



**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.multco.us/landuse>

---

## NOTICE OF DECISION

---

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

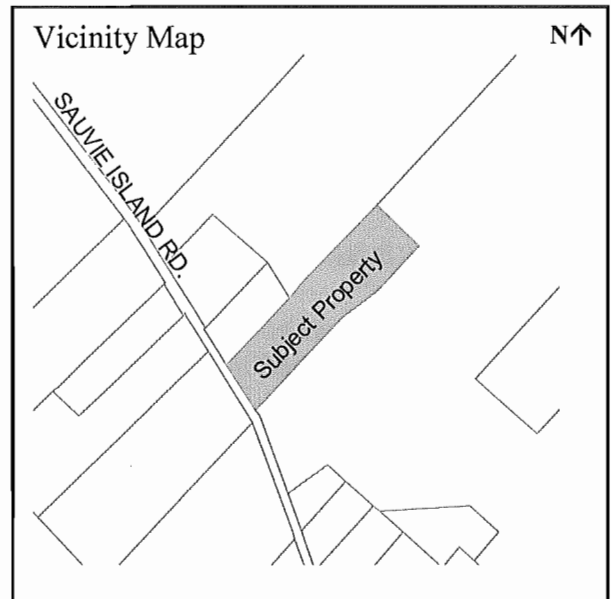
**Case File:** T2-2012-2420

**Permit:** Administrative Decision by Planning Director and Category 3 Land Division

**Location:** 19544 NW Sauvie Island Road  
Tax Lot 1100, Section 08,  
Township 2 North, Range 1 West, W.M  
R971080130

**Applicants/  
Owners:** Kent & June Meyer

**Base Zone:** Exclusive Farm Use



---

**Summary:** Request for a Ballot Measure 49 Category 3 Land Division to create two new parcels out of one existing 6.4 acre parcel (one 2 acre parcel with the existing dwelling and one 4.4 acre parcel with a proposed new dwelling) in the Exclusive Farm Use (EFU) Zone.

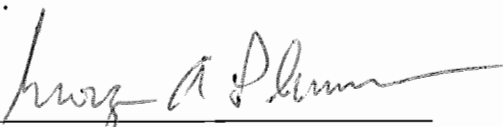
**Decision:** Approved with Conditions

Unless appealed, this decision is effective January 3, 2013 at 4:00 PM.

---

Issued by:

By:

  
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Thursday, December 20, 2012

**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 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 Plummer, Staff Planner at 503-988-3043, ext. 29152.

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

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is January 3, 2013 at 4:00 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): MCC 34.2600 et al: EFU, MCC 34.7700 et. al: Category 3 Land Divisions, MCRR 4.000: Access, MCRR 5.000 Transportation Impact, MCRR 6.000: Improvement Requirements and Measure 49.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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> or <http://web.multco.us/transportation-planning>.

### **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 four years from the date the decision is final pursuant to MCC 37.0690(C) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, 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 brackets.

1. The State of Oregon (DLCD) Supplemental Review of Measure 49 Claim conditions of approval, Final Order E22857 (Exhibit B.5), are also conditions of approval of this permit [ORS 195.300 to 195.336].
2. The applicant is to complete the procedures given in the enclosed "Applicant's Instructions for Finishing a Land Division." (Exhibit B.6) They are also to provide their surveyor the enclosed "Surveyor's Instructions for Finishing a Land Division" (Exhibit B.7) 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. [MCC 34.8015(A) and (B)]

3. The property owners shall obtain a building permit for the proposed dwelling. Prior County Land Use zoning review sign off for the building permit the property owner shall sign and record in the deed records for the county a covenant, as shown in Exhibit B.8, binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 [MCC 34.2655]
4. Any new wires serving within a land division, including but not limited to electric power, communication, lighting and cable television wires, shall be placed underground. [MCC 34.7965]
5. Prior County Land Use zoning review sign off for the dwelling the property owners shall obtain Right-of-Way Access Permit for the both properties for access to Sauvie Island Road. [MCRR 4.000]

**Note:** Once this decision is final, the final partition plat can be submitted to County Planning and County Survey. Please call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for submittal of the final plat.

**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 of Fact**

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

### **1. PROJECT DESCRIPTION:**

**Staff:** The proposal is for a land division to create two parcels out of the existing 6.4 acre parcel. The land division will result in one 2.0 acre parcel will contain the existing dwelling and one 4.4 acre parcel will be used for the proposed new dwelling (Exhibit A.1 through A.13). The property is the subject of a Measure 49 (ORS 195.300 to 195.336) claim and has received conditional approval from the State of Oregon for up to three single family dwellings to be located on individual parcels, dividing a 6.4 acre parcel in three parcels within the EFU zone (Exhibit B.5).

The applicant’s Measure 49 DLCD approval allows for up to three parcels total and three dwellings total. The applicant has chosen at this time to request a land division for two parcels total and two dwellings total, forgoing at this time the additional parcel and dwelling allowed through the Measure 49 DLCD approval.

This review has three primary components: The Administrative Decision by the Planning Director (Section 4 below) confirms that the property owner has a valid Measure 49 approval from the State of Oregon and that this application is compliant with State conditions of approval. The Category 3 Land Division review (Section 5) confirms that County regulations pertaining to land divisions are satisfied. Section 6 addresses County Transportation standards.

### **2. PROPERTY DESCRIPTION:**

**Staff:** The 6.4 acre subject property, located at 19544 NW Sauvie Island Road has an existing dwelling near the back of the property and has a relatively shallow sloped hay field between the road and the dwelling. There are no known code compliance issues on the property.

### **3. EXCLUSIVE FARM USE ZONE**

#### **3.1. Review Uses**

**MCC 34.2625(D): A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:**

- (1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:**

**Staff:** On January 22, 2010 the Oregon Department of Land Conservation and Development (DLCD) conditionally approved a Ballot Measure 49 claim filed by property owners, Kent and June Meyer (Exhibit B.5). The property owners were approved with conditions through the Measure 49 Review by the Department of Land Conservation and Development for two additional dwellings on newly created parcels for the property. The Measure 49 DLCD approval waives the \$80,000 income requirement. Following in Section 4 of this decision is the County Measure 49 review of proposal.

### **3.2. Single Family Dwellings Condition Of Approval**

**MCC 34.2655: Prohibition on Claims Alleging Injury From Farm or Forest Practices - As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging in-jury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.**

**Staff:** This can be required through a condition. *This is requirement met through a condition.*

### **3.3. Dimensional Requirements**

**MCC 34.2660(A): Except as provided in MCC 34.2675, the minimum lot size for new parcels shall be 80 acres in the EFU district.**

**MCC 34.2660(B): That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.**

**MCC 34.2660(C): Minimum Yard Dimensions – Feet**

**30 feet front yard**

**30 feet rear yard**

**10 feet side yard**

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

**Staff:** The Measure 49 approval allows creation of two acres new parcels with a larger remainder parcel. The 80 acre minimum new parcel size is waived through the Measure 49 approval (Exhibit B.5). The existing and proposed dwelling sites exceed all of the minimum yard setbacks. The 50 foot minimum front lot land length is met because Parcel 1 front lot line is 255.1 feet and Parcel 2 is a flag lot with front lot line is 268.99 feet and a flag pole of 16 foot width meeting requirements of MCC 34.7895(D). *The 80 acre minimum is waived through the Measure 49 approval and the proposed parcels meet the other applicable dimensional standards.*

### **3.4. Lot of Record**

**MCC 34.2675 (A) In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district a Lot of Record is either:**

**(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**

**(2) A group of contiguous parcels or lots:**

**(a) Which were held under the same ownership on February 20, 1990; and**

**(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.**

**MCC 34.0005: Definition - Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 34.7785. 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;

**Staff:** A deed signed by Kent and June Meyer on March 30, 1973 filed with County Records in Book 920 on Page 301 shows the property existed and was obtained by the current owners in 1973 when the zoning for the property was F-2. While the property owners own a portion of an adjacent property, however that property has other owners as well thus the subject property individually qualified for the Measure 49 approval. Measure 49 waives the aggregation requirement of MCC 34.2675(A)(2)(b). The property was created as a parcel in 1973 by deed and met the two acre minimum F-2 zoning requirement in effect at that time. There was no land division requirement for a property created by deed in 1973. *The property meets the Lot of Record definition except for the aggregation requirement waived by Measure 49.*

#### **4. ADMINISTRATIVE DECISION BY THE PLANNING DIRECTOR - MEASURE 49 REVIEW**

**Staff:** On January 22, 2010 the Oregon Department of Land Conservation and Development (DLCD) conditionally approved a Measure 49 (ORS 195.300 to 195.336) claim filed by property owners, Kent and June Meyer for the subject property through the Final Order and Home Site Authorization Election Number E122857 (Exhibit B.5). The property was approved for three home sites, up to two additional dwellings on two additional parcels, for a total of three parcels and three dwelling given on existing dwelling on the existing parcel. The Measure 49 approval included conditions addressed below.

##### **4.1. DLCD Condition #1:**

*Each dwelling must be on a separate lot or parcel, and must be contained within the property on which the claimant is eligible for Measure 49 relief. The establishment of a land division or dwelling based on this home site authorization must comply with all applicable standards governing the siting or development of the land division or dwelling. However, those standards must not be applied in a manner that prohibits the establishment of the land division or dwelling, unless the standards are reasonably necessary to avoid or abate a nuisance, to protect public health or safety, or to carry out federal law.*

**Staff:** The applicant’s proposed tentative plan (Exhibit A.13) shows the existing dwelling on proposed Parcel 2 and a proposed dwelling on the proposed Parcel 1 for which DLCD has issued conditional approval (Exhibit B.5). The application meets the standards for a Land Division (see Section 5 of this decision). Staff finds that 80 acre minimum parcel size for the creation of new parcels set forth in the EFU zone [MCC 34.2660 (A)] is effectively superseded by ORS 195.305 (Ballot Measure 49 implementing statute). Staff additionally finds that the qualifying standards for a dwelling in the EFU zone [MCC 34.2625 (D)] are effectively superseded by ORS 195.305. *This condition is met.*

**4.2. DLCD Condition #2:**

*This home site authorization will not authorize the establishment of a land division or dwelling in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14).*

**Staff:** The proposal for two properties, one with the existing dwelling and one with a proposed single family dwelling, is consistent with the findings and conclusions made in DLCD's Final Order Election Number E122857 dated January 22, 2010 (Exhibit B.5). The property owner would have been permitted to divide the property and construct two single-family dwellings when they obtained the property on March 30, 1973 (Exhibit A.3). The proposed land division and additional dwelling are not in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14). *This condition is met.*

**4.3. DLCD Condition #3:**

*A claimant is not eligible for more than 20 home site approvals under Sections 5 to 11 of measure 49 regardless of how many properties a claimant owns or how many claims a claimant filed. If the claimants have developed the limit of twenty home sites under Measure 49, claimants are no longer eligible for the home site approvals that are the subject of this order.*

**Staff:** The proposal is for one additional home site, not for more than 20 home sites. *This condition is met.*

**4.4. DLCD Condition #4:**

*The number of lots, parcels or dwellings a claimant may establish under this home site authorization is reduced by the number of lots, parcels and dwellings currently in existence on the Measure 37 claim property and contiguous property in the same ownership, regardless of whether evidence of their existence has been provided to the department. If lots, parcels or dwellings currently exist on the Measure 37 claim property or on contiguous property under the same ownership and the lots, parcels or dwellings have not been disclosed to the department, then the number of additional lots, parcels or dwellings a claimant may establish pursuant to this home site authorization must be reduced according to the methodology stated in Section 6(2)(b) and 6(3) of Measure 49.*

**Staff:** The Measure 49 approval is for a total of three parcels divided out of the existing parcel and for three single family dwellings. The property contains one single family dwelling thus under this condition the property owners could apply for two additional dwellings. The proposal is for one addition parcel for a total of two parcels divided out of the existing parcel and one additional dwelling on a parcel divided out of the Measure 49 property. *This condition is met.*

**4.5. DLCD Condition #5:**

*Temporary dwellings are not considered in determining the number of existing dwellings currently on the property. The claimant may choose to convert any temporary dwelling currently located on the property on which the claimant is eligible for Measure 49 relief to an authorized home site pursuant to a home site approval. Otherwise, any temporary dwelling is subject to the terms of the*

*local permit requirements under which it was approved, and is subject to removal at the end of the term for which it is allowed.*

**Staff:** There are no temporary dwellings on the property. *This condition is met.*

**4.6. DLCD Condition #6:**

*A home site approval only authorizes the establishment of a new lot, parcel or dwelling on the property on which the claimant is eligible for Measure 49 relief. No additional development is authorized on contiguous property for which no Measure 37 claim was filed or on Measure 37 claim property on which the claimant is not eligible for Measure 49 relief. A lot or parcel established pursuant to a home site approval must either be the site of a dwelling that is currently in existence or be the site of a dwelling that may be established pursuant to the home site approval.*

**Staff:** Only the subject property is proposed for development. No additional properties are part of the proposed for development. The new dwelling will be located on its own parcel within existing property boundaries (Exhibit A13). *This condition is met.*

**4.7. DLCD Condition #7:**

*The claimant may use a home site approval that does not authorize a new lot parcel or dwelling to convert a lot, parcel or dwelling currently located on the property on which the claimant is eligible for Measure 49 relief to an authorized home site. If the number of lots parcels or dwellings existing on the property on which the claimant is eligible for Measure 49 relief exceeds the number of home site approvals the claimant qualifies for under a home site authorization, the claimant may select which existing lots, parcels or dwellings to convert to authorized home sites; or may reconfigure existing lots parcels or dwellings so that the number is equivalent to the number of home site approvals.*

**Staff:** The proposal creates a total two new parcels out of the existing parcel, one for the existing home and the other for a proposed new home site. *This condition is met.*

**4.8. DLCD Condition #8:**

*The claimants may not implement the relief described in this Measure 49 home site authorization if a claimant has been determined to have a common law vested right to a use described in a Measure 37 waiver for the property. Therefore, if a claimant has been determined in a final judgment or final order that is not subject to further appeal to have a common law vested right as described in Section 5(3) of Measure 49 to any use on the Measure 37 claim property then this Measure 49 Home Site Authorization is void. However, so long as no claimant has been determined in such a final judgment or final order to have a common law vested to a use described in a Measure 37 waiver for the property, a use that has been completed on the property pursuant to a Measure 37 waiver may be converted, to an authorized home site.*

**Staff:** There is no vested rights claim determination for the property. *This condition is met.*

**4.9. DLCD Condition #9:**

*A home site approval does not authorize the establishment of a new dwelling on a lot or parcel that already contains one or more dwellings. The claimant may be required to, alter the configuration of the lots or parcels currently in existence on the Measure 37 claim property and contiguous property so that each additional dwelling established on the property on which the claimants are eligible for Measure 49 relief, pursuant to this home site authorization, is sited on a separate lot or parcel.*

**Staff:** The proposal creates a total two new parcels out of the existing parcel, one for the existing home and the other for a proposed new home site. *This condition is met.*

**4.10. DLCD Condition #10:**

*Because the property is located in an exclusive farm use zone, the home site authorization does not authorize new lots or parcels that exceed five acres. However, existing lots or parcels may exceed five acres. Before beginning construction, the owner must comply with the requirements of ORS 215.293. Further, the home site authorization will not authorize new lots or parcels that exceed two acres if the new lots or parcels are located on high-value farmland, on high-value forestland or on land within a ground water restricted area. However, existing lots or parcels may exceed two acres.*

**Staff:** The proposal includes two parcel land division on high value farmland. Proposed Parcel 2 will be two acres and the other, Parcel 1, will be 4.4 acres. A condition will require a covenant prohibiting them from pursuing a claim for relief or cause of action alleging in-jury from farming or forest practices for which no action or claim is allowed (Exhibit B.8). *This is met through a condition.*

**4.11. DLCD Condition #11:**

*Because the property is located in a exclusive farm use zone, Measure 49 requires new home sites to be clustered so as to maximize suitability of the remnant lot or parcel for farm or forest use. Further, if an owner of the property is authorized by other home site authorizations to subdivide, partition, or establish dwellings on other Measure 37 claim properties, Measure 49 authorizes the owner to cluster some or all of the authorized lots, parcels or dwellings that would otherwise be located on land in an exclusive farm use zone, a forest zone or a mixed farm and forest zone on a single Measure 37 claim property that is zoned residential use or is located in an exclusive farm use zone, a forest zone or a mixed farm and forest zone but is less suitable for farm or forest use than the other Measure 37 claim properties.*

**Staff:** The proposed new home site is clustered with the existing home site within 293 feet of each other Exhibit A.13). *This condition is met.*

**4.12. DLCD Condition #12:**

*If the claimant transferred his ownership interest in the Measure 37 claim property prior to the date of this order, this order is rendered invalid and authorizes no home site approvals. Provided this order is valid when issued, a home site approval authorized under this order runs with the property and transfers with the property. A home site approval will not expire, except that if a claimant who received this home site authorization later conveys the property to a party other*

*than the claimant's spouse or the trustee of a revocable trust in which the claimant is the settlor, the subsequent owner of the property must establish the authorized lots, parcels and dwellings within 10 years of the conveyance. A lot or parcel lawfully created based on this home site authorization will remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. A dwelling lawfully created based on a home site approval is a permitted use.*

**Staff:** The property continues to be in the ownership of Kent and June Meyers, the claimants (Exhibit B.1). *This condition is met.*

#### **4.13. DLCD Condition #13:**

*To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, this home site authorization will not authorize the use of the property unless the claimant first obtains that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the subject property imposed by private parties.*

**Staff:** The applicant must obtain a land division approval to create the new parcels, Section 5 of this decision addresses that review. Additionally building permits will need to be obtained for the new dwelling. A Right-of-Way Access permit is required for the two new properties. *This condition is met through a condition.*

### **5. CATEGORY 3 LAND DIVISION**

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

**MCC 34.7855:** 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 34.7800 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district.

**Staff:** The proposed land division meets criteria listed in subsections (B), (C) and (H) of MCC 34.7800 (see the following subsection of this decision). The tentative plan complies with the area and dimensional requirements of the underlying zoning district except the 80 acre minimum parcel size waived by the Ballot Measure 49 approval (Exhibit B.5) which set a max of two acres for the newly created lot and the remainder lot allowed at 4.4 acres. *These criteria are met.*

##### **5.1.1. MCC 34.7800(B): Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances;**

**Staff:** The proposed land division is to create two parcels out of the existing parcel. The DLCD Ballot Measure 49 approval allowed for a total of three parcels divided out of the subject parcel (Exhibit B.5). Given the proposed tentative plan and proposed new dwelling location it is feasible that a future third parcel could be divided out of Parcel 1 through a future Land Division Review if

the future parcel met other development requirements. A further land division would require an additional land use review similar to this review. *This criterion is met.*

**5.1.2. MCC 34.7800(C): The tentative plan complies with the applicable provisions, including the purposes and intent of the Multnomah County Land Division Ordinance.**

**Staff:** The tentative plan complies with the applicable provisions, including the purposes and intent of the Multnomah County Land Division Ordinance (see the following findings in Section 5 of this decision). *This criterion is met.*

**5.1.3. MCC 34.7800(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**

**Staff:** The subject property is not within the Flood Hazard Overlay (100 Year Floodplain). *This criterion is met.*

**5.2. Contents of Category 3 Tentative Plan**

**MCC 34.7860: 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 34.7810 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 34.7855 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 34.7805 through 34.7825, 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 submitted sufficient information for this review. *This standard is met.*

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

**MCC 34.7885:** Every land division proposal shall comply with the applicable provisions of MCC 34.7890 through 34.7965.

**Staff:** The proposed land division complies with MCC 34.7890 through 34.7965 (see the following findings). *This standard is met.*

### **5.4. Land Suitability**

**MCC 34.7890:** 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.

**Staff:** The slope is relatively shallow, there is no severe soil erosion potential. The property is not within the 100-year flood plain. There is no known fragipan or other impervious layer less than 30 inches from the surface. The two parcels have been reviewed and approved for on-site sewage disposal systems. The property is not subject to slumping, earth slides or movement. *This standard is met.*

### **5.5. Lots and Parcels**

**MCC 34.7895:** The design of lots and parcels shall comply with the following:

- (A) The size, shape, width, orientation and access shall be appropriate:
  - (1) To the types of development and uses contemplated;
  - (2) To the nature of existing or potential development on adjacent tracts;
  - (3) For the maximum preservation of existing slopes, vegetation and natural drainage;
  - (4) To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and
  - (5) To the climactic conditions including solar orientation and winter wind and rain.
- (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.
- (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.
- (D) A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:

- (1) When a flag lot does not adjoin another flag lot, as shown in MCC 34.7895 Figure 1, the pole portion of the flag lot shall be at least 16 feet wide.**

**Staff:** The size, shape, width, orientation and access of the proposed parcels are appropriated for residential use approved by the Measure 49 approval. The applicant has demonstrated that the parcels are approved for on-site sewage disposal, stormwater disposal is feasible on-site and a dwelling site is feasible. The proposed parcels are appropriate to the nature of existing and potential development on adjacent tracts. The proposed parcels are large enough to meet the setbacks thus adjacent tracts will not be impacted by the existing and proposed residential development of the new parcels nor privacy issues due to setbacks providing a buffer. The proposed land division will not impact the swallow slope. There is no significant vegetation on the property and no drainageway on the property. The climactic conditions will be the same as for the rest of Sauvie Island.

The proposed side property lines are relatively perpendicular to the front lines given that these lines currently exists they are perpendicular to the extent practicable. The parcels are not double frontage. The proposal includes a standalone flag lot with a flag pole that exceeds 16 feet wide. *These standards are met.*

#### **5.6. Acreage Tracts**

**MCC 34.7900:** Where a tract of land is to be divided into lots or parcels capable of redivision in accordance with this or any other ordinance, the approval authority shall require an arrangement of lots, parcels and streets which facilitates future redivision. In such a case, building setback lines may be required in order to preserve future rights-of-way or building sites.

**Staff:** Proposed Parcel 1 could be divided according to the Measure 49 approval. The proposed parcel is designed so the division could meet the standards for such a land division. *This standard is met.*

#### **5.7. Easements**

**MCC 34.7935:** Easements shall be provided and designed according to the following:  
**(A) Along the front property line abutting a Street, a five foot utility easement shall be required. The placement of the utility easement may be modified as requested by a public or private utility provider. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.**

**Staff:** The tentative plans show five foot utility easement abutting Sauvie Island road right-of-way. *This standard is met.*

#### **5.8. Water System**

**MCC 34.7950:** 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 34.7985 of this Chapter.

**Staff:** A well currently exists on the property serving the existing dwelling and will serve the proposed dwelling. *This standard is met.*

**5.9. Sewage Disposal**

**MCC 34.7955:** 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 34.7990 of this Chapter.

**Staff:** Both parcels have been approved for an on-site sewage disposal system and repair areas (Exhibits A.8 and A.12). *This standard is met.*

**5.10. Surface Drainage**

**MCC 34.7960** Surface drainage and storm sewer systems shall be provided as required by section MCC 34.7995. 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:** Bruce D. Goldson, PE has reviewed both proposed parcels and designed on-site storm water disposal systems for both properties that meet the 10 year/24 hour County standard. *This standard is met.*

**5.11. Electrical And Other Wires**

**MCC 34.7965** 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 existing dwelling wire can remain because rewiring would result in an unnecessarily expensive. However, a condition will require any new wiring be installed underground. This standard is met through a condition.

**5.12. Required Improvements**

**MCC 34.7975** Improvements in a land division shall be made in accordance with the provisions of MCC 34.7980 through 34.8000 and 34.8010.

**Staff:** Applicable standard is address in the following section.

**5.13. Sewage Disposal**

**MCC 34.7990 (A)** A sewage disposal system approved by the State Department of Environmental Quality, shall be provided. All lots or parcels in a proposed land division which will utilize private subsurface sewage disposal system shall apply for and obtain approval of a Land Feasibility Study confirming the ability to utilize the system prior to tentative plan approval. In such cases, the approval authority may require that a sanitary

sewer line, with branches to the right- of-way line for connection to a future sewer system, be constructed and sealed.

**Staff:** Both parcels have been approved for an on-site sewage disposal system and repair areas (Exhibits A.8 and A.12). *This standard is met.*

#### **5.14. Final Drawing and Prints**

- 1.14.1. MCC 34.8015(A):** Two prints of the subdivision or partition plat shall accompany the final drawing, conforming to all applicable requirements as established by the Oregon Revised Statutes (ORS), Chapters 92 and 209.

**Staff:** This stand can be met through a condition. *This standard is met through a condition.*

- 1.14.2. MCC 34.8015 (B)** Notwithstanding optional provisions in ORS Chapter 92, all parcels created shall be surveyed, monumented and platted, regardless of parcel area.

**Staff:** This standard can be conditioned. *This stand is met through a condition.*

### **6. TRANSPORTATION STANDARDS**

#### **6.1. Access to County Roads**

**MCRR 4.100 Required Information:** Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;**
- B. Traffic Study-completed by a registered traffic engineer;**
- C. Access Analysis-completed by a registered traffic engineer;**
- D. Sight Distance Certification from a registered traffic engineer; and**
- E. Other site-specific information requested by the County Engineer**

**MCRR 4.200 Number:** Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

**MCRR 4.300 Location:** All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

**MCRR 4.400 Width:** Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

**MCRR 4.500 Sight Distance:** All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

**Staff:** The applicant has proposed to use an existing shared access onto Sauvie Island Road under County Jurisdiction. The road is classified as a Rural Local. The access is shown on the applicant's site plan (Exhibit A.13). All required information has been submitted.

The subject property is served by one shared existing driveway that meets these standards. The property will need to get a Right-of-Way Access Permit for the access for the new dwelling *These standards are met or can be met through a condition.*

## 6.2. Transportation Impact

**MCRR 5.100** To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

- A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or
- B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

**MCRR 5.200** The County Engineer will use the information obtained pursuant to subsection 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

**MCRR 5.300** Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

**Staff:** The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

According to the ITE Manual, 8<sup>th</sup> Edition, a single family dwelling generates 10 trips per day. Currently there is one dwelling on the prperty, however the proposal is a land division to create an additional parcel for which a new dwelling is proposed. Therefore, a transportation impact will be caused by the proposed development since trips generated by the site will be increased by more than 20 percent. *The proposal has a transportation impact.*

## 6.3. Improvement Requirements

**MCRR 6.100 Site Development:** The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

### A. Dedication Requirement

**Staff:** The County standard right of way width for a Rural Local the Sauvie Island Road right-of-way facility is 60 feet. The applicant is required to dedicate 10 feet of right-of-way along the entire frontage of Sauvie Island Road in order to achieve a proportional share of this standard.

This right of way will be used to improve the roadway to serve growing travel demand, which in part will be generated by this proposed action.

The proposed additional parcel with a new dwelling will generate an additional 10 trips of additional traffic. The property will access the Sauvie Island Road right-of-way thus there is a nexus of adding additional right-of-way for the additional traffic related to the proposed development. The proposal includes a 10 foot right-of-way dedication (Exhibit A.13). *This standard is met.*

## 7. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Administrative Decision by Planning Director for the Measure 49 review for the dwelling and two parcel Category 3 Land Division in the EFU zone. This approval is subject to the conditions of approval established in this report.

## 8. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

<b>Exhibit #</b>	<b># of Pages</b>	<b>Description of Exhibit</b>	<b>Date Received/ Submitted</b>
A.1	1	Application	7/20/12
A.2	2	Tentative Plan	7/20/12
A.3	2	Copy of a deed for the subject property recorded in 1973 in Book 920 on page 301	7/20/12
A.4	3	Fire district Access Review	7/20/12
A.5	1	Police Service Review	7/20/12
A.6	1	School District Review	7/20/12
A.7	1	Certification of Water Service	7/20/12
A.8	3	Site Evaluation Report	7/20/12
A.9	32	Title report	7/20/12
A.10	8	Storm Water Certification signed by Bruce D. Goldson PE for the proposed Parcel 1 for new dwelling	7/20/12
A.11	1	Storm Water Certification signed by Bruce D. Goldson PE for the proposed Parcel 2	10/16/12
A.12	6	Certification of On-Site Sewage Disposal forms for both proposed parcels	10/16/12
A.13	1	Revised Tentative Plan	10/16/12
‘B’	#	<b>Staff Exhibits</b>	<b>Date</b>

B.1	2	A&T Property Information	NA
B.2	1	A&T Tax Map with Property Highlighted	NA
B.3	1	Zoning Map	NA
B.4	1	2010 Aerial Photo	NA
B.5	9	Ballot Measure 49 Final Order and Home Site Authorization	1/22/10
B.6	1	County handout: "Applicant's Instructions for Finishing a Land Division."	NA
B.7	1	County handout: "Surveyor's Instructions for Finishing a Land Division"	NA
B.8	1	Covenant required by MCC 37.2655	