

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

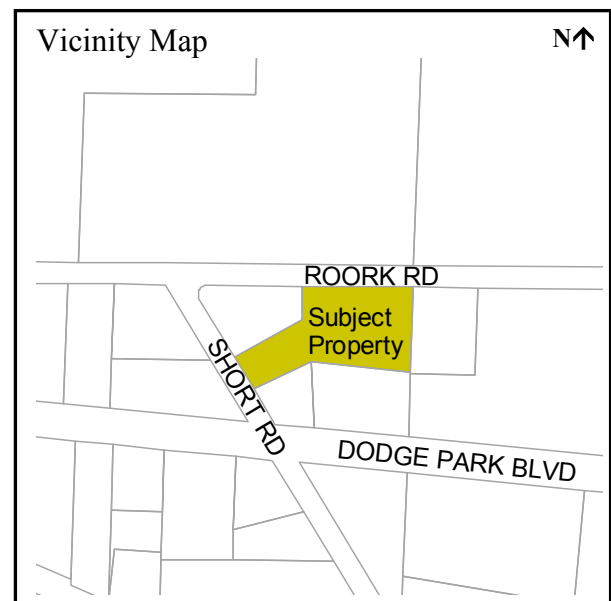
Case File: T2-04-103

Permit: Category 4 Land Division

Location: 7102 SE Short Rd.
Alternate Account #R99419-0320
TL 100, Sec 19AC T1S, R4E, W.M.

Applicant: Owner

Owner: Quinn & Laurinda Trammell
7102 SE Short Rd.
Gresham, OR 97080



Summary: Divide the property into two parcels of roughly one acre each. The new parcel will be eligible for a new single family dwelling.

Decision: Approved with Conditions.

Unless appealed, this decision is effective INSERT DATE HERE, at 4:30 PM.

Issued by:

By: _____
Tammy Boren-King, Planner

For: Karen Schilling- Planning Director

Date: INSERT DATE HERE

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact borenk, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals (LUBA) until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is INSERT DATE HERE at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 36.3400 et. Seq. (Orient Rural Center Residential Zone); 36.7700-36.8035 (Land Divisions) 36.4100 et. Seq. (Off Street Parking and Loading); Comprehensive Plan Policies 14 (Development Limitations), 37(Uilities), and 38 (Facilities)

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at http://www.co.multnomah.or.us/dbcs/LUT/land_use.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **The applicant is to complete the procedures given in the enclosed "Applicant's Instructions for Finishing a Land Division."(Exhibit S8) They are also to provide their surveyor the enclosed "Surveyor's Instructions for Finishing a Land Division" (Exhibit S9) which provides instructions for drafting required materials. Before the final plat is submitted to the Multnomah County Surveyor's Office, two (2) blue line copies of the plat are to be filed with the Planning Director. Within 10 business days of filing, the Director will determine**

whether the plat complies with this decision and the conditions of approval contained herein. At such time as the plat complies with this decision a letter of zoning compliance will be provided to the Multnomah County Surveyor (MCC 38.8015).

2. No building permits will be issued, nor shall any of the parcels be sold, transferred or assigned until the final plat is signed by the Planning Director and County Surveyor and has been recorded with the Multnomah County Recorders Office (MCC 38.8030(C)).
3. In addition to the information required to be shown on the tentative plan, the following is required to be shown on the partition plat:
 - (A) Corners of adjoining subdivisions or partitions.
 - (B) The location, width and centerline of streets and easements abutting the boundaries of the land division.
 - (C) Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.
 - (D) The ownership of each private street shall be shown.
 - (E) Other certifications required by law. [MCC 38.8020(E)]
4. Prior to the approval of a building permit for a new dwelling on either proposed parcel, the applicant must submit proof that the "Covenant and Restriction" attached as Exhibit S10 has been recorded against the deed to the property. (MCC 36.3455(H))
5. Prior to the approval of a building permit for a new dwelling on parcel 2, the applicant must obtain a right-of-way permit for the new vehicular access onto SE Roork Road. (MCC 33.3485)
6. Prior to the approval of a building permit for the new dwelling on parcel 2, the applicant must obtain a right-of-way permit for to allow storm water discharge to the right-of-way or provide a Drainage Certificate and an associated drainage system design that is stamped and signed by a registered professional engineer stating the system is adequate to handle the water from a 10-year, 24-hour storm event. (MCC 36.3645(E))
7. Prior to the issuance of a building permit, the applicant or a representative of the water district must obtain a utility permit from the Multnomah County Right-of-Way Division for installing a new water meter in the Right-of-Way. (MCC 36.7895(A))
8. All new structures and additions to existing structures must meet dimensional standards of MCC 36.3455(B) and (D). Prior to the approval of a building permit, the applicant shall clearly state all dimensions on the building plans and submit them to the Land Use Planning Staff for review.
9. All new or replacement exterior lighting fixtures on either parcel shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal. (MCC 36.3455(G))

- 10. Any applicant for a building permit for a dwelling on proposed parcel 2 will be required to provide at least two parking spaces (MCC 36.4205(A)(1)) meeting the dimensional requirements of MCC 36.4175. This parking area must be clearly shown on the building plans prior to issuance of a building permit.**
- 11. Any new electrical or any other wires serving either parcel must be placed underground. (MCC 36.7965)**
- 12. Prior to the approval of a building permit for the construction of a new dwelling on proposed parcel 2, the applicant must submit a completed Fire District Review Fire Flow Requirements form indicating that the proposed new structure meets the fire flow requirements of MCC Chapter 29. (Policy 38)**
- 13. Prior to the approval of a building permit for the construction on either parcel, the applicant must provide sufficient information to determine the proposal is in compliance with the Grading and Erosion Control Code in MCC Chapter 29 (MCC 36.3455(F)). This may require the applicant to obtain a Grading and Erosion Control permit prior to the approval of a building permit.**

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

Applicant: The purpose of this application is to partition the current lot, at 7102 SE Short Road, Gresham, Oregon 97080, into two separate lots. Throughout this narrative there are references to Parcel 1 and Parcel 2. The preliminary Partition Plat shows the current dwelling on Parcel 1. Parcel 2 is a grassy field with no buildings or structures. The following is the explanation for how Parcels 1 & 2 will meet the applicable codes as outlined from the Pre-Application Meeting notes.

Staff: The applicant is proposing to partition the subject parcel into two lots of approximately one acre each as shown on the site plan included as Exhibit A1.

2. **Site Characteristics**

Staff: The subject property is in the Orient Rural Center. Much of the land in this Rural Center has been divided into smaller parcels containing homes and rural scale businesses. Only one property adjacent to the subject site does not contain a house. The site is generally flat and contains an existing single family home and driveway clustered on the western side of the property. The eastern portion of the property is open and contains only low growing vegetation such as pasture grasses. The site has access on two paved public road, both of which are classified as local roads. Photos of the subject site are included as Exhibit S1.

3. **Public Comment**

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject Tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines on January 10, 2005 requesting comments by January 28, 2005. No written comments were received.

Procedures met.

4. **Proof of Ownership**

37.0550 Initiation Of Action.

Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: Multnomah County Assessment and Taxation records show Quinn and Laurinda Trammell as owners of the subject property (Exhibit S2). Additionally, the applicants have submitted a deed recorded with Multnomah County on 4-29-2002 that transferred ownership of the property to Quinn and Laurinda Trammell. A copy of this deed is included as Exhibit A2. Quinn Trammell signed the General Application form authorizing an action to be taken on the property (Exhibit A3).

Criterion met.

5. **The Property Is A Lot Of Record**

MCC 36.0005(13) Lot of Record

Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or

2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under

the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

MCC 36.3470 Lot of Record.

(A) In addition to the definition standards for a Lot of Record, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR and R zones applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RC zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change to RC for some properties, Ord. 395;**
- (6) May 16, 2002, Lot of Record section amended, Ord. 982**

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.3485, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.3460, 36.3475, and 36.3400 through 36.3460, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot of less than the area or width requirements of this district.

(D) The following shall not be deemed to be a Lot of Record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) An area of land created by court decree.**

Applicant: Property line adjustment in 1991 met applicable zoning codes. The current deed matched the deed created in 1991. Current deed enclosed with application. Lot of record meets lot size and lot line minimums as seen on attached Plat. Both Parcels meet the minimum lot, yard, and area requirements. See attached Plat. The Lot of Record doesn't fall into any of the prohibited categories. The deed is free of liens and encumbrances. See attached deed.

Staff: The subject property was created through an un-named subdivision plat recorded as Subdivision 13323 on October 12, 1958. A copy of this plat is included as Exhibit S3. When created, the parcel was larger than it is today. At the time of creation, the parcel was subject to R-10 zoning that was in effect starting on 4-19-1955 as shown on the attached 1962 zoning map

(Exhibit S4). The 1962 zoning maps are the earliest maps remaining in the County's records and have been deemed to show the zoning in place from 1955 through 1958. This zone required a minimum lot size of 10,000 square feet, an average lot width of 70 feet, and an average lot depth of 100 feet. A copy of the 1955 R10 zone is included as Exhibit S5. The subject lot met all of the lot size and dimensional requirements in effect at the time it was created.

The property was put into its current configuration through a property line adjustment in 1991. This property line adjustment was approved by Multnomah County as shown on the approved 1991 site plan and legal description included as Attachment S6. This approval demonstrates that the adjustment met all zoning requirements in effect at the time.

The legal description from approved 1991 property line adjustment matches the current legal description contained in the deed transferring ownership to the Trammell family (Exhibit A2). The property has not been reconfigured since the approved 1991 property line adjustment.

*The property at 71022 SE Short Road (TL 100, Sec 19AC, T1S, R4E) is a lot of record.
Criteria met.*

6. **The subject proposal meets the requirements for a Category 4 Land Division.**

§ 36.7780 Category 4 Land Division.

6.1 **Partitions not listed in MCC 36.7770 to 36.7775 are designated Category 4 Land Divisions.**

Applicant: In the Pre-Application Meeting it was determined that this is a Category 4 Land Division. See meeting notes for verification.

Staff: The subject proposal is for a partition which is not one of the partition types listed in MCC 36.7770 to 36.7775.

The subject proposal is a Category 4 Land Division.

(A) The Planning Director may approve a Category 4 Land Division based on findings that:

6.2 **The proposed parcels comply with the area and dimensional requirements of the zoning district in which the land division site is located; and**

Staff: The subject proposal meets the area and dimensional requirement of the zone as detailed in the findings in Section 7.

6.3 **The proposed parcels satisfy the applicable General Standards and Requirements of MCC 36.7885 through 36.7965.**

Staff: The subject proposal meets the above referenced standards as detailed in the findings in the remainder of this section.

6.4 **The procedure and forms for review and approval of a Category 4 Land Divisions shall be as provided for by the Planning Director.**

Staff: The planning direction provided the application form and established the Type II process for Category 4 Land Divisions in MCC 37.0530. The procedures for a Type II Land Use Decision have been met by this decision.

Criteria met.

6.5 **§ 36.7885 Application of General Standards and Requirements.**

Every land division proposal shall comply with the applicable provisions of MCC 36.7890 through 36.7965.

Staff: The applicable provisions of MCC 36.7890 through MCC 36.97965 are as follows:

- 36.7890 Land Suitability
- 36.7895 Lots and Parcels
- 36.7950 Water System
- 36.7955 Sewage Disposal
- 36.7960 Surface Drainage
- 36.7965 Electrical and Other Wires

Compliance with each of these sections is discussed in the findings through the remainder of this section of this report.

6.6 **§ 36.7890 Land Suitability.**

A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

(A) Slopes exceeding 20%;

(B) Severe soil erosion potential;

(C) Within the 100-year flood plain;

(D) A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;

(E) A fragipan or other impervious layer less than 30 inches from the surface; or

(F) Subject to slumping, earth slides or movement.

(G) Pre-existing field drains or other subsurface drainage systems.

Applicant: Both Parcels are flat and don't exceed a slope of 20%. In the field report from the City of Portland it states the slope to be 2-3%. We have lived there for almost 3 years and there haven't been any problems with erosion. Both Parcels are covered with grass or other vegetation and are flat. No streams, rivers, or lakes nearby, so neither Parcel is in the 100 year floodplain. The PERK tests done by the City of Portland considered the water table and any impervious layers as part of their evaluation. The Site Evaluation Report considered the land to be SUITABLE. See attached LFS 35-01. Parcel 2 is only a grassy field with no building on it. Two years ago I

plowed up the Parcel 2 and didn't run into any drainage systems. Considering these two facts, there are no pre-existing field drains or subsurface drainage systems.

Staff: Staff concurs. None of the above listed factors make the land unsuitable for its intended use.

Criterion met

6.7 **§ 36.7895 Lots and Parcels.**

The design of lots and parcels shall comply with the following:

(A) The size, shape, width, orientation and access shall be appropriate:

- (1) To the types of development and uses contemplated;**
- (2) To the nature of existing or potential development on adjacent tracts;**
- (3) For the maximum preservation of existing slopes, vegetation and natural drainage;**
- (4) To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and**
- (5) To the climactic conditions including solar orientation and winter wind and rain.**

Applicant: Both Parcels meet or exceed size, shape, width, orientation and access requirements as described previously. Parcel 2 isn't being developed at this time. If or when it is developed it will also meet these requirements.

Staff: The proposed configuration of both lots is appropriate. The configuration of lot 1 is intended to retain all of the existing improvements including both access points for the existing driveway. Proposed parcel 2 is an open field, making it easy to develop for single family use. The lots to the either side of the subject parcel's frontages are similar in scale and use to the two proposed 1-acre, single family lots. While the configuration of the proposed lots has an unusual geometry on the proposed plat, it is appropriate in the context of the existing improvements. Exhibit S1 contains photos of the site taken by Tammy Boren-King on January 7, 2004 showing the location of the existing house, the two existing access points, and the existing driveway.

The proposed line between parcels 1 and 2 is not perpendicular to the front lot line. In order to retain the existing improvements on parcel 1 and meet the minimum lot size of 1 acre, the line between the two parcels follows the curve of the existing driveway and then travels southeasterly to the rear property line, parallel with the line of the existing garage. The proposal is a configuration that does not require the use of any easements or the reconfiguring of any existing improvements.

Criteria met.

6.8 **(B) The side lot lines shall be perpendicular to the front lot line or radial to the curve of a street, to the extent practicable.**

Applicant: Lot lines are relatively perpendicular to the front lot line. The only exception to this is radius line that follows the contour of the existing driveway. See preliminary partition plat.

Staff: The proposed line between parcels 1 and 2 is not perpendicular to the front lot line. In order to retain the existing improvements on parcel 1 and meet the minimum lot size of 1 acre, the line between the two parcels follows the curve of the existing driveway and then travels southeasterly to the rear property line, parallel with the line of the existing garage. The proposal is a configuration that does not require the use of any easements or the reconfiguring of any existing improvements.

Criterion met.

6.9 **(C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.**

Applicant: There isn't a double frontage or reverse frontage for the new Parcel 2.

Staff: The existing lot is a double frontage lot. The applicant is proposing to retain the existing double frontage in order to retain the existing improvements in their current configuration and create a new parcel that is as close to rectangular as possible in order to comply with MCC 36.7894(B). The proposal does not create an additional lot with double frontage. The existing orientation of the lot and its improvements makes it difficult to divide the land in a manner that meets the minimum lot size and setbacks but does not result in the parcel retaining its double frontage. The proposed configuration results in Parcel 2 being roughly rectangular, which is a shape that provides easily usable area. If the lots were divided in a manner that met the minimum lot size but eradicated the double frontage, Parcel 2 would likely need to be an L shaped parcel. Given the existing lot configuration and the location of the existing improvements, the proposed double frontage lot will be allowed to retain its double frontage. The proposed parcel 2, which will be available for new development, will only have a single frontage.

Criterion met.

6.10 **(D) A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:**

(1) When a flag lot does not adjoin another flag lot, as shown in MCC 36.7895 Figure 1, the pole portion of the flag lot shall be at least 16 feet wide.

(2) Where two flag lots are placed back to back as shown in MCC 36.7895 Figure 2, the pole portion of each flag lot shall be at least 12 feet wide.

(E) Within a land division, flag lots shall not be stacked one behind the other as shown in MCC 36.7895 Figure 3. Instead, a private accessway shall be used as shown in MCC 36.7895 Figure 4.

Staff: No flag lots are proposed. Criteria do not apply.

6.11 § 36.7950 Water System.

The provision of domestic water to every lot or parcel in a land division shall comply with the requirements of subsections (4) (a), (b), or (c) of ORS 92.090 and MCC 36.7985 of this Chapter.

Applicant: Water service is provided by Pleasant Home Water District. See the completed Certification of Water Service Form.

Staff: The applicant has provided a letter from the water district stating that proposed parcel 2 will be provided access to the public water system (Exhibit A4). The letter also states a new water main will be necessary and shall be installed either in the public right-of-way or in a Dedicated Public Utility Easement. The applicant has not proposed any easements. If the main will be located in the public right-of-way, the agency installing the main will be required to obtain a utility permit for work conducted in the public right-of-way as allowed by the County Road Rules.

Criteria met.

6.11 § 36.7955 Sewage Disposal.

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsection (5) (c) of ORS 92.090 and MCC 36.7990 of this Chapter.

Each parcel or lot shall contain adequate land area to accommodate both a primary and reserve septic system drainfield area, and for surface and storm drainage systems.

Applicant: A Land Feasibility Study was performed and considered suitable for sewage disposal. See attached LFS 35-01 and the Certification of On-Site Sewage Disposal form. Primary and reserve septic systems, drain fields, and storm drainage is shown on Plat Map.

Staff: The applicant has submitted documentation including a land feasibility study from the Sanitarian's office stating that the proposed land division provides adequate land area to accommodate both a primary and reserve septic system for each lot (Exhibit A5). This documentation dates from 2001. Staff contacted Phillip Crawford at the Sanitarian's office on January 10, 2005 to determine if a new land feasibility study or other review by their office was needed. Staff faxed the proposed partition plat along with the documentation dated 2001 to Mr. Crawford. He responded verbally that the existing documentation is sufficient and there is no need to have the applicant reapply to his office.

Criteria met

6.12 § 36.7960 Surface Drainage.

Surface drainage and storm water control systems shall be provided as required by section MCC 36.7995. On -site water disposal or retention facilities shall be adequate to insure that surface runoff rate or volume from the new parcels after development is no greater than that before development.

Applicant: See attached Drainage Certificate for surface and storm water drainage. The 2% slope of the land will drain water into a drainage ditch that runs along Rork Road and into the culvert (seen on the civil engineers drawing).

Staff: The applicant is proposing the disposal of storm water into the public right-of-way. While a licensed professional engineer has provided a drainage certificate, it is related to plans that state no new buildings and no drainfields are being built as part of this application. The plan shows storm water exiting the site onto Rork Road. Since no additional impervious surfaces are proposed as part of the land division, no further action is needed at this time. When new impervious surfaces are constructed on either parcel, detailed storm drainage plans must be submitted at that time showing compliance with this section. A condition of approval will be added that requires the applicant to either obtain a Right-of-Way permit approving the discharge of storm water into the public right-of-way or provide plans for an on-site storm detention facility stamped and signed by a Registered Professional Engineer stating that the system is adequate to handle the water from a 10-year, 24-hour storm event prior to the approval of a building permit.

Criteria met with conditions

6.13 **§ 36.7965 Electrical and Other Wires.**

Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. The approval authority may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

(A) Is impracticable due to topography, soil or subsurface conditions;

(B) Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or

(C) Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served.

Applicant: There are no existing wires servicing the new partition parcel 2. At time of development the requirements as outlined by the approving authority would be met.

Staff: A condition of approval is attached requiring new electrical and any other wires serving either parcel to be placed underground.

Criterion met with conditions

7. **The Proposed Land Division Meets the Requirements of the Orient Rural Center Residential District.**

§ 36.3455 Dimensional Standards and Development Requirements.

All development proposed in this district shall comply with the applicable provisions of this section.

- 7.1 **(A) Except as provided in MCC 36.3460, 36.3470, and 36.3475, and 36.4300 through 4360, the minimum lot size shall be one acre.**

Applicant: Parcel 1 and Parcel 2 as depicted on the Preliminary Partition Plat will be 1.01 and 1.0 acres, respectively.

Staff: Both proposed parcels are in excess of one acre.

Criterion met.

- 7.2 **(B) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

Applicant: The yard dimensions for Parcel 1 are given on Plat. The front is 52 ft., back is 30 ft., and the sides are 174 ft. and 14ft. All minimums have been met or exceeded. The height of the dwelling is 26 ft., which is below the 35 feet maximum.

Staff: The proposal will keep all of the existing structures on Parcel 1. As shown on the applicant's site plan (Exhibit A1), all minimum yard dimensions have been met. Any new structures built on either parcel will be required to meet all dimensional standards in effect at the time they are constructed. Land use planning staff shall review all building plans for compliance with this standard prior to authorizing the issuance of a building permit.

Criteria met with conditions.

- 7.3 **(C) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.**

Staff: The Rights-of-Way for both SE Rook Rd. and SE Short Rd. are sufficient to serve the area. No right-of-way dedication is needed as determined by the County's Transportation Planning Specialist in Exhibit S7.

Criterion met

- 7.4 **(D) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

Applicant: The chimney is 24 feet. And is also 32 feet from property line.

Staff: According to the information submitted by the applicant, all existing structures are under the height requirement. Any new structures built on either of the proposed parcels will be

required to meet the height requirement in effect at the time the structure is built. Land use planning staff shall review all building plans for compliance with this standard prior to authorizing the issuance of a building permit.

Criterion met with conditions

7.4 **(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Applicant: The sewage disposal, storm water/drainage, parking and yard areas are shown on Plat, for both Parcels. The water is provided by public source and is noted in certificate from Pleasant Home Water District.

Staff: The applicant has demonstrated that the above mentioned facilities all exist on site for proposed Parcel 1. Proposed Parcel 2 does not currently have any improvements on site. The applicant has submitted a statement from the Pleasant Home Water district that adequate potable water supplies are available to provide for the domestic and fire protection needs of a new single family dwelling on the proposed site. The Sanitarian has certified that it is possible to install a capping fill drain field and a sandfilter repair system on the proposed one-acre lot. The applicant has provided a statement and plans signed by a registered professional engineer that drainage improvements have been designed to accommodate the run-off attributed to a storm of 10-year, 24-hour design frequency. These plans show the storm water from proposed parcel 2 being piped to the drainage ditch in the public right-of-way for Rook Rd. In order to run storm water into a public drainage system, a right-of-way permit is required. Before any building permits will be approved for new construction, a right-of-way permit must be issued which authorizes the discharge of storm water into the public drainage system or a system must be designed to retain the water on site. Such an on-site system must be certified to meet the standards of this section by a registered professional engineer.

Criteria met with conditions.

7.5 **(F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.**

Staff: No construction activities are proposed as part of this decision. Any future construction on either parcel will be subject to the Grading and Erosion Control standards of MCC Chapter 29. Land use planning staff shall review all building plans for compliance with this standard prior to authorizing the issuance of a building permit.

Criterion met with conditions

- 7.6 **(G) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal.**

Applicant: N/A No changes to dwellings on Parcel 1. Parcel 2 has no dwellings and no current plans for development.

Staff: Any new development on either proposed parcel will be required to meet the standards of this section. Land use planning staff shall review all building plans for compliance with this standard prior to authorizing the issuance of a building permit.

- 7.7 **(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land by:**

(1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or

(2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.

Applicant: No new, replacement, or expansion of existing dwellings on either parcel.

Staff: Proof that covenant meeting the requirements of 36.3455(H)(2) has been recorded with the Multnomah County Recorder will be required prior to the issuance of any building permits for new, replacement, or expansion of dwellings on either of the proposed parcels.

Criterion met with conditions

- 7.8 **§ 36.3480 Off-Street Parking and Loading.**

Off-street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.

Applicant: Parcels 1, which has the dwelling, has sufficient off street parking. There is a parking area next to the house as well as in the lengthy driveway. Parcel 2, which isn't developed, will also have a sufficient amount of parking.

Staff: Each single family dwelling is required to have a minimum of two parking spaces (MCC 36.4205(A)(1)). Both of these parking spaces must be at least nine feet wide and 18 feet long (MCC 36.4175(A)(1)), which is 162 square feet. Proposed parcel 1 will retain the existing garage, which is approximately 1,000 square feet. This is in excess of the required parking area.

Any applicant for a building permit for a dwelling on proposed parcel 2 will be required to provide at least two parking spaces meeting the dimensional requirements of MCC 36.4175. This parking area must be clearly shown on the building plans prior to issuance of a building permit.

Criteria met with conditions

7.9 § 36.3485 Access.

Any lot in this district shall abut a street, or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles.

Applicant: Parcels 1 and 2 abut a street, with sufficient street access. See plat map for street frontage.

Staff: Both proposed lots have direct frontage onto improved public roads. The both have adequate access.

Criterion met.

8. **The Proposal Meets The Comprehensive Plan Policies**

8.1 **Policy 14 Land Suitability**

The County's policy is to direct development and land form alterations away from areas with development limitations, except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;**
- B. Severe soil erosion potential;**
- C. Land within the 100 year flood plain;**
- D. A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;**
- E. A fragipan less than 30 inches from the surface;**
- F. Land subject to slumping, earth slides or movement.**

Staff: The subject property has a slope of less than 20% and is not subject to slumping, earth slides or movement.

According to the Multnomah County Soil Survey, the soil on this site is predominately Powell silt loam, 3-8% with the northeast corner of the property containing Powell silt loam 0-3%. This soil has a seasonal high water table and slow permeability. Septic tank absorption may not function properly. Where Policy 14 development limitations exist on-site, in areas proposed for development (e. g. high seasonal water table and fragipan), design and construction techniques can be implemented to mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. In this case, a capping fill drain field and sand filter repair system will work on this site as indicated by the Certification of Private On-Site Sewage Disposal form signed by the City of Portland Sanitarian's office (Exhibit A5) and Land Feasibility Study LFS 35-01(Exhibit A10).

The applicant is proposing the disposal of storm water into the public right-of-way. While a licensed professional engineer has provided a drainage certificate, it is related to plans that state no new buildings and no drainfields are being built as part of this application. The drainage plan shows storm water exiting the site onto Roork Road. When new impervious surfaces are

constructed on site, additional design work must be undertaken to design an on-site storm drainage facility or to design improvements acceptable to the County's Right-of-Way division. Staff finds that it is possible for a combination of design and construction techniques to meet the drainage needs of a the new lot in a manner that can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties.

The applicant's materials are adequate to demonstrate that the land is suitable for development.

Policy Met.

8.2 Policy 37 Utilities

8.2.1 Water and Disposal Systems

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- D. Shall have an adequate private water system, and a public sewer with adequate capacity.**

- 8.2.2 Staff:** The applicant has provided a service provider letter from the Pleasant Home Water District stating that adequate capacity is available in the local public water supply to provide access to the proposed new parcel. (Exhibit A4)

A Land Feasibility Study and Certification of On-Site Sewage Disposal form have been submitted documenting that the City of Portland Sanitarian will be able to approve an adequate on-site sewage disposal system. (Exhibit A10 and A5 respectively)

Drainage

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

Staff: The applicant is proposing the disposal of storm water into the public right-of-way. While a licensed professional engineer has provided a drainage certificate, it is related to plans that state no new buildings and no drainfields are being built as part of this application. The drainage plan shows storm water exiting the site onto Roork Road. When new impervious surfaces are

constructed on site, additional design work must be undertaken to design an on-site storm drainage facility or to design improvements acceptable to the County's Right-of-Way division. Staff finds that it is possible for adequate provisions to be made for storm water disposal on this site. A condition of approval has been attached requiring either a right-of-way permit to allow the storm water to discharge into the right-of-way or the design of an on-site storm drainage system certified by a registered professional engineer as adequate to handle the water from a 10-year 24-hour storm event prior to the approval of a building permit for a new house on parcel 2.

Policy Met

8.3 Policy 38 Facilities

It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

8.3.1 School

A. The appropriate school district has had an opportunity to review and comment on the proposal.

Staff: The applicant has provided a letter signed by a representative of the Gresham-Barlow School District indicating that the school district has no comments. (Exhibit A9)

8.3.2 Fire Protection

B. There is adequate water pressure and flow for fire fighting purposes; and

C. The appropriate fire district has had an opportunity to review and comment on the proposal.

Staff: The applicant has provided a service provider letter signed by a representative of the Gresham Fire and Emergency Services District stating that the existing access is adequate and that adequate water is available in the form of a fire department tanker and engine. (Exhibit A7) Prior to the approval of building permits for the construction of a new dwelling on proposed parcel 2, the applicant must submit a completed Fire District Review Fire Flow Requirements form indicating that the proposed new structure meets the fire flow requirements of MCC Chapter 29.

8.3.4 Police Protection

D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.

Staff: The applicant has provided a service provider letter signed by a representative of the Multnomah County Sheriff stating that the level of police service is adequate to serve the proposed project. No further comments were provided. (Exhibit A8).

9.00

Exhibits

‘A’ Applicant’s Exhibits

‘S’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Site Plan (Tentative Plat)	12/3/04
A.2	2	Deed Transferring Ownership to Trammell	12/3/04
A.3	1	Signed Application Form	12/3/04
A.4	2	Certification of Water Service	12/3/04
A.5	1	Certification of On-Site Sewage Disposal	12/3/04
A.6	2	Drainage Certificate and Storm Drainage Plan	12/3/04
A.7	1	Fire District Review	12/3/04
A.8	1	Police Services Review	12/3/04
A.9	1	School District Review	12/3/04
A.10	2	Land Feasibility Study	12/3/04
‘S’		Staff Exhibits	Date of Document
S.1	2	Photos of the Site	1/7/05
S.2	1	A&T Property Record	12/3/04
S.3	1	Copy of Subdivision Plat 13323	10/12/58
S.4	1	Copy of 1962 zone map	1962
S.5	4	Copy of 1955 R-10 zone district	4-19-55
S.6	2	Copy of 1991 Property Line Adjustment Approval	6/18/91
S.7	1	Memo from Transportation Planning	1/11/05
S.8	1	Applicant’s Instructions for Finishing a Land Division	NA
S.9	1	Surveyor’s Instructions for Finishing a Land Division	NA
S.10	1	Conditions and Restrictions document for recording	NA

Conclusion

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that, with conditions, the criteria for a Category 4 Land Division contained in the Zoning and Land Division codes have been met.