WASHINGTON COUNTY
Department of Land Use & Transportation
Current Planning
155 North First Avenue, Suite #350-13
Hillsboro, Oregon 97124-3072
phone: (503) 846-8761 fax: (503) 846-2908
www.co.washington.or.us

NOTICE OF DECISION OF THE HEARINGS OFFICER

PROCEDURE TYPE: III

CPO: 10
RURAL/NATURAL RESOURCE PLAN

PROPERTY DESCRIPTION:
ASSESSOR MAP#: 2S3 05
TAX LOT NO.: 02400
ADDRESS: 13665 SW Academy Way
SITE SIZE: 151.55 acres

LAND USE DISTRICT:
AF-5 District (Agriculture and Forest)

CASEFILE: L2400303-S

APPLICANT:
Tess Properties
111 N College Street
Newberg OR 97132

APPLICANT'S REPRESENTATIVE:
AKS Engineering & Forestry LLC
Chris Goodell
12965 SW Herman Road, Ste 100
Tualatin OR 97062

OWNER:
Tess Properties
500 E Hancock Street
Newberg OR 97132

LOCATION: On the south side of SW Laurelwood Road, at its intersection with SW Hartley Road

PROPOSED DEVELOPMENT ACTION: Preliminary Review for a 30-Lot Subdivision (Laurelwood Estates) in the AF-5 District

DATE OF DECISION

May 12, 2025

A summary of the decision of the Hearings Officer and supplemental findings are attached.

This decision may be appealed to the Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of this decision. Contact your attorney if you have any questions in this regard.

For further information contact the Land Use Board of Appeals at 503-373-1265.

The complete case, including Notice of Decision, Application, Staff Report, Findings and Conclusions, and Conditions of Approval, if any, are available for review at no cost at the Department of Land Use and Transportation. Copies of this material will be provided at reasonable cost.

Notice to Mortgage, Lien Holder, Vendor or Seller: ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

SUMMARY OF DECISION:

On May 12, 2025, the Washington County Hearings Officer issued a written decision (Attachment "C") approving an application for a 30-lot subdivision (Laurelwood Estates) in the AF-5 District at 13665 SW Academy Way in unincorporated Washington County. The subject property is identified as Tax Lot 2S3 05 2400 within CPO 10. The Hearings Officer's decision is as follows:

ORDER:

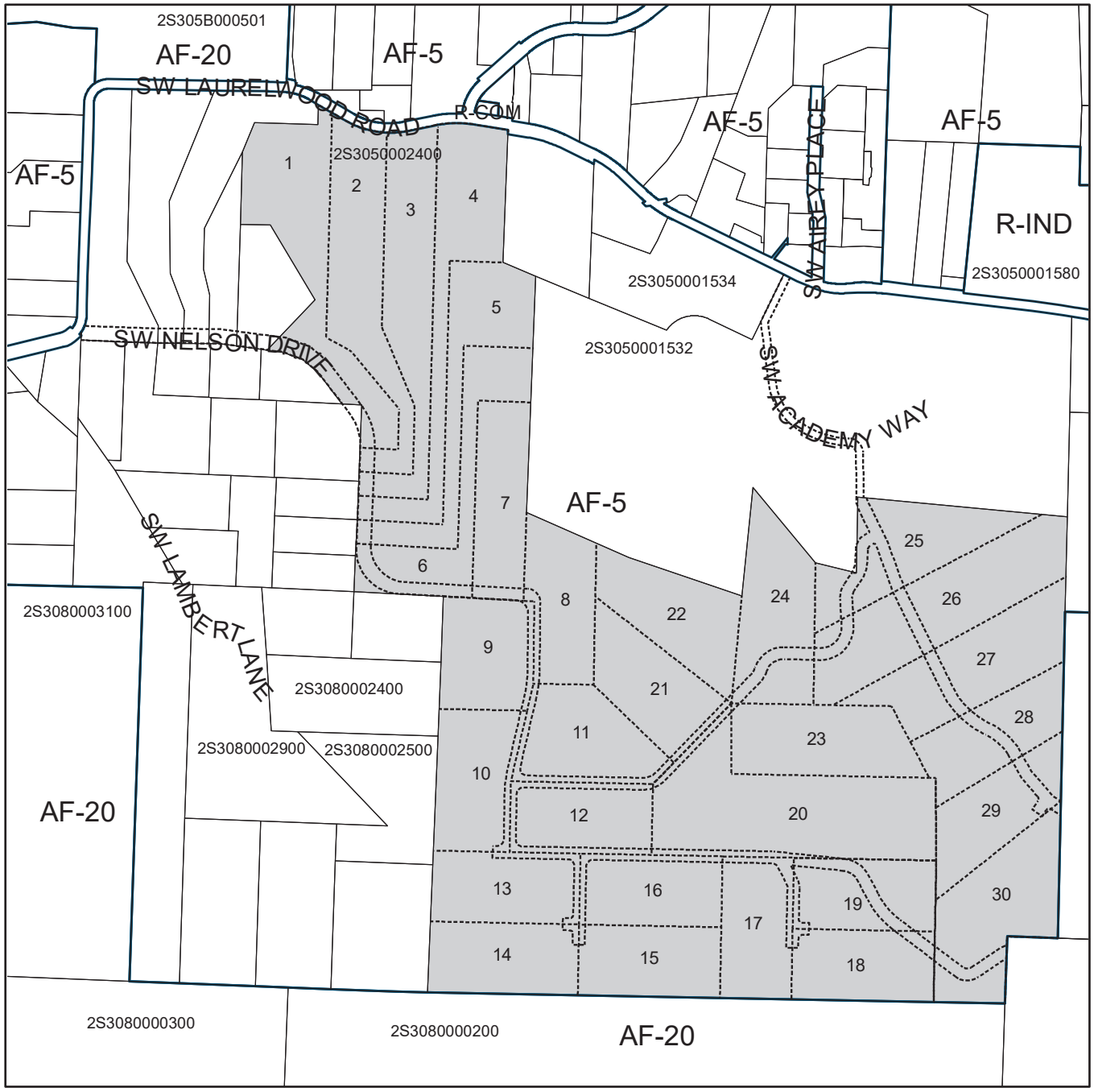
The Hearings Officer approves Casefile L2400303-S (30-lot subdivision in the AF-5 District) subject to the conditions of approval in Attachment B of this Final Order.

Attachments:
A. Vicinity Map
B. Conditions of Approval for Casefile L2400303-S
C. Hearings Officer's Findings, Conclusion and Order

ATTACHMENT A VICINITY MAP

TAX MAP/LOT NO. 2S3 05 00 02400

CASEFILE / PROJECT #: L2400303-S



↑ NORTH **AREA OF CONSIDERATION**

NOT TO SCALE

SITE & SURROUNDING LAND USE DISTRICTS:

AF-5 District (Agriculture and Forest)

AF-20 District (Agriculture and Forest)

R-IND (Rural Industrial)

R-COM (Rural Commercial)

REVIEW STANDARDS FROM CURRENT OR APPLICABLE ORDINANCE OR PLAN

A. Washington County Comprehensive Plan
B. Applicable Community Plan (See Front of Notice)
C. Transportation System Plan
D. Washington County Community Development Code:
   - ARTICLE I, Introduction & General Provisions
   - ARTICLE II, Procedures
   - ARTICLE III, Land Use Districts
   - ARTICLE IV, Development Standards
   - ARTICLE V, Public Facilities and Services
   - ARTICLE VI, Land Divisions & Lot Line Adjustments
   - ARTICLE VII, Public Transportation Facilities
E. R & O 86-95 Traffic Safety Improvements
F. ORD. NO. 738, Road Design and Construction Standards
G. ORD.691-A, 729, 741, 746, 751, 793-A Transp. Development Tax

ATTACHMENT B: CONDITIONS OF APPROVAL[1]

I. In accordance with Section 201-4, application for Final Approval of the First Phase of the subdivision shall be submitted within four (4) years of the date of this Preliminary Approval, unless: the permit is revoked as provided by Section 201-7; an application for a permit extension is filed pursuant to Section 201-5; or, development has commenced as provided in Section 201-6.

II. The total time period for final approval of all four (4) phases shall not exceed five (5) years. (Section 610)

III. The plat for each phase shall be recorded within two (2) years of the date of its Final Approval. (Section 602)

IV. Any ground disturbing activities within the flood plain/ drainage hazard area, or within the riparian corridor (including road improvements) may trigger land use review pursuant to Sections 421 and 422.

V. Prior to any ground-disturbing activity within each phase, including construction or modification for access:

A. Submit to Building Services (503-846-3470), as determined necessary by the Building Engineer (503-846-3470):

1. A grading permit application complying with all requirements stipulated on the grading application form. The plans and design documentation shall be stamped and certified by a civil engineer. The permit application must include the following:

a. Site-specific geotechnical engineering report with recommendations for developing the site. The report should be stamped and signed (electronic signature accepted) by an Oregon registered engineer.

b. Road work and any dwellings on a slope with a grade over 15% should have a minimum slope stability analysis report. For such construction:

i. The geotechnical report must include a slope stability analysis for steep slopes surcharge by the proposed structure under both static and seismic conditions.
ii. A minimum safety factor of 1.5 and 1.0 is required for static and seismic loads, respectively. Quantitative data in an analysis report is required showing compliance with **WCC § 14.12.110(A)** and **WCC § 14.12.360(B4).**
iii. The minimum fire access loading of 75,000 lb. and a width of 20 feet is required with supporting design calculations unless a letter from the applicable fire marshal is submitted, approving a modification to these requirements.
iv. The slope stability analysis should consider possible global slope failure due to the steepness of the site slope under future structure surcharge of 250 psf.

2. Structural details of the private road/driveway on the plans per site-specific geotechnical engineering recommendations. The plans should show private road shoulders required to maintain the structural integrity of the road subbase.

3. A drainage analysis report stamped and certified by a civil engineer that shows the additional impervious areas from the proposed work will not negatively impact surrounding properties per WCC **§** 14.12.310. The grading plans with the report must include the following information:

[1]Replicated from Exhibit 1: Conditions of Approval of the Hearing Officer's Final Order for this casefile

i. If necessary, one or more stormwater management/detention facilities. If one or more stormwater facilities are required, each facility should have one recorded easement under one entity, such as the future Homeowners Association (HOA) or a similar entity, for the maintenance of the facility. This must be submitted to Building Services before issuance of any building permits on the site and/or before construction of the shared private road (as determined necessary by the Building Engineer) regardless of which phase is being constructed. (Section 207-5)

ii. The location of future wells and septic drain fields demonstrating compliance with the County's Health and Human Services separation distances and OAR 690-210-00303.

iii. Storm lateral required for applicable lots to direct stormwater runoff from the respective lots to a stormwater management/detention facility, if required.

Note : For subdivisions (more than 3-lots), ***WCC § 14.12.310-1*** *provisions cannot be used to satisfy* ***WCC 14.12.310-A*** *provisions.*

B. Submit to Current Planning Services (503-846-8761) evidence of the following:

1. Recorded easement (if applicable) demonstrating the right to perform grading, install utilities and/or implement erosion control measures (as applicable) has been obtained from the affected property owners when plans include work on an adjacent property.

2. Evidence of an issued Right-of-way permit from Washington County Operations Department (503-846-7623) for the two access approaches (via SW Academy Way and SW Nelson Drive) on to SW Laurelwood Road. Permit shall confirm for both approaches: sight distance at the access approach is met and that it is constructed to current County standards. (Section 501-9)

VI. Prior to Final Approval of each phase of the subdivision:

A. Submit to the Survey Division (503-846-8723):

Ten (10) copies of the proposed Final Subdivision Plat meeting the applicable provisions of ORS 92, together with any applicable review and filing fees. The survey plat shall be approved by the County Surveyor who will then forward the necessary approved copy(ies) to the Current Planning Services Section for review.

<u>The following shall be shown on the plat (Section 610):</u>

1. Parcels included within the respective phase of the subdivision plat.

2. A notation on the plat referencing the conditions of this Casefile.

3. All existing and proposed easements clearly identified as to their intended purpose. Maintenance rights and responsibilities shall be stipulated in separate recorded documents.

4. Notations on the plat shall include legal description, purpose, ownership and maintenance for all easements and tracts, including any easements that provide access for off-site properties.

5. Location of all existing and proposed easements for storm sewers, sanitary sewers, and water lines, if any.

6. Notation shall be placed on the plat stating that "approval of the subdivision does not ensure that sewer or septic approval is or will be available" unless evidence of site evaluation or permit approval in accordance with Section 610-2.4 A. is submitted to Current Planning.

7. Dedication of additional right-of-way, along the site's frontage on SW Laurelwood Road to provide a minimum of 30 feet from centerline. (Section 501-9)

B. Submit to the Current Planning Services Division, Project Planner, Maitreyee Sinha: (503-846-3835):

1. Type I Final Approval application, containing a written statement and complete evidence/documentation that all conditions have been met, including:

a) Final Approval request form;
b) Final Approval application fee;
c) Final site plan consistent with the one stamped "Preliminary Approval" in the Casefile, and showing existing building(s), existing and proposed utility easements, and existing and proposed access points for all child parcels.
d) Hard copies of evidence of satisfaction of all conditions of Final Approval.
e) Final plat
f) Final inspection approval of the right-of-way from Washington County Operations Department (503-846-7623) and/or Facility Permit for the two access approaches on to SW Laurelwood Road (Section 501- 9). Permit shall confirm:
   i. Sight distance requirements per Section 501-8.5 is met,
   ii. Access approach is constructed to County standards
   iii. Pursuant to R&O 86-95, that adequate illumination at the proposed access approaches at SW Laurelwood Road has been provided. (*Direct technical questions concerning this condition or the current roadway illumination standards to Traffic Engineering Section at 503-846-7950*)
g) Original copies of the following document, prepared and recorded or ready for recording at the time of the subdivision plat recordation:
   i. A waiver of the right of remonstrance against accepted farm and forestry practices signed by the property owner. The waiver shall be on a standard form available at the Current Planning Services counter and shall be recorded (Sections 207-5, 348)

      NOTE: *The document necessary for completion of this condition is available at Current Planning Services counter (503-846-8761) and shall be recorded in the Records Division of the Department of Assessment and Taxation (503-846-8752). Submittal of these documents must include the appropriate recording fee. Submittal of these documents must include the appropriate recording fee.*

h) Evidence that the proposed new private roads to serve each dwelling site within the phase is constructed/ completed and approved by the Fire Marshal, or the covenant required under Section 409-5.2.I(2) is recorded or ready for recording with the plat for each vacant lot not served by the private road (the Director shall authorize the removal of the restrictive covenant only after the private street has been fully constructed and approved by the Fire Marshal approval)
i) Evidence that the private streets providing access to the sites at SW Laurelwood Road are posted with a sign "Private Street not maintained by Washington County". Dead end streets shall be indicated on signage. (Section 409-5.2.C)
j) A subsurface sewage disposal system permit from the appropriate agency (Washington County Dept. of Health & Human Services, 503-846-8881) for the new parcels, or "a statement that the allowance of the subdivision does not warrant that sewer or septic tank approval is or will be available" is included on the submitted plat as a plat note, in accordance with Section 610-2.4 A.

VII. Prior to Issuance of a Building Permit for the first lot per phase, the applicant shall:

A. Obtain Final Approval for each respective phase of development
B. Record the plat for each respective phase of development
C. Submit to the Building Services (503-846-3470):

1. An application for a Grading Permit, including drainage and sedimentation/erosion control plans (Sections 410 and 426 respectively), for development of the new homesite and for any driveway modifications/construction, and all other requirements. (Sections 410 and 426)

2. Site plan showing the location of the proposed driveway/access, dwelling and accessory structures consistent with applicable setback requirements. The site plan shall indicate location of septic services to the site as well as the domestic well/water source to serve the site.

3. Evidence that the applicable stormwater management system for the respective phase of the subdivision is established and has received final inspection approval. (Section 410)

4. Evidence of a permit to construct a new septic system or an alternate system from the Department of Health and Human Services (503-846-8881). (Section 207-5)

5. Submit a copy of a well construction report, or other evidence of a domestic water supply.

6. Payment of the Transportation Development Tax and all applicable System Development Charges

   Note: Transportation Development Tax shall be required as determined by Ordinance 793-A

7. All other requirements identified by the Building Services Section as necessary for the issuance of permits.

D. Submit to Current Planning Services (503-846-8761):

1. A scaled site plan, no larger than 11" x17", showing the location of the proposed driveway/access, dwelling and accessory structures consistent with applicable setback requirements..
2. Evidence the plat was recorded within two years of Final Approval per each phase.
3. Evidence that Health and Human Services (Environmental Health Services, 503-846-8722), has approved the septic system or an alternate system serving the dwelling. (Section 207-5)
4. Evidence the Right-of-Way from the County Operations Division (503-846-7623) for the access locations and/or Facility Permit has received final inspection approval, and any improvements within public right-of-way have been completed. (Section 501-9)
5. Evidence that the Fire Marshal has approved the constructed private road for access to the proposed dwelling site, if construction was deferred in accordance with Section 409-5.2.

VIII. Miscellaneous Conditions:

A. This development shall be constructed in accordance with the conditions of this decision, the approved final plans, and the standards of the Community Development Code (Section 207-5).

- **B.** All approved uses are limited to those contained within this decision, based on the site plan stamped 'Preliminary Approval' in the casefile. Any modifications may require additional land use review. (Section 207-5)
- **C.** Any ground disturbance within the 100-year flood plain or drainage hazard area may trigger additional land use review. The proposed use shall be limited to those permitted in Section 421 of the Code, subject to the standards stipulated in that section.
- **D.** Any disturbances to identified *Water Areas and Wetland and Fish and Wildlife Habitat* overlay may trigger additional land use review pursuant to the standards stipulated in Section 422 of the Code.
- **E.** All conditions of approval shall be binding upon all heirs, successors, and assigns (Section 207-5).
- **F.** The applicant is responsible for obtaining and maintaining any applicable permits from the Oregon Department of State Lands (DSL) and the US Army Corps of Engineers for all ground disturbing activities within their jurisdictions.
- **G.** Transferability of this Development Permit shall be in accordance with Section 201-8.
- **H.** Adequate sight distance shall be maintained at the access point(s) onto the public road(s). Maintenance may require trimming or removal of vegetation. Access on to SW Laurelwood Road is limited to the approved private intersections with the road. (Section 501-8.5.F)

BEFORE THE LAND USE HEARINGS OFFICER
OF WASHINGTON COUNTY, OREGON

In the Matter of a Preliminary Review for a 30-Lot Subdivision in the AF-5 Zoning District	**FINAL ORDER**
Applicant: Tess Properties **Applicant's Representative**: Chris Goodell, AKS Engineering & Forestry Andrew Stamp, VF Law	Casefile No. L2400303-S Application **Approved** with Conditions

Introduction and Background

Tess Properties (the "Applicant") seeks preliminary review and approval for a 30-lot subdivision in the AF-5 zoning district. The subject property is approximately 152 acres in size. The Washington County Community Development Code ("CDC" or "Code") at 348-1 states that the AF-5 district "is intended to retain an area's rural character and conserve the natural resources while providing for rural residential use in areas so designated by the Comprehensive Plan." Adjacent properties to the north and west of the site are also zoned AF-5, while properties to the south are zoned AF-20. Pursuant to CDC 344-1, the intent of the AF-20 district "is to provide an exclusive farm use zone within the county which recognizes that certain lands therein may be marginal."

The site features undeveloped land with dirt roads previously used for agriculture. SW Laurelwood Road, a public road, borders it to the north. Private road easements intersect the site. According to the staff report, No. 2001-109896 in the southeast portion of the site connects TL 100 to SW Academy Way and terminates at SW Laurelwood Road to the north. Another runs east-west, connecting TL 101 to SW Nelson Drive, which terminates at SW Laurelwood Road to the west.[1]

The Applicant proposes access to the subdivision from SW Nelson Drive to the west and SW Academy Way to the north. Internal access roads would connect all 30 parcels to at least one of these private roads. Each lot would front one of the internal access roads. These access roads would connect to SW Nelson Drive and SW Academy Way for access ultimately onto SW Laurelwood Road.

In 2011, the county issued preliminary approval for a 30-lot subdivision on the property.[2] However, new owners who subsequently acquired the property never recorded a final plat, and the tentative plan expired. In 2014-15, the county approved several property line adjustments on the subject site.[3]

[1] The record suggests two easements from two separate grantors traverse the same east-west path along the property: No. 86-14390 and No. 86-14391.
[2] Casefile L11-113-S/FP/DHA.
[3] Casefiles L1500235-PLA/PLA/PLA, L1400359-PLA, L1400358-PLA, L1400357-PLA, L1400356-PLA, L1400355-PLA, L1400354-PLA, and L1400353-PLA.

The Applicant proposes to construct the subdivision in four phases, unless market conditions favor combining one or more phases. The proposal includes constructing access roads for homes within each phase, fire turnarounds as specified by the fire marshal, and installing power and wells for the respective phase. Septic systems would be designed and installed under individual building permits for the homes.

South Fork Hill Creek intersects the southeast part of the property. County records identify both a drainage hazard area (DHA) and 100-year floodplain associated with this onsite riparian corridor. The county's Rural/Natural Resources Plan identifies the creek as *Water Areas and Wetland and Fish and Wildlife Habitat*. In addition, along the eastern portion of the site, the Oregon Department of Fish and Wildlife (ODFW) has identified areas of "Priority Wildlife Connectivity Habitat."

Applicable Standards

- **Washington County Comprehensive Framework Plan (Rural/Natural Resource Plan Element)**
- **Washington County Community Development Code**
  - **Article II: Procedures**
    - Section 202-3 Type III Procedure
    - Section 202-5 Determination of Proper Procedure Type
    - Section 207-5 Conditions of Approval
  - **Article III: Land Use Districts**
    - Section 348 Agriculture and Forest District (AF-5)
  - **Article IV: Development Standards**
    - Section 403 Applicability
    - Section 409 Private Streets
    - Section 410 Grading and Drainage
    - Section 421 Flood Plain and Drainage Hazard Area Development
    - Section 422 Significant Natural Resources
    - Section 426 Erosion Control
  - **Article V, Public Facilities and Services**
    - Section 501-9 Limited Application of Public Facilities & Service Standards outside the UGB
  - **Article VI: Land Divisions and Lot Line Adjustments**
    - Section 610-2 Rural Standard Land Divisions
    - Section 610-3 General Development Review Standards
- **Washington County Transportation Plan**
- **Ordinance No. 793-A - Washington County Transportation Development Tax**

Issues of Significance Presented to Hearings Officer

As the Applicant acknowledges in its final argument to the Hearings Officer, the application "raises many issues." In the Hearings Officer's opinion, this fact is mostly attributable to the

unusually large size of the property relative to its zoning. In his experience, similarly zoned exception areas in the state where rural residences are common typically possess smaller parcels not exceeding 10 acres in size. Subdivisions in these areas are not common, particularly when the land to be divided exceeds 150 acres in size. In that context, the number of issues implicated by the application is understandable.

Prior to the hearing, at the hearing and during open record periods that followed the hearing, neighboring property owners and other members of the public raised several concerns and objections to the application.[4] Those issues, and the Hearings Officer's response to them, are summarized here. As warranted, the Hearings Officer provides additional analysis below in findings that relate to the specific approval criteria.

Opposition to Subdividing the Property

Opponents raised a number of concerns regarding the lawfulness of subdividing the property. Some Opponents argued that a 30-lot subdivision is not appropriate for the area. They believe the county should only allow multi-lot subdivisions within the urban growth boundary ("UGB"). Some Opponents argued that the Applicant cannot subdivide the property because the property is not in an exception area.[5] Other Opponents asserted that subdividing the property into smaller lots will result in the loss of farmland and recreational opportunities.

As noted, the subdivision is certainly unique. But unique does not mean prohibited. As staff notes, Section 610 of the Code permits subdivisions outside the UGB subject to Section 348, which specifies lot requirements for the AF-5 district. These requirements include lot areas at least five acres in size, plus or minus 20 percent as long as such variances do not increase the total amount of lots. With respect to the size and number of the resulting lots, the subdivision will substantially conform to the pattern of development that already exists among adjacent properties zoned AF-5.

The Hearings Officer disagrees with the assertion that the property is not subject to an exception to Goals 3 and 4. During the second open record period, the Applicant cited to "Figure 70" of "Exception Area 132," which is part of the Washington County Comprehensive Framework Plan, specifically the "Rural/Natural Resource Plan" (the "Plan"). The county justified the exception by finding the area was substantially developed and committed to non-resource uses. Exception Area 132 covers more than 1000 acres of property, including the Laurelwood community generally and the subject property specifically. The Hearings Officer finds that the property is within an acknowledged exception area. Therefore, Goals 3 and 4 do not apply to the property.

Regarding the loss of productive farmland or recreational opportunities, the Hearings Officer concurs with staff that these concerns do not relate to approval criteria in the Code. While the

[4] For the sake of brevity and ease of reference, the Hearings Officer will refer to neighbors, other members of the public and their representatives who expressed concerns or objections as the "Opponents."
[5] Specifically, the Opponents asserted that the AF-5 zone is not subject to an exception to Statewide Planning Goals 3 and 4, and therefore the property remains subject to both goals.

law prohibits significant impacts to farm and forest practices from certain non-farm uses of rural land, those prohibitions do not apply to residential uses in the AF-5 district. In addition, owners of the resulting lots may nevertheless engage in farm and forest operations in the future, subject to any applicable standards.

These objections to the application do not provide a basis for denial.

Inadequate Level of Emergency Services and School Capacity

Some Opponents argued that existing levels of emergency services are not adequate to meet the needs of an additional 30 dwellings, and that local schools lack capacity to absorb additional students that would reside in the subdivision.

With respect to the adequacy of public services, Section 501 of the Code imposes different requirements on development within the UGB versus development outside of the UGB. For development within the UGB, applicants must generally show adequate services are or will be available, either prior to occupancy or within a specific time frame, depending on the type of service.[6]

Regarding school, police and fire services outside the UGB, Section 501-9 generally only requires the impact of proposed development on those services to be "considered."[7] Nevertheless, the Applicant has demonstrated adequate levels of these services exist. Gaston Fire, the Washington County Sheriff's Office and the Gaston School District each expressly stated that they are able to adequately serve the subdivision.[8] Therefore, concerns about the adequacy of schools and emergency services do not provide a basis to deny the application.

Concerns Regarding Wastewater

Opponents expressed doubt that the property would accommodate septic systems based upon the soil conditions in the area. A representative from the county who oversees septic permitting acknowledged that soil conditions in the area are "marginal" for septic systems. However, that individual also stated sufficient area appears to exist onsite to accommodate either standard septic systems or an alternative treatment technology ("ATT").

For this preliminary subdivision approval, the Code does not impose any substantive approval criteria relative to wastewater treatment/septic systems. Section 610 of the Code anticipates that the county will review and approve wastewater treatment at the building permit stage. For example, CDC 610-2.4(8) says unless the county has granted approval at the preliminary

[6] *See e.g.* CDC 501-8.1 and 8.2.
[7] For schools, CDC 501-9.10 does require applicants to provide documentation from a school district that capacity exists to serve the proposed development.
[8] *See* Exhibit J of the application.

approval stage, applicants must note on the plat that subdivision approval does not guarantee the availability of wastewater treatment for affected lots.[9]

At this stage, the Applicant must only show that it is feasible to provide septic or an ATT to serve the development. The Applicant has provided evidence demonstrating that it is feasible, and the record does not contain any substantial evidence to the contrary.[10] Through expert testimony, the Applicant has shown it is reasonably likely that either a standard septic system or an ATT will be available for each proposed lot. Conditions of approval will ensure that each lot will have a septic system or access to an ATT.

For these reasons, concerns regarding septic systems do not provide a basis to deny the application.

Impacts to Wildlife Habitat

Opponents raised concerns regarding the negative impact the subdivision could have on wildlife in the area. In a development context, the county regulates natural resources pursuant to Section 422 of the Code. The Plan identifies certain natural resources as "significant" ("SNR") and Section 422 limits development within those areas.

Staff noted that the Plan identifies South Fork Hill Creek as *Water Areas and Wetland and Fish and Wildlife Habitat*, which is one type of SNR. With respect to South Fork Hill Creek, the evidence in the record shows the Applicant is not proposing any alteration within that resource. Staff did note that SW Academy Way currently crosses mapped *Water Areas and Wetland and Fish and Wildlife Habitat*. If construction of the subdivision required improvements to that private street in those areas, the Applicant may need to seek a Type II land use review.

Staff also noted the presence of "Priority Wildlife Connectivity Habitat" along the eastern portion of the property. The Oregon Department of Fish and Wildlife ("ODFW") is the sources of this habitat designation on the property, not Washington County. The Applicant's plans show some disturbance of the ODFW habitat designation.

ODFW stated it does not have any regulations that govern encroachments into areas subject to the designation. It was initially unclear whether the county itself regulated the ODFW habitat designations via Section 422. However, during the open record period, staff clarified that the county has not incorporated the ODFW designations into the Plan. As such, the county does not consider the ODFW designation to regulate the application in any manner. The Hearings Officer agrees that in the absence of county action to adopt the ODFW habitat designation, the county has no independent regulatory authority over the designation.

[9] The Code appears to only require wastewater approval at the preliminary approval stage for certain lots created in the county's RR-5 district pursuant to CDC 350-6.1(C). *See* 610-2.4(8).
[10] *See* March 26, 2025 memorandum from Steve Roper, P.E. (Applicant OR-1 submittal, Ex. 4).

The Applicant has demonstrated compliance with Section 422 of the Code. Therefore, concerns regarding habitat do not provide a basis to deny the application.

Compliance with Floodplain Regulations

Based on a review of the staff report, some Opponents claimed the application failed to accurately delineate the 100-year floodplain and the 25-year drainage hazard area ("DHA"). They also asserted that FEMA must approve the floodplain delineation in order for the Applicant to satisfy Section 421 of the Code.

During the first open record period, the Applicant submitted a technical memorandum that describes how engineers for the Applicant arrived at the delineated floodplain boundary of South Fork Hill Creek. The Opponents did not appear to provide a substantive response to this memorandum during the second open record period. Likewise, the Opponents did not provide a citation to support the proposition that FEMA must approve the Applicant's delineation before the county can find the Applicant has met the criteria of Section 421.

Staff determined that the Applicant demonstrated compliance with Section 421. Staff found that the building envelopes proposed in the application do not encroach within the 100-year floodplain boundary and that the application did not otherwise propose improvements within the floodplain boundary or the DHA. The Hearings Officer concurs that the application as presented meets the requirements of Section 421 of the Code. If construction results in ground disturbance to the DHA or floodplain, additional land use review pursuant to Section 421 may be required.

For these reasons, concerns regarding compliance with the county's floodplain regulations do not provide a basis for denying the application.

Concerns Regarding Water

Numerous opponents raised concerns regarding the availability of water to serve the development. The Oregon Water Resources Department ("OWRD") has designated the area that includes the subject property as the "Chehalem Mountain Groundwater Limited Area." Various Opponents testified about problems with their wells, including water pressure issues and dry wells during at least dry parts of the year.

The Applicant acknowledges that water is a hurdle they must clear in order to build the subdivision, and they present options they believe will ensure a water supply for future residents. However, based on the Code's requirements, the Applicant also asserts that at the preliminary approval stage, they do not need to demonstrate that water is (or will be) available to serve the development. Rather, the Applicant asserts that they are required to make this demonstration at the building permit stage. According to the Applicant, for now, they need only show that providing a water supply is feasible.

Water supply is addressed at CDC 423-11. The section reads as follows:

> **423-11 Adequate Water Supply**
>
> All development shall be required to have an adequate water supply. Adequacy shall include:
>
> 423-11.1 Adequate supply for the use prior to issuance of a building permit (see Section 501-7.1, Critical Services).
>
> 423-11.2 Outside the UGB, when any Special Use of Article IV will require an amount of water in excess of what would normally be used if the property were developed for rural homesites, the following information:
>
> A. An explanation of how the water will be supplied; and
>
> B. An explanation of the potential impact of the proposed water system on the surrounding properties.
>
> C. Approval of a Standard Subdivision outside the UGB proposing a community water supply shall be subject to the provisions of Section 423-11.2 A. and B.

In its final argument to the Hearings Officer, the Applicant summarizes three options to provide water to residents of the subdivision, in the order the Applicant prefers. The first option is to use the LA Water Co-op system, based on 30 water right certificates the Applicant possesses. The Applicant's second option is to drill 15 exempt wells. Finally, the Applicant proposes to truck water into the site and fill storage tanks on each lot.

Based on the language of CDC 423-11, the Hearings Officer agrees with the Applicant that, at the preliminary approval stage, it only needs to show it is feasible to provide an adequate water supply to serve the proposed subdivision. While all of the options are possible, substantial evidence shows that trucking the water into the subdivision is both likely and reasonably certain to succeed.

The Applicant states it will provide two storage tanks on the property, one for potable water and one for fire suppression, even if it is able to rely on option two for a water supply.[11] The Applicant provides evidence of a company that delivers water to storage tanks throughout the region, including NW Oregon and specifically in Forest Grove.[12] The Applicant's commitment to providing the tanks if its preferred option fails, and its identification of a going concern that would fill them, makes the third option likely. Because the Applicant has shown option three is possible and likely, the Hearings Officer finds that the third option is reasonably certain to succeed in providing an adequate supply of water for use in the subdivision.

For these reasons, the concerns regarding the availability of water do not provide a basis to deny the application.

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[11] April 21, 2025, final argument letter from Applicant, p. 8.
[12] March 31, 2025, email from Water Wagon LLC (Applicant OR-2 submittal, Ex. 27).

Concerns Regarding Transportation Related Issues

Opponents raised a number of concerns related to transportation issues associated with the application. These include:

- Whether the Applicant's proposed access to the subdivision complies with the Code;
- Whether the Applicant has demonstrated emergency vehicles can access the subdivision;
- Whether the Code requires the Applicant to submit recorded documents relative to private streets at the preliminary approval stage;
- Whether the Applicant has demonstrated compliance with sight distance requirements in the Code; and
- Whether existing intersections near the proposed subdivision prohibit approval of the application or compel the Applicant to modify the intersections as conditions of approval.

Staff generally responded to these concerns in the staff report and at the hearing. With respect to development outside the UGB, staff noted that the Code regulates access to county roads in a manner that is more limited relative to development inside the UGB. For access issues, the application must only address sight distance standards, road standards and the dedication of right-of-way, as necessary.

The Applicant provided preliminary sight distance certification relative to the two proposed access points to SW Laurelwood Rd, which the county deemed acceptable. The Applicant also proposes dedicating right-of-way in accordance with the Code, and the staff report and draft conditions recommended the Applicant provide illumination for the access from the private roads onto SW Laurelwood. With respect to ensuring access for emergency vehicles, staff noted that TVFR has provided a preliminary approval of the Applicant's proposed private access roads, and a condition of approval allows the fire marshal to provide final approval before residential uses occur on the property.

Staff noted that final verification of compliance with these requirements will occur as construction proceeds through the review of grading and building permits. At this preliminary approval stage, staff noted that applicants need to demonstrate that it is feasible to receive final approvals from the county relative to access standards. The Hearings Officer agrees that the Applicant has provided evidence showing compliance with CDC 501-9 is likely and that conditions of approval will ensure compliance.

Concerns regarding intersections near the property relate to provisions in Section 610 of the Code. The first relates whether a three-way intersection violates CDC 610-3.2(H) and thus prohibits approval of the application. The other relates to CDC 610-3.2(A), specifically whether the angle of the intersection violates the county's minimum intersection angle of 75 degrees.

The Hearings Officer agrees with staff and the Applicant that 3.2(A) and (H) apply to intersections on property that is the subject of an application. Whether such intersections exist or are new, applicants have the ability to meet these standards if the intersection is onsite. In this instance, both intersections in question are located outside the subject property, or offsite. While land use decisions can compel applicants to improve offsite infrastructure, such conditions must comply with the *Nolan/Dolan* line of cases. That is, the record must contain evidence that such a condition has a nexus with issue the condition seeks to remedy, and the condition must be roughly proportional to the impacts that flow from the specific development. That evidence does not exist in this record.

The Applicant thoroughly responds to concerns related to transportation in its final argument and demonstrates how the application complies with the relevant Code provisions. By reference, the Hearings Officer adopts the Applicant's response and analysis as his own findings.[13]

For these reasons, concerns raised by Opponents regarding access and transportation issues do not provide a basis to deny the application.

Concerns Regarding Stormwater Management

While the application presents a number of complicated issues, those related to stormwater management arguably rise to the top of the list. Part of the reason is due to the rare nature of the application. The location of regulations related to drainage and stormwater management across the Washington County Code, which includes but is not limited to the CDC, is also a factor.

It is evident that staff has good faith concerns regarding the ability of the Applicant to manage stormwater and drainage on the site. This concern resulted in the county issuing two letters of incompleteness to the Applicant, which has led to an ancillary issue regarding the statutory 150-day deadline by which the county must render a final decision. The Hearings Officer briefly addresses that issue later in this order.

The county's concerns regarding stormwater management led the Applicant to address alternatives for managing stormwater based on a variety of technical assumptions. This included a revised preliminary stormwater report with an alternative "regional stormwater management facility" that the county requested the Applicant evaluate as an alternative to a "complete drainage analysis report that shows how the quantity, flow pattern, and direction of all the collected stormwater from the proposed private roads, driveways, future building roofs, and other hardscape imperious areas are below or at the same as the pre-developed level." Ultimately, the Applicant appears to have addressed both alternatives.

Based on evidence in the record, staff and the Applicant engaged in additional conversations regarding technical aspects of managing stormwater on site, which culminated in the Applicant

[13] Specifically, the Hearings Officer incorporates into this order section II(C) of the Applicant's April 21, 2025, final argument, p. 17-28.

submitting another revised preliminary stormwater report on January 31, 2025. According to the Applicant, this is the most current version of the report in the record, and the one upon which staff drafted its report and recommended conditions for the Hearings Officer for the March 13, 2025, hearing. This report suggested a "sub-regional" facility, smaller than the "regional" alternative the Applicant previously addressed as an alternative, was adequate to drain stormwater in accordance with the relevant standards across the Washington County Code.

During the second open record period, the county submitted a memo (OR-2C) which, among other things, instructed the Applicant to build two "sub-regional" facilities, based on the county's engineering department's interpretation of data complied by the Applicant's engineer in the revised January 31, 2025, preliminary stormwater report.

The Applicant moved the Hearings Officer to reopen the record to allow it to respond to OR-2C, which it viewed as new evidence. The county responded and disputed that OR-2C constituted new evidence. Nevertheless, the county requested the Hearings Officer reject OR-2C from the record, which the Hearings Officer did through an interim order dated April 18, 2025.

In its final argument, the Applicant states:

> At this preliminary plat stage, the Hearings Officer does not need decide [sic] how many sub-regional facilities are required. That determination requires both engineering expertise and a record that contains sufficient engineering data to design the final plat. At this stage, the Hearings Officer need only determine the feasibility of obtaining a grading permit. Nothing in this record suggests that it is not feasible to obtain a grading permit, which to say that findings demonstrate that engineering solutions to stormwater problems posed by the project are possible, likely and reasonably certain to succeed. The Preliminary Stormwater Report accomplishes that task in spades. Even if there are some technical quibbles with the assumptions used in the report, those engineering details can be worked out during final plat when the design and data are more certain. Since we are not at the final design stage, there is no point in delving into the engineering minutiae. Nor is there any point in conditioning the application on the construction on detention facilities that may or may not be needed.

The Hearings Officer agrees with the Applicant that at this preliminary approval stage, determining whether the Applicant has shown it is feasible to obtain a grading permit is what is necessary. As is true with other aspects of this application (and other land division applications generally), it is not necessary – nor necessarily prudent – for the Hearings Officer to be considering highly specific, technical engineering data that relates to building and operating the broader, general use (the subdivision) the Hearings Officer approves through the land use process. Whether the Applicant must provide a "regional" facility, a "sub-regional" facility, one of each, several of one or none of them at all is not a question I am qualified to answer. In the opinion of the Hearings Officer, that is still an open question, which the county can definitively answer during the grading/building permit stage by experts trained in those technical details.

The Hearings Officer finds that the Applicant has demonstrated it is feasible to meet the requirements of CDC 410. The Hearings Officer has imposed a condition of approval in this order to ensure that the Applicant meets those requirements and manages stormwater on the property consistent with the county's regulations.

Findings

A. Comprehensive Framework Plan (Rural/Natural Resource Plan Element)

The goals and policies that relate to the development of land are implemented by the Code. The applicant is not required to address, consider, or implement any goal, policy or strategy of the Plan except where required by the Code. According to the Plan, areas on the property are mapped with SNR, specifically *Water Areas and Wetland* and *Wetland/Fish and Wildlife Habitat.* Therefore, the application is subject to review pursuant to the standards of Section 422, as discussed in this order. All other Plan policies are implemented by the Code.

B. Washington County Community Development Code

1. Article II: Procedure

Section 202 Procedure Types and Determination of Proper Procedure

202-3 Type III

202-3.1 Type III land use actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgement when applying the development criteria contained in this Code or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan.

202-3.2 The following are identified as Type III:

A. Those identified in this Code as Type III;
B. Those not identified or classified which are determined by the Director to be substantially similar to the uses or development designated as Type III, require the exercise of significant discretion or judgement, involve complex development issues, or which likely have significant impact. The determination may be challenged on appeal of the decision on the proposed development but is not subject to appeal on its own;
C. Quasi-judicial plan amendments.

202-5 Determination of Proper Procedure Type

202-5.3 Notwithstanding any other provision, and upon payment of the proper fee, an applicant may choose to have the proposal processed under a procedure type (Except legislative) which provides greater notice and opportunity to participate than would otherwise be required.

202-5.4 Notwithstanding any other provision, and at no additional cost, the Director may choose to process a Type II application under the Type III procedure in order to provide greater notice and opportunity to participate than would otherwise be required, or in order to comply with the time requirements for reviewing development applications in ORS 215.428.

The subdivision is permitted through a Type II review process, pursuant to Section 610-2.1 of the Code. However, the Director elevated the application to a Type III review process due to the project's complexity and significance, and to allow ample opportunity for public involvement with the application review. Prior to the hearing, the county received many public comments expressing concerns and opposition to the application. As such, the Hearings Officer finds the Director properly exercised their discretion to elevate the application.

Although the review process is subject to a Type III procedure, the application is subject to the Type II review criteria. Where appropriate, the Hearings Officer has imposed conditions of approval to ensure compliance with the standards of the Code. The county mailed notice of the application to nearby property owners and the Applicant submitted an affidavit stating they posted notice on the site.

Section 203 Processing Type I, II, and III Development Actions

203-3 Neighborhood Meeting

For standard subdivisions consisting of greater than 10 lots proposed outside the UGB, Code Section 203-3.2.B. requires applicants to conduct a neighborhood meeting prior to application submittal. The record shows that the Applicant held the required neighborhood meeting on January 25, 2024.

Section 207 Decision

207-5 Conditions of Approval

207-5.1 The Review Authority may impose conditions on any Type II or III development approval. Such conditions shall be designed to protect

the public from potential adverse impacts of the proposed use or development or to fulfill an identified need for public services within the impact area of the proposed development. Conditions shall not restrict densities to less than that authorized by the development standards of this Code.

Staff recommended conditions of approval to the Hearings Officer in the original staff report and offered certain revisions to those conditions for the Hearings Officer's consideration in the revised staff report. The Applicant likewise requested changes to the recommended conditions. The Hearings Officer includes conditions of approval in this order to ensure compliance with the Code, as necessary. None of them reduce the density the Code permits on this property.

2. Article III: Land Use Districts

Section 348 Agriculture and Forest (AF-5)

348-1 Intent and Purpose

The AF-5 District is intended to retain an area's rural character and conserve the natural resources while providing for rural residential use in areas so designated by the Comprehensive Plan.

The purpose of this agricultural and forestry district is to promote agricultural and forest uses on small parcels in the rural area, while recognizing the need to retain the character and economic viability of agricultural and forest lands, as well as recognizing that existing parcelization and diverse ownerships and uses exist within the farm and forest area. Residents of rural residential tracts shall recognize that they will be subject to normal and accepted farming and forestry practices.

The applicant is requesting preliminary approval of a 30-lot subdivision. As discussed in this order, the Code permits the subdivision despite its unusual size, and nothing in this order prohibits the use of a resulting lot for an accepted farm or forest practice. A condition requires the owner to complete and record a waiver of the right to remonstrate against accepted farm practices on surrounding properties.

348-6 Dimensional Requirements

348-6.1 Lot Area:

B. The minimum lot area shall be five (5) acres except:

(1) For lots of record; and

(2) The lot area for new lots or parcels created through the land division process of Article VI may be varied by twenty (20) percent provided there is no increase in lot density.

The subject site is approximately 151.55 acres in size. The Applicant has proposed lots ranging in size from approximately four to 10.25 acres. The reduction of the lot size below five acres does not result in an increase in the number of lots that the Code would otherwise permit.

348-6.2 Yard Requirements:

The applicant's site plan includes a building envelope for the dwellings on the proposed 30 lots. Based on the preliminary plan, there is ample area on the proposed parcels to provide sufficient district setbacks for a new dwelling and any associated accessory structures. Compliance with these standards will be further assessed through building permit review.

348-6.4 Minimum lot width at the street:

The minimum lot width at the street shall be thirty (30) feet, or the lot shall have an easement of record at least thirty (30) feet at the street or as approved by the appropriate fire marshal.

The subject site has frontage on to SW Laurelwood Road along the north property line. Access onto this public road for the proposed parcels is proposed at two locations via existing private roads that extend on to the subject site: SW Nelson Drive to the west, and SW Academy Way to the north. A network of internal roads are proposed for connecting all 30 parcels to one of these two private roads. The Gaston Rural Fire District Fire Marshal has preliminarily reviewed and approved the proposed internal roads and access approaches proposed for this subdivision. The fire marshal will further review the proposed roadway during the grading/building permit review processes.

348-7 Access

All lots in this District shall either:

348-7.1 Abut a public street; or

348-7.2 Have an easement of record at least thirty (30) feet wide at the street or as approved by the appropriate fire marshal.

As noted, the subject parcel abuts SW Laurelwood Road along its north property line. The proposed accesses onto SW Laurelwood Road are via access easement. A condition requires the Applicant to record the appropriate easements for access to the subdivided property.

3. Article IV: Development Standards

Section 403 Applicability

403-2 Master Plan - Minimum Requirements for all Development

A master plan meeting the requirements of this section was submitted. A copy is in the record and the proposed development is required to be consistent with this site plan. Any proposed additions or changes shall be indicated on a revised site plan. A condition provides that changes could trigger additional land use approval.

403-4 Additional Standards Outside the UGB

This proposal is subject to the applicable standards itemized in this section and discussed below.

Section 409 Private Streets

Section 409-5 (Private Streets Outside the UGB) applies to driveways and private roads in the rural area. Private roads over 150' in length as measured from the public road require fire marshal approval prior to the issuance of building permits.

For this development, two access approaches are proposed on to SW Laurelwood Road via two existing private roads (SW Nelson Road to the west and SW Academy Way to the north). A network of internal roads is proposed to connect the subdivided lots to SW Nelson Drive and SW Academy Way. The Gaston Fire District reviewed the plat and proposed internal road layout and recommended revisions to the layout for better emergency vehicle and equipment accessibility. The applicant addressed the recommendations, revised the site plan and the district subsequently reviewed the revisions to the site plan. Turnouts are proposed as depicted on the preliminary site plans. The fire district will have the opportunity to comment further to ensure compliance with the Oregon Fire Code during the grading permit review process. A condition requires the Applicant to provide evidence of recordable access easements prior to final approval of the subdivision plat, as applicable to each phase.

Section 409-5.2 requires the private streets to have adequate sight distance at the access approach on to the public road. The Applicant has provided preliminary sight distance certifications for both approaches confirming they can meet the

requirements of Section 501-8.5.F. Sight distance will be verified during the right-of-way permit review process, along with any improvements to ensure the access approach on to the public road meets current County standards.

Per Section 409-5.2.C., conditions of approval require the Applicant to mark dead-end streets and post signs for each private street that state: "Private Road: Not Maintained by Washington County".

Applicable drainage requirements and conformance with road construction standards will be reviewed by the building engineer during the grading permit review process for each phase.

The Applicant has submitted all pertinent information required for preliminary review of private streets serving the subject site. The county may require additional details from the Applicant during grading review for the site.

A condition of approval requires the Applicant to record a restrictive covenant prohibiting development until the private roads are constructed and approved by the fire marshal (Section 409-5.2.I). The covenant will restrict development of the lots for any use other than agricultural purposes until the fire marshal has granted final approval for the access road serving the property. Although the home site and driveway construction may be deferred until submitting a building permit for the home site, construction of the private road(s) providing access for the subdivided lots on to SW Laurelwood Road is required prior to final approval being granted for the affected phase, as reflected in a condition of approval.

Section 410 Grading and Drainage

Section 426 Erosion Control

The applicant has submitted preliminary grading and erosion control plans for the site. The purpose of a preliminary grading plan is to determine whether or not it is feasible to comply with the grading permit review standards of Section 410. Pursuant to 410-1.1, formal engineering drawings are not required at the preliminary review stage. A condition requires the applicant to obtain grading and erosion control permits prior to any ground-disturbing activities, including construction or modification of private streets. Driveways for each residence will be reviewed for conformance with all applicable Code standards at the time of development during the grading permit review process.

Opponents questioned whether the Applicant has shown compliance with CDC 410-4. The Hearings Officer finds the Applicant has demonstrated compliance with Code requirements related to slope stability and landslide hazards. In support of this

finding, the Hearings Officer adopts by reference the Applicant's response to this issue in its final argument to the Hearings Officer.[14]

With regard to water quality, OAR Chapter 340, Division 41 (concerning phosphorus removal) applies to all development outside of Clean Water Service's jurisdictional boundaries. In this case, the applicant is required to provide calculations verifying the proposed development (30 lot subdivision) and associated impervious surfaces comply with the applicable standards for permanent storm water quality control facilities adopted by the Oregon State Department of Environmental Quality, as set forth in OAR 340-041-0345, prior to creation of any new impervious areas onsite. Grading will be required for access road improvements and construction of dwelling sites.

Section 426-5.2 allows the Applicant to defer submission and review of an erosion control plan until the time of construction. An erosion control plan meeting the requirements of Section 426 is required prior to any construction on the site.

Section 421 Flood Plain and Drainage Hazard Area Development

Portions of the subject site lie within mapped 100-year flood plain and mapped 25-year DHA associated with South Fork Hill Creek. The application is subject to review pursuant to this section.

The creek intersects the eastern portion of the subject site, traveling north offsite before re-entering the northern portion of the subject site. It continues offsite further north, crossing SW Laurelwood Road (culverted) prior to merging into Hill Creek. The 100-year flood plain overlay is restricted to the northern portion of the subject site, while the entire stretch of South Fork Hill Creek on the subject site lies within the DHA.

The submitted plans indicate that all building envelopes proposed on each partitioned lot lie outside the flood plain. Portions of the onsite dirt roads intersect mapped Drainage Hazard Area and the 100-year flood plain. If any improvements to the existing onsite roadway within the DHA or floodplain overlay are necessary for this development (lots 24, 25, 26), or any additional uses are proposed within these overlays, the county may require a separate land use review pursuant to the standards of Section 421 (e.g. Type II DHA or floodplain alteration).

As discussed earlier in this order, Opponents argued that the Applicant failed to properly delineate the 100-year floodplain and offered related arguments as to why the application fails to comply with Section 421 of the Code. The Hearings Officer

[14] Specifically, the Hearings Officer incorporates into this order section II(D) of the Applicant's April 21, 2025, final argument, p. 41-44.

rejected these arguments and concluded that the Applicant demonstrated compliance with the relevant provisions of Section 421. As additional findings in support of that conclusion, the Hearings Officer adopts by reference the Applicant's response to the Opponents concerns regarding floodplain and DHA issues.[15]

Section 422 Significant Natural Resources

422-2 Lands Subject to this Section

422-2.2 Water Areas and Wetlands and Fish and Wildlife Habitat

South Fork Hill Creek intersects the eastern and northern portions of the site. The creek is designated as *Water Areas and Wetland and Fish and Wildlife Habitat* on the Rural/Natural Resource Plan Element. Section 422 also recognizes sensitive habitat identified by the Oregon Department of Fish and Wildlife (ODFW) as *Wildlife Habitat* but this is limited to those sensitive habitats adopted into the County's Rural Natural Resource Plan. The subject site is intersected by an Oregon Department of Fish and Wildlife (ODFW) designated Priority Wildlife Connectivity Habitat to the east of the South Fork Hill Creek riparian corridor. This overlay is not adopted by the County's Rural Natural Resource Plan. Hence the ODFW habitat is for informational purposes only and as stated earlier, not subject to the standards of Section 422.

422-3 Criteria for Development

422-3.1 The required master plan and site analysis for a site which includes an identified natural resource shall:

A. Identify the location of the natural resource (s)……

Field verification by the Applicant (see Exhibit A to the application) confirms the presence of the above-mentioned resources at the project site. The applicant's submittal includes a Natural Resource report (Exhibit G to application) identifying the onsite location of the creek and associated wetlands, as well as the ODFW mapped wildlife connectivity priority habitat. The submittal includes all documents to satisfy the requirements of this subsection. As ODFW confirmed on March 6, 2024, the mapped habitat layer is recognized but not regulated by the agency.

B. Describe the treatment or proposed alteration, if any…….

The applicant proposes a 30-lot subdivision at the subject site, a permitted use in the AF-5 Land Use District. No alteration to the *Water Areas and Wetland and Fish and Wildlife Habitat* is proposed per the applicant's submitted information. However, SW Academy Way crosses mapped *Water Areas and Wetland and Fish and Wildlife Habitat* between Wetlands B and C, as labeled on the submitted plans. Additionally, SW Academy Way within the site forks to the west via a dirt road that crosses South Fork Hill Creek. If upgrades to either road within the mapped overlay are determined

[15] Specifically, the Hearings Officer incorporates into this order section II(F) of the Applicant's April 21, 2025, final argument, p. 45-48.

necessary during the grading/building permit review process, a land use application (Type II development review) assessing potential impacts to the riparian resources onsite may be required.

All building envelopes as noted on submitted plans lie outside any county-designated resource overlays. While there is some encroachment into ODFW designated habitat on lots 25, 26, and 30 for the building envelope, and on lots 25, 26, and 29 for expansion/improvements of the existing gravel road, neither the Code nor ODFW regulations prohibit the encroachment. Nevertheless, the applicant states that, of the approximately 16 acres of ODFW habitat on site, 14 acres will be retained and that most of the habitat area will remain intact for passage of wildlife.

C. Apply the design elements of the applicable Community Plan; or the applicable implementing strategies of the Rural/Natural Resource Plan Element, Policy 10, Implementing Strategy E which states:

"Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFC, EFU, and AF-20 land use designations."

The subdivision is proposed in the AF-5 district which is a rural residential designation, and not within the EFC, EFU, and AF-20 land use designations.

Plan Policy 10, Implementing Strategy E, applies to both fish and wildlife resources. This requires the Couty to implement recommendations of the Oregon Department of Fish and Wildlife's (ODFW) Habitat Protection Plan for Washington County whose policies classify the riparian areas as lakes and reservoirs, rivers and streams or headwater areas.

Neither the Code nor the Habitat Protection Plan defines 'headwater areas'. Staff considers headwater areas to be streams or minor drainages that are used by a few fish for spawning or rearing purposes. Headwaters have principal value in influencing water quality and stream flow in downstream waters. Flow in headwater areas may be either perennial or intermittent. South Fork Hill Creek is considered a stream.

The following Habitat Protection Plan policies apply to rivers and streams:

1) *Residential development along streams should be low density*
2) *Require appropriate setbacks*
3) *Prohibit construction of 'vulnerable' structures in the flood plain*
4) *Maintain riparian vegetation*
5) *Restrict stream alterations*
6) *Road crossings, bridges, etc should avoid restricting channel capacity and minimize removal of vegetation.*

The proposed development is consistent with all of the recommendations above. The proposed subdivision with 4-10 acre lots is a permitted use in the AF-5 district. No construction is proposed within the floodplain. Some road crossings are already present and these will be improved to serve the proposed lots. No new crossings for road construction, or encroachment by the building envelope into the floodplain is proposed. The applicant states that a 25-foot riparian habitat buffer will be maintained alongside riparian features on the site. The County has leash laws for dogs. Improvements to existing dirt road crossings, or construction of new crossings within mapped riparian areas may trigger additional land use review (via a Type II procedure) pursuant to Sections 421 and/or 422.

In order to protect wildlife resources, no disturbances to streambank vegetation shall be permitted.

422-3.6 For any proposed use in a Significant Natural Resource Area, there shall be a finding that the proposed use will not seriously interfere with the preservation of fish and wildlife areas and habitat identified in the Washington County Comprehensive Plan, or how the interference can be mitigated.

No development will occur within the county-regulated riparian areas onsite and the Applicant has made reasonable efforts to avoid non-regulated ODFW habitat areas. As such, the uses that are the subject of this application will not seriously interfere with preservation of fish and wildlife areas or habitat regulated by the county. However, as stated earlier, if private roads improvements proposed in the vicinity of lots 24 and 25 infringe upon the county regulated riparian habitat onsite, the applicant may be required to submit a Type II development review application addressing findings pursuant to this Code section and Section 421.

Section 423 Environmental Performance Standards

423-11 Adequate Water Supply

All development shall be required to have an adequate water supply. Adequacy shall include:

423-11.1 Adequate supply for the use prior to issuance of a building permit (see Section 501-7.1, Critical Services).

423-11.2 Outside the UGB, when any Special Use of Article IV will require an amount of water in excess of what would normally be used if the property were developed for rural homesites, the following information:

A. An explanation of how the water will be supplied; and

B. An explanation of the potential impact of the proposed water system on the surrounding properties.

C. Approval of a Standard Subdivision outside the UGB proposing a community water supply shall be subject to the provisions of Section 423-11.2 A. and B.

The Hearings Officer has found that it is feasible for the Applicant to provide an adequate water supply to the subdivision. Pursuant to CDC 423-11.1 and a condition of approval, the county will ensure an adequate supply at the time of building permit review.

However, it is not clear to the Hearings Officer whether CDC 423-11.2 applies to the application. On the one hand, the standard is written to apply to "Special Uses" outside the UGB. The Code addresses special uses in Section 430, and a standard subdivision in the AF-5 is not listed as a special use. On the other hand, CDC 423-11.2(C) as written arguably subjects this application to 423-11.2(A) and (B). The Hearings Officer will assume 11.2 applies.

As discussed, the Applicant has identified three options for providing water to the subdivision and has explained how the water would be provided under each option. The Applicant has also acknowledged and explained the potential impacts of those options on surrounding properties. As such, the Hearings Officer finds the Applicant has demonstrated compliance with CDC 423-11. In support of this finding, the Hearings Officer adopts by reference the Applicant's response to concerns Opponents expressed regarding water issues.[16]

4. Article V, Public Facilities and Services:

Section 501 Public Facility and Service Requirements:

501-9 Limited Application of the Public Facility and Service Standards Outside the UGB

501-9.1 For the purpose of determining the impact and adequacy of public facilities and service outside the UGB only this Section of Article V applies.

501-9.2 For all Type II and Type III applications, with the exceptions noted below, impact on the following public facilities shall be considered: school, fire, police protection and public roads.

501-9.3 For the purpose of determining impact and adequacy of public roads, Section 501-8.5.E. (Sight Distance), 501-8.5.G. (Road Standards), and 501-8.4 (Dedication of Right-of-way) of this article

[16] Specifically, the Hearings Officer incorporates into this order section II(B) of the Applicant's April 21, 2025, final argument, p. 6-17.

shall apply except as provided in Sections 501-9.4 and 501-9.5. However, in all instances, traffic safety issues shall be addressed by the County.

An internal network of private streets is proposed within the subject lot. These internal roads will connect to SW Academy Way (private) to the north, and to SW Nelson Drive (private) to the west that will connect to SW Laurelwood Road. Pursuant to Section to 501-8.5 F.(2) the minimum intersection sight distance requirements are based on the posted speed of the road. In this case, the speed limit on SW Laurelwood Road at the access approach of SW Academy Way is 35 mph, thus requiring a sight distance of 350 feet to the east and west of that approach. At the second access approach through SW Nelson Drive, the speed limit on SW Laurelwood Road is 45 mph, thus requiring a sight distance of 450 feet in both directions (north and west). The applicant submitted preliminary sight distance certifications prepared by a licensed Oregon professional engineer for both these access points on to SW Laurelwood Road. Both certifications find the existing sight distances to meet or exceed the required standard for sight distance in all directions.

Access will be reviewed through the right-of-way permit process, as reflected in a condition of approval. To obtain a final access permit for SW Laurelwood Road, a final sight distance certification by a licensed Oregon professional engineer demonstrating adequate sight distance must be submitted to the Operations Division. Staff noted the County's Traffic Engineering staff have determined a need for adequate illumination on SW Laurelwood Road at both access approaches, and the Hearings Officer agrees. Compliance with this requirement will also be reviewed through the right-of-way permit process, as conditioned.

501-9.4 Applications for Type II property line adjustments, nonbuildable parcels, temporary housing permits, home occupations and Type II and Type III applications for one dwelling on an existing vacant parcel, are not subject to the requirement of Section 501-8.4 (Dedication of Right-of-Way).

This application is subject to Section 501-8.4, dedication of right-of-way. The current right-of-way width of SW Laurelwood Road along the subject lot frontage is 40 feet (20 feet to centerline). The right of way width required is 60 feet for a collector (30 feet from centerline); therefore, additional right-of-way dedication is required and is reflected in a condition of approval. The Applicant does not object to this dedication requirement.

501-9.7 Where partitions create less than four (4) parcels or there is a request for a Special Use for a dwelling, the applicant shall not be required to obtain service letters.

The request is for a 30-lot subdivision, hence this exemption does not apply. The applicant has provided service provider letters from the Washington County Sheriff's Office, Tualatin Valley Fire and Rescue District and the Gaston School District demonstrating adequacy of service for the proposed subdivision.

With respect to CDC 501-9.9, the Applicant challenged the ability of the county to impose a condition requiring the owner of the property to waive its right to remonstrate against the future formation of a local improvement district ("LID").[17] Based on prior Oregon cases addressing similar conditions, the Applicant asserted the county would need to show a *Nollan*-type "nexus" existed between the condition and the impacts the LID would ameliorate. The Applicant asserted the record lacked evidence that would support a finding that there is a need for an LID.

During the open record period, the county revised its recommendation to the Hearings Officer and struck the condition requiring the owner to execute a remonstrance waiver. Although the Hearings Officer is not convinced that such a condition is an exaction that would be subject to *Nollan/Dolan/Koontz* and the unconstitutional conditions doctrine discussed and refined in those line of cases, the Hearings Officer agrees that the county must provide evidence that reasonably demonstrates a need for a future LID, as articulated in the *Clark* case.[18] The Hearings Officer assumes the county either chose not to, or could not, introduce such evidence in this case. As such, the Hearings Officer does not impose the condition.

5. Article VI: Land Divisions and Property Adjustments

Section 610 Land Divisions and Property Adjustments Outside a UGB

610-2 Rural Land Divisions (Standard Partitions and Standard Subdivisions)

The applicant has submitted all materials necessary to determine compliance with the Code standards for Preliminary Review of the subdivision plat. In accordance with Section 610-3.3 Public Utilities, all utilities shall be underground except as approved through Section 416. The applicant proposes wells to serve the subdivided lots—per the submitted site plans, most wells are planned to be shared between two adjoining parcels of land. Some properties are planned to support individual wells. The applicant is required to provide easements for shared utilities, and this has been added as a condition of approval. Submitted plans indicate that each subdivided lot will support a septic system.

Pursuant to Section 610-2.4 and as conditioned, the applicant is required to apply for Final Approval within four (4) years of the date of Preliminary Approval of this request. The applicant shall comply with applicable Code standards for Final Review. Section 610-2.1 allows an additional two (2) years from Final Approval to record the

[17] *See e.g.* Applicant's April 21, 2025, final argument at II(J), p. 52-54.
[18] *Clark v. City of Albany*, 31 Or LUBA 375, 380, *aff'd w/o op.*, 144 Or App 192, 924 P2d 877 (1996).

plat. If a permit to construct a sanitary waste disposal system is not provided, then the plat note cited in Section 610-2.4 is required. See conditions for details.

In a phased development, the above requirements for Final Approval are modified as discussed below.

610-2.7 Phased Development

The applicant proposes a phased development where Lots 1-12 will be developed as Phase 1, Lots 13-20 as Phase 2, Lots 21-24 as Phase 3, and Lots 25-30 as Phase 4. The planned timeline for improvements for each phase are as follows: Phase 1 by 2025, Phase 2 by 2026, Phase 3 by 2027 and Phase 4 by 2028. Improvements for each phase include:

a. Constructing access roads necessary to service residences in each phase;
b. Possible construction of temporary fire turnaround depending on the final location of the homes in the particular phase; and
c. Installation of power and wells necessary to serve the homes in the particular phase.

Since phased development is proposed, final approval will be evaluated separately for each phase of the development. Per this subsection, final approval of all phases must be completed within a total time period of five (5) years. Exceeding that time frame will require submission of a new land use application for any lots not yet developed. This requirement is reflected in a condition of approval.

610-3 General Development Review Standards

610-3.1 Storm Drainage Systems

The applicant has submitted a preliminary stormwater drainage management report (Exhibit F of application). The plans will be reviewed during the grading/building permit review processes.

The application originally stated that stormwater runoff from future lots and private roads is expected to be captured by roadside ditches along the planned private roads and conveyed to South Fork Hill Creek. It will then follow the creek channel to where it converges with Hill Creek and flows under SW Laurelwood Road through a 60-inch culvert and continues downstream as Hill Creek.

In a revised stormwater report the management of stormwater runoff on the site was revised to include a regional stormwater management facility on proposed Lot 25. This revision was in response to comments from the County Building Engineer about the

need to require a stormwater facility for peak flow detention. According to the applicant, the addition of this stormwater facility within an easement on proposed Lot 25 will provide peak flow detention, reducing post-developed peak flows to below the existing level for 25 and 100-year storm events. The building engineer determined that these revised plans and drainage analysis report appear complete for preliminary land use review by addressing the incomplete outstanding items. However, as discussed above, the Applicant was not certain this facility was necessary to meet the county's standards.

As discussed above, there is a significant amount of technical detail in the record regarding how the Applicant should precisely manage drainage and stormwater on the site, as well as dispute between experts for the county and the Applicant on what is necessary. The Hearings Officer is not the appropriate arbiter to decide such technical questions. The Hearings Officer has found that the Applicant has shown it is feasible to comply with the relevant CDC criteria regarding stormwater and drainage and has included a condition of approval accordingly. The specifics of onsite stormwater management will be further evaluated during the grading/building permit review process. Such specifics may include one or more onsite stormwater facilities as necessary to comply with the county's regulations.

610-3.2 Streets and Street Improvements

The submitted site plans were reviewed by the Traffic Engineering Division. It was determined that adequate intersectional sight distance is required at both access approaches on to SW Laurelwood Road (SW Nelson Drive to the west and SW Academy Way to the north), and that adequate illumination is required since they each will access a collector street. These requirements will be implemented during the right-of-way permit review process, as conditioned in this order. Compliance of the internal private roads with other requirements such as the Oregon Fire Code will be reviewed during the grading permit review process. The subdivision is designed to have a network of internal roads that will provide access to future lots by connecting to two existing private roads (SW Nelson Drive and SW Academy Way). According to the applicant, the intersections are laid out so that no more than two streets intersect at any given point. Exhibit A of the application includes preliminary plans showing the layout of these proposed roads.

610-3.3 Public Utilities

Potential locations of utility easements necessary to serve the lots are shown Exhibit A of the application, and final locations will be determined during construction of each phase. It is the applicant's responsibility to ensure all applicable utilities and easements are recorded with the county.

610-3.4 Lots in All Standard Subdivisions

The submitted plans satisfy the requirements of this section.

610-3.5 Blocks

The applicant states that the subdivision will be accessed by a network of private streets. The layout of the internal roads was limited by onsite natural resources and topography. Given the constraints, the design is intended to allow for the most efficient traffic circulation. Hearings Officer finds this requirement is met.

610-3.6 Easements

The applicant acknowledges the requirements of this section and states that final easement locations will be determined and recorded with the county prior to recording of the final plat.

B. Washington County Transportation Plan

With regard to this request, the policies of the Transportation Plan element of the Washington County Comprehensive Plan are limited to the classification of SW Laurelwood Road as a rural collector street.

D. Ordinance No. 793-A - Washington County Transportation Development Tax Ordinance

The Transportation Development Tax is required of all new development and constitutes an assurance to satisfy extra capacity improvements to major collectors, county and city arterial streets, certain state facilities, and transit facilities, as listed in the Capital Improvement Project List. This tax is based on the number of daily trips a site generates and is due upon issuance of a building permit.

Other Issues

As mentioned above, the Applicant and the county disagree over what date constitutes the 150-day deadline for this application. While the dispute presents a curious legal issue, the Hearings Officer finds it is not necessary to belabor and resolve that issue. At the hearing, the Applicant, through its legal counsel, committed to not exercising the right it asserts it has to seek mandamus in Washington County Circuit Court, so long as the Hearings Officer issued a final written decision by May 12, 2025. The Hearings Officer signs and issues this order on that date, and therefore the Hearings Officer considers the issue moot.

Conclusion and Decision

Based on the evidence in the record and the findings in this final order, the Hearings Officer approves the application, subject to the conditions of approval below in Exhibit 1.

_____
David F. Doughman
Washington County Land Use Hearings Officer
May 12, 2025

[CONDITIONS OF APPROVAL BELOW]

Exhibit 1
Conditions of Approval

I. In accordance with Section 201-4, application for Final Approval of the First Phase of the subdivision shall be submitted within four (4) years of the date of this Preliminary Approval, unless: the permit is revoked as provided by Section 201-7; an application for a permit extension is filed pursuant to Section 201-5; or, development has commenced as provided in Section 201-6.

II. The total time period for final approval of all four (4) phases shall not exceed five (5) years. (Section 610)

III. The plat for each phase shall be recorded within two (2) years of the date of its Final Approval. (Section 602)

IV. Any ground disturbing activities within the flood plain/ drainage hazard area, or within the riparian corridor (including road improvements) may trigger land use review pursuant to Sections 421 and 422.

V. Prior to any ground-disturbing activity within each phase, including construction or modification for access:

A. Submit to Building Services (503-846-3470), as determined necessary by the Building Engineer (503-846-3470):

1. A grading permit application complying with all requirements stipulated on the grading application form. The plans and design documentation shall be stamped and certified by a civil engineer. The permit application must include the following:

a. Site-specific geotechnical engineering report with recommendations for developing the site. The report should be stamped and signed (electronic signature accepted) by an Oregon registered engineer.

b. Road work and any dwellings on a slope with a grade over 15% should have a minimum slope stability analysis report. For such construction:

i. The geotechnical report must include a slope stability analysis for steep slopes surcharge by the proposed structure under both static and seismic conditions.
ii. A minimum safety factor of 1.5 and 1.0 is required for static and seismic loads, respectively. Quantitative data in an analysis report is required showing compliance with **WCC § 14.12.110(A)** and **WCC § 14.12.360(B4).**
iii. The minimum fire access loading of 75,000 lb. and a width of 20 feet is required with supporting design calculations unless a letter from the applicable fire marshal is submitted, approving a modification to these requirements.
iv. The slope stability analysis should consider possible global slope failure due to the steepness of the site slope under future structure surcharge of 250 psf.

2. Structural details of the private road/driveway on the plans per site-specific geotechnical engineering recommendations. The plans should show private road shoulders required to maintain the structural integrity of the road subbase.

3. A drainage analysis report stamped and certified by a civil engineer that shows the additional impervious areas from the proposed work will not negatively impact surrounding properties per WCC **§** 14.12.310. The grading plans with the report must include the following information:

i. If necessary, one or more stormwater management/detention facilities. If one or more stormwater facilities are required, each facility should have one recorded easement under one entity, such as the future Homeowners Association (HOA) or a similar entity, for the maintenance of the facility. This must be submitted to Building Services before issuance of any building permits on the site and/or before construction of the shared private road (as determined necessary by the Building Engineer) regardless of which phase is being constructed. (Section 207-5)
ii. The location of future wells and septic drain fields demonstrating compliance with the County's Health and Human Services separation distances and OAR 690-210-00303.
iii. Storm lateral required for applicable lots to direct stormwater runoff from the respective lots to a stormwater management/detention facility, if required.

Note : For subdivisions (more than 3-lots), ***WCC § 14.12.310-1*** *provisions cannot be used to satisfy* ***WCC 14.12.310-A*** *provisions.*

B. Submit to Current Planning Services (503-846-8761) evidence of the following:

1. Recorded easement (if applicable) demonstrating the right to perform grading, install utilities and/or implement erosion control measures (as applicable) has been obtained from the affected property owners when plans include work on an adjacent property.
2. Evidence of an issued Right-of-way permit from Washington County Operations Department (503-846-7623) for the two access approaches (via SW Academy Way and SW Nelson Drive) on to SW Laurelwood Road. Permit shall confirm for both approaches: sight distance at the access approach is met and that it is constructed to current County standards. (Section 501-9)

VI. Prior to Final Approval of each phase of the subdivision:

A. Submit to the Survey Division (503-846-8723):

Ten (10) copies of the proposed Final Subdivision Plat meeting the applicable provisions of ORS 92, together with any applicable review and filing fees. The survey plat shall be approved by the County Surveyor who will then forward the necessary approved copy(ies) to the Current Planning Services Section for review.

<u>The following shall be shown on the plat (Section 610):</u>

1. Parcels included within the respective phase of the subdivision plat.
2. A notation on the plat referencing the conditions of this Casefile.
3. All existing and proposed easements clearly identified as to their intended purpose. Maintenance rights and responsibilities shall be stipulated in separate recorded documents.
4. Notations on the plat shall include legal description, purpose, ownership and maintenance for all easements and tracts, including any easements that provide access for off-site properties.
5. Location of all existing and proposed easements for storm sewers, sanitary sewers, and water lines, if any.
6. Notation shall be placed on the plat stating that "approval of the subdivision does not ensure that sewer or septic approval is or will be available" unless evidence of site evaluation or permit approval in accordance with Section 610-2.4 A. is submitted to Current Planning.
7. Dedication of additional right-of-way, along the site's frontage on SW Laurelwood Road to provide a minimum of 30 feet from centerline. (Section 501-9)

B. Submit to the Current Planning Services Division, Project Planner, Maitreyee Sinha: (503-846-3835):

1. Type I Final Approval application, containing a written statement and complete evidence/documentation that all conditions have been met, including:

a) Final Approval request form;
b) Final Approval application fee;
c) Final site plan consistent with the one stamped "Preliminary Approval" in the Casefile, and showing existing building(s), existing and proposed utility easements, and existing and proposed access points for all child parcels.
d) Hard copies of evidence of satisfaction of all conditions of Final Approval.
e) Final plat
f) Final inspection approval of the right-of-way from Washington County Operations Department (503-846-7623) and/or Facility Permit for the two access approaches on to SW Laurelwood Road (Section 501- 9). Permit shall confirm:
   i. Sight distance requirements per Section 501-8.5 is met,
   ii. Access approach is constructed to County standards
   iii. Pursuant to R&O 86-95, that adequate illumination at the proposed access approaches at SW Laurelwood Road has been provided. (*Direct technical questions concerning this condition or the current roadway illumination standards to Traffic Engineering Section at 503-846-7950*)
g) Original copies of the following document, prepared and recorded or ready for recording at the time of the subdivision plat recordation:
   i. A waiver of the right of remonstrance against accepted farm and forestry practices signed by the property owner. The waiver shall be on a standard form available at the Current Planning Services counter and shall be recorded (Sections 207-5, 348)

      NOTE: *The document necessary for completion of this condition is available at Current Planning Services counter (503-846-8761) and shall be recorded in the Records Division of the Department of Assessment and Taxation (503-846-8752). Submittal of these documents must include the appropriate recording fee. Submittal of these documents must include the appropriate recording fee.*

h) Evidence that the proposed new private roads to serve each dwelling site within the phase is constructed/ completed and approved by the Fire Marshal, or the covenant required under Section 409-5.2.I(2) is recorded or ready for recording with the plat for each vacant lot not served by the private road (the Director shall authorize the removal of the restrictive covenant only after the private street has been fully constructed and approved by the Fire Marshal approval)
i) Evidence that the private streets providing access to the sites at SW Laurelwood Road are posted with a sign "Private Street not maintained by Washington County". Dead end streets shall be indicated on signage. (Section 409-5.2.C)
j) A subsurface sewage disposal system permit from the appropriate agency (Washington County Dept. of Health & Human Services, 503-846-8881) for the new parcels, or "a statement that the allowance of the subdivision does not warrant that sewer or septic tank approval is or will be available" is included on the submitted plat as a plat note, in accordance with Section 610-2.4 A.

VII. Prior to Issuance of a Building Permit for the first lot per phase, the applicant shall:

A. Obtain Final Approval for each respective phase of development
B. Record the plat for each respective phase of development
C. Submit to the Building Services (503-846-3470):

1. An application for a Grading Permit, including drainage and sedimentation/erosion control plans (Sections 410 and 426 respectively), for development of the new homesite and for any driveway modifications/construction, and all other requirements. (Sections 410 and 426)

2. Site plan showing the location of the proposed driveway/access, dwelling and accessory structures consistent with applicable setback requirements. The site plan shall indicate location of septic services to the site as well as the domestic well/water source to serve the site.

3. Evidence that the applicable stormwater management system for the respective phase of the subdivision is established and has received final inspection approval. (Section 410)

4. Evidence of a permit to construct a new septic system or an alternate system from the Department of Health and Human Services (503-846-8881). (Section 207-5)

5. Submit a copy of a well construction report, or other evidence of a domestic water supply.

6. Payment of the Transportation Development Tax and all applicable System Development Charges

Note: Transportation Development Tax shall be required as determined by Ordinance 793-A

7. All other requirements identified by the Building Services Section as necessary for the issuance of permits.

D. Submit to Current Planning Services (503-846-8761):

1. A scaled site plan, no larger than 11" x17", showing the location of the proposed driveway/access, dwelling and accessory structures consistent with applicable setback requirements..
2. Evidence the plat was recorded within two years of Final Approval per each phase.
3. Evidence that Health and Human Services (Environmental Health Services, 503-846-8722), has approved the septic system or an alternate system serving the dwelling. (Section 207-5)
4. Evidence the Right-of-Way from the County Operations Division (503-846-7623) for the access locations and/or Facility Permit has received final inspection approval, and any improvements within public right-of-way have been completed. (Section 501-9)
5. Evidence that the Fire Marshal has approved the constructed private road for access to the proposed dwelling site, if construction was deferred in accordance with Section 409-5.2.

VIII. Miscellaneous Conditions:

A. This development shall be constructed in accordance with the conditions of this decision, the approved final plans, and the standards of the Community Development Code (Section 207-5).
B. All approved uses are limited to those contained within this decision, based on the site plan stamped 'Preliminary Approval' in the casefile. Any modifications may require additional land use review. (Section 207-5)

- **C.** Any ground disturbance within the 100-year flood plain or drainage hazard area may trigger additional land use review. The proposed use shall be limited to those permitted in Section 421 of the Code, subject to the standards stipulated in that section.
- **D.** Any disturbances to identified *Water Areas and Wetland and Fish and Wildlife Habitat* overlay may trigger additional land use review pursuant to the standards stipulated in Section 422 of the Code.
- **E.** All conditions of approval shall be binding upon all heirs, successors, and assigns (Section 207-5).
- **F.** The applicant is responsible for obtaining and maintaining any applicable permits from the Oregon Department of State Lands (DSL) and the US Army Corps of Engineers for all ground disturbing activities within their jurisdictions.
- **G.** Transferability of this Development Permit shall be in accordance with Section 201-8.
- **H.** Adequate sight distance shall be maintained at the access point(s) onto the public road(s). Maintenance may require trimming or removal of vegetation. Access on to SW Laurelwood Road is limited to the approved private intersections with the road. (Section 501-8.5.F)