



**MULTNOMAH COUNTY**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

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## NOTICE OF DECISION

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

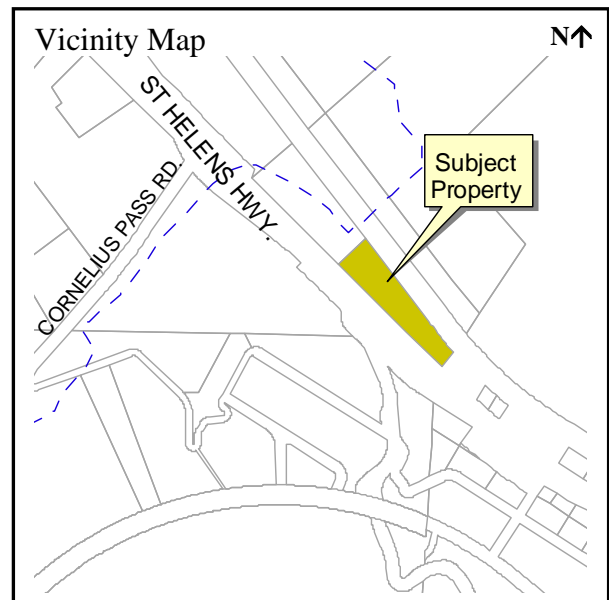
**Case File:** T2-07-018

**Permit:** Application for Category 3 Land  
Division, Lot of Exception and Non-  
Conforming Use Verification

**Location:** 17428-17528 NW St Helens Road  
Tax Lot 400, Section 18D,  
Township 2 North, Range 1 West, W.M

**Applicant:** Steve Clifford  
8016 SE Taggart St.  
Portland, OR 97206

**Owner:** Fred King  
PO Box 22787  
Carmel, CA 93922



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**Summary:** A request for a Land Division, Lot of Exception and Non-Conforming Use Verification to partition property into two parcels with the brick house on one parcel and the four other houses on the other

**Decision:** Approved with Conditions

Unless appealed, this decision is effective June 28, 2007 at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Thursday, June 14, 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.

**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 June 28, 2007 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): Chapter 37: Administration and Procedures; MCC 33.3300-33.3385: Rural Center; MCC 33.7200 & 33.7215 Non-Conforming Use Verification; and MCC 33.7700-33.8035 Land Divisions (those sections pertaining to Category 3).

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; (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.

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1. The applicant is to complete the procedures given in the enclosed "Applicant's Instructions for Finishing a Land Division." (Exhibit 2.4) They are also to provide their surveyor the enclosed

“Surveyor’s Instructions for Finishing a Land Division” (Exhibit 2.5) 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.

**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 (MCC) 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. **REQUEST DESCRIPTION**

**Applicant:** *Partition the property into 2 parcels putting the brick house on one parcel and the other.*

**Staff:** The Applicant is requesting a two parcel partition and a lot of exception for a property located in the Rural Center Zone District in the West Hills Plan Area. The applicant is also requesting a verification of a non-conforming use for the five dwellings on a single parcel. Under the County Land Division Code MCC 33.7775(G), the proposal is a Category 3 Land Division because a Lot of Exception is required to divide the property under MCC 33.3360.

2. **SITE CHARACTERISTICS**

**Staff:** The subject property is located along and accessed from NW St. Helens Highway on the northeast side of the road between the highway and the railroad (Exhibit 2.3). The property is located within the Unincorporated Community of Burlington. The property was developed in 1942 with five single family dwellings (one with an attached garage), two detached garages and a storage shed. The property is relatively flat in the developed area with the slope dropping slightly in the undeveloped portion towards the southeast.

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 14<sup>th</sup> 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 April 4, 2007 requesting comments by April 18, 2007. 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 Fred King as the owner of the subject property (Exhibit 2.1). Mr. King has signed the application (Exhibit 1.1). This standard is met.

#### **5. LOT OF RECORD**

**MCC 33.0005(13) Definition - 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.)

**Staff:** The applicant submitted a copy of a deed for the subject property dated April 30, 1941 recorded in Book 605 on Page 599 on May 7, 1941 (Exhibit 1.4) meeting the standard listed under subsection (b)2 above for satisfying all applicable land division laws. There were no zoning laws in 1941. The subject property meets the standards for a Lot of Record.

#### **6. VERIFICATION OF NONCONFORMING USE STATUS**

- 6.1. **MCC 33.7215 (A)** The Planning Director shall verify the status of a nonconforming use upon application for a determination by an owner on application for any land use or other permit for the site, or on finding there is a need for a determination (e.g., on learning of a possible Code violation). The determination shall be based on findings that the use:
  - (1) Was legally established and operating at the time of enactment or amendment of this Zoning Code, and

**(2) Has not been abandoned or interrupted for a continuous two year period.**

**Staff:** The five dwellings were established in 1942 as shown on County Assessment records (Exhibit 2.1). A storage shed located within the side yard and rear yard setbacks has an appearance indicating it was established in that same era (Exhibit 1.2). The applicant has submitted an affidavit signed by neighbor Steven Eudaly stating that the dwellings on the property have been occupied for the last ten years (Exhibit 1.9). This standard is met.

**6.2. MCC 33.7215 (B) The Planning Director shall verify the status of a nonconforming use as being the nature and extent of the use at the time of adoption or amendment of the Zoning Code provision disallowing the use. When determining the nature and extent of a nonconforming use, the Planning Director shall consider:**

- (1) Description of the use;**
- (2) The types and quantities of goods or services provided and activities conducted;**
- (3) The scope of the use (volume, intensity, frequency, etc.), including fluctuations in the level of activity;**
- (4) The number, location and size of physical improvements associated with the use;**
- (5) The amount of land devoted to the use; and**
- (6) Other factors the Planning Director may determine appropriate to identify the nature and extent of the particular use.**
- (7) A reduction of scope or intensity of any part of the use as determined under MCC 33.7215 (B) for a period of two years or more creates a presumption that there is no right to resume the use above the reduced level. Nonconforming use status is limited to the greatest level of use that has been consistently maintained since the use became nonconforming. The presumption may be rebutted by substantial evidentiary proof that the long-term fluctuations are inherent in the type of use being considered.**

**Staff:** County Assessment Records show there are five single family dwellings on the subject property established in 1942 (Exhibit 2.1). One of these dwellings is brick (1750 sq ft with 500 sq. ft finished basement and 1242 unfinished) with an attached garage (528) and other four dwellings are stick built (720 sq. ft each). There are two detached garages (396 sq. ft.) located between the stick built dwellings and a storage shed (396 sq. ft.) located in the northeast corner of the property (Exhibits 1.2 and 2.1). The storage shed is located within the rear and side yard setbacks and has an appearance indicating it was established in the same era as the dwellings. The northwestern two-thirds of the property is dedicated to the dwelling uses, the southeastern third is vacant. The dwelling became non-conforming when zoning was first established as an Agricultural Zone (F2) district on July 10, 1958 (Exhibit 2.2) due to the number of dwellings and the uses not related to agriculture. On October 6, 1977 the property was rezoned Multiple Use Agriculture – 20 a residential zone which allowed one dwelling per property. The zoning is currently Rural Center which allows one dwelling per property (Exhibit 2.2).

**6.3. MCC 33.7215 (C) In determining the status of a nonconforming use, the Planning Director shall determine that, at the time of enactment or amendment of the Zoning Code provision disallowing the use, the nature, scope and intensity of the use, as determined above, was established in compliance with all land use procedures, standards and criteria applicable at that time. A final and effective County decision allowing the use shall be accepted as a rebuttable presumption of such compliance.**

**Staff:** At the time zoning was enacted there were five dwellings existing on the property which was and continues to be 1.35 acres. The zoning allows one dwelling per property unless they have

non-conforming status. The storage shed is located within the rear and side yard setbacks has an appearance indicating it was established in that same era as the dwellings prior to zoning setback requirements.

- 6.4. MCC 33.7215 (E) Any decision on verification of nonconforming use status shall be processed as a Type II permit as described in MCC Chapter 37.**

**Staff:** This case has been processed as a Type II case.

- 6.5. MCC 33.7215 (F) An applicant may prove the existence, continuity, nature and extent of the nonconforming use only for the 10-year period immediately preceding the date of application. Evidence proving the existence, continuity, nature and ex-tent of the use for the 10-year period preceding application creates a rebuttable presumption that the use, as proven, lawfully existed at the time the applicable zoning ordinance or regulation was adopted and has continued uninterrupted until the date of application.**

**Staff:** The applicant has submitted an affidavit signed by neighbor Steven Eudaly stating that the dwellings on the property have been occupied for the last ten years (Exhibit 1.9). This standard is met.

## **7. LOTS OF EXCEPTION**

- 7.1. MCC33.3360 (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 33.3355(C) through (E). 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.**

**MCC 33.3355 (C) Minimum Yard Dimensions – Front: 30 feet, Side: 10 feet, Street Side: 30 feet, and Rear 30 feet.**

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

**MCC 33.3355 (D) The minimum yard requirement shall be increased where the yard abuts a street having in-sufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.**

**MCC 33.3355 (E) 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**

**Staff:** The proposed parcels will both be less than an acre in size. The lot of record has five habitable dwellings located on it. The applicant has provide photographs (Exhibit 1.10) showing the habitable features of two of the dwellings. The applicant has stated that each of the stick built dwelling are essentially identical with the same features. A site visit has indicated that all of these

dwellings are currently inhabited. Given the submitted information and the site visit staff finds the dwellings to be habitable dwellings. The brick dwelling with attached garage and storage shed will be on one of the parcels and the other four dwellings and two detached garages will be on the other parcel. Thus, each of the proposed parcels will have at least one dwelling. The partition will not create any vacant parcels. All the existing structures will meet the yard requirements for the newly established property line. The structures meet the height requirements. The front lot lines for the proposed parcels exceed the required 50 foot minimum. The access is along a state highway. The applicant has submitted an access letter from ODOT, no additional right-of-way is request likely due to the grandfathered status of the driveway accesses (Exhibit 1.8). The standards for a Lot of Exception have been met.

## **8. LAND DIVISION**

### **8.1. Category 3 Land Divisions**

**MCC 33.7775 A land division proposal under any of the following circumstances is designated a Category 3 Land Division:**

\* \* \*

**(G) A partition resulting in the creation of a lot for which an Exception, Adjustment or Variance is required under another part of MCC Chapter 33.**

**Staff:** The proposed partition requires a lot of exception approval, thus it is a Category 3 Land Division.

### **8.2. Criteria for Approval: Category 3 Tentative Plan**

**MCC 33.7855: 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 33.7800 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district.**

**MCC 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;**

**MCC 33.7800(C) The tentative plan complies with the applicable provisions, including the purposes and intent of this Chapter.**

**MCC 33.7800(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.**

**Staff:** Neither of the proposed parcels will be allowed to be further divided given the minimum lots size for the RC District of one acre. The tentative plan, as demonstrated in the following finds of Section 8 of this decision, complies with the applicable provisions, including the purposes and intent of this Chapter. The property is outside of the flood plain. Therefore are not flooding hazards related to the property. The proposed parcels meet the dimensional requirements of the



underlying zone districts, except for minimum lot size. The parcels are allowed to be below the minimum lots size due to the granting of Lots of Exception (see section 7 of this decision).

### **8.3. Contents of Category 3 Tentative Plan**

**MCC 33.7860:** A 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 33.7810 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 33.7855 are satisfied.
  - (7) Statement of the improvements to be made or installed and the time scheduled therefore.

**Staff:** The applicant has submitted the required information for a Category 3 Tentative Plan (See applicant's exhibits, including Exhibit 1.2: Tentative Plan and Exhibit 1.3: Narrative).

### **8.4. Application of General Standards and Requirements**

**MCC 33.7885:** Every land division proposal shall comply with the applicable provisions of MCC 33.7890 through 33.7965.

**Staff:** The applicable provisions of MCC 36.7890 through MCC 36.7965 are as follows:

- 33.7890 Land Suitability
- 33.7895 Lots and Parcels
- 33.7950 Water System
- 33.7955 Sewage Disposal
- 33.7960 Surface Drainage
- 33.7965 Electrical and Other Wires

Compliance with each of these sections is discussed in the findings in the following sections of this report.

## **8.5. Land Suitability**

**MCC 33.7890:** 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.**

**Applicant:** *The property is generally flat. Slopes do not exceed 8%. 90 % of the property is covered by lawn . No erosion potential observed. The property is not in the 100 year floodplain. The land slopes to a drainage ditch. Water does not stand on this property. This site has been approved for on-site sewage disposal. There is no sign of fragipan or other impervious layer. These houses have been here for 65 years and no sign of soil movement.*

**Staff:** The property is relatively flat where the dwellings are located with a slight slope to the southeast on the vacant portion of the property. The erosion potential is minor for these lots given the minor slope. The soils on the property are Burlington fine sandy loam which has rapid permeability. In regards to the above cited characteristics, the proposed parcels are suitable for the residential uses that exist on the property. This standard is met.

## **8.6. Lots and Parcels.**

**8.6.1. MCC 33.7895(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.**

**Staff:** The applicant has submitted a tentative plan showing the existing single family dwelling sites for each proposed parcel (Exhibit 1.2). This shows that the area, width, and access are appropriate for both proposed parcels for the existing development or redevelopment of single family dwellings. All minimum yard dimensions can be met for both proposed parcels. Future development on proposed parcels will be able to meet the required yard setbacks. Privacy is provided for on the proposed parcels through the required setbacks providing for a transition from public to private. The setbacks will also provide for solar access. Building codes will address wind load requirements for any redevelopment. The stormwater drainage has been addressed by Steven P. Eudaly PE stating that a stormwater system is not necessary for stormwater attributed to the

development on the property for up to the 10year/24 hour storm event for no increased flow to neighboring properties (Exhibit 1.6). These standards have been met.

**8.6.2. MCC 33.7895(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:** *This is condition will be met. See the Tentative Partition Plan for conformance.*

**Staff:** The proposed side lot line is nearly perpendicular to the front line given the front line is a slight curve (Exhibit 1.). This standard is met.

**8.6.3. MCC 33.7895(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.**

**Staff:** No double frontage lot is proposed. This standard is met.

**8.7. Water System**

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

**Staff:** Water service for the existing dwellings is provided by Burlington Water District. There will be no change for the proposed parcels. This standard is met.

**8.8. Sewage Disposal**

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

**Staff:** The applicant has submitted a Certificate of On-Site Sewage Disposal signed by City of Portland sanitarian for the proposed partition (Exhibit 1.5). This criterion is met.

**8.9. Surface Drainage**

**MCC 33.7960: Surface drainage and storm sewer systems shall be provided as required by section MCC 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.**

**Staff:** The applicant has submitted a stormwater certificate stamped and signed by Steven P. Eudaly PE stating that stormwater system is not necessary for stormwater attributed to the development on the property for up to the 10year/24 hour storm event for no increased flow to neighboring properties (Exhibit 1.7). These standards have been met.

**8.10. 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:** Utilities for these properties have been installed when the properties were developed. It would be impracticable and expensive to alter them now. Undergrounding the utility lines would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby. This standard is met.

## **9. COMPREHENSIVE PLAN POLICIES**

### **9.1 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 submitted a Fire Flow Requirements Review Form (Exhibit 1.6). Fire access is along Highway 30 (St Helens Highway) on the shoulder, the dwellings are close to the highway. If any of the existing dwellings are replaced the Fire District will review the plans at that time.

## **10. CONCLUSION**

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that the five dwellings met the standards demonstrating they are non-conforming uses, for Lots of Exception and that with conditions, the requirements for a Category 3 Land Division contained in the Zoning and Land Division codes have been met.

## **11. EXHIBITS**

### **11.1 Exhibits submitted by the Applicant:**

- Exhibit 1.1: Application form submitted 2/16/07 (1 page)
- Exhibit 1.2: Revised Tentative Plan map (1 page)
- Exhibit 1.3: Applicant's narrative (3 pages)
- Exhibit 1.4: Copy of a warranty deed for subject property and County Records document (2 pages)

- Exhibit 1.5: Certificate of On-Site Sewage Disposal for the signed by Michael Ebling, Environmental Soils Specialist, City of Portland Bureau of Building and other documents related to the septic system (7 pages)
- Exhibit 1.6: Fire District Flow Review form (6 pages)
- Exhibit 1.7: Stormwater Certificate stamped and signed by Steven P. Eudaly PE (4 pages)
- Exhibit 1.8: Letter dated August 21, 2006 from ODOT addressing access (2 pages)
- Exhibit 1.9: Affidavit dated June 4, 2007 signed by Steven P. Eudaly (1 page)
- Exhibit 1.10: Photos of the existing dwelling and the features of some of these dwellings (8 pages)

**11.2 Exhibits included by County:**

- Exhibit 2.1: County Assessment Record for each of the subject properties (2 pages)
- Exhibit 2.2: County Zoning Map with subject properties (1 page)
- Exhibit 2.3: 2004 Aerial Photo showing subject properties (1 page)