

**FINDINGS AND DECISION OF THE
LAND USE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON**

Application for an 11-lot Subdivision With a Request for a Variance

Case File: T3-04-004

Proposal: Request for an 11 lot subdivision to create one acre residential lots, with request for a variance to maximum length of a street terminating in a cul-de-sac and a variance to place water line outside of the street right-of-way; modified to withdraw request for variance to maximum street length.

Location: 7125 SE 302nd Avenue
TL 102, Sec 19, T1S, R4E, W.M.
Tax Account #R649806500

Applicant: Tom Orth Construction, Inc., PO Box 2247, Gresham, OR 97030

Owner: Ron Harris, 76044 Sullivan Road, Ione, OR 97843

Site Size: 12.81 acres. **Zoning:** Orient Residential (OR)

Approval Criteria: Multnomah County Code (MCC): Chapter 37: Administration and Procedures, MCC 36.0005: Definitions, MCC 36.3400 et. al: Orient Rural Center Residential, MCC 36.7700 et al: Land Divisions, Comprehensive Plan Policy 38: Agency Coordination and Involvement, and West of the Sandy River Transportation and Land Use Element of the Comprehensive Plan, Policy 26, Strategy 26.1: Pedestrian and Bicycle Access

DECISION: **The applications for an 11-lot subdivision and for a variance to place a water line outside the street right-of-way are approved, pursuant to the findings and conclusions, and subject to the conditions herein.**

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CONDITIONS OF APPROVAL:

Note: The conditions listed are necessary to ensure that criteria for this land use approval are satisfied. The applicant or owner is responsible to demonstrate that each of the conditions of approval has been satisfied before the Planning Director will sign-off on the final plat. Please call Planner George Plummer at (503)-988-3043, for an appointment to review and determine whether the conditions have been satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

- 1. Approval of this subdivision and variance is based upon the submitted written narrative(s) and plan(s). No action shall be taken and no work shall be taken pursuant to these approvals other than that which is specified within these documents. The applicant or property owner is responsible to comply with these documents and the limitations of approval described herein.**
- 2. Pursuant to MCC 36.8005 and 37.0700, this land division approval and variance will expire two years from the date this decision is signed and dated if the final plat has not been approved and signed by the Planning Director and recorded. The applicant or property owner may request the Planning Director to extend the time period within which this approval is valid, as allowed by MCC 37.0700; provided, that such a request for extension must be made prior to the expiration date of the approval.**
- 3. Pursuant to MCC 36.8030, no building permit shall be issued or parcel sold, transferred or assigned until the final plat has been approved by the Planning Director and County Surveyor and recorded with the public office responsible for public records.**
- 4. Pursuant to MCC 36.8035, this subdivision approval shall become effective upon the recording of the of the approved plat in accordance with ORS 92.120, any required street dedications, and other required documents with the public office responsible for public records.**
- 5. The final subdivision plan (Final Plan) shall demonstrate that the proposed building setback lines meet the 30-foot minimum yard dimensions for street side yards on all lots. (MCC 36.3455(B))**
- 6. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29. (MCC 36.3455(F))**
- 7. The owner(s) shall record a covenant, binding on all subsequent owners of each lot, that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or where the farm use does not occur on land in the EFU zone, the owner(s) shall record a covenant, binding on all subsequent owners of each lot, that states he recognizes and accepts that farm**

activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area. (MCC36.3455 (H))

- 8. A statement on the Final Plan will prohibit direct vehicular access from the subdivision to Dodge Park Blvd., SE 302nd, and Rork Road. (MCC 36.3485, MCC 36.7895(C))**
- 9. The Final Plan shall include a description of the proposed land division sufficient to define its location and boundaries" as required by MCC 36.7815(A)(3). This description should be as defined in ORS 93.600, and shall be "Parcel 2 of Partition Plat 2000-163." (MCC 36.7815(A)(3))**
- 10. Street lighting shall be located in the public right of way or easement and it shall conform to County standards (as described in Multnomah County Design and Construction Manual Section 6). Street lighting shall be of a fully shielded type so that no light is emitted above the horizontal. (MCC 36.3455(G), (MCC 36.7815(C)(8))**
- 11. The Final Plan shall indicate that an underground electrical line, and all other utility lines, except for the water line, shall be located within the General Utility Easement, as that easement is shown on the Proposed Improvements Plan (Exhibit R.2). (MCC 36.7815(B)(3), MCC 36.7965)**
- 12. The owner/applicant shall demonstrate that a 3-foot gravel shoulder either exists or shall be constructed along SE Rork Rd. (MCC 36.7910)**
- 13. The Final Plan shall show that the proposed new western north/south street shall be designated 'SE 298th Avenue,' and the eastern new north/south street, closest to 302nd, shall be designated 'SE 301st Avenue'. The new east/west street shall be designated 'SE Harris Place. (MCC 36.7925)**
- 14. The Final Plan shall depict a public, 10-foot, pedestrian and bicycle access easement to be dedicated and established between the internal street and SE 302nd where the water easement is located between Lots 7 and 8, and along SE 302nd Ave., where it adjoins the subdivision parcel. (MCC 36.7930, MCC 36.7980)**
- 15. Street trees shall be located in the ROW or within an appropriate landscaping easement. Street trees consistent with the types required by the County Design and Construction Manual shall be planted at the time of street improvements, and shall be maintained by the abutting property owners. (MCC 36.7940)**
- 16. The applicant/owner shall demonstrate compliance with either ORS 92.090(4)(b), which requires bond or other assurance that a domestic water system will be installed to the lot lines of every lot depicted in the subdivision, with the amount of the bond or other assurance to be determined by a registered professional engineer,**

subject to any change determined necessary by the county; or ORS 92.090(4)(c), which sets forth procedures to be followed if no domestic water supply facility will be provided to the purchasers of the lots in the subdivision. (MCC 36.7950)

17. Prior to Planning sign-off on a building permit for any of the lots in the subdivision, the applicant/owner must provide certification by a Registered Engineer that on-site water disposal or retention facilities on the lot shall be adequate to insure that surface runoff rate or volume from the new parcel after development is no greater than that from the same location before development. (MCC 36.7960, MCC 36.7995)
18. The applicant/owner will submit and obtain approval from the County Transportation Program for complete engineering design drawings for the proposed street(s) and the storm water connections to SE 302nd Avenue and Dodge Park Boulevard. (MCC 36.7990)
19. Prior to Planning sign-off on the Final Plan, the applicant/owner shall execute and file with the County Engineer an agreement with the County, which shall include:
 - (A) A schedule for the completion of required improvements;
 - (B) Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the improvements required by this Chapter against defects for a period of 12 months following the issuance of a certificate of acceptance by the County Engineer; and
 - (C) A surety bond, executed by a surety company authorized to transact business in the State of Oregon, or a certified check or other assurance approved by the County Attorney, guaranteeing complete performance. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer. (MCC 36.8010)
20. The applicant/owner shall submit the following to Land Use Planning for approval:
 - (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.
 - (B) Notwithstanding optional provisions in ORS Chapter 92, all parcels created shall be surveyed, monumented and platted, regardless of parcel area. (MCC 36.8015)
21. The following shall be shown on the final subdivision plat (the Final Plan) submitted to Planning for approval and sign-off:
 - (A) Corners of adjoining subdivisions or partitions.
 - (B) The location, width and centerline of streets and easements abutting the boundaries of the land division.
 - (C) Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of

- any major water body.
 - (D) The ownership of each private street shall be shown.
 - (E) Other certifications required by law. (MCC 36.8020)
- 22. The applicant/owner shall submit the following to Planning for approval along with the final subdivision plat:
 - (A) A copy of any deed restrictions applicable to the subdivision or partition.
 - (B) A copy of any dedication requiring separate documents. (MCC 36.8025)
- 23. Fire District Review must indicate the Fire Marshall's approval of the location of fire hydrants for the subdivision, given the new street layout. (Comprehensive Plan Policy 38(B))

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. SUMMARY OF STAFF RECOMMENDATIONS and HEARINGS OFFICER CONCLUSIONS:

In the Staff Report issued prior to the public hearing on November 12, 2004, Staff recommended denial of the applicant's request for an 11 lot subdivision, denial of variance to the maximum length of a street terminating in a cul-de-sac, and denial of variance to place water line outside of the street right-of-way (unless the subdivision were to be approved).

1. Subdivision Plat

Staff recommended denial of this request for an 11 lot subdivision, having concluded that the applicant had not demonstrated that the proposal meets following Code criteria:

- **MCC 36.7800 (D):** tentative plan complies with the Zoning Ordinance;
- **MCC 36.3455 (B):** Minimum Front Lot Line Length;
- **MCC 36.7800(A):** Meet Comprehensive Plan Elements;
 - **Policy 38(B):** adequate water pressure and flow for fire fighting purposes, and
 - **Policy 38(D):** adequate local Police protection;
- **MCC 36.7800 (F)** The streets are laid out and designed so as to conform, within the limits of MCC 36.7905 and 36.7910 and the Street Standards Code and Rules;
- **MCC 36.7815:** Category 1 Tentative Plan Map Contents;
- **MCC 36.7905(A)(8):** To provide safe and convenient access;
- **MCC 36.7910:** Street Design;
- **MCC 36.7925:** Street Names;
- **MCC 36.7940:** Street Trees;
- **MCC 36.7965:** Electrical and Other Wires; and
- **MCC 36.8000:** Other Utilities.

Hearings Officer: The applicant submitted supplemental materials at the public hearing and during the open record period after the hearing, which addressed the deficiencies noted by Staff. Based upon the substantial evidence in the record and the findings and conclusions herein, the criteria for approval of the subdivision request either are satisfied, or can be satisfied pursuant to compliance with the Conditions of Approval.

2. Street Length Variance Request

Staff recommended denial of the Variance Request for two cul-de-sacs of about 565 feet and 615 feet in length, which required a variance to the standard under MCC 36.7910(C) that a cul-de-sac be as short as possible and have a maximum length of 400 feet. Staff concluded that the applicant had not demonstrated that the proposal meets the following Variance Criteria:

- **MCC 36.8005(A)(1):** Special circumstances or conditions apply to the property or to the intended use that do not apply to other property in the same vicinity;
- **MCC 36.8005(A)(2):** The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the ordinance requirements;
- **MCC 36.8005(A)(3):** The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity;
- **MCC 36.8005(A)(4):** The granting of the variance will not adversely affect implementation of the Comprehensive Plan, and
- **MCC 36.8005(A)(5):** The circumstances of any hardship are not of the applicant's making.

Hearings Officer: The applicant has redesigned the street system for the proposed subdivision, and has withdrawn the request for a variance to the standards for street length. Based upon the substantial evidence in the record and the findings and conclusions herein, the criteria governing street length criteria are satisfied, and the request for a variance to allow non-compliant street lengths is no longer relevant.

3. Water Line Variance Request

Staff recommended that if the proposed subdivision were approved, then the Variance Request to allow the water main outside the street, which required a variance to the standard under to MCC 36.7985(A), be approved. If the subdivision were not approved, Staff recommended that the Variance request be denied.

Hearings Officer: The proposed subdivision is approved by this decision, and the Hearings Officer concurs with the Staff recommendation. Based upon the substantial evidence in the record and the findings and conclusions herein, the criteria for approval of the variance are satisfied.

Note: Staff provided findings and conclusions herein, as necessary to address Multnomah County ordinance requirements. Headings are underlined. Multnomah County Code

requirements are referenced using a **bold font**. Written responses by the applicant to demonstrate compliance with code criteria are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation "Staff" precedes such comments. The Hearings Officer's analysis, findings and conclusions are noted as such; provided that, except as specifically noted, the Hearings Officer concurs with, adopts and incorporates the analysis, findings and conclusions of Staff.

2. PROJECT DESCRIPTION:

Applicant: *The applicant proposes to subdivide the existing property into 11 lots, with the existing house to remain and the existing barn to be removed. Access to the subdivision shall be from a proposed public street which connects to SE Roork Road. The proposed street will have a north-south segment that is to be accessed from SE Roork Road which will come to a "T", with each of the east-west legs ending in a cul-de-sac. To provide water for the site, a new 6" line is proposed which ties into the existing water line at the intersection of Short Road and Dodge Park Blvd, runs east along Dodge Park Blvd., turning northeast at the proposed property line between lots 3 and 4 and continuing until reaching the proposed public street, where the proposed line follows east along the road center line until exiting the property and ties into the existing water line in SE 302nd Ave. For sanitary sewer, the site has been evaluated and approved by the City of Portland Bureau of Environmental Services for septic systems for each lot. Please see the site attached site evaluation reports for more detail. Stormwater for the subdivision is proposed to be collected in the existing ditch located along SE Roork Road and in the proposed ditch located along the proposed new street. Please see the attached Stormwater Calculations for more detail. The water collected in the proposed ditch will drain to the westernmost cul-de-sac where it will drain into an inlet and be piped to the existing ditch in Dodge Park Blvd. Six-foot general utility easements will be provided along all lot lines with street frontage. All utility lines for the proposed lots will be placed underground in these easements. Streetlights and street trees will be provided as required per Multnomah County requirements as shown on the attached plans. Please see the attached Tentative Subdivision Plan and Proposed Improvements Plan for more detail. All requirements of the Multnomah County Code have been met. The narrative on the following pages addresses specific sections of the development code that are applicable to this project.*

3. SITE AND VICINITY CHARACTERISTICS:

Applicant: *The current address of the project site (Tax Lot 102) is 7125 SE 302nd Avenue. The site is bounded by SE Roork Road to the north, SE 302nd Avenue to the East, Dodge Park Boulevard to the south, and rural properties (zoned OR) to the east. The site is currently a tree farm that is made up of primarily cultivated land with very minimal ground cover. The site is relatively flat and gradually slopes to the southwest at 2-3%. An existing house fronting SE 302nd Avenue with access to both SE 302nd Avenue and Dodge Park Boulevard is located at the southeast corner of the site. An existing barn is located directly west of the house. No public sanitary sewer systems are currently available to the project site. Ditches for stormwater exist along each of the roads*

bounding the site. Electricity and gas are both available for the project site. The project site is located in the Orient Rural Center Residential zone. Please see the attached site plans for more detail.

Staff: The subject property, Parcel 2 of Partion Plat 2000-163, is located in the rural unincorporated Community of Orient. The property is situated between Dodge Park Blvd. on the south, 302nd Ave. on the east, Roork Road on the north and private property on the west. The property is relatively flat with a slight slope dropping to the southwest. The properties to the north and east are farmed with nursery crops. These properties generally have a dwelling on each of them. A fire station is located across 302nd Ave. to the east. Properties to the east and south are generally used as residential properties with some woodlands owned by the school district to the south. A grade school and middle school are located to the south.

All the adjacent properties (including across the roads) except to the north are within the Orient Community and share the Orient Residential Zone District designation (Exhibit 2.2). The property to the north is within the Multiple Use Agriculture - 20 (MUA-20) Zone District.

4. ORIENT RESIDENTIAL ZONE DISTRICT:

4.1. Dimensional Standards and Development Requirements.

4.1.1. MCC 36.3455(A) Except as provided in MCC 36.3460, 36.3470, and 36.3475, and 36.4300 through 4360, the minimum lot size shall be one acre.

Applicant: *All Proposed lots are greater than 1 acre. See Tentative Subdivision Plan for conformance.*

Staff: The proposed lots meet the minimum one acre requirement.

Hearings Officer: In the Hearings Officer comments, the reference to the Tentative Subdivision Plan above, and except as noted, should be construed as the Tentative Subdivision Plan dated November 2004, Exhibit R.2, sometimes referred to as the "Revised Plan."

4.1.2. MCC36.3455 (B) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

* * *

Minimum Front Lot Line Length - 50 feet.

MCC 36.0005(L) (10) Lot Line (Front) - In the case of an interior lot, a line separating the lot from the street or accessway; in the case of a corner lot, a line separating the narrowest frontage of the lot from a street or accessway; and in the case of a flag lot, the lot line closest to and most nearly parallel with the street which serves the lot.

Applicant: *All proposed lots have met the minimum dimensional requirements. See Tentative Subdivision Plan for conformance. All proposed structures to be less than 35' tall.*

Staff: The applicant's narrative is conclusionary and does not explain how the dimensional standard for minimum front lot line is met. The proposed lots 3 and 9 have labeled front lot line lengths of less than 50 feet as indicated on the Tentative Plan map (Exhibit 1.12). Lot 8 frontage is not labeled, but appears to not meet the 50 foot requirement. These lots do not meet the minimum front lot line length requirement. The applicant has shown buildable area for each lot. There is enough area to meet the minimum yard dimensions. The minimum front lot line length standard is not met by the proposed development.

Hearings Officer: The Revised Plan illustrates that the front lot length requirement is met. The Revised Plan does not, however, demonstrate that the proposed building setback lines meet the 30-foot minimum yard dimensions for street side yards on Lots 1, 8, 9 and 11, as required by MCC 36.3455(B). The lots are all large enough and configured so that the requirement can be satisfied pursuant to a condition of approval.

- 4.1.3. MCC36.3455 (C) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.**

Applicant: *Not Applicable.*

Staff: In a memo dated November 3, 2004, Alison Winter, County Transportation Planning Specialist noted required dedication of five feet of right of way along 302nd Avenue (Exhibit 2.8). With that dedication all right of ways abutting the properties will be of sufficient width and no minimum yard increase will be necessary.

- 4.1.4. MCC36.3455 (E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.**

* * *

(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: *The post-developed runoff rate for the 10-year, 24-hour storm is less than the pre-developed rate for the same storm; therefore, no detention is required. See attached storm calculations for details. Also see the section titled "Stormwater" on page 2 of this narrative. Calculations have been signed and stamped by a registered Professional Engineer.*

Staff: This standard addresses Policy 23, Strategy 23.3 of West of the Sandy River Plan Element of the Comprehensive Plan to ensure carrying capacity of the environment for each lot is not exceeded by the proposed development. Specific stormwater management plans will be reviewed at the development stage per each lot. The applicant's burden is to assure that this standard can be met for each of these lots.

The applicant has submitted on-site septic system evaluation approvals for each of the proposed lots (Exhibit 1.4). The applicant has demonstrated the stormwater/drainage control system requirements are met through a review by a Registered Professional Engineer, Ray L. Moore PE. A statement has been included on the Tentative Improvement Plans stamped by Mr. Moore (Exhibit 1.12) that states, "the post-development runoff rate will be less the predevelopment rate for all storm events." Mr. Moore also stamped and signed the narrative which includes the statement above (Exhibit 1.4, 1.6 and 1.11).

Some assumptions made for the stormwater calculations have not been clearly defined in the submittal. It is not clear whether Mr. Moore included the street system in his per lot calculations. If the streets are included, what is the area of impervious surface per lot assumed? It is not clear whether Mr. Moore is assuming that all areas other than impervious surfaces will be landscaped as lawn or other vegetation. Mr. Moore's analysis appears to indicate that some residential development on each of these lots can meet this requirement. Given the uncertainty about the amount of impervious surface area for each lot that would exceed this standard, development for each lot will need to be reviewed. When each lot is developed the proposal will need to be certified by a Registered Engineer that this standard is met by the proposed development. This standard has been met for the proposed subdivision and can be met for development on each lot.

Hearings Officer: In a post-hearing memo dated Nov. 26, 2004, Exhibit R.6, Staff expressed further concern about drainage from the impervious surfaces on the parcels, in light of the design changes on the Revised Plan, which would increase impervious surfaces on the subject site. The applicant responded with a letter from Dale L. Hult, PLS of All County Surveyors & Planners, dated Dec. 2, 2004, and a letter from Gregory H. Kirby, P.E., of the Multnomah County Land Use and Transportation Program, Exhibits R.8 and R.9, respectively. Mr. Kirby states:

"It is a requirement for approval of this subdivision that the [that] street will be constructed for this subdivision become a County road after its construction. It is not the practice or policy of the County to detain storm water runoff from County roads. Therefore, no detention is required for the storm water runoff from County roads. This new street shall be

designed so as to meet the County's current standards for storm water capacity and manage erosion issues so as the minimize erosion concerns for both the new infrastructure and the existing infrastructure.

"As each lot develops, each lot will be required to manage storm water runoff issues on site, and mitigate any negative impacts that would result from the alteration of the natural hydrology of the land."

This statement from a county engineer addresses Staff's concerns. The criterion is satisfied.

4.1.5. MCC 36.3455 (F) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.

Applicant: *A grading & erosion control permit will be obtained prior to construction.*

Staff: A condition of approval will require the applicant obtain a Grading and Erosion Control Permit prior to any soil distance.

4.1.6. MCC36.3455 (G) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal.

Applicant: *All lighting to be shielded as required. See Proposed Improvements plan for new street light locations.*

Staff: A condition of approval will require all lighting installed for the subdivision be a fully shield[ed] type so that no light is emitted above the horizontal.

4.1.7. MCC36.3455 (H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land by:

- (1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or**
- (2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular hours occur on adjacent property and in the area.**

Applicant: *Not Applicable. No adjacent lands are zoned EFU.*

Staff: The Code section is applicable. The properties to the adjacent across the Rook Road and 302nd Ave are being used for farming (Exhibit 2.3). Covenants will be required when the properties along these streets are developed.

Hearings Officer: This criterion will be satisfied through compliance with a condition.

4.2. Lot of Record:

MCC 36.0005(L)(13) Lot of Record - Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

- (a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.
- (b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

* * *

- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; an

MCC 36.3470(A) In addition to the definition standards for a Lot of Record, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR and R zones applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, RC zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change to RC for some properties, Ord. 395;
- (6) May 16, 2002, Lot of Record section amended, Ord. 982

Applicant: *The existing lot is a lot of record. See the approved partition plat 2000-163.*

Staff: The subject property was created as Parcel 2 of Partition Plat 2000-163 reviewed and approved for compliance with County Zoning and Land Divisions requirements as Case LD4-99 (Exhibit 2.7). Thus the subject property meets the MCC 36.0005(L)(13) definition of Lot of Record.

4.3. MCC 36.3480 Off-Street Parking and Loading:

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

Staff: The proposed lots are one acre i[n] size providing sufficient space to establish off-street parking. This standard is met.

4.4. MCC 36.3485 Access:

Any lot in this district shall abut a street, or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and

emergency vehicles.

Applicant: *See attached plans for conformance. The final plat shall have a note which prohibits access from the proposed lots to any street other than the proposed new street. Also see the attached Request for Variance regarding access and the length of the proposed new streets.*

Staff: The proposal includes a T-shaped street system accessing Rook Road with individual lots accessing the subdivision street system. In a memo dated November 3, 2004, Alison Winter, County Transportation Planning Specialist states a requirement that there be no direct access to Dodge Park Blvd (Exhibit 2.8). A condition of approval will require that the applicant include [a] statement on the final plat stating no access to Dodge Park Blvd.

5. LAND DIVISION

5.1. MCC 36.7770 Category 1 Land Divisions: The following proposals are designated Category 1 Land Divisions.

(A) A Rural Area subdivision;

Applicant: *The proposed subdivision is a rural area subdivision and is a Category 1 Land Division.*

Staff: We concur. The proposed Land Division is a Rural Area Subdivision and thus is a Category 1 Land Division.

5.2. MCC 36.7800 Criteria for Approval, Category 1 Tentative Plan. In granting approval of a Category 1 tentative plan, the approval authority shall find that:

5.2.1. MCC 36.7800 (A) The tentative plan is in accordance with the applicable elements of the Comprehensive Plan;

Applicant: *See tentative plan for conformance to elements of the Comprehensive Plan.*

Staff: A review of the applicable elements of the Comprehensive Plan can be found in Section [8] of this report. The proposed subdivision meets all the applicable elements of the Comprehensive Plan except Policies 38(B) and 38(D). The applicant failed to provide verification of water flow request by the Fire Marshal (Exhibit 1.15) and failed to demonstrate that the Sheriff's Department can provide the subdivision with police protection. This standard has not been met.

Hearings Officer: Compliance with these requirements is addressed in Section 8.

5.2.2. MCC 36.7800 (B) Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto,

in accordance with this and other applicable ordinances;

Applicant: *No remainder of property will exist if the subdivision is approved.*

Staff: All of the proposed lots will approach the minimum acreage and none will be able to be divided further under the Orient Residential District one acre minimum requirement. This standard is met.

5.2.3. MCC 36.7800 (C) 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;

Applicant: *See both the tentative plan and project narrative responses addressing specific code sections (36.7885-36.7965) for conformance. The tentative plan complies with the purposes and intent of Chapter 37.800.*

Staff: The purposes and intent of this Chapter, and the applicable General Standards and Requirements of MCC 36.7885 through 36.7965 are addressed in the following sections of this report. The proposal does not meet the standards.

Hearings Officer: For the reasons set forth below, I have concluded that this subdivision proposal does meet the standards.

5.2.4. MCC 36.7800 (D) The tentative plan complies with the Zoning Ordinance or a proposed change thereto associated with the tentative plan proposal;

Applicant: *The tentative plan complies with the Zoning Ordinance. See tentative plan for conformance with lot area and lot dimension requirements.*

Staff: The proposed plan does not comply with the zoning ordinance required 50 foot minimum front lot line length. This standard is not met.

Hearings Officer: The Revised Plan shows that each lot will have at least a 50-foot front lot line length. See Section 4, above. This standard is met.

5.2.5. MCC 36.7800 (E) If a subdivision, the proposed name has been approved by the County Surveyor and does not use a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in Multnomah County, except for the words town, city, place, court, addition or similar words, unless the land platted is contiguous to and platted by the same applicant that platted the subdivision bearing that name or unless the applicant files and records the consent of the party that platted the subdivision bearing that name and the block numbers continue those of the plat of the same name last filed.

Applicant: *The subdivision name "Harris Acres" has been verbally approved by Multnomah County. The letter verifying approval will be forwarded to Multnomah*

County as soon as it is received.

Staff: We have verified with the County Surveyor that the name will be approved. The name has been reserved for this subdivision.

- 5.2.6. MCC 36.7800 (F) The streets are laid out and designed so as to conform, within the limits of MCC 36.7905 and 36.7910 and the Street Standards Code and Rules, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and,**

Applicant: *Not applicable. None of the adjoining properties are subdivisions, therefore there is nothing to conform to. In regards to street design, please see the attached Request for Variance and the attached plans. A variance is required for MCC 36.7910.*

Staff: The applicant states this code section is "not applicable" (Exhibit 1.11) We are unsure why that position has been taken. The applicant has not provided plans that conform with the Street Standards Code and Rules. [T]his is addressed under MCC 36.79.05(A)(8) and MCC 36.7910 reviewed in Section 5.13 of this report. This standard has not been met.

Hearings Officer: The Revised Plan demonstrates compliance with these standards. See below.

- 5.2.7. MCC 36.7800(G) Streets held for private use are laid out and designed so as to conform with MCC 36.7905 and 36.7910 and the Street Standards Code and Rules, and are clearly indicated on the tentative plan and all reservations or restrictions relating to such private streets, including ownership, are set forth thereon.**

Applicant: *Not applicable. No private streets are proposed.*

Staff: We concur this standard is not applicable; there are no private streets proposed.

- 5.2.8. MCC 36.7800 (H) Approval will permit development to be safe from known flooding and flood hazards. Public utilities and water supply systems shall be designed and located so as to minimize or prevent infiltration of flood waters into the systems. Sanitary sewer systems shall be designed and located to minimize or prevent:**

- (1) The infiltration of flood waters into the system; and**
- (2) The discharge of matter from the system into flood waters.**

Applicant: *Proposed subdivision is not located in a flood plain. Public utilities and water supply systems will be designed as stated above.*

Staff: The subject area is not located in a flood plain. This standard is met.

5.3. MCC 36.7805 Contents of Category 1 Tentative Plan.

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 36.7810 through 36.7825.

Applicant: *The tentative plan meets all of these requirements. See tentative plan and supplementary information for conformance.*

Staff: The applicant has not provided all the information required for the Tentative Plan. Information required by MCC 36.7815(A)(3) and MCC 36.7815(B)(3) has not been provided.

Hearings Officer: The Revised Plan submitted in November provides the information required by these standards.

5.4. MCC 36.7810 Category 1 Tentative Plan Map Specifications.

The tentative plan map shall be drawn on a sheet 18 x 24 inches or 11 x 17 inches in size or a size approved by the Planning Director. The scale of the map shall be 10, 20, 30, 40, 50, 60, 100 or 200 feet to the inch or multiples of ten of any of these scales. The map shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8.5 x 11 inches, suitable for reproduction, mailing and posting with the required notices.

Applicant: *Because of the size of the project site, the plans are drawn on a 24" x 36" sheet (scale 1" = 60'), which was approved by George Plummer of the Planning Department.*

Staff: We have accepted the 24" X 36" maps with a scale of 1" = 60" and can review them. This standard has been met.

5.5. MCC 36.7815 Category 1 Tentative Plan Map Contents.

The tentative plan map shall indicate the following:

(A) General information:

- (1) In the case of a subdivision, the proposed name which shall be in accord with subsection (E) of MCC 36.7800.**
- (2) Date, north point and scale of drawing.**
- (3) Description of the proposed land division sufficient to define its location and boundaries.**
- (4) Identification as a tentative plan map.**

(B) Existing conditions:

- (1) Streets: the location, name and present width of each street, alley or right-of-way in or serving the tract.**
- (2) Easements: location, width and nature of any easement of**

- record on or serving the tract.
- (3) **Utilities:** location and identity of all utilities on or serving the tract.
 - (4) **Contour lines** at ten foot intervals. The map shall state the source of the contour information.
 - (5) **The location of at least one temporary bench mark** within the land division.
 - (6) **Any natural features** such as rock outcroppings, marshes, wooded areas, major vegetation, etc., which may affect the proposal.
 - (7) **Water courses** on and abutting the tract, including their location, width and direction of flow.
 - (8) **The approximate location of areas subject to periodic inundation** and all areas covered by water.
 - (9) **The location of any harbor line.**
 - (10) **Scaled location and size of all existing driveways and pedestrian walkways, and the scaled location and size and present use of all existing buildings or other structures, and designation of any existing buildings or structures proposed to remain on the property after division.**

(C) Proposed improvements:

- (1) **Streets:** location, proposed name, right-of-way width and approximate radii of curves of each proposed street.
- (2) **Any proposed pedestrian path or bikeway.**
- (3) **Easements:** location, width and nature of all proposed easements.
- (4) **Lots or parcels:** location and approximate dimensions of all lots or parcels, the minimum lot or parcel size and, in the case of a subdivision, the proposed lot and block numbers.
- (5) **Water supply:** the proposed domestic water supply system.
- (6) **Sewage disposal:** the proposed method of sewage disposal.
- (7) **Drainage:** proposed methods for surface water disposal and any proposed drainage easements.
- (8) **Other utilities:** the approximate location and nature of other utilities including the location of street lighting fixtures.
- (9) **Railroad rights-of-way, if any.**
- (10) **Changes to navigable streams, if any.**
- (11) **A street tree planting plan and schedule.**

Applicant: *See attached plans for conformance.*

Staff: The tentative plan map (Exhibit 1.12) does not include a "description of the proposed land division sufficient to define its location and boundaries" as required by MCC 36.7815(A)(3). This description should be as defined in ORS 93.600. The description should be "Parcel 2 of Partition Plat 2000-163."

In an email dated November 3, 2004, Alison Winter, County Transportation Planning Specialist outlined requirements for street lights as follows:

- The street lights must be in the ROW or in a public easement designated for utilities (including lighting).
- The proposed street light on Rook Road east of the new north/south street shall be moved approximately 100 feet south of the proposed location on the east side of the new north/south street.

In a memo dated November 3, 2004, (Exhibit 2.9) Alison Winter, County Transportation Planning Specialist states,

"According to the County Design and Construction Manual (Section 6), all new urban street construction should incorporate street lighting. Street lighting shall be located in the public right of way or easement and it must conform to County standards (as described in Multnomah County Design and Construction Manual Section 6)."

The location and identification of all utilities on or serving the tract are required under MCC 36.7815(B)(3) to be shown. The tentative plan map does not show the underground electrical line that is required under MCC 36.7965. The tentative plan map meets all these standards except the two which are discussed above that are not met. These standards could be met through conditions. This Code section is not met.

Hearings Officer: The applicant's open record period submittal argues against the requirement to set forth the legal description as stated above, a requirement that was also discussed by Staff and the applicant at the public hearing on November 12, 2004. Staff is correct that the legal description is plainly required by the ordinance. The Revised Plan does not set forth the legal description required by MCC 7815(A)(3), but compliance can be assured by imposition of a condition.

Likewise, no underground electrical line is shown on the Proposed Improvements Plan map. Rather, existing overhead lines are shown, although the applicant's materials state that the electrical lines will be installed underground (Exhibit R.8). The requirement to show the underground line can be satisfied through compliance with a condition.

5.6 MCC 36.7820 Written Information: Category 1 Tentative Plan.

Written information shall include:

- (A) **Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any.**
- (B) **Proof of record ownership of the tract and the representative's authorization.**
- (C) **Legal description of the tract.**
- (D) **Present and proposed uses of the tract including all areas proposed to be dedicated to the public.**

- (E) **Statements of the manner in which the criteria for approval listed in MCC 36.7800 are satisfied.**
- (F) **Statement of the improvements to be made or installed, including street tree planting, and the time such improvements are to be made or completed.**

Applicant: (A) see cover sheet of narrative (B) see appendix D (C) see page 1 of narrative (D) see page 2 of narrative (E) see page 6-7 of narrative (F) see page 2 of narrative and the narrative addressing MCC 36.7940.

Staff: The applicant has provide the information requested under this section.

5.7. MCC 36.7825 Supplementary Material: Category 1 Tentative Plan.

The following supplementary material may be required by the Planning Director:

- (A) **A survey of the tract.**
- (B) **A vicinity map showing existing divided and undivided land adjacent to the proposed land division, the existing uses and structures thereon, and an indication of the manner in which the proposed streets and utilities may be extended to connect to existing streets and utilities or to serve future land divisions.**
- (C) **Proposed deed restrictions and methods of proposed ownership.**
- (D) **Such other material as the Planning Director deems necessary to assist in the review and assessment of the land division proposal according to the provision of this Chapter.**

Applicant: *Items (A) and (B) have been provided. There are no deed restrictions required for this subdivision. There are no deed restrictions required for this subdivision. All easements and lot restrictions required will be shown on the final plat map.*

Staff: The Tentative Proposed Improvements Plan Map shows adjacent properties. These properties can not be further divided due their size. The applicant has submitted a set of "Declaration of Covenants, Conditions and Restrictions affecti[ng] the Plat of Harris Acres a Subdivision in Multnomah County, Oregon" (Exhibit 1.17) The applicant has provided the information requested under this section.

5.8 MCC 36.7865 Tentative Plan Approval Time Limits; Staged Development.

Tentative plan approval expiration and extension shall be in accordance with MCC 37.0690 through 37.0700.

MCC 37.0700 Expiration and Extension Of Type II Or Type III Decisions In Exception Areas and Lands Within the UGB.

- (A) **All Type II and Type III approvals automatically become void if any of the following events occur:**

* * *

(2) If, within two years of the date of the final decision, the development action or activity approved in the decision is not initiated or, in situations involving only the creation of lots or property line adjustments, the final survey or plat has not been approved by the Planning Director and recorded.

Applicant: *No response required.*

Staff: MCC 37.0690 applies expiration rules for land in Exclusive Farm Use and Commercial Forest Use Districts and does not apply to this case. MCC 37.0700 requires that the [final] plat be submitted and reviewed by the Planning Director and recorded within two years of an approval. An extension can be applied for under the rules in MCC 37.0700. A condition of approval can address the expiration requirement.

Hearings Officer: Expiration is addressed in the Conditions of Approval, above.

5.9. MCC 36.7885 Application of General Standards and Requirements.

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

Applicant: *See applicable sections below.*

Staff: MCC 36.7890 through 36.7965 are reviewed in the following section of this report.

5.10. MCC 36.7890 Land Suitability.

A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

Staff: While the subject property has some of the features that may limit development the applicant has demonstrate that the property can be made suitable for residential development.

5.10.1. MCC 36.7890 (A) Slopes exceeding 20%;

Applicant: *No slopes exceeding 20% on this site. See the attached existing conditions map for conformance.*

Staff: The applicant has included contour lines on the Tentative Proposed Improvements Plan Map that demonstrate that no slopes exceed 20 percent (Exhibit 1.8).

5.10.2 MCC 36.7890 (B) Severe soil erosion potential;

Applicant: *There are no areas on the project site that have severe soil erosion potential.*

Staff: We concur that there is no potential for severe erosion on the site due to the shallow slope.

5.10.3 MCC 36.7890 (C) Within the 100-year flood plain;

Applicant: *This site is not within the 100-year flood plain.*

Staff: The proposed project is not within the 100-year floodplain as shown on the FEMA Flood Insurance Rate Map Community Panel Number 410179 0480A dated June 15, 1982.

5.10.4 MCC 36.7890 (D) A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;

Applicant: *Certain areas of the project site do have a seasonal water table within 0-24" of the surface. These areas can be made suitable per the requirements of the attached BES site evaluation reports.*

Staff: The on-site sewage disposal site evaluations indicate soil with poor drainage. The approval systems need constructed leach-field areas (cap and fill) or sand-filter systems. MCC36.3455 (E) requires on-site disposal of stormwater. The applicant needs to provide lots that are of sufficient size that the stormwater disposal from impervious surfaces will not affect the proper functioning of the on-site sewage disposal systems. The applicant has submitted stormwater water calculations indicating no increased flow off-site for the 10 year storm event (Exhibit 1.4). We have concerns that all the assumptions made for the amount of impervious surface for each of the lots is not clearly stated (see Section [4].1.4. of this report for findings addressing this concern). MCC 36.3455 (E) will require an analysis of development for each lot to determine if the lot can process the stormwater on site without increasing off-site flows and without impacting the sewage disposal systems given the proposed impervious surface.

While there is a seasonal high water table for some of the properties, it appears the properties can be made suitable and capable of the intended uses through the procedures required for the on-site sewage disposal site evaluations. The applicant has submitted site evaluation approval for each of the proposed lots which contain conditions of approval which must be followed (Exhibit 1.4).

Hearings Officer: Provided that the requirements set forth in the Site Evaluation Reports (Exhibit 1.4) for each of the proposed lots are satisfied, this criterion is met.

5.10.5 MCC 36.7890 (E) A fragipan or other impervious layer less than 30 inches from the surface; or

Applicant: *Certain areas on the project site do have fragipan that is approximately 24"*

below the surface. These areas can be made suitable per the requirements of the attached BES site evaluation reports.

Staff: While there is fragipan within less than 30 inches of the surface the property can be made suitable and capable of being for the intended uses through the procedures required for the on-site sewage disposal site evaluations. The applicant has submitted site evaluation approvals each of the proposed lots which contain conditions of approval which must be followed (Exhibit 1.4).

5.10.6 MCC 36.7890 (F) Subject to slumping, earth slides or movement.

Applicant: *This site is not subject to slumping, earth slides, or movement.*

Staff: There are no slopes on the property or in the vicinity that could result in slumping, earth slides or movement.

5.10.7 MCC 36.7890 (G) Pre-existing field drains or other subsurface drainage systems.

Applicant: *The project site does have a pre-existing subsurface (agricultural tile, exact location unknown) drainage system. The BES site evaluation reports require that the agricultural tiles be capped around proposed septic drain fields. This will make the land suitable.*

Staff: Site evaluations require that the existing subsurface drainage be capped thus making the land suitable for development (Exhibit 1.4).

5.11 MCC 36.7895 Lots and Parcels.

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

5.11.1. MCC 36.7895 (A) The size, shape, width, orientation and access shall be appropriate:

- (1) To the types of development and uses contemplated;**
- (2) To the nature of existing or potential development on adjacent tracts;**
- (3) For the maximum preservation of existing slopes, vegetation and natural drainage;**
- (4) To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and**
- (5) To the climactic conditions including solar orientation and winter wind and rain.**

Applicant: *The proposed subdivision meets the requirements of this section. See the Tentative Subdivision Plan for conformance with size, shape, width, and orientation. See the attached Request for Variance concerning access. Minimal lot grading is proposed, the cultivated land will be replace with lawns, and the effect on natural drainage will be*

minimal. One-acre lots will be large enough to provide privacy.

Staff: The applicant is proposing a variance to the maximum length required for a street terminating in a cul-de-sac to provide access to the lots. If the variance is not approved the development may not meet this standard. The proposed lots are one acre providing enough area for the proposed residential use. The adjacent properties to the west and south (across Dodge Park Blvd.) are used as residential uses. The properties to the north (across Rook Road) and east (across 302nd Ave.) are used for farming and residential uses. Property owners for lots along Rook Road and 302nd Ave. will be required to file a covenant [agreeing that] the owner recognizes and accepts that farm activities occur on adjacent properties prior to building permit sign off. The property is zoned for residential development. Proposal includes minimal grading preserving the natural slope. The property was recently used for growing landscaping crops. There are a few trees on proposed lots 3, 7 and 8. These trees will not be affected by the subdivision proposal. The size of the properties and the required yard areas will provide for the transition between public and private space. The applicant did not address climactic conditions however the lots are large enough to provide for solar access, building permit requirements will address wind load and the drainage has been reviewed by a Registered Engineer stating that the stormwater runoff from the proposed development will be less than the existing use. These standards are met if the applicant gains an approval for the cul-de-sac design.

Hearings Officer: The Revised Plan shows a looped street plan, rather than the overly long cul-de-sacs, which could be approved only pursuant to a street length variance. Because the looped street meets standards, the applicant has withdrawn the request for a variance to the street length standards. The requirements of MCC 36.7895(A) are satisfied.

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

Applicant: *See the Tentative Subdivision Plan for conformance.*

Staff: The proposed lot lines except for lots abutting the cul-de-sac turnaround are generally perpendicular to the front lines (Exhibit 1.11). The lots abutting the cul-de-sac are angled to provide access thus reducing the length of the street. The property lines are radial to the curve of the cul-de-sac. This standard is met.

Hearings Officer: These standards are met for the looped street system shown on the Revised Plan. The lots abutting the eastern "corner of the street have side property lines that are perpendicular to the front or radial to the curves. The lots abutting the western corner are perpendicular or radial to the extent practicable, given that Lots 2 and 3 are slightly irregularly shaped in order to provide Lot 2 with access to the street. This standard is met.

5.11.3 MCC 36.7895 (C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to

overcome specific disadvantages of topography or orientation.

Applicant: *Because the project site is unique in that it has public streets on three sides, it is not possible to create lots that do not have double or reverse frontage. As shown on the plans, a note shall be added to the plat that restricts access from the surrounding streets. Access to the proposed lots will be from the new streets only.*

Staff: All of the lots abut a street on the front and on the rear. This is necessary due to County Road Rule 4.000 limiting access to arterial (Dodge Park Blvd) and collector (302nd Ave) roads (Exhibit 2.8). Due to access limited on the existing road network an internal street network providing access to each lot results in the lots abutting roads both front and back. This standard is met.

Hearings Officer: A condition of approval restricts access from the streets that border the tract.

5.11.4 MCC 36.7895 (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 36.7895 Figure 1, the pole portion of the flag lot shall be at least 16 feet wide.**
- (2) 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.**

Applicant: *Not applicable. No flag lots are proposed.*

Staff: No flag lots are proposed.

5.12. MCC 36.7905 Street Layout.

(A) Except as otherwise provided in subsections (B) and (C) of this section, the arrangement of streets in a land division shall be designed:

5.12.1. MCC 36.7905(A)(1) To conform to the arrangement established or approved in adjoining land divisions;

Applicant: *The proposed street conforms to the arrangement established or approved in adjoining land divisions. See Proposed Improvement Plan for street design. Please see the attached Request for Variance in which street layout is discussed in great detail.*

Staff: The adjoining properties do not have a road system other than Rook Road, Dodge Park Blvd. and 302nd Ave. This standard is not applicable.

5.12.2. MCC 36.7905(A)(2) To continue streets to the boundary of any adjoining undivided

tract where such is necessary to the proper development of the adjoining land;

Applicant: *This is not possible due to the location of this site. See Proposed Improvement Plan for street design. Please see the attached Request for Variance in which street layout is discussed in great detail.*

Staff: The adjoining properties can not be divided any further. This standard is not applicable.

5.12.3. MCC 36.7905(A)(3) To assure the maximum possible preservation of existing slopes, vegetation and natural drainage;

Applicant: *The proposed street provides the maximum possible preservation of existing slopes, vegetation, and natural drainage. See Proposed Improvement Plan for street design (and storm design).*

Staff: The proposed street development generally preserves the existing slope and natural drainage. There is no significant vegetation in the area of proposed streets. This standard is met by the proposed [land division. See Revised Plan.]

5.12.4. MCC 36.7905(A)(4) To limit unnecessary through traffic in residential areas;

Applicant: *The proposed street (with variance) limits unnecessary through traffic. See Proposed Improvement Plan for street design. Please see the attached Request for Variance in which street layout is discussed in great detail.*

Staff: The proposed development street layout is a T-shaped dead-end with cul-de-sac turnarounds. The proposed street layout would limit through traffic due to its dead-end nature.

Hearings Officer: Although the street layout shown on the Revised Plan is for a looped street, rather than cul-de-sacs, the new street does not connect any two streets that are external to the subdivision. The new street would thus be useless for drivers who might want to cut through the subdivision from SE Roork Rd. to Dodge Park Blvd or SE 302nd Ave.. This layout limits unnecessary through traffic to the extent possible, while complying with other standards. The criterion is satisfied.

5.12.5. MCC 36.7905(A)(5) To permit surveillance of street areas by residents and users for maximum safety;

Applicant: *The proposed street (with variance) allows maximum surveillance by residents. See Proposed Improvement Plan for street design. Please see the attached Request for Variance in which street layout and safety are discussed in great detail.*

Staff: With the proposed street layout being straight arms of a T-shape it would provide for surveillance of street areas by residents and users for maximum safety. This standard

is met.

Hearings Officer: The looped street layout permits surveillance by residents and users, and promotes maximum safety. See Revised Plan.

5.12.6. MCC 36.7905(A)(6) To assure building sites with appropriate solar orientation and protection from winter wind and rain;

Applicant: *Because of the size, shape, lot size requirements, and street constraints of the project site, all proposed lots are limited to the orientations shown.*

Staff: The proposed lots are large enough that appropriate solar orientation can be provided when the dwellings are built. Due to the subject property's relative flatness any configuration would have the same protection from the winter wind and rain. This standard is met.

5.12.7. MCC 36.7905(A)(7) To assure storm water drainage to an approved means of disposal; and

Applicant: *The proposed street system assures storm water drainage to an approved means of disposal. See Proposed Improvement plans for street design (and storm design).*

Staff: The Tentative Plan shows a drainage easement from the proposed street system to Dodge Park right of way (Exhibit 1.12). In a memo dated November 3, 2004, (Exhibit 2.8) Alison Winter, County Transportation Planning Specialist states,

"Complete engineering design drawings for the proposed street(s) will be needed to fully address the drainage issues."

"Multnomah County Design and Construction Manual (Section 5.1.4) indicates that all portions of the storm drainage system shall preferably be located within the right-of-way, but if necessary, may be located in easements or common tracts. The 10-foot public storm easement shown on the tentative subdivision plan should be designated as a "drainage easement" and include the appropriate easement notes identifying the responsibilities of the grantor or grantor successors and Multnomah County (see attached sample language)."

In an email dated October 28, 2004 (Exhibit 2.11), Greg Kirby, County Transportation Engineer, stated:

"I have reviewed the drainage analysis for this development. My review is in agreement with their conclusions as to the amount of runoff, and the rate of runoff. Therefore I have approved their proposed drainage management plan."

The applicant has submitted stormwater water calculations indicating no increased flow

off-site for the 10 year storm event (Exhibit 1.4). We are concerned that the assumptions made for the amount of impervious surface are not clearly stated (see Section [4].1.4. of this report for findings addressing this concern). Development on each lot will need to be reviewed when that development is proposed. This standard has been met for the subdivision.

5.12.8. MCC 36.7905(A)(8) To provide safe and convenient access.

Applicant: *The proposed street (with variance) allows maximum the safest and most convenient access. See Proposed Improvement Plan for street design. Please see the attached Request for Variance in which street layout and access are discussed in great detail.*

Staff: The proposed T-shaped dead-end street design only provides one access point. When the length of each T arm is measured all the way to the one access point the length exceeds the maximum length of 400 feet allowed for a street terminating as a cul-de-sac as required by MCC 36.7910(C). The applicant is requests a variance to that standard. Given the proposed cul-de-sac length exceeding the maximum (single outlet street), there are safety concerns should the outlet be blocked. Emergency crews would have difficulty providing emergency services such as fire fighting capabilities and medical care. The applicant proposes an emergency access road with breakaway bollards accessing 302nd Ave. This additional access would improve safety in a situation in which the single access point is blocked. In that case the emergency vehicles would have an alternative access. However, in a memo dated November 3, 2004, Alison Winter, Transportation Planning Specialist states

"The tentative subdivision plan indicates that the final plat will include a note indicating no access onto SE 302nd Avenue. The proposal also includes a 20-foot public access easement from the site to 302nd Avenue for pedestrian and emergency fire access. County Road Rules (Section 4.200) require that access to sites with multiple frontages come from the lower classification street, which is Roork Road in this case. The site can take reasonable access off Roork Road. Vehicular access on Roork Road would need to meet County sight distance standards. Pedestrian access to 302nd Avenue would help improve the pedestrian connectivity of the site to the community. It is important to note that the County Capital Improvement Plan includes the addition of shoulder bikeways on 302nd Avenue, which will widen the shoulders of 302nd Avenue. A 10-foot bike/ped access easement would be more."

This memo refers to County Road Rule 4.000 which limits access points to arterial and collector roads. The proposed emergency access does [not] meet County Transportation standards. The applicant has demonstrated that there are alternative road designs that would provide a double access of Roork Road or provide shorter cul-de-sac lengths. Given the single access point, this standard has not been met.

Hearings Officer: The applicant's representatives and Mr. Plummer and Ms. Winter

discussed this standard in detail at the public hearing. I agree with staff that, with the design utilizing cul-de-sacs and an easement connecting with SE 302nd for emergencies, this standard was not met. That design left open the possibility that, in an emergency, one or more of the cul-de-sacs might be blocked, thereby preventing safe and convenient access for emergency vehicles and residents. The looped system, also discussed at the hearing, provides two safe access points to SE Rook Road. The looped system shown on the Revised Plan meets this standard.

5.12.9 MCC 36.7905 (B) Where topography or other conditions make conformance to the existing street pattern or continuance to an adjoining tract impractical, the street layout shall conform to an alternate arrangement authorized by the approval authority.

Applicant: *See attached variance for proposed cul-de-sac street.*

Staff: There is no street pattern for the adjoining tract that needs to be conformed to. The standard is not applicable.

5.12.10 MCC 36.7905 (C) Where a street layout affecting the proposed land division has been established by the Comprehensive Plan, or as an element of a Special Plan Area under MCC 36.5010, the arrangement of streets in the land division shall conform to the established layout.

Applicant: *Not applicable.*

Staff: No street layout affecting the proposed land division has been established by the Comprehensive Plan, or as an element of a Special Plan Area. This standard is not applicable.

5.12.11 MCC 36.7905 (E) When necessary for adequate protection of existing or proposed land uses or to afford separation of through and local traffic, a land division abutting or containing an existing or proposed arterial may be required to include, among other things, a frontage street, reverse frontage lots with extra depth, or screen plantings in a non-access reservation along a property line.

Applicant: *All proposed lots are to front the proposed new street.*

Staff: County Transportation has determined that a non-access reservation is not needed for this development.

5.13. MCC 36.7910 Street Design.

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

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

- (B) For a private street - in accordance with the Street Standards Code and Rules, subject to the following additional requirements:**
 - (1) Accessways shall be designed in accordance with Permit Requirements for Accessway Construction published by the Multnomah County Department of Environmental Service. Accessways shall have a maximum length of 300 feet.**
- (C) A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround having a radius of 50 feet.**

Applicant: *Please see the attached Request for Variance for a response to this section.*

Staff: The proposed street design, a T-shape with one outlet, when measured from the outlet to the end of each arm individually the does not meet the maximum length of 400 feet as required by MCC 36.7910(C). The applicant is requesting a variance to that standard.

The streets shown on the Tentative Plan are proposed to be public streets. Alison Winter, County Transportation Planning Specialist in a memo dated November 3, 2004 provides comments that demonstrate the proposed streets are not in accordance with the Road Standards and Rules (Exhibit 2.8). Under comment Number 5 in her memo Ms. Winter points out the Tentative Improvement Plans show 22-foot paved width instead of 24-foot width and under Number 4 she points out the plan does not indicate existing or proposed shoulder along Roork Road. A condition could require the 24-foot width and shoulder improvements. This standard has not been met.

Hearings Officer: The Revised Plan shows that the proposed street will have a 24-foot paved width, as required. That standard is met. Neither the copy of the Revised Plan, nor the copy of the Proposed Improvements Plan that were sent to the Hearings Officer clearly shows whether the required shoulder along Roork Road will be constructed or exists. This requirement will be satisfied through compliance with a condition of approval.

5.14. MCC 36.7915 Street Reserve Strips.

The land division shall provide for the appropriate extension or widening of streets serving the division or for allocating the improvement costs among future land divisions. A reserve strip or street plug may be required for such purposes. The control and disposition of reserve strips or plugs shall be placed within the jurisdiction of the County.

Applicant: *The existing streets will be improved as directed by Multnomah County.*

Staff: The properties in the area can not be further divided. A reserve strip is not necessary.

5.15. MCC 36.7925 Street Names.

Names for public streets shall conform to the street naming system of Multnomah County. In order to discourage unnecessary traffic, the nature of a private street, a dead end street or a cul-de-sac shall be identified by a sign approved as to design, content and placement by the County Engineer.

Applicant: *The proposed street name(s) for this subdivision are SE 300th Avenue and Harris Place.*

Staff: In a memo dated November 3, 2004, Alison Winter, County Transportation Planning Specialist states:

"According to Multnomah County Code (MCC) 11.05.535 (F), to the extent possible, the directional designation grid established in MCC 11.05.515 shall be extended throughout the rural areas of unincorporated Multnomah County. Numbered streets on or close to a gridline are generally designated "avenue" and new streets located midway between two gridlines are generally designated "place" and have the lesser number of the two adjacent gridlines. The proposed new public north-south street (shown on the subdivision plan as 'SE 300th Avenue') is located in the center of the 299th and 300th gridlines, and therefore should be named 'SE 299th Place'."

"The tentative subdivision plan shows the new public east-west street as "Harris Place". Since the designation "place" is used for north-south streets, place should be used for this street. This new east-west street should be called "SE Harris Court" to indicate the section and cul-de-sac characteristic of the roadway."

This requirement could be conditioned to meet the standard. The proposed names do not meet the standards.

Hearings Officer: In a memo dated November 24, 2004, Alison Winter states that

"The proposed new western north/south street should be designated 'SE 298th Avenue,' and the eastern new north/south street, closest to 302nd, should be designated 'SE 301st Avenue'. The new east/west street should be designated 'SE Harris Place.'"

A condition of approval will require that the streets be named as recommended by Ms. Winter. With satisfaction of the condition, the criterion will be met.

5.16. MCC 36.7930 Sidewalks, Pedestrian Paths and Bikeways.

* * *

MCC 36.7930 (B) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.

Staff: The Tentative Improvement Plan Map shows pedestrian access along the proposed emergency accessway to 302nd. This pedestrian access would meet the West of the Sandy River Plan Element of the Comprehensive Plan. The Rural Center Transportation Policy 26, Strategy 26.1 states, "Provide pedestrian and bicycle access to schools, transit and commercial activities within the Orient Rural Community ..., consistent with the rural character of the area." The proposal [for] pedestrian and emergency public accessway would meet this Strategy 26.1. This standard is met.

Hearings Officer: The Revised Plan and Improvements Plan depict a 15-foot water easement between Lots 7 and 8. The once-proposed emergency and pedestrian access easement in the same location apparently has been eliminated. Testimony at the public hearing touted the benefits of this easement for children walking to the nearby school. I agree with staff that a pedestrian access easement was important to satisfy Strategy 26.1. Bicycle access along this easement will also be required, consistent with the policy. A condition of approval will require that a 10-foot pedestrian and bicycle easement be established between the internal street and SE 302nd.

5.17. MCC 36.7935 Easements

Easements shall be provided and designed according to the following:

- (A) **Easements for utilities and storm or sanitary sewers may be required where appropriate to serve abutting lots or parcels. Such easements shall be not less than 10 feet in width, centered on side or rear property lines or five feet in width along front property lines.**
- (B) **Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.**
- (C) **Easements for pedestrian paths and bikeways shall be not less than 10 feet in width.**

Applicant: *See Tentative Subdivision Plan for conformance. Storm and general utility easements have been provided and designed per this section.*

Staff: The applicant is proposing four easements they are as follows: (1) Public stormwater drainage easement, (2) Public water line easement, (3) Emergency and pedestrian access easement and (4) Public water line easement located within the emergency and pedestrian easement. The proposed stormwater and water line easements are each 10 feet wide and the proposed emergency and pedestrian easement is 20 feet wide. The tract is not traversed by a water course such as a drainage way, channel or stream. The proposed water line would require a variance to be located in an easement instead of the right of way. The proposed easements meet this standard. For the water line it is met if the variance is approved.

Hearings Officer: In addition, the Revised Plan and Improvements Plan show general utility easements, but do not specifically note which utility lines will be located there. The easement must be shown on the Final Plan, and the utility lines located there must be identified. A condition will be imposed requiring that. The pedestrian and bicycle access easement will be located on the eastern water line easement, and will be 10 feet wide. These criteria are satisfied.

5.18. MCC 36.7940 Street Trees.

Street trees shall be planted by the applicant according to the street tree planting plan and schedule approved by the County Engineer as an element of the tentative plan. Trees which have not survived for one year after initial planting shall be replaced by the applicant within four months of loss.

Applicant: *Street trees will be installed and located as shown on the Proposed Improvements Plan per Multnomah County requirements. The street trees shall be planted at the time of building permits, after all road construction and improvements are completed.*

Staff: The tentative plan shows 86 proposed street trees. In a memo dated November 3, 2004, Alison Winter, County Transportation Planning Specialist states,

"Multnomah County Design Standards (Section 8.3) state that all drainage swales shall be landscaped. Plant material shall filter storm water run-off and improve the aesthetics of the roadway. Plantings shall be easily maintained, non-toxic, non-invasive plants designed to cover all surfaces of the swale to prevent erosion. Street trees shall be prohibited within the depression of the swale. All vegetation placement shall adhere to clear sight distance line requirements as well as any other relevant County Standards. Street trees shall be located within the right-of-way or within an appropriate easement. The type of street trees planted should be on the County's list of approved street trees (as listed in Table 8.1.1a of the County Design and Construction Manual)."

"Street trees should be located in the public right of way or in a landscaping easement. Maintenance of street trees will be the responsibility of the abutting property owner."

In an email dated 10/25/04, Alison Winter, County Transportation Planning Specialist outlined requirements for street trees as follows:

- Street trees shall be located in the ROW or within an appropriate landscaping easement.
- Street trees shall be planted at the time of street improvements.
- The type of street trees planted should be consistent with the County Design and Construction Manual.

The Tentative Improvement Plan shows trees outside the right of way. The County Engineer requires them to be in the right of way or easements provided for them. The proposed plan does not meet this standard. These requirements can be met through a condition.

Hearings Officer: Street trees are shown on the new Improvements Plan as located in the rights of way. Other aspects of this requirement can be satisfied by meeting a condition of approval, which will be imposed.

5.19. MCC 36.7950 Water System.

The provision of domestic water to every lot or parcel in a land division shall comply with the requirements of subsections (4) (a), (b), or (c) of ORS 92.090 and MCC 36.7985 of this Chapter.

ORS 92.090 (4) Subject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision shall be approved by a city or county unless the city or county has received and accepted:

- (a) A certification by a city-owned domestic water supply system or by the owner of a privately owned domestic water supply system, subject to regulation by the Public Utility Commission of Oregon, that water will be available to the lot line of each and every lot depicted in the proposed subdivision plat;**
- (b) A bond, irrevocable letter of credit, contract or other assurance by the subdivider to the city or county that a domestic water supply system will be installed by or on behalf of the subdivider to the lot line of each and every lot depicted in the proposed subdivision plat; and the amount of any such bond, irrevocable letter of credit, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to any change in such amount as determined necessary by the city or county; or**
- (c) In lieu of paragraphs (a) and (b) of this subsection, a statement that no domestic water supply facility will be provided to the purchaser of any lot depicted in the proposed subdivision plat, even though a domestic water supply source may exist. A copy of any such statement, signed by the subdivider and indorsed by the city or county, shall be filed by the subdivider with the Real Estate Commissioner and shall be included by the commissioner in any public report made for the subdivision under ORS 92.385. If the making of a public report has been waived or the subdivision is otherwise exempt under the Oregon Subdivision Control Law, the subdivider shall deliver a copy of the statement to each prospective purchaser of a lot in the subdivision at or prior to the signing by the purchaser of the first written agreement for the sale of the lot. The subdivider shall take a signed receipt from the purchaser upon delivery of such a statement, shall immediately send a copy of the**

receipt to the commissioner and shall keep any such receipt on file in this state, subject to inspection by the commissioner, for a period of three years after the date the receipt is taken.

Applicant: *See Proposed Improvements Plan for conformance.*

Staff: The Tentative Proposed Improvements Plan states,

"Water service to be provided by the Pleasant Home Water District. A new line shall be installed as shown on the plan per the standards of Multnomah County & Pleasant Home Water District."

The applicant has submitted a letter from the Pleasant Home Water District that states,

"The Pleasant Home Water District has adequate potable water supplies available in sufficient quantities to provide normal domestic and fire protection needs for this proposed subdivision, as required by the Oregon Health Division. Exact improvements to the water system will be determined during design review by the Pleasant Home Water District. This recommendation is the result of Staff review; responsibility for such action has been delegated by the Pleasant Home Water District's Board of Commissioners."

The applicant has not stated whether they want to use ORS [92.090] option 4(b) or (c). The ORS requirements can be included as a condition of approval. The applicant has not demonstrated that MCC 36.7985 of this Chapter has been satisfied; a variance is requested to that standard (see findings and recommendation for the variance in Section [7] of this report).

Hearings Officer: The variance to the requirements of MCC 36.7985 is approved below. With the condition noted by staff, this criterion is satisfied.

5.20. MCC 36.7955 Sewage Disposal.

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsection (5) (c) of ORS 92.090 and MCC 36.7990 of this Chapter.

Each parcel or lot shall contain adequate land area to accommodate both a primary and reserve septic system drainfield area, and for surface and storm drainage systems.

Applicant: *See Proposed Improvements Plan and attached BES site evaluation reports for conformance. Also see section titled "Stormwater" on page 2 of narrative.*

Staff: The Tentative Proposed Improvements Plan shows the locations and area of the approved primary and reserved septic systems for each lot (Exhibits 1.4 and 1.11). This

standard is met.

5.21 MCC 36.7960 Surface Drainage.

Surface drainage and storm water control systems shall be provided as required by section MCC 36.7995. On-site water disposal or retention facilities shall be adequate to insure that surface runoff rate or volume from the new parcels after development is no greater than that before development.

Applicant: *The proposed subdivision is unique in that the post-development runoff rate is less than the predevelopment runoff rate for all storm events, as shown in the Stormwater Calculations in Appendix E. Because of this, no stormwater detention is required for this site. Additionally, as shown on page 3 of the Stormwater Calculations, the post-development runoff rate takes into account proposed roof areas and all other newly created impervious areas on the new lots. Even with these areas included, the post-development runoff rates are less than pre-development rates. Therefore, it is proposed to pipe all downspouts to the proposed new ditch, which drains to the existing ditch in Dodge Park Boulevard. If it is required to infiltrate roof water on site, splash blocks can be utilized and incorporated into the conditions of approval. All septic drain fields can be protected from the infiltrating stormwater by constructing the drain fields per the instructions in the attached BES Site Evaluation Reports in App. B.*

The surface runoff rate for the entire site will be less after development than the rate of runoff before it was developed.

Staff: This standard addresses Policy 23, Strategy 23.3 of West of the Sandy River Plan Element of the Comprehensive Plan to ensure carrying capacity of the environment for each lot is not exceeded by the proposed development. Specific stormwater management plans will be reviewed at the development stage per each lot. The applicant's burden is to assure that this standard can be met for each of these lots.

The applicant has submitted on-site septic system evaluation approvals for each of the proposed lots (Exhibit 1.4). The applicant [] has demonstrated [that] the stormwater/drainage control system requirements are met through a review by a Registered Professional Engineer, Ray L. Moore PE. A statement has been included on the Tentative Improvement Plans stamped by Mr. Moore (Exhibit 1.12) that states, "the post-development runoff rate will be less the predevelopment rate for all storm events." Mr. Moore also stamped and signed the narrative which includes the statement above (Exhibit 1.4, 1.6 and 1.11).

Some assumptions made for the stormwater calculations have not been clearly defined in the submittal. It is not clear whether Mr. Moore included the street system in his per lot calculations. If the streets are included what is the area of impervious surface per lot assumed? It is not clear whether Mr. Moore is assuming that all areas other than impervious surfaces will be landscaped as lawn or other vegetation. Mr. Moore's analysis appears to indicate that some residential development on each of these lots can meet this

requirement. Given the uncertainty about the amount of impervious surface area for each lot that would exceed this standard, development for each lot will need to be reviewed. When each lot is developed the proposal will need to be certified by a Registered Engineer that this standard is met by the proposed development. This standard has been met for the proposed subdivision and can be met for development on each lot.

Hearings Officer: The applicant's post-hearing submittals provide further evidence that these standards are, and can be met, through satisfaction of a condition of approval.

5.22. MCC 36.7965 Electrical and Other Wires.

Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. The approval authority may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

- (A) Is impracticable due to topography, soil or subsurface conditions;**
- (B) Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or**
- (C) Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served.**

Applicant: *It is proposed that the overhead power lines around the perimeter of the project site remain as overhead lines. The power poles for the overhead lines serve other residences that are located on opposite sides of the streets. Moving these overhead lines underground would require several street crossings. Additionally, overhead lines are primarily used in the surrounding area. For all proposed lots, electric lines and all other utilities (gas, power, telephone, catv) are to be installed underground in the proposed 6' general utility easements (gue) shown on the attached plans.*

Staff: The Tentative Proposed Plan has a legend which includes "Proposed AC" we assume [that] this [is] the proposed electric symbol. The applicant in the narrative states that the "all proposed lots, electric lines and all other utilities (gas, power, telephone, catv) are to be installed underground in the proposed 6' general utility easements (GUE) shown on the attached plans." However the plans do not state this nor does the legend state whether the "Proposed AC" is to be located underground. The plans make no reference to telephone or cable line at all. A condition can require the new electric and other lines be located underground. This standard has not been met by the submitted plans.

Hearings Officer: Overhead power lines serving residences across the streets are already in place around most of the perimeter of the site. The applicant's submittals are contradictory on whether the electrical lines will be located above-ground or below ground. A condition of approval requires that the electric lines and other utility lines, except for water, be located in a general utility easement, underground.

5.23. MCC 36.7975 Required Improvements.

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

Applicant: *See Proposed Improvements Plan for conformance.*

Staff: MCC 36.7980 through 36.8000 and 36.8010 are reviewed in the following section of this report.

5.24. MCC 36.7980 Streets, Sidewalks, Pedestrian Paths and Bikeways.

Any street, pedestrian path or bikeway shall be improved as follows:

- (A) In a public street - in accordance with this Chapter and the Street Standards Code and Rules; and,**
- (B) In a private street - in accordance with the Street Standards Code and Rules.**
- (C) Underground utilities and street lighting facilities, storm drains and water mains located in a street shall be installed prior to the surfacing of the street.**

Applicant: *See Proposed Improvements Plan for conformance.*

Staff: In a memo dated November 3, 2004, Alison Winter, County Transportation Planning Specialist states that,

"The new public street cross-section on the proposed improvement plan shows a 22-foot paved width instead of a 24-foot paved width. The proposed improvement plan does not conform to this standard. Complete engineering design drawings for the proposed street(s) will be needed to fully address the drainage issues."

"The proposed improvement plan does not indicate the existing or proposed shoulder width along Roork Road. We are unable to determine if this condition is met."

"The proposed improvement plan (Sheet 3 of 3) shows radii of 25 feet at the northeast and southwest corners of the new east-west and north-south public streets while the tentative subdivision plan shows a radius of only 11 feet at these corners. The right-of-way dedication at these corners should be based on minimum 15-foot radii (Multnomah County Design and Construction Manual Table 2.3.1)."

"The tentative subdivision plan indicates that the final plat will include a note indicating no access onto SE 302nd Avenue. The proposal also includes a 20-foot public access easement from the site to 302nd Avenue for pedestrian and emergency fire access. County Road Rules (Section 4.200) require that access to sites with multiple frontages come from the lower classification street, which is

Roork Road in this case. The site can take reasonable access off Roork Road. Vehicular access on Roork Road would need to meet County sight distance standards. Pedestrian access to 302nd Avenue would help improve the pedestrian connectivity of the site to the community. It is important to note that the County Capital Improvement Plan includes the addition of shoulder bikeways on 302nd Avenue, which will widen the shoulders of 302nd Avenue. A 10-foot bike/ped access easement would be more appropriate."

This standard is not met by the proposed plans. These standards can be required as a condition.

Hearings Officer: A condition of approval requires dedication of a 10-foot bicycle-pedestrian access easement within the subdivision, and along SE 302nd adjacent to the subdivision. Another condition requires establishment of a 3-foot gravel shoulder along SE Roork Road. Other requirements are satisfied with the applicant's post-hearing submittals.

5.25. MCC 36.7985 Water System.

Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows:

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

Applicant: *See Proposed Improvements Plan for conformance.*

Staff: The applicant refers to the submitted plans to demonstrate conformance. The Proposed Improvements Plan shows the applicant is proposing to place two sections of the water main in easements and not within the street. The plan shows that the project does not conform with this standard. However, the applicant is requesting a variance to this standard. See Section [7] of this decision for the findings and conclusion related to the proposed variance.

5.26. MCC 36.7990 Sewage Disposal.

(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.

Applicant: *See Proposed Improvements Plan and attached BES site evaluation reports for conformance.*

Staff: The applicant has submitted site evaluation approvals for private subsurface sewage disposal system from the City of Portland, Bureau of Development Service for each of the proposed lots. The City contracts with DEQ to provide this service. This standard is met.

5.27. MCC 36.7995 Surface Drainage and Storm Sewer Systems.

Drainage facilities shall be constructed as follows:

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

Applicant: *See Proposed Improvements Plan for conformance.*

Staff: The Tentative Proposed Improvements Plan shows the drainage facilities in the proposed right of way. In a memo dated November 3, 2004, Alison Winter, County Transportation Planning Specialist states that,

"Right-of-way improvements are required to mitigate the impacts of the travel demand created by the proposed development. Drainage improvements are required in order to mitigate the impacts of the proposed development's impervious surface as well as from the roadway that serves it. Without drainage improvements, run-off could negatively impact the roadway system."

"The proposed improvement plan appears to meet this condition. Complete engineering design drawings for the proposed street(s) and the storm water connections to SE 302nd Avenue and Dodge Park Boulevard will be needed to fully address the drainage issues."

The applicant has demonstrated this standard can be met and will need to submit engineering plans to County Transportation as a condition.

5.28. MCC 36.8000 Other Utilities.

Other utilities, including electric, gas, street lighting and cable television facilities shall be provided as required by this Chapter and as follows:

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

Applicant: *See Proposed Improvements Plan for conformance.*

Staff: In an email dated 11/10/04, Alison Winter, County Transportation Planning Specialist outlined requirements for street lights as follows:

- Because there is no mechanism in place at this location to pay for the operation and maintenance of street lights, the applicant will need to (1) establish a Homeowner's Association or (2) annex into the lighting district.

- The street lights must be in the ROW or in a public easement designated for utilities (including lighting).
- The proposed street light on Roork Road east of the new north/south street shall be moved approximately 100 feet south of the proposed location on the east side of the new north/south street.

In a memo dated November 3, 2004, Alison Winter, Transportation Planning Specialist states

"According to the County Design and Construction Manual (Section 6), all new urban street construction should incorporate street lighting. Street lighting shall be located in the public right of way or easement and it must conform to County standards (as described in Multnomah County Design and Construction Manual Section 6)."

The Tentative improvement plan shows a general utility easement outside the right of way. The plan does not show street light locations. A condition can require the requirements out lined in the memo be met. This standard has not been met by the proposed plans.

Hearings Officer: The Proposed Improvements Plan depicts a general utility easement. Also, according to the Improvements Plan, street lights are to be located within the right of way. A condition will require that all the requirements outlined in Ms. Winter's memo be met. Compliance with that condition will ensure compliance with this standard.

5.29. MCC 36.8010 Improvement Agreement.

Prior to approval of a subdivision plat or partition plat by the County Engineer, the applicant shall execute and file with the County Engineer an agreement with the County, which shall include:

- (A) A schedule for the completion of required improvements;
- (B) Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the improvements required by this Chapter against defects for a period of 12 months following the issuance of a certificate of acceptance by the County Engineer; and
- (C) A surety bond, executed by a surety company authorized to transact business in the State of Oregon, or a certified check or other assurance approved by the County Attorney, guaranteeing complete performance. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer.

Applicant: *Not Applicable at this time.*

Staff: This requirement can be included as a condition.

5.30. MCC 36.8015 Final Drawing and Prints.

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

Applicant: *Not Applicable at this time.*

Staff: [A c]ondition can include these requirements.

4.31. MCC 36.8020 Information Required on Subdivision Plat or Partition Plat.

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition plat:

- (A) Corners of adjoining subdivisions or partitions.**
- (B) The location, width and centerline of streets and easements abutting the boundaries of the land division.**
- (C) Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.**
- (D) The ownership of each private street shall be shown.**
- (E) Other certifications required by law.**

Applicant: *Not Applicable at this time.*

Staff: [A c]ondition of approval can include these requirements.

4.32. MCC 36.8025 Supplemental Information with Subdivision Plat or Partition Plat.

The following shall accompany the subdivision plat or partition plat, as appropriate:

- (A) A copy of any deed restrictions applicable to the subdivision or partition.**
- (B) A copy of any dedication requiring separate documents.**
- (C) As used in this section, "lot" means a unit of land that is created by a subdivision of land, and a "tract" will be considered a lot, except for street plugs.**

Applicant: *Not Applicable at this time.*

Staff: [A] condition can [] require[] that a copy of any of deed restrictions and dedications applicable to this subdivision accompany the subdivision plat.

6. VARIANCE REQUEST TO MAXIMUM STREET LENGTH FOR CUL-DE-SAC STANDARD

Hearings Officer: The applicant has withdrawn the request for a variance, because the street layout for the subdivision no longer includes any cul-de-sac.

7. **VARIANCE REQUEST TO PLACE THE PUBLIC WATER IN A PUBLIC EASEMENT OUTSIDE THE STREET**

Applicant: *This is a request for a variance to Multnomah County Development Code Chapter 36.7985 -Water Systems. The apparent intent of this code is to ensure that all water mains, services, and fire hydrants be located in a public or private street. As interpreted by the planning staff at Multnomah County, this implies that a water main is not allowed to be located anywhere other than in a public or private street. This variance is required to allow for a proposed water main to be located in a public easement. This variance is in conjunction with land use application T3-04-004, a proposed 11 -lot subdivision named Harris Acres. For clarity, please see both the Tentative Subdivision Plan and the Proposed Improvements Plan associated with this project. The water main crosses through public easements in 2 different locations as shown on the plans. The project site is unique in that it is bounded on three sides by public streets. As shown on the plans, the project site is bounded by SE Roork Road to the north, SE 302" d Avenue to the east, Dodge Park Boulevard to the south, and developed residential property to the west. The developed property to the west prevents the possibility of a through street to the west and access to Short Road. The site is further constrained as shown on page 5 of the pre-application conference notes. The notes state that access to the subdivision from both SE 302" d Avenue and Dodge Park Boulevard is discouraged due to traffic volumes, leaving SE Roork road as the only access. With these constraints, the proposed street design shown on the attached plans was developed (also see the variance request for street design associated with this project). In addition to the street design constraints, the Pleasant Home Water District requires a looped water system, thus requiring the water main to tie back into the system. Even if the road were designed with two short cul-de-sacs that meet the requirements for street design, it would not be possible to keep the water main located in a street and provide a looped system. As a final constraint, there is an existing water main located in SE Roork Road. However, this water main belongs to a different water district and it is not desirable to have two different water mains from two different water districts in the same street. A letter from the Pleasant Home Water District is attached that documents the water 's districts support of this variance.*

Staff: The applicant is requesting a variance to MCC 36.7985(A) which is as follows: "Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located as follows: In a public street - in accordance with the Street Standards Code and Rules."

7.1 **MCC 36.8005 (A) A variance from the provisions of MCC 36.7885 through 36.8000 of this Chapter may be authorized by the Hearings Officer or the Planning Commission, as appropriate. Such a variance may be authorized only when substantially all of the following factors exist:**

7.1.1 **MCC 36.8005 (A) (I) Special circumstances or conditions apply to the property or to**

the intended use that do not apply to other property in the same vicinity;

Applicant: *The special circumstances and conditions that apply to this site have been discussed in the variance summary. These constraints do not apply to other property in the same vicinity.*

Staff: The subject property is located in the Pleasant Home Water District. However the boundary of that water district is Rook Road. Pleasant Home does not have a main line in the Rook right of way, however the access for the proposed subdivision is from Rook. The water line closest to serve the property is in the Dodge Park Blvd right of way. Other properties that are served by the water district have access to the right of way that the water line is in. Since the proposed access to this property is Rook and there is no access to Dodge Park Blvd or 302nd Ave. the water line would need to be run along Rook Road. The applicant would like to run the water line through an easement from Dodge Park to the newly proposed Harris Place (Court) right of way and through a easement from the Harris Place (Court) Right of Way to 302nd providing a loop back to Dodge Park down 302nd. This Criterion has been met.

7.1.2. MCC 36.8005 (A) (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the ordinance requirements;

Applicant: *As stated earlier, it is not possible to provide both a looped water system and meet the requirements of the code. A looped water system is superior to a dead-end system in the following ways: (1) it requires less maintenance (water blow off), and (2) it provides a continuous fresh water supply (dead-end systems hold standing water). Both of these advantages reduce hardship on the water district and the water district's clients and provide a healthier water supply.*

Staff: Without a variance a water line would have to be run from 302nd near Dodge park Blvd. all the way up to Rook Road and west on Rook to the proposed subdivision access. This would result in a substance increase in cost and would not allow for a looped water system. A dead-ended system requires more maintenance for the water district and hold standing water resulting in potential health concerns. This criteria has been met.

7.1.3. MCC 36.8005 (A) (3) The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity;

Applicant: *As stated earlier, the proposed looped design is superior to a non-looped design and in no way will the granting of this variance be detrimental to the public welfare or be injurious to other property in the vicinity.*

Staff: The proposed variance because of a looped water system would improve public welfare and health. This criteria has been met.

7.1.4. MCC 36.8005 (A) (4) The granting of the variance will not adversely affect

implementation of the Comprehensive Plan; and

Applicant: *The granting of this variance will in no way affect the realization of the Comprehensive Plan. The project site is unique and has unique constraints. The proposed design is a result of these constraints and the result is a design that is superior to a design that adheres to the requirements of the code.*

Staff: The proposed variance will have no adverse impact on any Comprehensive Plan policy or strategy. This criterion is met.

7.1.5 MCC 36.8005 (A) (5) The circumstances of any hardship are not of the applicant's making.

Applicant: *The circumstances are not of the applicant's making. The hardship is a result of the existing street layout and the requirements of the water district.*

Staff: County Transportation has requested access be directed to Roork Road. The water line is in Dodge Park Blvd. The circumstances of this hardship is not of the applicant's making. This criterion is met.

7.2 Conclusion

Applicant: *In conclusion, it has been shown that the project site is unique and has unique constraints, thus requiring a variance to meet the requirements of both Multnomah County Code and the Pleasant Home Water District. It is requested that the arguments presented for this variance be taken into consideration and that the variance be granted.*

Staff: The applicant has demonstrated that this variance request meets the criteria. If the subdivision is approved this variance should be granted.

Hearings Officer: The variance is approved.

8. APPLICABLE COMPREHENSIVE PLAN ELEMENTS

8.1 Comprehensive Plan Policy 38

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

8.1.1. Policy 38 (A): The appropriate school district has had an opportunity to review and comment on the proposal.

Staff: The Gresham-Barlow Scholl District has received notice of the proposed subdivision. No comments were received from the school district.

8.1.2. Policy 38 (B): There is adequate water pressure and flow for fire fighting purposes; and

Staff: The applicant has submitted a Fire District Review. On the form the Gresham Fire Marshal requested verification of minimum 1000 gallons per minute of water flow. The applicant has not provided such a verification. This policy has not been met due to the lack of that verification.

Hearings Officer: The applicant submitted verification materials. Exhibit R.5. The Fire Marshall also required that a fire hydrant be installed at "the inside corner of [then] Lot 3." The Fire Marshall has not had an opportunity to review the Revised Plan to determine where fire hydrants must be located to provide adequate flow. A condition of approval will require approval from the Fire Marshall based on the new street design.

8.1.3. Policy 38 (C): The appropriate fire district has had an opportunity to review and comment on the proposal.

Staff: The applicant has submitted a Fire District Review. The Gresham Fire Marshal marked the line on the review form that states "existing access to the proposed development is adequate." The required improvements lines are marked N/A. These statements are confusing since there is no existing access to the property; the proposal includes a new street system and an emergency access easement. However the applicant also included the set of plans stamped and signed by the Fire Marshal. Given the signed plans we assume the Fire Marshall was referring to no improvements beyond what is shown on the plans.

8.1.4. Policy 38 (D): The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.

Staff: The applicant has not submitted verification from the Sheriff's Department that the proposed subdivision can receive adequate police protection. This Policy is not met.

Hearings Officer: The applicant's submittals for the hearing (Exhibit H.9) include the required verification from the Multnomah County Sheriff's Department. This policy is met.

8.2. West of the Sandy River Transportation and Land Use Element of the Comprehensive Plan

8.2.1 Policy 26, Strategy 26.1: Provide pedestrian and bicycle access to schools, transit and commercial activities within the Orient Rural Community and Rural Service Center, consistent with the rural character of the area.

Staff: The proposed dual purpose emergency/pedestrian accessway with breakaway bollards (to prevent vehicular traffic) between the cul-de-sac street system and 302 Ave. will provide improved pedestrian access for the subdivision to the schools, transit

locations and the nearby commercial district. This Policy is met by the proposed subdivision.

Hearings Officer: The Revised Plan eliminates the dual purpose emergency/pedestrian access easement. Although the easement is no longer needed for the purpose of emergency access, it is needed for pedestrian and bicycle access. A condition of approval requires the dedication of a public 10-foot-wide, pedestrian and bicycle access easement connecting the new street system with SE 302nd, and along SE 302nd. Compliance with this condition will satisfy the policy.

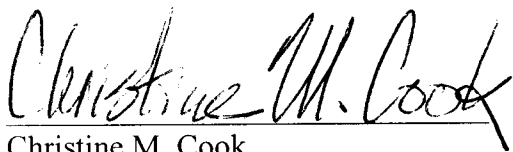
9. **CONCLUSION**

Applicant: *The proposed subdivision meets the intent of the Multnomah County Code and has been designed for optimum livability. The development of this site will be an asset to Multnomah County and the surrounding community. The applicant requests that this application and the requested variance be approved.*

Staff: We conclude the applicant has not demonstrated the proposed subdivision meets the Code requirements, and has not demonstrated the variance request for an increase in the maximum length for a cul-de-sac meets the criteria. Given the subdivision and the variance do not meet the Code requirements we recommend denial of the requests.

Hearings Officer: Because of the revisions to the layout of the proposed subdivision, and because the applicant was able to provide, post-hearing, much of the required documentation that was missing when the Staff Report was written, I have concluded that the recommendation of denial should not be followed.

DECISION: The applications for an 11-lot subdivision and for a variance to place a water line outside the street right-of-way are approved, pursuant to the findings and conclusions, and subject to the conditions herein.



Christine M. Cook,
Multnomah County Land Use Hearings Officer

Dated: January 20, 2005.

10. **EXHIBITS**

10.1. **Exhibits submitted by the Applicant**

Exhibit 1.1: Application Form submitted 5/24/04 (1 page);

Exhibit 1.2: Faxed copy of application form with the Property owner's signature

- submitted 5/25/04 (1 page);
- Exhibit 1.3:** Revised application to include Variance Request with addition fee paid submitted 7/30/04 (1 pages);
- Exhibit 1.4:** Narrative including Appendices submitted 11/18/04 (Narrative 20 pages);
- Appendix A: Pre-Application Meeting Notes (10 pages);
 - Appendix B: Site Evaluation Reports for Septic Systems (16 page);
 - Appendix C: Water Availability Letter (1 page);
 - Appendix D: preliminary Title Report (4 pages);
 - Appendix E: Preliminary Storm Water Calculations (14 pages)
 - Appendix F: Reduced Size Plans (oversized plans keep a County Land Use Planning office labeled Exhibit 1.4o) (3 pages).
- Exhibit 1.5:** Letter dated July 29, 2004, from All County Surveyors & Planners, Inc. addressing "Incomplete items for Land Use Review ..." submitted 7/30/04 (4 pages);
- Exhibit 1.6:** Revised narrative submitted 7/30/04 (21 page);
- Exhibit 1.7:** Request for Variance to Street Design (addressing incorrect criteria) submitted 7/30/04 (3 pages);
- Exhibit 1.8:** Revised Reduced Size Plans (oversized plans keep a County Land Use Planning office labeled Exhibit 1.8o) submitted 7/30/04 (3 pages);
- Exhibit 1.9:** Fire District Review signed by the Deputy Fire Marshall submitted 7/30/04 (1 page);
- Exhibit 1.10:** Letter dated September 13, 2004, from All County Surveyors & Planners, Inc. addressing "Incomplete items for Land Use Review ..." submitted 9/15/04 (2 pages);
- Exhibit 1.11:** Revised narrative submitted 9/15/04 (21 page);
- Exhibit 1.12:** Revised Reduced Size Plans (oversized plans keep a County Land Use Planning office labeled Exhibit 1.12o) submitted 9/15/04 (2 pages);
- Exhibit 1.13:** Revised Request for Variance to Street Design resubmitted 9/15/04 (4 pages);
- Exhibit 1.14:** Request for Variance to Water System requirements submitted 9/15/04 (2 pages);
- Exhibit 1.15:** Revised Fire District Review with attached plans signed by the Fire Marshall submitted 7/30/04 (3 page);
- Exhibit 1.16:** Revised Water District letter dated August 23, 2004 signed by Operations Supervisor submitted 9/15/04 (1 page);
- Exhibit 1.17:** Declaration of Covenants, Conditions and Restrictions... submitted 9/15/04 (9 pages);
- Exhibit 1.18:** Acceptance letter of the 180 requirement to submit information need to complete the application signed by the applicant submitted 6/25/04 (1 page).

10.2 Exhibits included by the County

- Exhibit 2.1:** County Assessor's Record for the subject property (1 page);
- Exhibit 2.2:** County Zoning Map (1 page);

- Exhibit 2.3** 2002 aerial photo of the site (1 page);
- Exhibit 2.4:** Completeness letter dated and sent June 23, 2004 deeming application incomplete including mail routing slip dated 6/23/04 showing mailing date. (4 pages);
- Exhibit 2.5:** Completeness letter dated and sent August 16, 2004 deeming application incomplete including mail routing slip dated 8/16/04 showing mailing date. (3 pages);
- Exhibit 2.6:** Notice of Public Hearing (with incorrect time) mailed 10/20/04 including labels and maps of addresses mailed to (12 pages);
- Exhibit 2.7:** Copy of Partition Plat 2000-163 (1 page);
- Exhibit 2.8:** Memorandum dated November 3, 2004 from Alison Winter, Transportation Planning Specialist (6 pages);
- Exhibit 2.9:** Email dated October 25, 2004 from Alison Winter, Transportation Planning Specialist (1 page);
- Exhibit 2.10:** Corrected Notice of Public Hearing (with correct time) mailed 10/26/04 including labels and maps of addresses mailed to (12 pages);
- Exhibit 2.11:** Applicable sections of Multnomah County Design Standards for roads (23 pages);
- Exhibit 2.12:** Applicable section of Multnomah County Road Rules (1 page);
- Exhibit 2.13:** Email dated October 28, 2004 (Exhibit 2.11), Greg Kirby, County Transportation Engineer (1 page).

10.3 Exhibits Submitted at Public Hearing, November 12, 2004

- Exhibit H.1** 2 Pages Faxed letter from Alisha Christian 11/11/04
- Exhibit H.2** 3 Pages Memo from Alison Winter (Dolan Findings) 11/2/04
- Exhibit H.3** Over-sized aerial of parcel and surrounding area 11/12/04
- Exhibit H.4** 1 Page Sign In Sheet 11/12/04
- Exhibit H.5** 3 Pages of Definitions From 36.7705
- Exhibit H.6** 11x17 Project Site Map #1
- Exhibit H.7** 11x17 Project Site Map #2
- Exhibit H.8** 3 Page Letter from Pleasant Home Water Dist. 11/4/04
- Exhibit H.9** 1 Page Police Services Review 10/13/03
- Exhibit H.10** 4 Photos 4x6 Color Photos showing posting of signs
- Exhibit H.11** 2 Pages Notarized testimony of posting of signs

10.4. Exhibits Submitted During the Open Record Period Subsequent to the Hearing

- Exhibit R.1** Letter dated November 18, 2004 from All County Surveyors & Planners, Inc., with attachments
- Exhibit R.2** Tentative Subdivision Plan dated November 2004 (the Revised Plan)
- Exhibit R.3** Proposed Improvements Plan
- Exhibit R.4** 1 Page Police Services Review 10/13/03 (same as Exhibit H.9)
- Exhibit R.5** 3 Page Letter from Pleasant Home Water Dist. 11/4/04 (same as Exhibit H.8)

- Exhibit R.6** Memorandum from George A. Plummer, Planner dated 11/26/04: Staff Comments on the Newly Submitted Materials
- Exhibit R.7** Memorandum from Alison Winter dated November 24, 2004
- Exhibit R.8** Letter dated December 2, 2004 from All County Surveyors & Planners
- Exhibit R.9** Letter dated December 3, 2004 from Gregory H. Kirby, P.E., Multnomah County Land Use and Transportation Program, to Tom Orth