



January 2, 2025

NOTICE OF HEARINGS OFFICER FINAL DECISION

Subdivision Case 2024-13

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 2024-13 for a 5-lot subdivision located at 1620 Clear Lake Road NE, Keizer, OR also identified by Marion County Tax Assessor's Map No. 063W23DA Tax Lot 00100.

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 **January 13, 2025**. 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/SubdivisionCase2024-13>





2 de enero de 2025

AVISO DE AUDIENCIAS DECISIÓN FINAL DEL OFICIAL

Caso de Subdivisión 2024-13

Usted recibe este Aviso de decisión del Oficial de Audiencia porque proporcionó un testimonio escrito o verbal sobre una subdivisión propuesta. Se adjunta una copia de la decisión del Oficial de Audiencias Caso de Subdivisión 2024-13 para una subdivisión de 5 lotes ubicada en 1620 Clear Lake Road NE, Keizer, OR, también identificada por el Mapa del Tasador de Impuestos del Condado de Marion No. 063W23DA Lote de impuestos 00100.

Cualquier persona interesada, incluido el solicitante, que no esté de acuerdo con esta decisión, podrá recurrir la decisión ante el Ayuntamiento. Cualquier apelación de este tipo debe presentarse ante el Departamento de Planificación de Keizer en un formulario de apelación proporcionado por la Ciudad. Se requiere una tarifa de \$440.00 por cualquier apelación presentada. El formulario de apelación debe enviarse al Departamento de Planificación de Keizer, 930 Chemawa Road NE, PO Box 21000, Keizer, Oregon 97307-1000. La ciudad debe recibir el formulario de apelación y la tarifa antes de las 5:00 p. m. del 13 de enero de 2025. Consulte la Sección 3.207 (Disposiciones de apelación) del Código de Desarrollo de Keizer para obtener más información.

Si tiene alguna pregunta, inquietud o comentario sobre esta decisión, comuníquese con el Departamento de Planificación de Keizer al (503) 856-3439 o 856-3442.

Todos los documentos de este caso se pueden ver en:

<https://www.keizer.org/maps/location/SubdivisionCase2024-13>



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

**In the matter of the application of 1620
Clear Lake, LLC, to subdivide an
approximately 1.42 acre parcel into 5 lots,
as to premises located at 1620 Clear Lake
Road NE in Keizer, Oregon**

Case No. 2024-13

LAND USE ORDER

I. INTRODUCTION AND NATURE OF THE APPLICATION

This matter came before the City of Keizer Hearings Officer on the application of 1620 Clear Lake, LLC, and SBH Properties, LLC (herein, “Applicant”), for approval of a subdivision. The premises are located at 1620 Clear Lake Road NE in the City of Keizer, Oregon (the “Premises”). The Premises are also identified on Marion County Tax Assessor Maps as Township 6 South; Range 3 West; Section 23DA, Tax Lot 00100.

Applicant requested approval to subdivide one parcel of approximately 1.42 acres into 5 lots. The lots would encompass an existing residential structure, upon its own lot. 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 December 10, 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 application on December 17, 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 Steve Kay of Cascadia Planning and Development Services, who provided testimony on the application. 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 layout, existing fencing, public street access, and site elevation. 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 summarized the application. He identified the current zoning, existing development of the site and the surrounding development, and the proposed lot sizing. Relatedly, he identified that new development would take public street access from Clear Lake Road by way of a new public street, with abandonment of the existing driveway.

Planning Director Witham also identified that Applicant had submitted preliminary stormwater plans with their application, including set-aside of a tract to construct a substantial stormwater facility. He explained that the city expected the applicant to revise these plans in connection with building permitting, and that proposed conditions of approval would obtain city code compliance as to revised stormwater facility plan designs. Pertinently too, he explained that the stormwater tract was sufficiently large to accommodate changes in size and location of the substantial collection facility planned for the tract.

Turning to surrounding properties, Planning Director Witham identified public written comments critical of the application's visual impacts, and suggesting that the project involve additional sight-obscuring measures. He identified that some visual mitigation could be obtained with improvements to the existing chain link perimeter fence, and that Applicant would voluntarily accept an approval condition to improve the fencing by inserting sight-obscuring slats within the links. Relatedly, he also identified typographical-style edits to proposed approval conditions on pages 23 and 27 of the staff report.

City Engineer Richard Walker developed additional facts regarding needed improvements to the stormwater plan, with focus on the proposed main infiltration facility. Engineer Walker presented his opinions that proposed stormwater Tract A was not currently proposed to be large enough or in the correct location. He also would require a closer look at the plan as to the proposed pipe depths, manhole locations, and grading for a larger facility on Tract A. Engineer Walker also confirmed that there was enough area in the lots and in Tract A that the site can accommodate needed upsizing.

Applicant's representative Steve Kay appeared and presented highlights from the application. He reiterated that Applicant intends to retain the existing house and create a lot for it. He confirmed the development would take access from Clear Lake Road by way of a cul de sac. As to stormwater, he explained that impervious area drainage would rely on a system of facilities including new planter strips within Clear Lake Road, upon the individual lots, and upon Tract A,

acknowledging that premises within Tract A and Lot 4 would be sufficiently sized to accommodate any needed enlargement of infiltration or other facilities.

Mr. Kay explained that due to market forces, Applicant would develop lots sequentially as opposed to all at once. Mr. Kay confirmed that Applicant accepts the proposed conditions of approval, with Mr. Witham's edits, and including conditions of approval as to fencing and dedications to the public.

There was public testimony offered as to the application. Mr. Ron Johnson questioned whether the project would require dedication of his property to the public or affect property on the north side of Clear Lake Road. In response, City representatives indicated that the project would require new features such as streetscaping trees and linear water quality features, on the south side of the street, but not require dedication from his property on the north.

The City also received testimony from Mr. Brandon Knupp. He opposed the project on grounds of its massing of new buildings near the common property line between his property and Lot 2 of the project site, suggesting a higher sight-obscuring fence would better offset such impacts.

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 one dwelling, which Applicant will retain. Within the terms of this land use decision and the KDC, Applicant will develop additional structures on the approved lots. I also find that there are adequate public facilities available to serve the development.

Next, as Staff has explained, the property is designated Low Density Residential and zoned Urban Transition (UT). Properties adjacent to the Premises are either zoned for similar density or lie outside of the Keizer city limits.

Third, I find the 29-page Staff Report to be 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 findings as to Mr. Knupp's testimony, 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 regulations.

B. Findings and conclusions as to Brandon Knupp testimony

As an initial matter, I evaluate the testimony as proposing that the project should include more robust sight-obscuring fencing or other measures, than currently proposed in the application and embodied in proposed approval conditions.

It is the case that under this land use decision, Applicant may develop structures on land which is currently vacant. Those represent changed conditions when viewed from the Knupp premises.

Evidence presented by staff and Applicant, taken together, indicate to me that there is existing chain link fencing between 5 and 6 feet tall, between the project site and the Knupp premises. There are also no KDC sections which require the Applicant to construct new sight-obscuring fencing as part of this land use decision. Though, as a stipulated provision, Applicant has accepted an approval condition requiring them to install sight-obscuring slats within the fencing links. Not unrelatedly, there was no evidence that additional fencing could not be installed upon the Knupp premises, near the common property line.

Accordingly, I conclude that the stipulated condition represents the evidentiary limit of the City's authority to require additional fencing, at Applicant's cost, at or near the common property line.

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 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.

General Requirements:

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. No vehicular access to Clear Lake Road will be allowed for the development, except from the newly proposed public street. Appropriate notations on the plat, deed restrictions, homeowner's association, or other instrument acceptable to the City must ensure that future property owners know this restriction exists.
3. **PUBLIC WORKS DEPARTMENT REQUIREMENTS.** The Public Works Department has reviewed the development application. The information provided demonstrates the development can reasonably conform with adopted Design Standards with the following conditions 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 City right-of-way or easements 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 Clear Lake Road NE to half of the standard 68-foot-wide collector street right-of-way, 34' measured from the right-of-way centerline. (KDC 2.302.03.F; 2.302.04)
- b) Dedicate a minimum 44-foot-wide right-of-way for the extension of "Street A" within the subject property. The right-of-way dedication shall accommodate 25-foot-radius curb returns at the intersection with Clear Lake Road NE, and the radius of the cul-de-sac dedication shall be 45' minimum. (KDC 2.302.04; Keizer Design Standards 3.04, 3.06.d)
- c) Dedicate a 10-foot public utility easement (PUE) along the frontage of all street rights-of-way. (KDC 2.302.04)
- d) Construct street improvements along the development side of Clear Lake Road NE to collector street standards – 18' from roadway centerline to the face of curb. (Keizer Design Standards 3.04)
- e) Construct internal streets to Local III Street Design Standards, minimum 30' between curbs. (KDC 2.302.4 Table 4.1).
- f) Close the existing driveways onto Clear Lake Road NE. (KDC 2.302.03.N)
- g) Vehicular access to proposed lots 1 through 5 shall be provided from the proposed "Street A." (KDC 2.302.03.N)
- h) Create a street lighting district for the subdivision, to include installation of adequate lighting for the widened portion of Clear Lake Road NE as well as the internal street lighting. (KDC 2.310.04.D)

Sanitary Sewer System:

- a) The existing sanitary sewer main in Clear Lake Road NE shall be extended to the east property line of the development. (KDC 2.310.06.G)
- b) The proposed sanitary sewer main within "Street A" shall be constructed in conformance with City of Salem and City of Keizer requirements. (KDC 2.307.02)
- c) The existing sewer service to the existing building on the property shall be reconstructed to connect to the proposed sanitary sewer main in "Street A."
- d) The subject property is located outside of the original Keizer Sewer District. The Applicant is required to pay a Sewer Acreage Fee of \$7,460.00 per acre unless they can provide evidence that the Fee has already been paid for this property.

- e) City of Salem approval for local sanitary sewer permits will need to be issued prior to construction. The Applicant will need to provide evidence that the Salem sewer permit has been issued prior to the City of Keizer approving and issuing the construction permit. Prior to submitting plans to the City of Salem, the Applicant's engineer shall submit sanitary sewer plans to the City of Keizer Public Works Department for review and determination of compliance with the City's overall requirements. (KDC 2.307.02)
- f) Any septic tanks and drainfields 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.

Water System:

- a) The proposed extension of the water main along Clear Lake Road NE shall be constructed on the south side of the street and extended to the east property line of the development in conformance with City requirements. (KDC 2.310.06.H, Keizer Design Standards 500.3.E)
- b) The public water main within "Street A" shall be constructed in conformance with City requirements. (Keizer Design Standards 500.3.E)
- c) Final development plans shall be reviewed by Marion County Fire District No. 1 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, including the fire hydrant at the end of "Street A", shall be served by an 8-inch or larger water main. (KDC 2.310.06.H)
- d) 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.
- e) The location of all water meters shall be approved by the Public Works Department. Each of the 5 proposed lots will require an individual water service.

Storm Drainage System:

- a) The existing 27-inch storm drain in Clear Lake Road NE may be used as the Overflow Route for the proposed storm drainage system serving the development. (Keizer Design Standards 400.2.C)
- b) Stormwater collection, conveyance, treatment, and retention facilities shall be designed to accommodate new impervious surfaces in the rights-of-way and future impervious surfaces on all proposed lots, in accordance with Keizer Design

Standards Chapter 400.

- c) A tract of land, sufficient in size to encompass the Stormwater Quality Facility treating runoff from “Street A,” shall be dedicated to the City of Keizer, in a form acceptable to the City, prior to acceptance of the public improvements.
- d) Public Works has reviewed the preliminary storm drainage plans provided with this application. The information provided does not demonstrate reasonable conformance with the requirements of Chapter 400 of the Keizer Design Standards. The City Engineer anticipates that the proposed facility footprint may increase in size and/or shift in location when the final design of the site is completed. The Applicant’s engineer shall submit a final overall storm drainage plan and design calculations, demonstrating conformance to the Standards, for review and approval prior to the start of development.
- e) As part of the building permit review for construction on individual lots within the subdivision, the owner shall complete and submit a City-approved *Private Stormwater Maintenance Agreement* to the Director for all proposed private stormwater facilities. This *Agreement* shall be signed, sworn, and recorded prior to final occupancy. (Keizer Design Standards 400.2.W.2)
- f) A grading and drainage plan shall be developed for the subject property in conformance with the 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:

- 4. 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 platting process must comply with State statutes and the requirement of the Marion County Surveyor’s Office.
 - 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 right-of-ways.
 - k. All lots must conform to the lot dimension standards within the RS zone. The final plat must include gross and net area calculations (excluding access easement).
 - l. Access easement shall be shown on the plat and shall comply with City standards.
 - m. Include all dedication as required by Public Works.
 - n. Include a signature line for the Planning Director, City Engineer and the City Manager.
5. With the Preliminary plat, if proposed, a copy of any 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 KDC. The following information should be included within the instrument(s):
- a. Information regarding streetscape and replacement trees requirements for each lot.
 - b. Information regarding the maintenance of the access easement, and no parking signs along the access easement.
 - c. Information indicating that no vehicular access to Clear Lake Road outside of the new public street is allowed for any lots within the subdivision lots
 - d. Information regarding the requirement to provide a sight-obscuring fence along the perimeter of the subdivision boundary.

6. A street naming application shall be submitted to the City for naming the proposed public street.

Prior to Final Plat approval:

7. 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.
8. 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.
9. 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 provisions for the maintenance of the access easement, and "no parking" signs.
10. The existing outbuildings must be removed prior to recording the final plat.
11. A final Tree Planting Plan must be submitted to the Planning Department for review and approval showing the number of trees to be planted on each lot within the subdivision. In addition to the 12 replacement trees required due to removal of significant trees, the plan shall also identify streetscape trees that are to be planted.
12. The construction and paving of the access easement and installation of 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.
13. 2 parking spaces shall be provided on lot 5 at the time of construction of the new public street and the existing access to Clear Lake Road must be eliminated.
14. 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):

15. 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.

16. The property owner must submit documentation that the recording has taken place with Marion County for the maintenance of the access easement and “no parking” signs before a building permit will be issued.

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

17. The residential address requirements found in the Oregon Uniform Fire Code shall be completed as approved by Marion County Fire District #1 and the City of Keizer Planning Department.
18. Replacement and streetscape trees identified in the “final” tree Planting Plan referenced in condition #11 above must be planted on each lot within the subdivision prior to obtaining final building permit approval or Certificate of Occupancy. Trees are to be a minimum 2” caliper when planted.
19. Parking spaces shall be provided for each dwelling unit within the subdivision in accordance with KDC Section 2.303. Parking spaces must be a minimum 9’ wide and 18’ long.
20. A sight-obscuring fence wall or hedge must be provided along the perimeter of the subdivision on each lot. This may be accomplished by providing slats in the existing chain link fence or by some other method, if proposed by the developer. This condition can be waived by adjacent properties, if waived in writing and submitted to the City.
21. 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 31, 2024



Theodore Naemura
Hearings Officer