

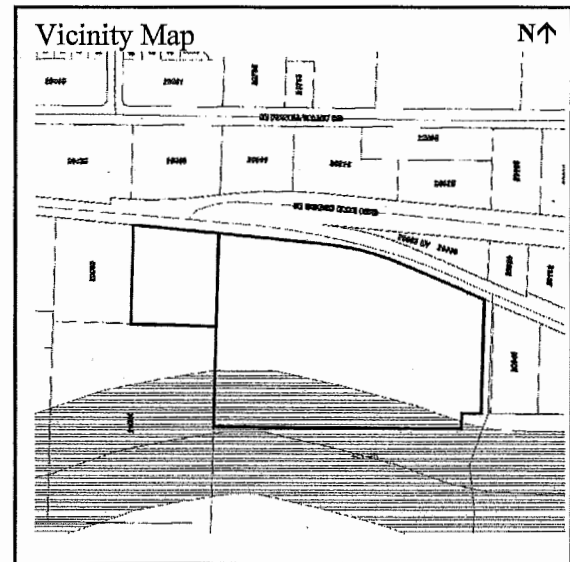
DECISION OF HEARINGS OFFICER

Category 1 Land Division

Case File: T3-2013-2918

Hearing Date, Time, & Place:

April 11, 2014 at 10:30 am or soon thereafter, in
Room 103 at the Land Use Planning Division office
located at 1600 SE 190th Avenue, Portland, OR 97233



Location: South of SE Orient Drive intersection with SE Dodge Park Blvd.
Tax Lot 01100, Section 19BC, Township 1 South, Range 4 East, W.M. and
Tax Lot 00901, Section 19, Township 1 South, Range 4 East, W.M.
Tax Account #R994191770 and R994192030

Applicant(s): Firwood Design Group, LLC **Property Owner(s):** Schaeffers' Nursery
/ Kelli A. Grover

Summary: The applicant requests an approval of a Category 1 Land Division for a proposed 10 lot subdivision with a dedicated public right-of-way cul-de-sac located within the Orient Residential Zone and with Significant Environmental Concern for Water Resources Overlay Zone on the southern portion of the property.

Base Zone: Orient Residential (OR)

Overlay Zones: Significant Environmental Concern for Water Resources SEC-wr

Site Size: 1.94 and 10.9 acres

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): MCC 36.3400 et. al: Orient Residential (OR) Zone, MCC 36.4500 et. al: Significant Environmental Concern for Water Resources (SEC-wr), MCC 36.7700 et al: Land Division (pertaining to Category 1 Land Division), Multnomah County Comprehensive Plan Policy 37 & 38, Multnomah County Road Rules and Multnomah County Construction and Design Manual.

Hearing Officer Decision:

APPROVAL, based on the revised plan filed at the land use hearing, subject to the following conditions of approval:

1. Approval of this subdivision is based upon submitted written narratives and plans and conditions of approval. No action shall be taken and no work shall be performed pursuant this approval other than which is specified within these documents. The property owners are responsible to comply with these documents and limitations of the approval described herein.
2. Pursuant to MCC 37.0690, this land division approval will expire two years from the date 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 Planner Director extend the time period within which the approval is valid, as allowed by MCC 37.0695; provided that such a request for extension is submitted to Multnomah County Land Use Planning office prior to the expiration date of the approval.
3. 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. [MCC 36.8030(C)]
4. This subdivision approval shall become effective upon recording of the approved plat in accordance with ORS 92.120, any required road dedication, other required documents shall be recorded with public office responsible for public records prior to or the date the plat is recorded. [MCC 36.8035]
5. A statement on the final plat shall prohibit direct vehicular access from the subdivision lots to Orient Drive. [MCC 36.7895]
6. A covenant shall be recorded with County Records for Lots 2, 3, 4, 5, 6, and 7 that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 as shown in Exhibit B.5. [MCC 36.3455(H)]
7. In order to discourage unnecessary traffic on a dead end street or a cul-de-sac it shall be identified as such by a sign approved as to design, content and placement by the County Engineer. [MCC 36.7925]
8. A five foot utility easement along the property line abutting a street shall be included on the final plat. Utility infrastructure shall not be placed within one foot of a survey monument location. [MCC 36.7935(A)]
9. Street trees consistent with the types required by the County Engineer's rules shall be planted by the applicant according to the street tree planting plan and schedule approved by the County Engineer.

Street trees shall be planted in the right-of-way or within an appropriate landscape easement at the time of street improvements. If any of the trees do not survive the first year the applicant shall replace those trees within four months of loss. Street trees shall be maintained by abutting property owners. [MCC 36.7940]

10. Prior to Multnomah County Land Use Planning signing final plat, the applicant shall provide Land Use Planning office with certification from a public water district that all of the proposed lots will be provided with domestic water. Water mains, service and fire hydrants shall meet the requirements of the Water District and shall be located in a public street right-of-way in accordance with the Street Standards Code and Rules. [MCC 36.7950 and MCC 36.7985]
11. Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. [MCC 36.7965]
12. The property owner shall ensure that the Fire District conditions included as Exhibit A.25 are met. [Comp. Plan, Policy 37]
13. Prior to any soil disturbance work related to this approval the property owners shall submit an application for and obtain approval of a Grading and Erosion Control permit per MCC Chapter 29. The applicant and property owner shall maintain measures sufficient to ensure that visible or measurable erosion does not leave the site during development. The Applicant shall contact DEQ to obtain a NPDES permit for soil disturbance involved in developing the subdivision such as grading to install the road and including soil disturbance involved in the development of each lot for residential uses. [MCC 36.3455(F)]
14. The existing asphalt entry shall be removed as reflected in Figure 2/6 of the site plans prior to final approval of the street construction permit. [MCRR 4.300]
15. A minimum of 500 feet of sight distance shall be maintained from a position 15 feet behind the travelled way which includes brush clearing and maintenance of the sight triangle. The sight triangle shall be cleared of and maintained of brush and other items that may affect sight distance. [MCRR 4.500]
16. Prior to final approval of the subdivision, the property owner shall dedicate 15 feet of right-of-way along the site's SE Orient frontage to Multnomah County for road purposes. Contact Pat Hinds at (503) 988-5050 Ext. 83712 to complete the easement dedication. [MCRR 6.100]
17. The applicant shall submit an application for a construction permit for the construction of the proposed access road as depicted in figure 3/6 and the restriping of westbound approach to provide a center left-turn lane refuge as identified in the Traffic Impact Study. No subdivision lots will have direct access to SE Orient Drive. [MCRR 6.100]
18. The new street serving the subdivision lots shall be constructed prior to recording the final plat.
19. The name of the subdivision shall be approved by the County Surveyor and shall comply with MCC 36.7800(E).

20. The applicant shall comply with all local laws and State laws that regulate the filing of a final plat.

By: 
Liz Fancher, Hearings Officer

Date: May 1, 2014

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff findings addressing the applicable criteria, analysis, and comments are identified as ‘**Staff.**’ Staff comments may include a conclusionary statement in *italic*. Staff findings have been accepted as findings of the hearings officer unless noted otherwise. Additional findings have been provided by the hearings officer and are identified as ‘**Hearings Officer.**’

1. PROJECT DESCRIPTION

Staff: The applicant requests an approval of a Category 1 Land Division for a proposed 10 lot subdivision with a dedicated public right-of-way cul-de-sac located within the Orient Residential Zone and with Significant Environmental Concern for Water Resources Overlay Zone on the southern portion of the property (Exhibits A.1. through A.24)

2. PROPERTY DESCRIPTION

Staff: The subject property is in the community of Orient an unincorporated rural community within the West of the Sandy River Rural Plan Area. The property is zoned Orient Rural Center Residential (OR) with a one acre minimum lot area size. Recently, through Case T2-2011-1959 Property Line Adjustment, the subject property was reconfigured to the current configuration of the subject property. The subject property is made up of two tax lots that have been used for farm crops (Exhibit B.1 and B.2.). There are no trees on the subject property (Exhibit B.4). The property has a relatively shallow slope dropping at about seven percent to the southwest (Exhibit A.24). The proposed development related the subdivision is located outside the SEC-wr Overlay (Exhibit B.4). There is no known compliance issue related to the subject property.

3. ORIENT RURAL CENTER RESIDENTIAL ZONE

3.1. Dimensional Standards and Development Requirements

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

Hearings Officer: The applicant has demonstrated that the proposed subdivision will comply with all applicable provisions of this section, as shown by the findings provided below. *This standard is met.*

3.1.1. 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.

Staff: The tentative plan titled “*Development Feasibility*” (Exhibit A.13, page 2) shows each of the proposed ten lots meet the one acre minimum. *This standard is met.*

3.1.2. MCC 36.3455(B): Minimum Yard Dimensions:

**Front yard: 30 feet, Rear yard: 30 feet, Street side yard: 30 feet and Side yard: 10 feet
Minimum Front Lot Line Length - 50 feet.**

Staff: The tentative plan titled “*Development Feasibility*” (Exhibit A.13, page 2) shows building envelopes meeting the required minimum yard dimensions. It also show the minimum front lot line length of 50 feet has been meet by all of the proposed ten lots. *This standard is met.*

* * *

3.1.3. MCC 36.3455(E): On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

Staff: The applicant submitted a Certificate of On-Site Sewage Disposal and a copy of a tentative plan map (Exhibit A.21) both signed by Erin Mick, Registered Environmental Health Specialist, City of Portland approving on-site site sewage disposal Land Feasibility Study for all proposed lots. However, MCC 36.3455(E) requires the sewage disposal systems (septic system drainfields) to be located on the property it serves. According to Exhibit A.21 proposed Lot 1 sewage disposal system is located on proposed Lot 2. The latest revised Development Feasibility Plan Map (Exhibit A.24) shows a proposed on-site system on Lot 1.

Hearings Officer: The applicant submitted a document showing that Ms. Mick approved the revised Development Feasibility Plan Map on April 15, 2014 (Exhibit H.6). *This criterion is met.*

3.1.4. 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.

Staff: A condition of approval will require that a Grading and Erosion Control meeting the standards outlined in MCC Chapter 29 be obtained prior to any soil disturbance. *This standard is met through a condition.*

3.1.5. MCC 36.3455(H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) 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.

Staff: A condition of approval will require 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 be

recorded with County Records for each of the proposed new lots that are adjacent to EFU zone land (Lots 2, 3, 4, 5, 6, and 7). *This standard is met through a condition.*

3.2. Lot of Record

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: (list of zoning ordinance dates)

MCC 36.0005: Definitions - Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 36.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

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

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

Staff: The subject property was found to be a Lot of Record in Property Line Adjustment Case T2-2011-1959. *These standards are met.*

3.3. Off-Street Parking and Loading

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

Staff: Two parking spaces are required for each residential property per MCC 36.4205. The required dimension for the parking spaces is a "minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches" per MCC 36.4175. Each proposed lot has sufficient space to meet the minimum dimension for two parking spaces. *This standard is met.*

3.4. Access

MCC 36.3485: All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 36.3470(B).

Staff: The proposal included a public street dedication. All the proposed lots abut the proposed public street (Exhibit A.24). *This standard is met.*

4. CATEGORY 1 LAND DIVISION

4.1. Category 1 Land Divisions

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

(A) A Rural Area subdivision;...

Staff: The proposed land division is for ten new lots. A land division that results in more than three lots requires a subdivision. The property is located in the unincorporated community of Orient, which is a rural area per MCC 36.3400. Thus the proposal is a Category 1 Land Division a Type III Public Hearing land use case.

4.2. Criteria for Approval, Category 1 Tentative Plan

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

Staff: Multnomah County Code, Chapter 36 implements Comprehensive Plan policies. However, Comprehensive Plan is Policy 37: Utilities (water, sewage disposal and drainage) and 38: Facilities (schools, firefighting and police) are implemented directly through this section.

Policy 37 requires proposed residential lots to met one of the following:

- (1) Shall be connected to a public sewer and water system, both of which have adequate capacity;
or
- (2) Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or
- (3) Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- (4) Shall have an adequate private water system, and a public sewer with adequate capacity.

Policy 38 requires the following agency reviews of a proposed residential land division:

- (1) Opportunity for school district review and comment on the proposal;
- (2) There is adequate water pressure and flow for fire fighting purposes; and the fire district has had an opportunity to review and comment on the proposal.
- (3) The proposal can receive adequate local Police protection in accordance with the standards of the jurisdiction providing police protection.

Findings Section 3.1.3 for MCC 36.3455(E) addresses sewage disposal and drainage control. The applicant has submitted Certification of Water Service for dwellings on the proposed lots (building sites) that will be within the Pleasant Home Water District which includes Lots 1 and 3 through 10. However the building site on proposed Lot 2 is located outside the Pleasant Home Water District.

Hearings Officer: The applicant has demonstrated that Lot 2 can be served by a public water district for domestic water supply (Exhibit H.3).

Staff: The applicant has submitted a Police Service Review (Exhibit A.4) completed and signed by Monte Reiser, Captain, Multnomah County Sheriff stating that, "the level of police service available to serve the proposed project is adequate." The applicant has submitted a School District Review form (Exhibit A.5) completed and signed by Jerry Jones CFO, Gresham School District stating "the District has no comment." *This standard is met.*

The applicant has submitted a Fire District Review form dated March 21, 2014 (Exhibit A.25) completed and signed by a Gresham Fire District official with several conditions required. *This standard is met through a condition.*

- 4.2.2. 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;**

Staff: There is no adjacent land in the same ownership. The adjoining land to the south and southwest is zoned Exclusive Farm Use and cannot be divided given the 80 acre minimum lot size for that zone. The adjoining land to the east and west in the OR zone have access to Orient Drive. *This criteria does not apply.*

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

Hearings Officer: The applicant has demonstrated that all elements and standards of the tentative plan comply with the applicable provisions. The findings for MCC 36.7885 through 36.7965 in the following section of this decision demonstrate compliance with all applicable criteria.

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

Hearings Officer: The applicant has demonstrated that the tentative plan complies with the Zoning Ordinance as demonstrated by the findings contained in this decision.

- 4.2.5. 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.**

Staff: The plans submitted November 26, 2013 proposed the name Glen Acres. There is a similar recorded subdivision name "Glennacres" thus the original proposed name cannot be approved. The applicant has informed the proposed subdivision name is Schaeffers View. At the time of this staff report, the name has not been submitted to the County Surveyor for review approval. Schaeffers View is not the same or similar to the name of any other subdivision in Multnomah County. This criterion can be met through obtaining an approval of the proposed name from the County Surveyor.

Hearings Officer: The applicant has been required to obtain approval of the subdivision name from the County Surveyor as a condition of approval. *This standard is met through a condition.*

- 4.2.6. 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,**

Staff: SE Orient Road is classified as Rural Arterial For a road classified as a *Rural Arterial*, the spacing standard is 100 feet. The minimum distance is applied to both accesses on the same side of the street as well as access points opposite to the site. The proposed access connection to SE

Orient Drive meets the spacing requirement and is also located across the street from the T-intersection of Dodge Park Blvd and SE Orient. The proposed street is laid out to conform with existing street systems. Findings for the street layout and design are under Section 5 of this staff report. *This standard is met.*

4.2.7. 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.**

Staff: The subject property is outside the Flood Hazard Overlay. The proposed development is safe from known flooding and flood hazards. *This criterion is met.*

4.3. Contents of Category 1 Tentative Plan

MCC 36.7805: 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.

Hearings Officer: The applicant has submitted tentative plans that address the standards listed in MCC 36.7810 through 36.7825. *This criterion is met.*

4.4. Category 1 Tentative Plan Map Specifications

MCC 36.7810: 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.

Staff: The submitted tentative plan map is 11 x 17 inches in size with a scale of 100 feet to an inch. An 8.5 x 11 inches sheet of the tentative plan map has been reproduced suitable for mailing and posting with the required notices. *This criterion is met.*

4.5. Category 1 Tentative Plan Map Contents

4.5.1. MCC 36.7815(A): The tentative plan map shall indicate the following 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.**

Hearings Officer: The revised tentative plan map, Exhibit H.2, has the required information. The description of the proposed land division is sufficient to define its location and boundaries for purposes of this tentative plan review. More detailed information may be required for the final plat.

4.5.2 MCC 36.7815(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.**

Hearings Officer: The tentative plan map, Exhibit H.2, has the required existing information.

4.5.3 MCC 36.7815(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.**

Staff: The tentative plan map shows the required information except for water and sewage disposal and a street tree planting plan. Findings Section 3.1.3 for MCC 36.3455(E) addresses sewage disposal and drainage control. The applicant has submitted Certification of Water Service for dwellings on the proposed lots (building sites) that will be within the Pleasant Home Water District which includes Lots 1 and 3 through 10. The building site on proposed Lot 2 is located outside the Pleasant Home Water District.

Hearings Officer: The applicant has demonstrated that Lot 2 can be served by a public water district for domestic water supply by Lusted Water (Exhibit H.3). The applicant has not provided a street tree planting plan and schedule. This information will be required to be provided as a condition of approval. *This standard is met through a condition.*

4.6. Written Information: Category 1 Tentative Plan

MCC 36.7820: 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.

Staff: The tentative plan map has the required information except for a legal description of the tract.

Hearings Officer: The applicant provided the required legal descriptions (Exhibit A.11). They do not need to be provided on the face of the tentative plan map.

4.7. Application of General Standards and Requirements

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

Hearings Officer: The land division proposal complies with the applicable provisions of MCC 36.7890 through 36.7965 as shown by the findings provided below.

4.8. Land Suitability

MCC 36.7890: A land division shall not be approved on land found by the approval authority to be both unsuitable and incapable of being made suitable for the intended uses because of any of the following characteristics:

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

Staff: The property slope drops at about seven percent to the southwest. There are no areas on the subject property with severe soil erosion potential. The property is outside the 100-year flood plain. There is no known instance of high seasonal water table for lasting three or more weeks a year. There is no known fragipan or other impervious layer less than 30 inches from the surface. The slope is too shallow for the property to be subject to slumping, earth slides or movement.

There is no known pre-existing field drains or other subsurface drainage systems. The land is suitable for the proposed development. *These standards are met.*

4.9. Lots and Parcels

4.9.1. 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.**

Staff: The size, shape, width, orientation and access and for each lot is appropriate for development and use as residential lots, for preservation of existing slopes and natural drainage. Vegetation preservation is required to protect the maximum number of existing trees and/or riparian vegetation. The existing vegetation is a hay field which will be replaced with lawn. The proposal is for residential development with the required minimum yards providing for the transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances. The conditions including solar orientation and winter wind and rain should be no different than existing for other lots in the area. The building codes provide for wind stress. The minimum yards provide solar access. The drainage standard for rain water is addressed in Finding 3.1.3 for MCC 36.3455(E). *These standards have been met.*

4.9.2. 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.

Staff: Given the shape of the parent property, the requirement that the proposed street line up with SE Dodge Park and the street maximum length requirements as well as other standards, the proposed land division resulted in some of the side yard lines not being exactly perpendicular to the front lot line or radial to the curve of a street. The proposed lots have deviated from the perpendicular to the minimum extend practicable. *This standard has been met.*

4.9.3. 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.

Staff: There are three proposed lots that will have double frontage. Double frontage is, however, is essential for separation of land uses from arterials to establish the driveway location of rural local road rather than on the arterial. Access must be taken from the local street rather than the arterial street to reduce vehicle impacts on the arterial street, creating the need for double frontage lots.

4.9.4. 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.

Staff: There is one flag lot proposed with an access pole measuring 12 feet wide. *This standard is met.*

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

Staff: There is one flag lot proposed. *This standard is met.*

4.10. Street Layout

- 4.10.1 **MCC 36.7905(A):** Except as otherwise provided in subsections (B) and (C) of this section, the arrangement of streets in a land division shall be designed:

- (1) To conform to the arrangement established or approved in adjoining land divisions;
- (2) To continue streets to the boundary of any adjoining undivided tract where such is necessary to the proper development of the adjoining land;
- (3) To assure the maximum possible preservation of existing slopes, vegetation and natural drainage;
- (4) To limit unnecessary through traffic in residential areas;
- (5) To permit surveillance of street areas by residents and users for maximum safety;
- (6) To assure building sites with appropriate solar orientation and protection from winter wind and rain;
- (7) To assure storm water drainage to an approved means of disposal; and
- (8) To provide safe and convenient access.

Staff: Subsections (B) and (C) of this section are not applicable. There are no adjoining properties with street plans approved. According to the current zoning none of the adjacent properties can be divided. The proposed street layout preserves the existing slopes and natural drainage. There is no significant vegetation to preserve, the vegetation will change from hay grasses to lawn grass. The cul-de-sac will not allow through traffic. The location of the dwelling and required minimum yard requirements will permit the surveillance of the street area by residents and users for maximum safety. The building site orientation is a choice of the property owner. The size of the lots and the minimum yard requirement provide for solar orientation. Building codes protect structures from winter wind. The drainage standard for rain water is addressed in Finding 3.1.3 for MCC 36.3455(E). *These standards have been met.*

* * *

4.11. Street Design

MCC 36.7910: The width, design and configuration of all streets in or abutting the land division shall comply with applicable ordinance standards as follows:

- 4.11.1. **MCC 36.7910(A):** For a public street - in accordance with the Street Standards Code and Rules; and

Staff: The proposed public street meets the Multnomah County Road Rules and Multnomah County Design and construction manual standards. The proposed street is a public right-of-

way as a local access road under County Jurisdiction however it will not be a County maintained road. Improvement requirements are provided in the County Design and Construction Manual and must be approved by the local fire district to assure that the site can be served by emergency service vehicles. The project has been reviewed by the local fire district and requirements have been identified in the service provided form submittal. The proposed access road design is consistent with the County Design and Construction Manual requirements as identified in Table 2.2.5. The applicant will be construction two 11 foot wide paved travel lanes, and will be providing two 5' shoulders. The applicant shall submit to County Transportation an application for a construction permit for construction of the street. *These standards are met.*

- 4.11.2. MCC 36.7910(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.**

Staff: The proposed cul-de-sac is 400 feet long meeting the maximum length requirement. It serves less than 18 units and has a turnaround radius of 50 feet. *These standards are met.*

4.12. Street Names

MCC 36.7925 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.

Staff: The proposed street is a predominately east-west street in orientation, thus according to the street naming code, the street must be a name not a numbered street. The applicant has proposed naming the street Ruth Lane. There is no other street or road named Ruth Lane in Multnomah County, thus SE Ruth Lane can be approved. A condition can require that dead end cul-de-sac be identified by a sign approved as to design, content and placement by the County Engineer. *These standards are met through a condition.*

4.13. Sidewalks, Pedestrian Paths and Bikeways

MCC 36.7930 (A) A sidewalk shall be required along any private street serving more than six dwelling units.

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.

MCC 36.7930 (C) Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.

MCC 36.7930 (D) In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.

MCC 36.7930 (E) The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable ordinance standards, as follows:

- (1) In a public right-of-way - in accordance with the Street Standards Code and Rules;
and
- (2) On private property - as approved by the Planning Director in accordance with the Design Review provisions of this Chapter.

Staff: Multnomah County Design and Construction Manual does not require sidewalks or bikeways in the rural area of the County. *These standards are not applicable.*

4.14. Easements

Easements shall be provided and designed according to the following:

MCC 36.7935(A): Along the front property line abutting a Street, a five foot utility easement shall be required. The placement of the utility easement may be modified as requested by a public or private utility provider. Utility infrastructure may not be placed within one foot of a survey monument location noted on a subdivision or partition plat.

Hearings Officer: The tentative plan map (Exhibit H.2) shows a five-foot utility easement for each property along the proposed cul-de-sac. A ten-foot wide utility and slope easement is shown along Orient Drive. *This standard is met.*

4.15. Street Trees

MCC 36.7940: 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.

Staff: Street trees are not shown on the plans. Installation of the street trees can be required through a condition. *This standard is met through a condition.*

4.16. Water System

MCC 36.7950 The provision of domestic water to every lot or parcel in a land division shall comply with the requirements of subsections (4) (a), (b), or (c) of ORS 92.090 and MCC 36.7985 of this Chapter.

Hearings Officer: The applicant has provided the required certifications as discussed earlier in this decision.

4.17. Sewage Disposal

MCC 36.7955 The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsection (5) (c) of ORS 92.090 and MCC 36.7990 of this Chapter.

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

MCC 36.7990(A): A sewage disposal system approved by the State Department of Environmental Quality, shall be provided. All lots or parcels in a proposed land division

which will utilize private subsurface sewage disposal system shall apply for and obtain approval of a Land Feasibility Study confirming the ability to utilize the system prior to tentative plan approval.

Staff: The applicant submitted a Certificate of On-Site Sewage Disposal and a copy of tentative plan (Exhibit A.21) both signed by Erin Mick, Registered Environmental Health Specialist, City of Portland approving the proposed sewage disposal, and approving on-site site sewage disposal Land Feasibility Study for all proposed lots. However, MCC 36.3455(E) requires the sewage disposal systems (septic system drainfields) to be located on the property it serves. According to Exhibit A.21 proposed Lot 1 sewage disposal system is located on proposed Lot 2. The latest revised Development Feasibility Plan Map (Exhibit A.24) shows a proposed on-site system on Lot 1, however that has not been approved by Ms. Mick.

Hearings Officer: Ms. Mick approved the revised lot layout on April 15, 2014 (Exhibit H.6). *This criterion is met.*

4.18. Surface Drainage

MCC 36.7960: Surface drainage and storm water control systems shall be provided as required by section MCC 36.7995. On -site water disposal or retention facilities shall be adequate to insure that surface runoff rate or volume from the new parcels after development is no greater than that before development.

MCC 36.7995: Drainage facilities shall be constructed as follows:

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

Staff: The latest revised Development Feasibility Plan Map (Exhibit A.24) shows proposed storm water control systems on-site for each proposed lot. The application a Storm Water Certificate signed by Kelli A. Grover, PE (Exhibit A.15) certifying that on -site water disposal or retention facilities meet this standard. Also submitted is a Stormwater Report by Ms. Grover. *This standard is met.*

4.19. Electrical and Other Wires

MCC 36.7965 Wires serving within a land division, including but not limited to electric power, communication, street lighting and cable television wires, shall be placed underground. The approval authority may modify or waive this requirement in acting on a tentative plan upon a finding that underground installation:

(A) Is impracticable due to topography, soil or subsurface conditions;

(B) Would result in only minor aesthetic advantages, given the existence of above-ground facilities nearby; or

(C) Would be unnecessarily expensive in consideration of the need for low-cost housing proposed on the lots or parcels to be served.

Staff: Applicant states all wires will be installed underground. A condition can require that wire be installed underground. *This standard is met through a condition.*

5. TRANSPORTATION STANDARDS

5.1. MCRR 4.000 Access to County Roads

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

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

Staff: The applicant has submitted the required information. This standard is met.

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

Staff: The project is proposing one access point to SE Orient Drive, which is a county road classified as a Rural Arterial facility. No subdivision lots will have direct access to SE Orient Drive. A condition reflecting that all lots will be accessed using the internal road is included. *As conditioned, this standard is met.*

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

Staff: SE Orient Road is classified as Rural Arterial For a road classified as a *Rural Arterial*, the spacing standard is 100 feet. The minimum distance is applied to both accesses on the same side of the street as well as access points opposite to the site. The proposed access connection to SE Orient Drive meets the spacing requirement and is also located across the street from the T-intersection of Dodge Park Blvd and SE Orient. An existing asphalt entry on the site is proposed to be removed. A condition reflecting the removal of the asphalt entry is included as a condition of approval. *As conditioned, this standard is met.*

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

Staff: County code identifies a preferred local access right-of-way width of 60 feet with 10.8 feet travel lanes. The project is proposing a local access road off of SE Orient Drive to serve the subdivision that complies with the local access right-of-way requirements. Each subdivision lot is being served by a driveway that is between 12-25 feet wide that meets the standard width requirements. *As proposed, the standard width requirements are met.*

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

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's *A Policy on Geometric Design of Highway and Streets*. The applicant has submitted for the review of the County Transportation Division a sight distance certification from a registered traffic engineer, which provides an assessment of sight distance at the intersection in question consistent with AASHTO standards. The sight distance study finds that adequate sight distance is available, and in order to ensure safe and efficient operation and sight distance at the access off of SE Orient, a minimum of 500 feet of sight distance should be maintained from a position 15 feet behind the travelled way which includes brush clearing and maintenance of the sight triangle. A condition has been included requiring that the sight triangle be cleared of and maintained from brush. *As conditioned, it is found that adequate sight distance is available and this standard is met.*

5.4. MCRR 5.000 Transportation Impact

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

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

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

Staff: Findings for Section 6.000 follow below. *This standard is met.*

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

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

The applicant has submitted a Traffic Impact Study dated November 22, 2013 completed by Lancaster Engineering. A trip generation summary was submitted identifying that a 100 daily trips will be generated by the site, with 8 morning peak hour trips and 10 evening peak hour trips. The property is currently vacant and is in agricultural use. Staff finds that a transportation impact will be caused by the proposed development since site generated trips will increase by more than 20%.

5.3. MCRR 6.000 Improvement Requirements

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

5.3.1. Dedication Requirement***

Staff: The County standard right of way width for a *Rural Arterial* facility is 90 feet. The applicant is required to dedicate 15 feet in order to achieve a proportional share of this standard. This right of way will be used to improve the roadway to serve growing travel demand, which in part will be generated by this proposed action as identified in the transportation impact finding above identifying an additional 100 daily trips generated by the project.

5.3.2. Frontage Improvement Requirements***

Staff: The proposed project is not a County road, but is a proposed public local access road under the County's jurisdiction. Improvement requirements are provided in the County Design and Construction Manual and must be approved by the local fire district to assure that the site can be served by emergency service vehicles. The project has been reviewed by the local fire district and requirements have been identified in the service provided form submittal. The proposed access road design is consistent with the County Design and Construction Manual requirements as identified in Table 2.2.5. The applicant will be constructing two 11 foot wide paved travel lanes, and will be providing two 5' shoulders. The applicant shall submit for a construction permit for construction of the street.

The submitted traffic impact analysis looked at turning warrants for the site. Left turn warrants were identified not to be met, however since vehicles waiting within the existing eastbound left-turn lane may obstruct sight lines for westbound left-turning vehicles the study recommends that the westbound approach be restriped to provide a center left-turn lane refuge. The county concurs with this recommendation and a condition has been added requiring the restriping. *As conditioned, this standard is met.*

6. Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	5/30/13
A.2	6	Preliminary Subdivision Plan	5/30/13
A.3	24	Narrative Addressing Code	5/30/13
A.4	1	Police Services Review	5/30/13
A.5	1	School District Review	5/30/13
A.6	2	Certificate of Water	5/30/13
A.7	2	Fire Service Agency Review	5/30/13

A.8	13	Storm Water Certification completed by Kelli A. Grover, PE with attachments calculations and design detail	5/30/13
A.9	70	Stormwater Report by Kelli A. Grover, PE	5/30/13
A.10	17	Traffic Impact Study by Michael Ard, PE	5/30/13
A.11	42	Property Line Adjustment deeds and title company documents	5/30/13
A.12	23	On-Site Sewage Disposal Site Evaluations and Certification of On-Site Sewage Disposal forms for each proposed lot	5/30/13
A.13	7	Revised Preliminary Subdivision Plan	11/26/13
A.14	23	Revised Narrative addressing code	11/26/13
A.15	13	Revised Stormwater Report by Kelli A. Grover, PE	11/26/13
A.16	35	Revised Traffic Impact Study by Michael Ard, PE	11/26/13
A.17	2	Property Line Adjustment documents	11/26/13
A.18	1	Letter from Applicant tolling the 180 Day Clock from November 26, 2013 through December 31, 2013	12/20/13
A.19	3	Email from Applicant tolling the 180 Day Clock from December 31, 2013 to January 31, 2014	1/10/14
A.20	1	Email from Applicant tolling the 180 Day Clock from December 31, 2013 to January 31, 2014	1/13/14
A.21	1	Certification of On-Site Sewage Disposal with attached signed tentative plan	1/29/14
A.22	1	Revised Development Feasibility Plan Map showing new approved septic systems and storm water systems	2/5/14
A.23	1	Email from the applicant addressing location of drainfield for proposed Lot 1	3/20/14
A.24	1	Revised Development Feasibility Plan Map showing new approved septic systems and storm water systems	3/20/14
A.25	3	Revised Fire Service Agency Review with conditions	3/21/14
A.26	1	Email from the applicant to Erin Mick, REHS, Onsite Sanitation	3/26/14
'B'	#	Staff Exhibits	Date
B.1	4	A&T Property Information	
B.2	2	A&T Tax Map with subject property labeled	
B.3	1	2012 Aerial Photo with subject property labeled	
B.4	1	2012 Aerial Photo showing SEC-wr Overlay with subject properties labeled	
'C'	#	Administration & Procedures	Date
C.1	4	Incomplete Letter	6/28/13

C.2	1	Applicant's Acceptance of 180 Day Clock	8/1/13
C.3		Applicant's Request to Toll Clock from November 26, 2013 to December 31, 2013	12/20/13
C.4	1	Applicant's Request to Toll Clock from December 31, 2013 to March 31, 2014	1/13/14
C.5	7	Notice of Public Hearing	3/20/14
C.6	1	Receipt for Posting Signs	4/28/14
H	#	Administration & Procedures	Date
H.1	4	E-Mail from Kelli Grover to George Plummer dated January 29, 2014 with e-mail correspondence from Erin Mick and Certification of Onsite Sewage Disposal	4/11/14
H.2	1	Schaeffer View Tentative Plan Map	4/11/14
H.3	1	Certification of Water Service (Lusted Water)	4/11/14
H.4	1	LUP Hearings Officer Meeting Sign-In Sheet	4/11/14
H.5	2	E-mail from George Plummer to Liz Fancher dated April 18, 2014 with e-mails from Kelli Grover and Erin Mick	4/18/14
H.6	1	Development Feasibility Map signed by Erin Mick on April 15, 2014	4/18/14
H.7	2	E-mail from George Plummer to Liz Fancher dated April 18, 2014 with e-mail from Kelli A. Grover, P.E.	4/18/14