OF DECISION  
CITY OF KING CITY PLANNING COMMISSION  
PONDEROSA PINES SUBDIVISION  
File No. LU 19-02**

The City of King City Planning Commission held public hearings on January 29, 2020 to consider the application. The Commission's decision is based on the facts, findings, and conclusions noted below.

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## **GENERAL INFORMATION**

### **Application**

The proposal includes four land use actions:

1. Subdivision to create 12 residential lots.
2. Tree Removal Review to remove 62 trees on the site.
3. Goal 5 Safe Harbor Review regarding the drainageway and habitat on the west edge of the property.
4. Variance to create lots that are less than the 2,000 square-foot and lot width minimum standards.

### **Location**

17435 SW 131<sup>st</sup> Avenue (Assessors Map No. 2S1 16DB, Tax Lot 01700). See map.

### **Comprehensive Plan and Zoning Designations**

R-9, Small Lot and Attached Residential Zone

### **Owner/Applicant**

James A. Gates  
Pin Oaks Development Company, Inc.  
17435 SW 131<sup>st</sup> Avenue  
King City, OR 97224

### **Applicant's Representatives**

Andrew Tull  
3J Consulting, Inc.  
9600 SW Nimbus Avenue, Suite 100  
Beaverton, OR 97008

Figure 1 - Parcel Map

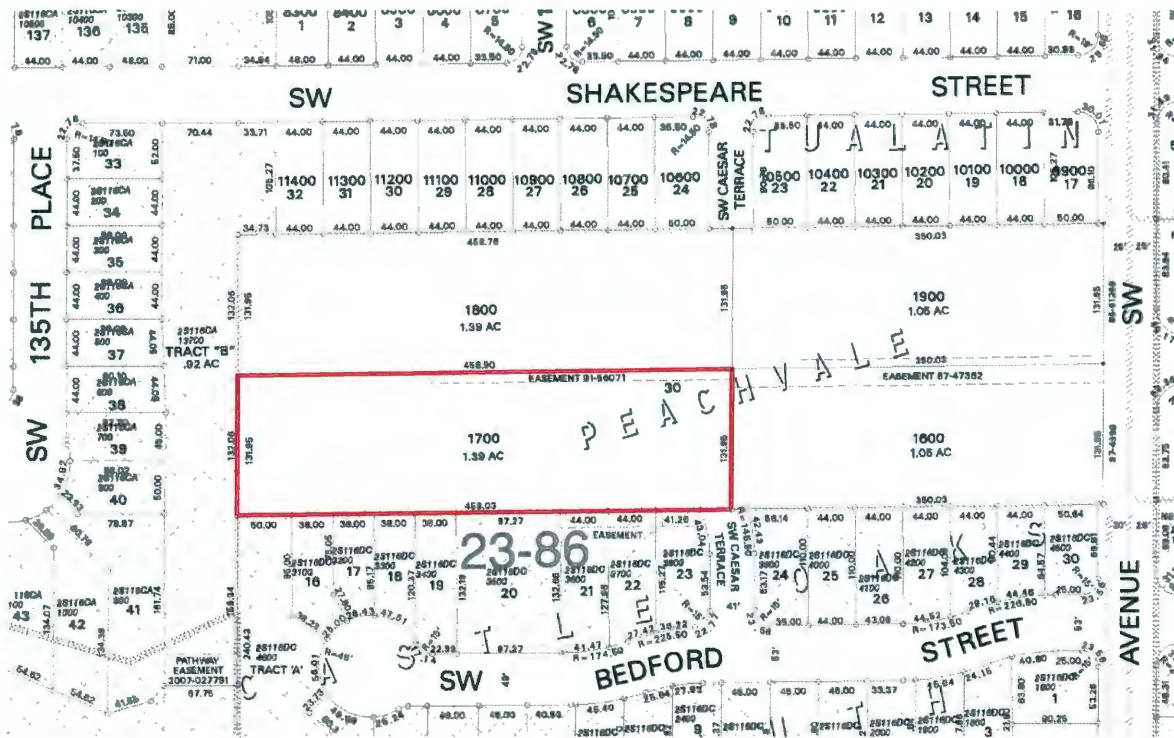
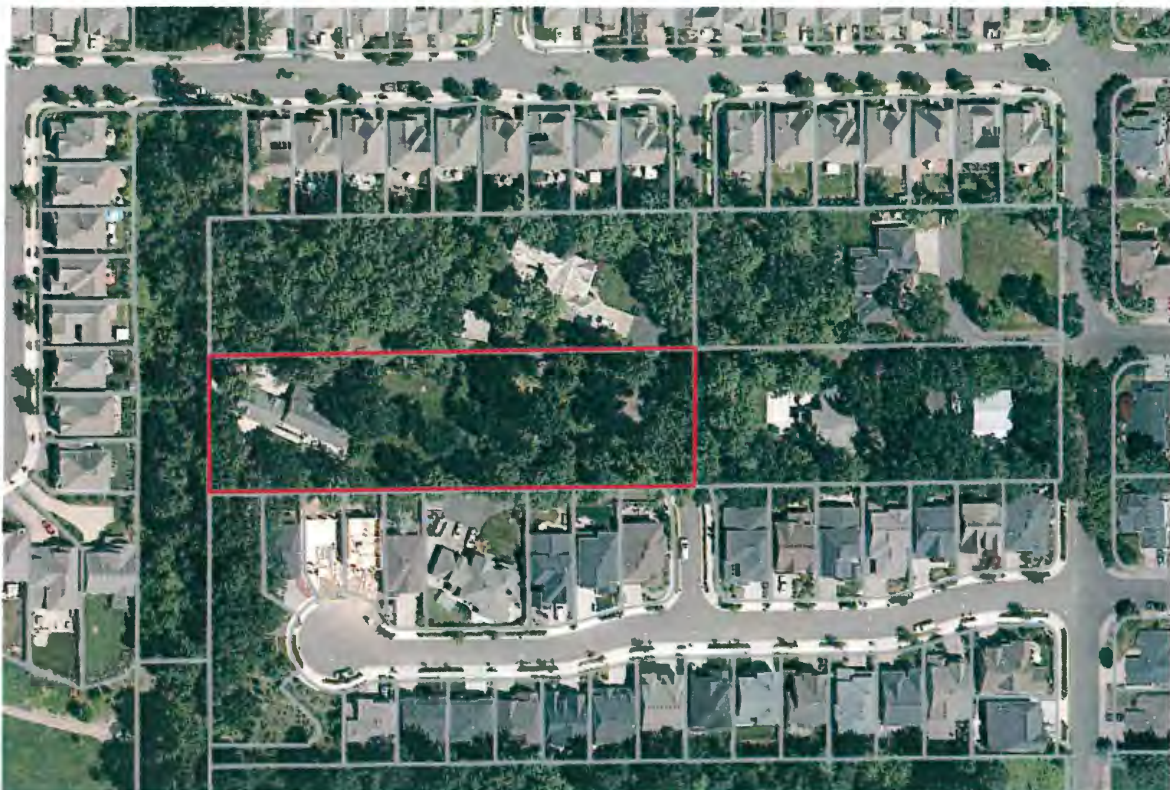


Figure 2 - Aerial Photo





## **BACKGROUND INFORMATION**

### **Site Description**

#### **General Conditions**

Figures 1 and 2 and Sheet C120 illustrate the existing conditions. A single-family house is located on the far western portion of the 1.39-acre property. The site is relatively flat, and the topography slopes down slightly from north to south from approximately 133 feet at the north property line to 131 feet near the southern and western boundaries.

It is important to note that there are two different survey datum references used in King City and vicinity, and these yield different topographic elevations. An older survey datum (NGVD 29) was used in the applicant's plans, and they are reflected in the topographic elevations noted. The Federal Emergency Management Agency (FEMA) has based its most recent floodplain maps on newer survey datum (NAVD 88), which yields topographic elevations that are approximately 3.481 feet higher. Therefore, the lower elevation of 131 feet shown on the applicant's plan sheets is approximately 134.5 feet as measured by the datum used by FEMA.

#### **Wetlands, Riparian Corridors and Floodplain**

Deer Creek is located to the west of the property. It is identified as a wetland, however, none of it is within the subject property. Deer Creek is subject to Clean Water Services (CWS) sensitive area buffer requirements (50 feet), which does include the western edge of the property. The property is above the Tualatin River 100-year flood elevation (approximately 134 feet - NAVD 88 datum) except for a very small area in the extreme southwest corner that may be within the 100-year flood plain.

#### **Trees**

The applicant indicates there are 83 mature trees found throughout the property. There is a significant number of additional trees, which are on adjacent properties. The trees and their locations are provided in the arborist's report and Sheets C 121 and C122).

### **Vicinity Description**

The property is immediately north of Castle Oaks South, and it abuts three similarly sized properties on the north and east. Edgewater on the Tualatin lies farther to the north and on the west side of Deer Creek. The adjacent properties are all developed with single family residences (Figure 2).

A common driveway to SW 131<sup>st</sup> Avenue is shared with the three neighbors to the north and east. In addition, SW Caesar Terrace terminates at the southeast corner of the property, and the northern section of this street is improved for approximately 105 feet south of SW Shakespeare Street (Figures 1 and 2). These portions of SW Caesar Terrace are 22-feet wide with sidewalks on both sides. The city ultimately plans to connect SW Caesar Terrace between SW Bedford Street and SW Shakespeare Street.

## **Project Description**

As noted above, the application consists of four parts, which are summarized below.

### **Subdivision**

#### ***Lots and Phasing***

The applicant proposes to divide the property into a 12-lot subdivision (11 new lots plus the existing home) in one phase. Including the 22,453 square-foot lot for the existing home, the average lot size is 3,872 square feet (Sheet C040). The average for the 11 developable lots is approximately 2,183 square feet. One lot is proposed to be 1,862 square feet, which is less than the 2,000 square foot minimum standards for the R-9 Zone. The remaining 10 lots range between 2,141 and 2,782 square feet. Dimensions for the 11 smaller lots range between 20 and 30 feet in width and approximately 88 feet in depth. The minimum lot width and depth standards for attached single family dwellings in the R-9 Zone are 24 and 60 feet, respectively.

With the exception of the large western lot, which will include the existing house, the remaining 11 lots are designed for what the applicant calls duplex and triplex units. Under the King City Community Development Code (CDC), they are defined as attached single family dwellings because each unit is proposed to be on a separate lot.

#### ***Street System***

Access to the subdivision will be provided by the northerly extension of SW Caesar Terrace. This will be designed as a local street with a curb-to-curb width of 22 feet, curbs, and sidewalk and planter strip on the west side (Sheets C200 and C201). This improvement would extend to the northern property boundary. A subsequent northerly street extension would allow the planned connection with SW Shakespeare Street. The street alignment and design will allow for the installation of a sidewalk on the east side of the street should the properties to the east redevelop. Parking will be prohibited on this street due to its narrow width.

Access for the proposed subdivision lots will be provided by a new dead-end street. This street is proposed to be 28 feet wide with a turnaround at the west end (Sheets C201 and C260). Future residential development on the property to the north would also have access to this new street. The applicant illustrates the proposed street parking and emergency vehicle access on Sheet C260.

In response to West King City Plan and CDC requirements, the preliminary plat includes a neighborhood circulation plan. The circulation plan must show how streets within this subdivision could work as part of a future street system serving the surrounding (Sheet C041). The applicant has shown a potential subdivision layout for the property immediately to the north, which retains the existing house. It also illustrates how SW Caesar Terrace could be extended to SW Shakespeare Street. The properties to the east would have the option of using SW Caesar Terrace and/or SW 131<sup>st</sup> Avenue to serve future redevelopment.

It is the staff's understanding that maintenance responsibility for the existing common driveway

currently is shared by the four benefiting property owners. The proposed future use of this driveway is not described in the application. The plans suggest that residents in the 11 new homes would physically be able to use this driveway to travel between SW Caesar Terrace and SW 131<sup>st</sup> Avenue. In its current condition, this driveway would not meet city standards for either a private driveway or public street.

### ***Street Trees***

The preliminary plat application includes a street tree plan (Sheet L101). Two trees, Green Vase Zelkova, are proposed on the west side of the SW Caesar Terrace, and two additional trees, October Glory Maple, are proposed on the south side of the dead-end street. The applicant is requesting an exemption to allow fewer trees than would normally be required (4 v. 7 at 40' spacing) due to space constraints caused by driveways and street light fixtures.

### ***Utilities***

Water, sanitary sewer, and storm drainage facilities are shown on Sheet C300. These and other utilities shall be required for final design approval from the city engineer and/or appropriate agency or service provider prior to final plat approval.

### **Tree Removal Review**

The applicant proposes to remove 57 of the 83 trees on the property. In addition, 6 trees are proposed for removal (Tree # 139-142, 159 and 216 shown on Sheets C121 and C122) on the abutting properties to the east and north to accommodate the extension of SW Caesar Terrace and the new dead-end street. In addition to streets, tree removal is proposed to allow for home construction and utilities. The existing trees and those identified for removal are described in the arborist's report and Sheets C121 and C122. Trees are proposed to be retained primarily along the southern property boundary and surrounding the existing house.

### **Goal 5 Safe Harbor Review (Wetlands and Riparian Corridors)**

The vegetated corridor for Deer Creek is shown on several of the plan sheets (including C120 and C300). The Deer Creek vegetated corridor, which is located within the proposed 22,453 square-foot lot, will not be affected by any construction or improvements related to the subdivision.

### **Community Meeting**

Chapter 16.46 of the King City Community Development Code (CDC) requires applicants to hold a community meeting to introduce a development proposal to neighboring property owners prior to submitting a formal application. As described in the application, this meeting was held on December 9, 2019 in compliance with the requirements stipulated in Chapter 16.46.

## **Agency Comments**

The City Engineer's comments are in Exhibit A of this report. The memorandum presents a number of development requirements that will apply to the subdivision.

Washington County Department of Land Use and Transportation has reviewed the application and has no comment.

Tualatin Valley Fire and Rescue (TVFR) submitted comments regarding the application (Exhibit B). TVFR lists a number of requirements that will be expected as plans are finalized and the subdivision is developed. TVFR specifically does not approve of the proposed on-street parking shown on the fire access plan (Sheet C260).

Clean Water Services (CWS) has issued a memorandum with comments and a number of conditions that will apply to the subdivision. The memorandum indicates that compliance with Service Provider Letter No. 17-003928 is required. The memorandum and Service Provider Letter are provided in Exhibit C.

No other agency comments have been received.



## FINDINGS AND CONCLUSIONS

The King City Community Development Code (CDC) contains the applicable review standards. The relevant evaluation criteria related to this application are found in CDC Chapters:

- 16.46 Requirements for Community Meetings;
- 16.84 Small Lot and Attached Residential Zone (R-9);
- 16.124 Landscaping and Beautification;
- 16.128 Tree Removal;
- 16.132 Parking and Loading;
- 16.142 Goal 5 Safe Harbor Review;
- 16.144 Vision Clearance;
- 16.146 Residential Density Calculation;
- 16.148 Signs;
- 16.164 Variance;
- 16.196 Subdivision;
- 16.204 Solar Access Standards for New Development
- 16.208 Improvements; and
- 16.212 Neighborhood Circulation.

### Chapter 16.46 – Requirements for Community Meetings

*This chapter of the CDC requires the applicant to sponsor a community meeting for a subdivision and other major developments.*

The applicant hosted a community meeting on December 9, 2019 as required by this chapter. The information and results related to the meeting were provided as part of the application.

### Chapter 16.84 – Small Lot and Attached Residential Zone (R-9)

*Section 16.84.020 Permitted Uses lists single family detached residences.*

The proposed single family lots are consistent with the R-9 Zone.

*Section 16.84.040 Dimensional and Density Requirements states that lots for attached single family residences must be a minimum of 2,000 square feet with a minimum average of 2,400 square feet. Each lot must have a minimum average width and depth of 24 feet (attached)/30 feet (detached) and 60 feet respectively. The maximum density is 9 units per gross acre, and the minimum is 80% of the maximum (7.2 units/acre).*

Lot 2 is the smallest with a proposed area of 1,862 square feet and 20-foot width. The remaining 11 lots are equal to or larger than 2,141 square feet and have minimum widths of 23 feet (Lots 3-10), 30 feet (Lot 1), and 24 feet (Lot 11). The average size of 3,872 square feet for the 12 lots satisfies the average minimum lot size standard of 2,400 square feet. The lot dimensional standards must be satisfied for each individual lot, and not averaged. Therefore, only Lots 1 and 11 satisfy the minimum

lot width standard of 24 feet for attached single family residences. For Lot 12 and the existing detached home, a minimum width of 30 feet is easily satisfied. All lots exceed the minimum lot depth of 60 feet. Variance approval is necessary for the proposed size of Lot 2 and the widths for Lots 2-11. The variance standards are addressed later in this report.

With a gross buildable area of 1.39 acres, the project is required to have between 10 and 12 units. The subdivision is proposed to have 12 units (11 new units plus the existing house). Additional findings regarding density are provided under Chapter 16.146 Residential Density Calculation.

## **Chapter 16.124 - Landscaping and Beautification**

*Section 16.124.050 requires street along all public street frontages.*

Street trees are shown on Sheet L101. Two Green Vase Zelkova are proposed along the SW Caesar Terrace frontage, and two October Glory Maple are proposed along the new dead-end street. The CDC requires a maximum spacing of 40 feet for large trees, which includes the varieties chosen. This standard is met on SW Caesar Terrace, but the maples are over 90 feet apart. Five trees would be required to meet the spacing standard.

CDC 16.124.090 allows for an exemption to the street tree requirements. The applicant requests an exemption to the spacing standards to allow for the necessary driveways and street light fixtures. CDC 16.124.060 B. 8 requires a 20-foot distance between street trees and light poles. Given the circumstances, an exemption is warranted because there is insufficient room to meet the tree spacing standards. However, the Planning Commission encourages the City Manager and applicant to find appropriate ways to provide more street trees as the final plans are developed.

*Section 16.124.060 requires street trees to be a minimum of 2 inches in diameter at 4 feet with maximum spacing of 30 feet for medium sized mature street trees. This section also includes planting requirements.*

The applicant proposes that the trees will be a minimum of 2-inch caliper. Trees meeting these standards will be required for the final plat. The City Manager shall work with the applicant to evaluate the feasibility of providing more than the 4 proposed street trees.

## **Chapter 16.128 – Tree Removal**

*Section 16.128.050 B. requires consideration of the following criteria:*

- 1. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services or pedestrian or vehicular traffic safety.*

The primary issue is a significant number of the trees will interfere with construction of the subdivision.

- 2. The necessity to remove trees in order to construct proposed improvements, or to otherwise utilize the applicant's property in a reasonable manner.*



For virtually any urban density development, it is very difficult to retain a significant percentage of the existing trees. Construction requirements and standards for streets, utilities, proper site drainage, required densities, and homes all contribute to the need to clear much of a construction site. In this case, retaining all or most of the trees on the site would prohibit development as envisioned in the West King City Plan.

3. *The topography of the land and the effect of tree removal on erosion, soil retention, stability of earth, flow of surface waters, protection of nearby trees and wind breaks.*

As shown on the Sheets C121 and C122, the trees within the 50-foot buffer area for Deer Creek will not be affected by the development. The retention of these trees will minimize the potential for erosion and slope instability. The remainder of the site and surrounding properties have minimal slope and potential for erosion and related problems due to tree removal.

4. *The number and density of trees existing in the neighborhood, the character and property uses in the neighborhood, and the effect of the tree removal upon neighborhood characteristics, beauty and property values.*

The removal of the trees proposed and the development to follow will obviously change the present semi-rural character of the property. However, the potential adverse impact on the neighborhood will be reduced by:

- Retaining the Deer Creek buffer, which will continue to provide an important forested backdrop for the development and the neighborhood;
- Retaining the trees that are on the southern boundary or have driplines within the subject property (with the exception of the 6 neighboring trees removed for street improvements); and
- Planting street trees and additional homeowner landscaping.

5. *The tree(s) is necessary to comply with conditions of development approval or compliance with provisions of Chapter 16.124.*

None of the existing trees are specifically required to be retained through previous approvals or Chapter 16.124.

6. *The adequacy of the applicant's proposals, if any, to plant new trees or vegetation as a substitute for the trees to be cut.*

As noted in this application, the development will include retaining trees near Deer Creek and providing street trees. In addition, homeowners will have the option of planting new trees after construction is complete.

## **Chapter 16.132 – Parking and Loading**

*Section 16.132.030 has been recently amended to comply with Metro Functional Plan requirements. The*

*minimum parking standard for a single family residence is 1 space.*

All of the lots will allow for house designs and driveways that will provide a one car garage, and an additional space on the driveway. The one parking space per residence standard will be satisfied.

Previous residential developments have experienced on-street parking issues where there has been a combination of narrower streets (e.g., 22-28 feet), single car garages, and no alley-loaded lots. This has occasionally led to problems with illegal parking and restricted emergency access. The proposed 22- and 28-foot wide streets will provide limited on-street parking opportunities through the development. The parking plan shown on Sheet C260 shows 11 on-street spaces, but it is not approved by TVFR, as noted in this agency's comments (Exhibit B). A revised on-street parking plan is required as a condition of approval.

## **Chapter 16.142 - Goal 5 Safe Harbor Review**

*Section 16.142.060 A. allows the following uses and activities within riparian corridors and wetland boundaries (Safe Harbor areas), which includes Deer Creek:*

1. *Maintenance and repair of buildings, structures, yards, gardens or other activities or uses that were in existence prior to the effective date of these regulations.*

Not applicable – none proposed.

2. *Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.*

Not applicable – none proposed.

3. *Alterations of buildings or accessory structures, which do not increase building coverage.*

Not applicable – none proposed.

4. *Enhancement and mitigation of a riparian corridor or wetland as approved by the City and other appropriate regulatory authorities.*

In accordance with CWS buffer requirements, the Deer Creek Vegetated Corridor will be enhanced and protected.

5. *Streets, roads, and paths.*

Not applicable – none proposed.

6. *Drainage facilities, utilities, and irrigation pumps.*

Not applicable – none proposed. All utilities and stormwater will be directed to SW Caesar Terrace and the existing systems.

7. *Grading for the purpose of enhancing the resource site.*

Not applicable – none proposed.

8. *Water-related and water-dependent uses.*

Not applicable – none proposed.

*Section 16.142.060 B. includes the following general criteria*

1. *Riparian and wetland vegetation shall not be removed, except for the following circumstances:*
  - a. *Removal of non-native vegetation and replacement with native plant species; and*
  - b. *Removal of vegetation necessary for uses and activities listed in Section A above.*

As noted in this report, the city purview in this CDC chapter only pertains to the Deer Creek wetland. Vegetation shall only be removed within the Deer Creek wetland and buffer area under the direction of CWS.

2. *Each tree removed shall be replaced with a native tree species.*

Not applicable – no tree removal proposed within the buffer area.

3. *The applicable provisions of Chapter 16.140, Flood Plain and Drainage Hazard Areas are satisfied.*

Not applicable – not in the 100-year floodplain.

4. *The Division of State Lands has been notified of the application, as provided by ORS 227.350, and all necessary permits shall be obtained from those local, state, and/or federal governmental agencies from which approval is also required.*

As noted in the CWS memorandum, ODSL will be notified to provide any authorization as necessary for activities in the Deer Creek corridor as directed by CWS.

*Section 16.142.060 C. includes the following supplemental criteria:*

*For activities or development listed in Subsections 16.142.060 (A)(5) through (A)(8) (NOTE: This includes streets, drainage facilities, utilities, and grading for this application), the following criteria shall apply in addition to Section B above:*

1. *A wetland scientist or other professional competent in biology prepares a report which:*
  - a. *Identifies and maps the ecological and habitat resource values of the wetland and/or riparian areas on the site and the immediate area (based on field observations); and*

- b. Demonstrates that equal or better protection for the identified resource values will be ensured through restoration of wetlands, riparian areas, enhanced buffer treatment, or similar measures.*

This will be done to the extent necessary under the direction of CWS.

- 2. Alterations in Tualatin River riparian area shall not occupy more than 50% of the width of the riparian area measured between the opposite upland edges of the corridor.*

Not applicable - this riparian corridor and associated 75-foot buffer is south of the subject property.

*Section 16.142.060 D. An applicant may propose to inventory and protect wetlands under the procedures and requirements for wetland conservation plans administered through by ODSL. A wetland conservation plan approved by the director of ODSL shall be deemed to comply with relevant provisions of this Chapter.*

As noted above, CWS shall require ODSL involvement as deemed necessary.

## **Chapter 16.144 – Vision Clearance**

*The requirements in this chapter are intended to ensure adequate sight and vision clearance at street and driveway intersections.*

This chapter will apply as the lots are developed and landscaped.

## **Chapter 16.146 – Residential Density Calculation**

*This chapter sets forth the methodology for calculating development density. The R-9 Zone requires a density range between 7.2 and 9 units per acre.*

The applicant has provided information to verify the proposed density of the subdivision. The total gross area is 1.39 acres. The minimum density allowed is equal to  $7.2 \times 1.39 = 10$  units and the maximum allowable is  $9 \times 1.39 = 12.5$  units. The proposed 12 units (11 including the existing house) meet the density requirements of the R-9 Zone.

## **Chapter 16.148 – Signs**

*Section 16.148.050 identifies when residential identification signs shall be permitted. Phased subdivisions shall be considered a single subdivision for determining permitted signs under this section.*

No sign has been proposed. Should the applicant apply for a sign under a separate permit process, any sign identifying the subdivision must meet the criteria in Chapter 16.148.050. One sign will be allowed for the subdivision.

*Section 16.1148.060 identifies signs that do not require permits.*



If any signs allowed without a permit are required, the standards of Chapter 16.148.060 must be met.

## **Chapter 16.164 – Variance**

*This chapter of the CDC contains the approval criteria for granting variances. The application requires the approval of two variances for 1) creating a lot of 1,862 square feet where a minimum of 2,000 square feet is required; and 2) creating 9 lots that have widths of 20 or 23 feet where 24 feet is required. The criteria and findings are below:*

1. *The proposed variance will equally or better meet the purpose of the regulation being modified and any associated policies of the comprehensive plan;*

The purpose of the minimum lot width is to provide a building site that will be able to successfully accommodate a residence that meets the other applicable CDC requirements for property development and especially residences in this case. The proposed 20-foot width and 1,862 square-foot area is the only one intended for a dwelling that will be attached on both sides. Because there will be no side yard, the available building width will be comparable to the remaining lots, which will have a minimum 3-foot side yard on one side. The R-9 Zone (applicable here) and the R-12 Zone both allow this type of attached housing. However, because higher density is allowed in the R-12 Zone, the minimum attached single family lot size is 1,600 square feet. The reduced size for Lot 2 is consistent with the type of residential unit it is designed for, and it is equal to what is required for similar residences in the R-12 Zone.

The proposed 23-foot wide lots (3 – 11) will only be 1-foot shy of the 24-foot standard and they satisfy the minimum lot size standard. They will be able to accommodate building widths of 20 feet and will be capable of meeting the other applicable dimensional standards and building design requirements of the R-9 Zone.

2. *There are special circumstances, such as peculiar lot size or shape, topographic constraints or limitations caused by existing development, over which the applicant has no control, and which are not applicable to other properties in the same zoning district;*

When redeveloping a property and retaining an existing home, it can be more challenging than an undeveloped property to meet all of the dimensional requirements of the CDC. The available developable property is further diminished due to the required alignment of SW Caesar Terrace, which was skewed to the west in Castle Oaks South. This was done to accommodate the owners with the highest apparent development interest (Gates and Bruce), but it does mean that this development is responsible for a greater share of the total width of SW Caesar Terrace. This in turn, has reduced the east-west dimension available for this subdivision. Finally, without the participation of the property to the north (Bruce), the turn around had to be provided solely on the applicant's property, further constraining the east-west dimension of the developable area. This all resulted in the need for a variance to the size of Lot 2 and the reduced lot width for Lots 2 – 11.

3. *The use proposed is a permitted or conditional use as allowed in the applicable zoning district, and the standards of this code must be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;*

The attached single family buildings are permitted in the R-9 Zone. These are the only two variances requested, and the remainder of the development is proposed to meet, or will be conditioned to meet all other CDC standards.

4. *Existing physical and natural systems, such as but not limited to, transportation facilities, utilities and sensitive lands, must not be adversely affected any more than would occur if the use or structure were developed in accordance with the provisions of this title; and*

As noted above, part of the need for the lot area and lot width variances relates to the provision of public street access that meets city standards. All utilities can be provided for this development. Finally, the development will totally avoid the sensitive lands associated with the Deer Creek corridor.

5. *The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.*

As indicated above there are special circumstances relating to the size and shape of the property, existing home, and street improvement and alignment requirements, which in turn limited development options. The proposed lot width and lot area variances represent the minimum necessary to alleviate the hardship.

## **Chapter 16.196 – Subdivision**

*Section 16.196.040 allows the Planning Commission to approve a subdivision in phases provided the construction period for any phase is not longer than two years.*

The applicant indicates that the subdivision will be developed in one phase.

*Section 16.196.060 contains the approval standards for preliminary plats.*

1. *The proposed preliminary plat and the neighborhood circulation plan (Section 16.212.040) comply with the provisions of this title.*

The applicant provided a neighborhood circulation plan (Sheet C041) as required by Chapter 16.212. It illustrates how a local street system could be developed in accordance with Chapter 16.212. The location and alignment of streets will provide appropriate access and development opportunity for adjoining properties. With the existing potential for redevelopment immediately north and east of the subject property, the proposed northerly extension of SW Caesar Terrace will allow suitable street access for the three abutting properties with the proposed and future connection of SW Caesar Terrace between SW Shakespeare Street and SW Bedford Street.

2. *The proposed plat name is not duplicative or otherwise satisfies the provisions of ORS Chapter 92.*

The Washington County Surveyor's office shall ensure compliance with this requirement.

3. *The proposed streets and accessways are designed in accordance with Chapter 16.212, Neighborhood Circulation.*

This is satisfied as described under the findings for Chapter 16.212.

4. *Parks shall be conveniently located so as to provide direct public access and availability from a public street.*

No common open space is proposed. However, convenient pedestrian access will be provided via SW Caesar Terrace, SW Bedford Street, and an existing pathway to the community park that is located approximately ¼-mile to the southwest.

5. *Parks shall be bordered by at least one public street for a sufficient distance to encourage public use and provide visual access.*

No open space is proposed as part of this subdivision, but easy park access will be available as noted above.

## **Chapter 16.204 – Solar Access Standards for New Development**

This chapter requires that where possible, lots should be platted so that future residences will have good solar orientation and more energy-efficient characteristics. These standards only apply to lots that are 4,000 square feet or larger. Lots may be exempted or standards may be adjusted to address special circumstances, such as avoidance of flood plains and wetland areas. Eleven of the 12 lots will be less than 4,000 square feet and the one lot over 4,000 square feet is developed. Therefore, this CDC chapter does not apply.

## **Chapter 16.208 - Improvements**

*This chapter requires that public improvements be made to support development. Basic municipal services must be provided as required by the city or agency with review and approval authority.*

The provisions of this chapter shall be fulfilled through the conditions of approval contained herein.

## **Chapter 16.212 – Neighborhood Circulation**

*Section 16.212.050 contains the following approval standards for on-site street and accessway circulation.*

- A. *The following review standards in this section shall be used to:*
  1. *Provide a generally direct and interconnected pattern of streets and accessways to*



*ensure safe and convenient access for motor vehicles, pedestrians, bicyclists, and transit users; and*

2. *Ensure that proposed development will be designed in a manner, which will not preclude properties within the circulation analysis area from meeting the requirements of this section.*

The proposed circulation on the property and the surrounding area will provide for a system of internal access for vehicles, pedestrians, and bicyclists. The continued northerly extension of SW Caesar Terrace will accommodate pedestrian traffic to SW Bedford Street, SW 131<sup>st</sup> Avenue, and the community park. This extension of SW Caesar Terrace will ultimately enable its future connection with SW Shakespeare Street.

The proposed street widths of 22 feet for SW Caesar Terrace and 28 feet for the dead-end street correspond with the anticipated vehicular traffic and on-street parking needs for each street, and the design of SW Caesar Terrace is consistent with the existing segments of this street to the north and south.

The application does not clearly describe how the existing access easement serving Tax Lots 1600, 1700, 1800, and 1900 (see Figure 1) will be dealt with. It is a private easement, and in its current condition and width of approximately 10 feet, it is not suitable or safe for public use. The plan for the final subdivision plat must include a method for prohibiting general public use of this easement.

*B. On-site streets for residential, office, retail, and institutional development shall satisfy the following criteria:*

1. *Block lengths for local and collector streets shall not exceed 530 feet between through streets, measured along the nearside right-of-way line of the through street.*

The distance between SW Shakespeare Street and SW Bedford Street is approximately 530 feet. Therefore, once SW Caesar Terrace is completed with future development, this standard will be satisfied. In addition, future development to the east would have the option of extending the proposed dead-end street to SW 131<sup>st</sup> Avenue along the general alignment of the existing access easement. This would result in block lengths of less than 300 feet.

2. *The total length of a perimeter of a block for local and collector streets shall not exceed 1,800 feet between through streets, measured along the nearside right-of-way line.*

This subdivision will complete its portion of the SW Caesar Terrace connection. Once completed, the block perimeter with SW Shakespeare Street, SW 131<sup>st</sup> Avenue, and SW Bedford Street will be less than 1,800 feet.

3. *Streets shall connect to all existing or approved public stub streets, which abut the development site.*

The proposed subdivision continues the extension of SW Caesar Terrace, which is an



existing public stub street to the north and south. The circulation plan indicates that this street alignment will ultimately provide a connection when (and if) the intervening properties redevelop.

4. *Within the West King City Planning Area, local streets shall be located and aligned to connect with the planned neighborhood collector street extending west from SW Fischer Road and/or to SW 131<sup>st</sup> Avenue.*

The subdivision will connect with SW 131<sup>st</sup> Avenue via SW Bedford Street. A future connection via SW Shakespeare Street to SW 131<sup>st</sup> Avenue is further enabled by this proposal.

5. *Within the West King City Planning Area, street system design shall include a minimum of two future local street connections to SW 137<sup>th</sup> Avenue and a minimum of one future local street connection to the property presently occupied by the Mountain View manufactured home park. If the location of the UGB or existing development precludes a street connection(s) at the time of development, the streets to SW 137<sup>th</sup> Avenue shall be fully dedicated and improved up to the city limit, or the western edge of the development, and a financial security acceptable to the City to ensure the streets' construction if SW 137<sup>th</sup> Avenue is brought into the UGB. The northern street shall be dedicated or otherwise reserved for future public street use. Reserve strips shall be provided on all future streets. The developer shall be responsible for installation of a sign at the terminus of each public street that clearly states that the street will be extended in the future.*

This code section is not applicable to this development.

6. *Although an interconnected street system is required by the provisions of this chapter, local street systems shall be designed to discourage motorists traveling between destinations that are outside of the neighborhood being served by the local streets.*

By necessity, one access route to SW 131<sup>st</sup> Avenue is proposed because it is not possible to extend SW Caesar Terrace to SW Shakespeare at this time. However, if redevelopment occurs north of the site, this alternate route via SW Shakespeare will become available.

7. *Cul-de-sacs and permanent dead-end streets shall be prohibited except where construction of a through street is found to be impractical according to the provisions of Section 16.212.080 A.*

The dead-end street is proposed because of Deer Creek, its wetland buffer and the existing developed properties to the north and west. Because of these factors, a dead-end street is warranted as explained under the modification criteria in 16.212.080.

8. *When cul-de-sacs are allowed, they shall be limited to 200 feet and no more than 25 dwelling units unless a modification is justified as provided in Section 16.212.080 A.*

The westerly extension of SW Bedford Street ends in a cul de sac, west of the northerly extension of SW Caesar Terrace. The distance between SW 131 Avenue and SW Caesar Terrace on SW Bedford Street is approximately 350 feet. The northerly extension of SW Caesar Terrace will obviously add to this distance. Until SW Caesar Terrace is connected to SW Shakespeare Street, this will constitute a cul-de-sac with 43 lots (30 in Castle Oaks S. plus 12 proposed and 1 for the residence to the north). The appropriateness of these additional street length is addressed under 16.212.080.

C. *On-site sidewalks and accessways for residential, office, retail, and institutional development shall satisfy the following criteria:*

1. *For blocks abutting an arterial or major collector and exceed lengths of 530 feet, an accessway shall be provided to connect streets for every 330 feet of block length or portion thereof.*

The property does not abut an arterial or collector street.

2. *Accessways shall connect with all existing or approved accessways, which abut the development site.*

As noted, SW Caesar Terrace abuts the southeast corner of the property. The applicant proposes a northerly extension of this street, to enable a future connection with SW Shakespeare Street.

3. *Accessways shall provide direct access to abutting pedestrian oriented uses and transit facilities, which are not served by a direct street connection from the subject property. Accessways shall provide future connection to abutting underdeveloped or undeveloped property, which is not served by a direct street connection from the subject property, where the abutting property line exceeds 330 feet. Where the abutting property line exceeds 530 feet, additional accessways may be required by the approval authority based on expected pedestrian demand. In the case where the abutting properties are Limited Commercial and/or residential, the approval authority may determine that such a connection or connections are not feasible or present public safety issues. The approval authority may reduce the number of required accessways to abutting properties if:*
  - a. *Such a reduction results in spacing of streets and/or accessways of 330 feet or less; and*
  - b. *Reasonably direct routes are still provided for pedestrian and bicycle travel in areas where pedestrians and bicycle travel is likely if connections are provided.*

The applicant's proposed extension of SW Caesar Terrace will satisfy this criterion, and accessways are not necessary or feasible. It will facilitate future access to SW Shakespeare Street.

4. *Direct connection of cul-de-sacs and dead-end streets to the nearest available street or pedestrian oriented use.*

In this case, a pedestrian accessway to the west of the dead-end street is not feasible or necessary. There are developed lots on the west side of Deer Creek with no potential to construct an accessway. In addition, east-west pedestrian access is available via SW Bedford Street and the accessway connection to the community park. Also, once the northerly connection of SW Caesar Terrace is made, pedestrians and vehicles will have good access in all directions.

5. *Accessways may be required to stub into adjacent developed property if the approval authority determines that existing development patterns or other constraints do not physically preclude future development of an accessway on the developed property and the adjacent developed property attracts, or is expected to attract, a greater than average level of pedestrian use.*

As noted above, pedestrian connections via accessways is not necessary or particularly desirable.

6. *The city design standards for neighborhood collector and local streets include sidewalks on both sides of the street.*

The local streets are designed to ultimately include sidewalks on both sides of the street. The applicant is proposing sidewalks on the west side of SW Caesar Terrace and the south side of the dead-end street, with sidewalk responsibility resting with future redevelopment of abutting properties.

- D. *The King City Comprehensive Plan includes capacity guidelines for neighborhood collector and local streets. To ensure that new development does not place undue traffic burdens on neighborhood streets, the following maximum dwelling unit standards shall apply to any subdivision, site plan review, or conditional use in the SF, AT, R-9, R-12, R-15, and R-24 zone:*

1. *A maximum of 300 single and/or multiple family dwellings shall be served exclusively by one neighborhood collector street to reach the regional street system of major collector and arterial streets. In the case of single family residential subdivisions, a preliminary plat approval may exceed this standard, but all final plats shall comply with this section.*

SW 131<sup>st</sup> Avenue south of SW Fischer Road is classified as a neighborhood collector street. Determining the number of lots that are “served exclusively by one neighborhood collector street” is a judgement call. There are approximately 219 lots that are dependent upon this segment of SW 131<sup>st</sup> Avenue for access, including properties in the county. This subdivision would add 11 new lots/residences for a total of 230. This is well below the maximum of 300 units, and it leaves room for future redevelopment in this area to rely upon SW 131<sup>st</sup> Avenue.

2. *A maximum of 120 single and/or multiple family dwellings shall be served exclusively by one local street to reach a neighborhood collector street or the regional street system of major collector and arterial streets. In the case of single family residential subdivisions, a preliminary plat approval may exceed this standard, but all final plats shall comply*

*with this section.*

This subdivision will have a total of 12 dwellings (11 new plus the existing house). In addition, the property to the north (assuming the existing access easement to 131<sup>st</sup> is closed) and the 30 lots in Castle Oaks South all will use the same local street to reach SW 131<sup>st</sup> Avenue. This is well below the 120-unit threshold.

3. *The circulation analysis required in Section 16.212.040 shall demonstrate how the standards in subsections 1 and 2 above will be satisfied when full development or development phases are completed.*

The subdivision is proposed in one phase and the development is consistent with the City's comprehensive plan.

*Section 16.212.070 contains the approval standards regarding accessway and greenway design.*

Not applicable a pedestrian accessway is not proposed or necessary.

*Section 16.212.080 allows the Planning Commission to modify the circulation analysis review standards of Sections 16.212.050 through 070 through a planning commission review based upon the relevant approval criteria in this section. The following modifications should be considered by the Planning Commission:*

1. Allowing a cul-de-sac from the northerly extension of SW Caesar Terrace of approximately 320 feet where 200 feet is the maximum;
2. A cul-de-sac street serving a total of 43 lots where a maximum of 25 is normally permitted; and
3. Not providing an accessway connection from the end of the dead-end street.

A. *On-Site Street and Accessway Circulation*

1. *On-site street and accessway circulation standards in Section 16.212.050 may be modified by the planning commission based on findings that:*
  - a. *The modification is the minimum necessary to address the constraint;*
1. Exceeding the maximum cul-de-sac length from SW Caesar Terrace by approximately 120 feet (approximately 220 feet if extended according to Sheet C041) is necessitated by the location of the SW Caesar Terrace extension and the Deer Creek wetland. Based upon the location of existing property boundaries, this additional street length is unavoidable.
2. Exceeding the maximum number of homes on a cul-de-sac is necessary due to property ownership pattern and a lack of alternatives. However, this subdivision will facilitate the future completion of SW Caesar Terrace to SW Shakespeare. Once this through street is completed, the proposed dead-end street will be in compliance with the 25-unit standard.
3. A pedestrian accessway connection from the dead-end street is not warranted because connections to the west, south, or north are prevented by existing

development. In addition, the Deer Creek corridor is an environmentally sensitive area for which encroachments should be minimized. Convenient pedestrian access is available with the existing and proposed street and accessway system. This will be further enhanced by the future extension of SW Caesar Terrace to SW Shakespeare Street.

- b. *The circulation analysis demonstrates that the proposed street and accessway system for the subject property and surrounding area will perform as well as or better than a system, which meets the standards in this chapter; and*  
While cul-de-sac lengths over 200 feet are the goal, practical circumstances sometimes require additional length. The number of units served is acceptable to TVFR as long as sprinkler systems are included with the new homes.
- c. *The application of the standard is impractical due to one or more of the following circumstances:*
  - (1) *Physical or topographic conditions make it impractical to satisfy the street or walkway connection requirements of this chapter. These conditions include, but are not limited to, controlled access streets, steep slopes, wetlands, flood plains, or water bodies where a connection could not reasonably be provided. Grades that are too steep for a street may not be too steep for an accessway.*
  - (2) *Buildings or other existing development on adjacent lands physically preclude a street or accessway connection now or in the future considering the potential for redevelopment. A modification to the maximum number of residential units or lots completely dependent upon a neighborhood collector or local street in Section 16.212.050 D, shall not be permitted without a corresponding amendment to the King City Comprehensive Plan to allow a greater maximum average daily traffic count and/or number of residences on these streets.*
  - (3) *Where streets or accessways would violate provisions of leases, easements, agency access standards, or similar restrictions that are demonstrated to be legally beyond the control of the applicant, developer, or property owner.*
  - (4) *Abutting undeveloped or underdeveloped property is within the 100-year flood plain.*
  - (5) *Arterial or collector street access restrictions.*

The cul-de-sac length is justified because the Deer Creek wetland buffer and surrounding development and properties prevent a through street or pedestrian accessway connection.

- 2. *When a cul-de-sac is justified as provided in Section 16.212.080 A. 1, an accessway shall be provided to connect with another street, greenway, school, or similar destination unless one or more of the circumstances listed in this section also apply to an accessway.*



As noted herein, an accessway from the west end of the dead-end street is not feasible or desirable. Also, the need for an accessway will be eliminated once the SW Caesar Terrace connection is made to SW Shakespeare Street.

3. *The approval authority may require a sidewalk on only one side of a 22-foot wide or 28-foot wide local street design options when it is determined that the existing or anticipated pedestrian traffic shall be safely and conveniently accommodated with one sidewalk.*

Not applicable – sidewalk standards are not being modified.

## DECISION

The decision is divided into four actions corresponding with the four applications submitted as part of this subdivision proposal. Based upon the above facts, findings, and conclusions, the Planning Commission APPROVES the proposed subdivision application and related applications subject to the following conditions:

## Subdivision

1. Conditions 2 through 12 below shall be satisfied prior to recording the final subdivision plat with Washington County.
2. The final plat shall contain between 10 and 12 lots in a configuration that is consistent with the preliminary plat. The final plat shall be approved by the City Manager and the City Engineer as provided in CDC Section 16.196.070-130.
3. The applicant shall provide verification to the City Manager that all necessary permits and public facility improvements have been obtained and are financially assured. These shall include:
  - a. TVFR requirements as identified in Exhibit B of this decision. Suitable emergency access shall be provided as determined by TVFR.
  - b. CWS requirements identified in Exhibit C of this decision.
  - c. Tigard Water District approval of public water facilities.
  - d. Utility facilities approved by the service providers including, but not limited to: electricity, street lighting, natural gas, cable access, and telephone.
  - e. Streets, curbs, and sidewalks designed to meet King City standards in the Comprehensive Plan. Construction techniques for streets, curbs, and sidewalks shall comply with the Washington County Uniform Road Improvement Design Standards.
4. The existing access easement currently serving Tax Lots 1600 (Locklin), 1700 (subject property), 1800 (Bruce), and 1900 (Deitchler) shall be closed to public use along SW Caesar Terrace. This may be accomplished in one of three ways, which must be approved by the City Manager:
  - a. Extension of the proposed eastern curb on SW Caesar Terrace to the northern edge of the easement and removal of the driveway pavement within the SW Caesar Terrace right-of-way by the applicant.
  - b. If the owner of Tax Lot 1800 wishes to retain access to the common driveway, a lockable gate shall be installed to prevent public access at the owner's expense.



- c. An alternate solution proposed by the four property owners with an interest in the easement (Tax Lots 1600, 1700, 1800, and 1900) to prevent public access.
- 5. The design and alignment of streets and public utilities shall be approved by the City Engineer, including:
  - a. All final plans for construction of public improvements must be designed and stamped by a Professional Engineer (P.E.), licensed in the State of Oregon.
  - b. An on-street parking plan that satisfies access requirements of TVFR and Pride Disposal.
  - c. Street improvements consistent with city standards.
  - d. Public improvement performance bond.
  - e. Maintenance bond prior to construction.
- 6. A final plan for providing the street trees, which is consistent with the plan presented on Sheet L101, shall be provided for City Manager approval, which includes:
  - a. A good-faith effort to provide more than the 4 proposed street trees consistent with CDC standards.
  - b. Street trees that meet the CDC minimum size requirement of 2 inches at 4 feet above grade.
  - c. A plan for when the trees will be planted, by whom, and how they will be maintained.
  - d. A method for financially ensuring the installation and long-term survival of the trees.
  - e. City Manager review and approval of selected trees before they are planted.
- 7. The final subdivision plat and supplemental information, as required this decision and the CDC, shall be submitted within one year of this decision for approval by the City Manager.

## **Tree Removal**

- 8. Prior to removal of any trees, the applicant shall identify the trees in the field for review and approval by the City Manager.
- 9. Prior to their removal, written authorization shall be provided to the City Manager for trees to be removed on adjoining properties.
- 10. In addition, a tree protection program and methods shall be submitted to the City Manager for approval prior to tree removal, grading, or construction. At a minimum, this program shall not allow work, construction, parking, storage, vegetation removal, or similar activities in identified areas necessary for tree survival and health. The protection program described in the January 10, 2020 memorandum from Teragan & Associates, Inc. Arboricultural Consultants shall be followed at all times during construction. Prior to approving any phase of the final plat, the applicant shall submit an arborist report to the City Manager confirming that the provisions of the protection program were followed during construction and that the trees are in healthy and stable condition.

## **Goal 5 Safe Harbor**

- 11. Any work, improvements, or required restoration shall be conducted Deer Creek wetland and

buffer area with the express authorization of CWS and/or ODSL. The applicant shall comply with all conditions described in the CWS memorandum and Service Provider Letter (Exhibit C of this decision).


## Variance

12. The minimum dimensions for Lot 2 shall be a 20-foot width and minimum area of no less than 1,850 square feet. Lots 3 – 11 may have a minimum width of 23 feet.

INTRODUCED AND ADOPTED THIS 24 day of February 2020.

  
Laurie Petrie  
Planning Commission, Chair

ATTEST:

  
Michael Weston, City Manager/Recorder



*This decision may be appealed within 14 calendar days of date of this decision by filing a signed petition for a public hearing review with the King City Planning Commission, as provided in CDC 16.48.030 and 16.68. Any appeal must be filed at King City Hall, 15300 SW 116<sup>th</sup> Avenue, King City, OR 97224 on or before **February 24, 2020 at 5:00 p.m.** A petition for review must include the name of the applicant and city case file number, the name and signature of each petitioner and statement of interest to determine party status, the date that notice of the decision was sent as specified in the notice, and the nature of the decision and grounds for appeal. Multiple parties may join in filing a single petition, but each petitioner must designate a single contact representative for all contact with the City. The appeal fee is \$600. Failure to file a signed original petition with the City, with the proper fee, by 5:00 on the due date shall be a jurisdictional defect. Only those persons entitled to the previously mailed notice of pending decision or persons who responded in writing are entitled to appeal. A motion for reconsideration may be filed as provided in CDC 16.64, but such a motion does not stop the appeal period noted above.*

*Information about the appeal process, form, and fees, as well as file information about this application are available at the above address. Please contact Michael Weston for further information (503-639-4082).*



**EXHIBIT A**

## City Engineer Comments

## Technical Memorandum

**Date:** January 10, 2020

**Project:** 92-0251.128  
City of King City, Land Use Proposal, Tax Lot 1700

**To:** Michael Weston, City Manager  
Keith Liden, City Planner  
City of King City

**From:** Fulgence Bugingo, PE  
Murraysmith

**Re:** City Engineer Review: Ponderosa Pines Subdivision, King City

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### Purpose

This Technical Memorandum presents City Engineer preliminary review comments for the proposed Ponderosa Pines Subdivision (Subdivision) proposed within the City of King City (City). This proposed development is located at 17435 SW 131st Avenue, Tax Lot 1700, Tax Map 2S1 16DB. The applicant is requesting approval of retention of existing detached home and a proposed 11 lot subdivision with Goal 5 Safe Harbor and Tree Removal approvals within an existing R-9 zone.

### General

The City Development and Zoning Code require a developer to provide access and public services to all lots created through the land use and subdivision process in accordance with City Development Code, Standards, and policies. The Developer of the Subdivision is proposing the design and construction of public facilities or improvements to comply with these requirements. All public facility improvements are to be designed and constructed in accordance with the current City-adopted zoning and development codes and City design and construction standards. As of the date of this technical memorandum, City standards are the current versions of the Washington County Uniform Road Improvement Design Standards and the American Public Works Association (APWA) Standard Specifications for Public Works Construction. In addition to these Standards, public improvements must be designed and constructed in accordance with all City requirements and conditions of approval. All final plans for construction of public improvements must be designed and stamped by a Professional Engineer (P.E.), licensed in the State of Oregon.



The submitted application requests subdivision approval. The following review comments include additional development review details that are being provided from preliminary review of engineered plans submitted in support of this subdivision. A full review of the engineered plans will be completed once a land use decision is final.

Engineered construction plans will generally include but not limited to the following.

- a. Cover sheet
- b. Existing site conditions
- c. Site plan
- d. Grading and erosion control plan
- e. Utility plan
- f. Plan and profile for street and storm
- g. Plan and profile for sanitary and water
- h. Street illumination plan
- i. Street tree plan
- j. Signing plan
- k. Stormwater quality facility
- l. Miscellaneous details for street, sanitary, storm, signing, etc.

An engineer's construction cost estimate for improvements is to be submitted with the engineered design plans. This estimate may require revisions after final review and approval prior to construction. A deposit in the amount of 5 percent of the total approved estimated value of public and private improvements must be provided to the City with the plans submittal. The estimate is to be presented in a "schedule of unit prices" format, reflecting estimates for the various anticipated construction bid items.

A public improvements performance bond shall be provided to the City prior to construction in an amount equal to 125 percent of the final accepted engineer's estimate.

A maintenance bond in the amount of 20 percent of the final accepted engineer's estimate is required prior to final City acceptance of constructed public improvements. The maintenance bond shall remain in effect for a period of not less than one year after all public improvements are accepted by the City.

## City/Agency Coordination

The Applicant is to coordinate with the City and all appropriate utilities and agencies throughout the application, engineering review, and construction process. Agency/utility coordination includes, but is not limited to, Clean Water Services (CWS) regarding sanitary sewer system improvements, surface water management, and erosion control, Tualatin Valley Fire & Rescue regarding fire protection and emergency access, City of Tigard Water for water system improvements, Pride Disposal for waste and recycling collection, and the City regarding planning, local street improvements, site grading, surface water drainage improvements, and other site development interests. The applicant is to provide copies of all agency/utility approvals and

permits to the City for its permanent files. The City is to be notified, at the time it becomes known, of any potential design conflicts, and/or any potential conflicts between the various utility and agency requirements and review comments. It is the responsibility of the Developer to resolve all conflicts prior to construction, as approved by the City Engineer.

## Street Improvements

General street access is proposed from an extension of SW Caesar Terrace as constructed with the Castle Oaks South Subdivision directly south and adjacent to the Subdivision. Presently Caesar Terrace extends to the southerly property line of the proposed subdivision at the southeast corner of Lot 1. This will serve as the only ingress/egress to proposed lots 1 through 11 and to existing home (Lot 12) until future development of land north of the Subdivision.

The existing SW Caesar Terrace is a standard 22 foot paved public street within a 41 foot wide public right-of-way. The applicant proposes to extend SW Caesar Terrace for approximately 125 feet. This public street improvement includes 4 foot sidewalk with 4.5 foot planter strip between the curb and the sidewalk on the west side of the street. The City Engineer recommends that parking be restricted on both sides of SW Caesar Terrace and posted with no-parking signs.

Access to lots 1 thru 12 is proposed from new Unnamed Road through a 28 foot wide paved public street with 5 foot sidewalk and 4.5 foot planter strip on the south side. It is recommended that parking be restricted to one side of the 28 foot public street. Very limited parking may be allowed on the opposite side of the street, as shown on the preliminary Fire Access Plan, and posted with no-parking signs.

The proposed improvement also includes an 8-foot wide public utility easement (PUE) required along the frontage of all existing and proposed public streets.

## Storm Drainage Improvements

The applicant is to coordinate with CWS to design and construct needed storm drainage improvements and erosion control protection in accordance with CWS and City requirements. Typically, both storm water quality provisions and storm water conveyance improvements are required. Private facilities are to be designed and constructed in accordance with all applicable City codes and standards. CWS approved and issued a Service Provider Letter (CWS File No. 17-003928) for development of this site. However, this letter expired on December 20, 2019 and the site plan that was included is inconsistent with the current proposed plan. A request for amendment of the Service Provider Letter is required. The Site Plan within the Service Provider Letter should be consistent with all other plans. Site development permit from CWS shall be required.

## Sanitary Sewer Improvements

The applicant is to coordinate with Clean Water Services to design and construct needed sanitary sewer improvements in accordance with Clean Water Services requirements. Private facilities are to be designed and constructed in accordance with all applicable City codes and standards. Site development permit from CWS shall be required.

## Water System Improvements

The applicant is to coordinate with City of Tigard Water to design and construct needed water system improvements. New public water system improvements are to be constructed in accordance with the current City of Tigard Water adopted design and construction standards. Permits from City of Tigard Water shall be required.

FB:mrs

**EXHIBIT B**  
**TVFR Comments**



January 7, 2020

Michael Weston, City Manager  
City of King City  
15300 SW 116<sup>th</sup> Avenue  
King City, OR 97224

**Re: Ponderosa Pines Subdivision Case #19-02**  
**Tax Lot I.D: 1700**

Thank you for the opportunity to review the proposed site plan surrounding the above named development project. These notes are provided in regards to the plans received **December 2019**. There may be more or less requirements needed based upon the final project design, however, Tualatin Valley Fire & Rescue will endorse this proposal predicated on the following criteria and conditions of approval.

## **FIRE APPARATUS ACCESS:**

1. **DEAD END ROADS AND TURNAROUNDS:** Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turnaround. Diagrams can be found in the corresponding guide. <http://www.tvfr.com/DocumentCenter/View/1438> (OFC 503.2.5 & D103.1)
2. **ADDITIONAL ACCESS ROADS – ONE- OR TWO-FAMILY RESIDENTIAL DEVELOPMENTS:** Developments of one- or two-family dwellings, where the number of dwelling units exceeds 30, shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3. Exception: Where there are more than 30 dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with section 903.3.1.1, 903.3.1.2, or 903.3.1.3 of the International Fire Code, access from two directions shall not be required. (OFC D107) ***Note: If fire sprinklers are installed and the system will be supported by a municipal water supply, please contact the local water purveyor for information surrounding water meter sizing.***
3. **MULTIPLE ACCESS ROADS SEPARATION:** Where two access roads are required, they shall be placed a distance apart equal to not less than one half of the length of the maximum overall diagonal dimension of the area to be served (as identified by the Fire Marshal), measured in a straight line between accesses. (OFC D104.3)
4. **FIRE APPARATUS ACCESS ROAD WIDTH AND VERTICAL CLEARANCE:** Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to fire hydrants (OFC D103.1)) and an unobstructed vertical clearance of not less than 13 feet 6 inches. (OFC 503.2.1) ***The fire district does not endorse the design concept wherein twenty feet of unobstructed roadway width is not provided.***



5. **NO PARKING SIGNS:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Signs shall read "NO PARKING - FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (OFC D103.6)
6. **NO PARKING:** Parking on emergency access roads shall be as follows (OFC D103.6.1-2):
  1. 20-26 feet road width – no parking on either side of roadway
  2. 26-32 feet road width – **parking is allowed on one side. Plans provided show parking on both sides. Only parking on one side is allowed.**
  3. Greater than 32 feet road width – parking is not restricted
7. **PAINTED CURBS:** Where required, fire apparatus access roadway curbs shall be painted red (or as approved) and marked "NO PARKING FIRE LANE" at 25 foot intervals. Lettering shall have a stroke of not less than one inch wide by six inches high. Lettering shall be white on red background (or as approved). (OFC 503.3)
8. **FIRE APPARATUS ACCESS ROADS WITH FIRE HYDRANTS:** Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet and shall extend 20 feet before and after the point of the hydrant. (OFC D103.1) **26" is not provided at hydrant on plans submitted. Relocate hydrant to meet this requirement.**
9. **SURFACE AND LOAD CAPACITIES:** Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced as to provide all-weather driving capabilities. (OFC 503.2.3)
10. **TURNING RADIUS:** The inside turning radius and outside turning radius shall not be less than 28 feet and 48 feet respectively, measured from the same center point. (OFC 503.2.4 & D103.3) **Radius shown on plans provided do not show that minimum radius is provided.**
11. **ACCESS ROAD GRADE:** Fire apparatus access roadway grades shall not exceed 15%.
12. **ANGLE OF APPROACH/GRADE FOR TURNAROUNDS:** Turnarounds shall be as flat as possible and have a maximum of 5% grade with the exception of crowning for water run-off. (OFC 503.2.7 & D103.2)
13. **ANGLE OF APPROACH/GRADE FOR INTERSECTIONS:** Intersections shall be level (maximum 5%) with the exception of crowning for water run-off. (OFC 503.2.7 & D103.2)
14. **AERIAL APPARATUS OPERATING GRADES:** Portions of aerial apparatus roads that will be used for aerial operations shall be as flat as possible. Front to rear and side to side maximum slope shall not exceed 10%.
15. **GATES:** Gates securing fire apparatus roads shall comply with all of the following (OFC D103.5, and 503.6):
  1. Minimum unobstructed width shall be not less than 20 feet (or the required roadway surface width).
  2. Gates serving three or less single-family dwellings shall be a minimum of 12 feet in width.
  3. Gates shall be set back at minimum of 30 feet from the intersecting roadway or as approved.
  4. Electric gates shall be equipped with a means for operation by fire department personnel
  5. Electric automatic gates shall comply with ASTM F 2200 and UL 325.
16. **ACCESS DURING CONSTRUCTION:** Approved fire apparatus access roadways shall be installed and operational prior to any combustible construction or storage of combustible materials on the site. Temporary address signage shall also be provided during construction. (OFC 3309 and 3310.1)
17. **TRAFFIC CALMING DEVICES:** Shall be prohibited on fire access routes unless approved by the Fire Marshal. (OFC 503.4.1). Traffic calming measures linked here: <http://www.tvfr.com/DocumentCenter/View/1578>

## FIREFIGHTING WATER SUPPLIES:

18. **FIREFIGHTING WATER SUPPLY FOR INDIVIDUAL ONE- AND TWO-FAMILY DWELLINGS:** The minimum available fire flow for one and two-family dwellings served by a municipal water supply shall be 1,000 gallons per minute. If the structure(s) is (are) 3,600 square feet or larger, the required fire flow shall be determined according to OFC Appendix B. (OFC B105.2)
19. **FIRE FLOW WATER AVAILABILITY:** Applicants shall provide documentation of a fire hydrant flow test or flow test modeling of water availability from the local water purveyor if the project includes a new structure or increase in the floor area of an existing structure. Tests shall be conducted from a fire hydrant within 400 feet for commercial projects, or 600 feet for residential development. Flow tests will be accepted if they were performed within 5 years as long as no adverse modifications have been made to the supply system. Water availability information may not be required to be submitted for every project. (OFC Appendix B)
20. **WATER SUPPLY DURING CONSTRUCTION IN MUNICIPAL AREAS:** In areas with fixed and reliable water supply, approved firefighting water supplies shall be installed and operational prior to any combustible construction or storage of combustible materials on the site. (OFC 3312.1)

## FIRE HYDRANTS:

21. **FIRE HYDRANTS – ONE- AND TWO-FAMILY DWELLINGS & ACCESSORY STRUCTURES:** Where the most remote portion of a structure is more than 600 feet from a hydrant on a fire apparatus access road, as measured in an approved route around the exterior of the structure(s), on-site fire hydrants and mains shall be provided. (OFC 507.5.1)
22. **FIRE HYDRANT NUMBER AND DISTRIBUTION:** The minimum number and distribution of fire hydrants available to a building shall not be less than that listed in Table C 105.1. (OFC Appendix C)
23. **FIRE HYDRANT(S) PLACEMENT:** (OFC C104)
  - Existing hydrants in the area may be used to meet the required number of hydrants as approved. Hydrants that are up to 600 feet away from the nearest point of a subject building that is protected with fire sprinklers may contribute to the required number of hydrants. (OFC 507.5.1)
  - Hydrants that are separated from the subject building by railroad tracks shall not contribute to the required number of hydrants unless approved by the Fire Marshal.
  - Hydrants that are separated from the subject building by divided highways or freeways shall not contribute to the required number of hydrants. Heavily traveled collector streets may be considered when approved by the Fire Marshal.
  - Hydrants that are accessible only by a bridge shall be acceptable to contribute to the required number of hydrants only if approved by the Fire Marshal.
24. **PRIVATE FIRE HYDRANT IDENTIFICATION:** Private fire hydrants shall be painted red in color. Exception: Private fire hydrants within the City of Tualatin shall be yellow in color. (OFC 507)
25. **FIRE HYDRANT DISTANCE FROM AN ACCESS ROAD:** Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway unless approved by the Fire Marshal. (OFC C102.1)
26. **REFLECTIVE HYDRANT MARKERS:** Fire hydrant locations shall be identified by the installation of blue reflective markers. They shall be located adjacent and to the side of the center line of the access roadway that the fire hydrant is located on. In the case that there is no center line, then assume a center line and place the reflectors accordingly. (OFC 507)



27. **PHYSICAL PROTECTION**: Where fire hydrants are subject to impact by a motor vehicle, guard posts, bollards or other approved means of protection shall be provided. (OFC 507.5.6 & OFC 312)
28. **CLEAR SPACE AROUND FIRE HYDRANTS**: A 3 foot clear space shall be provided around the circumference of fire hydrants. (OFC 507.5.5)

## BUILDING ACCESS AND FIRE SERVICE FEATURES

29. **PREMISES IDENTIFICATION**: New and existing buildings shall have approved address numbers; building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property, including monument signs. These numbers shall contrast with their background. Numbers shall be a minimum of 4 inches high with a minimum stroke width of 1/2 inch. (OFC 505.1)

If you have questions or need further clarification, or would like to discuss, please feel free to contact me at **503-259-1504**.

Sincerely,



John Wolff  
Deputy Fire Marshal II

John.wolff@tvfr.com

Cc:

A full copy of the New Construction Fire Code Applications Guide for Residential Development is available at <http://www.tvfr.com/DocumentCenter/View/1438>

**EXHIBIT C**  
**CWS Comments**



**MEMORANDUM**

**Date:** January 13, 2020  
**To:** Michael Weston, City Manager, City of King City  
**From:** Jackie Sue Humphreys, Clean Water Services (CWS)  
**Subject:** Ponderosa Pines Subdivision, 19-02, 2S116DB01700

Please include the following comments when writing your conditions of approval:

**PRIOR TO ANY WORK ON THE SITE AND PLAT RECORDING**

A Clean Water Services (CWS) Site Development Permit must be obtained prior to plat approval and recordation. Application for CWS Site Development Permit must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order Nos. 19-5 as amended by R&O 19-22 (CWS Standards), or prior standards as meeting the implementation policy of R&O 18-28, and is to include:

- a. Detailed plans prepared in accordance with Chapter 2, Section 2.04.
- b. Detailed grading and erosion control plan. An Erosion Control Permit will be required. Area of Disturbance must be clearly identified on submitted construction plans. If site area and any offsite improvements required for this development exceed one-acre of disturbance, project will require a 1200-CN Erosion Control Permit.
- c. Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer.
- d. Provisions for water quality in accordance with the requirements of the above named design standards. Water Quality is required for all new development and redevelopment areas per R&O 19-5, Section 4.04. Access shall be provided for maintenance of facility per R&O 19-5, Section 4.07.6.
- e. If use of an existing offsite or regional Water Quality Facility is proposed, it must be clearly identified on plans, showing its location, condition, capacity to treat this site and, any additional improvements and/or upgrades that may be needed to utilize that facility.

- f. If private lot LIDA systems proposed, must comply with the current CWS Design and Construction Standards. A private maintenance agreement, for the proposed private lot LIDA systems, needs to be provided to the City for review and acceptance.
- g. Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City.
- h. Applicant shall comply with the conditions as set forth in the Service Provider Letter No. 17-003928, dated December 20, 2017.
- i. Clean Water Services shall require an easement over the Vegetated Corridor conveying storm and surface water management to Clean Water Services that would prevent the owner of the Vegetated Corridor from activities and uses inconsistent with the purpose of the corridor and any easements therein.
- j. Detailed plans showing the sensitive area and corridor delineated, along with restoration and enhancement of the corridor.
- k. If there is any activity within the sensitive area, the applicant shall gain authorization for the project from the Oregon Department of State Lands (DSL) and US Army Corps of Engineers (USACE). The applicant shall provide Clean Water Services or its designee (appropriate city) with copies of all DSL and USACE project authorization permits.
- l. Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.

## CONCLUSION

This Land Use Review does not constitute CWS approval of storm or sanitary sewer compliance to the NPDES permit held by CWS. CWS, prior to issuance of any connection permits, must approve final construction plans and drainage calculations.

**KING CITY PLANNING COMMISSION TRAINING  
OREGON'S LAND USE PLANNING FRAMEWORK  
PETER WATTS**

**STATE OF OREGON**

Requires all jurisdictions to have a Comprehensive Plan, urban growth boundaries and implementing ordinances.

**CITY OF KING CITY**

The City must comply with state planning rules and does so by adopting land use regulations implementing these requirements.

**LAND USE REVIEW CATEGORIES:**

**ADMINISTRATIVE DECISIONS**

- Type 1 - No discretionary decision-making and no notice, hearing or appeal.
- Quasi-Judicial Decisions
- Type II - Limited discretion in decision-making. Notice to neighbors, written comment, Director decision, and appeal rights to the City Council.
- Type III – Discretionary review to determine compliance with criteria. Notice, a public hearing by Planning Commission and appeal rights to the City Council.
- Type IV – Typically, plan amendments and zoning map amendments applied to a particular property. Notice, a public hearing by the Planning Commission with a recommendation and final decision by the City Council.

**LEGISLATIVE DECISIONS**

- Long-range policy-making decisions including amendments to a plan and zoning code text or Map. These have a Planning Commission review and recommendation, with City Council making a final decision. The review for these decisions is de novo.

**ALL DECISION-MAKING BASED ON THE APPLICABLE STANDARDS AND CRITERIA WHICH MAY INCLUDE:**

- KING CITY MUNICIPAL CODE - contains land use regulations for public and private property in KING CITY. The KCMC implements, among other things;
- KING CITY ZONING MAP - establishes base zone and overlay districts to property throughout the City and implements;
- COMPREHENSIVE PLAN AND MAP - sets forth long-term planning goals and policies for the City; How the City achieves compliance with the Statewide Planning Goals. Includes the Transportation System Plan and various utility master plans. The comprehensive plan implements statewide planning goals and administrative rules.

**QUASI-JUDICIAL HEARING DISCLOSURES**

- A list of the applicable criteria is provided.
- Staff report is prepared seven days in advance and is available for review.

- Public Testimony must be directed to the criteria.
- Failure to raise an issue precludes raising it before the Land Use Board of Appeals.
- Failure to raise constitutional issues precludes an action for damages in circuit court.
- The Applicant has a right to an impartial tribunal.

### **IMPARTIAL TRIBUNAL**

Decisions must be based on the testimony and evidence that is part of the record:

- Disclose ex parte contacts on the record giving the public an opportunity to question decision-maker further.
- Ex parte contacts are facts gleaned outside the record from newspaper articles, site visits, or attending neighborhood meetings, for example.
- An objection must be made in order to preserve a challenge at LUBA on that basis. Decisions must be free of actual bias.
- "Actual Bias" - A predisposition rendering it impossible to make a decision based on the evidence and argument presented.
- No actual conflict of interest - If the decision is likely to have a direct pecuniary benefit or detriment to the decision-maker or a family member of the decision-maker, the decision-maker may not participate.
- A potential conflict of interest - Announce and determine whether to participate. If you think you may have a conflict **CALL THE OREGON GOVERNMENT ETHICS COMMISSION AT (503) 378-5105**

### **PUBLIC HEARING PROCEDURES**

- Staff Report - Available 7 days before the initial hearing
- Applicant's Presentation
- Testimony by Interested Parties - Proponents and opponents
- Applicant Rebuttal
- Deliberation

### **NEXUS...**

The legal term used to describe a direct connection between a condition of approval and the impact created by the proposal.

- The nexus must be related to the Approval Criteria and must be explained in the findings.

- The nexus must also show that the requirement of the condition is of the same weight as the expected impact.

## **DELIBERATION AND THE DECISION**

Determination of whether the standards are met includes:

### **Interpreting the Applicable Criteria**

- Apply meaning to ambiguous standards in the purpose or policy of the provision. Focus on the plain meaning of terms taken in context.

### **Adequate Findings – An Explanation of How the Facts Satisfy the Criteria**

- Findings must explain why and should not amount to mere conclusions.
- Findings should resolve conflicts in facts and explain why one fact was deemed more reliable than another. This is particularly true when you have testimony from multiple experts.
- Findings must address all of the applicable criteria. If the criteria are not applicable, the findings should explain why this is the case.

### **Based on Substantial Evidence**

- Is there evidence in the record to support the conclusions identified in the findings? The Planning Commission and City Council are entitled to substantial deference in their determinations, but focusing on specific evidence in the record will make defending the appeals of decisions fundamentally easier and may prevent appeals.
- The decision-maker can weigh the evidence and make a choice when the evidence is in conflict.

### **Conditions of Approval**

- May be attached to ensure that all applicable approval standards are or can be met. These conditions must be roughly proportionate to the benefit received by the applicant.