

REPORT
CITY OF LAKE OSWEGO
PLANNING DIVISION

PROPERTY OWNER/APPLICANT:

Goodall Knaus, LLC

FILE NO:

LU 14-0031

TAX LOT REFERENCE:

Tax Lots 500, 502 and 503 of
Tax Map 21E 04 BA

STAFF:

Debra Andreades

LOCATION:

12800 Goodall Road

DATE OF REPORT:

June 6, 2014

COMP. PLAN DESCRIPTION:

R-7.5

120-DAY DECISION DATE:

September 24, 2014

ZONING DESIGNATION:

R-7.5

HEARING DATE:

June 16, 2014

NEIGHBORHOOD ASSOCIATION:

Forest Highlands

I. APPLICANT'S REQUEST

The applicant is requesting approval of a Master Plan¹ to accommodate serial partitions for a 16-lot single family residential development. The applicant is also requesting approval to remove 27 trees to accommodate infrastructure construction under the Master Plan.

II. RECOMMENDATION

Approval of LU 14-0031, with conditions. The complete listing of recommended conditions is provided on pages 19-26 of this report.

¹ A Master Plan for serial partitions was authorized for the site by a Development Agreement approved on May 6, 2014, by the City Council (Ord., 2642; LU 14-0021), and effective May 7, 2014, pursuant to ORS 94.504 – 94.528. The 16-lot Master Plan was included as Exhibit B of the Development Agreement.

III. APPLICABLE REGULATIONS

A. City of Lake Oswego Community Development Code (Chapter LOC 50):

LOC 50.04.001.1	Dimensional Table for Residential Zones
LOC 50.04.002.5	Special Street Setback
LOC 50.06.001.2-50.06.001.3	Structure Design-Residential Zones
LOC 50.06.002	Parking
LOC 50.06.003.1	Access
LOC 50.06.003.2	On-Site Circulation - Driveways and Fire Access Roads
LOC 50.06.003.4	Local Street Connectivity
LOC 50.06.004.1	Landscaping, Screening and Buffering
LOC 50.06.005	Park and Open Space
LOC 50.06.004.3	Lighting Standard
LOC 50.06.006.2	Hillside Protection
LOC 50.06.006.3	Drainage Standards
LOC 50.06.007.1	Solar Access
LOC 50.06.008.1-6	Utility Standard
LOC 50.07.003.3	Public Notice/Opportunity for Public Comment
LOC 50.07.003.4	Hearings
LOC 50.07.003.5	Conditions on Development
LOC 50.07.003.7	Appeals
LOC 50.07.003.14	Minor Development Decision
LOC 50.09.002.5	Compliance with Approved Permit

B. City of Lake Oswego Streets and Sidewalks Code [LOC Chapter 42]:

LOC 42.08.400-42.08.470	Streets and Sidewalks
LOC 42.03.130	Vision Clearance at Intersections

C. City of Lake Oswego Tree Code (LOC Chapter 55):

LOC 55.02.010 - 55.02.080	Tree Removal
LOC 55.02.084	Mitigation Requirements
LOC 55.08.020	Tree Protection Plan Required
LOC 55.08.030	Tree Protection Measures Required

D. Ordinance No. 2642 and the approved Development Agreement - LU 14-0021 (Exhibit F-7 of this report)

E. City Charter, Section 40

IV. FINDINGS

Background/Existing Conditions:

1. The site is approximately 7.35 acres in size (Exhibit E-1) and contains an existing structure that will be remodeled and situated on the proposed Lot 9 upon completion of the serial partitions (Exhibit F-2). There are mature evergreen trees along the perimeter of the site and a cluster of mature deciduous trees adjacent to the existing house on the north portion of the site.

2. The site slopes down towards the south at between 12-20% and is located at the northeast corner of Knaus Road and Goodall Road, both of which are classified as neighborhood collectors (Exhibit E-2).
3. The site is zoned R-7.5, as are the properties to the south across Knaus Road and the southwest across Goodall Road (Exhibit E-2). Properties to the east and west are part of unincorporated Clackamas County. Properties to the north are in the City of Portland and/or Multnomah County. All surrounding properties are developed with single family homes.
4. A minor partition request by the applicant to divide the site into three parcels, consistent with the stated first phase of the proposed Master Plan, was approved in 2013 (LU 13-0044).

V. REVIEW AND APPROVAL PROCEDURES

A. Neighborhood Meeting

The applicant held a neighborhood meeting with the Forest Highlands Neighborhood on March 26, 2014. The minutes of the meeting are included in this report as Exhibit F-8.

B. Public Notice to Surrounding Area

The City has provided adequate public notice and opportunity to comment on this application pursuant to LOC 50.07.003. No comments were received prior to the publication of this report.

C. Burden of Proof

Per LOC 50.07.003.1.b, the applicant for a development permit shall bear the burden of proof that the application complies with all applicable review criteria or can be made to comply with applicable criteria by imposition of conditions of approval. The applicant has provided sufficient evidence to enable staff to evaluate the proposal. These documents are listed as exhibits at the end this report.

VI MINOR DEVELOPMENT

A. Classification of Application

Section 5.2 of the Development Agreement (Exhibit F-7) states that the Master Plan shall be reviewed as a minor development. This process is consistent with review of partitions and subdivisions. See LOC 50.07.003.14.a.ii(9).

B. Criteria for Review of Application

Per LOC 50.07.003.14.d.ii, for any minor development application to be approved, it shall first be established that the proposal complies with:

1. The requirements of the zone in which it is located;

R-7.5 Dimensional Standards [LOC 50.04.001.1]

The site is zoned R-7.5. Per Section 5.2 of the Development Agreement (Agreement), the Master Plan must be found to be in compliance with the applicable Lake Oswego Code provisions and requirements of the R-7.5 zone as they existed on May 7, 2014, the effective date of the Agreement. Upon approval, these site development limitations will be locked in and regulate future development in the project.

Maximum Density

This section is superseded by Section 2.2 of the Agreement (Exhibit F-7), which states that the maximum density is 16 lots, and the development's density must be consistent with Exhibit B of the Agreement. As Exhibit E-4 illustrates, the applicant is proposing 16 lots, consistent with Exhibit B of the Agreement.

Minimum Density

This proposal is not subject to minimum density because the Master Plan authorizes a series of partitions, and partitions are not subject to minimum density requirements of LOC 50.04.001. The Agreement authorizes development of the site at a maximum of 16 lots developed in a series of minor partitions over a period of two years.

Lot Size, Lot Dimensions

Section 2.2 of the Agreement states that the development density must be consistent with Exhibit B of the Development Agreement. Section 5.2 of the Agreement states that the standards and criteria of the Code, as it existed on May 7, 2014; are applicable. The minimum lot size requirement in the R-7.5 zone is 7,500 square feet, and the minimum lot dimensional requirements are 50 feet for lot width at building line. As indicated on Exhibit E-4, all of the propose lots are well above the minimum lot width requirement, as well as the lot sizes which range from 11,340 square feet on Lot 11 to 26,729 square feet on Lot 9 where the existing house will remain and be remodeled. The lot sizes and dimensions proposed are consistent with Exhibit B of the Agreement. This standard is met.

Setbacks, Height Limits, Lot Coverage, Floor Area

Per Section 2.3 of the Agreement, for any future development on individual lots, setbacks will be those required in the R-7.5 zone that were in effect on May 7, 2014. The required setbacks in the R-7.5 zone are as follows:

Front Yard: 25 feet
Rear Yard: 30 feet
Side Yard: 5-foot minimum with a total combined width of 15 feet

Staff notes that the lot lines on Lots 15 and 16 that abut Knaus Road are considered the front lot lines, and hence the front yards abut Knaus Road, no matter how the future dwelling may be oriented. Because both lots have frontage on the future internal street as well, they are "through lots" and thus there is no "rear" yard, LOC 50.10.003.2 "Lot Line, Rear" Definition. As illustrated on Exhibits E-4, all setbacks of the zone can be met.

The height limit required by the underlying R-7.5 zone is 28 feet on flat lots, 32 feet on lots with sloping topography, and 35 feet on sloped lots measured to the ridge of the roof. Staff notes that height is measured from existing grade and if there are cuts, height is measured from the cut grade; if there are fills, height is measured from the original natural grade per LOC 50.10.003 - Height of Building. The applicant has submitted a preliminary grading plan (Exhibit E-7) showing partial grading on the portion of the site where the new street will be located. Compliance with building height on individual lots will be assured during building permit review.

For future development on individual lots, the lot coverage limitation will be the maximum allowed in the R-7.5 zone that was in effect on May 7, 2014. Lot coverage for the R-7.5 zone is between 25 and 35% depending on the height of the structure. Compliance will be assured during building permit review.

For future development on individual lots, the floor area (FA) limitations will be the maximum allowed in the R-7.5 zone that was in effect on May 7, 2014. FA is dependent on lot size. Compliance will be assured during building permit review.²

R-7.5 Structure Design Standards [LOC 50.06.001.2]

These standards as they existed on May 7, 2014, including Garage Appearance and Location standards, are applicable to future structures on individual lots. Compliance with these standards will be assured during the building permit approval process. These standards are also applicable to the existing dwelling that will remain on Lot 9 because the Master Plan establishes a new lot upon which the house is to be sited, with new lot lines from which the standards are measured. Compliance with these standards will be assured at the time of issuance of building permits for each lot.

Special Street Setbacks [LOC 50.04.002.5]

The special street setback is to assure an adequate front yard setback is available in the event of possible future street improvements, such as additional lanes, pedestrian and bicycle facilities, transit facilities, drainage management improvements, lighting, and street landscaping. All yards are measured from the special street setback line. Per Section 5.2 of the Agreement, future development on the proposed lots must meet standards and criteria of the Code on the effective date of the agreement. Knaus Road has a special street setback of 30 feet measured from the center line of the road (as established pursuant to LOC 42.03.135).

Prior to the first partition of the site (LU 13-0044), the existing right-of way was 40 feet; therefore, a 10-foot special street setback applied to the Lots along Knaus Road. In anticipation of future street improvements for this development, the applicant dedicated 11 feet along Knaus Road and 11 feet along the Goodall Road frontage because of the street frontage improvements that would be required for this development. Therefore, no additional special street setback will be required because the special street setback is satisfied by this dedication.

² Staff is aware that the applicant is considering asking for additional floor area per lot, beyond what the R-7.5 zone allows. However, that request is subject to review and approval by the City Council because it requires an amendment to the approved Development Agreement.

2. The Development Standards applicable to a Minor Development [LOC 50.06]

Parking [LOC 50.06.002]

This standard requires that a single-family dwelling provide one off-street parking space. This standard may be satisfied by garage parking for single-family residences. Exhibit E-4 illustrates that each lot has sufficient area to provide a dwelling including a garage that will contain its required off-street parking. Compliance with this standard will be assured during the building permitting review process. This standard is met.

Access/Access Lane (Flag Lots) [LOC 50.06.003.1]

This standard requires that every lot abut a public street for a width of at least 25 feet and that the proposed point of access be adequate for the site based on the topography, traffic volume generated by the development, and classification of the public street from which the access is taken. It does not appear that any of the lots will need direct vehicular access to Knaus or Goodall Roads, however, the proposed driveway locations are not shown on the plans and access to Knaus or Goodall is not prohibited as long as they are constructed to city standards. As part of the building permit application for each lot, a site plan will be required showing the location of the proposed driveway approach for each lot to the internal street, Highland Loop or to Knaus and Goodall Roads. This standard can be met.

On-Site Circulation – Driveways and Fire Access [LOC 50.06.003.2]

This standard contains the geometric design standards for proposed driveways that act as fire department access roads, and other design features such as maximum permissible slope and the width of driveway approaches. All driveway approaches shall be located and designed so that the driver entering or exiting the driveway can see approaching traffic for a sufficient distance to make a safe entrance or exit. The American Association of State and Highway Transportation Officials (AASHTO) standards shall be used in determining compliance with this standard. In addition, on corner lots the nearest edge of the proposed driveway to the intersection shall be no closer than 30 feet when measured from the projected curb of the street that is the most parallel to the alignment of the proposed driveway.

This standard also regulates aspects of design related to emergency vehicle access. The new internal street, Highland Loop, is over 10% grade. Public streets shall not exceed 10% grade per the Fire code, however, the Fire Code does allow 15% grade if residential fire sprinklers are installed in the future homes. This will be made a condition of approval. Staff notes that a portion of the new road is on Tax Lot 501. The applicant states that the area of right-of-way for this improvement and for the internal street, have already been created through separate dedication deeds (Exhibit F-1), which are on file.

Finally, the Engineering staff states that for driveway approaches connecting to the new internal street within the development the maximum width of a driveway approach, measured where the edges of the driveway meet the right-of-way, shall be governed as follows:

- Single-family residential with garage door(s) facing the street: 12 feet per garage or carport stall, or surface parking space, but not to exceed 30 feet.
- Single-family residential with side-loading garage: 24 feet.

For driveway approaches connecting to Goodall or Knaus Road, there are design guidelines in the City Engineer's policy memorandum, Guidelines and Standards for New Streets and Frontage Improvements in the Urbanizing Rural Fringe and Transition Neighborhoods, effective February 1, 2005, describing that driveway approaches shall be asphalt and limited to 16 feet width, irrespective of the number of garage doors facing the street.

The above will be conditions of approval. As conditioned, this standard is met.

Local Street Connectivity [LOC 50.06.003.4]

This standard applies to any development that results in the construction of a street to ensure that the layout of the local street system does not create excessive travel lengths or limit route choices, accomplished through an interconnected local street system and accessways designed to meet the needs of pedestrians.

The site is subject to this standard because a new public street is being proposed. This standard prohibits the construction of new closed-end local streets unless certain exception criteria are met. As indicated on Exhibit E-4, there are no closed-end streets proposed. The new street, Highland Loop, which is being dedicated by a separate deed, connects Knaus and Goodall Roads. This standard is met.

Park and Open Space [LOC 50.06.005]

This standard requires at least 20% of the gross site area be preserved as open space or park land in a subdivision. The site is approximately 7.35 acres and 20% of the site would be 64,033 square feet or 1.47 acres. As illustrated on Exhibit E-5, the applicant proposes to designate 1.61 acres (70,525 square feet) of the site as open space in private open space easements in the front and side yards of the lots along the perimeter of the site and along the internal road frontage. This amounts to approximately 22% of the site, allowing areas for driveways, with a net of 20% open space as required.

As a condition of approval, the final plats shall indicate the open space easements. The applicant will also be required to record a Notice of Development Restriction with the partition plats that puts the property owners on notice as follows:

"Private Open Space Easements on all lots shall be planted and maintained per the approved Landscape Plan (Exhibit E-6) to provide a scenic and aesthetic appearance of the open space."

To ensure that the scenic appearance is maintained, staff also recommends a condition of approval to prohibit fencing within the open space easements. Maintenance of the open space and landscaping, discussed below, will be the responsibility of the Homeowner's Association through the recordation of an access easement and maintenance agreement. This will also be made a condition of approval.

As conditioned, this standard is met.

Landscaping [LOC 50.06.004.1]

This standard requires all partitions involving the creation of a street to provide street trees at the proper spacing for the species, and requires screening and buffering to mitigate noise, lighting or other impacts from adjacent transportation routes or dissimilar uses.

The applicant's Landscape Plan (Exhibit E-6) indicates Crimson King Maple and Zelkova as street trees along Knaus Road and Zelkova and Bosque Elm along Goodall Road. Along the internal street, the plan shows Pacific Sunset Maples and Chanticleer pears. The plan shows the street trees located in the right-of-way. The screening and buffering of the new development will be provided within the open space easements along the perimeter of the site. The plan indicates a mixture of native trees and shrubs creating a lush setting along Knaus and Goodall Roads. In addition, several mature trees along Knaus and Goodall Roads will be preserved. Staff notes the Landscape Plan does not coincide with the Open Space Plan (Exhibit E-5), which shows 40 feet of open space easement at the front of Lot 4 and 52.5 feet in front of Lots 2 and 3. Also, in front of Lots 11, 12, 13 and 14, the 25 feet of open space easement is not reflected on the Landscape Plan. As a condition of approval, the final landscape plan must coincide with the Open Space Plan. With regard to the plantings in the open space easements along the internal street, the landscape plan indicates triangular shaped areas that straddle two lots in eight areas and contain a total of 16 Laceleaf Japanese maples which were originally located adjacent to the existing house on the site and are being cultivated in a nursery, and will serve to visually unify the open space areas.

Staff also notes that there is a grading cut (3:1 slope) along Knaus Road in front of Lots 4, 5 and 15 as a result of the public sidewalk matching the grade of the driving surface. Although the slope up to the subject site is steep, the alternative would be a 4-5 foot retaining wall along the street. Staff's concern is the tree roots of mature evergreen trees that will be preserved along Knaus Road in front of Lot 15. Although the grading is minimal as it approaches the trees, the applicant will be required to have a certified arborist on site at any time during excavation, trenching, grading, root pruning or other activity occurring within the tree protection zone, to ensure proper protection of all trees to remain.

Per LOC 50.06.010.2, the applicant will be required to post a bond for 5% of the total landscaping cost to ensure survival of all landscape material for one 12-month growing season from the date of installation. This will be made a condition of approval. Maintenance of private open space shall be the common responsibility of the homeowners, which may be exercised through a Homeowners Association. If not maintained in accordance with this section, the City of Lake Oswego may enforce the maintenance obligations against the association and lot owners as provided in the covenants. This will also be made a condition of approval. This standard can be met.

Lighting [LOC 50.06.004.3]

This standard prescribes equipment and lighting specifications for public and private streets, pathways, access ways, and parking lots. There is no existing street light at the intersection of Goodall and Knaus Roads. Street lights are required at street intersections for collector and local level roads. This development will create increased traffic, bike, and pedestrian trips at the intersection of Goodall and Knaus Roads, thus requiring this intersection to have a street light. The development will be required to install a street light at that intersection. In addition, street lighting will be required for the new intersections where the internal street connects to Goodall and Knaus Roads. As conditioned, this standard is met.

Hillside Protection [50.06.006.2]

This standard applies to all development that includes hillsides or areas with erosion potential and requires that development on undisturbed slopes exceeding 20% grade be kept to a minimum. If the site contains areas over 20% slope, a slope analysis map is required. The purpose of this standard is to maintain slope/soil stability on adjacent properties and protect natural vegetation.

On land with undisturbed slopes in excess of 12%, cuts and fills shall be regulated such that no more than 65% of area in undisturbed slopes of 20% to 50% shall be graded or stripped of vegetation. In addition, land over 50% undisturbed slope shall be developed only where density transfer is not feasible.

The applicant has submitted a slope analysis map (Exhibit E-8), which was also submitted and reviewed during the first partition of the site (LU 13-0044). The majority of the site is in the range of 0-20% with small areas of slope in the 20-50% range in the vicinity of the existing home and at the far east of the site which also contains a very small area of 50% slope and some areas associated with the drainage swales along Knaus Road. The applicant states that these areas were previously disturbed by grading and terracing during development of the existing home and driveway (Exhibit F-1), which resulted in artificially created slopes in the 20-30% range. Undisturbed slopes are defined as those that:

Undisturbed Slopes: Slopes, or portions of slopes, that have not been previously altered from the natural topography for slope stability, i.e., re-contoured, graded, and/or terraced and the altered slope was either performed in accordance with or subsequently approved by a licensed geotechnical engineer, registered civil engineer experienced in soils engineering, or licensed engineering geologist. Undisturbed slopes consist of natural topography, vegetation, and soils.

The topographic map of the site (Exhibit E-3) confirms that the natural topography is broken in this area. The Geotechnical Report (Exhibit F-3) states that although no undocumented fill was encountered in the test pits that were dug, it appears that fill was placed in this area. [Staff notes that this prior analysis was done by the previous applicant for the site. The Geotechnical report states that, in addition, undocumented fill was encountered and soils in this area are stable. This report is part of the previous file, LU 07-0063]. Because the land in slopes of 20-50% is defined as disturbed, LOC 50.06.006.2.d.4 does not apply. This standard is met.

Drainage Standard for Major Developments, Partitions, Subdivisions, and Certain Structures [LOC 50.06.006.3.b]

The determination of whether the drainage management measures comply with the requirements of this standard is under the authority of the City Engineer. This standard requires that new development shall be conducted in such a manner that alterations of drainage patterns do not affect other properties. All drainage systems shall include engineering design features to minimize pollutants such as oil, suspended solids, and other objectionable material in stormwater runoff. Sufficient stormwater detention shall also be provided.

The Engineering staff has made the following findings and recommends the following conditions of approval:

The applicant has submitted a storm drainage report dated May 2, 2014 (Exhibit F-2), and a preliminary storm drain plan (Exhibit E-12). The proposed storm drainage facilities for managing the storm runoff from the proposed development will consist of the following:

On-site

Stormwater runoff from the future impervious areas on each lot will be retained by incorporating a rain garden for water quality treatment followed by a chamber system to infiltrate the runoff. Each system will contain a flow control structure to release emergency overflow into the public system.

For the new internal public street, roadside swales/planters will be constructed using a Low Impact Development Approach (LIDA) design. The planters will be constructed adjacent to the new public street, and a storm pipe conveyance system will route the runoff to two individual chamber detention facilities on site.

The Engineering staff notes that the City will maintain the conveyance pipes and catch basins that collect the runoff from the street; however, in this case, the swales/planters along the public internal street and detention facilities will be required to be maintained by the Homeowners Association (HOA). The applicant will be required to submit an Operations and Maintenance plan for the private on-site detention and roadside swale/planters and record a Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities.

Off-site

Street improvements along Goodall and Knaus Roads will include drainage swales adjacent to the street that will convey runoff into LIDA swales. The LIDA swales will be sized to treat all new impervious areas from the street improvements. Storm conveyance pipes will be required to collect runoff from the swales and direct the flow downstream into the existing drainage system. The drainage swales along Goodall and Knaus Roads will also fall under the maintenance responsibility of the HOA and shall be included in the Operations and Maintenance plan.

Each future building permit application for the individual lots will be required to submit design calculations and a final drainage report based on the contributing roof area and impervious area of the proposed home on the lot. Alternative stormwater management facilities such drywells can also be proposed, subject to review and approval by the City Engineer. In addition, subsurface disposal systems are regulated under Department of Environmental Quality (DEQ) Underground Injection Control (UIC) program, and the design shall meet all applicable requirements if a UIC is installed for stormwater disposal. Emergency overflow runoff shall be directed to an approved point of disposal. Each lot shall have a stormwater lateral to connect the emergency overflows to the public conveyance system located in the street.

The Engineering staff finds that the proposed drainage features are acceptable for complying with the provisions of this standard. As conditioned, this standard is met.

Solar Access [LOC 50.06.007]

This standard requires that 80 percent of the lots resulting from a subdivision must comply with the solar design standard. A minimum of 13 of the proposed lots must, therefore, comply with one of three alternatives: (a) the Basic Requirement; (b) the Protected Solar

Building Line Option; or (c) the Performance Option; or the applicant may show that a lot qualifies for an exemption or adjustment to the design standard per LOC 50.04.004.1.

Basic Requirement:

A lot complies with the Basic Requirement if it has a north-south dimension of at least 90 feet and has a front lot line that is oriented within 30 degrees of a true east-west axis. As shown on Exhibit E-4, this standard is met for all lots except Lots 1,2, 3, 6,7 and 10, because they do not have a north south dimension of at least 90 feet and/or a front lot line within 30 degrees of a true east/west axis.

Protected Solar Building Line:

As an alternative, the applicant can show that three of these lots meet the Protected Solar Building Line option, (because a minimum of 13 lots must meet one of the options). This option requires that there be at least 70 feet between the middle of the north-south lot dimension on the lot to the south and the Protected Solar Building Line on the lot; and at least 45 feet between the protected solar building line and the north edge of the building area of the lot.

As indicated on Exhibit E-4, Lots 3, 6 and 10 can meet the Protected Solar Building Line option. This provides 13 solar lots or 80 %, in compliance with the standard. As a condition of approval, these lots must be identified as solar lots in a "Notice of Development Restriction" recorded with the partition plats. As conditioned, this standard can be met.

In addition, all single-family detached structures in any zone are required to meet the Maximum Shade Point Height Standard [LOC 50.06.007.2.c], which minimizes shading on adjacent lots to the north. Compliance will be assured during building permit review. This standard is met.

Utilities [LOC 50.06.008]

The Engineering staff has reviewed the applicant's proposed utility plan and profiles (Exhibits E-11 through E-14), and finds that utilities are available or can be made available, as follows:

Sanitary Sewer: Sewer service for this development will be obtained by extending a public sewer from an existing 8" line in Goodall Road, located approximately 220 feet south of Knaus Road. This development will be required to bring public sanitary sewer up Goodall Road to serve the development's northwest parcel (Lot 10 shown on Exhibit E-4), approximately 475 feet north of Knaus Road, and also up the new internal street to serve Lots 9-14. A public sewer main will also be required up Knaus Road and the eastern leg of the new internal street, in order to serve the remainder of the lots. Public sanitary sewers shall be located within the public street, and service laterals shall be provided directly to a lot, without crossing other lots with a private sewer easement. As conditioned, this standard is met.

[Note: Per LOC 50.06.008.3.d, design shall take into account the capacity and grade to allow for desirable future extension beyond the development, and where required by the City Manager, extend to the upstream property line to allow for such future extensions. Engineering staff reviewed the upstream properties and finds that along Goodall Road, the northern boundary of the subject site is the City's Urban Services Boundary and city sewer would not be extended beyond this boundary line. For properties east of the subject site along Knaus Road; 13081 and 12912 Knaus Road; the City of Lake Oswego Wastewater

Master Plan, dated 2013, indicates sewer service will be obtained from a future sewer extension coming from the east along Knaus Road, from an existing manhole located approximately 330 feet east of the site].

Water and Hydrants: There is an existing 8" City water main located in Knaus Road. This project will require an 8" public water extension be brought up to the new internal street connection at Goodall Road, approximately 150 feet north of Knaus Road. An 8" public water main extension will be required within the internal public street to loop the public system between Goodall and Knaus Roads. A public extension will also be required up Goodall Road from where the new internal street will connect to Goodall Road, to serve the development's northwest parcel (Lot 10 shown on exhibit E-4).

[Note: Per LOC 50.06.008.3.d, design shall take into account the capacity and grade to allow for desirable future extension beyond the development, and where required by the City Manager, extend to the upstream property line to allow for such future extensions. Engineering staff reviewed the upstream properties and finds that along Goodall Road, the northern boundary of the subject site is the City's Urban Services Boundary and city water would not be extended beyond this boundary line. There is an existing city water main located along the entire Knaus Road frontage.]

A new fire hydrant(s) shall be installed on the internal street, as shown on Exhibit E-11, and as approved by the Fire Marshal (Exhibit F-9). As conditioned, this standard is met.

Streets: Knaus and Goodall Roads are neighborhood collectors and are currently under the jurisdiction of Clackamas County along the site frontage. Details regarding road jurisdiction with Clackamas County are currently being reviewed between the county and the City of Lake Oswego, and the road transfer documents are currently being reviewed by the county. The northern approximate 150 lineal feet of the street frontage along Goodall Road is currently outside of the City of Lake Oswego's Urban Services Boundary. See comments below under LOC Chapter 42 for additional information regarding street improvements.

Sidewalks: Asphalt pathways exist across the street from the site along Knaus Road. There are no existing sidewalks or pathways located along Goodall Road; however, there is an existing sidewalk located along the south side of Adrian Court across from the northwest corner of the site. An asphalt pathway also exists along the east side of Goodall Road south of Knaus Road. See comments below under Streets and Sidewalks LOC Chapter 42.

Other utilities: It is the applicant's responsibility to ascertain the availability of electric, gas, telecommunications and cable TV. All new utilities shall be installed underground.

Staff notes that it is not clear if franchise utilities will need to be located along the property frontage on Knaus Road. If needed they must be underground and located in a public utility easement.

4. Any additional statutory, regulatory or Lake Oswego Code provisions which may be applicable to the specific minor development application;

City of Lake Oswego Streets and Sidewalks Chapter [LOC Chapter 42]

Vision Clearance [LOC 42.03.130]

This standard requires that no vegetation, fence or signage higher than 30 inches be located within a "vision clearance triangle." The vision clearance triangles for a driveway are formed by 10-foot legs extending from the intersection of the driveway and the street travel lane. No specific driveway approach locations are shown with the proposed development plans. As a condition of approval, at the time of building permit review, the proposed driveway approach location for each lot shall demonstrate compliance with this standard. As conditioned, this standard is met.

With regard to the intersection of the new street with Knaus and Goodall Roads, the applicant has provided a Traffic Impact Study, Exhibit F-5, which includes a site distance analysis for these new intersections. The intersection of Highland Loop and Goodall Road meets AASHTO site distance requirements. Site distance for the Knaus Road intersection can be achieved by removing vegetation within the AASHTO site lines and constructed to allow the driver to be at the level of the roadway when positioned 15 feet back from the near side travel lane. Compliance will be assured during review of the construction documents.

Street and Sidewalk Improvements [LOC 42.03.005 –.125]

This Chapter authorizes the City Engineer to make specific street and sidewalk improvement recommendations after taking a variety of policy and site specific factors into consideration.³ The City Engineer's comments are included for review of the overall understanding of the project. The City Engineer's conditions of approval are included, as they must be included in the decision, to find that the application will comply with this article.

The Engineering staff has reviewed the development proposal and field conditions in the context of the City's codes, improvement policies and Transportation System Plan (TSP), and offers the following findings and conditions of approval.

The proposed development can be expected to contribute 10 vehicle trips to the City's street system per lot per average weekday.⁴ Additional pedestrian and bicycle trips can be expected as well. The cumulative effect of new trips (all modes), imposes an additional burden and concomitant concerns for preserving street capacity and public safety, particularly for bicycles and pedestrians. Per LOC 50.07.003.5a.iii, conditions may be imposed to alleviate a need for public services or facilities created or contributed to by the

³To meet the review criteria for a minor development, the applicant must comply with "any additional ... Lake Oswego Code provisions which may be applicable to the specific minor development application, such as ... the Streets and Sidewalks Ordinance." LOC 50.07.003.14.d. The determination of whether or not the application meets the requirements of LOC Chapter 42, Streets and Sidewalks, is under the review authority of the City Manager or City Engineer; the requirements of this Chapter are not under the review authority of a hearing body, other than to find whether or not the City Engineer or City Manager has found that the application complies with LOC Chapter 42, or whether conditions of approval are required for compliance with this Chapter.

⁴ Trip Generation (8th edition), Institute of Transportation Engineers

proposed development. "Public services or facilities" include streets, sidewalks and pathways.

The City has a governmental interest in assuring that new development does not contribute to a degradation of adequate, safe and efficient public transportation facilities. New development should mitigate the negative impacts (increased noise, and the degradation of aesthetics, safety, system capacity, and bicycle and pedestrian mobility) resulting from new development. The City has adopted a broad array of policies, plans, regulations, and fees that have been designed to offset the adverse impacts of development on the natural and built environment. In this regard, the following regulations and standards reflect the governmental interest in preserving the functionality and safety of the public infrastructure, and are particularly relevant to this development proposal:

- LOC Chapter 42 requires frontage improvements to be constructed when property is developed.
- LOC Chapter 42 directs the City Engineer to recommend to the decision making authority the appropriate width of public rights of way, and the width and character of the improvements contained therein.
- Where applicable, street frontage improvements, landscaping and pathway improvements shall comply with the City Engineer's policy memorandum, Guidelines and Standards for New Streets and Frontage Improvements in the Urbanizing Rural Fringe and Transition Neighborhoods, effective February 1, 2005.

The implementation of the City's plans, policies, and regulations will offset to some degree the negative impacts of development on the public infrastructure. LOC 50.07.003.5 allows the reviewing authority to impose conditions of approval on a development permit when the condition is reasonably related to alleviation of a need for public services or facilities created or contributed to by the proposed development. In addition, the US Supreme Court has rule (Dolan v. City of Tigard) that, in order to require mitigation, the local government must apply a test of "rough proportionality" between the impacts of the proposed development and the need for the mitigation to offset impacts from the development.

Goodall and Knaus Roads are designated as a "neighborhood collector" in the City's functional classification system. The City's Comprehensive Plan identifies Goodall Road south of Knaus Road as shared roadway bike route and in need of a pathway. Goodall Road is a direct route to Boones Ferry north of the site, thus also being a shared roadway. The Comprehensive Plan also identifies Knaus Road as a shared roadway. The existing pavement width along these roads is substandard for this designation. A standard engineering design of a shared lane is 14 feet wide. The existing pavement width varies along the site frontages of these two roads, but in some areas the entire roadway width is approximately 18-foot wide, within a 40-foot wide right-of-way. Goodall and Knaus Roads are also identified as a proposed "Community Connector Trail/Pathway" route in the Lake Oswego Trails and Pathways Master Plan.

The Engineering staff has conducted further review of the frontage improvement requirements for this development. To alleviate to a degree a need for public services or facilities created or contributed to by the proposed development, based on an increase of 13 additional lots at ultimate build-out, the development will be required to dedicate sufficient right-of-way for required frontage improvements and construct half-street improvements along the entire site frontage of Goodall and Knaus Roads. [Note: right-of-

way dedication along Goodall and Knaus Roads was provided on the recorded partition plat per the prior land approval under LU 13-0044].

The required half-street section along Goodall and Knaus Roads shall consist of 14-feet of pavement from the traveled centerline, a 3-foot wide gravel shoulder, an 8-foot wide drainage swale, a 6-foot wide asphalt pathway at the back of the right-of-way, and a one-foot level area between the back of the pathway and the right-of-way line. The existing overhead utilities along Goodall Road shall be installed underground along the site frontage and to ensure that it does not conflict with the landscaping in the open space easements along the perimeter, utilities may be required to be located in the right-of-way.

Note: Street widening must follow the public notice and election requirements prescribed in Section 40 of the City Charter. A permit for road construction will not be issued until the Charter requirements have been met

Sufficient right-of-way dedication shall also be provided for the new internal public street. The new public street shall be constructed to public standards and shall consist of the following design elements:

- 55-feet of dedicated right-of-way.
- 26-foot roadway width (face-of-curb to face-of-curb).
- 5-foot concrete sidewalk on one side of the street, located at the back of the right-of-way. On the sidewalk side, the improvements behind the curb shall consist of a 3-foot level strip adjacent to the back of the curb, 8-foot wide drainage swale/planter (or lawn where planters are not installed), one-foot wide level strip between the back of the swale/planter and sidewalk, a 5-foot sidewalk and one foot level strip between the back of the sidewalk and right-of-way line.
- On the non-sidewalk side of the street, the street shall be signed "no-parking." The improvements behind the curb shall consist of a one-foot level strip adjacent to the back of the curb, 8-foot wide drainage swale/planter (or lawn where planters are not installed), and one-foot wide level strip between the back of the swale/planter and right-of-way line.
- Standard concrete curb and gutter on both sides of the street.
- A 10-foot public utility easement (or less if acceptable to the franchise utility companies) along both sides of the street right-of-way for undergrounding the franchise utilities.

The applicant also has provided a traffic report (Exhibit F-5), which addresses the capacity of the street system in the immediate area, including intersections that are impacted by the proposed development. All studied intersections are found to operate at acceptable levels of service.

As a condition of approval of the proposed development, the City will require the following on-site and off-site construction of or improvements to public services or facilities to alleviate impacts created or increased by the proposed development:

- Widen the pavement along the east side of Goodall Road and the north side of Knaus Road along the entire site frontage to achieve a 14-foot wide shared travel lane (measured from the existing painted yellow centerline) and construct a minimum 3-foot wide, compacted crushed rock shoulder.
- Construct an 8-foot wide drainage swale along the site frontage on Goodall and Knaus Roads. A culvert shall be provided at any pedestrian crossings where the pathway will

connect back to the edge of road, at any driveway approaches and at the new public street intersections.

- Construct a 6-foot wide asphalt pedestrian pathway behind the drainage swale along the entire site frontage on Goodall and Knaus Roads, with a connection back to the edge of the road at each end of the site.
- Grant a 10- foot public utility easement (or less if acceptable to the franchise utility companies) along the site frontage of Goodall Road for undergrounding the existing overhead utilities or franchise utilities, if necessary.
- Construct new internal public street serving the development to City standards as described, above.

The Engineering staff notes that that final design elements related to the street design shall be to the satisfaction of the City Engineer. As a condition of approval, adjustments to the internal street profile and street grading design will be necessary in the final design, because the centerline profile along the east leg of the internal street shall be adjusted to allow surface run-off from the lots to drain to the curb. In addition, the eyebrow shall be designed to accommodate city operation maintenance vehicles and be designed to City standards.

The City finds that the right-of-way dedication and public street improvements are therefore directly related to alleviating the increased traffic, bike, and pedestrian trips that will be created by this development.

The City finds that requiring the right-of-way dedication and public street improvements is roughly proportional to the adverse impacts upon the public services and facilities created by the development because:

- The development will generate 10 additional vehicle trips per additional lot per day using Goodall and Knaus Roads and the adjacent local street system.
- The development will generate 10 vehicle trips per lot per day using the new internal street serving the development.
- The additional site generated traffic creates an increased point of conflict between pedestrian and bicycles using the adjacent street system. By providing right-of-way dedication and public street improvements along the site frontage and through the development, the public safety will be maintained.
- The new pathway along the site frontage and sidewalk along the new internal street will result in a greater use of alternative modes of travel (pedestrian, bicycle, transit), both today and in the future, as traffic congestion increases in the area. These additional alternative mode travel trips will offset the additional vehicle trips generated by the development.
- Similar right-of-way dedications and public street improvements have been required for similar developments in the area, with the result being that such development conditions for street improvements have mitigated the increased traffic (vehicle, pedestrian, and bicycle) by preserving the functionality and public safety features of the public street system.

In light of the above facts and Code requirements, staff finds that the development of this site will place sufficient additional demand on the local streets to justify the right-of-way dedication and street improvements at this time, and that the required dedication and street improvement requirements are roughly proportional to the degree of impact imposed by the new development, as described above, and consistent with the improvements of similar developments of land along Goodall and Knaus Roads, as

required by LOC 50.07.003.5 and the U.S. Supreme Court in the case of Dolan v. the City of Tigard.

City of Lake Oswego Tree Chapter [LOC Chapter 55]

This Code requires approval of a permit for removal of any tree in excess of 5-inches in diameter, subject to Type II criteria as listed in LOC 55.02.080(1-4), and prescribes protection measures for trees to remain during construction. The tree removal plan (Exhibit E-15) indicates 20 trees that are invasive species and will be applied for under a separate permit. Compliance with LOC 55.02.080 is required for the removal of the other 27 trees shown on the tree removal plan. Any trees proposed for removal will be granted tree removal permits [LOC 55.02.035; 55.02.080], if they:

- Must be removed for development or landscaping purposes;
- Will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;
- Will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood, except when alternatives to tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone; and,
- The sole purpose is not for the purpose of providing or enhancing views.

Regarding the removal of these trees, staff finds that:

1. *The removal is for development purposes allowed pursuant to the City Code;*

The removal of the trees on the western and southern portion of the site is necessary for development because they are located within the area of required public improvements (construction of new streets and sidewalks), and grading. The trees proposed for removal on the eastern portion of the site are vulnerable because they have been topped and these are being removed for landscape purposes as indicated on the landscape plan (Exhibit E-6). This criterion is met.

2. *The removal will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks;*

The removal of non-invasive trees on the southern portion of the site will not have a significant negative impact on erosion, soil stability, or flow of surface waters because they are in the right-of-way where there is little slope or are located in areas where the site will be re-graded and developed with the internal street and stormwater facilities. Surface water flow will be contained as part of the street and stormwater facility design. Their removal does not have a significant negative impact on the protection of adjacent trees or existing windbreaks, because except for the three large pines that will be preserved in a cluster, all of the other trees in this area are being removed because they are invasive or for grading and utility location purposes. The non-invasive trees proposed for removal on the eastern portion of the site have been topped and are vulnerable. They would be more vulnerable once the invasive trees in that area are removed. The large pine and oak that will be preserved to the south of these trees will provide soil stability and windbreak.

On the western portion of the site, the largest trees are not proposed for removal. They provide soil stability and windbreak and protect against erosion in this western portion of

the site; removal of the non-invasive trees as a part of this application will not negatively affect the existing soil stability and windbreak, nor promote erosion.

3. *The removal will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood, except when alternatives to tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone; and*

The removal of 27 non-invasive trees will not have a negative impact on the character, aesthetics, or property values of the neighborhood, because the trees on the perimeter of the site are the dominant trees in the total streetscape of the neighborhood and the trees being removed are not dominant trees. This criterion is met.

4. *The removal is not for the sole purpose of providing or enhancing views.*

The trees requested for removal are not being removed for view enhancement; they are being removed to construct public improvements and grading and landscaping to facilitate the serial partitions permitted by the Development Agreement.

For the reasons outlined above, staff concludes that the removal of the 27 non-invasive trees complies with the applicable criteria and may be approved. The applicant shall apply for a verification tree removal permit for the 27 trees prior to approval of any construction plans.

Mitigation

Any tree approved for removal under the Type II tree analysis shall be mitigated at a minimum 1:1 ratio. Mitigation trees should have a minimum 2-inch caliper diameter for deciduous trees and a minimum 6-8 foot height (excluding leader) for evergreen trees. Mitigation does not include street trees. The landscape plan (Exhibit E-6) indicates the correct amount of mitigation trees in the Open space Easements and on the eastern portion of the site.

Tree Protection

The Code requires tree protection measures when a tree protection zone or drip line of a tree is within the construction zone, whether on or off-site [LOC 55.08.030(1)]. Exhibit E-15 shows the trees that will be preserved and must be protected during construction. The protective fencing shall be placed at the tree protection zone, which is the zone required to protect the critical root area necessary for the continued health of the trees. The applicant should propose the tree protection zone for each tree, for review and approval by City staff, on site. As required by LOC 55.08.030(7), no construction, excavation, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the City.

A note should be placed on the construction documents that informs the site contractors about the necessity of preventing damage to these trees, including bark and root zone, and that no materials should be stored or compaction occur within the root zones of the adjacent trees [LOC 55.08.030]. The contractor shall be subject to fines, penalties and mitigation for trees that are damaged or destroyed during construction. As a condition of approval, as required by LOC 55.08.02 and 55.08.030, a tree protection plan shall be submitted with the building permit plans for staff review and approval. Tree protection measures must be

installed prior to issuance of any grading or building permits. Tree protection fencing consists of 6-foot high chain link fencing supported by 6-foot high metal posts, placed a maximum of ten feet apart.

5. Any applicable condition of approval imposed pursuant to an approved ODPS or prior development permit affecting the subject property.

There are no conditions of approval of prior City development permits affecting the site. The development is subject to the terms of the Agreement approved by LU 14-0021.

VIII. CONCLUSION

Based upon the materials submitted by the applicant and findings presented in this report, staff concludes that LU 14-0031 can be made to comply with all applicable criteria by the imposition of conditions.

IX. RECOMMENDED ACTION

Approval of LU 14-0031, subject to the following conditions:

A. Prior to Submittal of any Partition Application Subsequent to this Approval, the Applicant/Owner Shall:

Note: As provided for in the Development Agreement, building permits may be obtained to construct up to two single family dwellings per parcel (after the second (2014) partition is approved) prior to recordation of the third (2015) partition plat, as a means to facilitate construction in preparation for featuring the development as the 2015 Portland Homebuilder's Association "Street of Dreams," that will take place in the summer of 2015. However, the Development Agreement does not permit occupancy of any dwelling on these parcels until the 2015 partition plat is recorded and each dwelling is on its own lot.

1. Submit engineered construction plans for the public improvements along Goodall and Knaus Roads for review and approval by Clackamas County. The plans shall be designed to Clackamas County standards.
2. If prior to construction of the public improvements on Goodall and Knaus Roads, the design, maintenance and permitting authority for these roads have been transferred to the City of Lake Oswego, the applicant may request (as substantial conformance to the county requirements for street improvements) to construct to the City of Lake Oswego street standards, as provided below. In that event, the applicant shall submit construction drawings for the public and site improvements for review and approval by the City Engineer. Drawings shall conform to the City's most current design standards and the drafting specifications. Receiving construction plan approval is not a pre-requisite for recording the final plat. The plans shall include the following:
 - a. Design of the public street frontage improvements along Goodall and Knaus Roads showing the following elements:
 - i. Widen the pavement along the east side of Goodall Road and north side of Knaus Road along the entire site frontage to achieve a 14-foot wide shared travel lane (measured from the existing painted yellow centerline) and a minimum 3-foot wide,

compacted crushed rock shoulder.

- ii. An 8-foot wide drainage swale along the entire site frontage on Goodall and Knaus Roads. Stormwater quality facilities can be incorporated into the swale design. [Note: maintenance for water quality facilities shall be the responsibility of the Homeowner's Association.]
 - iii. An 8-foot wide drainage swale along the site frontage on Goodall and Knaus Roads and a 6-foot wide asphalt pedestrian pathway behind the drainage swale along the site frontage on these roads. A culvert shall be provided at any pedestrian crossings where the pathway will connect back to the edge of road, at any driveway approaches and at the new public street intersections. The right-of-way shall be located a minimum of one foot away from the back of the pathway.
 - iv. Undergrounding the existing overhead utilities along the entire site frontage along Goodall Road. If new franchise utilities are needed along the site frontage of Knaus Road, they shall be installed underground either in the right-of-way or within a 10-foot public utility easement (or less if accepted by the franchise utilities) along the frontage of the site.
3. Dedicate sufficient right-of-way to accommodate the above described future half-street improvements along Goodall and Knaus Roads, Condition A(2)(a). (Note: sufficient right-of-way dedication appears to have been provided per LU 13-0044. If it is determined in the final design of the street improvements that additional right-of-way is needed, the applicant shall dedicate sufficient right-of-way so that all public street frontage improvements are located entirely within the right-of-way to the satisfaction of the City Engineer).
4. Grant a 10-foot public utility easement (or less if acceptable to the franchise utility companies) along Goodall Road for undergrounding franchise utilities. If applicable (in the case of utilities located on private property), grant a 10-foot public utility easement (or less if acceptable to the franchise utility companies) along the site frontage of Knaus Road for undergrounding franchise utilities.
5. Submit engineered construction plans for the public utility improvements serving the development for review and approval by the City Engineer. Drawings shall conform to the road permitting authority's most current design standards and the drafting specifications. Receiving construction plan approval is not a pre-requisite for recording the final plat. The plans shall include the following:
 - a. Design to bring public sanitary sewer up Goodall Road to serve Lot 10 as shown on Exhibit E-4, approximately 475 feet north of Knaus Road, and also up the new internal street to serve Lots 9-14. Public sanitary sewers shall be located within the public right of way, and service laterals shall be provided directly to a lot, without crossing other lots with a private sewer easement.
 - b. Design to bring public sanitary sewer up Knaus Road and also up the new internal street to serve the remainder of the lots.

- c. Design of an 8" public water main extension along Goodall Road up to the new internal street connection at Goodall Road, approximately 150 feet north of Knaus Road.
- d. Design of an 8" public water main extension within the internal public street to loop the public system between Goodall and Knaus Roads.
- e. Design of a public water main extension up Goodall Road from where the new internal street will connect to Goodall Road, to serve Lot 10 as shown on Exhibit E-4.
- f. Design of public drainage facilities.
- g. Design showing the location of the private water and sanitary services.
- h. Design showing new fire hydrants as required by the Fire Marshal. Fire hydrants shall be installed per City standards.
- i. Design showing the new street light at the intersection of Goodall and Knaus Roads, and the new intersections created by the internal street connecting to Goodall and Knaus Roads.
- j. Design of the new internal public street showing the following elements.
 - i. 55-feet of dedicated right-of-way.
 - ii. 26-foot roadway width (face-of-curb to face-of-curb).
 - iii. 5-foot concrete sidewalk on one side of the street, located at the back of the right-of-way. On the sidewalk side, the improvements behind the curb shall consist of a 3-foot level strip adjacent to the back of the curb, an 8-foot wide drainage swale/planter (or lawn where planters are not installed), a 1-foot wide level strip between the back of the swale/planter and sidewalk, a 5-foot sidewalk and a 1-foot level strip between the back of the walk and right-of-way line.
 - iv. On the non-sidewalk side of the street, the street shall be signed "no-parking." The improvements behind the curb shall consist of a 1-foot level strip adjacent to the back of the curb, an 8-foot wide drainage swale/planter (or lawn where planters are not installed), and a 1-foot wide level strip between the back of the swale/planter and right-of-way line.
 - v. Standard concrete curb and gutter on both sides of the street.
 - vi. Public 10-foot public utility easement (or less if acceptable to the franchise utility companies) along both sides of the right-of-way for undergrounding the franchise utilities.
 - vii. Eyebrow design to the satisfaction of the City Engineer.
 - viii. Street centerline profiles and grading design.

- k. Adequate sight distance for the Knaus Road intersection with the new internal street can be achieved by removing vegetation within the AASHTO sight lines and constructed to allow the driver to be at the level of the roadway when positioned 15 feet back from the near side travel lane.
6. Submit a storm drainage report for all required storm improvements, prepared by a registered engineer, for review and approval of the City Engineer.
 7. Submit for the Engineering staff review the Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities for the storm water facilities to be maintained by the Homeowner's Association (HOA). The facilities to be maintained by the HOA shall include the detention facilities serving the development, and the water quality planters/swales along the internal street, and all swales and planters along Goodall and Knaus Roads.
 8. Submit a "Notice of Development Restrictions" to be recorded with the final plat for both the 2014 and 2015 partition plats for review and approval by staff. Attached exhibits shall be no larger than 8 ½" x 11" and shall not contain lettering smaller than 10 point font. The Notice shall include the following information:
 - a. As provided for in the Development Agreement (LU 14-0021), all setbacks, height, maximum lot coverage and floor area on individual lots shall be limited to those required of the R-7.5 zone on May 7, 2014.
 - b. Private Open Space easements on all lots as shown in Exhibit "A", shall be planted and maintained per the approved Landscape Plan to provide a scenic and aesthetic appearance of the open space. **No fencing is permitted along the front or side property lines of all lots within the open space easements.** Trees may be removed only after they have been shown to be hazardous pursuant to LOC 55.02.042 (4) to life or property by a certified arborist, and after a tree removal permit (including the requirement for planting replacement trees) has been obtained from the City. Improvements in this area, which are in keeping with the above purpose, including public utilities and pedestrian pathways must be approved by the City of Lake Oswego. No buildings or structures shall be allowed in these areas.
 - c. Lots 3-6 and Lots 8-16 are solar lots, subject to the requirements of LOC 50.06.007.2.c (protection from future shade). Development of structures or planting of non-exempt vegetation on these lots shall comply with the Solar Balance Point provisions of the Solar Access Ordinance. These requirements shall be binding upon the applicant and subsequent purchasers of these lots.
 - d. Lots 3, 6, and 10 are subject to the requirements of LOC 50.06.007 [Protected Solar Building Line], as depicted on Exhibit "B". The Protected Solar Building Line, if located closer to a property line than a required yard setback, shall not supersede the required yard setback.
 - e. Based on the fact that Highland Loop is over 10% grade and the Fire Code states that access roads shall not exceed 10% grade; the Code allows 15% grade if residential fire sprinklers are installed in the future homes. The Building Official may allow an alternative to the minimum requirements of the One-and Two-Family Dwelling Specialty Code as authorized by ORS 455.610, which may

include, but is not limited to, installation of an automatic fire sprinkler system,. The owners or owners' representative shall offer an approved alternate method for fire suppression, such as an NFPA 13-D residential fire sprinkler system, to the satisfaction of the Fire Marshal and Building Official.

9. Submit CC&Rs of the homeowners association for review and approval of City staff that address the following:
 - a. Operation and Maintenance of Surface Water Management Facilities for the storm water facilities to be maintained by the HOA, including annual inspection and maintenance. The facilities to be maintained by the HOA include the detention facilities serving the development, the water quality planters/swales along the internal street, and all swales and planters along Goodall and Knaus Roads.
 - b. The ownership, use and specific responsibilities for the maintenance of landscaping in the open space easements on all lots. Lot owners shall be prohibited from making any alteration in the landscaping of the open space easement on the owner's lot, except with written approval of the HOA and the City of Lake Oswego.
 - c. Upon transfer of the homeowners' association from the developer to the homeowners within the development, the City shall be notified of the name and address of a contact person for the HOA.
 - d. Upon election of new officers for the HOA, the City shall be notified of the new contact person.
 - e. The City's right to enforce the provisions of the CC&Rs required, above, including the right to recover all expenses of enforcement, the right to lien the lots to secure enforcement expenses, "non-waiver" of enforcement, non-amendment or rescission of the provisions of the CC&Rs required, above, and indemnification to the City for claims arising from the failure to properly design, locate, construct, or maintain the open space easements or storm water facilities.
10. Provide a written agreement between the applicant and a certified arborist demonstrating that the arborist will review the final site, utility, grading and landscape plans to assure long term survival of the protected trees, and that he/she will be present on site at any time excavation, trenching, grading, root pruning or other activity occurring within the tree protection zone, to ensure proper protection of all trees to remain.
11. Submit a final landscape plan that coincides with the Open Space Plan (Exhibit E-5) to the satisfaction of staff. Provide a note on the final landscape plan requiring all burlap or wire cages to be completely removed from root balls of all trees and shrubs before they are planted.
12. Submit a monitoring and maintenance plan to maintain and monitor the mitigation trees and plants in the open space easements.
13. Complete all public improvements or provide a financial guarantee to ensure their construction per LOC 50.07.003.9 or the applicable county requirements. The financial guarantee shall be based on an itemized engineer's estimate of the public

improvements that is in turn based on plans that are far enough advanced to support the estimate, to the satisfaction of the City Engineer.

14. Submit a preliminary title report or lot book report showing the status of title and any liens and encumbrances.
15. Complete the public notice and election requirements prescribed in Section 40 of the City Charter. The applicant/owner shall coordinate with City engineering staff to complete this process. A permit for road construction will not be issued until the Charter requirements have been met.
16. Record the CC&Rs, the Notice of Development Restrictions, the Landscape Monitoring and Maintenance Plan, and the Declaration of Covenant for Operation and Maintenance of Surface Water Management Facilities for the detention and stormwater quality facilities serving the development.

B. Prior to the Issuance of any Grading or Building Permits to Construct any Structure on any Lot, the Applicant/Owner Shall:

1. Complete all public improvements as required by Conditions A(1) or A(2) and A(5) and A(6), above, and submit certified "as-built" drawings, and receive a certificate of completion and acceptance by the City.
2. Submit a stormwater disposal plan for each lot. Installation of a subsurface infiltration facility or rain garden on the individual lots is an acceptable method for storm water disposal. Stormwater disposal facilities shall meet minimum setbacks of five feet from property lines and 10 feet from building foundations. Subsurface disposal systems (i.e., drywells, storm chamber systems or infiltration trenches) shall be engineered. Driveway runoff cannot be directed to a subsurface infiltration disposal system without Department of Environmental Quality (DEQ) approval. Any emergency overflow shall be conveyed to an approved point of disposal.
3. Per LOC Chapter 52, apply for and obtain an approved erosion prevention and sediment control permit issued through the City of Lake Oswego, and install and maintain all BMPs as indicated in the permit. These measures shall remain in place as indicated throughout the development period.
4. Provide post-construction stormwater management facility protection for the stormwater quality swales in order to protect the facilities during home construction.
5. Demonstrate that driveway approaches comply with the "vision clearance triangle" standards. No vegetation, fence, or signage higher than 30 inches will be allowed within the area formed by 10-foot legs extending from the intersection of the driveway and the street travel lanes.
6. Driveway approaches along Goodall and Knaus Roads shall be asphalt and limited to 16 feet wide, irrespective of the number of garage doors facing the street. Culverts meeting City standards shall be located across the driveway approaches. The size of the culvert shall be engineered to the satisfaction of the City Engineer, but shall not be less than 10 inches in diameter.

7. Driveway approaches along the internal public street shall conform to the following criteria. The maximum width of a driveway approach, measured where the edges of the driveway meet the right-of-way, shall be governed as follows:
 - a. Single-family residential with garage door(s) facing the street: 12 feet per garage or carport stall, or surface parking space, but not to exceed 30 ft.
 - b. Single-family residential with side-loading garage: 24 feet
 - c. On corner lots where the adjacent streets are fully improved to their anticipated ultimate width, the nearest edge of the proposed driveway to the intersection shall be no closer than 30 feet when measured from the projected curb of the street that is most parallel to the alignment of the proposed driveway.
6. Provide evidence from a traffic engineer that the driveway approaches are located and designed so that the driver entering or exiting the driveway can see approaching traffic for a sufficient distance to make a safe entrance and exit. American Association of State Highway and Transportation Officials (AASHTO) standards shall be used in determining compliance with this standard.
7. Pay all applicable System Development Charges pertaining to the development.
8. Apply for and obtain a verification tree removal permit for the 27 non-invasive trees. The verification tree removal permit submittal shall include an 8½" x 11" copy of the tree removal plan and a mitigation plan showing 27 replacement trees (and associated vegetation).

C. Prior to any Final Building Inspection or Occupancy of any Structure on any Lot, the Applicant/Owner Shall:

1. Install all street trees and mitigation trees and landscaping in the open space easement on the lot as required by Condition A(11), above, to the satisfaction of staff.
2. Provide a one-year guarantee (one 12-month growing season from the date of installation) for all landscape materials, including mitigation planting, pursuant to LOC 50.06.010.2. The guarantee shall consist of a security in the amount of 5% of the total landscaping cost.
3. Provide certification from the engineer of record that the stormwater facility for each lot was constructed according to the design and is functioning properly.
4. Complete all private utility services, including water, storm, sanitary and franchise utilities.

Code Requirements:

1. **Expiration of Development Permit:** The development approved by this decision shall expire within five years following the effective date of the Development Agreement approved by LU 14-0021.

2. **Tree Protection:** Submit a tree protection plan and application as required by LOC 55.08.020 and 55.08.030 for review and approval by staff, including off-site trees that are within the construction zone. The plan shall include:
- a. The location of temporary tree protection fencing, consisting of a minimum 6-foot high cyclone fence secured by steel posts around the tree protection zone, or as recommended by the project arborist and approved by the City.
 - b. A note stating that no fill or compaction shall occur within the critical root zones of any of the trees, or that if fill or compaction is unavoidable, measures will be taken as recommended by a certified arborist to reduce or mitigate the impact of the fill or compaction. The note shall also inform contractors that the project arborist shall be on site and oversee all construction activities within the tree protection zone.
 - c. A note that clearly informs all site contractors about the necessity of preventing damage to the trees, including bark and root zone. The applicant and contractor(s) shall be subject to fines, penalties and mitigation for trees that are damaged or destroyed during construction.
 - d. A sign shall be attached to the tree protection fencing which states that inside the fencing is a tree protection zone, not to be disturbed unless prior written approval has been obtained from the City Manager and project arborist.

Notes:

1. Goodall and Knaus Roads along the site frontage are under the design, maintenance, and permitting authority of Clackamas County. As a condition of approval, the applicant is required to improve the street to County standards. If the road authority jurisdiction for these roads is transferred from Clackamas County to the City of Lake Oswego prior to construction of the street improvements, the applicant may request approval from the City Engineer to construct the street improvements in conformance with applicable city street standards. If approved by the City Engineer, that would be considered to be in substantial conformance with the condition of approval.
2. The land use approval for this project does not imply approval of a particular design, product, material, size, method of work, or layout of public infrastructure except where a condition of approval has been devised to control a particular design element or material.
3. Development plans review, permit approval, and inspections by the City of Lake Oswego Planning and Building Services Department are limited to compliance with the Lake Oswego Community Development Code, and related code provisions. The applicants are advised to review plans for compliance with applicable state and federal laws and regulations that could relate to the development, i.e., Americans with Disabilities Act, Endangered Species Act. Staff may advise the applicants of issues regarding state and federal laws that staff member believes would be helpful to the applicants, but any such advice or comment is not a determination or interpretation of federal or state law or regulation.

EXHIBITS

- A. **Notice of Appeal:**
(No current exhibits; reserved for hearing use)
- B. **Findings, Conclusions and Order:**
(No current exhibits; reserved for hearing use)

- C. **Minutes:**
(No current exhibits; reserved for hearing use)
- D. **Staff Report:**
(No current exhibits; reserved for hearing use)

E. **GRAPHICS/PLANS**

- E-1 Tax Map
- E-2 Vicinity Map with Zoning
- E-3 Existing Conditions (2 pages)
- E-4 Master Plan
- E-5 Open Space Plan
- E-6 Landscape Plan (2 pages)
- E-7 Grading Plan (2 pages)
- E-8 Slope Analysis Plan
- E-9 Street Improvement profiles and sections (6 pages)
- E-10 Site Preparation/Demolition Plan (2 pages)
- E-11 Composite Utility Plan (2 pages)
- E-12 Storm Plan and Profiles (3 pages)
- E-13 Sewer Plan and Profiles (4 pages)
- E-14 Water Plan and Profiles (2 pages)
- E-15 Tree Removal and Preservation (3 pages)

F. **WRITTEN MATERIALS**

- F-1 Applicants Narrative
- F-2 Drainage Report, prepared by 3JConsulting, Inc., dated May 2, 2014
- F-3 Geotechnical Report, prepared by Geotech Solutions, Inc. dated August 31, 2006
- F-4 Geotechnical Addendum, prepared by Geo Pacific Engineering, Inc., dated September 3, 2013
- F-5 Traffic Impact Study, prepared by Lancaster Engineering, dated May 5, 2014
- F-6 Arborist Report, prepared by Walter H, Knapp & Associates, LLC, dated may 2, 2014
- F-7 Development Agreement dated May 7, 2014
- F-8 Neighborhood Meeting Minutes held March 26, 2014
- F-9 Memo from City of Lake Oswego Fire Marshal

G. **LETTERS**

Neither for nor Against: (G1-99)

None

Support: (G100-199)

None

Opposition: (G200+)

None

Date of Application Submittal: May 22, 2014
Date Application Determined to be Complete: May 27, 2014
State Mandated 120-Day Rule: September 24, 2014

