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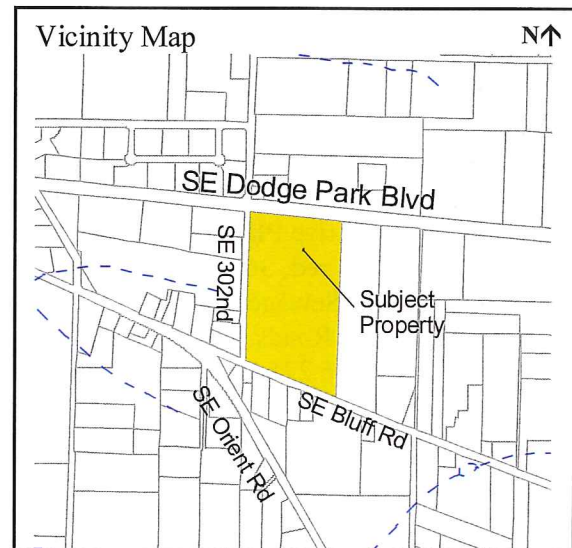
HEARINGS OFFICER DECISION

Category 1 Land Division, Community Service Permit, Lot of Record Determination, and a Road Rules Variance (Number of Access Points).

Case File: T3-2013-3149

Hearing Date, Time, & Place:

Friday, June 13, at 9:00 AM Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233



Location: The land division is for 30325 SE Bluff Road and to locate the fire station at the southeast corner of the intersection of SE Dodge Park Blvd and SE 302nd Ave.
Tax Lot 400, Sec 20, T 1S, R 4E, W.M.
Tax Account # 994201070

Applicant(s): Dr. Mike McKeel – Multnomah County Rural Fire District #10
Camilla Cok and Michelle Vo – Hennebery Eddy Architects
Ray Moore and Lance Forney – All County Surveyors and Planners, Inc

Owner: Susan Lorain Trust

Summary: Category 1 Land division in the MUA-20 zone for the establishment of a substandard parcel for a new fire station; Community Service Permit for the fire station, training area, and district board room; a road rules variance for multiple access points; and a Lot of Record Determination (Design Review is deferred).

Base Zone: Multiple Use Agriculture-20 (MUA-20)

Overlay Zones: None

Site Size: 20-Acres

Hearings Officer: Dan R. Olsen

This matter was heard on June 13, at 9:00 a.m. The Hearings Officer indicated that he had had no ex parte contacts, had no conflicts of interest and had not conducted a site visit. At no point were any procedural objections raised.

The following persons testified orally in favor: Mike McKee, Michelle Vo, Dean Alterman, Ian Gelerich, Scott Lewis, Shawn Durham, Dave Keller, Susan Lorain. There was no testimony in opposition.

At the conclusion of oral testimony, the record was kept open to permit staff to submit a supplemental staff report addressing new evidence and testimony and to permit the applicant to provide additional submittals.

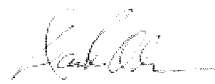
Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): 37.0560 Code Compliance, 36.0005 Lot of Record, 36.2855 Development and Dimensional Standards, 36.2870 Lot of Record, 36.2875 Lot Sizes For Conditional Uses, 36.2880 Off Street Parking and Loading, 36.2885 Access, 36.6010 Approval Criteria, 36.6020 Restrictions, 36.4100 through 36.4210 Off-Street Parking, 36.2875 Lot Sizes for Conditional uses, 36.7800 Criteria for Approval, 36.7805 Contents of Tentative Plan, 36.7810 Map Specifications, 36.7815 Plan Map Contents, 36.7820 Written Information Required, 36.7885 Application of General Standards and Requirements, 36.7985 Water System, 36.7990 Sewage Disposal, 36.7995 Surface Drainage and Storm Sewer Systems, MCRR 4.000 Access to County Roads, MCRR 16.100 Variance Requirements, MCRR 16.200 General Variance Criteria, MCRR 16.225 Access Variance Standards

DEQ NPDES 1200-CN PERMIT

This project would disturb roughly 4-acres and would be eligible for automatic coverage under the NPDES Stormwater Discharge General Permit No.1200-CN issued by the (DEQ) Oregon Department of Environmental Quality with the issuance of a Multnomah County Reviewed Grading and Erosion Control Permit. The applicant must review "GENERAL PERMIT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM STORMWATER DISCHARGE PERMIT" provisions in Exhibit B.26.

Decision: Based on the findings and the record herein, the applicant has met its burden of demonstrating compliance with the applicable Code provisions provided the applicant satisfies the conditions of approval. Accordingly the request for a Category 1 Land Division and a Community Service to establish a fire station in the Multiple Use Agriculture-20 zone, together with a road rules variance for multiple access points and a Lot of Record Determination, is APPROVED WITH CONDITIONS.

Decision Dated this 3rd day of July, 2014



Dan R. Olsen, Hearings Officer

Scope of Approval:

1. **Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.**
2. **This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(B) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

Conditions of Approval:

1. Prior to zoning approval for building permits, the owner shall obtain a design review approval [MCC 36.7000 et seq.].
2. The new Parcel 1 may only be utilized for a fire station. No other use may be established unless established pursuant to MCC 36.2875, MCC 36.6010, and 36.6015, or establishment of a new zone with a minimum lot size equal to the final size of the parcel.
3. Prior to occupancy of the fire station, the owner shall obtain a new address for Parcel 1 [MCC 37.1500 et seq].
4. Prior to occupancy of the fire station, the land division shall be recorded with the surveyor [MCC 36.2875].
5. Prior to zoning approval for building permits and initiating ground disturbing activity, the applicant shall obtain a Grading and Erosion Control permit [MCC 36.2855(G); MCC 29.342 through 29.345].
6. Prior to zoning approval for building permits and prior to initiating any ground disturbing activity, the applicant shall demonstrate the on-site storm water detention pond was designed to retain storm water run-off generated from the new impervious surface (e.g. training pad) for a 10-year/24-hour storm event on site for the approved site plan layout, without discharging to the public Right-of-Way [MCC 36.2855(F)(2), 36.4180(D)] by:
 - a. Obtaining a revised drainage plan or analysis from its engineer demonstrating that the paved pad does not impact compliance with this section or recommending modifications to the drainage system to ensure compliance. The report shall be provided to the County and the applicant shall comply with its recommendations, and

- b. Having the applicant's geotechnical engineer or representative present at the initial stage of site disturbance and the initial stages of foundation work. If the engineer determines that due to site conditions or other issues, substantial modifications are necessary, the engineer shall present its recommendations to the applicant and County for such review as required by relevant code provisions. At the conclusion of site preparation and foundation work, the engineer shall confirm to the County that its recommendations were substantially complied with.
7. Prior to zoning approval for building permits, the owner shall submit an estimate for the parking improvements, including paving the training pad and submit a bond equal to the estimate to complete the parking improvements. Upon completion of the improvements, the bond will be released [MCC 36.4135].
 8. The parking, driveway, maneuvering areas and training pad shall be paved with two inches of blacktop on a four inch crushed rock base or six inches of Portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds . The training pad may be covered with an alternate porous surfacing system if approved by the County Engineer. [MCC 36.4135, 36.4170, 36.4180].
 9. Parking spaces provided shall measure 9-feet by 18-feet as proposed. Parking dimensions shall be displayed on the final plans stamped for building permit review [MCC 36.4175(A)].
 10. Aisle widths between all areas of 90-degree parking shall be a minimum of 25-feet wide. The widths shall be displayed on the final plans stamped for building permit review [MCC 36.4175(B)].
 11. All parking areas shall have a curbed perimeter. The training pad shall also have a curbed perimeter, bumper rails or other permanent barrier as provided in MCC 36.4180(B), but the eastern border of the parking pad adjacent to Parcel 2 may have curbing or a planting strip that meets the requirements of 36.7055(C).
 12. All parking spaces and maneuvering areas shall be striped and continuously maintained [36.4180(C)]. The training pad need not be striped.
 13. Final lighting choices for the exterior of the fire station as well as the parking areas shall be included with the plans to be stamped for zoning approval for building permits [MCC 36.4185].
 14. The applicant shall, prior to commencing any on-site training exercises, adopt a "Control of Releases from Fire Training" standard operating guideline in substantial conformity with that of Gresham Fire and Emergency Services dated May 28, 2010 or as amended. All training shall be conducted in conformance with the adopted guidelines. Further, the District shall cease use of current foam products on the site at such time as an approved biodegradable chemical foam product becomes generally available to fire districts.
 15. Any proposed signs must satisfy the standards of MCC 36.7465 and be approved through Design Review.
 16. All electrical and utility wires shall be buried underground [MCC 36.7965, 36.8000].

17. The applicant shall enter into a standard County Improvement Agreement as discussed under 5.37. The applicant shall file with the County Engineer 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 and a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship of 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. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer. The surety bond shall be secured prior to zoning sign-off of building permits and the maintenance bond prior to occupancy. [MCC 36.8010].
18. In order to maintain sight distance, all vegetation along the south edge of SE Dodge Park Blvd east of the public access driveway shall be maintained/trimmed within the clear vision triangle [MCRR 4.500].
19. Signage shall be installed and maintained at the proposed fire district access points as follows. Signage and installation location shall be reviewed by the County prior to installation. A right-of-way encroachment permit shall be obtained for signage located with the county right-of-way.
 - Signage 1 for Access off of Dodge Park Blvd (westerly access): Do Not Enter
 - Signage 2 for Access off of Dodge Park Blvd (easterly access): Public Parking
 - Signage 3 for Access off of 302nd Ave: Authorized Vehicles Only [MCRR]
20. The owner shall follow the requirements of ORS Chapter 92 for filing a partition plat as required by the County Surveyor [MCC 36.8035, ORS 92].
21. The owner shall dedicate 5-feet of right-of-way along the entire subject property's 302nd Ave frontage to Multnomah County for road purposes. The right-of-way dedication shall be shown and recorded on the final plat. Contact Pat Hinds at (503) 988-5050 Ext. 83712 to complete the easement dedication [MCRR].
22. Prior to zoning approval for building permits, the owner shall acquire driveway permits for the three new access points serving the fire district facility and the access for Parcel 2 off of 302nd Ave. The accesses for new Parcel 1 shall be paved. Please contact Alan Young at (503) 988-3582 to obtain permits [MCRR].
23. Prior to zoning approval for building permits, the owner shall furnish deed restrictions committing the property owner to participate in future right-of-way improvements. Contact Pat Hinds at (503) 988-5050 Ext. 83712 to complete the deed restrictions [MCRR].
24. Prior to occupancy Multnomah County Fire District No. 10 shall record a restrictive covenant binding itself and its successors that acknowledges and accepts normal and customary farming practices in the area and prohibits the District or its successors from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

25. This approval is for a fire station and uses reasonably related thereto including training, district board meetings and fire, life, safety, emergency preparedness and similar events. It does not permit use for community events unrelated to the purpose of a fire district. The applicant shall obtain Planning Director review to determine if additional approvals are required by the Development Code if it desires to expand use of the facility to other events.

FINDINGS:

1.00 Project Description:

The applicant requests a Category 1 Land division in the MUA-20 zone for the establishment of a substandard parcel for a Community Service Use, i.e. a new fire station; Community Service Permit for the fire station, training area, and district board room; a road rules variance for multiple access points; and a Lot of Record Determination. A Design Review application is required for a Community Service Permit but the applicant chose to defer Design Review, submitting a separate Type 2 Design Review permit on March 12, 2014. The applicant also will need a Grading and Erosion Control Permit prior to earth disturbing activities commencing.

2.00 Property Description and History:

The subject property is zoned Multiple Use Agriculture -20 (MUA-20) within the West of the Sandy River Rural Plan Area. It is just outside of the Acknowledged Rural Community of Orient and the Orient Rural Center. The area generally consists of smaller parcels of residential land associated with the Rural Center and larger parcels in farm use or growing nursery stock. To the immediate southwest is the Orient Elementary School and junior high. The subject parcel is made up of soil classification 34A and 34B – Powell Silt Loam – which is high value farmland soil. The Powell Silt Loam soil type in general is poorly drained and the site of the proposed fire station is consistent with the poor drainage and tends to have a high water table that requires special measures to be developable.

The subject property has been historically farmed along with the 16-acre parcel to the immediate east, which is currently owned by the same owner of the subject property. Both properties were part of a Measure 37 claim with the County in 2005. Later, the land owner applied for, and was granted, a Measure 49 waiver. The waiver was not placed into the record. Staff indicates it has not been used. It should be noted that approval of this land use application may impact future exercise of the waiver or other Measure 49 relief.

3.00 Code Compliance:

MCC 37.0560 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**

(3) It is for work related to and within a valid easement over, on or under an affected property.

Lot of Record Findings are made under Finding #4. There are four structures on the subject property consisting of a single family dwelling, detached garage and two barns. The dwelling was constructed around 1880 according to Multnomah County Assessment and Taxation records (Exhibit B.1). There were no building or zoning requirements in 1880 and as such the dwelling is lawfully established.

The three additional structures include two barns and a detached garage. The detached garage appears by the design and worn age to have been constructed around the first half of the 1900's. Building permits and zoning requirements were first established in this area of the County in 1955. As such, there were no building or zoning requirements at the time the garage was erected.

The two barns on site also appear to be turn of a design from the early part of the 1900's. In addition, they are used in association with the farming of the property. Buildings used exclusively for farm uses are exempt from building code requirements under MCC 36.2820 and ORS 203.215.

There currently are two access points on the subject parcel. The Multnomah County Road Rules permit only one access point per property. The applicant has applied for a Road Rules Variance for the second access point which is addressed under Finding #10. Approval of the Road Rules Variance brings the property into full compliance.

Criterion met.

4.00 Lot of Record:

MCC 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:

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
- 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**

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

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

* * *

MCC 36.2870 LOT OF RECORD.

(A) In addition to the Lot of Record definition standards in MCC 36.0005, 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 zone 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, MUA-20 zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;
- (6) May 16, 2002, Lot of Record section amended, Ord. 982.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 36.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 36.2860, 36.2875, and 36.4300 through 36.4360, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a

structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) An area of land created by court decree.**

The applicant provided a deed recorded on December 26, 1974 (Exhibit A.12) for property currently known as Tax Lot 300. However, Tax Lot 300 was later modified with a Property Line Adjustment in 2010 in County Case T2-2010-684. Tax Lot 300 was broken out of a parcel that made up Tax Lots 100, 200, 300 and 400 in 1954 (Exhibit A.10). When Tax Lot 300 was first divided in December 1974, it broke off the subject Tax Lot 400 from the other portions of the original deed, thus creating a remainder parcel that now makes up Tax Lot 400. As such, the subject property was also created on December 26, 1974 even though a separate deed description was not recorded.

In 1974 the subject property was zoned SR (Suburban Residential). The SR zone required a minimum lot size of 40,000 square feet, 50-feet of road frontage and access onto a public street. The subject parcel met all the minimum requirements and therefore met the zoning in place at the time.

In 1974 there were no partition requirements for the creation of three or fewer properties within a calendar year (12-months). The parent property from 1954 (Exhibit A.10) was divided into four properties, but over the course of nearly 2 years. Since the land divisions did not occur in a 12-month period, a subdivision was not required and the property satisfied the land division requirements.

The subject property is a Lot of Record.

5.00 Category 1 Land Division:

5.01 MCC 36.7715 INTENT.

In the regulation of the division of land, it is intended that this Chapter shall minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities, all in accord with Oregon Revised Statutes, Chapter 92.

The application does not include lands within a flood zone or slope hazard overlay. The proposed orientation of the new parcel and fire station on the new parcel will provide for adequate light, air movement and will not created overcrowding of uses since the parcel is in the rural area. The applicant has submitted a transportation analysis (Exhibit A.41) and Road Rules Variance request to demonstrate the proposed use will not have an adverse affect on traffic or the existing transportation systems. The applicant has also submitted the appropriate service provider forms

indicating that sewage and storm water can be handled on site. The applicant's submission satisfies the intent of the land division code and this criterion.

Criterion met.

MCC 36.7720 SCOPE.

Chapter 36 shall apply to the subdivision and partitioning of all land within the area of the West of Sandy River Rural Area Plan.

MCC 36.7725 COMPLIANCE REQUIRED.

No land may be divided in the area of the West of Sandy River Rural Area Plan of Multnomah County except in accordance with this Chapter.

- 5.02 (A) No person shall create a street for the purpose of dividing land without the approval of a subdivision or partition as provided by this Chapter.**

No new street is proposed or will be created.

Criterion met.

- 5.03 (B) No development permit shall be issued for the improvement or use of any land divided in violation of the provisions of this Chapter, regardless of whether the permit applicant created the violation. A division of land which is contrary to an approved subdivision plat or partition map is a violation of this Chapter.**

Conditions of approval will ensure the act of partitioning the land follows Chapter 36 as well as Oregon Revised Statute 92.

Criterion met.

- 5.04 (C) The requirements of this Chapter shall apply to the applicant for a land division and to the applicant's successors in interest in the land division or any portion thereof.**

Neither the owner nor the applicant has objected to applicability of the requirements except as otherwise noted herein.

Criterion met.

- 5.05 MCC 36.7765 LAND DIVISION CATEGORIES DISTINGUISHED.**

For the purposes of this Chapter, the land division classifications listed in sections MCC 36.7770 through 36.7780 are established.

MCC 36.7770 CATEGORY 1 LAND DIVISIONS.

The following proposals are designated Category 1 Land Divisions:

- (A) A Rural Area subdivision;**

(B) A Rural Area partition which creates a new street when the Planning Director determines that:

- (1) The proposal includes the continuation of an existing or planned street to adjacent property, or,**
- (2) The proposal either eliminates or makes impractical the continuation of an existing street or the provision of needed access to adjacent property.**

(C) A subdivision or partition associated with an application affecting the same property for any action proceeding requiring a public hearing under MCC Chapter 36; and

(D) Any other land division proposal which, as determined by the Planning Director, will have a substantial impact on the use or development of nearby property such that determination at a public hearing is required, considering:

- (1) The nature of nearby land uses or the pattern of existing land divisions in relation to the applicable elements of the Comprehensive Plan;**
- (2) Plans or programs for the extension of the street or utility systems on or near the proposed division; or**
- (3) Physical characteristics of the tract or nearby area such as steep slopes, a history of flooding, poor drainage, landslides or other existing or potential hazards.**

The proposed land division is a Category 1 Land Division because under (D) above, it must be processed simultaneously with a Community Service Permit.

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:

- 5.06 (A) The tentative plan is in accordance with the applicable elements of the Comprehensive Plan;**

Because the land division is a rural partition, staff indicated that there are no additional Comprehensive Plan Policies pertaining to land divisions that must be addressed.

Criterion met.

- 5.07 (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;**

The subject parcel is proposed to be divided into two parcels. The proposed use for Parcel 1, a fire station, and the existing use on Parcel 2, a farm, are both permitted in the zone and will be able to continue as such under the current zoning code.

Criterion met.

- 5.08 (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.**

As noted under Finding 5.01, the proposed land division satisfies the intent of the Land Division Ordinance.

Criterion met.

- 5.09 (D) The tentative plan complies with the Zoning Ordinance or a proposed change thereto associated with the tentative plan proposal;**

As discussed under 6.12-6.15, the proposal meets the standards relating to lot size and configuration.

Criteria met.

- 5.10 (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.**

The proposed land division is a Partition, not a subdivision and therefore will not be named.

- 5.11 (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,**

No streets are being created as a result of the land division.

Criterion met.

- 5.12 (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.**

No private streets are proposed as part of the land division.

Criterion met.

- 5.13 (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.

There are no mapped flood hazard areas on the subject property.

Criteria met.

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.

5.14 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:

(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.

The criteria above are the codified version of Comprehensive Plan Policy 14 – Development Limitations and are also discussed in Finding 7.13.

The applicant submitted a site-specific geotechnical report from Carlson Testing (Exhibit H.15). It states in App. A. that the site is relatively flat. Staff indicates that, based on the County's GIS maps, the slope of the property is under 10% and there is no mapped flood hazard area. Further, the soil types on site, Powell Silt Loams, have only a slight erosion hazard according to the Soil Survey of Multnomah County (Exhibit B.20).

Staff indicates that "fragipan" is typically found with soil of this class, but nothing identified as such is referenced in the geotechnical report although it references native clay under silt.

The difficult issue is the water table. There is conflicting evidence in the record. The geotech report indicates that perched groundwater was encountered at only one boring site and was likely the result of “the low permeability of the native soils”. Further, the “on-site silt and native clay are conducive to formation of perched groundwater.” (P. 10) The geotech boring locations were based on a site plan substantially different from that now proposed by the applicant. Further, the report from Aqua Resource (Exhibit H17) found significant evidence of a high water table. The City of Portland Sanitarian’s commented on the high water table.

The Hearings Officer finds that there is substantial evidence of a high water table. The question then becomes whether the existence of the high water table makes the property “unsuitable and incapable for the intended use.”

The applicant states in its proposed findings dated June 20, 2014, that. “to mitigate any perched ground water issues, the applicant installed ground water interceptors in March 2014 at the proposed and future septic drainage field locations....” Although not clear, this appears to have been in accordance with the recommendation in the Aqua Resources letter.

The City of Portland previously signed off on the septic system and according to the Aqua Resources letter will honor it despite some concerns. Accordingly, it appears that, despite concerns, the relevant entities have determined that it is feasible to make the site suitable.

Similarly, the Carlson Report does not suggest that it is infeasible to develop the property. But, it appears that there have been significant changes and new information since the Carlson report was produced. It states that, “If the scope of the proposed project changes, or if variations or undesirable geotechnical conditions are encountered during site development, CGT should be consulted for further recommendations (8.0) and that “soil conditions should be evaluated in the field by the geotechnical engineer ... at the initial stage of site preparation.

The applicant submitted a report from KPFF Engineers dated May 13, revised Jun 2, 2013 (H.11) that concludes that the stormwater/drainage design is adequate. It is unclear, and therefore assumed, however that this report does not reflect the requirement to pave the training pad as discussed later in this decision. Accordingly, to ensure compliance with these criteria, a condition of approval is necessary.

MCC 36.7895 LOTS AND PARCELS.

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

(A) The size, shape, width, orientation and access shall be appropriate:

5.15 (1) To the types of development and uses contemplated;

The shape, width and orientation of the proposed parcels are appropriate to the uses of a fire station and farm and conform to the street pattern in the area.

The appropriateness of the size of Parcel 1 is discussed under 6.12-6.15

County Transportation has made findings on the access of both properties in Finding #9 and 10.

Criterion met.

5.16 (2) To the nature of existing or potential development on adjacent tracts;

The configuration consists of mostly right angled parcels and having Parcel 1 and the fire station on the corner of SE 302nd and SE Dodge Park Blvd to provide efficient and timely emergency responses. This configuration is similar to the parcel pattern of the surrounding area.

Criterion met.

5.17 (3) For the maximum preservation of existing slopes, vegetation and natural drainage;

The property is relatively flat and will require only minimal re-contouring for the building site and engineered drainage. The site is currently in farm use with hay/pasture lands so what is considered natural vegetation is absent from the site. Drainage on the subject property is problematic due to the soil type and conditions and must be engineered to provide appropriate drainage for the proposed development. Considering this, the criterion is satisfied.

Criterion met.

5.18 (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

The proposed partition has Parcel 1 and the proposed use on it over 500-feet from the existing dwelling on Parcel 2. This distance provides adequate privacy to the dwelling and fire station and has a parking area, training pad, drainage pond, and farm use separating the fire station and dwelling. Considered as a whole, privacy and conflicting use concerns are addressed.

Criterion met.

5.19 (5) To the climactic conditions including solar orientation and winter wind and rain.

Both parcels are oriented to the cardinal directions and are over an acre, thus providing ample sun exposure and ability to design appropriately for the wind and rain.

Criterion met.

5.20 (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.

As proposed by the applicant, the parcels maintain a perpendicular orientation to the front lot lines. The examples of alternative configurations by staff also align perpendicularly to the front lot lines.

Criterion met.

5.21 (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.

The existing subject parcel has frontage on three roads due to its 20-acre size and location. The proposed partition will give Parcel 1, a corner parcel, frontage on SE 302nd Ave and SE Dodge Park Boulevard. The proposed partition would leave both parcels with frontage on at least two public roads. However, due to the orientation of the fire station and the location of the existing dwelling, there will be no adverse impact to the parcels resulting from the double frontage.

Criterion met.

5.22 (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.

Neither proposed parcel is a flag lot.

Criterion met.

5.23 (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.

No flag lots are proposed.

Criterion met.

5.24 MCC 36.7900 ACREAGE TRACTS.

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

The proposed land division will not result in the creation of a parcel that could be re-divided.

Criterion met.

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:

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

Both parcels will abut a public street and have at least 50-feet of road frontage as required by the underlying zone. No additional streets will be created.

Criterion met.

5.26 (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.

Both parcels abut a public street, therefore a private street is not necessary.

Criterion met.

5.27 (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.

No cul-de-sac's are proposed.

Criterion met.

5.28 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.

Because the land division does not create new streets, street trees are not required as part of the two lot partition.

Criterion met.

5.29 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.

Both proposed parcels will be served by Pleasant Home Water District (Exhibit A.7).

Criterion met.

5.30 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.

Staff: The subject parcel has an existing dwelling and septic system that will remain on Parcel 2. Parcel 1 has been approved for a septic system as noted in the On-Site Sewage Disposal Certification Form (Exhibit A.24). As discussed elsewhere, subsequent information has raised concerns about groundwater conditions and the impact on performance of the approved septic system. Although the criteria appear to be met, it must be noted that the applicant bears the risk that the septic system will not operate correctly or will fail at some point. If the system must be redesigned or moved, it likely would require additional land use review and permits.

Criterion met.

5.31 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.

The applicant submitted an updated drainage plan that indicates that the 10-year/24-hour storm event will be adequately detained on site. Discharge to the public Right of Way will occur only if the storm event exceeds a 10 year event. Kpff Engineers provided additional narrative responses (Ex. H.11) discussing the engineered detention pond functionality and clarifying that only water above the 10 year event will discharge to the right of way. With these clarifications and additions staff indicates that its concerns have been addressed.

The engineer's analysis, however, appears to assume that the training pad will be gravel. As discussed in 8.09, the Code requires that it be paved. Accordingly, the applicant shall be conditioned to obtain a revised drainage plan from its engineer demonstrating that the paved pad does not impact compliance with this section or recommending modifications to the drainage system to ensure compliance. The report shall be provided to the County and the applicant shall comply with its recommendations.

5.32 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.

The applicant proposes that utility wires will be buried underground as required by this criterion. A condition of approval will require all electrical and utility wires to be buried.

Criterion met.

5.33 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; and

(B) In a private street - as approved by the approval authority.

The Pleasant Home Water District provides public water for the area of the proposed fire station. Hook up to the public water system will be done by the district and meet its requirements.

Criterion met.

5.34 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.

The applicant has provided an On-Site Sewage Disposal Certification Form signed by the City of Portland Sanitarian, the County's contracted representative for ensuring compliance with the Department of Environmental Quality's requirements for an on-site septic system and it appears that this approval will be honored despite subsequent concerns about groundwater conditions.

Criterion met.

5.35 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

(B) In a private street and on lots or parcels - in accordance with the plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority.

The partition is not within a zone or rural area plan that permits storm water to be discharged to the public right-of-way or drainage ditch. MCC 36.2855(F)(2) requires storm water created as a result of new impervious surface to be handled on-site for up to a 10-year storm event.

As noted elsewhere, a detention pond has been proposed as part of the fire station to infiltrate storm water on site. As discussed under 5.31, additional submittals at the hearing have demonstrated that the 10 year event will be handled on-site and a condition of approval imposed to address the paved training pad.

5.36 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; and

(B) In a private street - as approved by the approval authority.

Utilities listed in this criterion are required to be buried if provided for the fire station. A condition of approval will require satisfying the standard of MCC 36.7965.

Criterion met.

5.37 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.

Any improvements required by the County Engineer will be required to be guaranteed by bond as noted in this section. This shall be a condition of approval.

Criterion met with a condition of approval.

6.00 Multiple Use Agriculture – 20 Zoning Standards:

6.01 MCC 36.2800- PURPOSE.

The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the agricultural uses and character of the area, and the applicable County policies.

6.02 MCC 36.2830 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable ordinance standards:

(A) The Community Service Uses listed in 36.6015 pursuant to the provisions of MCC 36.6000 through 36.6230.

A Fire Station is listed under MCC 36.6015(A)(18).

The use is permitted in the zone.

MCC 36.2855 DIMENSIONAL STANDARDS AND DEVELOPMENT REQUIREMENTS.

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

6.03 (A) Except as provided in MCC 36.2860, 36.2870, 36.2875, and 36.4300 through 36.4360, the minimum lot size shall be 20 acres.

The applicant is proposing a two lot partition resulting in Parcel 1 being 5-acres in size and Parcel 2 being 15-acres in size (Exhibit A.33). Because the application also includes a proposed fire station, a Community Service Use, the creation of a substandard parcel is permissible under MCC 36.2875.

Criterion met.

6.04 (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

Under MCC 36.2875, lot area of the Right of Way is not necessary to the calculation of lot size.

Criterion not applicable.

6.05 (C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

The Right of Way for SE 302nd Ave is 50-feet wide while the *Rural Collector* classification requires a 60-foot right-of-way. Therefore, the right-of-way is considered inadequate. As part of the land division and the associated transportation impacts of the proposed uses (Findings 5 and 9) a 5-foot dedication along the entire frontage of SE 302nd Ave is required to bring the Right-of-Way into compliance with County standards. Since the dedication is not yet recorded, staff must require a 35-foot setback along the side yard fronting SE 302nd Ave. The setback from SE Dodge Park Boulevard since the current right-of-way is 100-feet and satisfies the transportation requirement. Setbacks from the proposed south property line will be 30-feet since it will be a rear-property line and setbacks from the proposed eastern property line will be 10-feet for a side yard.

As demonstrated on the applicant's proposed site plan for Parcel 1 (Exhibit A.48), the proposed fire station satisfies the required setbacks. The submitted elevation plans (Exhibits A.37 and A.38) demonstrate the fire station will be between 29 and 30-feet tall.

No new structures are proposed for Parcel 2 and all existing structures satisfy the setbacks to the proposed new proposed lines.

Both new parcels will have more than 50-feet of road frontage.

Criteria met.

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

The County Transportation Specialist determined that the right-of-way along SE Dodge Park Boulevard is adequate. The right-of-way along SE 302nd is inadequate. The property owner will be required to dedicate a 5-foot wide area along the whole length of SE 302nd Ave as discussed in Finding #9.

Criterion met with condition of approval.

- 6.07 (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

None of the structures listed in this section are proposed as part of this application.

Criterion met.

- 6.08 (F) 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.**

The property is served by the Pleasant Home Water District. Sewage disposal is proposed to be handled on site. While the property is extremely wet and poor draining, the City of Portland Sanitarian has approved the use of an advanced treatment septic system on site (Exhibit A.24). The applicant's site plans (Exhibits A.48, A.49, and A.51) depict the parking areas on the proposed Parcel 1. The required yards/setbacks are also shown on the submitted site plans.

Criterion met.

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

The proposal is for a new fire station. Sewage disposal and storm water is required to be handled on site. The current proposal includes both systems to be on the parcel of the proposed fire station.

Criterion met.

6.10 (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.

As discussed previously, additional submittals have demonstrated compliance with this standard and a condition of approval imposed to address the training pad.

6.11 (G) 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.

The applicant has stated a grading and erosion control plan will be submitted. A condition of approval will require the submission and approval of a Grading and Erosion Control Permit prior to initiating ground disturbance.

Criterion met with condition of approval.

6.12 MCC 36.2875 LOT SIZES FOR CONDITIONAL USES.

The minimum lot size for a Conditional Use permitted pursuant to MCC 36.2830, except subpart (C)(1) thereof, shall be based upon the requirements below. Parcels created to support a conditional use shall not be less than two acres in size, and the remainder parcel shall be not less than five acres.

As seen on the proposed partition site plan (Exhibit A.33), the subject property is proposed to be divided into two parcels: Parcel 1 consisting of 5-Acres and Parcel 2 consisting of 15-acres, satisfying the 2-acre minimum lot size. A fire station, a conditional use, is proposed to be located on Parcel 1, allowing the creation of a sub-standard parcel.

The applicant and staff have provided detailed analyses of the meaning of this provision, which will not be repeated here. The minimum sizes are absolutes, but compliance with those minimums is not in itself sufficient to satisfy this standard. Rather, the section imposes a balancing test.

6.13 (A) The site size needs of the proposed use;

This criterion is in addition to the requirement above that the newly created parcel for a conditional use be not less than 2-acres in size. It appears that the County uses both a “needs analysis” and an “alternatives analysis” as a method to determine compliance with this criterion. It also appears from the wording of the Code and the material submitted by staff that, although certain other necessary uses are allowed, the primary purpose of the district is to conserve farm land.

The critical issue, therefore, is whether this analysis in effect creates an absolute standard in that the applicant must demonstrate that the proposal, in fact, is only as large as absolutely necessary to meet the needs of the use and that there is no alternative to the size of the proposed parcel. MCC 36.2665 requires that a conditional use on EFU land be “not larger than the minimum necessary for the use”. That language supports a more absolute standard. But that is not the wording used in the section at issue in this application. Courts normally will conclude that the use of different language strongly suggests a different intent.

As is evident by the record herein, the “minimum necessary” standard imposes a very difficult standard to meet that can result in a complex, detailed and in many ways subjective site design process. It is likely that one could come up with dozens of potential designs, each with benefits and flaws.

On the other hand, the standard clearly is not carte blanche for the applicant to define its needs and resulting site size without regard to preserving farm land and ensuring compatibility. The applicant has done a good job of explaining its needs and the rationale for its design. Unfortunately, it does not appear that the applicant took the other side of the equation, i.e. preserve farm land, as seriously, or at least has not provided the same quality of analysis in that regard.

In *Douglas v Multnomah County*, LUBA 89-086 (1990), provided by staff, LUBA noted that it was proper for the County to apply a balancing test in determining that a proposed golf course was unnecessarily large in light of the objective of preserving farm land. This decision supports the notion that there are no absolutes on either side. Accordingly, the issue is whether the applicant has met its burden of demonstrating that the proposal strikes an acceptable balance in light of the purpose of the district and the other factors in this section.

Several complicating factors likely make this balancing more difficult in this situation than most. First, the site has significant constraints in terms of drainage and related issues. There is general agreement that certain key components of the proposed development create a need for a larger parcel size, including the required septic system with only one feasible location, water interceptor facilities, drainage and detention facilities; building layout with a drive through apparatus bay; training facilities; and public and private building entrances. Staff concurs that, because of the design of the drive-through apparatus bay to prevent backing up apparatus, the proposed fire station cannot be re-oriented or significantly moved. The driveway location on SE 302nd and the western-most driveway on SE Dodge Park Boulevard also largely prescribe the location of the proposed building site because of the 100-foot access spacing standard of the Multnomah County Road Rules.

Second, fire stations are unique facilities that have certain specialized needs or attributes. The testimony was that fire stations are effectively a sub-specialty in architecture and design. There

are numerous guidelines and “best-practices”. In the *Douglas* case such issues as safety and liability were found to be appropriate to consider, although in the case of a golf course not sufficient to override the preservation of farm land. A fire station inherently raises much more significant safety issues for employees and the public. The hearings officer is reluctant to overly second-guess whether each is “essential”, “necessary” or “desirable”.

In the March 25, 2014 narrative (Exhibit A.45), the applicant provided its reasoning for the creation of a five acre parcel for the fire station, which includes:

1. The distinctive programs the fire station supports (apparatus bay, public/visitor area, fire district office, fire personnel living quarters);
2. Other supporting requirements such as trash areas, landscaping, parking and loading; back-up generator, propane tank, etc;
3. Efficient apparatus flow on the site for better emergency response times;
4. Efficient internal circulation of vehicles;
5. The three requested access points;
6. Visibility needs;
7. A training pad/area proposed at 37,000 square feet.

Staff suggested several alternative designs, each of which would reduce the size of the parcel and thereby increase preservation of farmland. At the hearing and in its post hearing submittal, the applicant analyzes each proposal, noting where they seem to meet the guidelines and where they do not. Some issues are clearly significant, such as reducing visibility while others such as locating public parking in a way so as to lessen the privacy of the living quarters, are less significant.

The Hearings Officer agrees with staff the applicant has not demonstrated that 17 public parking spaces are necessary, particularly in light of the goal of preserving farm land. The issue, however, is whether the parking spaces can be relocated in a manner that does not create operational or other adverse impacts and that significantly reduces the proposed parcel size. The design is made up of components and a significant change in any one component impacts others.

The training pad is an example of an area of specialized expertise. The applicant proposes a pad of 37,000 sq. ft., which staff appears to conclude may be somewhat smaller than NFPA standards, depending on the nature of the apparatus, the type of training and other factors. Some of the staff concepts actually increase the training pad size, albeit with shared parking. Others decrease it, again with shared parking. This is an example of the kind of design component that relates to public and employee safety and, in my opinion, requires specialized expertise that I am reluctant to second guess, at least without comparable expert testimony to the contrary.

In conclusion, although a difficult call, I find that this standard has been met. The proposed design may not be the optimal one but is an acceptable balance.

Criteria met.

6.14 (B) The nature of the proposed use in relation to its impact on nearby properties; and

The surrounding area consists of residences to the northwest, a school to the southwest, a nursery to the north and farm land to the south and east. Lot sizes for the properties range from under an acre to the 20-acres of the subject parcel. The creation of a new parcel would not disrupt the parcel characteristics of the area. The proposed fire station use is generally considered an incompatible use with nearby dwellings and farm uses and thus is a Community Service (conditional use) rather than a use allowed outright. However, the Code recognizes that such services often are necessary.

The applicant has provided trip generation information (Exhibits A.41 and A.45) and notes that the station only generates 1.5 to 1.7 emergency responses per day, 4 staff a day during the shift change and a random number of other visits quantified at 5 per day for the public drop ins and trash/utility service and deliveries. Trips are multiplied by 2 to take into account the trip TO the station and the trip FROM the station. So based on those numbers, the station would generate a total of 22 daily trips. In addition, once a month the fire station may also host the fire district's board meeting which could draw between eight and 14 board members and staff in any given month. An average residence produces 10-trips per day (5 round trip) so the station will roughly double the number of trips with the once a month flux for the board meetings. The main difference is that the emergency trips generated may be accompanied by lights and sirens. With less than two exits per day generating lights and sirens and considering the existing fire station to be replaced is already across the street, it does not appear that the general nature of the proposed use will have any additional adverse impact on the surrounding properties.

The size of the parcel does have a direct impact on the remainder in that it reduces the size of the remainder property that consists of high value farm land and is currently being farmed. The unrefuted testimony was that the parcel currently is farmed only sporadically with marginal success due primarily to drainage issues. There was testimony that reducing the size of the station parcel in a manner that creates an irregular boundary would not result in a 1 to 1 increase in farm area as a practical matter. This section read in its entirety necessarily recognizes that every partition to establish a conditional use will result in some reduction in the parent parcel's size. Presumably this standard could be used to deny an otherwise conditionally allowed use that was sized appropriate to its need if that use was so large as to impact the viability of the parent parcel. That is not the case here.

Criteria met.

6.15 (C) Consideration of the purposes of this district.

Staff: The parcel is located within the MUA 20 zone and the purpose of this zone is to:

"... conserve those agricultural lands not suited to full time commercial farming for diversified or part time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the agricultural uses and character of the area, and the applicable County policies."

As discussed above, it is clear that primary purpose of this section is to preserve "agricultural lands" for agricultural uses, albeit not necessarily full time commercial farms. One could read it as requiring that non-agricultural uses must be on whatever "non-agricultural" land is in the zone, or at least to require some review to determine if non-agricultural land is available before

agricultural land is used. But nothing in the implementing standards appears to implement such a reading. No one has argued that the applicant was required to do an alternative site search and rule out any available non-agricultural land.

It appears, therefore, that the purpose of the district is to prioritize agricultural land preservation but balance that against permitting certain identified uses. It further suggests that, even though a use is identified, it also must be located in manner that is compatible with the agricultural uses and character of the area it is proposed to be located within.

The area already has an existing fire station. Although the new station is larger and more efficient, nothing suggests that impacts will be so greatly increased as to change the character of an area that already is heavily parcelized, and has a school and other non- agricultural uses nearby. Although some agricultural land will be lost, it has been concluded that the amount does not exceed that needed under the circumstances of the property and the proposed use. There is no evidence that the new station is incompatible with continued agricultural uses in the area. See discussion under 7.05.

Criteria met.

6.16 MCC 36.2880 OFF-STREET PARKING AND LOADING.

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

Parking requirements are discussed under Finding #8

6.17 MCC 36.2885 ACCESS.

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 for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lots of Record described in MCC 36.2870(B).

Both proposed new parcels will have road frontage and access to a public road. This is discussed in further detail under Findings #9 and 10.

Criterion met.

7.00 Community Service:

MCC 36.6000 PURPOSE.

MCC 36.6010 through 36.6230 provides for the review and approval of the location and development of special uses which, by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate as specified in each district.

MCC 36.6005 GENERAL PROVISIONS.

7.01 (A) Community Service approval shall be for the specific use or uses approved together with the limitations or conditions as determined by the approval authority.

The proposal includes a fire station, a use listed under 36.6015(A)(18). Conditions of approval are set forth in the beginning of this decision. At the hearing there was testimony regarding the possibility of unrelated community events being held. Staff indicated that such events were not addressed in its traffic analysis and that additional time would be needed to address potential impacts. In response, the applicant's representative agreed that it would not make the site available for unrelated community meetings without additional land use review, if required by the code.

Neither staff nor the applicant provided additional information on this issue.

Based on the testimony at the hearing, a condition of approval is added.

Criterion met.

7.02 (B) Uses authorized pursuant to this section shall be subject to Design Review approval under MCC 36.7000 through 36.7060.

The applicants opted to submit for a Design Review permit separately. That permit was submitted on March 12, 2014 and was deemed complete on April 11, 2014 but has not yet been issued pending the outcome of this application. A condition of approval will require approval of the Design Review for the Community Service to be acted upon.

Criterion met with condition of approval.

7.03 (C) A Community Service approval shall not be construed as an amendment of the Zoning Map, although the same may be depicted thereon by appropriate color designation, symbol or short title identification.

Approval of this application would not render a zoning change.

7.04 MCC 36.6010 APPROVAL CRITERIA.

In approving a Community Service use, the approval authority shall find that the proposal meets the following approval criteria, except for transmission towers, which shall meet the approval criteria of MCC 36.6100 through 36.6125, wireless communications facilities, subject to the provisions of MCC 36.6176, and except for regional sanitary landfills which shall comply with MCC 36.6200 through 36.6230.

7.05 (A) Is consistent with the character of the area;

The area is made up of mixed uses due to its proximity to the Orient Rural Center area across SE 302nd to the west. The area's uses range from single family dwellings, to schools, to plant nurseries to farm land, so it appears that a fire station will function with the existing use pattern of the area. Additionally, the existing fire department resides at the northeast corner of SE 302nd and SE Dodge Park Boulevard – directly north and across from where the proposed fire station would be located.

The proposed station is much larger than the current station but based on the transportation analysis by Kittleson & Associates, INC (Exhibit A.41) submitted on March 5, 2014, would generate on average only 22 daily trips (again, one trip is equal to one entry or one exit from the site. The breakdown of the trips is: 4 staff during shift change, 2 EMS apparatus calls, 5 deliveries/trash/public visits). It is not known what the current trip generation of the existing station is but staff believes it would be in line with what is proposed.

No opposition or neighbor concerns were raised. Since the area is already subject to the sounds and activity of the existing fire station, it appears the character of the area will not be adversely affected.

Criterion met.

7.06 (B) Will not adversely affect natural resources;

The testimony and submittals from the applicant state that a separator has or will be constructed on-site to collect runoff from truck washing or similar activities will be collected in basin and routed through an oil/water separator prior to discharge to the water quality swales and on to the detention pond.

Concerns have been raised about the use of potentially harmful chemicals, such as foam, during training. There are inconsistencies in the applicant's response to those concerns. In the June 13 letter from Kpff it is stated that no chemicals will be used. In its June 18 submittal, however, the applicant states it is amenable to a condition of approval to address chemical usage. At the hearing, there was testimony that non-polluting foams either are or likely will soon be available.

Accordingly, a condition of approval is imposed:

The applicant shall, prior to commencing any on-site training exercises, adopt a "Control of Releases from Fire Training" standard operating guideline in substantial conformity with that of Gresham Fire and Emergency Services dated May 28, 2010 or as amended. All training shall be conducted in conformance with the adopted guidelines. Further, the District shall cease use of current foam products on the site at such time as an approved biodegradable chemical foam product becomes generally available to fire districts.

Criterion met with condition of approval.

(C) The use will not:

7.07 (1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; nor

7.08 (2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Considering these criteria together, there is no evidence that the existing farm practices are adversely impacted by the existing fire station, or vice versa. On the other hand, the applicant is proposing a significant expansion with new or expanded living quarters, training area, space for public meetings and events related to fire, life, safety including parking. Thus, it is fair to include

that the scope of operations will increase, which in turn, may increase the risk of conflict with agricultural uses.

The testimony was that the existing farm practices on the parent parcel generally are marginal wheat or similar production and the property owner has no concerns about the expanded station. The applicant states that agricultural activities are “ordinary plowing, planting and harvesting of field crops.” It does note that notice of spraying would be desirable given that persons will be living on site and the public accessing it.

The area does have significant other uses that arguably may create more significant issues with farming practices, e.g. the school.

To minimize the risk that the expansion may result in conflicts, however, Multnomah County Fire District No. 10 shall record a restrictive covenant on behalf of itself and its successors that acknowledges and accepts normal and customary farming practices in the area and prohibits the District or its successors from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Criteria met with condition of approval.

7.09 (D) Will not require public services other than those existing or programmed for the area;

The applicant has provided a letter from the Pleasant Home Water District outlining a schedule for the construction of a new 750,000 gallon reservoir, to be operational in October 2014. It states that the reservoir will increase potential expansion and fire flow protection in the district. Staff contacted the district and verified that the reservoir will improve water volumes as to address the concerns about gallons per minute and sprinklers in the original staff report.

Criterion met.

7.10 (E) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

The subject property is not within an area defined as big game winter habitat.

Criterion met.

7.11 (F) Will not create hazardous conditions;

Staff: The main concerns of hazardous conditions with this application are traffic access and water pollution resulting from poor drainage and a high water table.

The applicant modified the proposed site plan and access locations in their March 5, 2014 and March 25, 2014 submissions to move the access on SE 302nd south to be directly across from the elementary school's access point. This move brought the proposal closer to satisfying the Multnomah County Road Rules (See Finding #10) which helps to reduce traffic conflicts associated with inadequate access spacing standards. Based on the proposed site use described in the applicant's narrative and transportation analysis by Kittleson and Associates, INC (Exhibit

41), the station is expected to generate 22 daily trips of ingress and egress over three access points. The new location onto SE 302nd Ave improves the previous hazardous condition.¹

The other concern relates to use of chemicals and is addressed in 7.06 (B) and the condition of approval.

Criterion met with Condition of Approval.

7.12 (G) Will satisfy the applicable policies of the Comprehensive Plan;

Staff has identified the primary Comprehensive Plan Policies that apply to the proposed project as:

- Comp Plan Policy 14 – Development Limitations.
- Comp Plan Policy 37 – Utilities
- Comp Plan Policy 38 – Facilities

7.13 Comp Plan Policy 14

The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:

- A. Slopes exceeding 20%;**
- B. Severe soil erosion potential;**
- C. Land within the 100 year flood plain;**
- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;**
- E. A fragipan less than 30 inches from the surface;**
- F. Land subject to slumping, earth slides or movement.**

Staff: These criteria are also adopted and codified in MCC 36.7890 as discussed in Finding 5.14. Compliance with the condition of approval set forth in that finding meets this Policy.

7.14 Comp Plan Policy 37 – Utilities

Water and Disposal Systems

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. 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**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**

¹ In Table 1 of the Kittleson & Associates, INC transportation analysis on page 2, the Daily Trip generation is calculated as 50 trips. However, that number includes the 16 to 28 trips associated with the once-a-month Fire District Board meetings – which are not daily. Based on the transportation analysis, staff used a daily trip generation of 22 – the number associated with the shift change, district employee reporting, visitors and deliveries that occur on a daily basis.

- D. Shall have an adequate private water system, and a public sewer with adequate capacity.**

Drainage

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

This Policy is implemented through several code provisions previously addressed and found to be met, with appropriate conditions of approval. See e.g. 5.14, 5.31, 7.06

7.15 Comp Plan Policy 38 - Facilities

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

Fire Protection

- B. There is adequate water pressure and flow for firefighting purposes; and**
- C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

As discussed under 7.09 recent submittals demonstrate that adequate water will be available within the relevant time frame. In addition, at the hearing there was testimony from a representative of the Gresham Fire Department that flows were or would be adequate.

7.16 (H) Will satisfy such other applicable approval criteria as are stated in this Section.

No one has identified additional approval criteria other than those identified in the staff report, as amended, and this decision.

7.17 (I) The use is limited in type and scale to primarily serve the needs of the rural area.

The current fire station to be replaced by the proposed station is located across SE Dodge Park Boulevard. While the station is staffed by the City of Gresham Fire Department and the City of Gresham is less than 1-mile away, the station is the only fire station in the rural area West of the Sandy River in Multnomah County. As such, it clearly serves the rural population of Multnomah County west of the river even if some of its calls take the staff into the City of Gresham.

Criterion met.

7.18 MCC 36.6015 USES.

(A) Except as otherwise limited in the EFU, CFU and OR districts, the following Community Service Uses and those of a similar nature, may be permitted in any district when approved at a public hearing by the approval authority

Allowed Community Service Uses in the EFU, CFU and OR districts are limited to those uses listed in each respective district.

(18) Fire Station.

Fire stations are a listed Community Service Use in this section and the Multiple Use Agriculture 20 zoning district does not limit the type of Community Services permitted.

The use is allowed in the zone.

MCC 36.6020 RESTRICTIONS.

A building or use approved under MCC 36.6015 through 36.6050 shall meet the following requirements:

(A) Minimum yards in EFU, CFU, MUA-20, RR, OCI, OR and PH-RC, Districts:

7.19 (1) Front yards shall be 30 feet.

The front yard of the proposed Parcel 1 runs along the frontage of SE Dodge Park Boulevard. The proposed location of the fire station is more than 60-feet from the front property line.

Criterion met.

7.20 (2) Side yards for one-story buildings shall be 20 feet; for two-story buildings, 25 feet.

The proposed fire station consists of a single story, with a tall apparatus bay that is still considered a single story. As seen on the submitted site plans, the fire station is roughly 90-feet from the closest side yard - which runs along SE 302nd Ave.

Criterion met.

7.21 (3) Rear yards shall be as required in the district.

The rear yard of the proposed Parcel 1 is the southern property line between Parcel 1 and Parcel 2. The fire station is proposed to be roughly 300-feet from the southern (rear) property line.

Criterion met.

7.22 (B) Minimum yards in other districts shall be as required in the district.

The Multiple Use Agriculture 20 zone setbacks are also satisfied as discussed in Finding #6.05.

Criterion met.

7.23 (C) Minimum Site Size:

(1) A day nursery or kindergarten shall provide not less than 100 square feet per child, of outdoor play area located other than in a required front yard.

(2) Primary (kindergarten through fourth grade), private and parochial schools shall be on sites of one acre for each 90 pupils or one acre for each three classrooms, whichever is greater.

(3) Elementary public schools shall be on sites of one acre for each 75 pupils or one acre for each two and one-half classrooms, whichever is greater.

(4) Churches shall be on sites of 15,000 square feet.

This criterion does not apply to a fire station.

Criterion met.

7.24 (D) Off-street parking and loading shall be provided as required in MCC 36.4100 through 36.4215.

Off-street parking is addressed in Finding #8.

7.25 (E) Signs for Community Service Uses pursuant to the provisions of MCC 36.7400 through 36.7505.

The applicant did not address this criterion in the March 25, 2014 narrative. However, the applicant has indicated on several occasions that signs are included in the application but staff has not received details for the proposed signs and therefore cannot make a determination if the signs satisfy the sign code requirements of MCC 36.7400 et seq. If the applicant wishes to have signs, they will need to include the details on the location, design, materials, color etc to satisfy the standards of the sign code with their Design Review application to satisfy MCC 36.7050(A)(9).

Criterion can be satisfied with approval of a Design Review application.

7.26 (F) Other restrictions or limitations of use or development not required under this subsection shall be provided in the district.

The MUA-20 development standards are addressed under Finding #6.

8.00 Off-Street Parking:

MCC 36.4100- PURPOSE.

The purposes of this subdistrict and these off-street parking and loading regulations are to reduce traffic congestion associated with residential, commercial, manufacturing, and other land uses; to protect the character of neighborhoods; to protect the public's investment in streets and arterials and to provide standards for the development and maintenance of off-street parking and loading areas.

MCC 36.4105 GENERAL PROVISIONS.

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

8.01 MCC 36.4130 LOCATION OF PARKING AND LOADING SPACES.

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

The applicant's site plan shows the required parking spaces located on the proposed Parcel 1 with the fire station they support. The applicant's site plan for Parcel 1 also shows the required loading space.

Criteria met.

8.02 MCC 36.4135 IMPROVEMENTS REQUIRED.

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 36.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.

Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.

As discussed below, conditions of approval will require the parking, maneuvering area, and training pad to be paved prior to occupancy. A condition of approval will require the owner to submit an estimate of the cost to complete the paving and submit a bond equivalent to that cost.

Criterion met with condition of approval.

8.03 MCC 36.4140 CHANGE OF USE.

(A) Any alteration of the use of any land or structure under which an increase in the number of parking or loading spaces is required by this Section shall be unlawful unless the additional spaces are provided.

(B) In case of enlargement or change of use, the number of parking or loading spaces required shall be based on the total area involved in the enlargement or change in use.

The subject application is reviewing a change in use. Any future modifications to the proposed use, or change of use including as described in Condition 25 is required to be reviewed by the Planning Director before implementing such change.

8.04 MCC 36.4145 JOINT PARKING OR LOADING FACILITIES.

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

(B) Owners of two or more adjoining uses, structures, or parcels of land may utilize jointly the same parking or loading area, when approved by the Planning Director, upon a finding by the Director that the hours of operation do not overlap and provided satisfactory legal evidence is presented to the Director in the form of a deed, lease, contract or similar document, securing full access to such parking or loading areas for all the parties jointly using them.

Joint parking and loading facilities are not proposed as part of the application.

Criteria met.

8.05 36.4170 ACCESS.

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 36.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

The proposed accesses to the new Parcel 1 will be required to be paved as a condition of approval.

Criteria met with condition of approval.

MCC 36.4175 DIMENSIONAL STANDARDS.

8.06 (A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

Parking on the multiple submitted site plans shows parking spaces as measuring 9-feet wide and 18-feet long. This shall be a condition of approval.

Criterion met with condition of approval.

8.07 (B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

As measured on the multiple submitted site plans, the aisles between parking areas are more than 25-feet wide. This shall be a condition of approval.

Criterion met with condition of approval.

8.08 (C) Loading spaces shall meet the following requirements:

(1)

District	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

(2) Minimum vertical clearance shall be 13 feet.

As shown on the site plans, the loading spot satisfies the Loading Space size requirements.

Criterion met.

MCC 36.4180 IMPROVEMENTS

(A) Surfacing

8.09

(1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. Parking areas with fewer than four required parking spaces may be surfaced with four inches of gravel.

(2) Alternate porous surfacing systems which provide a durable dustless surface capable of carrying a wheel load of 4,000 pounds may be used instead of the blacktop or cement materials in (1) above when approved by the County Engineer. However,

approaches to public rights-of-way shall be paved for a minimum distance of 21' from the fog line, or for a greater distance when required by the County Engineer.

(3) Large parking fields for intermittent uses such as special events associated with farm stands and public parks, sporting events, and the like may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised.

The applicant has noted that all parking, loading and driveway areas will be surfaced with asphalt. Driveway aprons will be paved with concrete.

The applicant contends that “maneuvering areas are adjuncts to parking and loading areas” and, therefore, this standard does not apply to a stand-alone training pad. That reading is inconsistent with the plain and unambiguous language that “*All areas used for parking, loading or maneuvering of vehicles shall be [paved]*”. The purpose of the training pad is to maneuver vehicles. Use of the term ‘or’ suggests the disjunctive, maneuvering areas may be, but are not required to be adjuncts to parking for this standard to apply.

Further, part of its justification for not using the pad for joint parking and training was to be able to use it for mass casualty events or other extraordinary circumstances. A gravel lot is not as conducive to those uses. Finally, the potential for dust from a gravel lot relates to the issue of not interfering with nearby agricultural activities.

A condition of approval will require all parking, loading and maneuvering areas, including the training pad, to be surfaced to comply with this criterion.

It is noted, however, that it is unclear whether the geotechnical and related analysis regarding drainage and stormwater took into account the possibility of paving this area. Since the area is substantial, it could impact the design. Accordingly, noted in 5.31, a condition of approval to address impacts of paving the training pad is imposed.

Criteria met with condition of approval.

8.10 (B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.

(3) Except for development within the PH-RC, OR, OCI and CFU zones, the outer boundary of a parking or loading area with fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous

screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.

The applicant suggests that curbing around the training pad is not necessary because it will not be used for parking, loading or access to and from the parking and loading areas. The intention of the applicant is not relevant, however, and relying on such may create future compliance/enforcement issues. Note, however, that the standard permits alternatives to curbing such as bumper rails or other permanent barrier rather than a curb.

The applicant may choose to separate the training pad from the adjacent private property with a landscaped strip that satisfies MCC 36.7055(C). This shall be a condition of approval.

Criteria met with condition of approval.

- 8.11 (C) Marking - All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 36.4120, and such marking shall be continually maintained. Except for development within the PH-RC, OR, or OCI zones, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.**

A condition of approval will require the marking of the parking and maneuvering areas (other than the training pad) as well as their continued maintenance.

Criterion met with condition of approval.

- 8.12 (D) Drainage - All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.**

Drainage from the impervious parking and maneuvering areas, including the training pad, is to be adequately handled on site for a 10-year storm event. A completed storm water certificate for Parcel 1 (Exhibit A.17) has been submitted along with storm water calculations for the detention pond (Exhibit A.46 and A.57). As noted under 5.31 it is not clear if the calculations take into account the training pad as a paved surface. Accordingly a condition of approval is imposed to ensure compliance.

Criterion met with condition of approval.

- 8.13 (E) Covered Walkways - Covered walkway structures for the shelter of pedestrians only, and consisting solely of roof surfaces and necessary supporting columns, posts and beams, may be located in an O-P district. Such structures shall meet the setback, height and other requirements of the district which apply.**

Staff: Covered walkways are not proposed as part of the application.

Criterion met.

- 8.14 MCC 36.4185 LIGHTING.**

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Lights are proposed as part of the application both on the fire station exterior as well as in the parking areas. The designs of the proposed parking areas (Exhibit A.42) appear to satisfy this criterion. Final design choices shall be included at the time of zoning approval for building permits.

Criterion met with condition of approval.

8.15 MCC 36.4190 SIGNS.

Signs, pursuant to the provisions of MCC 36.7465.

Signs proposed for the fire station must be included in the Design Review application (T2-2014-3349) for review with the Design Review standards and the sign code. This shall be a condition of approval.

Criterion met with condition of approval.

8.16 MCC 36.4195 DESIGN STANDARDS: SETBACKS.

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street perpendicularly.

(B) In the PH-RC, OR or OCI districts, off-street parking for new, replacement or expansion of existing commercial or industrial developments on a parcel less than 1 acre shall provide a minimum of 10 foot landscaped front yard or street side setback. All other minimum yard dimensions for parking shall be as required in the Off-Street Parking and Loading Code Section.

(C) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

As seen on the applicant's site plans, all parking and maneuvering areas are located outside of the required yards and setbacks other than the required access points to the public street.

Criterion met.

8.17 MCC 36.4200 LANDSCAPE AND SCREENING REQUIREMENTS.

(A) The landscaped areas requirements of MCC 36.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 36.4165 (A).

The applicant has elected to undergo Design Review with a separate application that includes the listed landscaping requirements. That application (T2-2014-3349) has been submitted and will be

reviewed in accordance to the final decision of the hearings officer in this application. As such, a condition requiring approval of Design Review will satisfy this requirement.

Criterion met with condition of approval.

8.18 MCC 36.4205 MINIMUM REQUIRED OFF-STREET PARKING SPACES.

(A) Residential Uses

- (1) Single Family Dwelling - Two spaces for each dwelling unit.**
- (2) Two Family Dwelling - Two spaces for each dwelling unit.**
- (3) Motel or Hotel - One space for each guest room or suite.**
- (4) Group Care Facility, Home for Aged, or Children's Home – One space for each four beds.**

(B) Public and Semi-Public Buildings and Uses

- (1) Auditorium or Meeting Room (except schools) - One space for each 60 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.**
- (2) Church - One space for each 80 square feet of floor area in the main auditorium or, where seating is fixed to the floor, one space for each four seats or eight feet of bench length.**
- (3) Church Accessory Use - In addition to spaces required for the church, one space for each ten persons residing in such building.**
- (4) Club or Association - These shall be treated as combinations of uses such as hotel, restaurant, auditorium etc., and the required spaces for each separate use shall be provided.**
- (5) Senior High School and Equivalent Private and Parochial School - One space for each 56 square feet of floor area in the auditorium or, where seating is fixed to the floor, one space for each eight seats or 16 feet of bench length, or one space for each ten seats in classrooms, whichever is greater.**
- (6) College, University, Institution of Higher Learning and Equivalent Private or Parochial School - One space for each five seats in classrooms or 45 square feet of floor area.**
- (7) Primary, Elementary, or Junior High and Equivalent Private or Parochial School - One space for 84 square feet of floor area in the auditorium, or one space for each 12 seats or 24 feet of bench length, whichever is greater.**

(8) Kindergarten, Day Nursery, or Equivalent Private or Parochial School - One driveway, designed for continuous flow of passenger vehicles for the purpose of loading and unloading children plus one parking space for each two employees.

(9) Campground – One space for each campsite.

(C) Retail and Office Uses

(1) Store, Supermarket, and Personal Service Shop - One space for each 400 square feet of gross floor area.

(2) Service and Repair Shop - One space for each 600 square feet of gross floor area.

(3) Bank or Office, including Medical and Dental - One space for each 300 square feet of gross floor area.

(4) Restaurant, Coffee Shop, Tavern or Bar - One space for each 100 square feet of gross floor area.

(5) Mortuary - One space for each four chapel seats or eight feet of bench length.

(D) Manufacturing and Storage

(1) Manufacturing - One space for each two employee positions on the largest shift, or one space for each 800 square feet of non-storage gross floor area, whichever is greater.

(2) Storage - One space for each 5,000 square feet of storage area for the first 20,000 square feet, plus one additional space for each additional 50,000 square feet.

(E) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

There isn't a Fire Station option under MCC 36.4205 so staff determined the most similar use under 36.4205(E). Employees live on site so the primary use is similar to a residential use since employees eat, sleep and work at the station and the public is generally not invited other than for emergency drop offs. Once a month additional employees come to the site for a board meeting, an activity in line with a semi-regular house BBQ, book club, or party that occurs in a residential setting. Under the residential uses listed, it appears that the use would best fit under residential Motel or Hotel since the occupants of the station are not familial and require separate sleeping quarters. This is shown on the submitted floor plans (Exhibit A.52). Based on this assessment, the code requires one space for each guest room. With four beds for staff, the residential aspect of the use requires four parking spaces.

The fire station also includes an administrative component that has two offices (one for the fire station and one for the fire district) and a conference room for the fire district board. This office use is listed use under (C) above. Staff measured the floor plans of the offices and conference room (Exhibit A.36) and came up with the following calculations:

- District Office: 12x16 = 192 square feet
- Station office: 15x15 = 225 square feet
- Conference room: 20x22 = 440 square feet
- Total office space: 857 square feet.

Based on these numbers, the office portion of the fire station requires three parking spaces. The total number of parking spaces required for the proposed use is seven spaces. The proposed parking plan provides 27 parking spaces.

Seven spaces are required under these criteria. Criteria met.

8.19 MCC 36.4210 MINIMUM REQUIRED OFF-STREET LOADING SPACES.

(A) Commercial, Office or Bank

Square foot of Floor or Land Area	Minimum Loading Spaces Required
Under 5,000	0
5,000 - 24,999	1
25,000 - 59,999	2
60,000 - 99,999	3
100,000 - 159,000	4
160,000 - 249,999	5
250,000 - 369,999	6
370,000 - 579,999	7
580,000 - 899,999	8
900,000 - 2,999,999	9
Over 3,000,000	10

(B) Motel

Square foot of Floor or Land Area	Minimum Loading Spaces Required
Under 30,000	1
30,000 - 69,999	2
70,000 - 129,999	3
130,000 - 219,999	4
220,000 - 379,999	5
380,000 - 699,999	6
700,000 - 1,499,999	7
Over 1,500,000	8

(C) Manufacturing, Wholesale, Storage

Square foot of Floor or Land Area	Minimum Loading Spaces Required
Under 5,000	0
5,000 - 39,999	1
40,000 - 99,999	2
100,000 - 159,999	3
160,000 - 239,999	4
240,000 - 319,999	5
320,000 - 399,999	6
400,000 - 489,999	7
490,000 - 579,999	8
580,000 - 699,999	9
670,000 - 759,999	10
760,000 - 849,999	11
850,000 - 939,999	12
940,000 - 1,029,999	13
Over 1,030,000	14

(D) Public or Semi-Public Use: Treated as mixed uses.

(E) Unspecified Uses

Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.

Fire stations are not a listed use so under (E) the Planning Director determined that the use is a mix between residential (motel) and office. Based on that, the fire station use requires one loading space. The applicant has identified a loading space on the site plans.

Criterion met.

9.00 Transportation Impact:

MCRR 4.000 Access to County Roads

9.01 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**

The applicant has proposed to construct three access points to serve the proposed fire district use. Two access points are proposed off of Dodge Park Blvd and one access point is proposed off 302nd Avenue. In addition to the three access points for the fire district use, two access points are

proposed to serve the existing agriculture and single family use. One of these access points is located off Bluff Road and the other access is located off of 302nd Ave. Dodge Park Blvd, 302nd Avenue and Bluff Road are Rural Collector Roads under the County jurisdiction. The applicant has submitted a site plan and Transportation Assessment completed by Kittelson and Associates and dated February 7, 2014. All required information has been submitted.

9.02 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.

The subject property is proposed to be served by 3 driveways as shown in the submitted site plan for the fire department use on the proposed Parcel 1. Two access points are proposed off of Dodge Park Blvd and one access point is proposed off 302nd Avenue. The access points are proposed to serve a specific purpose related to the use. One access point (westerly access) off of Dodge Park Blvd will serve as egress only for emergency vehicles leaving the apparatus bay. The easterly most access of Dodge Park Blvd will serve as access for the public providing access to the on-site public parking lot. The access off of 302nd Avenue will serve as an ingress only driveway for returning emergency vehicles. Dodge Park and 302nd are classified the same functional class which is Rural Collector. The applicant is proposing more than one access requires a road rules variance. The applicant has submitted a road rules variance for the three access points and findings supporting the variance is provided below under Multnomah County Road Rules (MCRR) 16.200.

Parcel 2 will remain as a mixed agricultural and residential use. The farm and residence have existed for over 100 years. There are currently two driveways serving the site. One driveway is located on Bluff Road and serves the existing house and agricultural buildings. The other driveway is located on 302nd Avenue and is used intermittently as a farming access drive as needed for farming operations. This separate farming access allows access directly to the fields without passing farm equipment or trucks through the residential access on the property, which is the safest method of accessing the farmland. No changes to the access on parcel 2 are proposed. Access permit #950559 was issued for the existing access off of Bluff Road.

9.03 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.

For a road classified as a Rural Collector, the spacing standard is 100 feet. The minimum distance is applied to both driveways on the same side of the street as well as driveways opposite to the site. The 302nd Ave driveway will be aligned with the northernmost East Orient Grade School Driveway. All the proposed access points meet this standard.

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

For the proposed use, a new or reconfigured driveway must be 20-40 feet wide. The new driveways meet the width requirements as shown in their site plan for the fire district use. The existing driveways for Parcel 2 must be 12-25 feet. This standard is met.

9.05 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.

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 analysis finds that adequate sight distance is available for all access points, provided that vegetation along the south edge of SE Dodge Park Blvd east of the public access driveway are maintained/trimmed within the clear vision triangle. A condition has been added to address this. As conditioned, this standard is met.

MCRR 5.000 Transportation Impact

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

A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or

B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

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

9.06 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.

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

According to the submitted Transportation Analysis completed by Kittelson and Associates, the use could generate a maximum of 50 weekday trip ends². Of these 50 trips, 7 trips are estimate to occur during the weekday a.m. peak hour and 5 trips are estimated to occur during the weekday

² In Table 1 of the *Kittelson & Associates, INC* transportation analysis on page 2, the Daily Trip generation is calculated as 50 trips. However, that number includes the 16 to 28 trips associated with the once-a-month Fire District Board meetings – which are not daily. Based on the transportation analysis, planning staff used a daily trip generation of 22 – the number associated with the shift change, district employee reporting, visitors and deliveries that occur on a daily basis.

p.m. peak hour. The property is currently used for agriculture and single family residence. Per the ITE (The Institute of Transportation Engineers) manual, the existing residential use generates an average of 10 daily trips per day. The proposed fire district use will increase the number of trips generated by more than 20 percent; therefore a transportation impact will be caused by the proposed development.

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:

9.07 A. Dedication Requirement

The County standard right of way width for a Rural Collector Road facility is 60 feet. Currently, the right-of-way is along 302nd Ave is 50 feet. This right of way is insufficient to accommodate the County's standard cross section for a Rural Collector road. The proposal will add new trips along the 302nd and Dodge Park Blvd corridor. In order to serve these new trips more effectively and improve the roadway to serve growing travel demand, the applicant is required to dedicate 5 feet along the 302nd Ave frontage in order to achieve a proportional share of this standard. No additional right-of-way dedication is needed along the Dodge Park Blvd and Bluff Road frontage. 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 found in MCRR 5.300 above. This right-of-way dedication is required to bring the affected roadway right-of-way width up to current County standards.

The applicant has proposed dedicating 5' along the fire station site only, but the development application involves the entire existing parcel and the very reasons that weigh in favor of granting a fire station some latitude on parcel size, e.g. safety, fast access and egress and community service all support the need for a road that meets full rural collector standards.

9.08 B. Frontage Improvement Requirements

Other than the dedication, no other improvements are required at this time, therefore a non-remonstrance agreement, or "deed restriction" will require that the property participate in standard Rural Collector road improvements along the site's frontage that are not completed as a part of the site's required interim improvements.

The driveways serving the fire department must have a 20-ft wide paved approach to both Dodge Park Blvd and 302nd Ave, a county road. This paved approach will be measured from the edge of pavement of the roads. It must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the new driveway, and will improve the safety of this access. A \$1,000 deposit will be required for the paved approach. The access points to Parcel 2 are existing and no changes are proposed.

Conditions for the deed restriction and 20-ft wide paved approach have been included. As conditioned, this standard is met.

10.00 Road Rules Variance:

10.01 MCRR 16.300 Variance Request Procedure

For the County Engineer to consider a variance request, it must be submitted in writing with the appropriate fee to the County prior to the issuance of any development permit. The written variance request shall be signed by a person with the authority to bind the applicant and shall include the following information as applicable:

- A. Applicant name, telephone/fax number(s), email address, mailing address,**
- B. Property location and zoning;**
- C. Current or intended use of the property;**
- D. The nature and a full description of the requested variance;**
- E. Site plan, sight distance, pedestrian traffic, intersection alignment, traffic generation, vehicle mix, traffic circulation including impact on through traffic, and other similar traffic safety considerations;**
- F. Existing right-of-way or improvement limitations, and utility considerations;**
- G. Adjacent land uses, their types, access requirements, and impact of traffic on them;**
- H. Topography, grade, side hill conditions, and soil characteristics;**
- I. Drainage characteristics and problems;**
- J. Fire Department access requirements within a public right-of-way and their written approval of the proposed modification;**
- K. Natural and historic features including but not limited to trees, shrubs or other significant vegetation, water courses, wetlands, rock outcroppings, development limitation, areas of significant environmental concern, etc;**
- L. Multnomah County Comprehensive Plan policies applicable to the particular parcel or location.**

The required information has been submitted.

10.02 The Applicant's Proposal Meets the General Variance Criteria

16.200 General Variance Criteria: In order to be granted a variance, the applicant must demonstrate that:

- A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;**

Transportation Staff: The proposed use of the site is to accommodate a new community fire department facility for the Multnomah County Rural Fire District #10. The Fire Department is responsible for public safety including emergency response to a variety of incidents within the county. As indicated by the applicant, the site configuration is driven by the operational requirements of providing 24-hour emergency response. The life safety operational requirements dictate how the site is configured, as it is necessary and extremely important to have the most unobstructed, safe, and efficient route of travel to the scene of an emergency as well as secondary options in case the initial route is blocked or unavailable. The site layout design proposed was selected to create the safest, fastest responding fire station for the site. The basic site elements: apparatus response access, apparatus return access, visitor access, the station itself, supporting equipment (generator, propane, trash, transformer, etc.), parking areas, training pad, septic field and secondary septic field, stormwater detention were all located to support the station function, yet create an efficient site design, only taking the necessary site area from the remaining parcel.

The stated primary consideration for the Road Rules is to provide for "improving traffic flow and safety". This application proposes three access points on Parcel 1 in order to provide for the safest traffic flows around the new facility.

A fire station site plan differs from that of any other facility due to the requirements of fire and life safety emergency response. The three proposed access points function as follows and are described by the applicant in their submission:

1. Responding Apparatus Egress (north side of site, on Dodge Park Blvd.) - The first access point to Dodge Park Blvd is provided as a clear, unobstructed path for emergency vehicles responding to an emergency call. Dodge Park Blvd was selected for this access based on which street was on route to the highest call volume. Having the access on the street with the most call volume minimizes apparatus turning, which improves traffic safety and makes for faster response times which improves public safety. The access is located to give a clear line of sight between emergency vehicles and oncoming traffic on Dodge Park Blvd, while maintaining distance from the 4-way stop at the intersection in order to avoid potential intersection congestion. The grove of trees and the earth berm in the Dodge Park Blvd. right of way near the northeast corner of the site creates a visual barrier between cars on Dodge Park Blvd and responding apparatus; therefore this access point has been located as far west as possible yet staying in the required distance from the intersection of Dodge Park Blvd. and 302nd. This access will be signed as "DO NOT ENTER".
2. Visitor Parking (north side of site, on Dodge Park Blvd.) – Visitor access to the site cannot be shared with response access as this could encumber the emergency response time and/or cause collision with vehicular traffic and emergency response vehicles—having an adverse impact to the safety of the community. Therefore, the second access point on Dodge Park Blvd. is for visitor vehicles accessing the site. The reasoning for locating this access on Dodge Park Blvd. is that the station front/main entry has a call button which the public can come directly to the station 24-hours/day in case of emergency and press the call button for help. This public service at the fire station entry should be in a knowable and intuitive location for the public to facilitate quicker access to the services in case of emergency. The general public associates a fire station entry location with the place where they see the fire apparatus leaving the station (on Dodge Park Blvd.). Therefore, the most intuitive location for the station entry and visitor parking is along Dodge Park Blvd. This access will be signed as "VISITOR PARKING".

3. Returning Apparatus Entry, Staff Parking, and Secondary Emergency Egress (west side of site, on 302nd Ave.) - The third access point, from 302nd, is necessary for two reasons. Primarily, it is used for emergency vehicles returning to the site after coming back from a call. This access will lead emergency vehicles into the rear of the apparatus bay in order to drive through and park the vehicles after the call. This "drive-through" operational method of maneuvering the emergency vehicles is standard modern fire station design and alleviates the need for the large emergency vehicles to be backed into the station after every call, which can be hazardous and difficult for the fire fighters on staff, especially after witnessing trauma on, sometimes, very little sleep. The safety backup beepers, which beep when apparatus are backing up, can also be noise nuisances to neighbors. Drive through configuration eliminates these issues. Also, the drive through configuration makes the apparatus immediately available for the next call if needed. The second major reason that this access point is deemed necessary (and is proposed in addition to the primary response access) is that in the event that Dodge Park Blvd. is ever blocked or unavailable, it serves as a secondary exit for the emergency vehicles to get out of the site and successfully respond to an emergency. This secondary access out to 302nd has potential to save lives. This access point is shared with staff vehicles coming to the staff parking area. The staff is familiar with fire station operations and apparatus maneuvering and are unlikely to be involved in blocking a responding apparatus or to otherwise hinder response times. Sharing of this access with these staff vehicles avoids needing a fourth access point. This access will be signed as "AUTHORIZED VEHICLES ONLY".

As described in the submittal, these three clearly separate access functions are necessary for the fastest emergency response and safest operation of a fire station. Efficient and safe operation of the fire station is in the public's best interest, serves the surrounding community, and allows emergency vehicles to better respond to traffic incidents, improving traffic safety specifically. Quick, clear, and uncompromised access out of the site is crucial in order to serve the public in the best capacity possible.

These three proposed access points improve safety by the following:

- Creating clear and safe separation of visitor vehicles from responding emergency apparatus;
- Creating the fastest response times to serve emergencies of all kinds, including moving vehicle emergencies;
- Minimizing the number of times the responding apparatus turns or has blind spots in an emergency response;
- Eliminating backing up of apparatus (by having a drive-through bay configuration); and
- Maintaining a secondary emergency response egress option from the site in case the primary response access is blocked.

These access points also improve traffic flows by the following:

- Clear and safe separation of visitor vehicles from the emergency apparatus and staff vehicles makes traffic flows known and predictable for drivers. There is only one access point for visitors, which will be signed "VISITOR PARKING". The other access points will have signage indicating "DO NOT ENTER" for the north access point used by responding apparatus, and "AUTHORIZED VEHICLES ONLY" for the west access point used by returning apparatus, staff vehicles, and as a secondary emergency response egress option.

- The existing fire station at the same intersection (of 302nd and Dodge Park) has combined driveway accesses which are very close to the intersection, the new station will replace the old station and move the function of those driveways farther from the intersection. Creating clear separation of their functions will improve traffic flows.

According to the traffic study, these three access points are within the spacing standards and will not negatively impact the safety/functionality of the transportation system. All three of these access points improve safety, improve traffic flows, and are crucial to the operations of emergency response and to the safety of the surrounding community and County. The site operational requirements are based off of the absolute necessity to serve the public in an emergency event and provide the best protection and safety.

Parcel 2 will remain as a mixed agricultural and residential use. The farm and residence have existed for over 100 years. One approved driveway is located on Bluff Road and serves the existing house and agricultural buildings. The other driveway is located on 302nd Avenue and is used intermittently as a farming access drive as needed for farming operations. This separate farming access allows access directly to the fields without passing farm equipment or trucks through the residential access on the property, which is the safest method of accessing the farmland. No changes to the access on parcel 2 are proposed.

As indicated by the applicant, the existing development on the site creates a special condition that does not typically apply to other property in the area. The proposed use is unique and will accommodate a new community fire department facility for the community. The project has been sited in order to accommodate the use and required services such as on-site septic. The site has also been located taking into consideration existing development and use that exists to the south that affects the design and layout of the site.

Due to the physical improvements and uses existing on-site, and the unique nature of the use compared to the surrounding uses in the area the request for the three access points provides for 24-hour emergency response and supports the life safety operational requirements to support an unobstructed, safe, and efficient route of travel to the scene of an emergency as well as secondary options in case the initial route is blocked or unavailable. Conditions have been added to this permit to ensure that the use of the access point is limited as proposed and includes the use of signage for the access points. In addition, access permits will be required for each of the access points prior to issuance of a building permit. The access for Parcel 2 off of Bluff is permitted and approved. The historic use and the need for an intermittent agriculture access of 302nd are recognized. An access permit will need to be obtained for this access point. As conditioned, this criterion is met.

10.03 B. 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 standards;

The applicant has indicated that strict compliance to the number of access points would prevent Parcel 1 from safely and effectively functioning as a fire station and serving the public. Strict compliance would also put the public at risk. Staff notes that the proposed location is across the

street from the existing fire district station. The three proposed access points are needed to provide emergency and safety services to the community, as discussed above in MCC 4.200. Emergency response is a life safety issue, and these access points ensure the safest, most efficient and timely response. The need for these access points are unique to the use in order to ensure that operations on-site are safe and conflict from all users of the site are removed ensuring safe movement of both the fire district and the public on the site.

The applicant states that strict compliance would be detrimental to the functionality of Parcel 2. Parcel 2 has been used as an agricultural / single family use for more than 100 years, and such use constitutes a substantial right. The secondary access is used for farming, a use which is the primary use promoted by the zoning district. The access improves safety by avoiding sending farm equipment through the residential access. The secondary access is also intermittent, and does not pose safety issues to the surrounding areas. This is concluded by the traffic study. The site needs to maintain multiple access points to continue its long standing success as a farm. Elimination of this access would require reconfiguration of the residential access to accommodate farming equipment; an extraordinary hardship. Staff also notes that access to Bluff Road was permitted via access permit number 99-0559.

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 standards. The proposed use is unique compared to surrounding uses and serves to provide public safety. The use has unique needs and as a result the access has been designed to be able to provide continued 24-hour service while providing safe passage for all users of the site. The access points will be signed in order to ensure that users are safe and user conflicts accessing and travelling on site are minimized. The fire district also has operations across the street on Dodge Park Blvd and the use will be moved to the proposed site.

The variance request is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would potentially result from strict compliance with the standards. As conditioned, this criterion has been met.

10.04 C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;

The three access points ensure a safe and efficient response to the public's emergency needs. This is not detrimental to the public welfare or injurious to other properties, in fact, the welfare of the public would be at risk without these access points.

Parcel 2 is already developed as a farm. Both driveways have been functioning longer than land use rules have been in effect. The adjoining properties are currently developed and have been functioning with Parcel 2 and its two driveways. Continuing to have these accesses would not be detrimental to the public welfare or other properties in the vicinity.

In reviewing the requested variance and the hardships indicated, staff finds that the authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties. Surrounding uses include residential, agricultural and other community uses. An opportunity to comment was issued to neighboring property owners, and no significant comments were received

raising concerns for the variance. Adverse impacts to adjoining properties are not anticipated with this variance request. This criterion is met.

10.05 D. The circumstances of any hardship are not of the applicant's making.

As indicated by the applicant, the request for variance is driven by the operation of the station and the life safety issues that inherently come with emergency response operations; they are not "made" by the applicant. The need to replace the existing fire station facility with a new one is a result of growth in the District, resulting in an increase in emergency call volume, beyond which can be served by the existing station. The location for the fire station is dictated by its proximity to emergency call volumes and a need to be on streets with good access to the community it serves. These conditions necessitating a new station were not 'made' by the applicant.

As indicated by the applicant, parcel 2 is an existing farm with a single family residence. The farm and residence have existed for over 100 years and have been using multiple accesses as a part of its agricultural/ residential use prior to the existing land use regulations. Parcel 2 requires keeping the current configuration of having more than one access to maintain the functionality of the agricultural needs and single family needs. The farm access is only used intermittently as needed for farming. Parcel 2 didn't create the hardship; they are asking to continue an already existing condition. Existing agricultural use sites within the area commonly have more than one access. Parcel 2 is helping to alleviate a public need by allowing the fire station facility to be constructed through their land division.

As indicated by the applicant, the circumstances of any hardship are not of the applicant's making. As addressed in the findings above the physical improvements and uses existing, and the unique nature of the use compared to the surrounding uses in the area are circumstances of not the applicant's making. The fire district serves the public and is currently located across the street. Growth and the need to expand and continue to serve the community from a nearby location have resulted in the proposed location. Changing designs in fire stations also dictates the need for the multiple access points in order to ensure that all users of the site are safe and 24-hour unobstructed ingress/egress to the site is available. Access to Parcel 2 is permitted from Bluff Road. The nature of the use of the site requires the need for an intermittently used driveway to continue the historic agriculture use of the property. Primary access to the site will continue off of Bluff Road. This criterion is met.

11.00 Conclusion:

Based on the findings and the record herein, the applicant has met its burden of demonstrating compliance with the applicable Code provisions provided the applicant satisfies the conditions of approval. Accordingly the request for a Category 1 Land Division and a Community Service to establish a fire station in the Multiple Use Agriculture-20 zone, together with a road rules variance for multiple access points and a Lot of Record Determination, is APPROVED WITH CONDITIONS.

12.00 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T3-2013-3149 at the Land Use Planning office.

Exhibit #	# of Pages	Applicant Exhibits
A.1	1	General Application Form
A.2	1	Application Coversheet
A.3	1	Applicant’s Table of Contents
A.4	1	November 5, 2013 Police Services Review
A.5	2	November 5, 2013 Fire Service Agency Review
A.6	1	November 5, 2013 Water Service Review
A.7	2	Letter From Pleasant Home Water District on Water Service and Pressure Data
A.8	19	November 5, 2013 Narrative
A.9	3	Fidelity National Title Property Information for 1S 4E, Section 20, Tax Lots 200, 300, and 400
A.10	1	Instrument Recorded in Book 1692, Page 236, Recorded 1954
A.11	2	Instrument Recorded in Book 911, Pages 902-903, Recorded February 22, 1973
A.12	2	Instrument Recorded in Book 1021, Pages 999-1000, Recorded December 26, 1974. Applicant Marked Deed as the Deed of Creation for Tax Lot 300
A.13	2	Applicant’s Copy of 1966 Tax Lot Maps
A.14	5	Applicant’s Copy of SR Zoning Code
A.15	10	Applicant’s Copy of PA 2013-2833 Notes
A.16	13	November 5, 2013 Storm Water Calculations Performed by Lance Forney, and Ray Moore, P.E., Considering a 3-Acre Impervious Area For The Fire Station Parcel and Basin Site Plans (Does Not Include Future Training Area)
A.17	1	November 5, 2013 Storm Water Certificate For Proposed 5-Acre Parcel 1
A.18	1	November 5, 2013 Storm Water Certificate For Proposed 15-Acre Parcel 2
A.19	4	Land Use Compatibility Statement Form Signed September 28, 2012 and Associated Land Feasibility Study 29-12
A.20	1	November 5, 2013 Reduced Land Division Plat and Existing Development Plan Sheet C 1.0
A.21	1	November 5, 2013 Reduced Fire Station Site Plan and Grading and Erosion Control Permit Plan Sheet C 2.0

A.22	1	November 5, 2013 Full Size Land Division Plat and Existing Development Plan Sheet C 1.0
A.23	1	November 5, 2013 Full Size Fire Station Site Plan and Grading and Erosion Control Permit Plan Sheet C 2.0
A.24	2	November 6, 2013 Completed On-Site Sewage Disposal Certification Form and Signed Site Plan
A.25	1	March 5, 2014 Revised Land Use Application Cover Sheet With New Representatives Hennebery Eddy Architects
A.26	1	March 5, 2014 Revised Table of Contents
A.27	3	March 5, 2014 Applicant Letter of Response to Incomplete Letter
A.28	1	March 5, 2014 Police Service Review Form
A.29	3	March 5, 2014 Water Service Review Form and District Letter
A.30	3	March 5, 2014 Updated Fire Service Agency Review and City of Gresham Fire Department Letter
A.31	21	March 5, 2014 Revised Narrative
A.32	1	March 5, 2014 Revised Full Size Site and Grading and Erosion Control Plan Sheet C 2.0 by All County Surveyors and Planners
A.33	1	March 5, 2014 Reduced Proposed Land Division Plan and Existing Structures Plan Sheet C 1.0 by All County Surveyors and Planners
A.34	1	March 5, 2014 Reduced Fire Station Site Plan and Grading and Erosion Control Permit Plan Sheet C 2.0 by All County Surveyors and Planners
A.35	1	March 5, 2014 Revised Site Plan by Hennebery Eddy Architects
A.36	1	March 5, 2014 Fire Station Floor Plan by Hennebery Eddy Architects
A.37	1	March 5, 2014 North and East Elevation Drawings by Hennebery Eddy Architects
A.38	1	March 5, 2014 South and West Elevation Drawings by Hennebery Eddy Architects
A.39	1	March 5, 2014 Operational Diagrams of Access Points by Hennebery Eddy Architects
A.40	1	March 5, 2014 Public Use Floor Plan by Hennebery Eddy Architects
A.41	4	March 5, 2014 Transportation Assessment Performed by Kittelson & Associates, INC – Transportation Engineering and Planning
A.42	5	Manufacturer's Specifications for Light Options For Fire Station and Parking Areas

A.43	1	Flag Pole Specifications
A.44	1	March 25, 2014 Revised Coversheet
A.45	22	March 25, 2014 Revised Narrative
A.46	16	March 25, 2014 Revised Storm Water Calculations and Drainage Plans
A.47	2	Storm Water Certificates for Proposed Parcels 1 and 2
A.48	1	March 25, 2014 Full Sized Fire Station Site Plan and Grading and Erosion Control Permit Plan Sheet C 2.0 by All County Surveyors and Planners
A.49	1	March 25, 2014 Reduced Fire Station Site Plan and Grading and Erosion Control Permit Plan Sheet C 2.0 by All County Surveyors and Planners
A.50*	2	May 5, 2014 Landscaping Plan and Planting List by Otten Landscape Architects, INC
A.51*	1	May 7, 2014 Reduced Site Plan by Hennebery Eddy Architects
A.52*	1	May 7, 2014 Reduced Floor Plan by Hennebery Eddy Architects
A.53	1	May 7, 2014 Reduced Existing Topography Plan Sheet C150 for Parcel 1 by Hennebery Eddy Architects
A.54	1	May 7, 2014 Overall Site Plan Sheet C200 by KPFF Consulting Engineers
A.55	1	May 7, 2014 Overall Grading Plan Sheet C300 by KPFF Consulting Engineers
A.56	1	May 7, 2014 Overall Utility Plan Sheet C400 by KPFF Consulting Engineers
A.57	1	May 7, 2014 Overall Erosion Control Cover Sheet C600 by KPFF Consulting Engineers
A.58	63	May 14, 2014 Revised Storm Water Report and Calculations for Multnomah County Rural Fire District #10, Station #76
'B'	#	Staff Exhibits
B.1	2	A&T Property Information
B.2	1	A&T Tax Map with Property Highlighted
B.3	2	Land Use Application Checklist
B.4	10	Copy of Pre-Application Conference Notes Used as Checklist
B.5	6	November 29, 2013 Incomplete Letter
B.6	2	Variance Requirements and Tests Synopsis Prepared for Applicant to Assist in Their Application
B.7	1	Email to Applicant Providing LUBA Cases and the Tests For

		Variances
B.8	20	Copy of LUBA Case 89-018 Corbett/Tewilliger/Lair Hill Neighborhood Association vs. City of Portland and Beartree Buildings Citing Variance Standards
B.9	9	Copy of LUBA Case 2007-253 Azore Enterprises, LLC vs. City of Hillsboro and MDK Investments Citing Variance Standards
B.10	1	March 17, 2014 Email to Staff by Applicant Deeming Case Complete
B.11	12	April 7, 2014 Notice of Public Hearing and Mailing List for June 13, 2014 Hearing
B.12	1	Air Photo of Current Fire Station #76
B.13	1	Air Photo of Tualatin Valley Fire & Rescue Station Located at 11646 NW Skyline Boulevard
B.14	1	Air Photo of Sauvie Island Fire Station Located at 18336 NW Sauvie Island Road
B.15	1	Air Photo of Corbett Fire Station Located at 36930 E. Historic Columbia River Highway
B.16	1	Air Photo of Scappoose Fire Station Located at 19620 NW Cleetwood Ave.
B.17	1	Air Photo of City of Portland Fire Station Located at 3130 NW Skyline Boulevard
B.18	2	May 19, 2014 Email From Don Russ, Portland Fire Bureau Regarding Public Rooms in Portland Fire Stations and Public Drop Ins at the Station Located at 3130 NW Skyline Boulevard
B.19	1	Listing of High Value Farmland Soils
B.20	2	Powell Silt Loam Soil Characteristics – <i>Soil Survey of Multnomah County (1983)</i>
B.21	1	Staff Alternative Design 1
B.22	1	Staff Alternative Design 2
B.23	1	Staff Alternative Design 3
B.24	1	Staff Alternative Design 4
B.25	1	Staff Alternative Design 5
B.26	1	General Permit National Pollutant Discharge Elimination System Storm Water Discharge Permit
B.27	1	Instructions on Finishing a Land Division
'H'	#	Hearing Exhibits

'H'	# of Pages	Hearing Exhibits
H.1	4	Applicant's Hearing Narrative Addressing Staff Report by Henneberry Eddy Architects
H.2	1	Summary of Pleasant Home Water District's Reservoir Construction Project.
H.3	11	City of Gresham Fire and Emergency Services Standard Operating Guidelines for Controlled Releases From Fire Training
H.4	63	Updated Storm Water Drainage Report Revised June 2, 2014
H.5	20	Supplemental Applicant Narrative By Attorney Dean Alterman, Proposed Findings, and Vicinity Maps
H.6	2	Letter of Support From Fire Chief Greg Matthews, City of Gresham Fire and Emergency Services
H.7	2	Letter of Support from Susan Lorain, Property Owner
H.8	1	Letter From Ulric Ruegger, Past Tennant Farmer of Property
H.9	1	Letter of Support From Jim Schlachter, Superintendant of Gresham-Barlow School District No. 10Jt
H.10	1	List of Uses for New Fire Station 76's Training Pad Submitted at the June 13, 2014 Hearing
H.11	6	Proposed Findings by KPFF Engineering for Stormwater Related Criteria Submitted at the June 13, 2014 Hearing
H.12	3	Applicant's Proposed Revisions to Conditions of Approval Submitted at June 13, 2014 Hearing
H.13	4	Appendix B: Fire Flow Requirements for Buildings, 2010 Oregon Fire Code
H.14	68	Applicant's Copy of Staff Report with Applicant Response
H.15	58	Geotechnical Investigation & Site Specific Seismic Hazards Study and Appendixes for Subject Site Authored by Carlson Geotechnical, Inc.
H.16	3	Addendum 1 to Geotechnical Investigation & Site Specific Seismic Hazards Study by Carlson Geotechnical, Inc.
H.17	4	Report of Findings for Septic Installation Authored by Aqua Resource Design and Consulting Submitted by Applicant
H.18	3	Parking Markings, Concrete Sidewalk Design, Flow Control Manhole, Catch Basin Design, and Detention Pond Design Drawings Sheets C500. C502 and C503

H.19	2	Hearing Sign-In Sheet
H.20	4	Ordinance No. 226 Findings as Adopted by The Multnomah County Board of County Commissioners and Attachment "A" – Standards and Procedures for Land Development Proposals on Certain Lands in the MUA District and Lands in the EFU District
H.21	2	Staff Scoping Paper for 2011 PC Case 2011-2032 Amending MUA-20 Zone to Allow Fire Stations as a Community Service Use
H.22	2	Ordinance No. 1192 Findings Adopted by The Multnomah County Board of County Commissioners
H.23	20	LUBA No. 89-086 George Douglas and Friends of Sauvie Island vs. Multnomah County. Decision if Code Language Similar to that Found in MCC 36.2875 May Be Used Conversely As a Maximum Site Size Limitation
H.24	3	Applicant's Proposed Conditions of Approval Dated June 20, 2014, 11:20 AM
H.25	18	Applicant's Proposed Findings Dated June 20, 2014, 11:20 AM
H.26	11	Staff's Supplemental Post Hearing Staff Report Requested By Hearings Officer Dated June 20, 2014
H.27	1	Staff Memorandum Addressing Applicant's Proposed Condition of Approval #18, Dated June 20, 2014
H.28	7	Applicant's Supplemental Findings Regarding Staff's Six Issue Points From Page 2 of the June 6, 2014 Staff Report
H.29	23	Applicant's Proposed Findings Dated June 20, 2014, 2:30 PM
H.30	3	Applicant's Proposed Conditions of Approval Dated June 20, 2014, 2:30 PM
H.31	6	Proposed Findings by KPFF Engineering for Stormwater Related Criteria Dated June 20, 2014
H.32	1	Memorandum of Clarification Regarding Use of Chemicals On-Site From Applicant Mike McKeel, Chairman of the Multnomah County Rural Fire Protection District 10
H.33	1	List of Uses for New Fire Station 76's Training Pad Submitted June 20, 2014
H.34	1	Applicant's Air Photo of Proposed Parcel 1
H.35	3	Applicant's Response to County's Inclusion of LUBA Case <i>Douglas v. Multnomah County</i> , 18 LUBA 607