



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's Decision on the land use case(s) cited and described below.

Case File: T2-07-023

Permit: Category 3 Land Division

Location: 30124 SE Orient Drive
T1S, R4E, Sec 19DA – TL 2200
R994191270

Applicant: Patrick Martin
Blu Croix Ltd., on behalf of
Verizon Northwest, Inc.

Owner General Telephone Company of
the Northwest, Inc.

Vicinity Map (Current Config.)



Summary: Divide the 2.752 acre subject property at 30124 SE Orient Drive into 1.162 acre Parcel 1 and a 1.590 acre Parcel 2. No physical development of either parcel is proposed at this time.

Decision: Approved with Conditions.

Unless appealed, this decision is effective November 2nd, 2007 at 4:30 PM.

Issued by:

By: _____
Adam Barber, Senior Planner

For: Karen Schilling- Planning Director

Date: October 19th, 2007

Opportunity to Review the Record: A copy of the Planning Director's 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 Adam Barber, Staff Planner at 503-988-3043 x 22599.

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

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is November 2nd, 2007 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): **36.3400 – 36.3485, OR Zoning District; MCC 36.7700 – 36.8035, Land Divisions; Chapter 37, Administration and Procedures.**

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 (2) 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. The request for a permit extension must be submitted prior to the expiration of the approval period.**

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 property owner, or representatives thereof, shall complete the “Applicant’s Instructions for Finishing a Land Division,” attached as Exhibit 3.**
2. **The property owner, or representatives thereof, shall retain a surveyor to complete the “Surveyors Instructions for Finishing a Land Division,” attached as Exhibit 4.**
3. **The location of the proposed 20-foot by 30-foot access easement serving Parcel 1 and the high water lines defining both sides of the existing drainage swale passing through Parcel 2 must be illustrated on the partition plat to be recorded (MCC 36.7860(A)(4) & (5) & MCC 36.8020.**

4. All future electric lines, communication lines and cable lines must be placed underground unless waived by the approval authority in accordance with the requirements of MCC 36.7965.

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

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

FINDINGS: Written findings are contained herein. The Multnomah County Code criteria are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria.

1.0 PROJECT DESCRIPTION

Applicant: "As a regulated entity, Verizon focuses on operating in an efficient and cost effective manner, thereby insuring that the ratepayer's interests are best served. Part of this process involves insuring that Verizon is not carrying or retaining property that is not necessary for the purpose of rendering telecommunication services. Some vacant property is retained at certain sites, to accommodate future growth. However, at the subject location, after extensive study, it has been determined that most of the surplus property is not required for current operations, nor is it necessary to be retained for future expansion. Therefore, by completing the proposed Land Division, Verizon will be able to dispose of surplus property, allowing it to operate more efficiently and cost effectively (by eliminating overhead and carrying costs.)"

Staff: The applicant has requested a partition of the 2.752 acre subject property at 30124 SE Orient Drive into a 1.162 acre property (Parcel 1) and a 1.590 acre property (Parcel 2) as illustrated in Exhibit 1. No physical development of either property is proposed at this time. The proposed partition qualifies as a Category 3 Land Division because Parcel 2 will be configured into a flag lot in order to provide frontage to the public portion of Teton Drive (**Multnomah County Code, MCC 36.7775(C)**).

2.0 VICINITY DESCRIPTION

Staff: The subject property is located at the intersection of SE Orient Drive and Teton Drive with SE Orient Drive paralleling the northern half of the property along the east side. Teton Drive parallels a portion of the western side of the property, although Teton Drive transitions from a public to private road near the northern third of the property. The property is zoned Orient Rural Center Residential (OR) and is located in a rural unincorporated community containing other OR zoned properties and properties zoned Orient Commercial-Industrial. Outside of the Orient community, Multiple Use Agriculture-20 and Exclusive Farm Use properties are found typically with larger property sizes. A zoning map of the area is presented as Exhibit 8.

The northern half of the subject property is developed with a municipal telephone exchange building approved by the county in 1963 (Permit CS 40-63). Physical development includes a 4,760 square foot building, on-site septic system, asphalt parking area and cyclone fencing surrounding the developed portion of the property. The southern half of the property is wooded and un-developed which can be seen in a 2004 aerial photo (Exhibit 7). In general, the proposal involves dividing off the wooded portion of the subject property.

3.0 PUBLIC COMMENT (MCC 37.0530(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 Director's 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 on this proposal was mailed to property owners within 750-feet of the subject property on May 23rd, 2007. On June 1st, 2007 The County's Transportation Planning Specialist, Alison Winter, indicated that the subject property is adjacent to Teton Drive, which is not a county road, but a Local Access Road under county jurisdiction. Ms. Winter states that County Transportation does not object to the proposal and does not have any conditions of approval at this time. Ms. Winter's letter also notes that future development on either property may trigger the requirements for on and/or off-site transportation improvements and permits for access or construction within the county right-of-way (Exhibit 19).

The vehicular access point to Parcel 2 will also be used to access Parcel 1 as illustrated in Exhibit 1. This access arrangement was proposed in order to meet the 50-foot front lot line requirement of the OR zone district (**MCC 36.3455(B)**), the access requirements of **MCC 36.3485** and to minimize the need for physical alterations to the existing access pattern onto the property. This access arrangement was designed through a collaborative effort involving the applicant, county land use and transportation planners and a representative from the Gresham Fire Department. Ms. Winter has confirmed that the proposed access easement meets County Transportation requirements (Exhibit 19). The Gresham Fire Department has confirmed that this access arrangement is adequate for emergency access to both properties (Exhibit 15).

Comments were also submitted from Jory and Susan Lane, adjoining neighbors at 8008 SE Teton Drive (Exhibit 20). The Lanes stated a drainage passes through the property creating wet conditions on Parcel 2 during much of the year. The Lanes wanted to know if this drainage qualified as a wetland or wildlife habitat. The un-named drainage swale passing through the property is not a designated wetland on the National Wetland Inventory and is not mapped by Multnomah County as protected wildlife habitat.

The Lanes recommended that an engineer evaluate this drainage to determine how it may impact the development potential of Parcel 2. The engineer retained by the applicant ultimately determined natural drainage flow through Parcel 2 occurs through an open swale which would not render Parcel 2 unbuildable. The engineer concluded that approximately 1.0 acre of upland area on Parcel 2 would be free of hydric soils¹ and the drainage swale area which is sufficient to establish a typical single family dwelling. A copy of the engineer's report is presented as Exhibit 2. This issue is discussed in more detail within findings 8.8 & 8.20 of this decision.

Finally, Jory and Susan Lane made it clear that they did not want water diverted onto their property. Drainage patterns across the subject property will not change as a result of this approval because neither physical development nor alteration to the existing drainage pattern is proposed. Any future development proposed on either property will be evaluated at that time to assure off-site impacts related to drainage flow will not occur to any neighboring private property. Kent

¹ A **hydric soil** is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (http://en.wikipedia.org/wiki/Hydric_soil, accessed 10/4/07, 04:14).

Cox, P.E. has confirmed drainage from existing development on the subject property is currently being properly managed on-site and that future on-site management of storm water for the undeveloped Parcel 2 will be feasible using common disposal methods such as an underground soakage trench (Exhibit 2).

4.0 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: A signature provided on the General Application Form (copy in permanent record) by Jim Tousignant, Verizon Northwest, Inc. provides the necessary authorization for Multnomah County to process this request. According to county assessment data, the subject property is owned by General Telephone Company of the Northwest, Inc. Mr. Tousignant indicated in an August 1st, 2005 letter (copy in permanent record) that Verizon Northwest, Inc. was formally referred to as the General Telephone Company of the Northwest, Inc.

5.0 COMPLIANCE (MCC 37.0560, 36.3470 & 36.0005)

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.

Staff: Staff is not aware of any outstanding code compliance issues associated with the subject property. The telephone exchange building, septic system and asphalt parking area was approved by Multnomah County December 17th, 1963 with Community Service permit CS 40-63. A note on the CS 40-63 building permit card indicates the development was adequately installed (permits #33526 & 33830). It appears the 2.75-acre subject property was created in its current configuration December 21st, 1963 (Book 2201, Page 497-498). At that time, the northern quarter of the property was zoned C2 Commercial with the remainder zoned A2 Apartment Residential. The C2 zoning code listed no minimum lot size required (MCC 4.30, et seq.)

Minimum lot sizes in the A2 zone ranged from 7,000 square feet to 2.72 acres depending on the level of proposed residential development. Because no residential development was proposed in 1963, the property needed to be at least 3,000 square feet and have a minimum lot width of 60-feet and a depth of at least 80-feet (MCC 3.931 & 3.921). The subject property met these A2 zoning requirements when created in 1963. Staff finds the subject property is a Lot of Record, as defined by MCC 36.3470 & 36.0005 and is eligible for this partition review.

6.0 DIMENSIONAL AND DEVELOPMENT REQUIREMENTS

- 6.1 All development proposed in this district shall comply with the applicable provisions of this section. (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 (MCC 36.3455(A)).**

Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Minimum Front Lot Line Length - 50 feet (MCC 36.3455(B)).

Staff: Both Parcel 1 (1.162-acres) and Parcel 2 (1.590-acres) will exceed the 1.00-acre minimum lot size requirement of the OR zone district. The new common boundary between the two parcels will be located more than 30-feet from the existing telephone exchange building on Parcel 1. The front lot line width for Parcel 1 running north-south exceeds the 50-foot requirement. The applicant has also placed the flag pole access to Parcel 2 in a location that parallels the public portion of Teton Drive for at least 50-feet to assure the right of future access to Parcel 2 and to satisfy the 50-foot front lot line requirement above (Exhibit 1). This 50-foot long portion of Parcel 2 paralleling Teton Drive is considered the front lot line according to the *Lot Line* definitions provided in **MCC 36.0005**. Staff finds the necessary dimensional standards have been met.

- 6.2 The minimum yard requirement shall be in-creased where the yard abuts a street having insufficient 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 36.3455(C)).**

Staff: According to Alison Winter (Multnomah County Transportation Planner), County Transportation does not require right-of-way improvements in conjunction with this request (Exhibit 19). Staff finds this standard is met and that no additional yard is required for right-of-way expansion at this time. Ms. Winter notes that future development on either property may trigger the requirement for on and/or off-site transportation improvements and permits for access or construction within the county right-of-way.

- 6.3 (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 (MCC 36.3455(E)).**

(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: “As required by the application, certification of on-site sewage disposal is called for by the Sanitarian when there is a creation of a new parcel. Mr. Phil Crawford, from City of Portland’s Bureau of Development Services, reviewed the site information and data provided by Sepco Inc. Mr. Crawford examined the results of the soils test pits, visited the property, did a site evaluation, and endorsed the existing sewage disposal system. His comments are provided in the Land Feasibility Study #06-139326-SE dated July 14, 2006. (see Exhibit “D”)” Also provided is the information form for on-site sewage disposal system (see Exhibit “E”) and Waste Waters Treatment Inspection Report compiled by Sepco, Inc. (see Exhibit “F”)

Staff: The existing septic drainage system on Parcel 1 will be contained within Parcel 1 after the partition. There is no septic system located or currently proposed on Parcel 2. The City of

Portland sanitarian (sanitation agent for the county) has reviewed and approved the partition request verifying both parcels are adequate for on-site sewage disposal (Exhibit 14).

No new impervious surfaces are proposed in association with this land division request that requires a specific storm water/drainage control evaluation. Kent Cox, PE, PLS has confirmed all stormwater runoff is currently being managed on-site (Exhibit 2). Mr. Cox, has also identified various areas on Parcel 2 that could be used for future storm water easements in the event additional development is proposed on Parcel 1 in the future. The county is not requiring recordation of these easement areas at this time because this request does not involve additional development of either Parcel justifying the need for storm water easements.

It should be noted that Mr. Cox has identified a 10-foot strip west of the telephone exchange building within the 20-foot wide flag pole portion of Parcel 2 that could be utilized for future storm water disposal in the event development on Parcel 1 was expanded. Because the driveway traveling down the 20-foot wide flag pole for Parcel 2 must be at least 12-feet wide, only 8-feet of land would be available for a storm water easement in this area ($20 - 12 = 8$) rather than the full 10-foot wide easement identified as a possibility by Mr. Cox in Exhibit 2. This issue will be evaluated in detail in the future if expansion of impervious surfaces on Parcel 1 were proposed.

Staff would like to make it clear that the storm water easement areas draining from Parcel 1 on the plan in Exhibit 2 are conceptual, are not required by this approval, and may change in the future upon further review. In conclusion, Staff finds that no new impervious surfaces are proposed on either property that must be managed at this time. This standard is met.

7.0 ACCESS (MCC 36.3485)

All lots and parcels in this district shall have a street, or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles, except as provided for Lots of Record at MCC 36.3470(B)

Staff: Because both properties will achieve access through the flag pole portion of Parcel 2, the applicant has proposed a 20 foot wide by 30-foot long access easement assuring future access to Parcel 1 through Parcel 2 as illustrated in Exhibit 1. Recordation of this access easement on the final plat is a required condition of this approval. Both the Gresham Fire Department and the Multnomah County Transportation Planning Specialist have approved the proposed access (Exhibit 15 & 19, respectively). This standard is met.

8.0 LAND DIVISION APPROVAL STANDARDS

Staff: This partition is classified as a Category 3 Land division because it will result in the creation of a flag lot (MCC 36.7775(C)). A flag lot is defined as a lot or parcel which includes a private driveway as part thereof (MCC 36.0005).

8.1 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.

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 36.7800 (B));

Applicant: "Approval will permit future development of the remainder of the property. Verizon is the owner +/- 2.75 acres of land, and has a proposed land division that will provide two proposed parcels: Parcel "A" (+/-1.16 acres) and Parcel "B" (+/- 1.59 acres). Parcel "A" is developed with a telecommunications facility in place, while Parcel "B" is vacant land. This permit application is only to subdivide the land and no development is to take place."

Staff: It has been determined in findings 6.1 & 7.0 of this decision that the parcels will both be of adequate size and have adequate road frontage. At times, additional factors need to be considered to assure the resulting parcels will be able to accommodate some level of expansion in the future. Although the subject property contains a small commercial structure, parking area and septic system, the proposed 1.162 acre Parcel 1 appears to be of sufficient size to accommodate some level of future expansion, particularly to the south. Expansion of the development to the north, east and west on Parcel 1 is more heavily encumbered by setbacks from Orient and Teton Roads, although some expansion may be possible.

Parcel 2 exceeds the minimum lot size requirement by 0.5-acres and is large enough to accommodate a typical single family dwelling as confirmed by Kent Cox, PE (Exhibit 2). In fact, Parcel 2 will be larger than the average developed property in the general area. Staff finds the proposed partition will allow future development potential of both parcels. This standard is met.

8.2 The tentative plan complies with the applicable provisions, including the purposes and intent of this Chapter, and the applicable General Standards and Requirements of MCC 36.7885 through 36.7965 (MCC 36.7800(C)).

Applicant: "The tentative plan complies with the application provisions, including the requirements of MCC 36.7885 through 36.7965."

Staff: The intent of the Land Division ordinance is to provide a mechanism for the creation of new safe and efficient properties. The applicant has determined that the size of the subject property exceeds the current commercial needs and that the partition would result in a more efficient use of the land. The proposed tentative plan divides the property roughly in half, provides safe access to a public road and allows for future development of both parcels. Access to both parcels from lesser traveled Teton Drive, rather than from SE Orient Drive, has been proposed to improve safety. Staff finds the tentative plan map meets the intent of the land division provisions.

8.3 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: The infiltration of flood waters into the system, and the discharge of matter from the system into flood waters (MCC 36.7800(H)(1) & (2)).

Applicant: "There is no development associated with this submittal application. Any future development of the surplus vacant parcel shall be done in a manner, at that such future date, providing safety from known flooding and flood hazards."

Staff: The subject property is located approximately 540-550 feet above mean sea level outside of the federally regulated 100-year flood plain boundary. No utilities, water supply or sanitary sewer systems are proposed at this time. Kent Cox, P.E. has confirmed the feasibility of developing Parcel 2 in the future with a typical single family dwelling outside of areas suspected to be subject to overly wet conditions (Exhibit 2). Staff finds the resulting parcel configurations will result in development safe from flooding hazards. This standard is met.

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

(MCC 36.7860(A)(1) Date, north point and scale of drawing.

(MCC 36.7860(A)(2) Description of the proposed land division sufficient to define its location and boundaries.

(MCC 36.7860(A)(3) Identification as a tentative plan map.

(MCC 36.7860(A)(4) Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.

(MCC 36.7860(A)(5) Natural features, water courses or areas covered by water.

(MCC 36.7860(A)(6) The location and use of any buildings or structures proposed to remain after division.

(MCC 36.7860(A)(7) The proposed parcels, their dimensions and areas.

(MCC 36.7860(A)(8) Contiguous property under the same ownership.

Staff: All necessary information is presented on the tentative plan map presented as Exhibit 1 in combination with the 2004 aerial photo of the project area (Exhibit 7).

8.5 Written information; Category 3 tentative plan. Written information shall include (MCC 36.7860(B)):

(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.

Staff: The narrative statements outlining the proposal details have been provided by the applicant and are presented as Exhibits 16-18 & 21. Detailed information related to improvements has not been provided because no improvements are proposed at this time. The required information such as contact information for the property owner, legal description for the tract, etc. is contained in the permanent case record.

8.6 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 (MCC 36.7860(C)).

Staff: The required information has been submitted. No further information is necessary to evaluate this request.

8.7 Every land division proposal shall comply with the applicable provisions of MCC 36.7890 through 36.7965 (MCC 36.7885).

Staff: The applicable standards are addressed on a point-by-point basis below.

8.8 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 (MCC 36.7890):

- (A) Slopes exceeding 20%;**
- (B) Severe soil erosion potential;**
- (C) Within the 100-year flood plain;**
- (D) A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;**
- (E) A fragipan or other impervious layer less than 30 inches from the surface; or**
- (F) Subject to slumping, earth slides or movement.**
- (G) Pre-existing field drains or other subsurface drainage systems.**

Applicant:

- “(A) Slopes at the property do not exceed 20%.*
- (B) There is not severe soil erosion potential.*
- (C) The property is not within a 100-year flood plain and is in Zone C, area of minimal flooding.*
- (D) Pursuant to the Land Feasibility Study #06-139326-SE by Phil Crawford dated July 14, 2006, there is no seasonal water table 0-24 inches of the surface.*
- (E) Pursuant to the Land Feasibility Study #06-139326-SE by Phil Crawford dated July 14, 2006, there is no fragipan or other impervious layer less than 30 inches from the surface.*
- (F) The property is not subject to slumping, earth slides, or movement.*
- (G) Pursuant to the Land Feasibility Study #06-139326-SE by Phil Crawford dated July 14, 2006, there is not pre-existing field drains or other subsurface drainage system per the soils test.”*

Staff: The subject property slopes are gentle, estimated less than 8% sloping towards the drainage swale near the center of the property. The subject property is not so steep that it prevents effective partitioning. According to the Multnomah County soil survey, on-site soil units include the Powell Silt Loam (Unit 34B) in the northern and southern thirds and the Wollent Silt Loam (Unit 57) in the central third. On average, the Powell Silt Loam soil unit contains a relatively small percentage of fines susceptible to erosion (12.83% < 200 micrometer). This unit exhibits slow runoff, slight erosion potential and is typically suitable for farming and urban development². Similarly, the Wollent Silt Loam contains only 15% fines (< 200 micrometer), on average, and typically exhibits slow runoff and slight erosion potential (page 91, previous footnote reference). This soil unit is also suitable for farming and urban development.

² Page 64, Multnomah County Soil Survey (USDA, 1983).

Although the property is not located within a mapped 100-year flood plain, according to the USDA soil survey the water table can reach surface levels from November through May within the Wollent Silt Loam unit, a hydric soil unit. Fluctuating, high water tables increase probability of fragipan production. High water tables within the Powell Silt Loam unit are not typical. For these reasons, Staff finds the Wollent Silt Loam soil unit may complicate future development on Parcel 2, although no evidence has been submitted to that this is the case on the subject property.

The Wollent Silt Loam unit is mapped as a band passing through the center of the property approximately 195-feet wide on the east and 170 feet wide on the west side (Exhibit 2). Division of the subject property is proposed roughly in the middle of this soil unit. Because 30-foot setbacks would apply to either side of the future common boundary between both parcels, this hydric soil unit would not impact the development potential of either Parcel 1s much as would be the case if the unit passed through the center of either proposed parcel. For example, areas outside of the hydric soil unit within Parcel 2 reaches 145 feet wide on the west side and 170-feet wide on the east side. Parcel 2 will be 274.48 feet wide on average providing adequate width for development outside of the hydric unit. Kent Cox, P.E., has estimated the upland portions of Parcel 2 outside of the hydric soils to total approximately 1.0 acre. Staff finds the hydric soil unit will not prohibit development of Parcel 2 considering other developed properties in the area are smaller than the portion of Parcel 2 outside of the hydric soil area, and that the minimum lot size in the OR zone is 1.0 acre. It is also quite possible that the roughly 0.5-acres of Parcel 2 within the Wollent Silt Loam unit could be developed without complications. On-site soil conditions will be evaluated at the time of development proposal.

Kent Cox, P.E. has confirmed that the on-site hydric soils do not prohibit the ability to establish a dwelling on the property (Exhibit 2) and that storm drainage management for residential uses of the southern site (Parcel 2) can be provided by a properly placed and designed soakage trench. Mr. Cox recommended 27 lineal feet per 1,000 square feet of impervious surface proposed on Parcel 2 would be adequate to avoid off-site impacts. In addition, the existing septic system on Parcel 1 is located fully within the Wollent Silt Loam unit and to Staff's knowledge is functioning properly. A waste water treatment inspection report prepared by Sepco, Inc indicated that as of April 24th, 2006 that the tank and drain field appear to be in good working condition (Exhibit 14).

Mr. Cox has identified various storm water easement areas that could be used to better accommodate development on Parcel 1 and 2 in the future and to convey storm water currently flowing through a drainage swale passing through Parcel 2. Staff is not requiring the applicant dedicate these storm water areas at this time because the proposed land division will not result in any measurable impact that must be mitigated through storm water easements and because this land division will not alter the existing storm water flowing through Parcel 2. This decision does not prevent the owner from establishing drainage easements if so desired. In conclusion, Staff finds that none of the site characteristics listed in this standard will create an unsuitable parcel after the partition is executed. As conditioned, this standard is met.

8.9 The design of lots and parcels shall comply with the following: The size, shape, width, orientation and access shall be appropriate to the types of development and uses contemplated (MCC 36.7895(A)(1));

***Applicant:** "The size, shape, width, orientation, and access are appropriate as discussed at the pre-application meeting with Multnomah County Land Use Division on 8/25/05."*

Staff: The applicant is not proposing new uses or development of either Parcel 1t this time making it is difficult to contemplate the intended future use. Staff believes the most common new development seen in the OR zone is likely to be a single family dwelling. The applicant has indicated that Parcel 2 was designed with the understanding that it would be sold and may be someday developed with a single family dwelling. As previously discussed, the 1.590 acre undeveloped Parcel 2 will be of adequate size for this type of development and will have the necessary public access from Teton Drive. The proposed configuration does not impact the current function of the commercial building on Parcel 1. The proposed configuration also allows adequate room to expand the commercial use on Parcel 1, particularly to south as previously discussed. Staff finds the proposed tentative plan has considered these factors and will appropriately present future development options in the future. This standard is met.

8.10 (MCC 36.7895(A)(2)) - To the nature of existing or potential development on adjacent tracts;

Staff: The only adjacent tract of land lies to the south. Public roads and private driveways boarder all the other portions of the property. The property to the south is developed with a single family dwelling located roughly 100 feet south of the subject property. Minimum required setbacks in the OR zone require new development to be located at least 30-feet from a rear property line. This would provide a minimum of 130-feet separation between any new use on Parcel 2 and the existing dwelling south of the subject property, without the issuance of an adjustment or variance. Staff finds the partition has been designed to allow development of Parcel 2 in a way that is consistent with surrounding development and in a way that will not adversely impact surrounding owners.

8.11 (MCC 36.7895(A)(3)) - For the maximum preservation of existing slopes, vegetation and natural drainage;

Staff: The gently sloping subject property does not contain significant slopes requiring preservation. Although future Parcel 2 is forested, it will likely be large enough to allow trees to remain while still providing enough room for a dwelling, access road and septic system. It is possible, trees in the setback areas around the perimeter of the property could be preserved to provide for screening of any future development. Preservation of trees in this area is not required by this approval. The proposed land division will have no impact on the natural drainage flowing through the site. This standard is met.

8.12 (MCC 36.7895(A)(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 applicable yard setbacks in the OR zone are designed, in part, to provide privacy between structures. The existing structure on the subject property will greatly exceeds the minimum setbacks after the partition. The tentative plan also provides the ability for future structures to meet these current setbacks on both parcels. This standard is met.

8.13 (MCC 36.7895(A)(5)) - To the climactic conditions including solar orientation and winter wind and rain.

Staff: The design of both parcels allows adequate light and space around existing and future structures. The nearest dwelling is located approximately 100-feet from the subject property to the

south. The resulting parcel sizes are large enough for trees to be planted in the future around development if additional buffering from the elements is desired by the owner.

8.14 The side lot lines shall be perpendicular to the front lot line or radial to the curve of a street, to the extent practicable (MCC 36.7895(B)).

Applicant: "The side lot lines are perpendicular to the front lot line."

Staff: As indicated on the tentative plan map, the proposed line separating Parcel 1 and 2 runs generally east-west. According to the definitions provided in **MCC 36.0005** this common line represents the side lot line for Parcel 1 and 2. This line is perpendicular to the 173.34 front lot line for Parcel 1 and 2, as the front lot line is defined in **MCC 36.0005**. This standard is met.

8.15 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 (MCC 36.7895(C)).

Applicant: "The proposed land division does not require a double frontage or reverse frontage."

Staff: The proposed partition will not result in the creation of a double frontage lot³ or a reverse frontage lot⁴. Although Parcel 1 contains frontage along both Teton Drive and SE Orient Drive, it is not considered a double frontage Parcel 2 because the frontages are not located at either end of the Parcel 2 but rather converge near the northern tip of the irregularly shaped property. The proposed driveway access to the developable portion of Parcel 2 extends roughly north-south consistent with other flag lot configurations in the area. This standard has been met.

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

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

Applicant: "The proposed land division has a flag lot configuration, as advised and recommended by Multnomah County at the pre-application meeting on 8/25/05. The proposed pole portion of the flag lot is 20' wide, and is beyond the minimum requirement of 16'."

Staff: The proposed flag lot meets the minimum 50-foot frontage requirements of the OR zone. In the case of a flag lot, the front lot line is the line closest to and most nearly parallel with the street which serves the lot (**MCC 36.0005**). The northern most 50-feet of the flag pole portion of Parcel 2 at the terminus is closest to and parallels Teton Drive. As a result, this 50-foot section along the western terminus of the flag pole is considered the front lot line by definition. This front lot line length is adequate according to the OR dimensional standards (**MCC 36.3455(B)**). The flag pole of Parcel 2 will be 20.00 feet wide, exceeding the 16-foot wide requirement.

³ A double frontage lot is not defined in Multnomah County Code. A double frontage lot is defined in "Land-Use Planning in Oregon" (Rohse, 1987) as a lot that extends through a block, thus having frontage on two streets.

⁴ A reverse frontage lot is not defined in Multnomah County Code. A reverse frontage lot is defined in "Land-Use Planning in Oregon" (Rohse, 1987) as a lot that has its frontage at right angles to the general pattern that prevails in a block or neighborhood.

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

Staff: This type of configuration is not proposed within the proposed. This standard is met.

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

Applicant: "The proposed flag lot does not have the lots stacked one behind the other."

Staff: The applicant is not proposing the creation of multiple flag lots stacked one behind the other within this land division. The creation of only one flag lot is proposed. This standard is met.

(* * *)

- 8.19 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 (MCC 36.7935(A)).**

Applicant: "a 20' wide by 30' long ingress/egress access easement is proposed upon Parcel A for the benefit of Parcel B. The width meets the minimum 10' requirement."

Staff: The City of Portland Sanitarian has confirmed the proposed drainfield setback from the common lot line is adequate and therefore no sanitation easement on Parcel 1 is required. Kent Cox, PE has confirmed storm water runoff from developed Parcel 1 is being managed on-site. Staff finds that storm water easements are not required to accept runoff from existing impervious surfaces on the subject property. There has not been a need for a utility easement identified at this point. This standard has been met.

- 8.20 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 (MCC 36.7935(B)).**

Staff: The presence of a natural drainage swale through the northern portion of Parcel 2 has been confirmed by Kent Cox, P.E. (Exhibit 2). Staff has the authority to require a storm water easement around a drainage course when it is determined that this exaction would mitigate an impact resulting from the proposed use and that the requirement is proportional to the identified impact. In this case, the applicant is proposing a land division with no physical site improvements at this time. The proposed use being reviewed (i.e. partition) will have no effect on the existing drainage flow through the property and therefore Staff can not justify the need for a storm water storm water easement around the drainage course at this time. This decision does not prevent the owner from establishing a drainage easement if so desired. This standard is met.

- 8.21 Easements for pedestrian paths and bikeways shall be not less than 10 feet in width (MCC 36.7935(C)).**

Applicant: "Not Applicable."

Staff: Establishing an easement for pedestrian or bike pathways is not necessary for this proposal because development of Parcel 2 is not proposed at this time. This standard does not apply.

(* * *)

- 8.22 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 (MCC 36.7950).**

Staff: The Pleasant Home Water District has verified adequate water service can be provided to the undeveloped Parcel 2 via a 6-inch water line located at the end of Teton Drive in the public Right-of-Way (Exhibit 11). This standard is met.

- 8.23 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 drain field area, and for surface and storm drainage systems.(MCC 36.7955).**

Staff: The City of Portland sanitarian has verified the proposed land division meets sanitation disposal requirements (Exhibit 14). Staff finds the proposed parcels are of adequate size and configuration to accommodate both a primary and reserve septic system and any necessary storm drainage system. This standard is met.

- 8.24 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 (MCC 36.7960).**

Staff: No new structural development is proposed that could alter surface or storm water drainage patterns. Kent Cox, P.E. indicated that "no overland flow, erosion, or evidence of overland flow from the northern improvements (on Parcel 1) was noted" during a site inspection (Exhibit 2) and that "the storm water from the northern developed parcel is properly managed on the site and storm water from future, properly designed residential uses, for the southern vacant site can be properly managed on-site." This standard is met.

- 8.25 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 (MCC 36.7965):**

(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: "Installed in 1962."

Staff: No new electric power, communication lines, street lighting wiring, or cable television wires are proposed at this time. It has been made a condition of this approval that all future electric lines, communication lines and cable lines must be placed underground unless waived by the approval authority in accordance with the requirements of **MCC 36.7965**.

8.26 Improvements in a land division shall be made in accordance with the provisions of MCC 36.7980 through 36.8000 and 36.8010 (MCC 36.7975).

Staff: No improvements of either Parcel are proposed at this time.

Conclusion

Based upon the findings contained herein, the applicant has carried the burden necessary to demonstrate that, with conditions, the criteria for a Category 3 Land Division contained in the Zoning and Land Division codes have been met.

Exhibits

1	Property Survey with Proposed Partition Plan prepared by Centre Point Surveying, Inc. submitted 5/21/07 (reduced copy – full sized original contained in case file)
2	Storm Drain Exhibit Map prepared by Kent. W. Cox and Associates, Inc. submitted 9/14/07 (reduced copy – full sized original contained in case file). Exhibit also contains hydric soils maps and storm water analysis submitted 9/14/07 by Kent W. Cox and Associates, Inc.
3	Applicant's Instructions for Finishing a Land Division
4	Surveyor's Instructions for Finishing a Land Division
5	Exhibit Number Not Used
6	Assessment and taxation map of the subject property
7	2004 aerial photo of the subject property and surrounding vicinity
8	Zoning map of the vicinity
9	Vicinity Map submitted 3/6/07
10	Existing Property Survey prepared by Centre Pointe Surveying, Inc submitted 3/6/07 (reduced copy – full sized original contained in case file)
11	Certification of Water Service provider form submitted 3/6/07
12	3/26/06 letter from Cindy Zinser, Pleasant Home Water District with attached water usage tables. Letter submitted 3/6/07.
13	Land Use Compatibility signoff provided by Don Kienholz, Multnomah County Planner 7/7/06. Submitted 3/6/07.
14	Copy of email sent 5/22/07 from Phillip Crawford, City of Portland Sanitarian, approving most recent partition configuration & Copy of 8/7/06 Certification of On-Site Sewage Disposal signoff requiring 10-foot setback between existing septic system and proposed property line. Associated feasibility study records also attached.
15	5/17/07 Email from Mike Kelly, Gresham Fire approving access for the most

	recent partition proposal & copy of approved Fire District Access Review form signed by Mike Kelly 5/9/07.
16	Narrative submitted by the applicant 3/6/07
17	Narrative submitted by the applicant 4/26/07
18	Narrative submitted by the applicant 5/25/07
19	Comments submitted 6/1/07 by Alison Winter, Multnomah County Transportation Planning Specialist.
20	Comments submitted 6/6/07 by Jory and Susan Lane, 8008 SE Teton Drive.
21	Narrative submitted by the applicant 9/14/07
22	Letter of authorization and property ownership evidence.
23	12/21/63 property deed