



## MULTNOMAH COUNTY OREGON

### LAND USE AND TRANSPORTATION PROGRAM

1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3339

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](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.

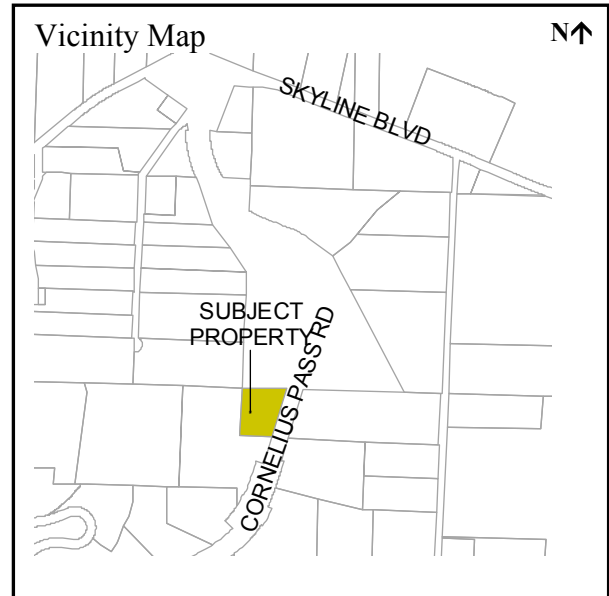
**Case File:** T2-05-109

**Permit:** Category 3 Land Division

**Location:** 10887 NW Cornelius Pass Road  
Tax Lot 1300, Section 1N, Township  
1W, Range 06B, W.M.

**Applicant:** James Lewinson  
PO Box 416  
Hillsboro, OR 97123

**Property Owners:** Cindy Leung  
PO Box 416  
Hillsboro, OR 97123



**Summary:** Applicant is proposing a 1 lot partition to correct an error made during the initial creation of the parcel. No new parcel or development is proposed at this time.

**Zoning:** Rural Residential (RR)

**Decision:** Approved with conditions.

Unless appealed, this decision is effective January 23, 2006, at 4:30 PM.

Issued by:

By: \_\_\_\_\_  
Tammy Boren-King, Planner

For: Karen Schilling- Planning Director

Date: January 9, 2006

**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 Tammy Boren-King, 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 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 January 23, 2006 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC):

*Category 3 Land Division:* 33.7775 Category 3 Land Divisions; 33.7855 Criteria for Approval: Category 3 Tentative Plan; 33.7860 Contents of Category 3 Tentative Plan; 33.7885 Application of General Standards and Requirements; 33.7890 Land Suitability; 33.7895 Lots and Parcels; 33.7910 Street Design; 33.7935 Easements; 33.7950 Water System; 33.7955 Sewage Disposal; 33.7960 Surface Drainage; 33.7965 Electrical and Other Wires; 33.7985 Water System; 33.7990 Sewage Disposal; 33.7995 Surface Drainage and Storm Sewer Systems; 33.8000 Other Utilities;

*RR Zoning:* 33.3155 Dimensional Requirements, 33.3170 Lot of Record

*General Provisions:* Chapter 37- Administration and Procedures

*Comprehensive Plan Policies:* 14 Development Limitations; 37 Utilities; 33 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](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. **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 or 37.0700, as applicable. A request for permit extension may be required to be granted 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. Before the partition 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 Planning 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 33.8015(A)]**
- 2. 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. [MCC 33.8020]**
- 4. All new service wires such as any new electric power, communication, street lighting, and cable television wires serving the property shall be placed underground. [MCC 33.7965]**

<b>Notice to Mortgagee, Lien Holder, Vendor, or Seller:</b>
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ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.
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## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### 1.00 ***General Information***

#### 1.01 **Project Description and History**

**Staff:** The applicants are requesting a one parcel partition in order to correct an improper land division. The subject parcel was divided from property designated as 1N1W06B tax lot 500 in 1992. Until that time, both the subject lot and tax lot 500 were one property divided by the right-of-way for Cornelius Pass Road. In 1992, the lot was divided to describe the property on the west side of the road separately from the property on the east side of the road. The zoning at that time was Rural Residential on the west side of the road and MUA-20 on the east side of the road as shown on the zoning map included as Exhibit S1. This map was effective from 10-13-1983 through 12-7-2000. Exhibit S2 is a copy of the Rural Residential zone in effect from 4-22-1982 through 12-7-2000. The minimum lot size in this zone was 5 acres, however MCC 11.15.2222(C) stated, “*Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.*” The parent parcel was divided by both a street and a zoning boundary, making the subject property a separate lot of record from the portion of the parcel on the east side of Cornelius Pass Road. Two separate lots of record existed in one parcel.

The parcel was split into two tax accounts for assessment purposes in 1992. The first deed which separated the lot of record west of the road into a separate parcel was recorded on 8-3-1993 in Book 2733, Page 2690. A copy of this deed is included as Exhibit S3. The property was first created in 1993.

Since October 1978, Multnomah County’s Land Division Ordinance has required a Category 3 land division application be filed for all partitions that created a lot with a depth to width ration of 2.5 to 1 or more. The land division executed by deed on 8-3-93 created the subject parcel as well as Tax Lot 500. Tax lot 500 has a depth to width ration of 2.89 to 1. As such, a partition was required to legally create the two parcels.

Subsequent to the improper land division, the County issued two land use decisions approving the construction of a single family home on the subject property. These decisions are SEC 34-98 and HDP 16-98. Copies of each of these decisions are included in the file. Both of these decisions found the subject property is a Lot of Record. The house approved through those decisions was not constructed.

The owners of the subject property are requesting a one lot partition to properly divide the lot of record west of the road from the lot of record east of the road. The two lots of record are currently under separate ownerships. The owners of the lot of record east of the road have not granted their permission for this application and are not seeking a land division to correct the improper division for their lot of record at this time. ORS 92.177 (Exhibit S4) allows the owners of an improperly created lot to make an application to properly create their lot even if

less than all of the owners of the existing legal lot have applied for the approval. The owners of the subject lot can seek approval of their portion of the land division without the permission of the owners of tax lot 500.

1.02 **Site Description**

The subject property is a partially cleared vacant 1.86 acre piece of land. A 2002 aerial photograph is included as Exhibit S5. The property abuts the right of way for Cornelius Pass Road on the north and east property lines with the east property line abutting the roadway. The property slopes downward to the west, away from Cornelius Pass Road as shown on the contour map included as Exhibit S6.

2.00 ***Administration & Procedures***

2.01 **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, or by a government agency that has the power of eminent domain. PC (legislative) actions may only be initiated by the Board, Planning Commission, or Planning Director.**

**Staff:** The owners of the subject property are requesting a one lot partition to properly divide the lot of record west of the road from the lot of record east of the road. The two lots of record are currently under separate ownerships. The owners of the lot of record east of the road have not granted their permission for this application and are not seeking a land division to correct the improper division for their lot of record at this time. ORS 92.177 (Exhibit S4) allows the owners of an improperly created lot to make an application to properly create their lot even if less than all of the owners of the existing legal lot have applied for the approval. The owners of the subject lot can seek approval of their portion of the land division without the permission of the owners of tax lot 500

The subject property is owned by Cindy Leung and James Lewinson as demonstrated by the deed included as Exhibit S7 and current assessment and taxation ownership information included as Exhibit S8. James Lewinson has signed the application form authorizing the subject application. (Exhibit A1). *This criterion has been met.*

2.02 **Code Compliance**

**§ 37.0560 Code Compliance And Applications.**

**Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.**

**(A) A permit or other approval, including building permit applications, may be authorized if:**

**(1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**

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**Staff:** The subject property was improperly divided. This violated the land division code in effect at the time. The subject application will remedy this land division violation.

*With the implementation of this decision, the property will be in full compliance.*

## 2.03 **Type II Case Procedures**

**Staff:** MCC 37.0530(B) requires the county to issue notice of an application and an invitation to comment to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract upon receipt of a complete application. The Planning Director accepts comments for 14 days after the notice.

This application was submitted on November 14, 2005 (Exhibit A1). On November 28, 2005 an Incomplete Letter was mailed to the applicant requesting additional information. The application was deemed complete as of December 20, 2005 and a 14 day Opportunity to Comment was mailed to various parties as required by MCC 37.0530(B). A copy of the notice and mailing list are included in the file. No letters of comment were received.  
*Procedures met.*

## 3.00 **Category 3 Land Division Criteria**

### 3.01 **§ 33.7775 Category 3 Land Divisions**

**A land division proposal under any of the following circumstances is designated a Category 3 Land Division:**

- (A) A partition located at the end of a street;**
- (B) A partition abutting a street which has a centerline to property line width less than one-half the width specified for that functional street classification according to the Multnomah County Street Standards Code and Rules;**
- (C) A partition which will result in a flag lot;**
- (D) A partition which will result in one or more parcels with a depth-to-width ratio exceeding 2.5 to 1;**
- (E) A partition which will result in a proposed parcel with an area four or more times the area of the smallest proposed parcel; and**
- (F) A partition of land classified as Significant Environmental Concern (SEC), Exclusive Farm Use (EFU), or Special Plan Area (SPA) under MCC Chapter 33.**
- (G) A partition resulting in the creation of a lot for which an Exception or Variance is required under another part of MCC Chapter 33.**

**Staff:** The proposal is a Rural Area partition to properly create one lot. The proposal is not located at the end of a street. Cornelius Pass Road, the abutting street, is classified as a Rural Arterial which requires 60 feet of right-of-way. Cornelius Pass Road currently has 100 feet of right-of-way adjacent to the west property line. The property is not adjacent to a road with

less than one-half of the right-of-way width associated with its functional classification. The proposal will not create a lot with 4 or more times the area of the smallest proposed parcel. The proposal will not result in a flag lot. The land is currently classified as Significant Environmental Concern and the division of the parent parcel resulted in a lot with a depth to width ratio in excess of 2.5 to 1 (tax lot 500).

Therefore, this partition is a Category 3 Land Division.

3.02      **§ 33.7855    Criteria for Approval: Category 3 Tentative Plan**

**In granting approval of a Category 3 tentative plan, the Planning Director shall find that the criteria listed in subsections (B), (C) and (H) of MCC 33.7800 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district.**

**Staff:** Staff has found below that the proposed Category 3 tentative plan has met the applicable criteria (B), (C) and (H) of MCC 33.7800 and complies with the area and dimensional requirements of the RR zoning district. *This criterion has been met.*

3.03

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**§ 33.7800 (B) Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;**

**Staff:** A 2002 aerial photo showing the adjoining lands is included as Exhibit S9. As this photo demonstrates, all of the adjoining properties except for the road right-of-way contain single family dwellings. The zoning on the west side of Cornelius Pass Road is Rural Residential, which allows only one dwelling per lot of record and has a minimum lot size of 5 acres. The zoning on the east side of Cornelius Pass Road is Multiple Use Agriculture 20, which allows only one dwelling per lot of record and has a minimum lot size of 20 acres. None of the adjoining properties are large enough to be further divided. The adjoining properties do not have further development potential other than the possibility to erect accessory structures.

All of the adjoining lands have direct access to public roads. As can be seen on the aerial photo included as Exhibit S9, each adjoining property has access as follows:

- Property abutting north property line is right-of-way
- Property to northwest has direct access onto NW Plainview Road
- Property to southwest has direct access onto Cornelius Pass Road
- Property to east has direct access on both Cornelius Pass Road and NNW Brook Road

The proposal will not block access to any surrounding lots making further development unfeasible. *This criterion has been met.*

3.04

**(C) The tentative plan complies with the applicable provisions, including the purposes and intent of this Chapter.**

**Staff:** The purposes of land division section of Chapter 33 (West Hills Rural Area Plan) are listed in MCC 33.7710. These include the protection of property values, provision of uniform standards of the division of land and the installation of related improvements, and the

implementation of the Statewide Planning Goals. These and the other listed purposes are implemented through the application of specific criteria throughout the land division code. Based upon the findings for the applicable provisions in this decision, the proposed partition complies with the purpose of this Chapter.

*This criterion has been met.*

- 3.05        **(H) Approval will permit development to be safe from known flooding and flood hazards. Public utilities and water supply systems shall be designed and located so as to minimize or prevent infiltration of flood waters into the systems. Sanitary sewer systems shall be designed and located to minimize or prevent:**

**(1) The infiltration of flood waters into the system; and**

**(2) The discharge of matter from the system into flood waters.**

**Staff:** No known streams or drainages cross this area of land. The property is not mapped as being within the 100 year floodplain. No known flood hazard exists. *This criterion has been met.*

- 3.06        **§ 33.7860    Contents of Category 3 Tentative Plan**

**Staff:** The tentative plan submitted by the applicant contains the majority of the information required by this section. The plan lacks a north arrow, but is aligned with north to the top of the sheet as is common practice. A copy of the plan is included as Exhibit A2.

The Tentative Plan Map (Exhibit A2) contains enough information to allow staff to determine the specific nature of the request and substantially complies with this section. *These criteria have been met.*

- 3.07        **(B) Written information; Category 3 tentative plan. Written information shall include:**

**(1) Name, address and telephone number of the record owner(s), owner's representative, designer(s), engineer(s) or surveyor(s), and the date of survey, if any.**

**(2) Proof of record ownership of the tract and the representative's authorization.**

**Applicant:** Owners: Cindy Leung & Jim Lewinson, PO Box 416, Hillsboro, OR 97123. Surveyed by Gilbertson Engineering on 28-May-92.

**Staff:** The applicant has provided the owner's name and address. The owner's telephone number is provided on the general application form. The date of survey is listed. A copy of the deed transferring ownership to the applicants is included as Exhibit S7. *These criteria have been met.*

**(3) Legal description of the tract.**

**Applicant:** All of the following tract of land that lies Westerly of the Westerly line of the tract conveyed to the State of Oregon, by and through its State Highway Commission by Deed recorded July 1, 1947 in book 1184, Page 46 and re-recorded



November 10, 1947 in Book 1219, Page 377:

The North 10 acres of the following described property:

The Southeast quarter of the Northwest quarter and the Northeast quarter of the Southwest quarter of Section 6, Township 1 North of Range 1 West, in the County of Multnomah and the State of Oregon.

**Staff:** Applicant has supplied a legal description of the tract. *This criterion has been met.*

**(4) Present and proposed uses.**

**Applicant:** Currently vacant land. Proposed use is a single family home.

**Staff:** The applicant has identified the current and the proposed uses. It is important to note that the subject application is not in and of itself proposing the development of a single family home. This application is intended to correct an improper land division so that a future application may be made to establish a single family home on the property. The current proposal will not directly result in any changes to the use of the land but does set the stage for future development as allowed in the Rural Residential zone. *This criterion has been met.*

**(5) Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.**

**Applicant:** The property has a well that was rated at 11 gals/minute when it was drilled. The property requires a sand-filter septic system. The previous building plans called for using the storm drain at the corner of the property for storm water disposal. Electric power lines run along our side of Cornelius Pass.

**Staff:** The applicant has provided the descriptions required by this criterion. *This criterion has been met.*

**(6) Statements of the manner in which the criteria for approval listed in MCC 33.7855 are satisfied.**

**Staff:** These statements are included above. *This criterion has been met.*

**(7) Statement of the improvements to be made or installed and the time scheduled therefore.**

**Staff:** No new improvements are proposed as part of this application. *This criterion has been met.*

3.08

**(C) Supplementary material; Category 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 33.7805 through 33.7825, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Chapter.**

**Staff:** In addition to the materials specified above, the applicant has provided a preliminary title report, a survey, a land feasibility study, a well construction log, and a letter of review from Tualatin Valley Fire and Rescue. *This criterion has been met.*

3.09 **MCC 33.7885 Application of General Standards and Requirements**

**Every land division proposal shall comply with the applicable provisions of MCC 33.7890 through 33.7965.**

3.10 **MCC 33.7890 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%;**

**Applicant:** The average slope of the property is less than 25%. The previous project was issued a Hillside Development Permit HDP 16-98, so any concerns can be addressed.

**(B) Severe soil erosion potential;**

**Applicant:** The previous project was issued HDP 16-98, which noted, “The subject parcel’s only soil type is Cascade silt loam, 15 to 30% slopes according to the soil survey of Multnomah County, Oregon. The Soil Survey notes that “Run-off is medium, and hazard of erosion is high.” However, the erosion potential was addressed in that permit.

**(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;**

**Applicant:** The high seasonal water table was addressed in SEC 34-98. The soil survey says the water table, “is within a depth of 18 to 30 inches from December to April.”

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

**Applicant:** The SEC 34-98 application noted there was no sub-grade pan within 30 inches of the surface. The soil survey says the, “substratum is a dark brown, mottled, silt loam fragipan to a depth of 60 inches or more.”

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

**Applicant:** The SEC 34-98 application noted that the property was not subject to slumping, earth slides or movement and addressed concerns about earth movement in the HDP.

**Staff:** Though the property does contain some development limitations, the county has previously determined that the property is capable of being made suitable for residential use by approving a Significant Environmental Concern Permit, a Hillside Development

Permit and subsequent building permits for a single family home on this property. Copies of the previously-approved Significant Environmental Concern permit, Hillside Development Permit, and building permit are in the file. *This criterion has been met.*

3.11     **§ 33.7895   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;**

**Applicant:** The property would be a rectangle if Cornelius Pass Road did not cross the original lot at an angle.

**Staff:** The type of development contemplated is the future development of a single family dwelling. The partition is along the zone district boundary between the RR and MUA-20 districts and is consistent with the orientation of Cornelius Pass Road. The proposed configuration will lawfully separate one lot of record from another lot of record. Additionally, the lot of record has previously been approved for the development of a single family dwelling, proving that the County has already determined that the configuration is appropriate such a use.

Dividing the property based on the orientation of the road, the zone boundary, and the boundaries of the lot of record makes the proposed configuration appropriate for the contemplated residential development.

**(2) To the nature of existing or potential development on adjacent tracts;**

**Staff:** The majority of the adjacent tracts are developed with single-family residences. consistent with the underlying zoning designation and previously approved land use decisions. The 2002 aerial photo included as Exhibit S9 shows the design, orientation, size and access for the surrounding properties. The proposed parcel shape and contemplated use is consistent with the surrounding properties.

**(3) For the maximum preservation of existing slopes, vegetation and natural drainage;**

**Staff:** This criterion anticipates future development which, in this case, will be a single family home. The development of a single family home on this site has been previously approved by the County proving that the site has adequate development area that does not unduly comprise the above listed features.

**(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**

**Staff:** The proposal will result in a 1.86 acre parcel. This is adequate room to construct a house and retain on-site vegetation to provide for privacy and separation from the public road and surrounding properties.

**(5) To the climactic conditions including solar orientation and winter wind and rain.**

**Staff:** There is adequate space on the property to site a dwelling for good solar access as well as to maintain substantial on-site vegetation to provide privacy. Wind and rain are not aspects of the proposal that could be managed since the proposal is a one-lot partition. *These criteria have been met.*

3.12 **(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:** The property would be a rectangle if Cornelius Pass Road did not cross the original lot at an angle.

**Staff:** The west lot line is perpendicular to the north and south lot lines. The east lot line is not perpendicular because its orientation is dictated by the alignment of Cornelius Pass Road. It is not possible for the east lot line to be perpendicular to the north and south lot lines without the re-alignment of Cornelius Pass Road. The proposal meets this criterion to the extent practicable. *This criterion has been met.*

3.13 **(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 is no double or reverse frontage.

**Staff:** Staff concurs. As shown on the Tentative Plan Map (Exhibit A2) the property has frontage on Cornelius Pass Road only. *This criterion has been met.*

3.14 **(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:**

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**Applicant:** There is no flag lot being created.

**Staff:** Staff concurs. The entire front lot line of the proposed lot is adjacent to Cornelius Pass Road as shown on the applicant's tentative plan (Exhibit A2). *This criterion has been met.*

3.15 **(E) Within a land division, flag lots shall not be stacked one behind the other as shown in MCC 33.7895 Figure 3. Instead, a private accessway shall be used as shown in MCC 33.7895 Figure 4.**

**Applicant:** There is no flag lot being created.

**Staff:** Staff concurs. *This criterion has been met.*

3.16 **MCC 33.7900 Acreage Tracts  
MCC 33.7905 Street Layout  
MCC 33.7915 Street Reserve Strips  
MCC 33.7920 Temporary Turnarounds**

**MCC 33.7925 Street Names**

**MCC 33.7930 Sidewalks, Pedestrian Paths and Bikeways**

**MCC 33.7940 Street Trees**

**Staff:** The above listed criteria are not applicable to this proposal based upon existing physical improvements, code requirements and ownership. *These criteria do not apply.*

3.17 **§ 33.7910 Street Design**

**The width, design and configuration of all streets in or abutting the land division shall comply with applicable ordinance standards as follows:**

**(A) For a public street — in accordance with the Street Standards Code and Rules; and**

**(B) For a private street — in accordance with the Street Standards Code and Rules, subject to the following additional requirements:**

**(1) Accessways shall be designed in accordance with Permit Requirements for Accessway Construction published by the Multnomah County Department of Environmental Service. Accessways shall have a maximum length of 300 feet.**

**(C) A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround having a radius of 50 feet.**

**Applicant:** There is no private street involved. Cornelius Pass Road already is in place.

**Staff:** No new streets are proposed. The property abuts Cornelius Pass Road, a public road which has been built and is maintained in accordance with the Street Standards Codes and Rules. No private streets or cul-du-sacs are proposed. *This criterion has been met.*

3.18 **§ 33.7935 Easements**

**Easements shall be provided and designed according to the following:**

**(A) Easements for utilities and storm or sanitary sewers may be required where appropriate to serve abutting lots or parcels. Such easements shall be not less than 10 feet in width, centered on side or rear property lines or five feet in width along front property lines.**

**Applicant:** There are no easement being created with this division.

**Staff:** Staff concurs. No easements are proposed nor are required to provide utilities to adjacent lots. *This criterion has been met.*

3.19 **(B) Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.**

**Staff:** The subject parcels are not traversed by a water course other than the road side ditch associated with Cornelius Pass Road. No drainage easements are necessary. *This criterion has been met.*

3.20        **(C) Easements for pedestrian paths and bikeways shall be not less than 10 feet in width.**

**Staff:** No easements for pedestrian paths or bikeways have been proposed or are required by code. *This criterion is not applicable at this time.*

3.21        **MCC 33.7950 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 33.7985 of this Chapter.**

**Applicant:** The property has well ID 27475 drilled and capped.

**Staff:** The applicant has submitted a copy of the well construction log (Exhibit A3) documenting that a private water supply is available on the subject property. *This criterion has been met.*

3.22        **MCC 33.7955 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 33.7990 of this Chapter.**

**Applicant:** The parcel has enough room for a regular and backup septic system.

**Staff:** The applicant has submitted a copy of the Land Feasibility Study Site Evaluation Report issued by the City of Portland for the property in 1993 (Exhibit A4). This documents that the property is eligible for a septic system. This is adequate documentation to conclude that the property is capable of handling on-site sewage disposal in compliance with the requirements of ORS 92.090(5)(c). Finding 3.27 addresses MCC 33.7990. *This criterion has been met.*

3.23        **MCC 33.7960 Surface Drainage**

**Surface drainage and storm sewer systems shall be provided as required by section 33.7995. The County Engineer may require on-site water disposal or retention facilities adequate to insure that surface runoff volume after development is no greater than that before development.**

**Applicant:** This was addressed in SEC 34-98 and the building permit process.

**Staff:** The parcel is currently vacant and no development is proposed as part of this application. However, this application is preparing the site for a subsequent application for a single family dwelling which will generate storm runoff. At this stage in the development process, it is not appropriate to design a specific system but it is necessary to assure that the

property is capable of handling storm water runoff that will be generated by future development.

MCC 33.7995 has two options for surface drainage and storm sewer systems. They are (A) In a public street or (B) In a private street and on lots or parcels in accordance with the plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority. Multnomah County previously permitted a dwelling on the subject property with an on-site storm drainage system designed by an Oregon licensed and registered professional engineer. This previous approval by the County shows that it is possible for storm water attributable to a single family dwelling to be managed on site. Any future application for development on this site will require a new site specific storm water design stamped and signed by an Oregon licensed and registered professional engineer. *This criterion has been met.*

### 3.24 **MCC 33.7965 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:** Electric power lines run along our side of Cornelius Pass road and there is a power pole at the corner of the lot.

**Staff:** No waiver has been requested and none is approved. Any new electrical service to the subject property must be placed underground. A condition of approval will require new electrical service to be underground. *This criterion has been met with conditions.*

## 4.00 ***Rural Residential Zone (RR) Criteria***

### 4.01 **§ 33.3155 Dimensional Requirements**

**(A) Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).**

**Staff:** The subject parcel is less than 5 acres. The subject parcel was determined to be a Lot of Record in cases SEC 34-98 and HDP 16-98. Pursuant to MCC 33.3170(B), a Lot of Record with less than the minimum lot size for new parcels or lots may be used for purposes otherwise allowed by the zoning code. *This criterion has been met.*

- 4.02           **(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

**Staff:** Assessment and Taxation information shows that the parcel is 1.86 acres exclusive of the adjacent right of way. Sufficient right-of-way does not exist to increase the parcel size to meet the minimum lot size of 5 acres. The adjacent right-of-way is 100 feet wide with the subject lot having approximately 347 feet of frontage. This would mean approximately 17,000 square feet of right of way (347 ft \* 50 ft) would accrue to the subject property. This is approximately 4/10 of an acre. *This criterion has been met.*

- 4.03           **(C) 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.**

**Staff:** The lot has more than 50 feet of lot frontage. No development is proposed as part of this application. No development exists on site. Any future development will be required to comply with the dimensional standards in effect at the time of development. *These criteria have been met.*

- 4.04           **(D) 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 requirements not otherwise established by Ordinance.**

**Staff:** Cornelius Pass Road has sufficient right-of-way. *This criterion is not applicable..*

- 4.05           **§ 33.3170      Lot of Record**

**Staff:** The subject property was determined to be a Lot of Record in decisions SEC 34-98 and HDP 16-98. Copies of each of these decisions are included in the file. *These criteria have been met.*

- 4.06           **§ 33.3185      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.**

**Staff:** The subject property abuts Cornelius Pass Road, a public street. *This criterion has been met.*

## **5            *Comprehensive Plan Policies***

- 5.1            **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:** This policy is implemented by MCC 33.7890. As discussed in finding 3.10, though the property does contain some development limitations, including A, B, D and E listed above. The county has previously determined that the property is capable of being made suitable for residential use by approving a Significant Environmental Concern Permit, a Hillside Development Permit and subsequent building permits for a single family home on this property. Copies of the previously-approved Significant Environmental Concern permit, Hillside Development Permit, and building permit are in the file. *Policy Met.*

## **5.2 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.**

**Staff:** The applicant has submitted a copy of the well construction log (Exhibit A3) documenting that a private water supply is available on the subject property.

The applicant has submitted a copy of the Land Feasibility Study Site Evaluation Report issued by the City of Portland for the property in 1993 (Exhibit A4). This documents that the property is eligible for a septic system. This documents that the Oregon Department of Environmental Quality will approve an on-site sewage disposal for the subject property.

### **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 parcel is currently vacant and no development is proposed as part of this application. However, this application is preparing the site for a subsequent application for a single family dwelling which will generate storm runoff. At this stage in the development process, it is not appropriate to design a specific system but it is necessary to assure that the property is capable of handling storm water runoff that will be generated by future development.

This policy is implemented by MCC 33.7995 which has two options for surface drainage and storm sewer systems. They are (A) In a public street or (B) In a private street and on lots or parcels in accordance with the plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority. Multnomah County previously permitted a dwelling on the subject property with an on-site storm drainage system designed by an Oregon licensed and registered professional engineer. This previous approval by the County shows that it is possible for storm water attributable to a single family dwelling to be managed on site. Any future application for development on this site will require a new site specific storm water design stamped and signed by an Oregon licensed and registered professional engineer. *Policy met.*

### **Policy 33 Facilities**

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

#### **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 Tualatin Valley Fire and Rescue District stating that the district has no comments at this time. (Exhibit A5) The fire district did indicate that any development including a single family dwelling will need to be reviewed by their office prior to development to ensure the access and fire fighting water supply standards are met. Any future development of a single family dwelling on the parcel will require review by a representative of the fire district. *Policy met.*

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8.00 ***Conclusion***

Based on the findings and other information provided above, the applicant has carried the burden necessary for Category 3 Land Division in the Rural Residential zoning district. This approval is subject to the conditions of approval established in this report.

9.00 ***Exhibits***

‘A’ Applicant’s Exhibits

‘S’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit
A1	1	Signed Application Form
A2	1	Tentative Plan
A3	1	Well Construction Log
A4	4	Land Feasibility Study & Site Evaluation Report
A5	1	Letter of comment from Tualatin Valley Fire and Rescue District
‘S’		Staff Exhibits
S1	1	Zoning map effective 10-13-1983 through 12-7-2000
S2	6	Rural Residential Zone effective 4-22-1982 through 12-7-200
S3	2	Deed which divided subject lot recorded in Book 2733 Page 2690
S4	1	ORS 92.177
S5	1	2002 Air Photo of Subject Lot
S6	1	Contour Map
S7	2	Deed transferring ownership to current owner. Instrument 96130833
S8	1	Current Assessment and Taxation Information for Parcel
S9	1	2002 Air Photo of Surrounding Area