



STAFF REPORT

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

BACKGROUND

The Millpond Crossing Subdivision was approved by the City Council on May 22, 2018. On December 9, 2019, the City approved a minor modification to that plan, which changed the order of the phases and combined phases 3 and 5. The second of five phases currently approved is nearing completion at this time.

The owner, Levi Miller of Millpond Crossing LLC., submitted an application for a Major Modification that was deemed complete on January 3, 2022. Notice of the application and the public hearing was provided in accordance with the requirements of the City's Development Code and this staff report was released prior to the date of the hearing.

If approved, the Major Modification would add 28 to 54 dwelling units, allow for townhomes, and change the location of the park.

APPROVAL PROCEDURE

As noted in PMC 18.130.030, an application for Major Modification is subject to the same review procedure and approval criteria used for the initial project approval; however, the review shall be limited in scope to the modification requested. In this application, the request is to modify the previous subdivision approval found in PMC 18.115.040 and PMC 18.115.50, limited to the following aspects:

- Amendment to the Development Agreement to allow townhomes
- Removal of east-west roads
- Dedication of open space and construction of a new public park
- Increased number of dwelling units
- Mitigation of wetlands
- Environmental review due to new location of homes and new information about methane

Philomath Municipal Code (PMC) establishes the applicable criteria for this Type III quasi-judicial land use decisions. The hearing allows the public to be involved in the land use process and provide decision makers with their thoughts and additional facts.

Applications for subdivisions are processed through a two-step process: the preliminary plat and

the final plat. The preliminary plat is first reviewed and approved, often with specific conditions of approval. The developer will then participate in a pre-design meeting with City staff and the city engineer to incorporate all the design standards and conditions of approval into the final plat. The final plat is then reviewed and approved by the Planning Official if all the design standards and conditions of approval are met.

Prior to submitting this application, the developer participated in a required pre-application meeting. The subdivision plan was reviewed by City staff, including Planning and Public Works, as well as Philomath Fire and Rescue and Benton County. Recommendations received at that meeting have been incorporated into the application or this Staff Report.

The applicant held a neighborhood meeting as required by PMC 18.105.090.

Staff has reviewed the application and found it to be complete. At the conclusion on the public hearing, the Planning Commission may either adopt the Findings of Fact as presented in the Staff Report or modify the Findings of Fact. The Commission will then vote to either approve the application or deny it based on the provided or modified Findings. If denied, the applicant may file an appeal with the City Council. If approved, any party that participated in the hearing may appeal the decision to the City Council.

COMMENTS RECEIVED

The City received one letter in favor of the application from Benton Habitat for Humanity (Attachment A). The city engineer and Benton County engineer also provided comments that are incorporated into this Staff Report and included as conditions of approval.

REVIEW OF APPLICABLE CRITERIA

Applicable sections of PMC Chapter 18.115.040 Preliminary Plat Submission Requirements and 18.115.050, Land Divisions and Lot Line Adjustments, are used to determine the applicable criteria for this major modification to a subdivision approval.

18.115.040 Preliminary plat submission requirements.

1. The required general information is included on the Major Modification Plat.
2. The previous site analysis address environmental contamination on the southeast corner of the property from petroleum products. Since the approval of the subdivision, the owner entered into the Voluntary Cleanup Pathway Program administered by the Department of Environmental Quality (DEQ).

The Voluntary Cleanup Pathway is a voluntary cleanup path, where DEQ provides oversight throughout the investigation and cleanup. This option is available for voluntary high-priority sites, as well as lower priority sites, with contamination in any environmental medium (soil, groundwater, sediment, surface water, or air). VCP provides a flexible schedule. Work can be completed as part of a site development project, as operable units, or based on an annual budget. DEQ oversight ensures that the site cleanup will meet Oregon's Environmental Cleanup Law.

While participating in this program, methane was discovered on the property, attributed to the organic fill material used on the site to fill the log pond areas. The City entered into a formal memorandum of understanding with the owner that specified the responsibility for discovery and mitigation was the responsibility of the owner, not the City.

The owner has hired environmental consultants to monitor methane levels throughout the site and prepare a plan for mitigation higher-than-acceptable level of methane. Steps to get a mitigation strategy plan approved by DEQ have been taken. As a condition of approval, the owner shall 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.

3. Proposed improvements for the site are similar to the original subdivision approval, with connection to City water, sewer, storm drain, and street system. Wetland areas E, F, and G are shown on the north end of the Major Modification Plat. These 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 shall be provided to the City as a condition of approval.

18.115.050, Land Divisions and Lot Line Adjustments

A. General Approval Criteria. The city may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

- 1. The proposed preliminary plat complies with all of the applicable development code sections and other applicable ordinances and regulations. At a minimum, the provisions of this chapter, and the applicable sections of Chapter 18.30 PMC, Land Use District Administration, and Chapter 18.60 PMC, Design Standards Administration, shall apply.**

PMC18.30 addresses zoning: The zoning of the property is High-Density Residential (R-3).

PMC 18.60 DESIGN STANDARD ADMINISTRATION

PMC18.60 covers the City's development design standards contained in both Division 2 and Division 3. These design standards apply to all land use types; however, only the aspects of the development code directly affected by the Major Modification are evaluated below.

PMC 18.65 ACCESS AND CIRCULATION

The purpose of this chapter is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles.

PMC 18.65.020 Vehicular Access and Circulation.

C. Access Permit Required: No changes in the Major Modification effect previously granted access permits given in the previous subdivision approval.

D. Traffic Impact Study Requirements: A traffic impact analysis is required if more than 200 daily trips will be placed on any one street. The increase from 166 to 194 dwelling units spread over multiple streets does not warrant a modification to the traffic impact analysis previously provided. No additional traffic signals or modifications are needed due to the proposed modification.

E. Conditions of Approval: Existing curb cuts for Head Rig Street will be repaired at the 16th and 17th Streets intersections; recording of reciprocal access easements for shared driveways is required; and 1' no access easements along the frontages of all townhouse lots shall be recoded. No other Major Modification changes effect the previously granted access.

F. Access Options: Access is taken from private, shared lanes locate behind the townhomes allowing for rear access and not allowing front access. For single-family homes, access is taken from new public streets. All access will be constructed to Public Works Development Standards.

G. Access Spacing: The Major Modification plat shows compliance with required separation between driveways, street and lanes.

H. Number of Access Points: The Major Modification plat shows compliance with the provision limiting one street access point per lot. The driveways for future homes will comply with Public Works Design Standards and will be addressed as part of the building permit review. The Development Agreement will remain in effect, requiring at least a two-car wide driveway (18 feet wide) and a 40-foot setback from the front lot line to the garage. Townhouse lots will take access from the private lanes adjacent to the rear property lines and will have a minimum 18 feet wide and 20 feet deep driveways. These requirements will provide sufficient off-street parking to limit the congestion and mitigate safety concerns.

I. Shared Driveways: The number of driveway and private street intersections with public streets has been minimized by the use of private drives. As a condition of approval, access easements for the benefit of affected properties, fire, life and safety, and the public shall be recorded for all private lanes and pathways.

J. Street Connectivity and Formation of Blocks Required: In order to promote efficient vehicular and pedestrian circulation throughout the city, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, bicycle or pedestrian pathways.

In the Major Modification, two previously approved east-west streets, the eastern extension of Timothy into Phase V and Head Rig Street, have been removed from the proposal. A new private lane is proposed to access the lots along 17th Street and Bullback Street from the rear.

The connection that Timothy Street provides between 15th Street and 17th Street is critical to maintaining east-west connectivity within the subdivision and throughout the larger school traffic area. Removing this connection would force additional vehicles to travel on 15th, 16th and 17th Street to either Chapel Drive or Applegate Street in order to go east or west. Removal of this important connectivity is not acceptable.

As a condition of approval, Lot 40 shall be reduced in size to allow for the continuation of Timothy Street from 16th Street to 17th Street as shown in the original subdivision approval. Applicant shall provide the planning official a revised plot plan showing the continuation of Timothy 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.

As a condition of approval, 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.

Public and private streets shown on the Major Modification plat conform to PMC 18.80.020, Transportation improvements.

K. Repealed

L. Fire Access and Parking Area Turnarounds: Major Modification plat appears to meet all fire access provisions. Buildings are limited to 30 feet in height. Signs indicating Fire Lane, No parking will be required at the entrances and along the private lanes.

M. Vertical Clearances: Driveways, private streets, aisles, turnaround areas and ramps will have a minimum vertical clearance of 13'6" for their entire length and width.

N. Vision Clearance: No signs, structures or vegetation in excess of three feet in height will be placed in "vision clearance areas."

18.65.030 Pedestrian access and circulation.

Sidewalks shall be installed along the frontage of all new local streets as in conjunction with all ¾ road improvements and full street improvements required by Benton County and the City. Sidewalks are not required along the private lanes; however, signage indicating pedestrians and bicycles are sharing the lane shall be installed.

Per the original subdivision approval, the frontage along Chapel Drive shall have storm drainage improvements, curb, gutter, a minimum 4' wide landscape strip and a separated minimum 10' wide bike/pedestrian path due to the anticipated vehicle speeds along this road. A separated bike/pedestrian path shall be in lieu of sidewalks along Chapel Drive. Final plat plan submittal shall show the location of the bike/pedestrian path along the development's Chapel Drive frontage and extending off site to 19th Street, one lot east of the development site.

As a condition of approval, 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.

As a condition of approval, 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.

Chapter 18.70 LANDSCAPING AND STREET TREES

The purpose of this chapter is to promote community health, safety and welfare by protecting natural vegetation, setting development standards for new landscaping and street trees, maintaining the urban canopy through a tree removal system and laying out a process for handling nuisance trees and vegetation.

18.70.030 New Landscaping.

Landscaping Plan Required. A landscape plan is required. All landscape plans shall conform to the requirements in PMC 18.070.034 Residential Landscaping Standards.

The Major Modification plan was submitted after amendments to the landscaping chapter of the development code took effect. Developer should take note of specific landscape requirements for each lot within the development prior to seeking certificate of occupancy on otherwise completed houses. Landscaping provisions are reviewed during site plan review for each house.

18.70.040 Street trees.

Street trees are not shown on the Major Modification plat. Trees will be planted in conformance with Ordinance 857, approved by the City in 2021. Generally, trees from the City's approved list are planted every 30 feet.

Chapter 18.75 VEHICLE AND BICYCLE PARKING

The purpose of this chapter is to provide basic and flexible standards for development of vehicle and bicycle parking.

18.75.030 Vehicle parking standards.

Residential parking standards require a minimum of two off-street parking spaces per three-bedroom unit for townhomes, three parking spaces for three-bedroom dwellings and four spaces for four-bedroom dwellings. The Development Agreement will be amended to reflect townhomes with no driveways in the front yard that provide at least three parking spaces in the rear yard –a two-car driveway and a one-car garage.

The park shall have six parking spaces, one of which is ADA compliant with minimum 60" wide access aisle.

Chapter 18.80 PUBLIC FACILITIES STANDARDS

The purpose of this chapter is to provide planning standards for public and private transportation facilities and utilities.

18.80.020 Transportation improvements.

A. Development Standards: the Major Modification plat shows public streets and private streets that meet the City's development standards.

B. Variances: No variances have been requested.

C. Creation of Rights-of-Way for Streets and Related Purposes: the Major Modification adds one new street, a cul-de-sac names Cross Cut Lane. As a condition of approval, this cul-de-sac shall be identified as a court, not a lane.

D. Creation of Access Easements: As a condition of approval, applicant must provide the City access easements to provide for access and circulation in conformance with Chapter 18.65 PMC, Access and Circulation. The access easements shall be created and maintained in accordance with the applicable provisions of the Uniform Fire Code.

E. Street Location, Width and Grade: The streets on the Major Modification provide for the continuation and connection of existing streets in the surrounding areas.

F. Extension Preclusion: The Major Modification precludes the logical extension of an existing street, Timothy Street, between 15th and 17th Street. As a condition of approval, this street is to be extended from 15th to 17th Street.

G. Minimum Rights-of-Way and Street Sections: Street rights-of-way and improvements will conform to the applicable design specification in the Transportation System Plan and Public Works Design Standards. All local and collector streets that abut a development site shall be extended within the site to provide through-circulation.

H. Future Street Plan and Extension of Streets: No future street plan is needed.

I. Sidewalks, Planter Strips, Bicycle Lanes: Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the applicable provisions of the Transportation System Plan... Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner. The exception to this provision is that sidewalks are not required along private lanes that provide access to the townhouses.

J. Cul-de-Sacs: the proposed cul-de-sac is less than 300 feet long.

K. Repealed by Ord. 778.

L. Streets Adjacent to Railroad Right-of-Way: not applicable.

M. Development Adjoining Arterial Streets: As the development adjoins an existing arterial street, Chapel Drive, the development separates residential access and through-traffic to minimize traffic conflicts. The design also includes a 25-foot greenspace buffer to screen the side property lines. 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.

N. Alleys, Public or Private: Not applicable.

O. Private Streets: Design standards for these private streets shall conform to the provisions established by the city in the Public Works Design Standards.

P. Street Names: 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. "Bullback" was a misspelling on a previous plat that has carried through.

Q. Survey Monuments. Upon completion of a street improvement and prior to acceptance by the city, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the city that all boundary and interior monuments shall be reestablished and protected.

R. Street Signs. Street signs shall be installed according to the applicable city, county or state standards with jurisdiction for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.

S. Mailboxes. Plans for mailboxes to be used shall be approved by the United States Postal Service. Where mailboxes are installed in the sidewalk, a radius shall be provided around the structure to maintain the minimum sidewalk width.

T. Streetlight Standards. Streetlights shall be installed in accordance with city standards.

U. Street Cross-Sections.

V. Traffic Impact Study: The additional dwelling units requested in the Major Modification do not affect any one street more than 200 trips per day, so no updated traffic impact analysis is required by this application.

W. Transit Access and Supportive Facilities: no transit facilities are required by this Major Modification.

18.80.030 Public use areas.

Dedication requirements. 1. Where a proposed park, playground or other public use shown in a plan adopted by the city is located, in whole or in part, in a subdivision, the city may require the dedication or reservation of this area on the final plat for the subdivision.

Neighborhood parks have a general size of between 1 and 5 acres. The Park Master Plan identifies the need for a neighborhood park in this location upon its development. The approved subdivision and Development Agreement included a 3.4-acre neighborhood park with a one-acre pond and a covered picnic shelter. The pond is not feasible with the major modification, and concerns were raised by the Park Advisory Board about having an accessible pond within the neighborhood. The developer has agreed that in lieu of the pond, they will provide public restrooms and a covered picnic area with two picnic tables in addition to the other amenities already agreed to in the Development Agreement, namely:

- Level ground, irrigation, landscape and grass
- Toddler playground equipment
- Children's playground equipment
- 80 shade trees
- Sports court
- Bike rack

The park shall be installed with Phase III of the development, prior to the first building permit for the phase. Final approval of all park amenities and layout shall be reviewed and approved prior to construction by the Park Advisory Board through the site design review process performed by the planning official in accordance with PMC 18.80.030. Upon acceptance of the City, the land shall be deeded to the City.

18.80.040 Sanitary sewer and water service improvements.

Sewers and Water Mains Required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains, in accordance with the city's construction specifications and the applicable comprehensive plan policies.

Sanitary Sewer

It is presumed this Major Modification will generate the demand to collect and treat approximately 14,000 gallons of wastewater at 100 gallons per person per day (2.64 people per unit; up to 54 additional units). The added wastewater from approximately

new residents can be treated with the existing facility, in addition to previously approved developments. Sewer is available to the property and the City has adequate treatment capacity at the sewer lagoons (expanded in 2011) to provide sewer service to future development of this site.

Water

Water was evaluated and shown to be sufficient of the original subdivision approval. The added demand for this Major Modification will be up to 142 people. The average water use per person is 150 gallons of water per day (g/d), so the Major Modification will require an additional 21,300 g/d. The City has access to 5.27 million gallons of water per day and currently produces roughly 950,000 gallon per day due to the plant's age, incoming water quality, and other factors. The City also has water rights at the 11th Street well and the Rock Creek Intertie that can be utilized more fully as demand increases.

The City currently uses 802,500 g/d. Even with the other approved developments and the Major Modification the City has a surplus of water availability. When construction of the new water treatment plant is constructed next year, the city's available water will increase to more than 2 million g/d.

As a condition of approval, 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.

18.80.050 Storm drainage.

General Provisions. The city shall issue a development permit only where adequate provisions for stormwater and floodwater runoff have been made in conformance with Chapter 18.85 PMC, Hillside and Erosion Control Overlay.

The modified plat shows storm pipes conveying storm water from the north end of the development site to the south side of Chapel Drive. This work will be completed prior to permitting construction of new public works facilities. Stormwater detention for the site will be managed with Tract F and Tract G.

As a condition of approval, 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.

18.80.060 Underground Utilities.

All utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground.

Services will be designed and installed underground according to the City specifications and approved prior to final plat approval.

18.80.070 Easements.

Easements for sewers, storm drainage and water quality facilities, water mains, electric lines or other public utilities shall be dedicated on a final plat, or provided for in the deed restrictions. See also Chapter 18.110 PMC, Development Review and Site Design Review, and Chapter 18.115 PMC, Land Divisions and Lot Line Adjustments. The developer or developer shall make arrangements with the city, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The city's standard width for public main line utility easements shall be 15 feet unless otherwise specified by the utility company, applicable district, or city engineer.

The Major Modification plat shows utility easements behind the right-of-ways. The 50-foot City easement reservation across the back of Lots 131-149 was a reservation for possible future water & sewer lines within the vacated ROW of 18th Street, which will be vacated/extinguished/relinquished by the City in conjunction with the recording of the Major Modification plat. As a condition of approval, the setbacks for lots 131-149 should be slid to the east so that the required 40-foot setback to the garage is met.

18.80.080 Construction plan approval and assurances.

No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken until the plans have been approved by the city, permit fee paid, and permit issued.

18.80.090 Installation

A. Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City.

B. Adopted Installation Standards. The standard specifications for public works construction shall be a part of the city's adopted installation standard(s); other standards may also be required upon recommendation of the city engineer.

C. Commencement. Work shall not begin until the city has been notified in advance.

D. Resumption. If work is discontinued for more than one month, it shall not be resumed until the city is notified.

E. City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to land use review under Chapter 18.130 PMC, Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.

F. Engineer's Certification and As-Built Plans. A registered civil engineer shall provide written certification in a form required by the city that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to city acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide one set(s) of "as-built" plans, in conformance with the city engineer's specifications, for permanent filing with the city.

Chapter 18.85 HILLSIDE AND EROSION CONTROL OVERLAY

Not applicable

Chapter 18.90 OTHER STANDARDS

Not applicable

2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92

The subdivision name "Millpond Crossing" has been identified and satisfies the provisions of ORS Chapter 92.

3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and

The proposed Major Modification plat shows facilities conform to those of adjoining properties. The street extensions and new streets shown on the modified map will be required to be built to City Design standards.

4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat.

The original subdivision approval did not require a homeowners association. The modification proposal includes several common areas identified as tracts.

- Tract E is a future public park and will be dedicated to the City of Philomath. Upon acceptance, the City will take over ownership and maintenance responsibilities.
- Tract F is a storm water detention pond within the park area, engineered to fill with storm water during large storm events. The banks of this detention area will be shallow enough to allow for mowing equipment to easily maintain the ground and park visitors to use it as open green space during most of the year. The City will maintain this detention pond and accept payment in lieu of requiring an HOA maintain this tract.

- Tract G is a storm water detention pond south of the park area, also engineered to fill with storm water during heavy rain events. The City will maintain this detention pond and accept payment in lieu of requiring an HOA maintain this tract.
- Tract H is a landscape area between the subdivision and Chapel Drive that is the responsibility of the HOA to maintain.
- Private Ingress/egress lanes are identified throughout the development to provide rear access to the townhomes. These private lanes are the responsibility of the HOA to maintain.

As a condition of approval, 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.

B. Housing Density. The subdivision meets the City’s housing standards of Division 2.

High-Density Residential (R-3) has a minimum lot size of 2,100 square feet for development adjacent to a collector or arterial street, such as Chapel Drive. All proposed lots meet this requirement. All housing types are allowed in the R-3 zone; however, the Development Agreement signed at the time of the subdivision approval specifically precludes the construction of duplexes, triplexes, zero lot line homes, townhomes, and apartment complexes, limiting development to detached single-family homes. The major modification application includes the request to allow zero lot line homes/townhomes, within this project. As a condition of approval, the Development Agreement shall be amended to allow townhomes to be constructed in addition to single-family units.

C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Chapter 2), and the standards of Chapter 3.1, Section 2.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (Chapter 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See also, Chapter 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See also, Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement that will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.

All lots are in compliance with minimum and maximum lot area. Setbacks will be addressed through the building permit process. Single-family lots will have direct access to a fully improved public street before building permits are issued. No additional landscaping will be required other than street trees and landscape setback along Chapel Drive that are address later in the Staff Report.

As a condition of approval, a reciprocal easement that will ensure access and maintenance

rights shall be recorded with the modified subdivision plat.

Fire apparatus access will be provided to each lot. A reciprocal easement that will ensure fire access and maintenance rights shall be recorded with the subdivision plat. The common drives in the modified plat map shall be installed to allow for fire apparatus turnaround and shall be signed as fire lines with no parking permitted.

D. Conditions of Approval. The city may attach such conditions as are necessary to carry out provisions of this title, and other applicable ordinances and regulations, and may require reserve strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties.

Conditions of approval are included at the end of this criteria review. As a condition of approval, 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).

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.

CONCLUSION: The proposed Major Modification application complies with all of the applicable development code sections and other applicable ordinances and regulations or can come into compliance given the conditions of approval.

RECOMMENDED 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 16th Street to 17th 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 16th Street and 17th 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 1) 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 2) 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.

RECOMMENDED MOTIONS

Subdivision

I move to adopt the Findings of Fact for the Major Modification Application as presented in the Staff

Report dated February 11, 2022 and approve the Millpond Crossing preliminary plat map for Phases 2B through Phase 4, File Number PC2-12, subject to the Conditions of Approval as contained in the Staff Report.

OR

I move the City Council adopt the Findings of Fact as modified in opposition to the applicable criteria and that the application for the Millpond Crossing Major Modification as presented in File Number PC2112 be denied.