



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/landuse>

NOTICE OF DECISION

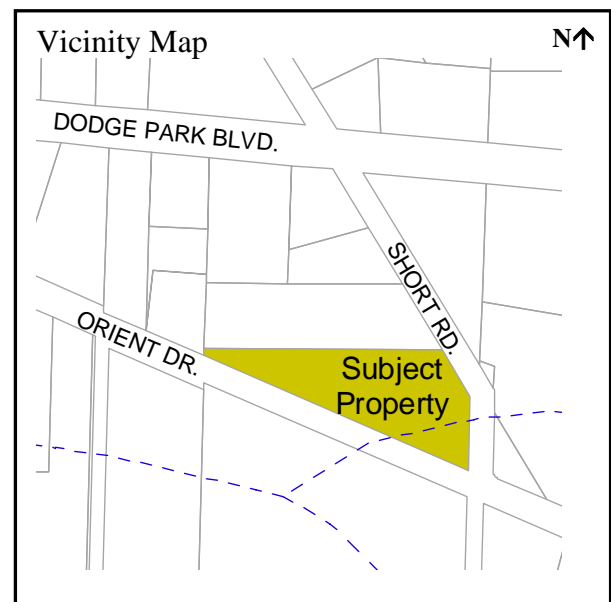
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-06-112

Permit: Category 3 Land Division

Location: Tax Lot 2200, Section 19AC,
Township 1 South, Range 4 East, W.M

Applicant/ Karece International LLC
Owner: Attn: Michael Eyre
10824 SE Oak St#332
Milwaukie, OR 97222



Summary: A Category III Land Division (Partition Plat) and a Lot of Exception to divide the property into two parcels within the Orient Residential Zone District.

Decision: Approved with conditions

Unless appealed, this decision is effective February 16, 2007, at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, February 2, 2007

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 George A. Plummer, Staff Planner at 503-988-3043 x29152.

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 February 16, 2007 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Multnomah County Code (MCC): MCC Chapter 37: Administration And Procedures, MCC 36.3400-3485: Orient Rural Center Residential (OR), MCC 36.0005(L)(13) Lot of Record, MCC 36.3460: Lot of Exception, MCC 36.7700 et. seq.: Land Divisions (applicable code for Category 3 land divisions only), Comprehensive Plan Policy 38: Facilities: Land Divisions

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/landuse>.

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; 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. The applicant is to complete the procedures given in the enclosed "Applicant's Instructions for Finishing a Land Division." (Exhibit 2.8) They are also to provide their surveyor the enclosed "Surveyor's Instructions for Finishing a Land Division" (Exhibit 2.9) which provides instructions for drafting required materials. Before the final plat is submitted to the Multnomah County Surveyor's Office, two (2) 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. Each of the parcels shall be as they appear on the tentative plan [MCC 36.7800 and 36.7860]
4. The portion of the shed to be removed as shown on the Tentative Plan, Exhibit 1.4, shall be removed to meet the 10 foot side yard setback prior to the filing of the Final Plat [MCC 36.0005(L)(10) and MCC 36.7855].

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.

Approved Tentative Plat Map here

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**

Staff: The applicant proposes to partition the 2.2 acre property with two existing dwellings into two parcels with a dwelling on each as shown on the tentative plan included as Exhibit 1.4. Parcel 1 is proposed to be 1.3 acres. The applicant is requesting a lot of exception to create one of the parcels less than one acre in size, Parcel 2 at 0.89 acre. Access to both properties will be the established accesses currently serving each of the dwellings from Orient Drive.

2. **SITE CHARACTERISTICS**

Staff: The subject property is located within the Orient Rural Center Residential (OR) Zone with Significant Environmental Concern for Water Resources and Wildlife Habitat Overlay Districts on portions of the property (Exhibit 2.2). The site is generally flat with a small stream crossing the southeastern corner of the property. The property abuts two roads, Short Road to the West and Orient Drive to the southwest (Exhibit 2.3). The property has two existing dwellings established in 1923 and 1936 (Exhibit 2.1).

Much of the land in this Rural Center area (Exhibit 2.2) has been divided into one or two acre parcels containing homes, some rural scale businesses. There are two public schools on the property across Short Road. The properties to the north are within the OR District and are developed with single family dwellings. The properties to the west are within the Orient Commercial Industrial Zone District with a mix of residential and rural business uses. The adjacent property to the west has been used as a building supply business. To the south and southwest across Orient Drive tend to be larger parcels with the first few hundred feet in the OR District and further south the properties are in the Exclusive Farm Use (EFU) Zone District. Some of the larger properties are split zoned with portions in OR and EFU. Many of these properties are farmed with landscaping crops. An aerial photo of the subject site included as Exhibit 2.4 shows these uses.

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 December 20, 2006 requesting comments by January 4, 2006. No written comments were received. These procedures have been met.

4. INITIATION OF ACTION

MCC 37.0550: 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 Karece International LLC as owner of the subject property (Exhibit 2.1). The application was signed by Michael D. Eyre (Exhibit 1.1). The Applicant submitted a letter dated April 6, 2006 from Donald G. Grant, Attorney at Law stating that he is the registered agent and legal counsel for Karece International, LLC (Exhibit 1.2). In the letter Mr. Grant states that Mr. Eyre is the sole member of Karece International, LLC and has 100 percent control and ownership of the company. This standard is met.

5. ORIENT RURAL CENTER RESIDENTIAL DISTRICT.

5.1. Dimensional Standards and Development Requirements.

MCC 36.3455: All development proposed in this district shall comply with the applicable provisions of this section.

5.1.1. MCC 36.3455(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: *According to MCC 36.3460, any property established before Oct. 4, 2000 shall be exempt from the 1 acre minimum.*

Staff: The tentative plan (Exhibit 1.4) shows proposed Parcel 1 at 56,830 square feet which meets the minimum one acre requirement of 43,560 square feet. Proposed Parcel 2 is shown at 38,693 square feet which does not meet this minimum area requirement. The applicant refers to Section 36.3460 Lots of Exception criteria which allows for a parcel that does not meet the one acre minimum to be created through the Lot of Exception process. Since the MCC 36.3460 criteria have been met as described in Finding 5.5 of this decision, a parcel less than an acre can be allowed.

5.1.2. MCC 36.3455 (B) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet.

MCC 36.0005(L)(10): Definitions

Lot Line (Front) - In the case of an interior lot, a line separating the lot from the street or accessway; in the case of a corner lot, a line separating the narrowest frontage of the lot from a street or accessway; and in the case of a flag lot, the lot line closest to and most nearly parallel with the street which serves the lot.

Lot Line (Rear) - The line dividing one lot from another and on the opposite side of the lot from the front lot line; and in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line (Side) - Any lot line not a front or rear lot line.

Yard – An open space, on a lot with a building and bounded on one or more sides by such building, such space being unoccupied and un-obstructed from 30 inches above the ground upward, except as otherwise specified in the district. A yard satisfying the yard requirement for one building shall not satisfy the yard requirement for another building. The purpose of yards between buildings and property lines is to provide space, light, air circulation, and safety from fire hazards.

Yard (Front) - A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Yard (Rear) - A yard extending across the full width of the lot between the most rear building other than an accessory building and the rear lot line. The depth of the required rear yard shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the building. Where there is no rear lot line, the depth of the rear yard shall be the distance from a ten foot line parallel to the front lot line, measured from one side line to the other.

Yard (Side) - A yard between any building and the side lot line, extending from the front yard to the rear yard, or front lot line to rear lot line where no front yard or rear yard is required. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the building.

Applicant: *Yard dimensions exceed all minimum requirements. See attached plot plan. Maximum structure height is less than 35 ft. for all structures. Minimum lot line is greater than 50 feet for both properties.*

Staff: The applicant proposes removal of a portion of a shed as shown on the applicant's tentative plan (Exhibit 1.3). A condition of approval can require the removal of the portion of the shed so that it will meet the minimum 10 foot side yard requirement. As shown on the plan all minimums yard dimensions can be met for the proposed parcels for all the existing buildings except the existing dwelling on proposed Parcel 2. The dwelling on Parcel 2, does not meet the minimum yards for the front yard adjacent to Orient Drive and a street side yard adjacent to Short Road. However, given the dwelling was established in 1923 when there were no setback required, and since Short Road was moved to improve the intersection with Orient Drive after the dwelling was established, as provide in MCC 36.3470(C) the setbacks are existing nonconforming that won't be affected by the proposed land division.

- 5.1.3. MCC 36.3455(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: In a memorandum dated December 29, 2006 (Exhibit 2.7) Alison Winter, County Transportation Planning Specialist states the following:

“County Transportation does not object to this proposal and does not require any conditions of approval at this time.

The dwelling was established in 1923 when there were no setback required and Short Road was moved to improve the intersection with Orient Drive after the dwelling was established, the setback is nonconforming. This standard will be met for future structures.

- 5.1.4. MCC 36.3455(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: *On-Site Sewage and stormwater pits recently installed and approved per MCC standards. See attached permit #06-139343-000-00SP.*

Staff: The applicant has submitted a Certificate of On-Site Sewage Disposal for each proposed parcel signed by Michael Ebling Sanitarian demonstrating that the proposed land division provides adequate land area to accommodate both a primary and reserve septic system for each parcel (Exhibit 1.5). Each of the proposed lots have recently installed updated septic systems. The subject property has existing dwellings, if these dwellings are replaced stormwater disposal will be reviewed at that time.

5.2. OFF-STREET PARKING AND LOADING.

MCC 36.3480: Off-street parking and loading shall be provided as required by MCC 36.4100 through 36.4215.

Staff: There is sufficient area for each parcel to be able to meet this standard.

5.3. ACCESS.

MCC 36.3485: 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: *See attached plans for conformance. The proposed Parcel 1 will access from 302nd and proposed Parcel 2 will access from Dodge Park. Both proposed entrances will be over 100'*

from the intersection of said roads. The existing fire station parcel on the corner is measured as 100' by 100' long the right-of-ways.

Staff: Both proposed lots have direct frontage onto improved public roads. Adequate access has been developed for both proposed parcels. This standard has been met.

5.4. 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:

* * *

- (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.

Staff: The subject property is shown on 1962 Zoning Map in the same configuration as currently exists (Exhibit 2.5). This indicates the property was either created prior to the zoning code or was created between 1958 and 1962 when the Zoning was R10 and met the minimums for that zone. There were no land division requirements for non-subdivision lots at that time. The subject property is a Lot of Record. These criteria are met.

5.5. Lots of Exception

MCC 36.3460(A) An exception to permit creation of a parcel of less than one acre, out of a Lot of Record, may be authorized when in compliance with the dimensional requirements of MCC 36.3455 (B) through (D). Any exception shall be based on the following findings:

- (1) The Lot of Record to be divided has two or more permanent habitable dwellings;**
- (2) The permanent habitable dwellings were lawfully established on the Lot of Record before October 4, 2000.**
- (3) Each new parcel created by the partition will have at least one of the habitable dwellings; and**
- (4) The partition will not create any vacant parcels on which a new dwelling could be established.**

Staff: The applicant has applied for a Lot of Exception. The subject property has two dwellings established in 1923 and 1936 (Exhibit 2.1). The dwelling were established prior to permit requirements and thus were lawfully established. The proposed partition will result in each of the two parcels having a dwelling and will not create any vacant parcels. This criteria are met thus a Lot of Exception can be approved.

6. LAND DIVISION

6.1. CATEGORY 3 LAND DIVISIONS

MCC 36.7775 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 36.**
- (G) A partition resulting in the creation of a lot for which an Exception or Variance is required under another part of MCC Chapter 36.**

Applicant: NA [for (A) through (F)]. (G) *There will be an exception for lot size of less than an acre.*

Staff: The subject property has portions of the property within the Significant Environmental Concern for Water Resources and Wildlife Habitat Overlay Zone Districts (Exhibit 2.2). The applicant has requested a Lot of Exception and the proposed partition meets the Lot of Exception criteria. The proposed partition must be reviewed as a Category 3 Land Division.

6.2. Criteria for Approval: Category 3 Tentative Plan.

MCC 36.7855: 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 36.7800 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district.

Staff: The findings subsections (B), (C) and (H) of MCC 36.7800 demonstrating the criteria have been met can be found in the following section of this decision. Findings demonstrating that the tentative plan complies with the area and dimensional requirements of the underlying zoning district can be found in Section 5.1 of this decision.

6.2.1. MCC 36.7800 (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;

Applicant: *No other development is intended or planned by the current owners.*

Staff: Adjacent properties abut public right of ways (Exhibit 2.4) and adjacent properties can not be divided under current zoning minimums. This criterion is met.

6.2.2. MCC 36.7800 (C) The tentative plan complies with the applicable provisions, including the purposes and intent of the Multnomah County Land Division Ordinance, and the applicable General Standards and Requirements of MCC 36.7885 through 36.7965.

Applicant: *The intended property partitions complies with all the provisions of Mult. Co. Ordinance.*

Staff: The findings that follow demonstrate that the proposed land division meets the purpose and the intent of the Land Division ordinance. General Standards and Requirements of MCC 36.7885 through 36.7965 are addressed in the following sections of this decision. This criterion is met.

6.2.3. MCC 36.7800 (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.**

Applicant: *On Site Sewage Sand filter systems and stormwater pits were recently installed and approved per MC standards. See attached #06-139343-000-00SP.*

Staff: There is no known flooding on the subject property. This criterion is met.

6.3. Contents of Category 3 Tentative Plan.

MCC 36.7860A tentative plan for a Category 3 Land Division shall consist of maps, written information and supplementary material adequate to provide the following:

- (A) Type 3 tentative plan map contents. A tentative plan map of a sheet size and scale as specified in MCC 36.7810 shall indicate the following:**
- (1) Date, north point and scale of drawing.**
 - (2) Description of the proposed land division sufficient to define its location and boundaries.**
 - (3) Identification as a tentative plan map.**
 - (4) Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.**
 - (5) Natural features, water courses or areas covered by water.**
 - (6) The location and use of any buildings or structures proposed to remain after division.**
 - (7) The proposed parcels, their dimensions and areas.**
 - (8) Contiguous property under the same ownership.**
- (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.**
 - (3) Legal description of the tract.**
 - (4) Present and proposed uses.**
 - (5) Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.**
 - (6) Statements of the manner in which the criteria for approval listed in MCC 36.7855 are satisfied.**
 - (7) Statement of the improvements to be made or installed and the time scheduled therefore.**
- (C) Supplementary material; Category 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 36.7805 through 36.7825, 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: The applicant has provided the required information which has been included as the applicant's exhibits. These criteria have been met.

6.4. APPLICATION OF GENERAL STANDARDS AND REQUIREMENTS.

MCC 36.7885: 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 36.7965 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 in the following sections of this report.

6.5. LAND SUITABILITY.

MCC 36.7890: 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.

Staff: No slopes exceed 20 percent. Due to shallow slopes there is not severe soil erosion potential. The *Soil Survey of Multnomah County Oregon* by the US Department of Agriculture, Soil Conservation Service indicates the soils for the subject property are Powell Silt Loam and Wollent silt loam, The Powell Silt Loam has a water table at a depth of 18 to 24 inches and a fragipan at a depth of about 60 inches or more. Wollent silt loam running along the creek has permeability that is moderately slow and a shallow water table during winter. While there is a shallow water table, the properties have been made suitable and capable for the intended uses through the procedures required by the on-site sewage disposal site permits issued for these properties. The applicant has submitted a Certificate of On-Site Sewage Disposal for each of the proposed lots (Exhibit 1.5). Also included are permits for sand filter systems for the existing dwellings which were recently installed (Exhibit 1.5). The property is currently developed with two dwellings. The applicant has submitted a Storm Drainage Report for Stormwater Certificate and Storm Water Certificate stamped and signed by Robert C. Shelton P.E. for both of the proposed properties. Given the information provided, the proposed parcels are suitable for the intended single family dwelling development. This criterion is met.

6.6. LOTS AND PARCELS

MCC 36.7895: The design of lots and parcels shall comply with the following:

6.6.1. MCC 36.7895(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: *The design of lots and parcels comply with the intended uses per Multnomah Co. Standards and requirements. See attached plot plan.*

Staff: The applicant has submitted a tentative plan (Exhibit 1.4) showing the existing single family dwellings and septic system area as well as repair area for each proposed parcel. The plan shows the area, width and access are appropriate for both proposed parcels for single family dwellings. All minimum yard dimensions are met, except for an existing nonconforming street side yard adjacent Short Road on Proposed Parcel 2. If Parcel 2 were redeveloped the minimum yard setback could be met. Given that the property was developed with dwellings in 1923 and 1936, and the area is generally residential, the existing development is appropriate for the area. The property is relatively flat and the land division will not affect the slope. The land division will not affect the vegetation existing on the property or the natural drainage. The setbacks will provide transition from public to private as well as solar access. Building codes will address wind load requirements. A stormwater system has been installed on both of the proposed parcels. These criteria have been met or will be met if the property is redeveloped.

6.6.2. MCC 36.7895(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 design of lots and parcels comply with the intended uses per Multnomah Co. Standards and requirements. See attached plot plan.*

Staff: The proposed line between Parcels 1 and 2 is perpendicular to the front lot line to extent possible given the existing development on the property and the angled streets. Criterion met.

6.6.3. MCC 36.7895(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: *The design of lots and parcels comply with the intended uses per Multnomah Co. Standards and requirements. See attached plot plan.*

Staff: Neither proposed parcels are double frontage or reverse frontage. This criterion is met.

6.7. EASEMENTS

MCC 36.7935: 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: *An easement will need to be provided for the water utilities, currently the public water source for Parcel 1 that crosses Parcel 2. Multnomah Co. has requested a dedicated easement for turning movement at the intersection of Short Road and Orient Drive on Parcel 2. See attached Memorandum. Multnomah County has requested a slope /drainage easement centered on the existing outlet/inlet of the drainage culvert located along the site's Short Road Frontage.*

Staff: The plan shows a 10 foot wide water easement to be dedicated for the existing water pipe across Parcel 2 to serve Parcel 1. The plans also show a public right of way easement for turning movements at the intersection of Short Road and Orient Drive on Parcel 2. The applicant states that "Multnomah County has requested a slope /drainage easement centered on the existing outlet/inlet of the drainage culvert located along the site's Short Road Frontage." However that

easement is not shown. The memorandum the applicant refers to is included as Exhibit 2.6. If the applicant would like to dedicate that easement it will need to be on the partition plat. The plans also show a 10 foot wide drainage easement along the creek. This criterion is met.

6.8. WATER SYSTEM

MCC 36.7950: 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 mains are already located in a public street serving the houses located in Short Road.*

Staff: The existing dwellings are connected to and served by Pleasant Home Water District. This criterion is met.

6.9. SEWAGE DISPOSAL

MCC 36.7955: 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: *On Site Sewage disposal (Sand Filter Systems were recently installed and approved per MC standards. Approved Certification from Mult. Co. and permit #06-139343-000-00SP.*

Staff: The applicant has submitted documentation demonstrating that new on-site septic system were recently permitted and installed on both properties. The applicant has also submitted Certificate of On-Site Sewage Disposal dated 10/7/06, signed by Michael Ebling, City of Portland Sanitarian for each of the two proposed parcels, included as Exhibit 1.5. This exhibit also includes permits for the installation of sand filter septic systems recently installed on both proposed parcels. The applicant has submitted a Storm Drainage Report for Stormwater Certificate and Storm Water Certificate stamped and signed by Robert C. Shelton P.E. for both of the proposed properties (Exhibits 1.9 and 1.10). This criterion has been met.

6.10. SURFACE DRAINAGE

MCC 36.7960: 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: *GWI stormwater pits were recently installed and approved per MC Standards.*

Staff: The applicant has submitted a Storm Drainage Report for Stormwater Certificate and Storm Water Certificate stamped and signed by Robert C. Shelton P.E. for both of the proposed properties that meets this requirement (Exhibits 1.9 and 1.10). This criterion has been met.

6.11. ELECTRICAL AND OTHER WIRES

MCC 36.7965: 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.

Staff: The utilities have already been installed to the existing dwellings. To change the existing conditions would result in only minor aesthetic advantages given the lines in the area. This criterion has been met.

7. COMPREHENSIVE PLAN POLICIES

7.1 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:

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 Fire District Access Review sign Mike Kelly, Deputy Fire Marshal, Gresham Fire and Emergency Services, Fire District #10 stating compliance with the adopted Fire district standards.

8. CONCLUSION

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that Lot of Exception criteria have been met and the criteria contained in the Zoning and Land Division codes for a Category 3 Land Division have been met or can be met through conditions of approval.

9. EXHIBITS

9.1 Exhibits submitted by the Applicant:

Exhibit 1.1: Application form submitted 10/20/05 (1 page)

Exhibit 1.2: Letter dated April 6, 2006 from Donald G. Grant, Attorney at Law submitted 12/7/06 (1 page)

Exhibit 1.3: Revised narrative submitted 12/7/06 (6 pages)

- Exhibit 1.4: Revised tentative plan submitted 12/7/06 (2 pages, one 8" by 11" one oversized)
- Exhibit 1.5: Two Certificates of On-Site Sewage (2 pages)
- Exhibit 1.6: Map of the septic systems (1 page)
- Exhibit 1.7: Fire District Access Review (1 page)
- Exhibit 1.8: Deed for property (3 pages)
- Exhibit 1.9: Storm Drainage Report for Stormwater Certificate and Storm Water Certificate stamped and signed by Robert C. Shelton P.E. (18 pages including front cover)
- Exhibit 1.10: Proposed Conceptual Plan stamped and signed by Robert C. Shelton P.E. (1 page)

13.2 Exhibits included by County:

- Exhibit 2.1: County Assessment Record for the subject property with assessment map (3 page);
- Exhibit 2.2: County Zoning Map with subject property labeled (1 page)
- Exhibit 2.3: 2004 Aerial Photo showing subject property (1 page)
- Exhibit 2.4: 2004 Aerial Photo showing subject property and vicinity (1 page)
- Exhibit 2.5: 1962 County Zoning Map with subject property labeled (1 page)
- Exhibit 2.6: Memorandum dated September 19, 2006 from Alison Winter, County Transportation Specialist (2 pages)
- Exhibit 2.7: Memorandum dated December 29, 2006 from Alison Winter, County Transportation Specialist (4 pages)
- Exhibit 2.8: Applicant's Instructions for Finishing a Land Division (1 page)
- Exhibit 2.9: Surveyor's Instructions for Finishing a Land Division (1 page)