



## NOTICE OF PLANNING COMMISSION DECISION

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Nature of Applications: Major Modification of Subdivision Approval  
Subdivision of 166 lots on 31.23 acres and a neighborhood park  
and Development Agreement

Developer / Owner: Levi Miller / Millpond Crossing LLC.

Property Location: Tax map 12-6-12D Tax Lots 12000, 9500, 11800, and 11900

Applicable Criteria: Application Proceedings, PMC 18.105.070  
Major Modification, PMC 18.130.030  
Subdivision (Type III) PMC 18.105.050 and 18.115.020  
Development Agreement, ORS 94.504 – 94.528

Staff Contact: Chris Workman, City Manager / Planning Official

File Number: PC21-12

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The requested Major Modification of Subdivision Approval is **APPROVED** by the Philomath Planning Commission, effective February 23, 2022, based on the Findings of Fact and subject to the Conditions of Approval as provided below.

### FINDINGS OF FACT FOR THE MAJOR MODIFICATION APPLICATION

- 1) The subject property comprises of phases 3, 4, and 5 of the Millpond Crossing Subdivision that was approved on May 22, 2018 and modified on December 9, 2019.
- 2) The Modification would increase the number of dwelling units to 28 to 54 units. Under the census data used by the City, each dwelling would house an average of 2.64 persons, resulting in an increased population of 74-143 persons over the current subdivision approval.
- 3) City facilities (streets, sewer, storm and water) are not located on the subject property and will need to be extended into and throughout the property upon development.
- 4) The city is capable of providing services (water, sewer, storm drain) to the subject property commensurate with the needs of existing approved and proposed developments.
- 5) The Parks Master Plan reflects the need for a park within this development and the continuation of the Bike/pedestrian path along the Chapel Drive frontage.
- 6) Traffic during the peak evening hour is not anticipated to the need new traffic signals or other off-site improvements.
- 7) Wetlands have been identified on the site and must be mitigated.
- 8) Naturally occurring methane gas has been discovered on the property and must be mitigated.

### CONDITIONS OF APPROVAL

- 1) All conditions of approval of the Subdivision application approval dated May 22, 2018 and the Minor Modification application dated December 9, 2019 shall remain effective unless directly modified in these conditions of approval.

- 2) All Phase 2 and Phase 2B improvements shall be completed and the final plat shall be recorded prior to issuing a permit for construction of public improvements for Phase 3.
- 3) All improvements for each subsequent phase shall be completed and the final plat for the subsequent phase recorded within 2 years of the date that the previous phase plat was recorded, or the land use approval will expire (PMC 18.115.030(E)(1)). Extensions of not more than 12 months for each phase may be granted by the Planning Official upon demonstration that there were issues outside of the developer's control which delayed the completion of the required improvements for the phase in question, and that all other provisions of PMC 18.115.030(D) are satisfied.
- 4) The design of all public streets and private lanes shall conform to the requirements of the Public Works Design Standards.
- 5) The configuration of temporary turnarounds at the end of stub streets at phase boundaries shall be acceptable to Public Works and the Fire Department. Properties affected by temporary turnarounds at the end of stub streets shall be provided with easements, as well as agreements defining how the temporary turnaround will be addressed when the street is extended in the future. Unless otherwise required or approved by Public Works, the new street paving shall extend to the boundary of each phase.
- 6) Non-access reserve strips (1 foot minimum width) shall be provided and dedicated to the City on non-access frontages of corner or double frontage lots (i.e. lots fronting on Chapel Drive, as well as the 15th Street frontage of the corner lot at the 15th & Willow intersection, and the Chapel Drive frontage of the lot at the 15th & Chapel intersection).
- 7) Park improvements shall include, but not be limited to, the following:
  - Public restrooms and a covered picnic shelter with two tables
  - Level ground, irrigation, landscape and grass
  - Toddler playground equipment
  - Children's playground equipment
  - 80 shade trees
  - Sports court
  - Bike rack
- 8) The developer will be required to install mailbox clusters as determined by the U.S. Postal Service.
- 9) The developer will provide the City with evidence that it is compliant with all state laws relating to methane and that the site is safe for residential use prior to issuance of certificates of occupancy in Phase 2B.
- 10) All wetlands shall be mitigated off site and a copy of an approved Joint Fill/Removal Permit with the Department of State Lands and the Army Corps of Engineers will be provided to the City.
- 11) Access easements for the benefit of affected properties, fire, life and safety, and the public shall be recorded for all shared private lanes and pathways.
- 12) Lot 40 shall be reduced in size to allow for the continuation of Timothy Street from 16<sup>th</sup>

Street to 17<sup>th</sup> Street as shown in the original subdivision approval.

- 13) Applicant shall provide the planning official a revised plot plan showing the continuation of Timothy Street between 16<sup>th</sup> Street and 17<sup>th</sup> Street prior to the preliminary engineering meeting. The street may have additional lots to the north and south, pending lot sizes comply with city standards and access is provided.
- 14) An access easement shall be recorded over all private ingress/egress lanes to allow joint use by the public, emergency vehicles, and the City. Maintenance of these shared private lanes will not be the responsibility of the City and shall be addressed through a homeowners association.
- 15) An additional 10' wide paved path shall be installed between the north side of Bullback Street to the South side of Timothy Street. The path shall connect into the proposed looped path in the park. The path will serve a dual role as both bike/pedestrian access to and through the park and as maintenance access for the storm water pipes located underground along this route. All paths shall comply with Americans with Disabilities Act (ADA) design standards.
- 16) The pedestrian crossing across Timothy Street at the intersection of 17th shall be clearly marked as a crosswalk with appropriate striping as specified by Public Works Design Standards to ensure safe crossing for pedestrians along this route to the schools.
- 17) The new cul-de-sac shall be identified as Cross Cut Court, not Cross Cut Lane.
- 18) As a condition of approval, a 25-foot greenbelt will be installed along Chapel Drive in accordance with Ordinance 857, comprised of a berm, shrubs and trees.
- 19) As a condition of approval, the street name "Bullback Street" shall be renamed "Head Rig Street." This change shall be incorporated on the updated plat map provided to the planning official.
- 20) The Developer shall submit water system construction drawings conforming to the requirements of the PWDS, and shall demonstrate that the required fire flows are available to all hydrants at the site. All water system improvements required to provide the minimum fire flows (with or without fire sprinklers) shall be the sole responsibility of the developer. The developer shall construct new waterlines as required to supply all water services and fire hydrants, including a new waterline looped through the site and connected to existing waterlines on 15th Street & 19th Street, as well a new 8-inch line extended to 17th & Cedar. Fire hydrants per PWDS standards will be required at intersections and other locations approved by the City Engineer and the Fire Chief.
- 21) The Developer shall submit storm drainage construction drawings conforming to the requirements of the PWDS. The storm drainage plan shall demonstrate that there are no impacts to the downstream properties, and shall provide for drainage from upstream properties that currently flow onto the property (including providing easements as applicable). Drainage maps and a summary of flow calculations for existing and developed conditions shall be included on the construction drawings. The storm drainage plan shall be designed to accommodate roof and foundation drains, as well as drainage from new and reconstructed streets, and shall convey storm water runoff to an approved point of disposal. The stormwater detention system (PWDS 3.18) shall conform to PWDS requirements. The

City may accept ownership and future maintenance of detention facilities with an agreed upon payment in lieu of maintenance agreement. Detention systems shall include provisions for all-weather inspection and maintenance access. Easements meeting PWDS requirements shall be provided for any storm drains located outside of street right-of-ways, or for private storm lines that cross property other than that which they serve. Storm drain laterals shall be provided for all lots that cannot drain to the fronting curb lines.

- 22) The 50-foot easement to the City in the year yards of lots 131-149 shall be removed and the setbacks should be slid to the east so that the required 40-foot setback to the garage is met.
- 23) The developer shall determine the legal mechanism or entity under which ownership and maintenance of the common private improvements will be addressed and assured (likely and HOA). The approach shall be acceptable to the City and conform to the requirements of PMC 18.115.70(B)(6), and the documents shall be configured to apply to lots in all remaining phases of the development as each phase is completed and platted.
- 24) The Development Agreement shall be amended to allow townhomes to be constructed in addition to single-family units.
- 25) Non-access reserve strips (1 foot minimum width) shall be provided and dedicated to the City on non-access frontages of corner or double frontage lots (i.e. lots fronting on Chapel Drive and the townhome lots fronting public streets).
- 26) Construction of frontage improvements on Chapel Drive shall be performed with Phase III improvements for the project. Construction of Phase IV may not begin until infrastructure improvements within the Chapel Drive right of way are complete, inspected, and the warranty period for the improvements has been initiated.
- 27) The Developer shall apply and provide supporting documentation for a work in the right of way permit for construction of frontage improvements noted in 26) above. Permit fees shall be 4.0% of a construction estimate, reviewed and approved by Benton County, for all improvements required within the County right of way.
- 28) The Developer shall provide Benton County with a bond, irrevocable letter of credit, or a cash deposit in the amount of 120% of the construction estimate noted in 27) above.
- 29) The Developer shall apply and provide supporting documentation for a work in the right of way permit for the purposes of road repair. The extent and method of road repair shall be reviewed and approved by Benton County in advance of repair efforts. This permit shall be separate from the permit issued for frontage improvements associated with Phase III noted in item 27 above. The Developer does not currently hold a permit to perform work in the Benton County right of way and the Developer is responsible for periodic repairs to Chapel Drive due to impacts on the facility by Millpond Subdivision construction activity.
- 30) Trench restoration for all improvements within the Chapel Drive right of way shall follow Benton County Details 201A, 201B, & 201C.
- 31) The Developer is currently out of compliance with both the DEQ 1200-C and Benton County ESC permits for the site. The Developer may not proceed with any construction activities until new permits are issued by both agencies and the site is brought into

compliance with the conditions of those permits.

32) The Development Agreement shall be amended to reflect the approval of this Major Modification, associated conditions of approval, and applicable City standards.

CITY MANAGER: 

Effective Date of Decision: February 23, 2022

THIS DECISION MAY BE APPEALED TO THE CITY COUNCIL WITHIN 14 CALENDAR DAYS OF THE DATE OF DECISION. THE APPEAL MUST BE FILED ON THE APPROPRIATE FORM THAT MAY BE OBTAINED FROM THE CITY RECORDER AT CITY HALL, 980 APPLGATE STREET, PHILOMATH.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER. The recipient of this notice is hereby responsible to promptly forward a copy of this notice to every person with a documented interest, including a renter or lessee.

-----ROUTING (For Department Use Only)-----

Benton Co. Engineer    Public Works    Applicant    Fire Dept.