

# ORDINANCE NO. 784

## AN ORDINANCE ADOPTING A DEVELOPMENT AGREEMENT APPROVING TYSON'S PLACE SINGLE FAMILY SUBDIVISION

### THE TROUTDALE CITY COUNCIL FINDS:

1. D.A. Grey obtained approval to construct a 19 unit condominium project on approximately 1.5 acres of property located north of SW Edgefield Avenue, south of Troutdale Terrace Apartments and west of SW 257<sup>th</sup> Avenue.
2. As explained in the recitals of the settlement agreement that was approved by Resolution 1848, the City Council concluded that D.A. Grey should develop nine detached single family homes instead of the 19 unit condominium project. Developing nine detached single family homes is more compatible with surrounding land uses, addresses traffic and safety concerns that were raised by adjacent property owners that live in Sedona Park and will better promote the general welfare, health and safety of Troutdale citizens.
3. For the reasons set out in Exhibit B of the staff report dated February 6, 2007, and subject to the conditions of approval in that same Exhibit B of the staff report, the proposed subdivision and variances comply with the applicable provisions in the Troutdale Development Code.
4. Development of nine detached single family dwellings, in accordance with the terms in the development agreement (Attachment 1), implements the settlement agreement the City entered into with D.A. Grey pursuant to Resolution 1848 and is consistent with City land use policies and regulations.


### NOW, THEREFORE, IT IS ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE:

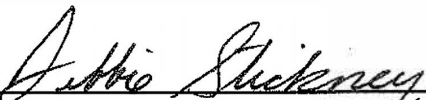
Section 1. Attachment 1 to this Ordinance, which is the Development Agreement between D.A. Grey, Ltd. and the City of Troutdale (Development Agreement), is hereby approved. Following execution of the Agreement by D.A. Grey, the Mayor shall execute the Agreement.

Section 2. Consistent with the terms of the Development Agreement, and in accordance with the findings and conditions of approval in Exhibit B to the Development Agreement, Tyson's Place Single Family Subdivision is hereby approved.

Section 3. In accordance with ORS 94.528, ten days after the Development Agreement is executed by the Mayor, the Agreement shall be presented to the Multnomah County Clerk to be recorded.

**YEAS: 7**  
**NAYS: 0**  
**ABSTAINED: 0**

  
\_\_\_\_\_  
**Paul Thalhofer, Mayor**  
Dated: *February 28, 2007*

  
\_\_\_\_\_  
**Debbie Stickney, City Recorder**  
Adopted: February 27, 2007

## DEVELOPMENT AGREEMENT

between

D.A. Grey, Ltd., and the City of Troutdale

This Development Agreement ("Agreement") is made and entered into this 27th day of February, 2007 by and between the City of Troutdale ("City") and D.A. Grey, Ltd. ("Grey") pursuant to ORS 94.504 to 94.528 for the purpose of developing a nine lot subdivision within the City of Troutdale instead of a 19 unit condominium development.

### RECITALS

A. Grey owns approximately 1.52 acres of property located in the City of Troutdale, shown in the map attached as Exhibit A and legally described as Parcel 2 in Partition Plat No. 2002-79, beginning in the Southeast  $\frac{1}{4}$  of Section 26, Township 1 North, Range 3 East of the Willamette Meridian, City of Troutdale, Multnomah County, Oregon (the Property).

B. Grey applied for the development of a 19 unit condominium development on the Property. The City approved the development with a condition that prohibited access from SW Edgefield Avenue and encouraged access from SW 257<sup>th</sup> Avenue (a county road).

C. Grey and Multnomah County appealed that condition of approval to the Land Use Board of Appeals (LUBA). Multnomah County refused to allow access to SW 257<sup>th</sup> and no reasonable alternative access exists. The City and Grey agreed to a remand of the approval from LUBA to provide for, among other things, alternative development opportunities.

D. After discussion between Grey, Multnomah County staff and City staff, Grey and the City entered into a settlement agreement. The settlement agreement, among other things, requires Grey to submit an alternative design that involves developing the property with nine detached single family homes rather than the 19 unit condominium development.

E. This Agreement implements the settlement agreement and approves development of a nine lot subdivision on the Property.

F. This Agreement is authorized by Troutdale Ordinance No.784. The Ordinance was adopted by the City Council following hearings before the Troutdale City Council held on February 13, 2007 and February 27, 2007. The hearings were conducted in accordance with quasi-judicial land use procedures. Notice of the hearings was provided to nearby property owners and affected agencies consistent with ORS 94.513 and Troutdale Development Code (TDC) 16.030.

G. The execution of this Agreement is in the best interest of the public health, safety and general welfare and is consistent with the Troutdale Comprehensive Plan and implementing regulations.

After Recording Return To:  
City of Troutdale  
City Recorder  
104 SE Kibling Avenue  
Troutdale, OR 97060

Recorded in MULTNOMAH COUNTY, OREGON  
C. Swick, Deputy Clerk  
A01 7 ATVLM  
Total : 51.00

2007-042950 03/12/2007 02:16:50pm

Flu 3-12-07

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## AGREEMENT

Based on the recitals set out above and incorporated herein, and in consideration of the mutual promises and performance obligations of each party set out in this Agreement, the City and Grey hereby agree to the following terms and conditions.

### 1. **Preliminary Subdivision Plat Approval.**

The preliminary subdivision plat, variances from standards in the Troutdale Development Code and deviations from the City of Troutdale Construction Standards for Public Works Facilities, referred to in the staff report and Exhibit B to the staff report, which is attached as Exhibit B to this Agreement, are hereby approved, subject to the findings of fact, conclusions of law and conditions of approval that are set out in Exhibit B.

### 2. **Duration of the Agreement.**

This Agreement shall be effective on the later of thirty days after the date the City Council adopts Ordinance 784 or the date that any appeal of the City's action approving this Agreement is resolved to the satisfaction of Grey and the City (Effective Date). The Agreement shall continue in effect for a period of two (2) years after the Effective Date unless cancelled by the parties as provided in Section 10 below. If the final plat is not submitted for approval within one year of the Effective Date, or within eighteen months if the Community Development Director grants an extension for submitting the final plat pursuant to TDC 7.080, this Agreement shall expire. If construction of detached single family dwellings has not begun within two years of the Effective Date, this Agreement shall expire. Construction of the nine detached single family dwellings shall be complete within five (5) years of the Effective Date.

### 3. **Permitted Uses, Density, Maximum Building Height and Size and Dedication of Land.**

Grey shall construct a nine lot subdivision of detached single family dwellings in substantial conformance with the site plan, narrative and conditions of approval in Exhibit B. Unless this Agreement is cancelled or expires and a subsequent land use approval is secured from the City, the Property shall not be developed for any other use. The density and intensity of the development, as well as the land that is being reserved or dedicated for public purposes, is set out in the site plan, narrative and conditions of approval (Exhibit B). The maximum height of proposed structures is as allowed under TDC 3.064.

### 4. **Schedule of Fees and Charges.**

Grey shall pay all required system development charges and building permit fees applicable at the time of building permit issuance. Grey shall not be liable for any application fee for City land use permit processing. The amount of the applicable fees and charges that must be paid shall be determined according to the Troutdale City Council fees and charges resolutions that are in effect on the date building permits are issued.

### 5. **Responsibility for Providing Infrastructure and Services.**

Grey shall be responsible for providing all infrastructure and services as identified in the site plan, narrative and conditions of approval in the attached Exhibit B. Grey also agrees to authorize its engineer, Sisul Engineering, to provide the City such information from its design of the storm water system as is necessary to design the extension of the storm main for the conveyance of runoff from Sedona Park

subdivision as shown in the drawing attached as Exhibit C. Grey further agrees to grant the City and the City's agents access to the Property to design and construct said extension.

**6. City Financial Obligations.**

All city obligations to expend moneys under this Agreement are contingent upon future appropriations as part of the local budget process. Nothing in this Agreement requires the City to appropriate such moneys.

**7. Continuing Effect of Agreement.**

In the case of any change in city regulations, regional policy or federal or state law or other change in circumstance which renders compliance with the Agreement impossible or unlawful, the parties will attempt to give effect to the remainder of the Agreement, but only if such effect does not prejudice the substantial rights of either party under the Agreement. If the substantial rights of either party are prejudiced by giving effect to the remainder of the Agreement, then the parties shall negotiate in good faith to revise the Agreement to give effect to its original intent. If the parties fail to agree to an amended Agreement within ninety (90) days of the commencement of negotiations, then either party may request that an arbitrator give an equitable effect to the remainder of the Agreement, and the Agreement shall thereafter be amended pursuant to the order of the arbitrator. If, because of change in policy, law or circumstance, the Agreement fails of its essential purpose (development of nine detached single family dwellings instead of more dense residential development that is allowed under the applicable zoning regulations), then the parties shall be placed in their original positions to the extent practical.

**8. Assignability of Agreement.**

This Agreement shall not be assignable, in whole or in part, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

**9. Default / Remedy.**

Default. A breach of a material provision of this Agreement, whether by action or inaction of a party, which continues and is not remedied within sixty (60) days after the other party has given written notice specifying the breach shall constitute a default by the breaching party. Provided, however, if the non-breaching party determines that such breach cannot with due diligence be cured within a period of sixty (60) days, the non-breaching party may allow the breaching party a longer period of time to cure the breach, and in such event the breach shall not constitute a default so long as the breaching party diligently proceeds to affect a cure and the cure is accomplished within the longer period of time granted by the non-breaching party.

Remedies. Each party shall have all available remedies at law or in equity to recover damages and compel the performance of the other party pursuant to this Agreement. The rights and remedies afforded under this Agreement are not exclusive and shall be in addition to any and all rights otherwise available at law or in equity. The exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other default or breach by the other party, including, without limitation, the right to compel specific performance.

10. **Amendment or Termination of Agreement.**

This Agreement may be amended or terminated by the mutual consent of the parties. Any amendment of this Agreement which relates to the term, permitted uses, density or intensity of use, provisions for the reservation or dedication of land for a public purpose or any conditions of the subdivision application relating to the use and/or design of the site shall require a public hearing before the parties may execute an amendment to this Agreement.

11. **Exhibits.**

The following documents are exhibits to and necessary parts to this Agreement:

- Exhibit A Property Map
- Exhibit B Subdivision Approval Findings of Fact and Conditions of Approval (on file with the City)
- Exhibit C Storm Water System Drawing

Executed as of the day and year first above written.

By: [Signature]  
D.A. Grey, Ltd.

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of March, 2007, by ~~D.A. Grey~~ David Grey as Owner of D.A. Grey, Ltd and on behalf of D.A. Grey Ltd..



[Signature]  
Notary Public for Oregon  
My Commission expires: 8/7/2007

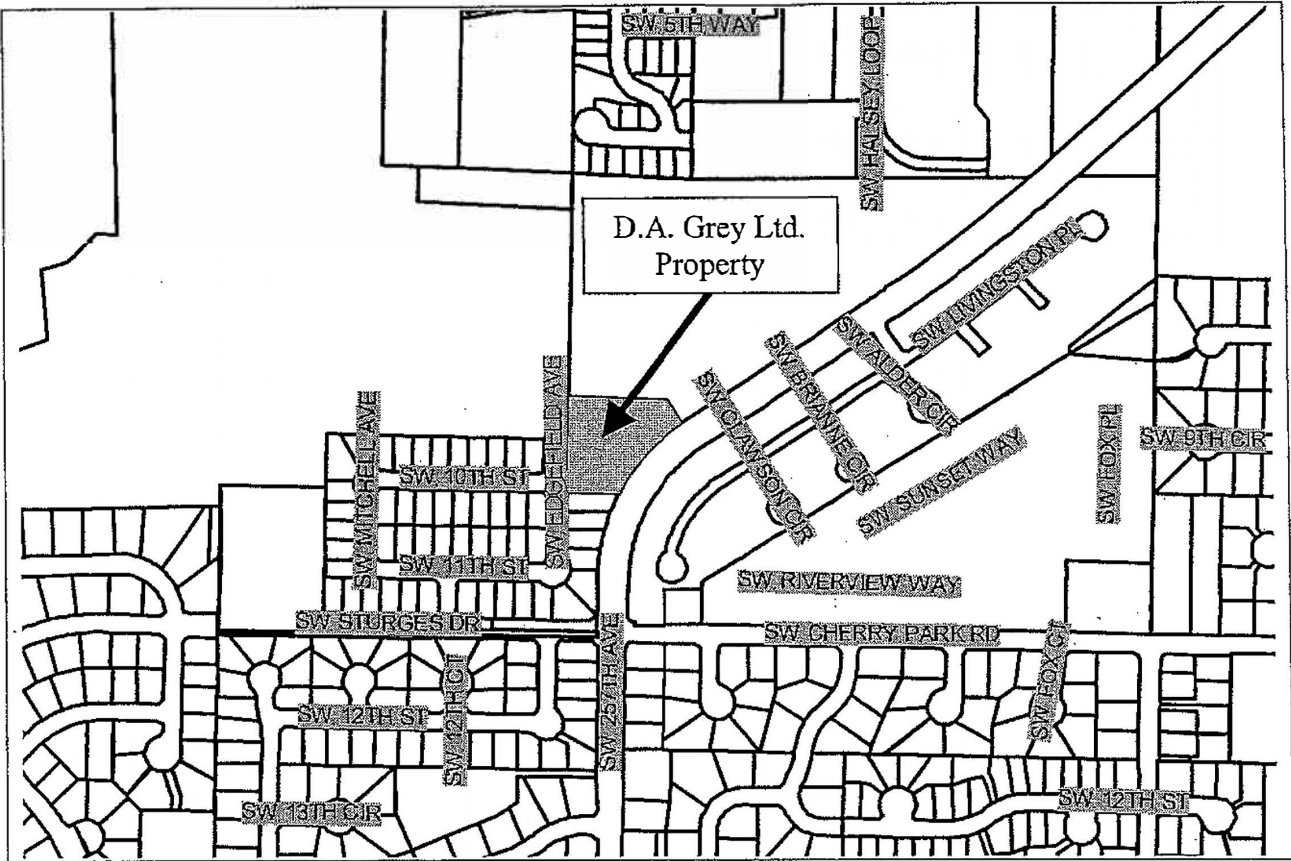
By: [Signature]  
City of Troutdale

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of March, 2007, by Paul Thalhofer as Mayor of the City of Troutdale, on behalf of the City of Troutdale.



[Signature]  
Notary Public for Oregon  
My Commission expires: 8/7/2007

EXHIBIT A





## EXHIBIT B

### ANALYSIS OF PROPOSED NINE-LOT SUBDIVISION COMMONLY CALLED TYSON'S PLACE (File No. 07-001), WITH VARIANCES AND DEVIATIONS FROM THE PUBLIC WORKS STANDARDS. FINDINGS of FACT and CONDITIONS OF APPROVAL

**OWNER/APPLICANT:** D. A. Grey, Ltd. / Scott Clayton

**LOCATION:** West of SW 257<sup>th</sup> Avenue, north of SW Sturges Drive, east of SW Edgefield Avenue and SW 10<sup>th</sup> Street

**AREA:** 1.52 acres

**TAX MAP / TAX LOT:** 1N3E26 - 01102

**PLAN DESIGNATION:** HDR High Density Residential

**ZONING DISTRICT:** A-2 Apartment Residential

**OVERLAY ZONING:** Town Center and Vegetation Corridor and Slope Overlay District

#### PROCEDURE:

This land division application and requested variances from the Troutdale Development Code standards and deviations from the City of Troutdale *Construction Standards for Public Works Facilities*, were processed using Type III quasi-judicial procedures. However, the land division and variances were not presented to the Troutdale Planning Commission because the land division and variances are the subject matter of a settlement agreement that resolved a dispute regarding a land use approval for the same property, and the Planning Commission does not have the authority to approve deviations from the City of Troutdale *Construction Standards for Public Works Facilities*; this authority is the Council's. The settlement agreement required preparation of a development agreement that was to be brought directly to the City Council for a final decision.

## **FINDINGS of FACT:**

The nine-lot subdivision, variances and deviations from the *Construction Standards for Public Works Facilities* comply with the applicable criteria of the Troutdale Development Code, as explained below.

**TDC 7.040 Approval Criteria. An application may be approved, approved with conditions, or denied based upon applicable criteria.**

**A. An application shall comply with the following criteria:**

- 1. All applicable statutory provisions.**
- 2. The City's Comprehensive Land Use Plan, Development Code and all other applicable laws of this City, appropriate agency, or jurisdiction.**
- 3. The City's Transportation System Plan, Parks and Greenway Plan, Capital Improvements Plan, and any other applicable Plan adopted by the City.**
- 4. The City of Troutdale Construction Standards for Public Works Facilities.**

**B. The subdivider shall demonstrate that the street, parcel, and block pattern proposed meets the following criteria:**

- 1. Proposed parcels shall be suitable in area and dimensions to the types of development anticipated.**
- 2. Street right-of-ways, pavement widths, and sidewalks shall be adequate to accommodate the type and volume of anticipated traffic.**
- 3. Public utilities, including water, sewer, and stormwater drainage to serve the proposed subdivision can be provided in accordance with the City of Troutdale Construction Standards for Public Works Facilities.**
- 4. Residential areas shall be protected from potential nuisance from a proposed commercial or industrial subdivision, to the extent feasible or possible, by providing extra depth in parcels backing up on**

**existing or potential developments, a landscaped buffer strip, and other similar measures.**

- 5. Physical limitations of the site such as flood or slide hazard, natural features, or any other constraint shall be accommodated within the design of the proposed land division.**

Analysis of the land division criteria includes evaluation of the following applicable standards:

Troutdale Development Code (TDC):

- TDC 3.060 A-2 Zoning District
- TDC 4.300 Vegetation Corridor and Slope Overlay District (VECO)
- TDC 4.700 Town Center Overlay
- TDC 5.600 Erosion Control and Water Quality
- TDC 5.800 Stormwater Management
- TDC 6.215 Variance Criteria
- TDC 7.000 Land Division
- TDC 8.000 Site Orientation and Design Standards
- TDC 9.000 Off-Street Parking and Loading
- TDC 10.000 Signs
- TDC 11.000 Landscaping

Troutdale Municipal Code 13.10 Tree Removal

City of Troutdale *Construction Standards for Public Works Facilities*

Multnomah County Transportation standards

Gresham Fire and Emergency Services

Building, plumbing, mechanical and electrical codes

Throughout the staff report, the criteria will be in capitalized bold typeface and standards in sentence case bold typeface.

**TDC 7.040 SUBDIVISION APPROVAL CRITERIA. AN APPLICATION MAY BE APPROVED, APPROVED WITH CONDITIONS, OR DENIED BASED UPON APPLICABLE CRITERIA.**

**A. AN APPLICATION SHALL COMPLY WITH THE FOLLOWING CRITERIA:**

**TDC 7.040 A1. ALL APPLICABLE STATUTORY PROVISIONS.**

The final plat will be prepared by a licensed surveyor and recorded in accordance with applicable statutory provisions.

**TDC 7.040 A2. THE CITY'S COMPREHENSIVE LAND USE PLAN, DEVELOPMENT CODE AND ALL OTHER APPLICABLE LAWS OF THIS CITY, APPROPRIATE AGENCY, OR JURISDICTION.**

**TDC 7.040 A3. THE CITY'S TRANSPORTATION SYSTEM PLAN, PARKS AND GREENWAY PLAN, CAPITAL IMPROVEMENTS PLAN, AND ANY OTHER APPLICABLE PLAN ADOPTED BY THE CITY.**

**TDC 7.040 A4. THE CITY OF TROUTDALE CONSTRUCTION STANDARDS FOR PUBLIC WORKS FACILITIES.**

Analysis of compliance with subdivision criteria A2, A3 and A4 can be combined with the evaluation of compliance with the Comprehensive Land Use Plan policies. The analysis of Development Code Standards will answer how the subdivision complies with the Transportation System Plan (TSP), Parks and Greenway Plan, Construction Standards for Public Works Facilities, Multnomah County Transportation standards, and the Town Center Plan.

The Capitol Improvement Plan does not apply to this site.

**COMPREHENSIVE LAND USE PLAN**

The applicable Comprehensive Land Use Plan goals are: Goal 1 Citizen Involvement; Goal 2 Land Use; Goal 5 Open Spaces, Scenic And Historic Areas, And Natural Resources; Goal 6 Air, Water, And Land Resources Quality; Goal 8 Recreation; Goal 10 Housing; Goal 11 Public Facilities and Services; and Goal 12 Transportation.

**GOAL 1 CITIZEN INVOLVEMENT.** A public hearing to provide the opportunity for public comment is being held in this matter in compliance with statutory land use requirements and the Troutdale Development Code.

This is a quasi-judicial hearing. Specific standards about notification come from the Development Code:

**TDC 16.030 Notice of Hearing.** The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before the Hearings Officer, Planning Commission, and City Council on application for a land use decision, and shall be incorporated into the Comprehensive Land Use Plan and land use regulations. Notice of hearings governed by this section shall be provided to the applicant and owners of record of property on the most recent property tax assessment roll where such property is located:

- A. Within 250 feet of the property which is the subject of the notice where the subject property is wholly, or in part, within the Urban Growth Boundary.**
- D. Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.**

**TDC 16.040 Notice to Interested Parties.**

- A. Interested parties such as counties, state agencies, public utilities, etc., which may be affected by the specific development proposal, shall receive notice of the scheduled public hearing.**

A written notice of this hearing was mailed on January 10, 2007, to property owners of record within 250-feet of the site and to other property owners within the Sedona Park neighborhood that were outside of the 250-foot area.

A written notice was mailed on January 10, 2007, to City departments, Gresham Fire and Emergency Services, Multnomah County Transportation, Tri-Met and the Reynolds School District.

Other interested parties that participated at the hearing in the matter of the 19-unit condominium and were not on the January 10<sup>th</sup> list, were notified by mail on January 30, 2007.

The written notices meet this standard.

**TDC 16.040 Notice to Interested Parties.**

- F. Be mailed at least:**
  - 2. If two or more evidentiary hearings are allowed, ten days before the first evidentiary hearing.**

Adoption of an Ordinance requires at least two evidentiary hearings. The notices were mailed January 10, 2007 and January 30, 2007. The first evidentiary hearing date is February 13, 2007. The standard is met.

**TDC 16.070 Procedure for Posted or Published Notice.**

**C. If a published notice is required, it shall be published at least once in a newspaper of general circulation.**

A published notice of the Council's agenda, of which this land use application is an agenda item, appeared in the February 3, 2007 Gresham *Outlook*, a newspaper of general circulation and complies with TDC 16.070 C.

**TDC 16.080 Applicant's Documents and Evidence. All documents or evidence relied upon by the applicant shall be submitted to the local government and made available to the public.**

The notice to the public explains that the documents and evidence submitted by the applicant are available for review and that the staff report will be available for inspection seven days prior to the hearing.

Goal 1 is met.

GOAL 2 LAND USE

The land use designation of this site is High Density Residential (HDR) with the Town Center (TC) overlay. The subdivision for single-family detached dwellings is a permitted use in the HDR /TC plan area.

The underlying zoning district is A-2 Apartment Residential. The overlay zoning district is Town Center. Analysis of the applicable A-2 and Town Center development standards begins under subdivision criteria B1.

GOAL 5 OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

During the hearings on the 19-unit condominium for this site, there was much discussion about open spaces and preservation of views. Lots 1 through 4 will be two-story detached single family dwellings; Lots 5 through 9 will be detached single-family dwellings with daylight basements. The height of each dwelling is determined by the definition of building height adopted in the Development Code. The maximum allowed height of a structure in the A-2 zoning district is 35 feet. The subject site is zoned A-2

and the adjacent Sedona Park subdivision is zoned R-4. The proposed dwellings do not exceed the 35-foot height allowed under both the A-2 and R-4 zoning districts.

There is no Community Resource designation on the site.

There are no natural resources (such as a river, stream, wetland) on this site.

#### GOAL 6 AIR, WATER, AND LAND RESOURCES QUALITY

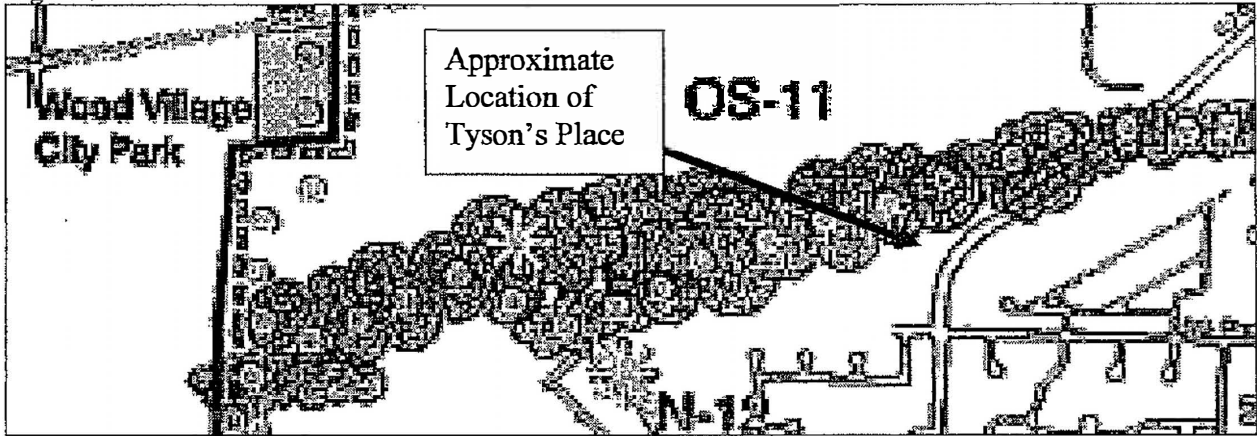
Goal 6 policies are applicable to a subdivision as erosion control, stormwater management and quality are required, and construction on steep slopes, defined by Code as slopes of 25% or greater, is limited by the Code. Analysis of implementing Development Code standards is done under land division criteria B1, B3, and B5.

#### GOAL 8 RECREATION

**Greenways, open spaces, and special use areas will be used to conserve the ecological systems, drainageways, and areas of special natural features. Greenways will be used to link neighborhood, community, and regional parks, schools, and other public facilities, with natural corridors accommodating trails, walkways, and bikeways.**

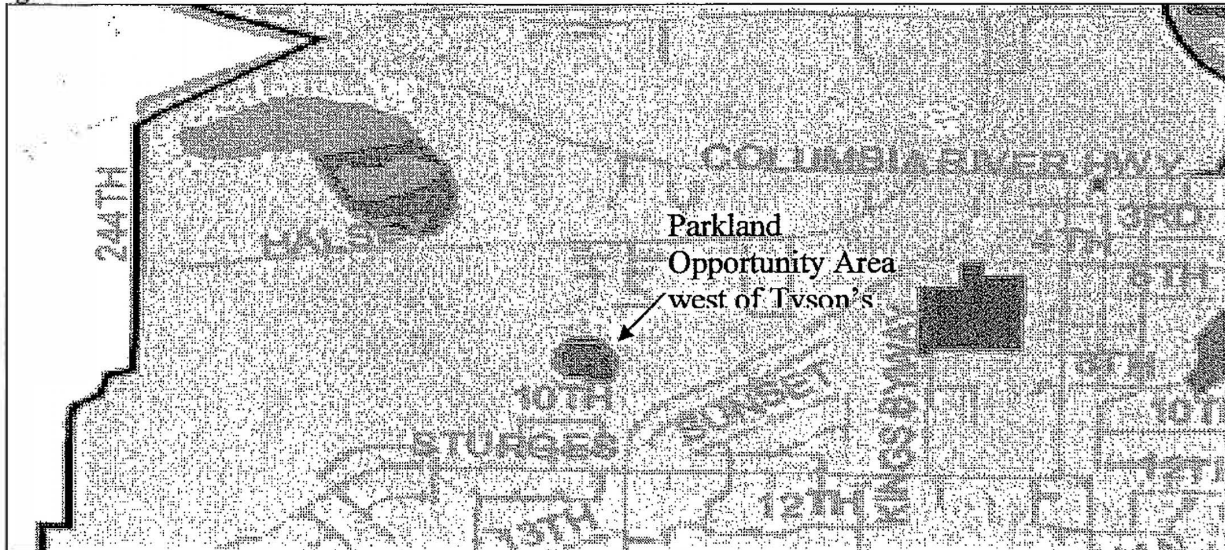
During the hearing on the 19-unit condominium there was much discussion about the City's greenway planned for this area of the City. The City's 1995 "Parks Recreation and Greenways Plan" was the plan referred to in the hearing on the condominiums. In the 1995 Plan, a greenway with a trail south of this site is identified. This area roughly runs along the ridgeline of the Multnomah County farm property between 257th Avenue and Arata Creek (238th Avenue) as seen in Figure 1.

Figure 1



When the Troutdale Terrace Apartments were constructed and the subject site was owned by the developer of the apartment, the City obtained two public access easements on the Tyson's Place subdivision site: one on the south side of the site, and one on the west side of the site. This was done to meet, in part, the City's goal of providing pedestrian connection to this greenway "trail" shown in the 1995 Parks Plan. A walkway 9 ½ feet wide exists in the southerly easement, as seen on the applicant's drawings 1 through 4. The westerly easement is also a utility easement for a City water line. There are no accessway improvements in the westerly easement. A future parkland area is shown in this area in the November 2006 Parks Plan (Figure 2).

Figure 2





The westerly easement should include pedestrian and bicycle access improvements that are appropriate for the steepness of this area of the site (condition number 1).

### GOAL 10 HOUSING

The requested plat will be built with single-family detached dwellings. Other types of housing are permitted in this zoning district, but as part of the City's appeal settlement with D.A. Grey, single family detached dwellings are proposed. The single family lots, which are comparable to the lots in Sedona Park, the established neighborhood that is adjacent to this site, and through which all traffic must flow, implement Policy 7 of Goal 10:

#### **Policy 7. Neighborhood Character.**

- a. **Consider the need for neighborhood identity during the subdivision review process in terms of street patterns and lot arrangement, access to major streets, and relationship to surrounding land uses.**

Specific dimensional standards, such as density and setbacks will be reviewed under subdivision approval criterion B1, beginning on page 10 of this report.

### GOAL 11 PUBLIC FACILITIES AND SERVICES

Public facilities and services are available to serve this subdivision. Specific comments and standards for sewer, water and stormwater are analyzed under subdivision criterion B3, beginning on page 28 of this report.

The site is within the Reynolds School District. The school district is notified of residential development proposals. No comments were received from the school district regarding this subdivision.

The site is served by Gresham Fire and Emergency Services. Comments were submitted on January 16, 2007, from Robert Mottice, Deputy Fire Marshal. The proposed conditions in that memorandum pertaining to the minimum road width and request that there be non on-street parking were discussed with the Deputy Fire Marshal and public works staff on February 1, 2007. As the proposed street is a public street, and not a private street, the Deputy Fire Marshal told staff that his comments #1 and #6 do not apply. Condition number 2 is adjusted accordingly to reflect the discussion with Robert Mottice on February 1, 2007.

The Troutdale Police Chief had no comment.

## GOAL 12 TRANSPORTATION

The policies of Goal 12 are implemented through compliance with the street standards in the Development Code, City of Troutdale *Construction Standards for Public Works Facilities*, and, for this site, Multnomah County Transportation Standards for 257<sup>th</sup> Avenue. Multnomah County Transportation comments from Alison Winter, County Transportation Planning Specialist: of January 22, 2007, are incorporated into condition number 5.

Local street access to the site is via 257<sup>th</sup> Avenue to SW Sturges Drive to SW Ellis Avenue to SW 11<sup>th</sup> Street to SW Edgefield Avenue to the new local street in the plat. The new local street proposed does not meet all City standards. The applicant provided traffic studies relevant to the condominium project at this site: those studies are provided as reference with the February 6, 2007 staff report to Council.

Except for emergency ingress /egress by fire, life and safety vehicles, access to 257<sup>th</sup> Avenue is prohibited.

The street standards and the requested deviations are reviewed under subdivision criterion B2 beginning on page 20 of this report.

### **TDC 7.040 APPROVAL CRITERIA. B. THE SUBDIVIDER SHALL DEMONSTRATE THAT THE STREET, PARCEL, AND BLOCK PATTERN PROPOSED MEETS THE FOLLOWING CRITERIA:**

#### **TDC 7.040 B1. PROPOSED PARCELS SHALL BE SUITABLE IN AREA AND DIMENSIONS TO THE TYPES OF DEVELOPMENT ANTICIPATED.**

In determining whether parcels are suitable, the dimensions of the underlying zoning district are considered along with the lot design standards of TDC 7.180E Design Requirements / Lot Design which cover specifics on lot arrangement, lot dimensions, lot frontage on a public street, access to lots, fencing, shared driveways, and flag lots. These standards, if applicable, are discussed in this section.

#### **TDC 7.180 E.1. Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reason of topography or other conditions, in securing building permits to build on all lots in compliance with this code.**

The parent parcel is 1.52 acres in area. Nine lots are proposed. The lot dimensions with respect to width, depth and area meet the underlying A2 zoning district standards

for detached single family dwelling units. There are no foreseeable difficulties in securing building permits on these lots.

**TDC 7.180 2. Lot Dimensions.** The lot dimensions shall comply with the minimum standards of this code. When lots are more than double the minimum required area for the zoning district, the subdivider may be required to arrange such lots to allow further subdivision and the opening of future streets to serve such potential lots.

**TDC 7.180 E.3** The lot or parcel width at the front building line shall meet the requirements of this code and shall abut a public street other than an alley for a width of at least 20 feet. A street frontage of not less than 15 feet is acceptable in the case of a flag (panhandle) parcel resulting from the division of an unusually deep land parcel.

The dimensional standards for lots are met.

**TDC 3.064 A2 Density, Lot Size, and Dimensional Standards.**

**A. Dimensional Standards.**

- 1. Minimum lot size: Refer to the table in subsection (B) of this section for residential uses; 5,400 square feet for all other uses.**

The site is within the Town Center Overlay District: the following density provision applies to detached single family dwellings on lots zoned A2 in the Town Center:

<b>TDC 3.064 B. DENSITY STANDARDS</b>		
<b>Type of Residential Use</b>	<b>Minimum Lot Area</b>	<b>Maximum Lot Coverage</b>
Single-family detached and zero lot line dwellings	3,500 square feet per unit	None

**TDC 3.064 B. Maximum Density and Lot Size.** Where the number of dwelling units erected on a lot is calculated in accordance with this section, no greater number of units shall in any event be permitted at any time unless the lot is within the Town Center Overlay District, or except as may be approved under the Planned Development District.

Each of the nine lots proposed is at least 3,500 square feet in area and meets the minimum lot area standard. A table on page 9 of the applicant's narrative shows the exact area of each lot.

Overall density is based upon net area of 35,704 square feet. A net area of no less than 31,500 square feet is required for nine lots. The net area excludes the following from the gross lot area of 66,178 square feet: steep slope area (10,527 square feet in area), easements that grant access to the public or cannot be built on (10,643 square feet), and the proposed public road (9,304 square feet). The net area divided by 3,500 square feet yields 10 lots: this is the maximum density or maximum number of detached single family lots allowed on this site. The maximum density is not exceeded.

**TDC 3.064 C. Minimum Density. Residential development is required to be built at 80% or more of the maximum number of dwelling units per net acre. For purposes of this standard, in computing the maximum number of dwelling units, if the total contains a fraction, then the number shall be rounded down to the next lower whole number. For computing the minimum number of dwelling units, if the total contains a fraction, then the number shall be rounded down to the next lower whole number.**

Based upon a maximum density of 10 lots, the minimum density is 8 lots. Nine lots are proposed and the minimum density standard is met.

**TDC 3.064 Density, Lot Size, and Dimensional Standards. A. Dimensional Standards. 2. Minimum lot width: / a. Units on separate lots: (i) 35 feet at the front setback line of any interior lot used for single-family detached and zero lot-line dwellings, duplexes, and the end units of a triplex or attached dwelling.**

All lots meet this standard.

**TDC 3.064 Density, Lot Size, and Dimensional Standards. A. Dimensional Standards. 3. Minimum lot depth: 70 feet for single-family detached dwellings with a driveway from the public street or with access from an alley within a separate tract from the lot; 90 feet for all other uses when there is approved street access; 100 feet for any use with access from an alley within an easement that is part of the lot.**

All lots are at least 70 feet deep. The standard is met.

**TDC 3.064 Density, Lot Size, and Dimensional Standards. A. Dimensional Standards. 4. Minimum lot frontage: 20 feet.**

The proposed street is intended to be a public street and all the lots front on it for 20 or more feet. The standard is met.

**TDC 3.064 Density, Lot Size, and Dimensional Standards. D. Setbacks.**

The applicant shows the proposed setbacks on the site plan (Sheet 1). The setback standards are met except for the front setback of Lots 2 through 9, and the arterial street side setback for Lot 4. Variances were requested from TDC 3.064D1 Front Yard Setbacks, and TDC 7.180(L)(12) Arterial Street Setbacks. These are evaluated together beginning on page 16 of this report.

**TDC 3.064(D)(1): Front yard setback: Minimum of 20 feet.**

Due to the shape of this site and physical constraints, such as the 257<sup>th</sup> Avenue frontage, easements on three sides and steep slope along the north boundary, the applicant is requesting a variance from the front yard setback standard to allow the homes to be as close as 10-feet, with garages 18 feet from the street. The variance request pertains to Lots 2 through 9: the front yard setback for Lot 1 conforms to the standard. The applicant's justification for the variance begins on page 13 of the narrative submitted. This variance request analysis begins on page 16 of this report and is combined with the arterial street side yard setback variance requested.

**TDC 3.064(D)(2): Side yard setback: / a. Single-family detached dwellings: Minimum of five feet.**

The five foot setback applies to the interior side yards — not the street side yards of Lots 2, 4 and 5. This standard is met.

Note: No setback is required from the public easements within the subdivision, although, the applicant has shown a four-foot setback from the easement on the south side of Lot 1.

**TDC 3.064(D)(3): Street side yard setback: Minimum of ten feet unless the street side yard is used for the driveway, in which case the minimum setback shall be 18 feet to the garage.**

The street yard setback applies to Lots 2, 4 and 5:

- Lot 2 is a corner lot fronting on the curve of the proposed public street. The applicant provided a building footprint that shows that it can meet the 10 foot street side yard setback along the west street side of Lot 2. If the street ROW is widened to 40 feet (see discussion on page 21), a reduced street side yard for Lot 2 may be warranted. If so, the same variance analysis for the front yard setbacks requested are applicable.
- Lots 4 and 5 are also corner lots fronting on the new City street with side yards on SW 257<sup>th</sup> Avenue. There are greater setback requirements on Lots 4 and 5 because Lots 4 and 5 are encumbered with slope / utility/ sidewalk / signal / landscaping easements to the County along their 257<sup>th</sup> Avenue frontage.
  - This easement is 10- to 25-feet wide on Lot 4.
  - This easement is 25-feet wide on Lot 5.

And, the City requires a 20-foot setback from arterials.

**TDC 7.180 (L)(12): Arterial street setback. In residential districts, a building setback line, which shall extend 20 feet back from the right-of-way line of an arterial street or landscaping, fencing, or other method of buffering residential uses from traffic noise, odor, dust, etc., shall be provided adjacent to the arterial. If the use of a buffer strip is selected, no structures may be placed within the buffer.**

SW 257<sup>th</sup> Avenue has a County classification of Major Arterial. The applicant is requesting that a 15-foot arterial street setback be approved for the house on Lot 4. The house on Lot 4 would not be within the easements to the County. The analysis of the variance request begins on page 16 of this report.

The plot plans submitted by the applicant show that there is a plan for a house on Lot 5 that can comply with the 20-foot arterial setback and avoid the 25-foot wide easement to the County.

**TDC 3.064(D)(4)(a): Rear Yard Setback. Single family detached...without an alley...minimum of 15 feet.**

The lot arrangement, area and geometry, allow compliance with the 15-foot rear yard setback. Conceptual footprints are shown on sheet 1 and these provide a 15-foot or greater setback. The standard is met.

**TDC 3.064 E. Height Limitation. The maximum height of a structure shall be 35 feet.**

The building height allowed is confirmed when the building permits are reviewed. The maximum building height is the same height allowed in the adjacent R-4 zoning district.

**TDC 7.180 E. Lot Design. 4. Double frontage lots and access to lots. Lots both fronting and backing to a street shall be avoided except where necessary to provide separation of residential developments from arterial streets, or to overcome specific disadvantages of topography or orientation. If created, a landscaped, fenced, or screened easement, at least ten feet wide, shall be provided across which there is no right of access to the abutting arterial street.**

As proposed, only Lot 1 is a double-frontage lot. The lot fronts on the new street and the lot backs to 257<sup>th</sup> Avenue. The developer is responsible to landscape, fence or otherwise screen this lot for a minimum depth of 10 feet along the 257<sup>th</sup> Avenue frontage (condition number 3). This area corresponds to the 10-foot easement to Multnomah County. As such, landscaping within this area must be acceptable to Multnomah County in order to avoid conflicts with utilities, maintenance of the roadbed, and the guardrail planned for this area.

This landscaping should be continued along the 257<sup>th</sup> Avenue frontage of Lots 4 and 5 as well for continuity and Lots 1, 4 and 5 shall be fenced by the developer on the 257<sup>th</sup> Avenue side, as discussion in the following.

**TDC 7.180 E.6. Fencing. A subdivider shall be required to furnish and install fencing whenever the Director or Planning Commission determines that a nuisance or hazardous condition may exist. The fencing shall be constructed according to standards established by the Director. No certificate of completion shall be issued until the fence improvements have been installed.**

Staff is recommending fencing along the 257<sup>th</sup> Avenue frontage of Lots 1, 4 and 5. The fence should be at least 10 feet back of the inside edge of the sidewalk on 257<sup>th</sup> Avenue (condition number 3).

## FRONT YARDS AND ARTERIAL STREET SETBACK VARIANCE ANALYSIS

These variances are considered together as they are relevant to how the dwellings will sit on the proposed lots.

The front yard setback and the arterial street setback variances are requested:

- To have room to plat nine lots as agreed upon in the settlement with the City.
- To maximize land available for public right-of-way. With the setback reduction, additional land can be dedicated as right-of-way for the street and sidewalks.
- To avoid construction, as much as possible, within the steep slope areas of the site.

**TDC 6.215 A. Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area;**

There are special circumstances that apply to development of this site as well as unique lot shape and topographical considerations.

Development within steep slopes (slopes of 25% and greater) is limited by the standards of the Code and it is preferred that development be avoided altogether. In order to avoid construction within steep slopes on lots, there is a standard in TDC 4.315.A.2.b that allows reduced setbacks provided the developer avoids development on the steep slopes.

**TDC 4.315 Development Standards. Permitted uses in the vegetation corridor and slope district are to be developed in compliance with the following development standards: A(2)(b)(i). New Development. b. Notwithstanding the provisions of chapter 6.220, Type II Variance, of this code, where necessary to avoid construction within the vegetation corridor and slope district, the following provisions are available for lots of record affected by the vegetation corridor and slope district: i. Setbacks may be reduced up to 50% from the underlying zoning district setback dimension where necessary to avoid construction on slopes of 25% or greater or within the required vegetation corridor, and otherwise meet the standards of this chapter.**



The applicant has interpreted that this Code language does not mean that no construction may occur in the steep slopes in order to utilize this provision of the Code (pages 6 and 7 of narrative), but the Director has consistently interpreted this provision to apply only when there is no use of the steep slopes. As such, the variance analysis and approval were requested for Lots 2, 3, 4, 6 and 9.

The standard of TDC 4.315.A.2.b is correctly applied to Lots 5, 7 and 8, which show building footprints completely outside the steep slope area. Because the reduced setback provision of TDC 4.315(A)(2)(b) can be applied to Lots 5, 7 and 8, a variance from the front yard setback to allow an 18 foot front yard setback to the garage and a 10 foot front yard setback to the porch or any other portion of the house, is not required, but is permitted by right for these three lots.

The criterion is equally met for justification of a front yard setback for Lots 5, 7 and 8, as well as Lots 2, 3, 4, 6 and 9.

The requested setback variance of five feet from the arterial street setback standard of 20 feet for the house on Lot 4, is also based upon the same response for the reduced front yard setback.

The applicant's response to the criterion is on page 14 of their narrative. Staff agrees with the applicant that the underlying property shape, easements and physical constraints would prevent the creation of nine lots agreed to in the settlement without some dimensional variances.

Variance criterion A is met for the requested front yard setback reductions and arterial street setback of 15 feet for Lot 4.

**TDC 6.215 B. The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare;**

The reduced front yard setback requests and the 15-foot arterial street setback for Lot 4 do not bring houses closer to any existing single family or apartment building than if the 20-foot setback standard was met. None of the affected reduced yards abut any other existing dwelling outside of the subdivision.

In response to the traffic accidents on 257<sup>th</sup> Avenue south of the subject site, the applicant has proposed a guardrail along the 257<sup>th</sup> Avenue frontage of the site. The exact location of the guardrail will be evaluated by Multnomah County Transportation (condition number 5). The guardrail is intended to provide protection to homes built on

lots in Tyson's Place subdivision as well as existing homes in Sedona Park south of the site.

The criterion is met.

**TDC 6.215 C. The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and**

The purpose of required yards or setbacks has a long history and includes the notions of light and air, privacy, health and safety, and fire prevention.

A front yard setback of 20-feet provides enough length for a driveway so that sidewalks are not blocked by cars. The requested setback to the garage is 18 feet. An 18-foot deep driveway is a standard parking space length and is consistent with the general purpose of the 20-foot front yard setback.

In considering the front yard setback request, the Town Center standard that pertains to the placement of the garage in relation to the front door, must be considered:

**TDC 4.780 C. Streetscapes. To encourage pedestrian-oriented streetscapes, the following standards shall apply:**

**2. Garages. a. For single-family detached and zero lot line dwellings on lots of 3,000 square feet or greater in area or 30 feet or wider at the front setback line, garages shall be subordinate to the main dwelling by being set back a minimum of five feet behind the front door of the residence or by compliance with the following standards:...**

- ii. The garage door is behind or even with the front door and the dwelling has a roofed front porch, which is at least 1/3 as wide as the front elevation and at least five feet deep. The porch may encroach within the required front yard setback a maximum of five feet without a variance provided the foundation for the dwelling complies with the minimum front setback standard; and**
- iii. The street facing wall of the dwelling contains at least one window on the ground floor that allows visibility of the street.**

The applicant requests an 18-foot setback to the garage and a 10 foot setback to dwelling. Compliance with the streetscape standard is possible even with the variance as the front door will be at least five feet in front of the garage door. Parts (ii) and (iii) of

the preceding standard only apply if the garage door is not five feet behind the front door.

The increased setback from an arterial street was adopted into the Code for the reason specified in the language of the standard of TDC 7.180.L.12, which is also in keeping with the historical purpose for setbacks:

**TDC 7.180 L. 12. Arterial street setback. ... method of buffering residential uses from traffic noise, odor, dust, etc., shall be provided adjacent to the arterial. If the use of a buffer strip is selected, no structures may be placed within the buffer.**

Mitigation for the reduced setback to the house on Lot 4 should be considered. As testified to at the hearings on the condominium project for this site, there have been accidents on SW 257<sup>th</sup> Avenue where cars have careened into backyards. The applicant is still proposing a guardrail along 257<sup>th</sup> Avenue. A guardrail will mitigate for some of the dangers of living on a lot that is adjacent to 257<sup>th</sup> Avenue. The guardrail must comply with county standards for design and location (condition number 5).

A guardrail, however, does not mitigate for noise or dust from traffic. Compliance with the 20-foot setback standard, however, would likely not improve these circumstances. There are existing sound walls on 257<sup>th</sup> Avenue, but these create a tunnel effect and create social barriers within a community as well as physical barriers. Staff would recommend that the developer consider building the homes on Lot 4 and Lots 1 and 5 with thicker insulation / walls and sound-proof windows, if available. However, staff would not recommend a required condition.

The variance criterion is met.

**TDC 6.215 D. The variance is the minimum necessary to relieve a practical difficulty and the resulting hardship.**

The applicant has stated, and staff agrees, that the reductions in the front yard setbacks and the reduction in the arterial street setback for Lot 4 are the minimum necessary in order to have reasonable building envelopes on the nine lots proposed given the constraints of the site.

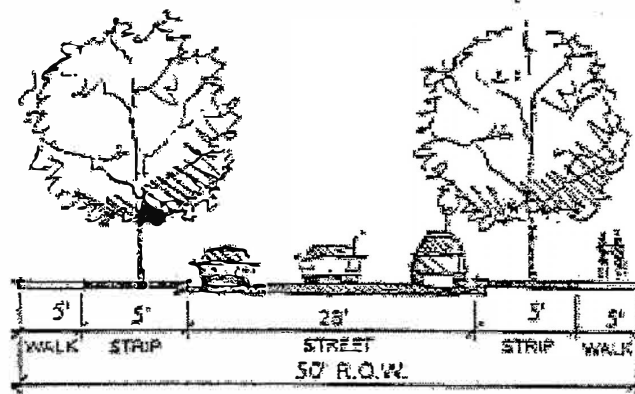
The variance criteria are met and staff recommends approval of these variances.

**TDC 7.040 B.2. STREET RIGHT-OF-WAYS, PAVEMENT WIDTHS, AND SIDEWALKS SHALL BE ADEQUATE TO ACCOMMODATE THE TYPE AND VOLUME OF ANTICIPATED TRAFFIC.**

The proposed street will be a public street. The *Construction Standards for Public Works Facilities*, and the Town Center street cross section standard applies to the proposed street. The applicant's "Updated Geotechnical Engineering Report" contains a recommended pavement section for the private drive. This recommendation no longer applies and the standard pavement section for a Local Street shall be used.

The tentative plat does not include a name on the proposed public street, to be consistent with the City's street name grid, the street should be named SW 10<sup>th</sup> Way.

**TDC 4.780(C)4. Street Design and Streetscapes. The following design standards shall apply within the Town Center district: 4. Local residential streets shall have a pavement width of 28 feet, with sidewalks set back and separated from the street by a planting strip of five feet in width. The street shall provide on-street parking on both sides of the street.**



The proposed street compares to the standard as follows: ROW is right-of-way

Required Street Elements in ROW	Required Width	Proposed Width
Sidewalks (2)	Five feet	Five feet
Planting Strip (2)	Five feet	None
Street	28 feet	24 feet
Curbs (2)	½ foot	½ foot
ROW behind sidewalks (2)	½ foot	none
<b>Total ROW</b>	<b>50 feet</b>	<b>35 feet</b>
Utility Easements on lots outside of the ROW	5 feet	6 feet

Variances from the total right-of-way width, street width, and elimination of the ROW behind the sidewalk and the planting strips, were requested. The applicant's narrative combines the justification for variances from the street cross section, front yard and arterial street yard setbacks. However, Staff has separated the analysis of the variance from the public street cross-section from the setback variances because specific dimensional standards are found in both the Development Code and the City of Troutdale Construction Standards for Public Work Facilities for the street.

When the street cross-section dimensions are not met, a capacity-reducing deviation from the Construction Standards is required, not just a variance from the Development Code standard. The Public Works Director has no objection to using the variance analysis for justification for approval from the Construction Standards.

In addition to the pavement width variance and deviation requested by the applicant, Public Works staff has determined that the pavement width may need to be as narrow as 22 feet depending upon how the intersection at Edgefield Avenue/SW 10<sup>th</sup> Street is designed.

#### VARIANCE ANALYSIS FOR VARIANCE FROM STREET STANDARDS

**TDC 6.215 A. Special circumstances or conditions including, but not limited to, lot size, lot shape, topography, or size or shape of building, apply to the property, development, or to the intended use and are not typical of the general conditions in the surrounding area;**

The topography, shape of the parent lot and the terms of the settlement agreement for nine lots are unique to this site. The criterion is met.

**TDC 6.215 B. The variance authorized will not be injurious to adjacent properties or the surrounding neighborhood or otherwise detrimental to the public welfare;**

The reduced right-of-way width still accommodates all necessary utilities and sidewalks and two-way traffic.

As this is a public, not a private street, the Deputy Fire Marshal's condition to prohibit parking on both sides of the street does not apply to public streets. The City of Troutdale allows parking on one side of a public street that has a width of 24-feet. If more right-of-way can be obtained and pavement is widened to 28-feet, parking would be permitted on both sides where there is 28-feet of pavement. The subdivision may be

approved, as proposed, with a condition limiting on-street parking to only one side, unless the tentative plat is modified so that there is 40-feet of right-of-way and a paved street 28-feet wide (condition number 4).

The Deputy Fire Marshal's comment, about needing a street pavement of 26 feet at a fire hydrant only applies to private streets, not a public street, and thus the proposed 24 feet is not in conflict with applicable fire codes.

**TDC 6.215 C. The variance authorized will be consistent with the general purpose and intent of the provision from which a variance is sought; and**

The purpose of the street cross section standards are to provide pedestrian sidewalks on both sides, travel lanes wide enough for cars to pass easily and allow for emergency vehicle access, utilities and street trees. The proposed street cross section still allows for all these features except parking on both sides and street trees within the right-of-way. Parking will be limited to only one side of the street unless the pavement can be widened to 28-feet.

**TDC 6.215 D. The variance is the minimum necessary to relieve a practical difficulty and the resulting hardship.**

The applicant has expressed that a narrower public street is necessary to minimize development within the steep slopes of this property.

Staff would add that if a full 50-foot right-of-way were platted then lots would need to be smaller than proposed in order to have nine lots on this unusually shaped property.

It is possible to obtain a 40-foot right-of-way with a 28-foot wide street for most of the street, as follows:

Relinquish five-feet from the 12-foot access easement on the south property line of subject site (Lot 1) and shift Lots 1 through 4 south. The subject easement was provided for the benefit of the public and the City of Troutdale and was recorded with Partition Plat No. 2002-79 to provide pedestrian access to a future park area on the County property north of Sedona Park and west of the subject site. If the Council and D.A. Grey both agree through this action that relinquishment of five-feet of that easement is desired in order to allow for parking on both sides of most of SW 10<sup>th</sup> Way by widening the proposed right-of-way to 40 feet to accommodate a 28-foot paved street, the relinquishment can be shown on the face of the subdivision plat.

The widened right-of-way may also necessitate a five-foot street side yard setback for Lot 2. If so, staff would recommend approval from a variance from the street side yard setback for Lot 2 to allow a reduced street side yard setback of five feet instead of 10 feet, based upon the variance analysis for the front yard setbacks (see pages 15 to 18 of this report).

The variance criteria can be met with conditions. The Public Works and Community Development Directors both recommend that Council approve the variances from the street standards of the Town Center Overlay District and deviations from the Construction Standards for Public Works Facilities for public streets provided that parking is limited to only one side of the street unless the right-of-way is widened to 40 feet and the pavement is widened to 28 feet, where possible, and that the new street be designed to meet all other applicable Development Code standards and the Construction Standards for Public Works Facilities and applicable fire codes (condition number 4).

**TDC 7.180 L. Streets. No subdivision or partition shall be approved unless the development has frontage or approved access to an existing or proposed public street. In addition, all proposed public streets shall be designed, improved, and in conformance with the City of Troutdale *Construction Standards For Public Works Facilities*. The Director of Public Works must approve the construction drawings.**

One new street is proposed. All lots will have frontage on and take access from the new street. Access to the site from 257th Avenue will be restricted to comply with Multnomah County Transportation standards and the following standard:

**TDC 7.180(L)(7). Access to arterials. When a major partition or subdivision abuts an existing or proposed arterial, access to such streets may be limited by one of the following means:**

- a. **The subdivision of lots so as to back onto the arterial and front onto a parallel local street.**

SW 257<sup>th</sup> is an Major Arterial under the County's street classification system. Access to the subdivision will be via SW Sturges, SW Ellis, SW Mitchell, SW Edgefield and SW 10<sup>th</sup> and 11<sup>th</sup> Streets in the plat of Sedona Park.

Access to and from the site to 257<sup>th</sup> Avenue will be restricted to emergency vehicles only (condition number 5).

None of the lots take access from the arterial. Lots 1, 4 and 5 have frontage on 257<sup>th</sup> Avenue, and there will be no permanent, temporary or intermittent vehicle access allowed from these lots (condition number 5).

**TDC 7.180(L)(8). Curve radius.** The curve radius at each local-local street right-of-way intersection shall be in accordance with the *City of Troutdale Construction Standards for Public Works Facilities* unless otherwise approved by the Director of Public Works. The curve radius at each local-county or local-state street right-of-way intersection shall be in accordance with county or state standards, respectively.

The curb radii at the SW Edgefield Avenue / SW 10th Street intersection should be at least 25 feet. The curb radius on the north side of the proposed public street intersection does not meet the standard and a deviation from the *Construction Standards for Public Works Facilities* is necessary.

The proposed public street intersection will have curb returns spaced less than 20 feet from the adjacent driveways, and will require a deviation from the *Construction Standards for Public Works Facilities*.

The Public Works Director does not object to these two additional deviations from the *Construction Standards for Public Works Facilities*.

**TDC 7.180(L)(9). Street signs.** The subdivider shall pay the cost of street signs prior to the issuance of a Certificate of Completion. The City shall install all street signs and upon completion will bill the developer for costs associated with installation. In addition, the subdivider may be required to pay for any traffic safety devices related to the development. The type and location of the street signs and/or traffic safety devices shall be specified by the Director of Public Works.

The street name shall be SW 10<sup>th</sup> Way (condition number 4). The developer will be responsible for paying the City for all signage and striping necessary on this street, including, but not limited to, the street name sign, no parking signage, as necessary, and signage necessary to identify that SW 10<sup>th</sup> Way is not a through street and that there is no access from SW 257<sup>th</sup> Avenue other than for emergency vehicles, bicycles and pedestrians (condition number 4).

**TDC 7.180(L)(10) Cul-de-sac,** does not apply.



**TDC 7.180(L)(11). Surfacing and improvements. Public streets, including alleys, within the development shall be improved in accordance with the requirements of the City or the standards of the Oregon Department of Transportation. An overlay of asphaltic concrete, or material approved by the Director of Public Works, shall be placed on all streets within the development. When required by the Director of Public Works, neighborhood traffic management measures shall be constructed in conformance with the City's standards and specifications.**

Public Works staff will evaluate compliance with this standard during review of the construction drawings.

**TDC 7.180(L)(13). Intersections. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75° shall not be acceptable. An oblique street should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any one point unless specifically approved by the Director of Public Works.**

The applicant states that the intersection of the new street with the knuckle at SW 10<sup>th</sup>/SW Edgefield occurs at an angle of approximately 90 degrees. The standard is met.

**TDC 7.180(L)(14). Street lighting. A complete street light system including, but not limited to, conduits, wiring, junction boxes, transformers, controls, bases, poles, mast arms, and luminaires shall be designed and installed by the subdivider at his/her expense on all streets within or abutting the subdivision. The design must comply with the standards of the Mid-County Lighting District and the standards of the Troutdale Municipal Code, Chapter 8.26, Outdoor Lighting. The Mid-County Lighting District will assume ownership and maintenance responsibility for all street lighting systems within public right-of-ways.**

- a. **The design must be reviewed and approved by the Mid-County Lighting District to ensure compliance with its standards and list of acceptable materials. A copy of that written approval document must be provided to the City for its records.**
- b. **The design must be included as an integral part of the subdivision construction drawings for review and approval by the City to avoid conflicts with other utilities and structures.**

Compliance with this standard will be determined during construction review once the tentative plat has been approved. This is the standard procedure.

**TDC 7.180 M. Street Standards.**

**TDC 7.180(M)(3). Local streets. Local streets provide access to abutting land uses and do not serve through traffic. Local streets may be further classified by adjacent land use such as residential, commercial, and industrial. Their primary purpose is to serve local pedestrian, bicycle, and automobile trips in urban areas.**

The proposed street will be a local street.

**TDC 7.180(M)(4). City streets shall be designed in accordance with the *City of Troutdale Construction Standards for Public Works Facilities*.**

The street does not meet all the standards of the Construction Standards. Variances were requested. See the prior discussion of street standards and the variance analysis and recommendation on pages 21 through 23.

**TDC 7.180(M)(5). Streets belonging to other jurisdictions shall be designed in accordance with the standards of the governing jurisdiction.**

SW 257<sup>th</sup> Avenue is a County Major Arterial street. Multnomah County Land Use and Transportation Program reviewed the subdivision application. Comments from County Transportation staff were submitted to the City. Multnomah County does not object to the proposal provided that the measures outlined in the County's comments are included as conditions of approval. The County's comments are summarized as:

- A guardrail along the southern portion of the site's frontage, south of the emergency access driveway, is recommended.
- A County Construction Permit is necessary. The development may require reconstruction of a portion of the 257<sup>th</sup> Avenue roadway.
- A County access / encroachment permit is required.
- The emergency access driveway is to be gated in a manner approved by the fire department.

Condition number 5 pertains to County conditions.

**TDC 7.180(D). Street trees.**

- 1. Developers of proposed nonresidential subdivisions shall be required to prepare a street tree planting plan prior to submission of**

- the final plat. It will be the developer's responsibility to install street trees, as indicated on the approved plan.**
- 2. Developers of proposed residential subdivisions shall be required to pay the City a street tree assessment in accordance with the fee schedule adopted by resolution of the City Council. The City will be responsible for planting the trees at the time the residential lots are occupied.**
  - 3. Street trees shall be maintained by the property owner in conformance with Chapter 13.10, Trees, of the Troutdale Municipal Code.**

Due to the narrowness of the proposed public right-of-way and the constraints for development of this site caused by topography and shape, the street is not designed with a planter strip—a variance was requested to eliminate the planter strip. The street tree fee is still required: based on the length of SW 10<sup>th</sup> Way (the new street), the payment shall be for a minimum of 17 street trees (condition number 6).

The street tree fee does not apply to the street trees on 257<sup>th</sup> Avenue. Street trees along SW 257<sup>th</sup> Avenue are required to be purchased and planted by the developer provided there is room within the County's easements and provided they will not conflict with the guardrail placement (condition number 6). Details of street tree placement shall be incorporated into the County permits for access/encroachment into 257<sup>th</sup> Avenue.

**TDC 7.180 J. Utility easements. A minimum five-foot wide utility easement shall be required along the front of all lots. In addition, utility easements will be required for public utilities on private property.**

Six-foot utility easements on the public street are proposed: a five foot utility easement meets the standard (condition number 4).

**TDC 7.180 N. Transit Facility Design. Any Type II land divisions where further divisions are possible, and all Type III land divisions, shall comply with the requirements of section 8.056, Transit Facility Design, of this code.**

SW 257<sup>th</sup> Avenue is a transit street. There is a bus stop north of this site near the entrance to the Troutdale Terrace apartments. Tri-Met has not commented on this subdivision even though a notice was sent to that agency. Due to the curve and slope and speed of this section of SW 257<sup>th</sup> Avenue additional bus shelters or stops are likely inappropriate.

**TDC 7.040 B.3. PUBLIC UTILITIES, INCLUDING WATER, SEWER, AND STORMWATER DRAINAGE TO SERVE THE PROPOSED SUBDIVISION CAN BE PROVIDED IN ACCORDANCE WITH THE CITY OF TROUTDALE CONSTRUCTION STANDARDS FOR PUBLIC WORKS FACILITIES.**

**TDC 7.180 B. Water facilities. Waterlines and fire hydrants serving the subdivision or partition, and connecting the development to city mains, shall be installed to provide adequate water pressure to serve present and future consumer demand. The materials, sizes, and locations of water mains, valves, hydrants, service laterals, meter boxes, and other required appurtenances shall be in accordance with the standards of the fire district, the city, and the state.**

The applicant appears to be able to provide adequate facilities for water service within the subdivision. Further details of water system design and construction will be addressed in the civil plan review (also called the subdivision plan review) process (condition number 4)

A fire hydrant is proposed in front of Lots 6 and 7, but this may not be necessary, if the existing fire hydrant west of the site meets the GFES standard (see condition number 2).

**TDC 7.180 C. Underground utilities. All subdivisions or major partitions shall be required to install underground utilities including, but not limited to, electrical, cable television, and telephone wiring. The utilities shall be installed and easements provided pursuant to the requirements of the utility company. Electric power transmission lines, or primary feeder lines, and transformer vaults shall be underground.**

This standard shall be adopted as condition number 4.

Street lighting within the City of Troutdale is under the jurisdiction of the Mid-County Lighting and the street lights are to be installed in compliance with the District (condition number 4).

**TDC 7.180 H. SEWERAGE FACILITIES.**

- 1. General provisions. The subdivider shall install sanitary sewer facilities in a manner prescribed by the Department of Environmental Quality and the Director of Public Works. Where sanitary sewer facilities are not required, an individual disposal system shall be used. The individual disposal system, including the size of the septic tanks, tile fields,**

**or other treatment device, shall be approved by the City of Portland Bureau of Environmental Services.**

**2. Sizing system. Sanitary sewer systems should be designed for the ultimate tributary population, which should be determined by consideration of the current zoning and Comprehensive Land Use Plan designations. Sewer capacities should be adequate to handle maximum hourly quantities of sewage and industrial waste together with an adequate allowance for infiltration and other extraneous flow and must meet city construction standards.**

The applicant appears able to provide adequate facilities for sanitary sewer service within the subdivision. Preliminary plans show these utility lines on drawing 3. Public water, sanitary sewer and storm sewer lines will be within the new right-of-way. Further details of the sanitary sewer design and construction will be addressed in the civil plan review process. Construction shall comply with the City of Troutdale *Construction Standards for Public Works Facilities* and conditions as specified in condition number 4.

Only one sanitary sewer lateral is allowed per lot (condition number 4).

Basement pumps for Lots 5 to 9 shall connect to private laterals, not directly to the public main (condition number 4).

Stormwater drainage is analyzed beginning on page 34 of this report.

**TDC 7.040 B.4. RESIDENTIAL AREAS SHALL BE PROTECTED FROM POTENTIAL NUISANCE FROM A PROPOSED COMMERCIAL OR INDUSTRIAL SUBDIVISION, TO THE EXTENT FEASIBLE OR POSSIBLE, BY PROVIDING EXTRA DEPTH IN PARCELS BACKING UP ON EXISTING OR POTENTIAL DEVELOPMENTS, A LANDSCAPED BUFFER STRIP, AND OTHER SIMILAR MEASURES.**

TDC 7.040.B.4 does not apply because this is a residential subdivision abutting residentially zoned properties.

**TDC 7.040 B.5. PHYSICAL LIMITATIONS OF THE SITE SUCH AS FLOOD OR SLIDE HAZARD, NATURAL FEATURES, OR ANY OTHER CONSTRAINT SHALL BE ACCOMMODATED WITHIN THE DESIGN OF THE PROPOSED LAND DIVISION.**

**TDC 7.180 Subdivision Design Requirements.**

**A. Character of the Land. Land which the Planning Commission finds to be unsuitable for development due to flooding, improper drainage,**

**steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the partition or subdivision and the surrounding areas, shall not be developed unless adequate methods are formulated by the subdivider and approved by the Planning Commission, upon recommendation of the Director, to solve the problems created by the unsuitable land conditions. Such land shall be set aside as separate tracts for uses as shall not involve such a danger.**

The site has physical limitations consisting of steep slopes (slopes of 25% and greater) in the northerly area, easements along the west, south and east property lines, and access restrictions. The reduced public street dimensions respond to the limitations upon construction within the steep slope area of the site.

The steep slopes are depicted on the applicants drawings Sheet 1 and 2. Limited development will occur within the steep slopes of this site. Development on steep slopes is permitted provided the development meets the standards of the Vegetation Corridor and Slope Overlay District (VECO).

#### VECO DEVELOPMENT STANDARDS

##### **TDC 4.312 Uses within the Vegetation Corridor and Slope District.**

###### **A. Permitted Uses within the Vegetation Corridor and Slope District.**

**7. Any permitted use in the underlying zoning district developed in compliance with section 4.315, Development Standards, of this chapter.**

The houses on Lots 6 and 9, are permitted uses. Based upon the slope map (Sheet 2) the entire backyards of Lots 5 through 9 will be significantly sloped, although not entirely in steep slopes of 25% or greater. Thus, it will be difficult for the new owners to determine where the steep slope area begins and ends. Because of this situation, the approval procedures of TDC 4.313 shall apply to uses anywhere in the rear yards of these lots (condition number 10) not submitted with the building permit application for the dwelling on Lots 6 through 9.

**TDC 4.315 Development Standards. Permitted uses in the vegetation corridor and slope district are to be developed in compliance with the following development standards:**

**TDC 4.315A. New Development. 1. The applicant shall demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the vegetation corridor and slope than the one proposed.**

As part of its LUBA settlement with the developer, the City has determined that there is no reasonably practicable alternative design or method of development that would have a lesser impact on the slope than the one proposed.

**TDC 4.315A. New Development. 2. If no such reasonably practicable alternative design or method of development exists, new structures and development shall be limited in scale, as specified in this section, so that the impacts on the vegetation corridor and slope district are the least necessary and the plans shall include restoration, replacement, or rehabilitation of the vegetation corridor and/or slope associated with the site:**

The dwellings on Lots 6 and 9 minimally encroach into the steep slope. However, Lots 5 through 9 all have slopes, and because the fill conditions of the entire site are unknown, a certified geotechnical engineer's evaluation is required for all lots in the subdivision at the time of submission of plans for review and construction permits. Construction on the lots created by this subdivision will be evaluated and inspected in accordance with the applicable adopted Oregon Specialty Code (condition number 9).

- a. Notwithstanding the provisions of chapter 6.220, Type II Variance, of this code, a maximum of 30% of the total area of the vegetation corridor and slope district on the lot may be used for the development, inclusive of any walkways, driveways, patios, decks, accessory buildings, and similar impervious features.**

The houses will only use 1.16% of the steep slope area (applicant's narrative page 7). Part "a" of the standard is met.

**TDC 4.315A. New Development. 3. The applicant shall provide mitigation to ensure that impacts to the functions and values of the vegetation corridor and integrity of the slope will be mitigated or restored to the extent practicable.**

This VECO development standard that requires mitigation for lost / removed vegetation cover on a slope, works in concert with the following subdivision standard:

**TDC 7.180 K. Preservation of natural features and amenities. Existing features which would add value to developments or to the city as a whole such as trees, watercourses, beaches, historical places, and similar irreplaceable assets, shall be preserved in the design of the development. No trees shall be removed from any development nor any change of grade of the land effected until approval of the final plat has been granted. All trees on the site which have been designated to be retained shall be preserved using best management practices as specified in an arborist's report.**

All disturbance within the steep slope area necessary for the construction of the dwellings on Lots 6 and 9 can be mitigated through adequate erosion control and protection of the remaining steep slope area. The applicant proposes to retain the steep slopes on Lots 5 through 9 as open space to comply with TDC 4.315.A.3.d.

To comply with TDC 4.315(A)(3), existing trees and plants within the steep slope area outside of the building envelope are to be retained wherever possible. If trees must be removed, then evaluation must be made under the tree removal standards of the Municipal Code as follows:

**TMC 13.10.270 Tree removal. B. The requirements of this section apply only to trees having a trunk six inches or more in diameter, maximum cross section, measured at a point four and one-half feet above the ground on the upslope side of the tree. If a tree splits into multiple trunks below four and one-half feet, the trunk is measured at its most narrow point beneath the split.**

The applicant has inventoried the trees and there are a few trees that are six-inches in diameter or greater that will be removed. These criteria of TMC 13.10.270D, apply:

- 1. If a tree is diseased, hazardous, in danger of falling, in close proximity to existing structures or proposed construction, or interferes with utility services or pedestrian or vehicular traffic safety;**
- 2. If the tree removal will have no significant impact on erosion, soil retention, stability of earth, flow and character of surface waters and streams, protection of nearby trees and windbreaks; and, if the tree removal will have no significant impact on the environmental quality of the area, including scenic and wildlife habitat values;**
- 3. If the tree removal is necessary in order to construct reasonably required improvements; or**



**4. If, in the opinion of the fire marshal, tree removal is necessary to protect existing or proposed structures.**

The trees identified for removal may be removed as the trees will be within the street or building envelopes.

**TDC 4.315A. New Development. 4. The use satisfies all applicable standards of chapters 4.600, Flood Management Area, 5.600, Erosion Control and Water Quality Standards, and 5.800, Stormwater Management, of this code.**

The site is not within the Flood Management Area.

**TDC 7.180 F. Erosion control. Erosion control shall be provided in accordance with chapter 5.600, erosion control and water quality standards, of this code.**

**TDC 5.611 Applicability. An erosion control and mitigation plan shall be required and approved by the Director, or the Director's representative, under any of the following circumstances:**

**A. Prior to final plat approval for any subdivision, in accordance with section 7.100, Final Plat Submission, of this code.**

Erosion control is required and is proposed.

The preliminary grading and erosion control plan (applicant's drawing Sheet 4) shows compliance with the use of erosion control fencing, the construction driveway preparation and stormwater inlet protection.

Erosion control protects water quality during and after construction until vegetation is established. Erosion control must be installed and maintained in compliance with the State's DEQ's National Pollutant Discharge Elimination System (NPDES) 1200-C Permit as the site is greater than one acre in area (condition number 7). The NPDES 1200-C permit is issued by the City of Troutdale. The fee is based upon DEQ fees. The permit is required prior to removal of any vegetation or topsoil except as necessary to install the erosion control fencing and construction entrance.

Erosion control approved under the NPDES permit is not an approval to begin grading the site. Grading of the site is subject to other City standards and grading of this site may not commence until the Public Works Director has issued the authorization to commence construction (condition number 4).

**TDC 7.180 G. Surface Drainage And Storm Sewer Systems.**

- 1. General provisions. No partition or subdivision shall be approved which does not make adequate provisions for storm or floodwater runoff in accordance with chapter 5.800, Stormwater Management, of this code. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Surface water drainage systems shall be approved by the Director of Public Works.**
- 2. Accommodation of upstream drainage areas. Culverts or other drainage facilities shall be large enough to accommodate potential runoff from the upstream drainage area, whether inside or outside of the development, that drains to the subject property. The Director of Public Works shall approve the size of the facility, based on the provisions of the construction standards and specifications, assuming conditions of maximum potential watershed development permitted by this code.**
- 3. Effect on downstream drainage. Where additional runoff incidental to the development of the subdivision will overload an existing drainage facility, approval of the subdivision may be withheld until provisions have been made for improvement of said potential condition.**
- 4. Drainage easement. A drainage easement shall be required when:**
  - a. Topography or other conditions make it infeasible to include public drainage facilities within existing or proposed public right-of-ways. The easement must provide an area at least 15 feet in width and include vehicular access to the easement area from a public street. The terms and conditions of the easement must be approved by the city; or**
  - b. Surface water from the development discharges onto or across private property, unless the post-development rate of discharge does not exceed the pre-development rate and the location of discharge onto the private property remains unchanged. If the easement contains drainage facilities that are to become public, the terms and conditions of the easement must be approved by the city.**

Drainage and stormwater conveyance shall be in accordance with TDC 5.800 and TDC 7.000 and the Construction Standards for Public Works Facilities. The applicant appears to be able to provide adequate facilities for storm sewer collection and conveyance within the subdivision.

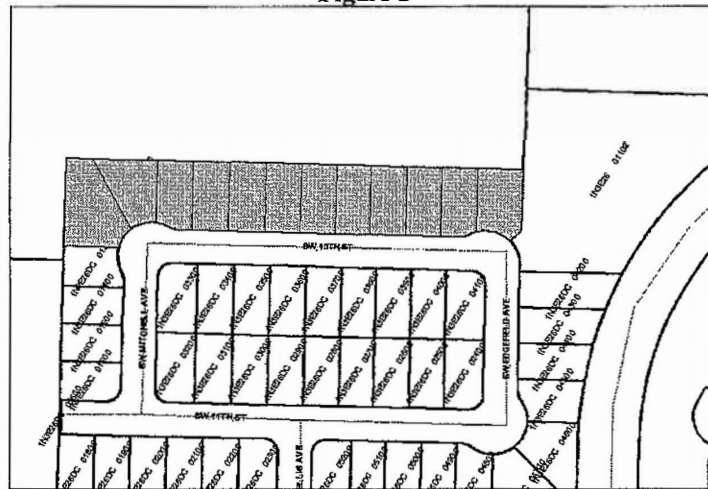
The applicant states that the erosion control and stormwater plans show measures that satisfy applicable standards to protect the slopes. The applicant refers the City to the

recommendations in the hydrology, geology and soils report for the site. Compliance with the geotechnical engineer's recommendations is expected (condition number 8).

Stormwater reports by Sisul Engineering were submitted specific to the 9-lot subdivision. Based upon the proposed grading plan for this site, stormwater will drain from this site in a northerly direction within a stormwater line in the new street and then across proposed Lot 5.

Based upon the stormwater report, the developer has proposed that the new public storm drain system will accommodate storm drainage from the site (Area 1 on applicant's map in the stormwater report) and future storm drainage from the streets in Sedona Park subdivision (Area 2 on applicant's stormwater report map), but the stormwater calculations exclude Tax Lots 100 through 1200 (Figure 3: all lots on the north side of SW 10<sup>th</sup> Street in Sedona Park) as these lots currently drain to private soakage trenches on each lot, not the public street.

Figure 3



Any public storm main not located within the right-of-way will require a utility easement. The proposed storm main on Lot 5 may need to be relocated to the right-of-way under the 257th Avenue sidewalk. The exact alignment of the proposed storm main will be determined during the Public Work's review of the construction drawings.

Rain drains, footing drains and under floor drains for dwelling units are required to be installed to divert storm water drainage from the dwelling and maintain safety of the dwelling they serve and to mitigate for adverse impacts on properties below the slope that these dwellings are on.

Because stormwater cannot gravity flow from Lots 5 through 9 to the public right-of-way and the storm line proposed in the new street, a private drainage easement will be necessary in the rear of Lots 5 through 9 to accommodate a private storm sewer pipe with an invert low enough to facilitate gravity drainage from the lowest point of footing contact with the soil to the public storm sewer main to convey stormwater from the dwellings on Lots 5 through 9 (condition number 8). The property owners will be responsible for maintenance of the private stormwater line within the easement on Lots 5 through 9.

Troutdale utilizes the City of Portland's Stormwater Management Manual for water quality treatment devices and sizing criteria, not the City of Gresham's. The stormwater calculations reference use of the City of Gresham's sizing criteria. Final water quality sizing calculations shall be submitted with the construction drawings for Public Works review showing compliance with the Portland Stormwater Management Manual (condition number 8).

The applicant proposes the use of a Stormfilter water quality treatment device for treatment of stormwater from this site. This technology is on the City of Portland list of approved proprietary stormwater treatment devices. Prior to issuance of the Certificate of Completion from Public Works, the developer shall submit an Operations and Maintenance (O&M) Plan for the water quality facility (condition number 8). Guidelines for the O & M plan can be found online on the city's website or contact Amy Pepper, the City's Environmental Specialist, for a copy of the guidelines. The applicant is responsible for maintenance of the water quality facility for two years following the issuance of the Certificate of Completion (condition number 8).

The erosion control and stormwater management standards adopted for water quality protection can be met with conditions and subdivision criteria B3 and B5 are met through compliance with the erosion and stormwater management standards.

**TDC 4.315 A. New Development. 5. All excavation over three feet in depth shall require submission of an engineering report addressing the hydrology, geology, and soils of the site as specified in this chapter. The siting, engineering, erosion control, water quality, and enhancement or revegetation of the site shall comply with the standards of this chapter. The applicant's engineering plans shall certify that runoff from the site will not increase above pre-development quantity and rate, and that visible and measurable erosion is prevented.**

This standard shall be a specific condition of the building permits for Lots 6 and 9 (condition number 9) and any grading activity in the steep slope area after the homes are built (condition number 8).

### Signage For Subdivisions

No subdivision or other private signage is proposed with this application. Should the applicant decide to have a sign for the subdivision, the sign must conform to the standards of TDC 10.060 Residential Signs. All private signage shall be prohibited along 257<sup>th</sup> Avenue (condition number 11).

### **CONDITIONS:**

1. Construct an eight-foot wide path within the City's 12-foot wide easement that runs along the west side of the site to a point as determined by the City that provides adequate access to a future park / open space area west of the site.
2. Comply with applicable fire codes, including but not limited to the following or as otherwise determined appropriate by the Fire Marshal:
  - a. The emergency access driveway onto 257<sup>th</sup> Avenue shall have a gate with a key box (Fire Department) or a lock that can be cut when access is needed. OFC D103.4.
  - b. The side walk and curb along 257<sup>th</sup> shall be cut and sloped to allow access to 257<sup>th</sup>. OFC 503.1.1.
  - c. Provide a minimum fire flow of 1000 gpm at 20 psi for homes less than 3600 square feet. Homes 3600 square feet and larger shall be per the table in OFC B105.1.
  - d. Provide a fire flow test from the water provider. OFC 503.1.1.
  - e. A fire hydrant shall be provided within 600 feet of all portions of all proposed structures. OFC 508.1. If more than 600 feet to a hydrant, then an on site fire hydrant shall be installed. OFC 508.1.
3. The developer is responsible to landscape and fence the lots adjacent to 257<sup>th</sup> Avenue as follows:
  - a. Construct a six-foot high privacy fence located 10 feet in back of the edge of the sidewalk on 257<sup>th</sup> Avenue.

- b. Plant ground-cover, shrubs and street trees between the fence and the sidewalk along 257<sup>th</sup> Avenue. Multnomah County Transportation must approve the location of shrubs and trees in order to avoid conflicts with utilities, maintenance of the roadbed, and the guardrail planned for this area.
4. The new local street shall be constructed to comply with the City of Troutdale *Construction Standards for Public Works Facilities*, except for the deviations authorized in this decision. Further details of street design and construction will be addressed in the civil plan review.
- a. The name for the new street shall be SW 10<sup>th</sup> Way to remain in concert with the established street names in the vicinity.
  - b. Unless the Public Works Director in concert with the Community Development Director determines that a narrower right-of-way or pavement width is necessary, the right-of-way shall be 40 feet wide and the pavement width in the right-of-way shall be a minimum of 28 feet. The public access easement within the southerly 12 feet of Lot 1 may be reduced a maximum of five feet, the paved walkway in said easement reduced to no less than five feet, and the street side yard setback for Lot 2 reduced a maximum of five feet, as necessary, to provide a 40-foot right-of-way width and 28-foot pavement width.
  - c. Construction equipment shall access the site via SW Edgefield Avenue.
  - d. A minimum five-foot utility easement is required along the City street frontage of the lots. The plat shall include City-approved easement language.
  - e. Extension of public utilities within the City street shall comply with the City of Troutdale *Construction Standards for Public Works Facilities*.
    - 1) All joints on water mains shall be restrained with mechanical joint restraints (EBAA Iron MEGALUG or approved equal) or gasket restrains (U.S. Pipe FIELD LOK or approved equal).
    - 2) When placed in concreted areas, meter boxes shall be standard lid (BCF1XXX-12-SL) models.

- 3) Further details of water system design and construction will be addressed in the civil plan review process.
  - 4) Only one sanitary sewer lateral is allowed per lot.
  - 5) Basement sanitary sewer pumps for Lots 5 through 9 shall connect to private laterals, not directly to the public main.
  - 6) Further details of sanitary sewer design and construction will be addressed in the civil plan review process.
  - 7) The applicant shall coordinate with the Mid-County Lighting District for design of street lighting related to this project.
- f. No construction activity other than erosion control measures under the NPDES 1200-C permit will be allowed until the Public Works Director has issued an "Authorization to Commence Construction."
  - g. The applicant shall coordinate with the Mid-County Lighting District for design of street lighting related to this project.
  - h. Any and all utility and transportation plans submitted with this application have been reviewed for the sole purpose of determining the feasibility of providing utility and transportation facilities for the project. This land use approval does not constitute approval of details, including but not limited to alignments, materials and points of access, connection or discharge, that are depicted or suggested in the application. The applicant is required to submit detailed construction drawings for the project. The City of Troutdale will review construction plans, in detail, when they are submitted and will approve, reject or require modifications to the plans or drawings based upon conformance with City standards, the TDC and the engineering judgment of the Chief Engineer.
  - i. A preconstruction conference with the City and other involved parties will be held prior to the commencement of infrastructure construction.
  - j. All infrastructure improvements must be inspected by authorized personnel from the Public Works Department. The cost of these inspection services shall be reimbursed to the City on a monthly basis and must be paid in full prior to the issuance of a Certificate of Completion.

- k. The Developer shall reimburse Public Works for labor and materials for all street signage and striping associated with the subdivision, including any required "No Parking" signage.
  - l. No model home construction will be permitted prior to the issuance of a Certificate of Completion.
  - m. All utilities shall be undergrounded within the subdivision.
  - n. The pavement section for SW 10<sup>TH</sup> Way shall be based upon the City of Troutdale standard pavement section for a Local Street.
  - o. The second lift of asphalt shall be constructed upon issuance of all Certificates of Occupancy or 2 years after the first lift is constructed, whichever comes first.
  - p. ADA ramps will be required at the proposed public street intersection.
  - q. A guardrail will be provided by the developer along 257th Avenue, and it shall be shown on the construction plans.
  - r. All lots shall take access from SW 10th Way: neither temporary nor permanent access from SW 257th Avenue to a lot is permitted.
5. Make improvements to the 257<sup>th</sup> Avenue frontage as required by Multnomah County Transportation, including but not limited to the following, or as otherwise determined appropriate by Multnomah County:
- a. Obtain all necessary permits from Multnomah County for any work within the 257<sup>th</sup> Avenue right-of-way or easements to the County.
  - b. Obtain a Construction Permit from Multnomah County for installation of a guardrail along the site's 257<sup>th</sup> Avenue frontage in a location to be approved by Multnomah County.
  - c. Access to the site shall only be from SW 10 Street / SW Edgefield Avenue, with the exception of emergency vehicles, pedestrians, and bicyclists. The driveway connection to 257th Avenue will be permitted for emergency access only and shall be gated.



- d. Obtain an access/encroachment permit from the County for the site's emergency/fire access onto 257<sup>th</sup> Avenue and sidewalk connections from the new internal public street to 257<sup>th</sup> Avenue. A copy of the permit must be submitted with the construction plans. The emergency access driveway shall be gated in a manner approved by the fire department. Contact Alan Young at (503) 988-3582 to obtain an access/encroachment permit.
  - e. The emergency access at 257<sup>th</sup> Avenue shall be designed and constructed to comply with applicable City, County and Gresham Fire and Emergency Service standards.
6. The developer shall pay the City street tree fee for 17 street trees, in addition, the developer shall purchase and plant street trees along the 257<sup>th</sup> Avenue frontage as permitted by Multnomah County.
  7. Apply for a National Pollutant Discharge Elimination System (NPDES) 1200-C Permit through the City of Troutdale. The permit is required prior to removal of any vegetation or topsoil except as necessary to install the erosion control fencing and construction entrance. Erosion control approved under the NDPEs permit is not an approval to begin grading the site.
  8. The following conditions pertain to the storm sewer system proposed. Further details of storm drainage design and construction will be addressed in the civil plan review process.
    - a. Submit final water quality sizing calculations with the construction drawings for Public Works review showing compliance with the Portland Stormwater Management Manual.
    - b. Rain drains, footing drains and under floor drains for dwelling units are required to be installed and must be maintained for the safety of the dwelling they serve so that the properties downstream will not be adversely affected. The drain invert shall be low enough to facilitate gravity drainage from below the lowest point of footing contact with the soil. All drains must have a minimum of one-foot of cover.
    - c. A private drainage easement in the back yards of Lots 5 through 9 is required to facilitate compliance with condition number 8b for Lots 5 through 9. The easement shall begin at the east property line of Lot 9 and continue through Lots 8, 7, 6 and 5 ending at the proposed storm sewer

line to be installed in the 257<sup>th</sup> Avenue right-of-way or easements in Lot 5, as necessary. The storm sewer drain shall comply with the Oregon Plumbing Specialty Code.

- d. Any public storm main not located within right-of-way will require a utility easement. Further details of storm drainage design and construction will be addressed in the civil plan review process.
  - e. Prior to issuance of the Certificate of Completion from Public Works, the developer shall submit an Operations and Maintenance (O&M) Plan for the water quality facility
  - f. The applicant is responsible for maintenance of the water quality facility for two years following the issuance of the Certificate of Completion.
  - g. All excavation over three feet in depth within slopes of 25% or greater on the site, shall require submission of an engineering report addressing the hydrology, geology, and soils of the site as specified in Troutdale Development Code Chapter 4.300 Vegetation Corridor and Slope Overlay District. The applicant shall submit engineering plans with the subdivision construction plans that certify that runoff from the site into the steep slope areas will not increase above pre-development quantity and rate, and that visible and measurable erosion is prevented.
9. Comply with applicable building, plumbing, electrical and mechanical codes, including, but not limited to submitting a certified geotechnical engineer's evaluation for each lot at the time of submission of plans for review and construction permits (building permits) and comply with the applicable adopted Oregon Specialty Codes.
10. The Approval Procedures of TDC 4.313 shall apply to uses anywhere in the rear yards of Lots 6 through 9 not submitted with the building permit application for the dwelling on Lots 6 through 9.
11. No private signage is permitted along the 257<sup>th</sup> Avenue frontage.
12. The tentative plat is valid for one year following approval, during which time the final plat drawings must be submitted to the Planning Division.
13. The final plat drawings shall include the statement that the plat is subject to the conditions of approval of City of Troutdale File No. 07-001.

14. Upon review and approval of the final plat drawings, the applicant shall provide at least three mylar drawings of the approved final plat along with the street tree fee. If the final plat is filed prior to completion of public improvements, the applicant must provide to the City a guarantee of 110% of the estimated value of all outstanding improvements.
15. The civil plans for the subdivision shall be submitted to the Planning Division with the Subdivision Plan Review fee as established by the City.
16. Pay applicable System Development Charges (SDC) fees at the time building permits are issued.
17. A maximum of 30% (3,158 square feet) of the steep slope area may be used for development. The square footage used shall be quantified on the construction plans for the subdivision and building permits.
18. The Council may consider at a future date, the vacation of the pedestrian easement at the southern end of this site. If that vacation is approved, the Development Director may approve an alternative design that moves the development south.

EXHIBIT C

