



December 3, 2024

NOTICE OF HEARINGS OFFICER FINAL DECISION

Subdivision Case 2024-12

You are receiving this Notice of Decision from the Hearing's Officer because you provided either written or verbal testimony on a proposed subdivision. Attached is a copy of the Hearings Officer's decision Subdivision Case 2024-12 for a 6-lot subdivision located at 1190-1210 Alder Drive NE, Keizer, OR also identified by Marion County Tax Assessor's Map No. 073W11BA Tax Lot 03900.

Any interested person, including the applicant, who disagrees with this decision, may appeal the decision to the City Council. Any such appeal must be filed with the Keizer Planning Department on an appeal form provided by the City. A fee of \$440.00 is required for any appeal filed. The appeal form is to be submitted to Keizer Planning Department, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. The appeal form and fee must be received by the City by 5:00 pm **December 13, 2024**. Please see the Section 3.207 (Appeal Provisions) in the Keizer Development Code, for more information.

If you any questions, concerns or comments regarding this decision, please contact the Keizer Planning Department at (503) 856-3439 or 856-3442.

All documents for this case can be viewed at:

<https://www.keizer.org/maps/location/Subdivision2024-12>



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

In the matter of the application of Richard Hall and Earl Hall, to subdivide an approximately 0.84 acre parcel into 6 lots, as to a parcel located at 1190-1210 Alder Drive NE in Keizer, Oregon (the “Alder Drive Addition”)

Case No. 2024-12

LAND USE ORDER

I. INTRODUCTION AND NATURE OF THE APPLICATION

This matter came before the City of Keizer Hearings Officer on the application of Richard Hall and Earl Hall, as applicants and property owners (herein, “Applicant”), for approval of a subdivision. The premises are located at 1190-1210 Alder Drive NE in the City of Keizer, Oregon (the “Premises”). The Premises are also identified on Marion County Tax Assessor Maps as Township 7 South; Range 3 West; Section 11BA; Lot 03900.

Applicant requested approval to subdivide one parcel of approximately 0.84 acre into 6 lots. The lots would encompass two existing residential structures, with one such lot configured in shape and size that a second dwelling could be built on it. The subdivision would also provide 4 new fee simple lots for constructing additional dwellings.

II. CRITERIA FOR DECISION

The standards and criteria that apply to the subdivision arise under Keizer Development Code (KDC) Section 3.108 and sections cited therein. The Staff Report dated November 12, 2024, fully recited the criteria and explained pertinent rationales and intentions embodied therein.

III. PUBLIC HEARING

Following public notice, the City of Keizer (City) held a public hearing on the applications on November 19, 2024. The Planning Department file was made a part of the record, as was the audio recording of the proceedings.

The Applicant was represented by Brian Vandetta of Udell Engineering and Land Surveying, who provided testimony on the application. Applicant Richard Hall also testified. City Staff were represented by Planning Director Shane Witham, City Engineer Richard Walker, and Assistant Planner Dina Horner.

At the beginning of the hearing, I made the declarations required by ORS 197.797. I had no ex parte communications to disclose, nor biases or conflicts of interest to report. I disclosed that I made a prehearing site visit to the subject property, including perusal of existing building layouts, accessways, and parking areas. These declarations also identified the criteria in the Staff Report; directed any comments be addressed to those criteria; and cautioned attendees that failure to raise issues or arguments in a manner that allowed persons to respond could preclude further appeal based on such issues. No person objected to the jurisdiction of the City or its hearings officer to hear and decide the application.

Planning Director Witham reviewed the application with a detailed summary. He explained the partial existing development of the site and the surrounding development, the proposed access easement, the proposed stormwater facilities, and other proposed details. He also explained that the location of the project near public transit excused the Applicant from following minimum parking space regulations that might otherwise apply to the development, but that it appeared Applicant was providing ample parking for all dwelling units. He also explained that the Keizer Fire District submitted comments, among them a request for Applicant to follow the District's requirement to install parking regulatory signage on the access easement.

Planning Director Witham advised that the staff report contains a detailed set of approval conditions. He also identified that because the Alder Drive street buildout did not employ street trees in this location, that Applicant would install additional trees resulting in a planted streetscape as seen from passersby in the right-of-way. Going forward, he advised, to the degree the City approves the Application, further construction authorized herein would occur through the administrative building permitting process.

Planning Director Witham located and presented an email from Alex Cautley, dated October 23, 2024, which communicated opposition to the Application. He entered the item into the record.

Applicant's representative Brian Vandetta appeared and summarized the application. He presented his opinion that the infiltration ratios for the rain gardens were sufficient to adequately drain stormwater from the site. He confirmed that earlier stormwater analysis from 2022 remained valid. He also explained the potential scope of recorded maintenance agreements.

As to the proposed rain gardens, Mr. Vandetta explained that the Applicant would follow City planting instructions for permissible use of native and non-native plantings in the rain garden bowls and aprons. He advised that his firm would include an Operations and Maintenance plan as part of any recorded maintenance agreement. Mr. Vandetta also stated that there would be increased tree plantings and new rain gardens constructed at locations between the structures and the right-of-way.

As to the conditions of approval, Mr. Vandetta accepted the conditions of approval annexed to the Staff Report, and confirmed that this acceptance includes right-of-way dedication required of those conditions.

As to vehicular parking, Mr. Vandetta explained that current and proposed parking spaces would be clearly marked and established within fee simple lots. The private ownership of these spaces would reasonably prompt owners or property managers to complain to entities such as the City for any parking enforcement.

Project Owner Richard Hall appeared and answered staff questions. Mr. Hall discussed his background owning rental properties and engaging property management firms. He confirmed that management firms would enter into towing contracts directly, and he would expect such firms to undertake or oversee duties to secure needed vehicle enforcement or impoundment.

IV. FACTS AND FINDINGS

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

After taking the matter under advisement, I issue the following findings of fact and decision.

A. Summary of findings and conditions

First, I find that the application properly identified the Premises by location and ownership. The Premises contain two buildings at present. The Application will place each building on a discrete lot, adding a second building on proposed Lot 1, and add four lots to allow four townhomes to be built, likely in two structures of two homes each. There are adequate public facilities available to serve the development.

Next, as Staff has explained, the property is designated Medium High Density Residential and zoned Medium Density Residential (RM). All properties adjacent to the Premises are zoned RM and improved with residential dwellings.

Third, the 42-page Staff Report is a thorough, balanced, and reasoned explication of the criteria and the evidence that relates to the criteria. The Staff Report does an exemplary job of presenting a neutral yet thorough explanation of how the application, with conditions, satisfies the criteria. I incorporate by reference the Staff Report in its entirety as the backbone of facts, findings, conclusions, and conditions in support of approving the Application.

Next, following Applicant's oral acceptance of all recommended approval conditions, I find as a matter of law that Applicant has accepted them including right-of-way dedication.

Finally, apart from the Cautley email discussed below, I discerned no conflicting evidence in the record which would have required me to render findings to decide between such conflicts. Similarly, the arguments and evidence did not require me as the Hearings Officer to render any independent interpretations of the Keizer Development Code or other pertinent regulations.

B. Findings and conclusions as to Cautley email of 23 October 2024

As an initial matter, I embody here my oral finding at the hearing that this communication is included in the record. The letter raises three issues: excessive size; out of neighborhood character; and a burden upon property values. The evidence, though, does not support these.

As to size of the development, I find that the 0.84 acre development is consistent in size with parcels or other infill opportunities in the vicinity of Alder Drive. Indeed, there is a 4.65 acre property due south of the proposed development, full buildout of which (though not proposed here in any way) could rival the proposed development.

Similarly, there was no evidence presented by the fire or school districts that those agencies could be challenged in capacity or service standards by the addition of additional dwellings in this application. Indeed, the school district's comments allow me to infer that development of this parcel (and others) is anticipated in school district capacity.

As to neighborhood character, the existing dwellings have exterior appearance of single-family dwellings, and I find this character will not change under this Application. Pertinently too, more dense development at the south end of the parcel will be at least partially screened from views along Alder Drive by existing building envelopes and installation of new trees and future rain gardens. The on-site mix of densities will provide visual interest, as opposed to monolithic buildings, and will allow the site to intensify without adverse affects.

Finally, as to property values it is true that the proposed development will be denser than some existing single-family housing stock in the vicinity. However, I discern no evidence that this would translate such intensity into economic depression. If anything, I find that the increased planting and streetscape will add visual interest; that the new dwellings are likely to increase the local tax base; and that these factors are at least value-neutral if not a long-term benefit to economic value in the vicinity and the City as a whole.

V. DECISION AND CONDITIONS OF APPROVAL

I find that the record as a whole contains substantial evidence, including but not limited to the application, Staff Report with attachments, and testimonial evidence. The substantial evidence indicates that the proposal complies with all applicable criteria. Accordingly, I **APPROVE** the application subject to the Conditions of Approval set forth below. Applicant shall complete

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these conditions, including review and approval by the appropriate department, prior to the stated timelines. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant and/or property owner.

1. The KDC requires the developer to connect to public utility services. The Development Code also requires all utility services to be placed below ground. These requirements apply to this request. Further, the developer is responsible for all utility connection costs. The City's System Development Charges for park development, water system improvements and transportation improvements shall be the fee in place at the time of building permit application. These Development charges, as well as those involving the extension of sewer, water, and/or storm drainage, will apply to this request.
2. The Public Works Department has reviewed the development application, preliminary construction plans, stormwater report, and supporting information, and recommends the following conditions of approval and development requirements:

General:

- a) Construction permits will be required for any construction within a public street, right-of-way, or City easement, for any public infrastructure on private property, and for erosion control and stormwater management on private property. (KDC 2.302.06)
- b) Street opening permits are required for any work within the public right-of-way or City of Keizer easement that is not covered by a construction permit. (KDC 2.302.06)
- c) Erosion control permits shall be obtained from the City prior to the disturbance of any soil on the subject property. (KDC 2.306.05)
- d) A pre-design meeting with the City Public Works Department will be required prior to the submittal of public improvement plans to either the City of Keizer or the City of Salem for review.
- e) An improvement agreement in a form acceptable to the City shall be required prior to issuance of permits for construction of the public improvements. (KDC 3.202.05.B)
- f) A pre-construction conference shall be required prior to commencement of any construction under permits issued by the City.
- g) The Applicant shall coordinate the location of individual or cluster box unit (CBU) mailboxes with the U.S. Postal Service.
- h) Electricity, gas, and communications services to serve the subdivision shall be installed underground and pursuant to the requirements of the company serving the development. (KDC 2.307.02.C)

Streets:

- a) Dedicate right-of-way along the development side of Alder Drive NE to half of the standard 68-foot-wide collector street right-of-way – 34 feet measured from the right-of-way centerline. (KDC 2.302.03.F; 2.302.04)
- b) Dedicate a 10-foot public utility easement (PUE) along the frontage of the Alder Drive NE street right-of-way. (KDC 2.302.04)
- c) Construct the proposed driveway approach in accordance with Design Standards. (City of Keizer Design Standards)
- d) Construct the proposed private internal shared driveway with an approved turnaround meeting City of Keizer Design Standards. (KDC 2.302.08.C).
- e) Close the existing easternmost driveway onto Alder Drive NE. (KDC 2.302.03.N)
- f) Vehicular access to the existing dwellings and proposed lots shall be provided from the private internal accessway and access easement. (KDC 2.302.03.N)

Sanitary Sewer System:

- a) Any proposed public sanitary sewer main requires approval from the City of Salem. Applicant is advised that public mains outside of the right-of-way generally require a design exception. (Salem PWDS)
- b) Any proposed public sanitary sewer main shall be located in an easement meeting the requirements of the City of Salem PWDS. This easement shall be dedicated to the City of Keizer. (PWDS 1.8(b))
- c) City of Salem approval for local sewer permits will need to be issued prior to construction. Prior to submitting plans to the City of Salem for approval, the Applicant’s engineer shall submit plans to the City of Keizer Public Works Department for review and determination of compliance with the City’s Master Sewer Plan for the area.
- d) It will be the responsibility of the Applicant to locate any existing sewer services that serve the subject property and provide evidence that they are available for reuse. Any septic tank and drainfield located on the subject property and within the City of Keizer shall be abandoned according to the requirements of the appropriate agency and evidence of compliance submitted to the City prior to issuance of any building permits on the subject property.

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Water System:

- a) Construct a new public water main conforming to City of Keizer Design Standards within the shared area of the site to serve the existing triplex, the proposed duplex, and proposed Lots 3 through 6. Meters to serve these structures and lots shall be located along this main. (City of Keizer Design Standards 500)
- b) The proposed public water main and water meters shall be located in an exclusive easement, dedicated to the City of Keizer, and be a minimum width of 10 feet. (City of Keizer Design Standards 500.3.D.4)
- c) Location of all water meters shall be approved by the Public Works Department.
- d) Final development plans shall be reviewed by the Keizer Fire District regarding access and adequate location of fire hydrants prior to any issuance of Public Construction permits by the City of Keizer. All required fire hydrants shall be served by an 8-inch or larger water main.
- e) Any existing wells on the subject property shall be abandoned in accordance with the Oregon State Water Resources Department requirements. The Applicant shall provide evidence to the Public Works Department that any abandonment of existing wells has been completed in accordance with such requirements.

Storm Drainage System:

- a) The existing 12-inch storm drain in Alder Drive NE may be used as an overflow route for the proposed storm drainage system serving the development. (City of Keizer Design Standards 400.2.C; KDC 2.306.04.D)
- b) The stormwater facility and conveyance system shall be designed to collect and convey stormwater runoff from all onsite and offsite areas to an approved Point of Connection. (City of Keizer Design Standards 400.1.D.5)
- c) Construct stormwater collection, conveyance, treatment, and retention facilities to accommodate new impervious surfaces in the proposed access easement and right-of-way, and future impervious surfaces on all proposed lots, in accordance with City of Keizer Design Standards Chapter 400.
- d) An easement shall be provided for all shared stormwater facilities prior to acceptance of the improvements.
- e) Stormwater runoff from all building roof and foundation drains shall be conveyed to the proposed stormwater facilities.

- f) Public Works has reviewed the preliminary stormwater plans and report provided with this application. The information provided predates the current Chapter 400 of the City of Keizer Design Standards (published February 2023). The Applicant’s engineer will need to evaluate and update the report to ensure conformance with current requirements. The Applicant’s engineer shall submit a final overall storm drainage and grading design with supporting calculations, demonstrating conformance to the Standards, including an approved overflow route, for review and approval.
- g) A grading and drainage plan shall be provided for the subject property in conformance with the City of Keizer Design Standards. The plan shall include details of adequate stormwater conveyance from all contributing areas across the subject property and shall include existing elevations and proposed lot corner elevations. The plan shall be submitted to and approved by the Public Works Department prior to the issuance of any erosion control or construction permits for the development.

Prior to Preliminary Plat Approval:

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

The detailed preliminary plat shall include the following provisions:

- g. The preliminary plat shall substantially conform to the proposed subdivision request.
 - h. Include all engineering elements as required by the Department of Public Works.
 - i. For all public water mains, fire hydrants and any public sewer mains located within the subject property (if located outside platted rights-of-way) easements will be required and will need to be recorded. These easements shall meet the City of Keizer or City of Salem (where applicable) Design Standards and shall be shown on the subdivision plat.
 - j. 10-foot-wide public utility easements (PUE) shall be shown along all dedicated rights-of-way.
 - k. The access easement and turnaround areas must be shown on the plat with approved street name. Access easement shall comply with City and Keizer Fire District standards.
 - l. All lots must conform to the lot dimension standards within the RM zone. The final plat must show both gross and net area calculations. (excluding access easement and turn-around)
 - m. Include all dedication as required by Public Works.
 - n. Include a signature line for Planning Director, City Engineer, and the City Manager.
4. With the Preliminary plat a copy of the proposed CC&R's, Owners Agreements, Articles and By-Laws shall be submitted to the Planning Department for review by the City Attorney as outlined in Section 3.108.07 of the Keizer Development Code. The following information should be included within the instrument(s):
- a. Information regarding streetscape and replacement tree requirements for each lot.
 - b. Information regarding the private access easement and restriction of vehicular access to be limited to the access easement, with no direct vehicular access allowed to Alder Drive outside of the access easement area.

Prior to Final Plat approval:

- 5. The applicant shall submit a revised Tree Replacement Plan to the Planning department for review and approval, showing the approximate location of all streetscape and replacement trees to be planted. Significant trees removed shall be replaced at a ratio of 2 replacement trees for every 1 tree removed.

A total of 26 trees shall be provided within the subdivision or accounted for in an offsite mitigation plan to account for the proposed trees removed and the streetscape trees required. Off-site mitigation may be utilized to avoid overcrowding and allow for an overall plan that serves the development. Payment into the City’s landscape mitigation fund must be made prior to plat approval. If the applicant wishes to propose larger specimen trees for replacement, the Planning Director may reduce the total number of replacement trees required.

6. Upon approval of the detailed preliminary plat and engineering plans, a final plat for the subdivision, which conforms to the preliminary plat approval, must be submitted for review to Marion County Surveyor’s Office.
7. Upon approval of the preliminary agreement, a final copy of any CC&R’s, Homeowner Agreements, or other instrument shall be submitted to the Planning Department which conforms to the agreements submitted during preliminary plat approval and shall contain language regarding the requirements for streetscape and replacement trees.
8. A maintenance agreement, homeowners association, or other instrument acceptable to the City and shall be reviewed by the City before the plat is recorded and such instrument must be recorded with Marion County immediately following the recording of the Plat. The agreement shall provide for the maintenance of the access easement and turnaround area, address display signage, and “no parking” signs.
9. The construction and paving of the access easement and turn-around area, installation of the street addressing signage, and required no parking signage shall be completed prior to approval of the final plat. In lieu of this, the applicant may obtain a performance bond, improvement agreement, or other instrument acceptable to the City as outlined in Section 2.310.06.P of the KDC. Improvement agreements may be obtained from the Planning Department.
10. The final plat for the subdivision shall be recorded within 2 years from the date of final decision on this application. A one-year extension may be approved by the Planning Director. Requests for extensions must be received in writing at least thirty days prior to the one-year time period.

Prior To Obtaining Building Permit(s):

11. No building permits shall be issued until the plat is recorded and all conditions of any construction permits are completed to the satisfaction of the Department of Public Works.
12. The property owner must submit documentation that the recording has taken place with Marion County for the maintenance of the access easement, address display signage, and “no parking” signs before a building permit will be issued.
13. Proposed dwellings must comply with the design standards of KDC Section 2.314.

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

14. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by the Keizer Fire District and the Planning Department.
15. Designated replacement and streetscape trees must be planted prior to final building permit approval for each lot. Trees must be planted consistent with Section 2.309 of the KDC which requires a minimum 2” caliper and 8’ in height for deciduous trees, and 8’ in height and fully branched for evergreen trees.
16. Applicant or any contractors building on lots shall comply with all applicable city regulations regarding noise, dust, times of construction, etc.

VI. APPEAL RIGHT

Any person who participated orally or in writing and who is not satisfied with this decision may appeal to the City Council within ten (10) days of the date this written decision is mailed. Any appeal must be 1) timely; 2) made on forms provided by the City; and 3) be accompanied by the fee established by Keizer Development Code Section 3.208.

DATED: December 03, 2024



Theodore Naemura
Hearings Officer