

1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2016-6543

Permit: Replat, Hillside Development and Erosion Control, Significant Environmental Concern and Road Rules Variance

Location: **Property 1:** No situs address, located north of NW 5th Ave. and east of Valley St.
Tax Lot 800, Section 30B, Township 2 North, Range 1 West, W.M.
Tax Account #R289605470 Property ID #R164695

- and -

Property 2: No situs address, located north of NW 5th Ave.
Tax Lot 900, Section 30B, Township 2 North, Range 1 West, W.M.
Tax Account #R289605270 Property ID #R164693

Applicants: Andrew Tull, 3J Consulting, Inc.

Owners: Current: Reed Kaplan
Previous: Property 1: Bruce Green; Property 2: Jarrod Brockman

Base Zone: Rural Residential (RR)

Overlays: Significant Environmental Concern of Wildlife Habitat (SEC-h)
Hillside Development and Erosion Control (HD)

Summary: The applicant is requesting to replat nine (9) subdivision lots of the Folkenberg subdivision into two lots and to obtain permits for a Significant Environmental Concern for Wildlife Habitat (SEC-h), a Hillside Development and Erosion Control (HD) and a Road Rule Rules variance in order to establish a single-family dwelling on each of the two individual lots.

Decision: Approved, with Conditions

Unless appealed, this decision is effective **Wednesday, May 09, 2018 at 4:00 PM.**

Issued by:


Rithy Khut, Planner

Issued by:


Joanna Valencia, ACIP, Transportation
Planning and Development Manager

For: Michael Cerbone, AICP
Planning Director

For: Ian Cannon, PE
Transportation Director / County Engineer

Date: Wednesday, April 25, 2018

Date: Wednesday, April 25, 2018

Instrument Number for Recording Purposes: #2017-011893 and 2017-016634

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

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, May 09, 2018 at 4:00 PM

NOTICE OF POTENTIAL APPEAL HEARING

If an appeal of this decision is filed, a public hearing will be held on Friday, May 18, 2018. The hearing will begin at 9:00 AM or soon thereafter.

If a hearing occurs, the hearing will take place in Room 103 (Columbia Room) at the Land Use Planning Division Office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-3043 option '0' to inquire on the status of the hearing.

The Hearing would be regarding a request to replat nine (9) individual subdivision lots from the Folkenberg subdivision into two lots and to obtain permits for a Significant Environmental Concern for Wildlife Habitat (SEC-h), a Hillside Development and Erosion Control (HD), and a Road Rules variance in order to establish a single-family dwelling on each of the two individual lots.

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

*A public hearing to consider any appeal will be conducted before one of the County Hearings Officers: **Liz Fancher, Dan Olsen, or Joe Turner***

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Rithy Khut, Staff Planner at 503-988-0176 or at rithy.khut@multco.us.



Applicable Approval Criteria:

Multnomah County Code (MCC):

MCC 37.0560 Code Compliance and Applications, MCC 33.0005 Definitions

Rural Residential – RR: MCC 33.3120 Allowed Uses, MCC 33.3125 Review Uses, MCC 33.3155 Dimensional Requirements and Development Standards, MCC 33.3170 Lot of Record, MCC 33.3185 Access

Significant Environmental Concern: MCC 33.4567 SEC-h Clear and Objective Standards, MCC 33.4570 Criteria for Approval of SEC-h Permit – Wildlife Habitat

Hillside Development and Erosion Control – HD: MCC 33.5515 Application Information Required, MCC 33.5520 Grading and Erosion Control Standards, MCC 33.5525 Hillside Development and Erosion Control Related Definitions

Land Divisions: MCC 33.7794 Consolidation of Parcels and Lots, MCC 33.7797 Replatting of Partition and Subdivision Plats, 33.7900 Acreage Tracts, MCC 33.7935 Easements, MCC 33.7950 Water System, MCC 33.7955 Sewage Disposal, MCC 33.7960 Surface Drainage, MCC 33.7985 Water System, MCC 33.7990 Sewage Disposal, , MCC 33.7995 Surface Drainage and Storm Sewer Systems

Multnomah County Road Rules (MCRR):

MCRR 4.000 Access to County Roads, MCRR 5.000 Transportation Impact, MCRR 16.250 Local Access Road Standards, MCRR 16.000 Variance from County Standards and Requirements

Copies of the referenced Multnomah County Code (MCC) can be obtained by visiting our website at <https://www.multco.us/landuse/>. Copies of the referenced Multnomah County Road Rules (MCRR) sections can be obtained by visiting our website at <https://multco.us/transportation-planning/> or by contacting our office at (503) 988-3043.

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. 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 when construction has not commenced within two (2) years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure. Alternatively, this land use permit expires when the structure has not been completed within four (4) years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. [MCC 37.0690(B)]
 - This land use permit expiration as outlined above is automatic [MCC 37.0690(D)]
 - **Note:** 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.
3. Prior to Land Use Planning sign-off for a building permit, the property owners or their representative shall:
 - Record pages 1 through 8 and Exhibit A.37 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 37.0670]
 - Apply for and obtain an address for both of the subject properties located at 2 North, 1 West, Section 30B, tax lot 800 and tax lot 900. [MCC 37.1560 and MCC 37.1575]
 - Retain a surveyor to complete the "Finishing a Land Division" instructions (Exhibit B.7). [MCC 33.7797(D)(6)]
 - Submit two (2) blue-line copies of the plat to the Planning Director. The Planning Director will determine whether the plat conforms to this decision and the conditions of approval contained herein. At such time, as the plat complies with this decision, a letter of zoning compliance will be provided to the Multnomah County Surveyor. [MCC 33.7797(D)(1) and MCC 33.7860]
 - i. The replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions. [MCC 33.7797(C)]
 - ii. The replat shall provide a five-foot utility easement along the front property line abutting a street and the easement shall not be placed within one foot of a survey monument location noted on a subdivision or partition plat. [MCC 33.7935(A)]
4. After the Planning Director, the property owners or their representative shall submit to the Multnomah County Surveyor's Office, two (2) blue-line copies of the plat. [MCC 33.7797(D)(1) and MCC 33.7860]

5. After the Planning Director and County Surveyor have signed off on the Partition Plat, the property owners or their representative shall record the plat with the County Recorder's Office. [MCC 33.7797(D)(6)]
 - **Note:** State law requires that property taxes be paid before a plat can be recorded.
 - **Note:** The County Surveyor has a separate process and fee for their review. The County Recorder also has rules and a fee for recording documents.
6. No building permits shall be issued, nor shall any of the parcels be sold, transferred, or assigned until the final plat is signed by the Planning Director and County Surveyor and has been recorded with the Multnomah County Recorder's Office. The Final Plat shall show all new lots and parcels and conform to Chapter 92 of Oregon Revised Statutes. [MCC 37.0560]
7. At the time of building permit sign-off, the property owner or their representative shall:
 - Submit building plans that demonstrate that the proposed single-family dwelling is less than 35 feet in height. [MCC 33.3155(C)]
 - Submit plans, titled "Fire Access and Water Supply Plan" that demonstrate compliance with Tualatin Valley Fire and Rescue requirements as discussed in Fire Service Agency Review and Letter (Exhibit A.22 and A.33) including:
 - i. Site plans showing the location of:
 1. a 500-gallon on-site water supply dedicated to the fire sprinkler system
 2. a 30-foot defensible space around the structure that is expanded to 100-feet of defensible space where slopes exceed 20%.
 - ii. Building plans demonstrating compliance with Section 903.1.3 (NFPA 13D) fire sprinkler system in each of the proposed single-family dwelling
 - iii. Building plans demonstrating compliance that a Class A non-combustible exterior siding will be installed on each of the proposed single-family dwelling.
 - iv. An engineer's letter stating that the access road meets OFC, Appendix D and Section D102.1 [MCC 29.003]
 - Submit a building plan and provide cut/specification sheets showing all exterior lighting supporting the subject property. The exterior lighting shall be fully shielded with opaque materials and directed downwards.
 - i. "Fully shielded" means no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding.
 - ii. Shielding must be permanently attached.
 - iii. The exterior lighting shall be contained within the boundaries of the Lot of Record on which it is located. [MCC 33.3155(F) and MCC 33.0570]
8. Prior to and during construction, the property owner or their representative shall ensure that:
 - Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development. [MCC 33.5515(F)]
 - All work shall be in accordance to the approved Geotechnical Report and observed by a Certified Engineering Geologist or Geotechnical Engineer. [MCC 33.5515(F)]

- Spoil material or stockpiled topsoil associated with the development shall be prevented from eroding by installing protective plastic covering. [MCC 33.5515(G) and MCC 33.5520(A)(2)(m)]
 - Erosion and sediment control measures are in proper working order. The property owner and project engineer shall monitor the erosion and sediment control measures to ensure the measures are in proper working order. Additional measures shall be immediately installed to remedy the problem if sediment is determined to be escaping the development area. [MCC 33.5520(A)(2)(a), MCC 33.5520(A)(2)(h), MCC 33.5520(A)(2)(j), and MCC 33.5520(D)]
 - The disturbed soil area is reseeded with grass seed in spring once it is warm enough for the seed to germinate. Until there is permanent vegetative cover, disturbed soil area shall be mulched with straw to prevent sediment runoff. The applicant shall inspect the site after all large rain events to determine that the erosion control is working and that no sediment is leaving the property. If there is any evidence that the installed erosion control silt fencing is not properly working and sediment is leaving the property, the applicant shall immediately reinstall the silt fence to prevent any further sediment from leaving the property. [MCC 33.5520(A)(2)(a), MCC 33.5520(A)(2)(b), MCC 33.5520(A)(2)(d), MCC 33.5520(A)(2)(f), MCC 33.5520(A)(2)(h), MCC 33.5520(A)(2)(i), MCC 33.5520(A)(2)(l), and MCC 33.5520(B)]
 - Non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters are prevented from leaving the construction site through proper handling, disposal, continuous site monitoring, and clean-up activities. On-site disposal of construction debris is not authorized under this permit. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires, polyethylene, etc.), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects. [MCC 33.5520(A)(1)(m) and MCC 33.5520(A)(1)(n)]
 - Any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems is removed. If any features within the adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality. [MCC 33.5520(A)(2)(m) and MCC 33.5520(A)(2)(n)]
9. Prior to issuance of the Certification of Occupancy, the property owners or their representative shall:
- Acquire an access permit for each of the site's access onto the local access road (5th Avenue). Culverts and drainage installed as part of the access points shall meet access permit requirements. Driveway width shall be between 12-25 feet wide. [MCRR 4.000 and 18.250]
 - Acquire a Road Construction Permit to construct the local access road improvements proposed as part of this road rules variance approval as submitted in the road improvement plan. [MRCC 9.200]
 - Demonstrate that sight distance requirements are met, propose mitigation measures that will meet this standard, or propose alternate measures acceptable to the County Transportation Division to mitigate sub-standard sight distance as applicable. [MCRR 4.500]

- i. Any work in the right of way, including the removal of trees, or any increase in storm water drainage from the site to the right of way will require review and storm water analysis and a permit from Multnomah County [MCRR 18.750, DCM 5.1]

10. As an on-going condition, the property owner shall:

- Clear overhead obstructions along elements on NW 8th Ave from NW Cornelius Pass Road to the new home sites. The clearing of obstructions will require review and storm water analysis and a permit from Multnomah County [MCC 29.0003, MCRR 18.750, DCM 5.1]
- Not plant the following plants in the below table on either of the subject properties and those plants shall be removed and kept removed from cleared areas of the subject property. [MCC 33.4570(7)]

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Water-weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil

Scientific Name	Common Name
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portuguese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
various genera	Bamboo sp.

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Rithy Khut, at (503) 988-0176 or at rithy.khut@multco.us, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected.

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

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

C200

SHEET NUMBER

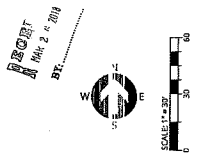
3J CONSULTING
3075 SW GR. PK. H. DRIVE, SUITE 150, BEAVERTON, OR 97005
LAND USE PLAN
C200-2018-001-001
C200-2018-001-001



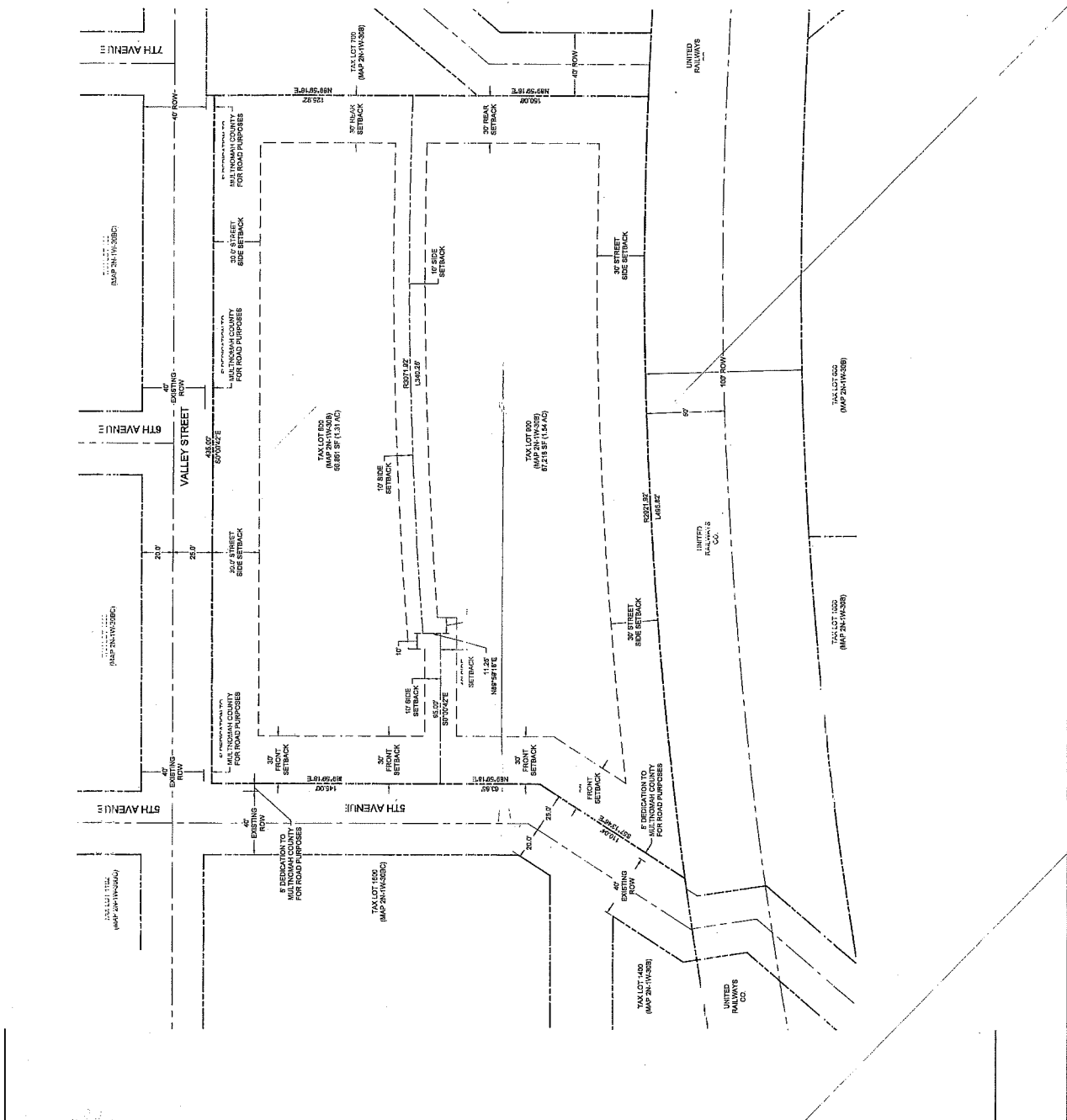
TELETYPE PLAT
KAPLAN PROPERTY
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18145 NW 6TH AVENUE, PORTLAND OR 97231

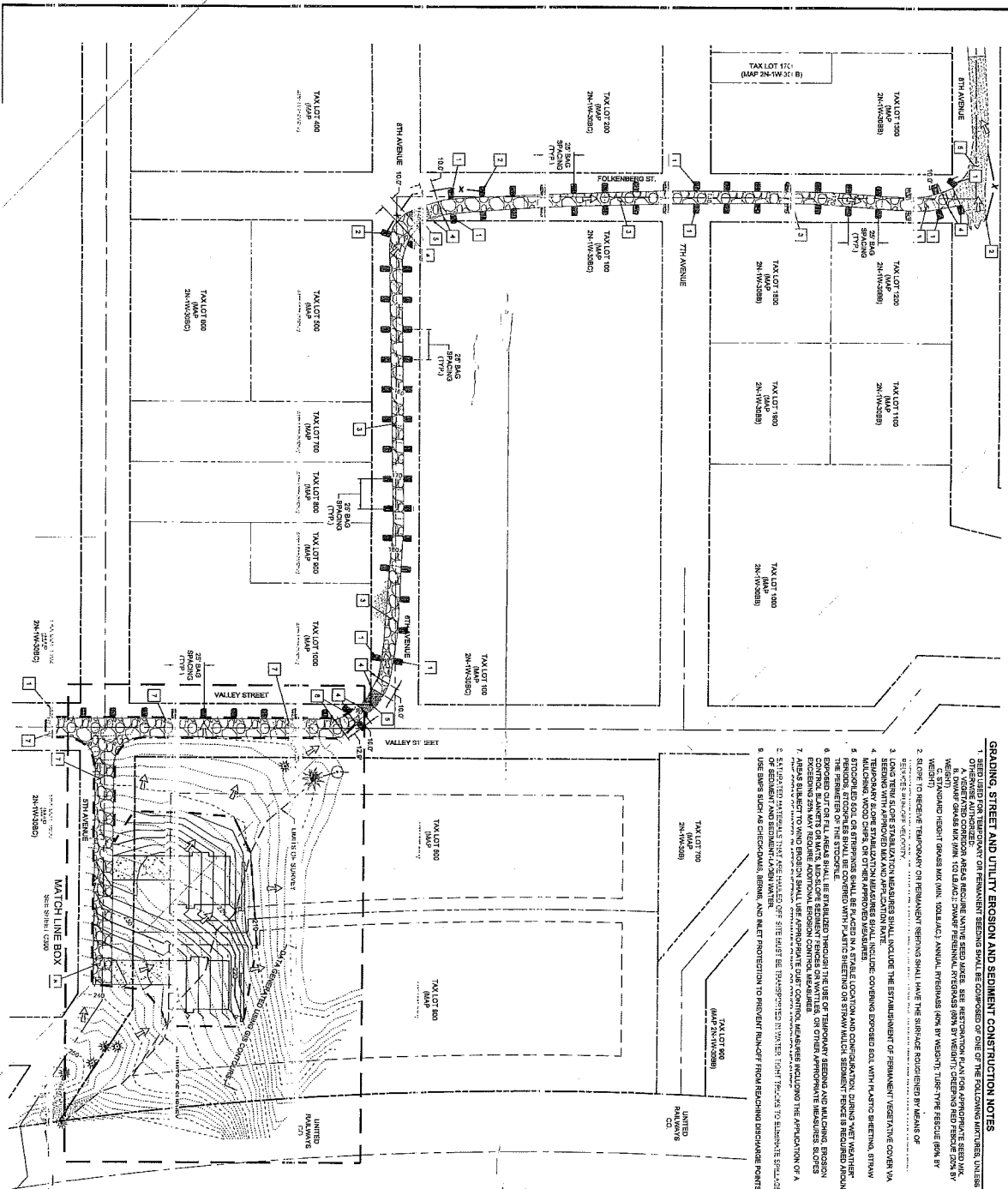


DATE
03-16-2018
ISSUED FOR
CONSTRUCTION SET



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GRADING, STREET AND UTILITY EROSION AND SEDIMENT CONSTRUCTION NOTES

- [illegible]

LEGEND

PROJECT BOUNDARY
RIGHT-OF-WAY LINE
EXISTING LOT LINE
EXISTING LOT LINE
EXISTING ADJACENT PROPERTY LINE
EXISTING DRIVE
PROPOSED DRIVE
PROPOSED PERMITS CONCRETE
EXISTING PLANTING
EXISTING MAJOR CONTOUR
PROPOSED MAJOR CONTOUR
EXISTING MINOR CONTOUR
EXISTING COMPASS TREE
EXISTING DECIDUOUS TREE

CONSTRUCTION KEY NOTE:

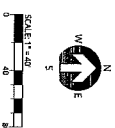
- 1 ALLOCATION TO ALL WORKING MEN IN THE FORM OF A PENSION OR RETIREMENT BENEFIT, OR A PENSION OR RETIREMENT BENEFIT FOR PARTIAL OR FULL WORKING MEN, IN ACCORDANCE WITH THE LAW.
- 2 PAYMENT OF A PENSION OR RETIREMENT BENEFIT TO A MEMBER OF THE UNION.
- 3 PLACE NOT COMPLETED - IS A GRANT BEING MADE TO THE UNION TO COVER THE COST OF THE PENSION OR RETIREMENT BENEFIT?
- 4 TRANSFERRED FROM IMPROVEMENT FROM 7 DEPTH TO DEPTH 10.
- 5 EXISTING ACCESSION, TO IMPROVEMENTS.
- 6 TRANSFERRED FROM IMPROVEMENT FROM 7 DEPTH TO DEPTH 10 AND EXISTING WIDTH TO 7 DEPTH.
- 7 PLACE NOT COMPLETED - IS A GRANT BEING MADE TO THE UNION TO COVER THE COST OF THE PENSION OR RETIREMENT BENEFIT?
- 8 CONSTRUCT NEW OR WIDER GRAVE, ACCESSORY, OLD OR DEEP CONCRETE, OR, DIG ONE OVER GRADING DATA, REINFORCE WITH IRON CONSTRUCTION.

GENERAL NOTES

1. CONTRACTOR SHALL PROTECT EXISTING FEATURES WHICH ARE TO REMAIN.
2. CONSTRUCTION AND DEMOLITION ACTIVITIES SHALL BE PHASED IN SUCH A MANNER AS TO ENSURE THAT PUBLIC ACCESS ROADS ARE NOT BLOCKED AND REMAIN OPERATIONAL. CONTRACTOR TO COORDINATE WITH PROPERTY OWNERS TO MAINTAIN RESIDENTIAL ACCESS THROUGHOUT CONSTRUCTION OR FOR ANY INTERRUPTION OF USE.
3. NO CONSTRUCTION ON DEMOLITION SHALL TAKE PLACE ON ADJACENT PRIVATE PROPERTY.

RECEIVED JANUARY 1970

1. **DESIGN, EROSION, AND SEDIMENT CONTROL.** "ANY ASSURE PROPER WEATHER CONSTRUCTION," WENT TO THE BOARD OF SUPERVISORS IN MAY AND MAY 1987, AND IN APRIL AND OCTOBER 1987 AND MAY 1987.
2. **REFER TO GEOLOGICAL REPORTS BY RAYMOND SOLI, CONSULTANT, I.C.E. DATED DECEMBER 27, 1981, ALL DOCUMENTS IN THE FILE OF THE COUNTY OF LOS ANGELES, IN CONNECTION WITH THE RECOMMENDATIONS AND CRITERIA REQUIREMENTS OF THE EROSION AND SEDIMENT CONTROL BMP IMPLEMENTATION.**
3. **ALL EROSION CONTROL MEASURES TO BE PERMANENTLY PERFORMER SEDIMENT CONTROL, STABILIZE EROSION, AND IMPROVED EROSION CONTROL, FUNCTIONAL, AND APPROVED EROSION CONTROL, INSPECTION PRIOR TO COMPLETION OF THE EROSION CONTROL ACTIVITIES.**
4. **LONG TERM MAINTENANCE ACTIVITIES.**
5. **INCLUDING MAINTENANCE SHALL BE IN PLACE OVER ALL EXPOSED SOILS BY OCTOBER 1, 1987.**



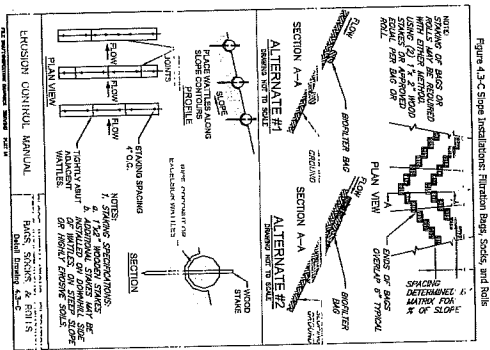


Figure 4.3-C Slope Installation: Erosion Control, Rock, and Rock

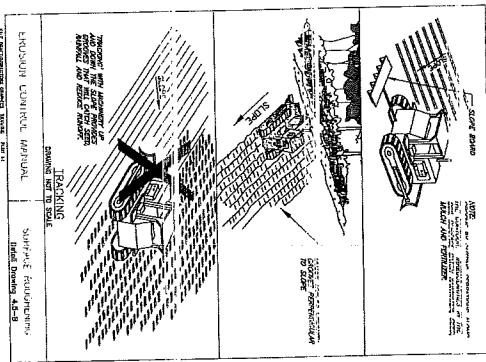
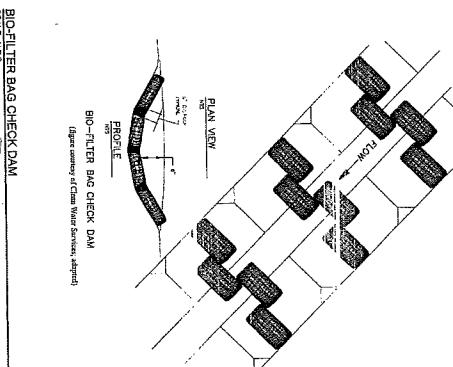
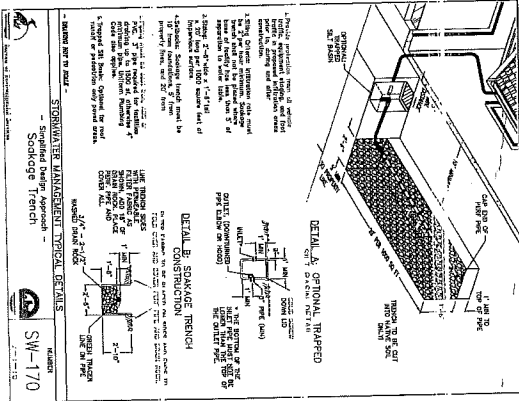


Figure 4.5-B Surface Roughening



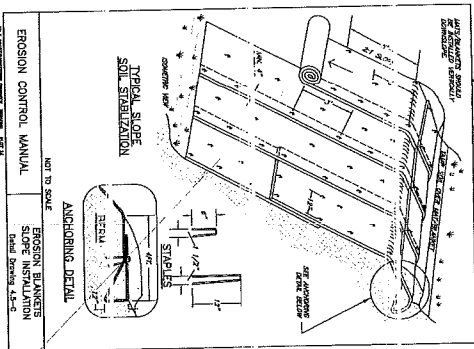
BIO-FILTER BAG CHECK DAM
SCALE 1/4\"/>



STONEMASTER MANAGER TYPICAL DETAILS

Scale: 1/4\"/>

SW-170



EROSION CONTROL MANUAL

Scale: 1/4\"/>

SEDIMENT FENCE

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SEDIMENT FENCE

SEDIMENT FENCE

Findings of Fact

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

1.0 Project Description:

Staff: The applicant is requesting to replat nine (9) individual subdivision lots from the Folkenberg subdivision into two lots. The applicant is also seeking a Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, a Hillside Development and Erosion Control (HD) permit, and a Road Rule Rules variance in order to establish a single-family dwelling on each of the individual lots.

The application was submitted on December 29, 2016. The first incomplete letter was sent to the applicant on January 27, 2017 and a second incomplete letter on June 20, 2017 outlining various missing information that the County needed to evaluate the proposal. The missing information needed by staff was a scaled site plan, access requirements, transportation requirements, and information concerning geotechnical reports, grading, and erosion control measures.

Without submitting the additional information, the application was deemed complete by the applicant's representative, Garrett Stephenson, Attorney, Schwabe, Williamson, & Wyatt on June 27, 2017. At that time, the owner's representative also requested an extension to the 150-day deadline for ninety (90) days to ensure enough time to submit the items that were outlined in the first and second incomplete letter.

The applicant then submitted additional items on August 21, 2017 that included revised site plans, a revised narrative, infiltration tests, a revised storm water certificate, and a bridge inspection report. Because there were still outstanding completeness items, multiple e-mails were sent between the County and the applicant/owner's representative to further extend the 150-day clock. Two extensions for 30 days each were requested on January 5, 2018 and February 5, 2018.

On March 12, 2018, another extension was requested to waive the 150-day clock to ensure that the applicant had enough time to submit additional items and information. Then on March 26, 2018, the applicant submitted another set of revised site plans that addresses additional information needed for Hillside Development and Erosion Control requirements.

2.0 Property Description & History:

Staff: The proposed single-family dwellings will be located on NW 5th Avenue within the Rural Residential (RR) zoning district in the West Hills Rural Area. The property has multiple overlays on the property including a Significant Environmental Concern for Wildlife Habitat (SEC-h) and a Hillside Development and Erosion Control (HD) on most of the subject properties. The properties are both heavily forested and vacant.

The subject properties are part of the Folkenberg subdivision that was originally platted in 1911. At the time of the application, Jarrod Brockman and Bruce Green owned the subject

properties. Subsequently, the properties were bought by current Reed Kaplan, who took over the application.

3.0 Code Compliance and Application Criteria:

3.1 § 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.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: There are no active code compliance issues associated with the properties; therefore, the County has the authority to issue this land use decision. *This criterion is met.*

4.0 Lot of Record Criteria:

4.1 § 33.0005 DEFINITIONS.

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. 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.

* * *

§ 33.3170 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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, RR zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(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 33.3185, 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 33.3160, 33.3175, and 33.4300 through 33.4360, 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.**

Staff: The subject properties are all part of the Folkenberg subdivision, originally platted in June 16, 1911 (Exhibit B.4). Property 1 is comprised of subdivision lots 1 through 3 and part of lots 7 through 9. Property 2 is comprised of subdivision lots 4 through 6 and part of lots 7 through 9. At an unknown date in time, lots 7 through 9 were divided as stated, "Excepting the Portions of Lots 7, 8, and 9, Block 19, lying Easterly of a line that is 150 feet Westerly of the Easterly line of Lots 7, 8, and 9..." Because the replat will consolidate those portions of lots 7 through 9, into at least one Lot of Record those lots will be reconfigured to satisfy all applicable zoning laws and all applicable land division laws.

Subdivision lots 1 through 6 have not changed in configuration since the original plating of the subdivision and individually are Lots of Record.

These criteria are met.

5.0 Rural Residential – RR Criteria

5.1 § 33.3120 ALLOWED USES

(C) Residential use consisting of a single family dwelling constructed on a Lot of Record.

Staff: The applicant/property owner is seeking to establish a single-family dwelling on each of the consolidated lots as provided above. In order to establish each single-family dwelling, the applicant/property owner will need to demonstrate compliance with multiple criteria, including the replatting of lots to create a Lot of Record, obtaining a Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, a Hillside Development and Erosion Control (HD) permit, and a Road Rules Variance.

5.2 § 33.3125 REVIEW USES

(I) Consolidation of Parcels and Lots pursuant to MCC 33.7794 and Replatting of Partition and Subdivision Plats pursuant to MCC 33.7797.

Staff: The applicant/property owner is applying for a replatting of subdivision plats subject to compliance with the approval criteria listed in MCC 33.7797. The proposed replat is allowed through a Type II review process. Staff has made findings for these criteria in Section 6.00 below.

5.3 § 33.3155 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS

(A) Except as provided in MCC 33.3160, 33.3170, 33.3175 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required

in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

Staff: The applicant/property owner has submitted an application for a replat that will consolidate nine subdivision lots into two subdivision lots. There will be no division of land or creation of new parcels or lots; therefore, minimum lot size does not apply. *This criterion is met.*

(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.

Staff: The applicant/property owner has submitted an application for a replat that will consolidate nine subdivision lots into two subdivision lots. There will be no division of land or creation of new parcels or lots; therefore, minimum lot size does not apply. *This criterion is met.*

(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.

(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.

Staff: The Record of Survey, #65716 filed on August 31, 2017 indicates that both NW Valley Street and NW 5th Ave are 40 feet in width (Exhibit B.7). The required width for a Rural Local Street or Road is 50 feet. Therefore, the minimum yard requirement shall be increased to 35 feet to account for the insufficient right of way width.

The site plan indicates that the right of way has been increased to 25 feet to account for the insufficient right of way (Exhibit A.26, A.27, A.32, and A.37). The last revised site plan indicates that the proposed dwellings located on tax lot 800 and 900 are both 30 feet from the front lot line and have a yard of 30 feet (Exhibit A.37). The minimum yard dimension is 30 feet from the front lot line.

The applicant has not provided building plans indicating the maximum structure height, therefore a condition will be required that a final building plan be submitted that demonstrates compliance with the maximum structure height of 35 feet. *As conditioned, these criteria are met.*

(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.

Staff: The site plan does not indicate that barns, silos, windmills, antennae, chimneys, or similar structures constructed on either of the two properties (Exhibit A.37). *This criterion is met.*

(F) All exterior lighting shall comply with MCC 33.0570.

Staff: The applicant has not provided building plans showing exterior lighting, therefore a condition of approval will be required that all exterior lighting comply with MCC 33.0570. *As conditioned, this criterion is met.*

5.4 § 33.3185 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 passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 33.3170(B).

Staff: The tentative plan shows that the subject properties abut NW 5th Avenue (Exhibit A.37), which is a public street. *This criterion is met.*

6.0 Land Divisions Criteria

6.1 § 33.7794 CONSOLIDATION OF PARCELS AND LOTS

This section states the procedures and requirements for removing property lines between adjacent parcels or lots in the same ownership in order to create one parcel or lot. The act of parcel or lot consolidation does not, in itself, remove prior conditions of land use approvals. A property owner may also choose to consolidate parcels or lots as part of a land division application. The parcel and lot consolidation process described in this section is different from (and does not replace) the process used by the County Assessment and Taxation Program to consolidate parcels and lots under one tax account.

Consolidation of parcels and lots may be approved under the applicable descriptions and approval criteria given in subsection (A) for parcels created by “metes and bounds” deed descriptions and subsection (B) for parcels and lots that were created by a Partition or Subdivision Plat.

(B) Consolidation of parcels within a Partition Plat or lots within a Subdivision Plat (Parcel and Lot Line Vacation) may be approved with a replat.

Staff: The subject lots involved with the consolidation are part of the Folkenberg subdivision. As such, the consolidation requires a replat that satisfies the standards of MCC 33.7797 below.

6.2 § 33.7797 REPLATTING OF PARTITION AND SUBDIVISION PLATS

(A) This section states the procedures and requirements for reconfiguring parcels, lots, and public easements within a recorded plat as described in ORS 92.180 through 92.190 (2006). This provision shall be utilized only in those zoning districts in which replatting is a Review Use. Nothing in this section is intended to prevent the utilization of other vacation actions in ORS chapters 271 or 368.

(B) As used in this subsection, “replat” and “replatting” shall mean the act of platting the parcels, lots and easements in a recorded Partition Plat or Subdivision Plat to achieve a reconfiguration of the existing Partition Plat or Subdivision Plat or to increase or decrease the number of parcels or lots in the Plat.

(C) Limitations on replatting include, but are not limited to, the following: A replat shall only apply to a recorded plat; a replat shall not vacate any public street or road; and a replat of a portion of a recorded plat shall not act to vacate any recorded covenants or restrictions.

Staff: Replatting is allowed within the Rural Residential zoning district as a Review Use. The applicant/property owners have applied for the consolidation of nine (9) subdivision lots through a replat. The applicant/property owners have not proposed a vacation of public streets or vacating of recorded covenants or restrictions. *These criteria are met.*

(D) The Planning Director may approve a replatting application under a Type II Permit Review upon finding that the following are met:

(1) In accordance with MCC 37.0550 or 38.0550, an application and fee shall be submitted to the Land Use Planning office. The contents of the tentative plan shall include those maps, written information and supplementary material listed for contents of a Category 3 tentative plan that are determined by the Planning Director to be adequate to demonstrate compliance with the applicable approval criteria;

Staff: The applicant/property owners have applied for, paid the required fee, and submitted a tentative plan consistent with the requirements of a Category 3 tentative plan (Exhibit A.26, A.27, A.32, and A.37). *This criterion is met.*

(2) Reconfiguration of the parcels or lots shall not result in an increase in the number of “buildable parcels or lots” over that which exist prior to reconfiguration. “Buildable parcels or lots,” as used in this approval criteria, shall mean that there is confidence that a building and sanitation permit could be approved on the parcel or lot. A replat resulting in an increase in the number of “buildable parcels or lots” shall be reviewed as a land division as defined in this Chapter;

Staff: The proposal will reduce the number of lots from nine to two subdivision lots. The consolidation will erase the internal lot lines of lots 1 through 3 and portions of lot 7 through 9 to create one subdivision lot and will erase the internal lot lines of lots 4 through 6 portions of lot 7 through 9 to create a second subdivision lot. The consolidation will not result in an increase in the number of buildable lots.

The applicant/property owners have also included information addressing the requirements of the Hillside Development and Erosion Control permit and the Significant Environmental Concern of Wildlife Habitat (SEC-h) permit that will need to be met in order to be approved for a building. A sanitation review completed by the Oregon Department of Environmental Quality was also provided indicating that the site is suitable for a septic system (Exhibit A.14 and A.20). *This criterion is met.*

(3) Parcels or lots that do not meet the minimum lot size of the zoning district shall not be further reduced in lot area in the proposed replat;

Staff: The nine lots are all below the minimum lot size. By consolidating the nine lots into two lots, the replat will erase the internal lot lines of lots 1 through 3 and portions of lot 7 through 9 to create one subdivision lot and will erase the internal lot lines of lots 4 through 6 portions of lot 7 through 9 to another subdivision lot. The consolidation will result in the lots being 1.38 acres and 1.62 acres. The proposed lot size is increased, no reduced in size. *This criterion is met.*

(4) The proposed reconfiguration shall meet the approval criteria given in the land division code sections on easements, water systems, sewage disposal, and surface drainage;

Staff: The proposed reconfiguration has met most of the approval criteria as described below in Section 6.3, 6.4, 6.5, and 6.6. A few approval criteria will require additional action by the applicant/property owners to demonstrate compliance with all of the applicable approval criteria. *As conditioned, this criterion is met.*

(5) All reconfigured parcels and lots shall have frontage on a public street except as provided for alternative access in the access requirement sections of each zoning district; and

Staff: The tentative plan indicates that the reconfigured lots will have frontage on NW 5th Avenue, which is a public street (Exhibit A.26, A.27, A.32, and A.37). *This criterion is met.*

(6) The applicant shall submit a Partition Plat or Subdivision Plat to the Planning Director and County Surveyor in accordance with the requirements of ORS 92 and which accurately reflects the approved tentative plan map and other materials.

Staff: To insure compliance with this criterion, a condition of approval shall require that the applicant/property owner submit a Partition Plan to the Planning Director and County Surveyor, in accordance with the requirements of ORS 92, which accurately reflects the approved tentative plan map and other materials. *As conditioned, this criterion is met.*

6.3 § 33.7935 EASEMENTS

Easements shall be provided and designed according to the following:

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

(B) Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved

by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.

(C) Easements for pedestrian paths and bikeways shall be not less than 10 feet in width.

Staff: To insure compliance with this criterion, a condition of approval shall require that the applicant/property owner shall provide a five-foot utility easement along the front property line of each lot abutting a street. The property does contain a watercourse that traverses over the property. However, no storm water easement will be required. The subject properties are also located within the rural areas of Multnomah where no facilities for pedestrian paths and/or bikeways are planned or being planned. *As conditioned, this criterion is met.*

6.4 § 33.7950 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 33.7985 of this Chapter.

Staff: The subject properties do not currently have a domestic water source. Since a water district is not in the area, a domestic well will need to be provided for the consolidated lots. The site plan indicates that there will be a well located on tax lot 900 that will be shared by both lots. Based on two Water Supply Well Reports, one at 15015 NW Cornelius Pass and another at 15030 NW Cornelius Pass, the wells in this area had a yield of between 6 and 13.5 gallon/minute (Exhibit B.8 and B.9). Five gallons/minute is generally accepted as adequate for a domestic well. At the time the applicant/property owner proposes development, a well would need to be established. *As conditioned, this criterion is met.*

6.5 § 33.7955 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 33.7990 of this Chapter.

Staff: The applicant/property owner has submitted two Site Evaluation Reports from the Sean Rochette, Onsite Wastewater Specialist, Oregon Department of Environmental Quality for each of the properties (Exhibit A.14 and A.20). Both lots are approved for a Conventional Sand Filter/AAT system. *This criterion is met.*

6.6 § 33.7960 SURFACE DRAINAGE

Surface drainage and storm sewer systems shall be provided as required by section MCC 33.7995. The County Engineer may require on-site water disposal or retention facilities adequate to insure that surface runoff volume after development is no greater than that before development.

Staff: The applicant/property owner has submitted two Storm Water Certificates signed by Kent W. Cox, Registered Professional Engineer on December 28, 2016 indicating that the site does not require construction of an on-site storm water drainage control system (Exhibit A.23). Subsequently, updated stormwater forms were submitted on August 21, 2017. The submitted

Storm Water Certificates signed by Kathleen Freeman, Registered Professional Engineer on August 8, 2017 indicates that each of the dwellings require construction of an on-site storm water drainage control system (Exhibit A.30). *This criterion is met.*

6.7 § 33.7985 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.**

Staff: The subject properties are not located within a water district; therefore, this requirement is not applicable. *This criterion is met.*

6.8 § 33.7990 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.

Staff: As discussed above, the applicant/property owner has submitted two Site Evaluation Reports from the Sean Rochette, Onsite Wastewater Specialist, Oregon Department of Environmental Quality for each of the properties (Exhibit A.14 and A.20). Both lots have obtained a Land Feasibility Study and are approved for a Conventional Sand Filter/AAT system. *This criterion is met.*

6.9 § 33.7995 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.**

Staff: The applicant/property owner has submitted two Storm Water Certificates signed by Kent W. Cox, Registered Professional Engineer on December 28, 2016 indicating that the site does not require construction of an on-site storm water drainage control system (Exhibit A.23). Subsequently, updated stormwater forms were submitted on August 21, 2017. The submitted Storm Water Certificates signed by Kathleen Freeman, Registered Professional Engineer on August 8, 2017 indicates that each dwelling will require construction of an on-site storm water drainage control system (Exhibit A.30). *This criterion is met.*

7.0 Significant Environmental Concern Criteria

7.1 § 33.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

Staff: The applicant/property owner has submitted the application materials listed in MCC 33.4520(A) and 33.4570(A). The materials are discussed below. *This criterion is met.*

7.2 § 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(B) Development standards:

(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: Aerial photos indicate that the development area is a forested area (Exhibit B.10). The site plan indicates that the single-family dwelling on each property is located adjacent to NW 8th Ave. The site does not contain any non-forested "cleared" areas, therefore, each of the single-family dwellings is located in areas where access can be obtained and can meet minimum clearance standards for fire safety. *This criterion is met.*

(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Staff: The site plan indicates that the single-family dwellings on each property are located adjacent to NW 8th Ave (Exhibit A.26, A.27, A.32, and A.37). The development area is within the 200 feet as described by the applicant above. *This criterion is met.*

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

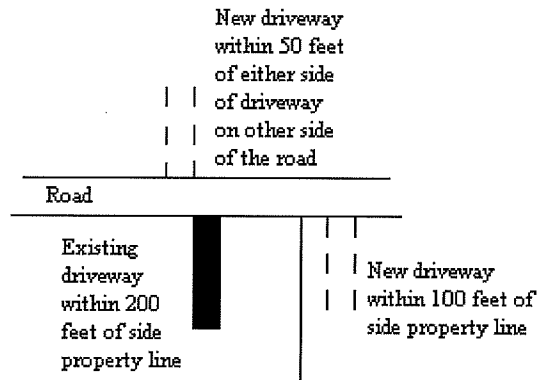
Staff: The site plan indicates that each of the single-family dwelling a driveway that is approximately 25 feet, which is less than 500 feet in length (Exhibit A.26, A.27, A.32, and A.37). *This criterion is met.*

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County "Design and Construction Manual," adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

1. The modification shall be the minimum necessary to allow safe access onto the public road.
2. The County Road Official shall provide written findings supporting the modification.

Staff: Aerial photos indicate that there are no existing access roads or driveways within 200 feet on the same side of the proposed development (Exhibit B.10). There is also no existing access roads or driveways within 50 feet on the other side of the road. *This criterion is met.*

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: Aerial photos indicate that there are no adjacent properties that contain structures or developed areas (Exhibit B.10); therefore, the developments do not need to be located within 300 feet of a side property line. *This criterion is met.*

(6) Fencing within a required setback from a public road shall meet the following criteria:

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
- (c) Cyclone, woven wire, and chain link fences are prohibited.
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

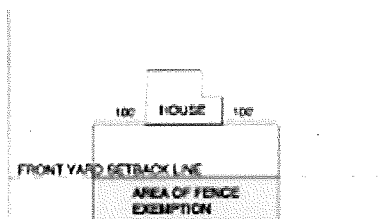


FIGURE 33.4570A FENCE EXEMPTION AREA

- (f) Fencing standards do not apply where needed for security of utility facilities.

Staff: The site plan does not indicate that any fencing will be installed as part of the development. *These criteria are met.*

- (7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace

Scientific Name	Common Name
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portuguese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort

Scientific Name	Common Name
<i>Elodea densa</i>	South American Water-weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil

Scientific Name	Common Name
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum oficinale</i>	Common Dandelion
<i>Ultricularia vuigaris</i>	Common Bladderwort
<i>Utica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinoseum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

Staff: The narrative states that the listed plans will not be planted and are being kept removed on clear areas of the property. However, to ensure that this requirement is met, a condition will be required. *As conditioned, this criterion is met.*

8.0 Hillside Development and Erosion Control Criteria

8.1 § 33.5505 PERMITS REQUIRED

Hillside Development Permit: All persons proposing development, construction, or site clearing (including tree removal) on property located in hazard areas as identified on the "Slope Hazard Map", or on lands with average slopes of 25 percent or more shall obtain a Hillside Development Permit as prescribed by this subdistrict, unless specifically exempted by MCC 33.5510.

Staff: The subject properties contain hazard areas as identified as a "Slope Hazard Map" and areas with average slopes on 25 percent or more applicant has requested approval of the Hillside Development Permit to authorize the establishment of two single-family dwellings. Staff has made findings for these criteria below.

8.2 § 33.5515 APPLICATION INFORMATION REQUIRED

An application for development subject to the requirements of this subdistrict shall include the following:

- (A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.
- (B) An estimate of depths and the extent and location of all proposed cuts and fills.
- (C) The location of planned and existing sanitary drainfields and drywells.
- (D) Narrative, map or plan information necessary to demonstrate compliance with MCC 33.5520 (A). The application shall provide applicable supplemental reports,

certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Staff: The applicant has included the above-required materials in Exhibit A.3, A.8, A.9, A.10, A.16, A.23, A.25, A.30, A.30, A.34, A.36, and A.37.

(E) A Hillside Development permit may be approved by the Director only after the applicant provides:

- (1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or**
- (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,**
- (3) An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development.**
 - (a) If the HDP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted.**

Staff: The applicant has submitted a Geotechnical Report for each property. Mia C. Mahedy-Sexton, Registered Professional Engineer and Geotechnical Engineer of Rapid Soil Solutions (Exhibit A.29), prepared the Geotechnical reports. Each of the Geotechnical Reports state:

“In my opinion, this structure with full basement will be founded on and keyed into competent native soil with proper drains as planned would be relatively stable. In my opinion, the proposed development will not significantly increase slope instability on or adjacent to the project site.”

Based on comments by Mia C. Mahedy-Sexton, the site appears suitable for the proposed developments. *These criteria are met.*

(F) Geotechnical Report Requirements

- (1) A geotechnical investigation in preparation of a Report required by MCC 33.5515 (E) (3) (a) shall be conducted at the applicant’s expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.**

Staff: Mia C. Mahedy-Sexton, Registered Professional Engineer and Geotechnical Engineer of Rapid Soil Solutions prepared the Geotechnical Reports (Exhibit A.29). The report included specific investigations and recommendations. The investigations included borings that were

excavated with a hand auger and evaluation at a laboratory for soil classification. The resulting investigation found that the building foundations could be installed in the silt. Additionally bearing capacities for footings, fill placement on the site, installation of stormwater facilities, and erosion control plans were recommended. These recommendations will be incorporated as conditions of approval to ensure reasonable safety from each movement hazards. Additionally, the RSS recommends that a geotechnical engineer observe general excavation, stripping, fill placement, and sub-grades in addition to base. Therefore, a condition will be required that observation of work occurs as described. *As conditioned, this criterion is met.*

(2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.

Staff: No development related manipulation, except for boring of test pits for geological study and on-site septic suitability, has occurred on the subject properties prior to issuance of a permit. *This criterion is met.*

(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.

Staff: The Geotechnical Report by Rapid Soil Solutions recommends that a geotechnical engineer observe general excavation, stripping, fill placement, and sub-grades in addition to base. Therefore, a condition will be required that observation of work occurs as described. *This criterion is met.*

(4) The Director, at the applicant's expense, may require an evaluation of HDP Form- 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

Staff: No additional evaluation of the HDP Form-1 or the Geotechnical Report is required. *This criterion is met.*

(G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

Staff: Findings for the Grading and Erosion Control in MCC 33.5520(A) through (D) are in the following Section of this decision. The applicant has provided development plans consistent with the Design Standards for Grading and Erosion Control (Exhibit A.29 and A.37). As appropriate, conditions of approval shall be required to ensure that the proposed development meets and complies with the standards discussed below. *This criterion is met.*

8.3 § 33.5520 GRADING AND EROSION CONTROL STANDARDS

Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:

(A) Design Standards For Grading and Erosion Control

(1) Grading Standards

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;**
- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;**
- (c) Cuts and fills shall not endanger or disturb adjoining property;**
- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**

Staff: The applicant has provided development plans and documents that address the grading standards (Exhibit A.29 and A.37). The site plan indicates that 20,660 square feet of area will be disturbed. The applicant is proposing 821 cubic yards of cut and 279 cubic yards of fill materials will be brought to the subject properties. No cut or fill slopes are steeper than 3:1.

As required by the Geotechnical Report by Rapid Soil Solutions any compaction of fill shall be supplied to an engineer prior to compaction to ensure that the fill is appropriate for the foundation design (Exhibit A.29). Therefore, to ensure that this requirement is met, a condition will be required that a geotechnical engineer observes, test, and/or approve general excavation, stripping, fill placement, and sub-grades in addition to base.

The applicant is also proposing to bring fill gravel for the public road. The proposal includes the placement of 2 inches of gravel on NW Folkenberg St. and 8 inches of gravel on NW 6th Ave. and Valley St. Along 5th Avenue the public road will be widened and graded to 15 feet wide with a gravel base of 8 inches. The applicant will be required to meet the requirements as discussed in Section 9.0. *As conditioned, these criteria are met.*

- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

Staff: The proposed development is not adjacent to a natural watercourse although a watercourse does exist on each of the subject properties. The watercourse is approximately 100 to 150 feet from the development areas on each property. A Storm Water Certificate reviewed and signed by Kathleen Freeman, Professional Engineer and Certified Floodplain Manager dated July 6, 2017 certifies that each site has adequate capacity, with the construction of an on-site storm water system, to manage a 10-year/24 hour storm frequency (Exhibit A.30). Each of the properties will also require the construction of a pervious concrete driveway and a 40-feet-by-2.5-feet soakage trench. *This criterion is met.*

(2) Erosion Control Standards

(a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)". Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.

Staff: The proposed development is not located on a site within the Tualatin River Drainage Basin; therefore, this requirement is not applicable. *This criterion is met.*

(b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;

Staff: The proposed site plans indicate 28 trees will be removed over the entire project area, which includes each lot and within the right of way. Approximately 190 cubic yards of stripping, 20,660 square feet of disturbance, and 1,800 square feet of impervious surfaces will be constructed on each of the lots (Exhibit A.37). The site plans indicate that silt fencing and straw wattles will be used to minimize soil erosion within the development area. Additionally, seed will be used for temporary cover and permanent vegetation will be eventually used for long-term slope stabilization. The applicant has also indicated that the bio-bag check dams will be spaced along the NW Folkenberg Road, NW Valley Road, and NW 7th Ave to minimize soil erosion as part of the widening and graveling components of the project (Exhibit A.37). *This criterion is met.*

(c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;

Staff: The applicant has included development plans that indicate that the disturbed areas will be located within close proximity to each single-family dwelling and the maximum cut depth will be 7.2 feet with a maximum slope of 2:1. The plans also indicate that silt fencing and straw wattles to impede potential erosion (Exhibit A.3, A.25, A.30, and A.37). *This criterion is met.*

(d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;

Staff: The applicant has indicated that temporary and permanent seeding and vegetative cover will be used to protect exposed critical areas during development. To ensure that these

measures are in place, a condition will be required that temporary vegetation and/or mulching will be placed to protect exposed critical areas. *As conditioned, this criterion is met.*

(e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;

- 1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;**
- 2. The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;**

Staff: The proposed development is not adjacent to a natural watercourse. A watercourse does exist on each of the subject properties flowing through the middle of each of the subject properties. The watercourse is approximately 100 to 150 feet from the development areas on each property; therefore, the undisturbed buffer of natural vegetation is required. *As conditioned, this criterion is met.*

(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;

Staff: The applicant has included development plans describing that permanent seeding and plantings will be planted (Exhibit A.3, A.25, A.30, and A.37). To ensure that this requirement is met, a condition will be required that those plantings be installed as soon as practical. *As conditioned, this criterion is met.*

(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;

Staff: The applicant has indicated that silt fencing and straw wattles will be placed prior to, during, and after development to impede potential erosion concerns due to increased runoff. Bio-check dams will also be placed along NW 5th Ave., NW Valley St., and NW Folkenberg St. (Exhibit A.3, A.25, A.30, and A.37). *This criterion is met.*

(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;

Staff: The applicant has indicated that silt fencing and straw wattles will be placed prior to, during, and after development to impede potential erosion concerns due to increased runoff. Bio-check dams will also be placed along NW 5th Ave., NW Valley St., and NW Folkenberg St. (Exhibit A.3, A.25, A.30, and A.37). *This criterion is met.*

(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;

Staff: The applicant has indicated that temporary and permanent seeding and vegetative cover will be used to protect exposed critical areas during development (Exhibit A.3, A.25, A.30, and A.37). To ensure that this requirement is met, a condition will be required that stabilization measures be installed. *This criterion is met.*

(j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;

Staff: The proposed development was reviewed and certified by Kathleen Freeman, Professional Engineer and Certified Floodplain Manager on July 6, 2017. A Storm Water Certificate and plans indicated that each of the properties require the construction of a pervious concrete driveway and a 40-feet-by-2.5-feet soakage trench to adequately carry and manage existing and potential surface runoff at a 10-year/24 hour storm frequency (Exhibit A.30). *This criterion is met.*

(k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;

Staff: Kathleen Freeman, Professional Engineer and Certified Floodplain Manager reviewed the proposed development on July 6, 2017. A Storm Water Certificate and plans indicated that each of the properties will require the construction of a pervious concrete driveway and a 40-feet-by-2.5-feet soakage trench is needed to adequately carry existing and potential surface runoff in order to manage a 10-year/24 hour storm frequency (Exhibit A.30). The applicant has included development plans describing that permanent seeding and plantings will be planted to minimize potential erosion (Exhibit A.3, A.25, A.30, and A.37). *This criterion is met.*

(l) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:

- 1. Energy absorbing devices to reduce runoff water velocity;**
 - 2. Sedimentation controls such as sediment or debris basins.**
- Any trapped materials shall be removed to an approved disposal site on an approved schedule;**

3. Dispersal of water runoff from developed areas over large undisturbed areas.

Staff: The applicant has indicated that silt fencing and straw wattles will be placed prior to, during, and after development to impede potential erosion concerns due to increased runoff. Bio-check dams will also be placed along NW 5th Ave., NW Valley St., and NW Folkenberg St. (Exhibit A.3, A.25, A.30, and A.37). The applicant has also indicated that temporary and permanent seeding and vegetative cover will be used to protect exposed critical areas during development. To ensure that these measures are in place, a condition will be required that these measures be in place and kept in good working order to prevent polluting discharges from occurring. *As conditioned, these criteria are met.*

(m) Disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;

Staff: The proposed development is not adjacent to a natural watercourse. A watercourse does exist on each of the subject properties flowing through the middle of each of the subject properties. The contours would indicate that the slopes downward towards the watercourse, which is approximately 100 to 150 feet from the development areas on each property. Therefore a condition will be required that a disposed spoil material or stockpiled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures. *As conditioned, this criterion is met.*

(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.

Staff: A condition will be required that non-erosion pollution associated with construction shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities. *As conditioned, this criterion is met.*

(o) On sites within the Balch Creek Drainage Basin, erosion and stormwater control features shall be designed to perform as effectively as those prescribed in the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)". All land disturbing activities within the basin shall be confined to the period between May first and October first of any year. All permanent vegetation or a winter cover crop shall be seeded or planted by October first the same year the development was begun; all soil not covered by buildings or other impervious surfaces must be completely vegetated by December first the same year the development was begun.

Staff: The proposed development is not located on a site within the Balch Creek Drainage Basin; therefore, this requirement is not applicable. *This criterion is met.*

9.0 Transportation Standards

9.1 MCRR 4.000 Access to County Roads

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

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

Staff: The applicant has proposed to construct a new access onto 8th Ave, a local access road, under County Jurisdiction. The new access is shown on the applicant's site plan (Exhibit A.37). All required information has been submitted.

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

Staff: The two subject properties to be created via this project are served by one driveway each.

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

Staff: For a road classified as a local access road, there is no spacing standard for residential uses.

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

Staff: For a single-family use, a new or reconfigured driveway must be 12-25 feet wide. The new driveway shall meet these requirements. *As conditioned, this standard is met.*

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

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County

Design and Construction Manual or AASHTO's A Policy on Geometric Design of Highway and Streets.

Sight distance appears to be limited at the driveway access. The applicant must either demonstrate that sight distance requirements are met, propose mitigation measures that will meet this standard, or propose alternate measures acceptable to the County Transportation Division to mitigate sub-standard sight distance. Given the increase in traffic that this proposal will generate at the driveway location, it is vital to the safety of the traveling public to insure that adequate sight distance is available. Providing this sight distance will help to prevent traffic crashes in the future. *As conditioned, this standard is met.*

9.7 MCRR 5.000 Transportation Impact

9.8 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.**

9.9 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.

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

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

According to the ITE Manual, 8th Edition, a single-family use generates 10 trips per day. The property is currently vacant. Therefore, a transportation impact will be caused by the proposed development since trips generated by the site will be increased by more than 20 percent.

9.11 MCRR 6.000 Improvement Requirements

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

A. Dedication Requirement

Staff: The County standard right of way width for a *local access road* facility is 50 feet. The applicant is required to dedicate 5 feet in order to achieve a proportional share of this standard. This right of way will be used to improve the roadway to serve growing travel demand, which in part will be generated by this proposed action.

B. Frontage Improvement Requirements

Staff: The site's access, 5th Ave, is not a County road, but a public local access road under the County's jurisdiction. Improvement requirements are provided in the County Design and Construction Manual and must be approved by the local fire district to assure that the site can be served by emergency service vehicles.

Improvements to 8th Ave, Valley, 6th Ave, and Folkenberg are necessary to meet minimum requirements for emergency services access as described in the fire district requirements and as approved in the road rules variance below. Plans for the improvement to the road will need to be approved by a registered engineer. A construction permit will be required from the County to construct and inspect the road construction. *As conditioned, this standard is met.*

9.13 MCRR 16.000 Variance from County Standards and Requirements

9.14 MCRR 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;

Applicant: Access to this property is uniquely encumbered by topography and existing development patterns. Steep slopes and limited development potential characterize the site and the access roads leading to the site. There are very few opportunities for access and widening of roadways to the site due to the steep slopes. Right-of-way improvements to the surrounding street frontages would be impractical. Therefore, the site contains special circumstances that do not apply to other property in the same area.

Staff: As the applicant states, the combination of existing permitted uses and improvements, access points and topography is unique to the subject parcel, in comparison to surrounding uses. The variance improves safety and circulation on-site. Conditions have been included to ensure that transportation impacts are mitigated as well as ensuring that emergency access is possible. *As conditioned, this criterion is met.*

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;

Applicant: This site is the location of eight (8) of the original Falkenberg Plat lots. The Applicant could potentially construct eight (8) homes in this location. However, topography and roadway access limit the ability to construct homes in the area. The proposed replat will allow construction of two (2) homes. Without the variance permitting the reduced width of

frontage improvements, the Applicant would not be able to build even the two homes on this site, permitted by both the Falkenberg Plat and the Rural Residential zone. The Applicant cannot feasibly develop the two lots with strict adherence to the access and right-of-way improvement requirements and, therefore, this standard is met.

Staff: The requested 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 unique conditions of the site limit development. The applicant is proposing reducing the possible number of development sites in order to safely develop the two housing sites. The Fire District has reviewed and conditioned the proposal. The proposed access configuration aligns with existing improvements on-site, supports the use, and ensures emergency access. Reconfiguration would require substantial regrading, and realignment of existing accesses and uses that exist. *This criterion is met.*

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;

Applicant: This site has frontage on the platted Valley Street and 5th Avenue, both of which are improved but non-standard right-of-ways. There are very few homes in this rural residential area and, after the proposed replat, there will be fewer platted lots for development. The variance to the right-of-way improvement requirement will not be materially detrimental to the public welfare or injurious to other property in the vicinity, as these roadways are not utilized by the public or surrounding properties. The development of adjoining properties would most appropriately include access from a roadway not encumbered by the extreme topography characteristic of this site, Valley Street, and 5th Avenue. This standard is met.

Staff: Based on a review of the requested variance, 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. As the applicant states, the proposal will improve the access and ensures emergency access. This variance minimizes impact to neighboring properties while providing access. All stormwater will be managed and impact to properties is not anticipated. *As conditioned, this criterion is met*

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

Applicant: The Applicant is in the process of purchasing the eight (8) Falkenberg lots in the platted location adjacent to Valley Street and 5th Avenue. The Applicant has not performed any grading on or adjacent to the site which would create the topographic hardship. The circumstances of the hardship are not of the Applicant's making and, therefore, this standard is met.

Staff: As stated by the applicant, the lot configuration and access were created by Plat. Additionally, topography limitations beyond the applicant's control limit locations of access points and where improvements can occur. *This criterion is met.*

9.15 MCRR 16.250 Local Access Road Standards: The County Engineer will consider a variance from the improvement standards for a Local Access Road in the Design and

Construction Manual if the topography or other features of the site make compliance with the improvement standards infeasible. Any variance issued under this Section must meet the criteria of section 16.200 of these rules as well as the minimum requirements of the local police, fire and emergency service providers, any applicable Building Code Requirements, any applicable Land Use Code requirements and meet any other applicable environmental requirements.

Applicant: The Applicant requests a variance from the improvement standards for the Local Access Roads of Valley Street and 5th Avenue because the topography of the site makes compliance with the improvement standards infeasible. All criteria of section 16.200 have been addressed within this narrative. The Applicant has contacted the fire district to ensure compliance with all applicable requirements. All Land Use Code requirements of this proposed development have been discussed in this narrative. Building Code Requirements have been reviewed and the proposed variance would not result in the final development falling out of compliance with any Building Code requirements.

Staff: The applicant has submitted a road rules variance from the local access road requirements. The applicant has worked with emergency service providers to identify minimum requirements needed for the safety of the use and to ensure access and has identified conditions. The applicant will also need to comply with Land Use Code requirements and applicable environmental requirements. The applicant will be required to obtain a construction permit in order to implement the proposed variance from the local access road standards are identified in the Road Improvement Plans dated 2/5/2018. *As conditioned, this criterion is met.*

9.16 MCRR 16.3000 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.**

Staff: The applicant has provided A-L above as included in their application materials. *This criterion is met.*

Note: that this information is supplemented with exhibits submitted including a Traffic Impact Analysis and Traffic Management Plan and is part of the project's record.

10.0 Public Comment

- 10.1 Dennis Schultz and Marian Doll submitted a letter concerning the proposed development and the development's impact on wildlife habitat, McCarthy Creek, transportation impacts, the condition of the bridge, and availability of well water. Findings under Section 7 and 9 of this decisions and proposed conditions of approval address the concerns by limiting wildlife habitat impacts in compliance with Oregon Statewide Land Use Planning Goal 5 and transportation impacts subject to Road Rules Variance requirements. Section 6.4 and the requirements of the Oregon Department of Water Resources address the availability of well water. The applicant has also provided a response to the comments in Exhibit A.35 discussing the Schultz and Doll's concern (Exhibit D.1).
- 10.2 Shiloh and Kate Rideout submitted a letter concerning the proposed development and the development's impact on their property. The Rideouts discuss the proposed public road and possible encroachment of the roadway on their property and the current condition of the public road. These concerns are addressed in Section 9 in regards to the transportation impacts subject to Road Rules Variance requirements. They also expressed concerns about fire access and additional trips generated by the development, which are addressed by the Tualatin Valley Fire and Rescue (Exhibit A.33). The applicant has also provided a response to the comments in Exhibit A.35 discussing the Rideouts' concern (Exhibit D.2 and D.3)
- 10.3 Kristine Delzell submitted a letter concerning the development's erosion potential and the local water table. Grading and erosion standards are discussed in Section 8 and Section 6.4 and the requirements of the Oregon Department of Water Resources address the availability of well water. The applicant has also provided a response to the comments in Exhibit A.35 discussing the Delzell's concern (Exhibit D.4)
- 10.4 Elinor Markgraf submitted a letter concerning the development's erosion potential, impacts of constructing a road, and the water table. Findings under Section 7, 8, and 9 of this decisions and proposed conditions of approval address those concerns. Section 8 discusses grading and erosion standards, Section 6.4 discusses the availability of well water, and Section 9 discusses the impacts of road construction. The applicant has also provided a response to the comments in Exhibit A.35 discussing the Markgraf's concern (Exhibit D.5).

11.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for a Replat, a Hillside Development and Erosion Control Permit, a Significant Environmental Concern for Wildlife Habitat (SEC-h) permit, and a Road Rules Variance to establish a single-family dwelling on each of the two lots in the Rural Residential zone.

12.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

‘D’ Comments Received

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 T2-2016-6543 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	12/29/2016
A.2	8	Pre-Filing Conference Notes	12/29/2016
A.3	20	Narrative	12/29/2016
A.4	1	Memorandum between Andrew Tull and Reed Kaplan	12/29/2016
A.5	14	Fidelity National Title for Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.6	14	Fidelity National Title for Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.7	2	Site Plan	12/29/2016
A.8	15	Geotechnical Report Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.9	15	Geotechnical Report Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.10	12	Septic System Design Plans for Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.11	2	Department of Environmental Quality (DEQ) Access and Hold Harmless Agreement for Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.12	2	Department of Environmental Quality (DEQ) Land Use Compatibility Statement for Onsite Wastewater Treatment Systems Permits for Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.13	1	Department of Environmental Quality (DEQ) Application of Onsite Sewage Treatment System for Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.14	4	Department of Environmental Quality (DEQ) Site Evaluation Report for Tax lot 800, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016

A.15	1	Certification of Water Service	12/29/2016
A.16	10	Septic System Design Plans for Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.17	2	Department of Environmental Quality (DEQ) Access and Hold Harmless Agreement Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.18	2	Department of Environmental Quality (DEQ) Land Use Compatibility Statement for Onsite Wastewater Treatment Systems Permits Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.19	1	Department of Environmental Quality (DEQ) Application of Onsite Sewage Treatment System Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.20	4	Department of Environmental Quality (DEQ) Site Evaluation Report Tax lot 900, Section 30B, Township 2 North, Range 1 West, W.M.	12/29/2016
A.21	1	Certification of Water Service	12/29/2016
A.22	18	Fire Service Agency Review	12/29/2016
A.23	2	Storm Water Certificates signed by Kent W. Cox, Registered Professional Engineer on December 28, 2016	12/29/2016
A.24	2	Ecoroof Design Requirements	12/29/2016
A.25	5	Revised Narrative addressing Incomplete Items	08/21/2017
A.26	4	Revised Site Plans (reduced to 11" x 17") <ul style="list-style-type: none"> - Sheet Number C200 - Tentative Plat - Sheet Number C250 - Road Improvement Plan - Sheet Number C300 - Site Plan - Sheet Number C400 - Standard Details 	08/21/2017
A.27	4	Revised Site Plans (22" x 34") <ul style="list-style-type: none"> - Sheet Number C200 - Tentative Plat - Sheet Number C250 - Road Improvement Plan - Sheet Number C300 - Site Plan - Sheet Number C400 - Standard Details 	08/21/2017
A.28	15	Applicant Statement regarding Road Rules Variance	08/21/2017
A.29	37	Infiltration Tests signed by Mia C. Mahedy-Sexton, Registered Professional Engineer on July 26, 2017	08/21/2017
A.30	23	Revised Storm Water Certificates signed by Kathleen Freeman, Registered Professional Engineer on August 8, 2017	08/21/2017
A.31	5	Bridge Inspection Report	08/21/2017

A.32	4	Revised Site Plans (22" x 34") - Sheet Number C200 - Tentative Plat - Sheet Number C250 - Road Improvement Plan - Sheet Number C300 - Site Plan - Sheet Number C400 - Standard Details	03/05/2018
A.33	22	Tualatin Valley Fire and Rescue Alternative Methods and Material Memorandum and Fire Service Agency Review	03/05/2018
A.34	1	Rapid Soil Solutions Field Memo concerning grading and erosion control plans	03/05/2018
A.35	10	Applicant Response to public comments and aerial photos	03/05/2018
A.36	1	Rapid Soil Solutions Field Memo concerning grading and erosion control plans	03/26/2018
A.37*	4	Revised Site Plans (22" x 34") - Sheet Number C200 - Tentative Plat - Sheet Number C250 - Road Improvement Plan - Sheet Number C300 - Site Plan - Sheet Number C400 - Standard Details	03/26/2018
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W30B -00800 (R289605470)	12/29/2016
B.2	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W30B -00900 (R289605270)	12/29/2016
B.3	1	Department of Assessment, Records and Taxation (DART): Map for 2N1W30B -00900 (R289605270) and 2N1W30B -00800 (R289605470)	12/29/2016
B.4	1	Map of Folkenberg Subdivision platted on June 17, 1911 (reduced to 11" x 17")	08/21/2017
B.5	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W30B -00800 (R289605470) showing updated ownership	08/21/2017
B.6	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W30B -00900 (R289605270) showing updated ownership	08/21/2017
B.7	1	Record of Survey, Survey #65716 filed on August 31, 2017 (reduced to 11" x 17")	10/16/2017
B.8	1	State of Oregon Water Supply Well Report for 15015 NW Cornelius Pass Road	10/31/2017
B.9	1	State of Oregon Water Supply Well Report for 15030 NW Cornelius Pass Road	10/31/2017

B.10	1	Aerial Photo	10/31/2017
B.11	2	Applicant's and Surveyor's Finishing a Land Division	04/11/2018
'C'	#	Administration & Procedures	Date
C.1	8	Pre-Filing Conference Notes	12/29/2016
C.2	8	Incomplete letter	01/27/2017
C.3	7	Incomplete letter #2	06/20/2017
C.4	1	Email from Garrett Stephenson declaring T2-2016-6543 is complete	06/27/2017
C.5	1	Complete letter (day 1) mailed on July 7, 2017	06/27/2017
C.6	1	Extension to 150-Day Deadline for ninety (90) days	06/26/2017
C.7	1	Extension to 150-Day Deadline for thirty (30) days	01/05/2018
C.8	4	Opportunity to comment & mailing list	01/19/2018
C.9	1	Extension to 150-Day Deadline for thirty (30) days	02/05/2018
C.10	1	Extension to 150-Day Deadline waving the 150-day deadline	03/12/2018
C.11		Administrative decision & mailing list	
'D'	#	Public Comment Received	Date
D.1	6	Letter and Photos from Dennis Schultz and Marian Doll	02/04/2018
D.2	11	Letter and Photos from Shiloh Rideout and Kate Rideout	02/04/2018
D.3	12	E-mail from Kate Rideout with color photos from Exhibit D.2	02/04/2018
D.4	1	E-mail from Kristine Delzell	02/05/2018
D.4	1	E-mail from Elinor Markgraf	02/05/2018