

ANNOTATED MINUTES

*Tuesday, December 14, 1993 - 9:30 AM
Multnomah County Courthouse, Room 602*

BOARD BRIEFINGS

- B-1 Review of Land Use Appeal Hearing Practices and Procedures. Request Board direction on a strategy for the Processing of Appeals of Hearings Officer/Planning Commission Decisions on Quasi-Judicial Land Use Applications. Presented by R. Scott Pemble, Laurence Kressel and Representatives from Clackamas County Counsel, Portland City Attorney and Metro Legal Counsel.*

**PRESENTATION AND RESPONSE TO BOARD QUESTIONS BY
LAURENCE KRESSEL, ADRIENNE BROCKMAN, SCOTT PEMBLE
AND MIKE JUDD. BOARD DISCUSSION AND COMMENTS.
DISCUSSION TO CONTINUE FOLLOWING AFTERNOON
PLANNING MEETING.**

- B-2 Briefing and Discussion of Program Measurements and Program Narrative. Presented by Dave Warren and Gary Blackmer.*

**PRESENTATION AND RESPONSE TO BOARD QUESTIONS BY
DAVE WARREN AND GARY BLACKMER.**

*Tuesday, December 14, 1993 - 1:30 PM
Multnomah County Courthouse, Room 602*

PLANNING ITEMS

Chair Beverly Stein convened the meeting at 1:40 p.m., with Vice-Chair Gary Hansen, Commissioners Sharron Kelley and Dan Saltzman present, and Commissioner Tanya Collier excused.

- P-1 LD 2-93/MC 1-93 Review the November 24, 1993 Planning and Zoning Hearings Officer Decision DENYING Tentative Plan for the Type I Land Division Requested, a Partition Resulting in Three Lots; and DENYING the Request to Use Easements as a Means of Access to Proposed Parcels 1 and 3, for Property Located at 17903 NW ST. HELENS ROAD.*

DECISION READ, NO APPEAL FILED, DECISION STANDS.

- P-2 C 7-93 First Reading of a Proposed ORDINANCE Amending Sections of MCC 11.45, the Multnomah County Land Division Ordinance*

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES
AVAILABLE. COMMISSIONER SALTZMAN MOVED AND
COMMISSIONER KELLEY SECONDED, APPROVAL OF THE
FIRST READING. PLANNER DAVE PRESCOTT PRESENTATION**

AND RESPONSE TO BOARD QUESTIONS. COUNSEL JOHN DuBAY COMMENTS AND RESPONSE TO BOARD QUESTIONS. FIRST READING UNANIMOUSLY APPROVED. SECOND READING SCHEDULED FOR 1:30 P.M., TUESDAY, DECEMBER 28, 1993.

AT 1.55 P.M., THE BOARD RESUMED DISCUSSION OF LAND USE APPEAL PRACTICE AND PROCEDURES FROM MORNING BRIEFING. MR. PEMBLE PRESENTED STAFF RECOMMENDATIONS. MR. DuBAY AND MR. PEMBLE RESPONSE TO BOARD QUESTIONS. BOARD DISCUSSION. BOARD DIRECTED STAFF TO PREPARE CODE AMENDMENT TO NO LONGER REQUIRE TRANSCRIPT PREPARATION, AND TO LOOK INTO SOME TYPE OF BOARD ROOM SIGNAGE WITH INSTRUCTIONS FOR PUBLIC PROCESS AND PROCEDURES FOR APPEAL HEARINGS. CHAIR STEIN DIRECTED THAT STAFF REPLY TO SURVEY PARTICIPANTS ADVISING OF THE CHANGES TO BE MADE IN CONNECTION WITH THEIR RESPONSE.

There being no further business, the meeting was adjourned at 2:40 p.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**


Deborah L. Bogstad

*Tuesday, December 14, 1993 - 2:45 PM
Multnomah County Courthouse, Room 602*

WORK SESSION

WS-1 Program Measurements and Program Narrative for the Department of Library Services.

PRESENTATION AND RESPONSE TO BOARD QUESTIONS BY DAVE WARREN, GINNIE COOPER, PAUL MILLIUS, CHING HAY, MEGANNE STEELE, JEANNE GOODRICH AND MARGARET EPTING.

*Wednesday, December 15, 1993 - 8:30 AM
Multnomah County Courthouse, Room 602*

WORK SESSIONS

WS-2 Program Measurements and Program Narrative for the Multnomah County Sheriff's Office.

**PRESENTATION AND RESPONSE TO BOARD QUESTIONS BY
SHERIFF BOB SKIPPER, LARRY AAB, RANDY AMUNDSON,
STEVE TILLINGHAST, JOHN SCHWEITZER, AND JAN
LANGFORD.**

WS-3 *Program Measurements and Program Narrative for the District Attorney's Office*

**PRESENTATION AND RESPONSE TO BOARD QUESTIONS BY
MICHAEL SCHRUNK.**

*Thursday, December 16, 1993 - 9:30 AM
Multnomah County Courthouse, Room 602*

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:32 a.m., with Commissioners Sharron Kelley and Dan Saltzman present, Commissioner Tanya Collier excused and Vice-Chair Hansen to arrive late.

CONSENT CALENDAR

**UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY
COMMISSIONER SALTZMAN, THE CONSENT CALENDAR WAS
UNANIMOUSLY APPROVED.**

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-1 *ORDER in the Matter of the Execution of Deed D940971 for Certain Tax Acquired
Property to AAA Structures, Inc.*

ORDER 93-388.

REGULAR AGENDA

NON-DEPARTMENTAL

R-6 *First Reading and Possible Adoption of an ORDINANCE Repealing Multnomah
County Ordinances 632 and 751, and Creating the Multnomah Commission on
Children and Families, and Declaring an Emergency*

**PROPOSED ORDINANCE READ BY TITLE ONLY. COPIES
AVAILABLE. COMMISSIONER SALTZMAN MOVED AND
COMMISSIONER KELLEY SECONDED, APPROVAL OF THE
FIRST READING AND ADOPTION. CHAIR STEIN
EXPLANATION. BOARD COMMENTS. ORDINANCE 780
UNANIMOUSLY APPROVED.**

R-7 *In the Matter of the Appointments of Judith Armatta, Kathy Dimond, Bernie Guisto,
Chisao Hata, David Jordan, Kay Lowe, Janice Nightingale, Roby Roberts, Steve*

Fulmer, Muriel Goldman, Betty Jean Lee, Sharon McCluskey, Thach Nguyen, Blanca Ruckert, Jana Shouter, Cornetta Smith, Luther Sturdevant, Maria Tenorio, Pauline Anderson, Jacki Cottingim, Mimi Gray, Samuel Henry, Mark Rosenbaum, Joseph Tam, Kay Toran, Nan Waller and Diane Walton to the MULTNOMAH COMMISSION ON CHILDREN AND FAMILIES

CHAIR STEIN PRESENTATION AND INTRODUCTION OF APPOINTEES AND COMMISSION CHAIR PAULINE ANDERSON. MS. ANDERSON COMMENTS. UPON MOTION OF COMMISSIONER SALTZMAN, SECONDED BY COMMISSIONER KELLEY, R-7 WAS UNANIMOUSLY APPROVED.

CHAIR STEIN INTRODUCED NEWLY APPOINTED COMMISSION DIRECTOR HELEN RICHARDSON. MS. RICHARDSON COMMENTS.

The Board recessed at 9:54 a.m. and reconvened at 10:02 a.m. Vice-Chair Hansen arrived at 10:03 a.m.

R-1 *Presentation in the Matter of Employee Service Awards Honoring Multnomah County Employees with Five to Thirty Years of Service.*

BOARD COMMENTS IN APPRECIATION OF COUNTY EMPLOYEES. BOARD GREETED, ACKNOWLEDGED AND PRESENTED 5 YEAR AWARDS TO MATHEW DELENIKOS, RICHIE GOSS, LYLE HALVERSON, JUANITA JOHNSON, DANIEL PINKNEY AND SANDRA RORICK OF DCC; JAMES CRAFT, PAUL DAILEY, BETTY HOPKINS, ROBERT MASSEY AND MICHAEL TROJAN OF DES; LORNA SCHILLING OF DLS; JOHN DuBAY OF NOND; LINDA BAILEY, ALLISON BELCHER, DEBORAH DANNER, WILLIAM GROSSIE, KRISTINA OGILVIE, CAROLINE SULLIVAN AND DUANE WILLHITE OF DSS; 10 YEAR AWARD PRESENTED TO MARY FARRIER OF DCC. 15 YEAR AWARDS PRESENTED TO WILLIAM BENDER, SIDNEY DICKERSON AND BONNIE SCOTT OF DCC; THOMAS DANIELS, JAMES KOCH, CURTIS MEADE, SANDRA MOORHEAD, GLORIA PICKERING, WILLIAM SMITH, SAVANA SWAIN AND FRANCINE YUNKER OF DES. 20 YEAR AWARDS PRESENTED TO JAMES MASON, KATHLEEN STALLINGS AND EDNA THOMPSON OF DCC; DONALD COURSER AND PAMELA GULLEY OF DES. 25 YEAR AWARDS PRESENTED TO MICHAEL GILSDORF AND ROBERT SULLIVAN OF DES. 30 YEAR AWARD PRESENTED TO STANLEY BUCKNUM OF DLS.

R-2 *PUBLIC HEARING and Consultation Regarding Cancellation of Real Property Taxes for 335 Real Property Tax Accounts Located within Multnomah County, in the Approximate Amount of \$876,046.60*

VICE-CHAIR HANSEN AND ERIC STEN PRESENTATION, EXPLANATION AND INTRODUCTION OF MAXINE

FITZPATRICK. HEARING HELD, NO ONE WISHED TO TESTIFY.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 *RESOLUTION in the Matter of Approval of an Intergovernmental Agreement for Management of the "Willamette Shore Line" Right of Way*

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-3. SCOTT PEMBLE PRESENTATION, EXPLANATION AND INTRODUCTION OF SHARON KELLY-MEYER AND JENNIFER RYAN. RESOLUTION 93-389 UNANIMOUSLY APPROVED.

- R-4 *RESOLUTION in the Matter of Creating an Interim Multnomah County Advisory Fair Board.*

COMMISSIONER KELLEY MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-4. HANK MIGGINS EXPLANATION AND RESPONSE TO BOARD QUESTIONS. BOARD RECOGNITION AND ACKNOWLEDGEMENT OF FAIR TASK FORCE MEMBERS IN AUDIENCE. RESOLUTION 93-390 UNANIMOUSLY APPROVED. RICK SANDERS TESTIMONY IN SUPPORT OF ADVISORY FAIR BOARD.

NON-DEPARTMENTAL

- R-5 *RESOLUTION in the Matter of Multnomah County's Participation in a Cities/County Coordinating Committee*

AT THE REQUEST OF CHAIR STEIN AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER SALTZMAN, IT WAS UNANIMOUSLY APPROVED THAT R-5 BE CONTINUED THURSDAY, DECEMBER 23, 1993.

SHERIFF'S OFFICE

- R-8 *Ratification of Intergovernmental Agreement Contract 800544 Between the City of Portland and Multnomah County, Providing Sheriff's Office Access to the 800 MHZ, Simulcast and Trunking Radio System*

AT THE REQUEST OF CHAIR STEIN AND UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, IT WAS UNANIMOUSLY APPROVED THAT R-8 BE CONTINUED THURSDAY, DECEMBER 23, 1993.

DEPARTMENT OF COMMUNITY CORRECTIONS

- R-9 *Budget Modification DCC #2 Requesting Authorization to Increase ADAPT Grant Revenue and Move Sanctions and Services Revenue to Program Development Budget within the Southeast Division Budget*

COMMISSIONER HANSEN MOVED AND COMMISSIONER SALTZMAN SECONDED, APPROVAL OF R-9. TAMARA HOLDEN EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

- R-10 *Budget Modification DCC #3 Requesting Authorization to Increase Personal Services and Decrease Materials and Services in the Day Reporting Center within the West District Division Budget*

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-10. TAMARA HOLDEN EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF LIBRARY SERVICES

- R-11 *Budget Modification DLS #2 Requesting Authorization to Increase the Department of Library Services Indirect Cost Rate from 6.14% to 6.9%, as Specified in the 1993-94 Indirect Cost Rate Agreement*

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-11. CHING HAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

DEPARTMENT OF HEALTH

- R-12 *Ratification of Intergovernmental Agreement Contract 201744 Between the Oregon Office of Medical Assistance (OMAP) and Multnomah County, for the Provision of Fully Capitated Health Services to Medicaid Clients through CareOregon, for the Period February 1, 1994 through September 30, 1994*

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-12. TOM FRONK AND MARY LOU HENNRICH PRESENTATION, EXPLANATION AND RESPONSE TO BOARD QUESTIONS. STAFF TO PROVIDE BOARD WITH QUARTERLY FINANCIAL UPDATES. BOARD COMMENTS. AGREEMENT UNANIMOUSLY APPROVED.

- R-13 *Ratification of Intergovernmental Agreement Contract 201104 Between the Oregon Office of Medical Assistance (OMAP) and Multnomah County, Wherein the Health Department Acts as a Dental Care Organization (DCO) to Provide Members of OMAP's Oregon Health Plan with Prepaid Dental Services on a Capitated Basis, for the Period February 1, 1994 through September 30, 1994*

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-13. MR. FRONK EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

CHILDREN AND FAMILIES SERVICES DIVISION

- R-14 *Request for Approval in the Matter of a Grant Award from the Oregon Commission on Children and Families, Juvenile Justice and Delinquency Prevention Office, to Provide Partial Funding for the Roosevelt Cluster Coordinator Position, for the Retroactive Period July 1, 1993 through September 30, 1993*

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-14. REY ESPANA EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-16 *Ratification of Intergovernmental Agreement Contract 301174 Between Metro and Multnomah County, Transferring Effective January 1, 1994, the Operation and Management of Regional Parks, Natural Areas, Golf Courses, Cemeteries and Trade Spectator Facilities Presently Owned and Operated by Multnomah County, to Metro, Including Transfer of all Personnel and Financial Assets of the County's Recreation Fund, Phase I, and Effective July, 1996, Transfer of County Ownership of Those Facilities and Associated Property to Metro, Phase II*

COMMISSIONER HANSEN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-16. BETSY WILLIAMS SUBMITTED AN AMENDED AGREEMENT FOR BOARD CONSIDERATION. MS. WILLIAMS PRESENTATION, EXPLANATION AND RESPONSE TO BOARD QUESTIONS. TESTIMONY IN OPPOSITION TO TRANSFER FROM TOM CROPPER AND RICK SANDERS. BOARD RESPONSE TO MR. SANDERS. BOARD COMMENTS. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, THE AMENDMENTS WERE UNANIMOUSLY APPROVED. THE AGREEMENT AS AMENDED WAS UNANIMOUSLY APPROVED. MR. MIGGINS COMMENTS IN SUPPORT OF EXCELLENT EXPO STAFF.

PUBLIC COMMENT

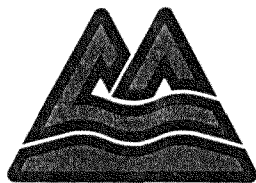
- R-15 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

There being no further business, the meeting was adjourned at 11:15 a.m.

**OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON**


Deborah L. Bogstad

12-16-93.MIN/deb



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR •	248-3308
DAN SALTZMAN •	DISTRICT 1 •	248-5220
GARY HANSEN •	DISTRICT 2 •	248-5219
TANYA COLLIER •	DISTRICT 3 •	248-5217
SHARRON KELLEY •	DISTRICT 4 •	248-5213
CLERK'S OFFICE •	248-3277 •	248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

DECEMBER 13, 1993 - DECEMBER 17, 1993

Tuesday, December 14, 1993 - 9:30 AM - Board Briefings.Page 2

Tuesday, December 14, 1993 - 1:30 PM - Planning ItemsPage 2

Tuesday, December 14, 1993 - 2:45 PM - Work SessionPage 2

Wednesday, December 15, 1993 - 8:30 AM - Work SessionsPage 3

Thursday, December 16, 1993 - 9:30 AM - Regular Meeting.Page 3

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen at the following times:

Thursday, 10:00 PM, Channel 11 for East and West side subscribers

Thursday, 10:00 PM, Channel 49 for Columbia Cable (Vancouver) subscribers

Friday, 6:00 PM, Channel 22 for Paragon Cable (Multnomah East) subscribers

Saturday 12:00 Noon, Channel 21 for East Portland and East County subscribers

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Tuesday, December 14, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

BOARD BRIEFINGS

- B-1 *Review of Land Use Appeal Hearing Practices and Procedures. Request Board direction on a strategy for the Processing of Appeals of Hearings Officer/Planning Commission Decisions on Quasi-Judicial Land Use Applications. Presented by R. Scott Pemble, Laurence Kressel and Representatives from Clackamas County Counsel, Portland City Attorney and Metro Legal Counsel. 9:30 AM TIME CERTAIN, 90 MINUTES REQUESTED.*
- B-2 *Briefing and Discussion of Program Measurements and Program Narrative. Presented by Dave Warren and Gary Blackmer. 11:00 AM TIME CERTAIN, 1 HOUR REQUESTED.*
-

Tuesday, December 14, 1993 - 1:30 PM

Multnomah County Courthouse, Room 602

PLANNING ITEMS

- P-1 *LD 2-93/MC 1-93 Review the November 24, 1993 Planning and Zoning Hearings Officer Decision DENYING Tentative Plan for the Type I Land Division Requested, a Partition Resulting in Three Lots; and DENYING the Request to Use Easements as a Means of Access to Proposed Parcels 1 and 3, for Property Located at 17903 NW ST. HELENS ROAD.*
- P-2 *C 7-93 First Reading of a Proposed ORDINANCE Amending Sections of MCC 11.45, the Multnomah County Land Division Ordinance. 1 HOUR REQUESTED.*
-

Tuesday, December 14, 1993 - 2:45 PM

Multnomah County Courthouse, Room 602

WORK SESSION

- WS-1 *Program Measurements and Program Narrative for the Department of Library Services. 2:45 PM TIME CERTAIN, 2 1/4 HOURS REQUESTED.*
-

Wednesday, December 15, 1993 - 8:30 AM

Multnomah County Courthouse, Room 602

WORK SESSION

- WS-2 *Program Measurements and Program Narrative for the Multnomah County Sheriff's Office. 8:30 AM TIME CERTAIN, 2 HOURS REQUESTED.*
- WS-3 *Program Measurements and Program Narrative for the Department of Community Corrections. 10:30 AM TIME CERTAIN, 1 1/2 HOURS REQUESTED.*
-

Thursday, December 16, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

CONSENT CALENDAR

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-1 *ORDER in the Matter of the Execution of Deed D940971 for Certain Tax Acquired Property to AAA Structures, Inc.*

REGULAR AGENDA

NON-DEPARTMENTAL

- R-1 *Presentation in the Matter of Employee Service Awards Honoring Multnomah County Employees with Five to Thirty Years of Service. 9:30 AM TIME CERTAIN, 30 MINUTES REQUESTED.*
- R-2 *PUBLIC HEARING and Consultation Regarding Cancellation of Real Property Taxes for 335 Real Property Tax Accounts Located within Multnomah County, in the Approximate Amount of \$876,046.60. 10:00 AM TIME CERTAIN, 10 MINUTES REQUESTED.*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 *RESOLUTION in the Matter of Approval of an Intergovernmental Agreement for Management of the "Willamette Shore Line" Right of Way. 10:15 AM TIME CERTAIN, 15 MINUTES REQUESTED.*
- R-4 *RESOLUTION in the Matter of Creating an Interim Multnomah County Advisory Fair*

Board. 10:30 AM TIME CERTAIN, 15 MINUTES REQUESTED.

NON-DEPARTMENTAL

- R-5 *RESOLUTION in the Matter of Multnomah County's Participation in a Cities/County Coordinating Committee (CONTINUED FROM DECEMBER 9, 1993. PLEASE NOTE: CHAIR STEIN WILL BE REQUESTING A CONTINUANCE TO DECEMBER 23, 1993.)*
- R-6 *First Reading and Possible Adoption of an ORDINANCE Repealing Multnomah County Ordinances 632 and 751, and Creating the Multnomah Commission on Children and Families, and Declaring an Emergency*
- R-7 *In the Matter of the Appointments of Judith Armatta, Kathy Dimond, Bernie Guisto, Chisao Hata, David Jordan, Kay Lowe, Janice Nightingale, Roby Roberts, Steve Fulmer, Muriel Goldman, Betty Jean Lee, Sharon McCluskey, Thach Nguyen, Blanca Ruckert, Jana Shouter, Cornetta Smith, Luther Sturdevant, Maria Tenorio, Pauline Anderson, Jacki Cottingim, Mimi Gray, Samuel Henry, Mark Rosenbaum, Joseph Tam, Kay Toran, Nan Waller and Diane Walton to the MULTNOMAH COMMISSION ON CHILDREN AND FAMILIES*

SHERIFF'S OFFICE

- R-8 *Ratification of Intergovernmental Agreement Contract 800544 Between the City of Portland and Multnomah County, Providing Sheriff's Office Access to the 800 MHZ, Simulcast and Trunking Radio System*

DEPARTMENT OF COMMUNITY CORRECTIONS

- R-9 *Budget Modification DCC #2 Requesting Authorization to Increase ADAPT Grant Revenue and Move Sanctions and Services Revenue to Program Development Budget within the Southeast Division Budget*
- R-10 *Budget Modification DCC #3 Requesting Authorization to Increase Personal Services and Decrease Materials and Services in the Day Reporting Center within the West District Division Budget*

DEPARTMENT OF LIBRARY SERVICES

- R-11 *Budget Modification DLS #2 Requesting Authorization to Increase the Department of Library Services Indirect Cost Rate from 6.14% to 6.9%, as Specified in the 1993-94 Indirect Cost Rate Agreement*

DEPARTMENT OF HEALTH

- R-12 *Ratification of Intergovernmental Agreement Contract 201744 Between the Oregon Office of Medical Assistance (OMAP) and Multnomah County, for the Provision of*

Fully Capitated Health Services to Medicaid Clients through CareOregon, for the Period February 1, 1994 through September 30, 1994

- R-13 *Ratification of Intergovernmental Agreement Contract 201104 Between the Oregon Office of Medical Assistance (OMAP) and Multnomah County, Wherein the Health Department Acts as a Dental Care Organization (DCO) to Provide Members of OMAP's Oregon Health Plan with Prepaid Dental Services on a Capitated Basis, for the Period February 1, 1994 through September 30, 1994*

CHILDREN AND FAMILIES SERVICES DIVISION

- R-14 *Request for Approval in the Matter of a Grant Award from the Oregon Commission on Children and Families, Juvenile Justice and Delinquency Prevention Office, to Provide Partial Funding for the Roosevelt Cluster Coordinator Position, for the Retroactive Period July 1, 1993 through September 30, 1993*

PUBLIC COMMENT

- R-15 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR	• 248-3308
DAN SALTZMAN •	DISTRICT 1	• 248-5220
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TANYA COLLIER •	DISTRICT 3	• 248-5217
SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

SUPPLEMENTAL AGENDA

Thursday, December 16, 1993 - 9:30 AM

Multnomah County Courthouse, Room 602

REGULAR MEETING

- R-16 *Ratification of Intergovernmental Agreement Contract 301174 Between Metro and Multnomah County, Transferring, Effective January 1, 1994, the Operation and Management of Regional Parks, Natural Areas, Golf Courses, Cemeteries, and Trade/Spectator Facilities Presently Owned and Operated by Multnomah County to Metro, Including Transfer of All Personnel and Financial Assets of the County's Recreation Fund (Phase I); and Effective July, 1996, Transfer of County Ownership of Those Facilities and Associated Property to Metro (Phase II)*

1993-4.AGE/50

TANYA COLLIER
Multnomah County Commissioner
District 3



1120 SW Fifth St., Suite 1500
Portland, OR 97204
(503) 248-5217

MEMORANDUM

TO: Clerk of the Board
Chair, Beverly Stein
Commissioner Gary Hansen
Commissioner Sharron Kelley
Commissioner Dan Saltzman

FROM: Commissioner Tanya Collier

DATE: December 14, 1993

SUBJECT: Absence from December 14, 1993 Afternoon Board Briefing

Please excuse Tanya from the afternoon Board briefing on December 14, 1993.
The Commissioner has gone home for the day with flu symptoms.

Thank you.

TC:sf

BOARD OF
COUNTY COMMISSIONERS
1993 DEC 14 PM 5:53
MULTNOMAH COUNTY
OREGON

MEETING DATE: December 14, 1993

AGENDA NO: P-1

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Review of Hearings Officer Decision of November 24, 1993

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: December 14, 1993

Amount of Time Needed: 2 Minutes

DEPARTMENT: DES

DIVISION: Planning

CONTACT: R. Scott Pemble

TELEPHONE #: 3182

BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY

☐ POLICY DIRECTION

☐ APPROVAL

(x) Denial

☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

LD 2-93/MC 1-93 Review the Decision of the Hearings Officer of November 24, 1993, Denying requested type II land division and denying request to use easements as a means of access to proposed Parcels 1 and 3, all for property located at 17903 NW St. Helens Road.

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER: Betsy Williams

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93

MEETING DATE: December 14, 1993

AGENDA NO: _____

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Review of Hearings Officer Decision of November 24, 1993

BOARD BRIEFING Date Requested: _____

Amount of Time Needed: _____

REGULAR MEETING: Date Requested: December 14, 1993

Amount of Time Needed: 2 Minutes

DEPARTMENT: DES

DIVISION: Planning

CONTACT: R. Scott Pemble

TELEPHONE #: 3182

BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: Planning Staff

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☒ Denial
☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

LD 2-93/MC 1-93 Review the Decision of the Hearings Officer of November 24, 1993, Denying requested type II land division and denying request to use easements as a means of access to proposed Parcels 1 and 3, all for property located at 17903 NW St. Helens Road.

SIGNATURES REQUIRED:

ELECTED OFFICIAL: _____

OR

DEPARTMENT MANAGER: 

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

6/93

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
1993 DEC - 7 AM 11:44



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. LD2-93/mc1-93

☒ Agenda Placement Sheet No. of Pages 1

☐ Case Summary Sheet No. of Pages _____

☐ Previously Distributed _____

☐ Notice of Review No. of Pages _____

*(Maybe distributed at Board Meeting)

☐ Previously Distributed _____

☒ Decision No. of Pages 28

(Hearings Officer/Planning Commission)

☐ Previously Distributed _____

*Duplicate materials will be provided upon request.
Please call 2610.

(CL/1)



CASE NAME Land Division and Request for Access by Easement

NUMBER LD 2-93 / MC 1-93

1. Applicant Name/Address

Daniel J. F. Davis
17903 NW St. Helens Road, 97231
Portland, OR 97231

2. Action Requested by applicant 3-Lot Land Division
Access by Easement

ACTION REQUESTED OF BOARD

- ☒ Affirm Plan.Com./Hearings Officer
- ☐ Hearing/Rehearing
 - ☐ Scope of Review
 - ☐ On the record
 - ☐ De Novo
 - ☐ New Information allowed

3. Planning Staff Recommendation

Approva With Conditions

4. Planning Commission or Hearings Officer Decision:

Denial

5. If recommendation and decision are different, why?

1. The applicant has not proposed safe alternative access by means of the proposed easement.
2. Relevant land division approval criteria and standards are not met.

ISSUES

(who raised them?)

Opponents at the hearing raised objections.



**Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043**

Decision

This Decision consists of Findings of Fact and Conclusions.

November 24, 1993

**LD 2-93, #36
MC 1-93, #36**

**Three-Lot Land Division
Access by Easement**

Applicant requests approval of a three-lot Type I Land Division, plus approval of use of an existing easement as a means of access for proposed new dwellings on two of the parcels.

Location: 17903 NW St. Helens Road

Legal: Tax Lots '82', '83' and '86', Section 18, 2N-1W, 1993 Assessor's Map

Site Size: 82.05 Acres

Size Requested: Same

Property Owner: Daniel J. F. Davis
17903 NW St. Helens Road, 97231

Applicant: Same

Comprehensive Plan: Multiple Use Forest

Present Zoning: MUF-19, Multiple Use Forest District
Minimum lot size of 19 acres

**Decision #1:
LD 2-93**

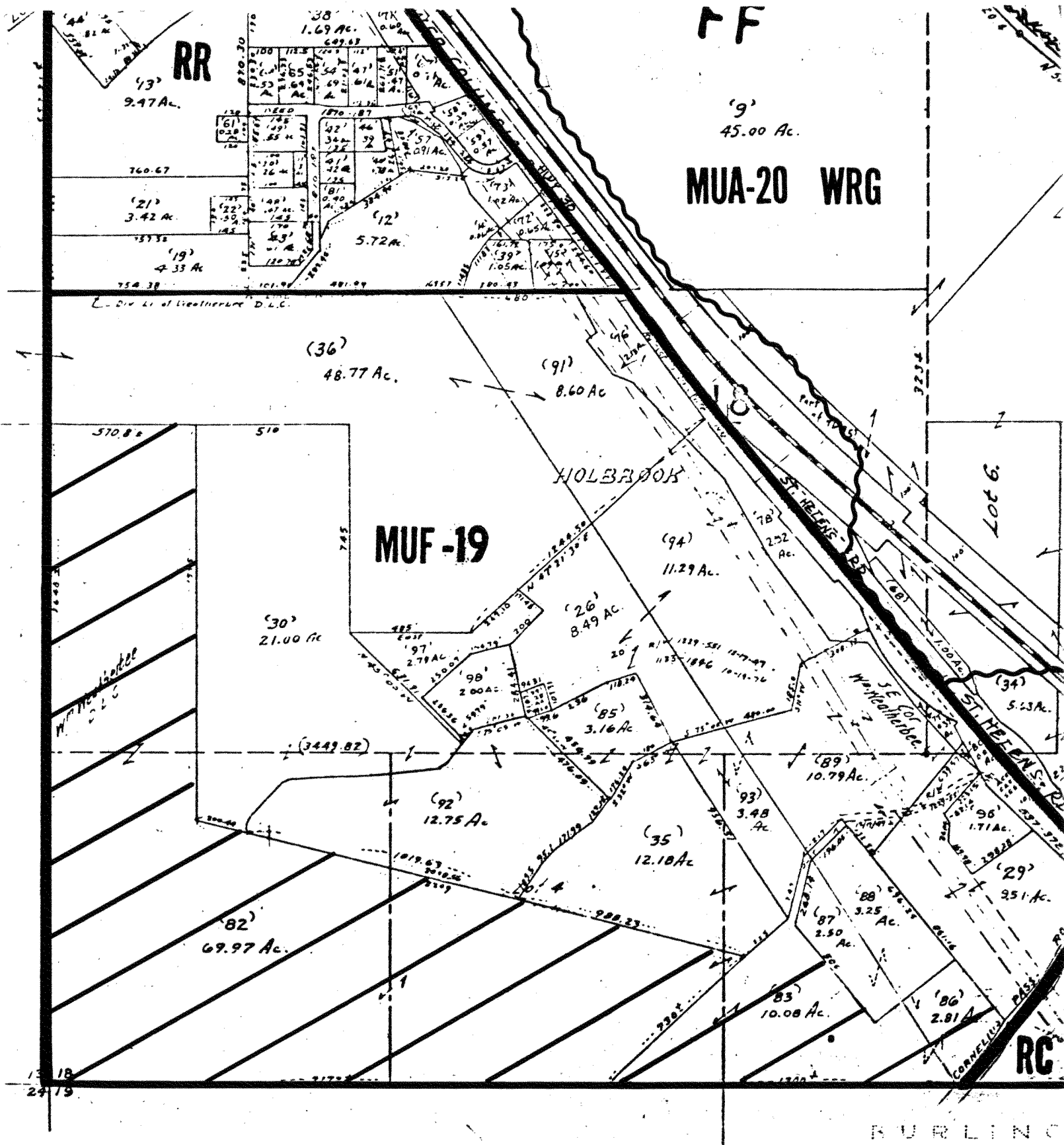
Deny the Tentative Plan for the Type I Land Division requested, a partition resulting in three lots in accordance with the provisions of MCC 11.45.080(D), all based on the following Findings and Conclusions:

**Decision #2:
MC 1-93**

Deny the request to use easements as the means of access to Parcels 1 and 3, all based on the following Findings and Conclusions::

LD 2-93 / MC 1-93

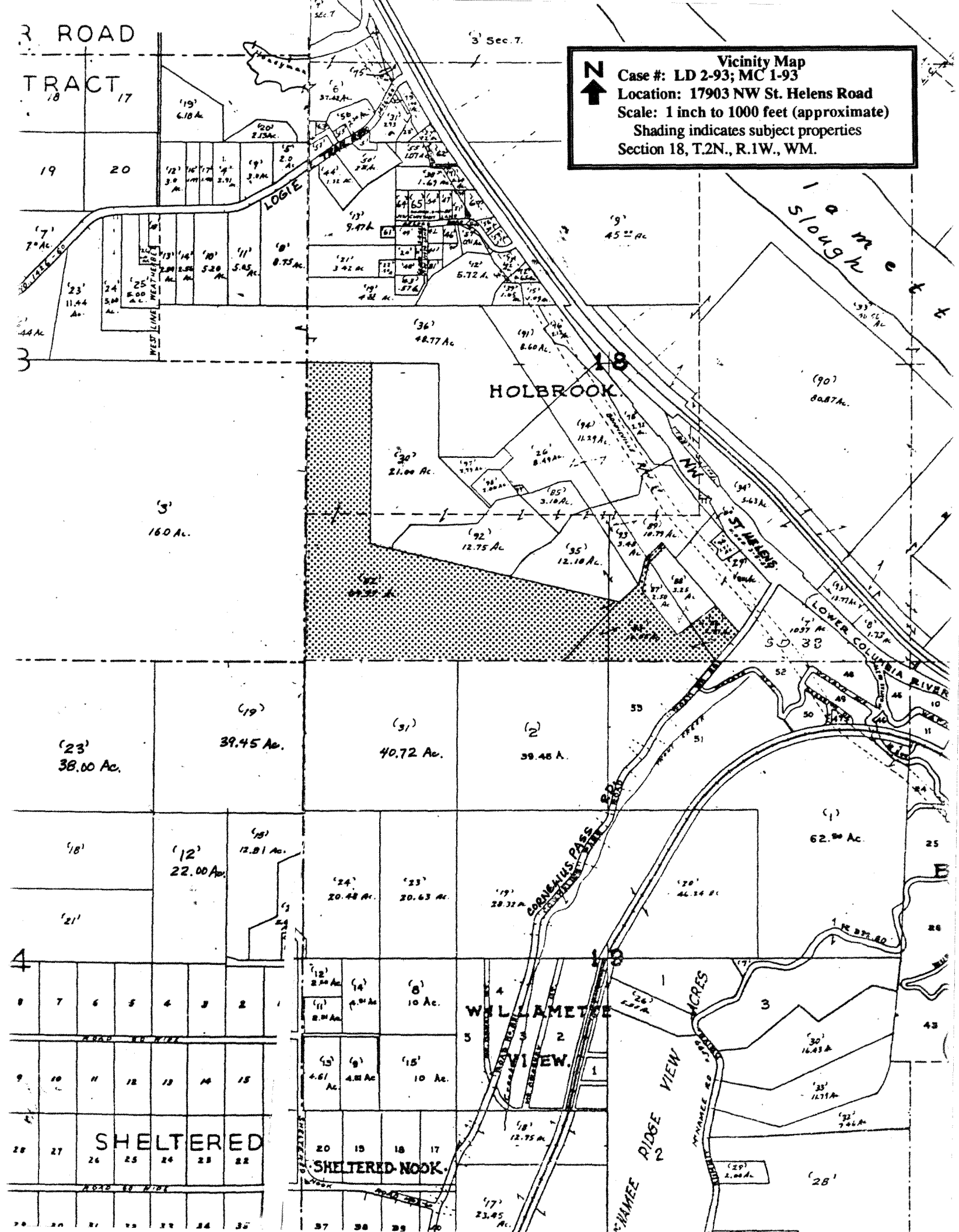
N
↑
 Zoning Map (at time of application)
 Case #: LD 2-93; MC 1-93
 Location: 17903 NW St. Helens Road
 Scale: 1 inch to 520 feet (approximate)
 Shading indicates subject properties
 SZM 36; Section 18, T.2N., R.1W., WM.



TRACT

N
↑

Section 18, T.2N., R.1W., WM.



I. Background

A. The Land Division Request: Applicant proposes to divide a tract of land containing about 82 acres into three parcels. Parcels 1 and 3 are vacant and would contain about 19 acres each. Applications have been filed for "Use Under Prescribed Conditions" seeking approval for single-family residence for both Parcels 1 and 3 (Case Numbers PRE 3-93 and PRE 2-93, respectively). Both "Use Under Prescribed Conditions" requests are subject to separate review and were not part of the current hearing. Parcel 2 has an existing single-family residence and would contain about 44 acres. The subject site consists of three separate tax lots all owned by the applicant. Staff has considered the three tax lots in common ownership to be a single "Lot of Record" pursuant to MCC 11.15.2182(A)(3)(c).

B. The Access by Easement Request: Tax Lot 86, which is proposed to be part of proposed Parcel 2, abuts Cornelius Pass Rd., but it does not derive its access from that street. The existing house on Parcel 2, which is located on Tax Lot 83, has access to St. Helens Road over an existing easement. Access to Parcels 1 and 3 is proposed by way of an easement over an existing private road that runs from St. Helens Road to the north edge of Parcel 2 and serves 5 existing houses on lots located between St. Helens Road and Parcel 2. Access to homesites on Parcels 1 and 3 is proposed by extension of the road in two branches from a proposed turnaround on Parcel 2 as shown on the Tentative Plan Map.

C. Site and Vicinity Information: The site is on the west side of NW St. Helens Road. The road entrance to Parcel 2 is about 700 feet north of the intersection of St. Helens and Cornelius Pass Roads. The road that is proposed for access to Parcels 1 and 3 is about 1,400 feet north of Cornelius Pass Road. Land to the west and south consists of parcels ranging in size from 40 to 160 acres. Land to the north and east consists of parcels ranging in size from 2 to 48 acres.

II. Preliminary Issues

A. Applicable Law During the period of time in which the written record was left open, Mr. Rochlin submitted additional written testimony and evidence concerning the applicability of the state's new Goal 4 rules to this particular application. The hearings officer finds that OAR 660-06-028 does not apply to this particular application, because at this time, the hearings officer is not considering a request for a dwelling. This particular request is for a land division and access by easement. A request for dwellings on these proposed parcels has been processed separately as cases number PRE 2-93 and PRE 3-93. Because OAR 66-06-028 applies to requests for dwellings, rather than land divisions, Mr. Rochlin's argument with regard to the applicability of this portion of the state's new Goal 4 rules does not apply at this point in the process. The hearings officer notes that Mr. Rochlin has made his Goal 4 argument directly to the Planning Director in reference to PRE 2-93 and 3-93, which involve the request to locate dwellings on these parcels if the land division is approved. Therefore, Mr. Rochlin's arguments can be considered in the

proper context during the county's subsequent review of these dwelling requests. With regard to the applicable law in this matter, the hearings officer adopts by reference his findings and conclusions with regard to the applicable law, as set forth in the hearings officer's Amended Intermediate Ruling of September 27, 1993.

B. Completeness of Application Mr. Rochlin has argued that the application submitted is not complete because the applicant has not fully satisfied the requirements of 11.45.260, which set out the requirements for a tentative plan map. In particular, Mr. Rochlin points out that the tentative plan map shows contours at ten foot intervals, while the code requires contours to be shown at five foot intervals. In addition, Mr. Rochlin points out that the applicant has not identified the location of storm water flooding problems which were discussed on pages 12 and 13 of the staff report.

As a general rule, the completeness an application is determined by the planning staff as part of their "gate keeping" function. In certain situations, application requirements can rise to the level of being approval criteria. However, in most cases, and in this case in particular, the deficiencies in the application will be examined in the context of the approval criteria to which they relate. In this case, the code requirement for more detailed contour information becomes relevant because the applicant has testified that the topographic map used for the tentative plan map is not accurate. Given the topography involved in the proposed easement, more accurate and detailed information is essential to determining the safety and feasibility of the proposed access. This is true particularly for the access that will be extended to the proposed homesites on Parcels 1 and 3.

With regard to the failure of the applicant to identify the location of storm water flooding problems, the hearings officer finds that this issue is relevant in the context of Plan Policy 37, parts (E), (F) and (G). It should be pointed out that since the applicant is proposing to obtain access for Parcels 1 and 3 from an easement, the entire length of that easement must be considered as part of the site for purposes of this application. In addition, since the applicant is proposing a set of turnarounds and modifications along the easement, the location of those changes must also be considered a part of the site, to the extent they involve "development" outside of the easement. The stormwater impacts of the proposed development, and in particular of the proposed road extension and changes to the existing access easement, cannot be adequately analyzed unless they are properly identified and made a part of the site involved in this application. For instance, the September 23, 1993 letter from the applicant's engineer, John McL. Middleton, of Zarosinski-Tatone Engineers, Inc., indicates that required side slopes for street widening will extend beyond the easement limits. No information has been provided concerning the stormwater impacts from such activity. There is evidence in the record that a neighboring property owner who has a home opposite of the eastern end of segment "B" of the easement has had large volumes of stormwater running from the road under the house during the past winter.

Staff has asserted on page 13 of the staff report that stormwater impacts will be addressed as part of the building permit process, because the builder can be required to construct on site water retention and/or control facilities that can be designed to limit runoff. Under most situations, staff's assertion would be true. However, in this case, the applicant does not have exclusive control of the easement and the applicant has no control whatsoever over adjacent private property where the turnouts and side slopes may be needed for maintaining safe access. The applicant has not demonstrated that he has the permission of adjacent owners to commit to improvements to the easement or in the off-site areas. Some of these owners have expressed concern over the changes proposed to the access easement. (See for instance the October 4. letter of Philip and Jeannine Cansler). Under these circumstances, Mr. Rochlin's concerns are relevant to the applicant's ability to demonstrate compliance with the relevant approval criteria.

C. Lot of Record Mr. Rochlin argues that under 11.45.040 (B) the proposed land division cannot be approved unless the evidence in the record indicates that the entire site is a lawfully created Lot of Record. In that regard Mr. Rochlin asserts that since the 1950's the code has required that in order for a lot to have been lawfully created, it must either abut a public road or have approval of other access. Mr. Rochlin is correct with regard to the requirements of the code concerning access. *See CU-93 and CU 2-93 (denied January 21, 1993, affirmed on review by the Board of Commissioners, March 25, 1993, incorporated by reference herein).*

In this case, the hearings officer finds that Tax Lot 86, which comprises the eastern most portion of the site, abuts Cornelius Pass Rd, which is a public street. In addition, Tax Lot 83, which is directly west of Tax Lot 86, has access to St. Helens Rd., and this access appears on the 1962 zoning map. Therefore, this aggregated site, comprised of one ownership, abutted Cornelius Pass Road and had legal access to St. Helens Rd. Under these circumstances, the three Tax Lots (82, 83 and 86) are a Lot of Record.

III. APPLICABLE CRITERIA

A. Access by Easement Criteria

1. The code does not contain specific criteria for determining whether or not a parcel may obtain access by an easement, rather than by a public road. However, all access in the MUF District must comply with 11.15.2188, which states that all parcels in the MUF District shall abut a street or have other access determined to be "Safe and convenient for pedestrians and passengers and emergency vehicles." This is the criteria used by the county to approve alternative access requests.

B. Land Division Criteria

Section 11.45.230 sets out the criteria for approval of a Type I tentative plan. The relevant portions of that section are set out below:

1. The tentative plan must be in accordance with the applicable elements of the Comprehensive Plan. The following elements of the Comprehensive Plan apply:

Policy 12 - Multiple Use Forest Lands

Policy 13 - Air and Water Quality and Noise Levels

Policy 14 - Development Limitations

Policy 22 - Energy Conservation

Policy 37 - Utilities

Policy 38 - Facilities

Policy 40 - Development Requirements

2. Approval must permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances.

3. The tentative plan must comply with other applicable provisions in the code, including the purposes and intent of this Chapter. 11.45.015 states the Land Division Ordinance

"...is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planing Goals and Comprehensive Plan adopted under Oregon Revised Statutes, uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County."

4. The tentative plan must comply with the applicable provisions of the Zoning Ordinance. As noted in the hearings officer's intermediate rulings, the applicant is entitled to rely on the MUF-19 zoning designation. Section 11.15.2178 define the minimum area and dimensional standards that apply. Section 11.15.2194 define the Residential Use Development Standards that apply. These standards are set out below:

A) Fire safety measures, including at least the following:

1. Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area.
2. Maintenance of a water supply and of fire fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas.

B) An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot.

C) The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2178(B).

D) The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval.

E) The dwelling shall not be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (C), above.

F) Building setbacks of at least 200 feet shall be maintained from all property lines, whenever possible, except:

- (1) A setback of 30 feet or more may be provided from a public road, or
- (2) The location of dwelling(s) on adjacent lot(s) at a lesser distance will allow for the clustering of dwellings or the sharing of access.

G) Construction shall comply with the standards of the building code or as prescribed in ORS 446.002 through 446,200 relating to mobile homes.

H) The dwelling shall be attached to a foundation for which a building permit has been obtained.

I) The dwelling shall have a minimum floor area of 600 square feet.

J) The dwelling shall be located outside of a big game habitat area.

K) The streets must be laid out to conform to the street standards ordinance.

L) Streets held for private use must be clearly indicated on the tentative plan and all restrictions and reservations must be set forth.

M) The development must be safe from flooding and flood hazards.

C. General Standards and Requirements

MCC 11.45.450 provides that every land division proposal shall comply with the applicable provisions of MCC 11.45.460 through 11.45.610. Neither the applicant nor staff have directly addressed these general standards in their testimony. Mr. Rochlin has asserted in his letter of October 5, 1993, that these standards apply. Pursuant to the clear language in 11.45.450, Mr. Rochlin is correct. The standards in 11.45.460 through 11.45.610 apply to this land division proposal, to the extent they are relevant. The full text of these provisions has been attached to this decision for purposes of reference. The following sections of these general standards are relevant to this proposal:

- 1) .460 Land Suitability
- 2) .470 Lots and Parcels
- 3) .490 Street Layout
- 4) .500 Street Design
- 5) .550 Easements
- 6) .580 Water Systems
- 7) .590 Sewage Disposal
- 8) .600 Surface Drainage
- 9) .610 Electrical and Other Wires

IV. FINDINGS AND CONCLUSIONS

A. Access by Easement Request

The code requirement for "safe and convenient" access for pedestrians, passengers and emergency vehicles is a subjective standard. The staff has referred to the Uniform Fire Code, Section 10. 203, et seq., which requires that an access road serving three or more lots to have an all weather surface width of 20 feet. This requirement is similar to the requirements set forth in the Multnomah County Minimum Design Standards for Privately Maintained Roads (Exhibit C).

The applicant describes the four segments of the proposed access easement in Exhibit A.

Segment A is an existing gravel road that is approximately 12' wide. This road has served as vehicular access for five existing homes currently located on Tax Lots 30, 92 and 85. This portion of the road is approximately 1780' long. The applicant initially asserted that this portion of the road was safe and met the requirements of the Fire Department without further improvement. Upon receiving testimony at the hearing, the applicant's

assertion was called into question and additional information from the Fire Chief confirmed the need to widen this portion of the road to at least 20 feet in order to maintain safe access for emergency vehicles. In some places where power poles exist, the Fire Chief has indicated that the road could be narrowed to not less than 17 feet.

The Fire Chief also indicated in his October 4, 1993 letter, that in the areas of steep grade, a maximum grade of 15% must be maintained in order to maintain the road base. This steep of a grade is significantly more than the minimum design standards established by the county for privately maintained roads. (See Exhibit C, which indicates that grades shall not exceed 8 % overall with a maximum of 12% on short segments of 200', unless approved by the Fire Chief.)

The applicant's engineer has indicated the practical problems with reducing the grades on this segment of the road. Specifically, the applicant has only a 20 foot easement to work with. There is no evidence in the record that the applicant has authority, or could likely obtain authority to extend side slopes beyond the limits of the 20' easement. Also, as noted earlier, segment A of the easement has not been included in the site area for purposes of this application, and neither have the areas that would be needed for the side slopes and the turn outs. The staff has recommended that a 20 by 40 foot turnout be located every 400 feet, as required by the county's Design Standards. On this portion of the road alone, at least four turnouts would be required to accommodate the road distance of 1780 feet. The applicant has not demonstrated that he has authority to locate such turnarounds on the adjacent private property, nor has he indicated where those turnouts should be, relative to slope, drainage and other design considerations. In short, the applicant has not carried his burden of proof to demonstrate that it is feasible to improve this segment of the road in a manner that would accommodate the safety requirements of the code and the Fire Chief. Because the applicant has not provided accurate topographical data at five foot intervals as required by the code, it is difficult for the hearings officer to determine where cuts and fills would be needed, and how extensive those cuts and fills would be.

The hearings officer accepts the conclusions of the Fire Chief as to road safety. However, until the applicant provides more detailed information concerning the specific location and extent of road improvements he is proposing on private property outside the easement, the hearings officer cannot determine whether those improvements will be adequate or feasible. Also, since segment A (and the area outside the 20' width of this segment of the easement) has not been identified as part of the site that is subject to this application, the application should be revised to include all of the area subject to proposed improvements as part of this application.

One of the reasons neighboring property owners have been concerned about this application is because the entire roadway easement, and the associated land outside of the easement that will be involved, has not been identified in either the notice or in the application. Persons who own an interest in the segment A easement have not indicated on the record that they will give the applicant permission to use the easement for the purposes proposed by the applicant. Furthermore, there is no evidence in the record that the owners of the adjacent parcels will give the applicant permission to construct turn arounds and necessary side slopes on their private property. Therefore, for all the above stated reasons the hearings officer finds that the applicant has not demonstrated that it is feasible to maintain safe alternative access along segment A.

Segment B is similar to segment A in width and is approximately 950 feet long. This segment is proposed to terminate in a 45' radius rocked turnaround in a 50' radius easement on parcel 2. At least one other turnout would be required within this segment, in order to have a turnout every 400'. This segment suffers from the same information

deficiencies as segment A, and cannot be approved at this time based upon these deficiencies.

Segment C would extend from the terminus of segment B for approximately 1,000' to the proposed homesite on parcel 1. Based upon the inadequate slope information, it is not possible for the hearings officer to determine whether significant cuts and fills will be required. However, the distance of the proposed homesite from the publicly maintained street is, in and of itself, a significant safety problem. Instead of locating the proposed dwelling as close to the proposed property line as possible, thereby reducing the need for a private driveway of 1,000 additional feet, (on top of segments A and B which total approximately 2,730'), the applicant has located the dwelling to take advantage of the topography and the view it may afford. The hearings officer finds that one of the reasons dwellings are required to be located as close to a publicly maintained road as possible, is to reduce the need for long and often steep driveways to traverse through resource lands, in order to provide access to rural homesites. Plainly put, long steep driveways such as this one, are inherently unsafe. A home on parcel 1 would need to traverse a private gravel road that is at least 3,730 feet long, with severe grade changes, in order to access a public road. The hearings officer cannot find that such access is safe.

Segment D follows an existing logging road for approximately 850' from the terminus of segment B to the homesite on parcel 3. The slopes on this segment appear to be less severe than on other segments, but once again, without more complete and accurate contour data, slopes cannot be reliably measured. Even if it assumed that this segment does not require any cuts or fills, the proposed homesite is not located as close to the publicly maintained road as possible. The proposed homesite is approximately 3,580 feet from St. Helens Rd. Again, the homesite has been located on the higher, flatter portion of the site, rather than at a location that minimizes the need for a long private driveway. The hearings officer cannot find that such access is safe, because the distance from the homesite to the nearest public street has not been minimized.

Overall, the hearings officer finds that the applicant has not proposed safe alternative access by means of the proposed easements, because:

1. There is insufficient information in the record for the hearings officer to find that the applicant can meet the safety requirements of the Fire Chief, because the applicant has not provided evidence that the areas outside the 20' easement on segment A and B, can be used to construct turnouts and necessary side slopes.
2. There is insufficient reliable information in the record concerning the topographic contours on the site. In this case the applicant has not provided contour data at the required 5 foot intervals. The testimony of Mr. Rochlin and the rebuttal testimony by the applicant suggest that the topographic data on the applicant's tentative plan map is either not specific enough, is inaccurate, or both.
3. Segments C and D are excessively long and their length creates an unnecessary safety hazard, both for vehicle traffic coming to and from the site, and for emergency vehicles. These segments have been designed to facilitate prime housing locations rather than to facilitate access that is as close to a public street as possible.

B. Land Division Request

1. Comprehensive Plan Policy Compliance

No. 12 - Multiple Use Forest Lands

The intent of Policy 12 is to encourage small woodlot management, forestry, reforestation and agriculture. Approval of a resource management program for at least 75 percent of the productive land on Parcels 1 and 3 will be required before a house can be built on those parcels. Subject to those conditions, the proposed land division satisfies Policy 12

No. 13 - Air and Water Quality and Noise Levels

No significant impact on air or noise pollution will result from the two additional residence made possible by the proposed land division. The existing houses on Parcel 2 has a subsurface sewage disposal system. Pursuant to Land Feasibility Studies 147-93 and 148-93, the County Sanitarian has confirmed the ability to install appropriate subsurface sewage disposal systems on Parcels 1 and 3, respectively. Disposal systems can be designed to maintain groundwater quality. The proposal can satisfy Policy 13, with regard to the proposed homesites.

(c) No. 14 - Development Limitations

Topographic information presented by the applicant indicate that many portions of the site contain slopes exceeding 20 percent. Also, portions of the site are identified on the County Slope Hazard Map as being in hazard areas. Even though the existing house site on Parcel 2 and the proposed home sites on Parcels 1 and 3 are not in hazard areas, evidence in the record indicates that portions of the easement area are on steeply sloped ground. The applicant's topographical information has been undermined by the applicant's own testimony at the hearing, where he indicated that portions of the topo information on the tentative plan map are inaccurate. More detailed and reliable topo information is needed to determine precisely where slopes exceeded 20%, particularly on the roadway segments.

A Hillside Development / Grading and Erosion Control Permit would be required pursuant to MCC 11.15.6700-.6730, if applicable, before site clearing, road construction, grading or building permit issuance. During the review of this permit it may be possible to assess the extent of the development limitations presented by this site, and then design engineering solutions to compensate for those limitations. However, this policy requires that actual development, including roads, not be placed on slopes exceeding 20%. Mr. Cansler has testified that one section of the easement over 100 feet long is over 20% in slope, and would need to be graded off. The Comprehensive Plan does not permit development to be located in slopes exceeding 20%. Given the lack of accuracy and detail in the applicant's topographic information, it is reasonable to conclude that portions of the easement are in excess of 20% and can therefore not be graded for development pursuant to this policy. For these reasons, the applicant has not carried his burden of proof with regard to Policy 14.

No. 22 - Energy Conservation: This policy requires findings concerning the following factors:

- (1) *The development of energy-efficient land uses and practices;*
- (2) *Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreational centers.*
- (3) *An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;*
- (4) *Street layouts, lotting patterns and designs that utilize natural environmental and climate conditions to advantage.*
- (5) *Finally, the county will allow greater flexibility in the development and use of renewable energy resources.*

The hearings officer finds that the proposed street layout and lotting pattern does not promote an energy efficient land use pattern, nor does it take advantage of the natural environmental conditions of the site.

As discussed above, the applicant has located the proposed homesites in remote locations relative to the public street. The lotting pattern and proposed homesites are not energy efficient from a land use standpoint, because the design of the lots and location of the homesites create the need for excessively long vehicular trips and will result in needlessly long road systems that will further interrupt the primary resource values in the forested area. Based upon the evidence in the record, Policy 22 is not supported by this proposal.

No. 37 - Utilities This policy requires a finding that the water, sanitation, drainage and communication facilities are available as follows:

Water And Disposal System

A. *The proposed use can be connected to a public sewer and water system, both or which have adequate capacity; or*

B. *The proposed use can be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or*

C. There is an adequate private water system, and the DEQ will approve a subsurface sewage disposal system on the site; or

D. There is an adequate private water system, and a public sewer with adequate capacity.

Drainage

E. There is adequate capacity in the storm water system to handle the run-off; or

F. The water run-off can be handled on the site or adequate provisions can be made; and

G. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.

Energy and Communications

H. There is an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and

I. Communications facilities are available.

The hearings officer makes the following findings with regard to the factors listed above:

Water and Sanitation

The existing house on Parcel 2 has a subsurface sewage disposal system. Pursuant to Land Feasibility Studies 147-93 and 148-93, the County Sanitarian has confirmed the ability to install appropriate subsurface sewage disposal systems on Parcels 1 and 3.

Staff has indicated that prior to approval of building permits, the adequacy of water could be determined. There is no evidence in the record suggesting that adequate water is not available, and under the circumstances, it seems likely that adequate water will be available to serve the site, subject to verification prior to building permit issuance.

Drainage

During a site investigation on August 24, 1993, staff indicated that he walked the length of most of segments "B," "C" and "D" of the access roads proposed to serve Parcels 1 and 3. These road segments are identified on the Tentative Plan Map. The house of a neighboring property

owner is located opposite the easterly end of segment "B" of the existing dirt logging road. The owner stated that large volumes of stormwater from the road had run under the house during the past winter.

Staff indicated that as part of the building permit approval and inspection process, the builder would be required to construct on-site water retention and/or control facilities adequate to insure that surface runoff volume after development is no greater than that before development. However, in this case, the applicant would be constructing turnouts and engineered side slopes on adjoining private property. The side slopes in particular would be required in areas where the steeper slopes would be flattened. This engineering will likely require drainage to be altered off-site on adjacent lands.

The applicant has not provided even a preliminary examination of the necessary stormwater and drainage facilities that would be required along the roadway. Given the existing drainage problems experienced by at least one neighbor, and the likely change in drainage patterns that would be occasioned by the extensive roadway work involved, the applicant's response that "surface runoff after development will be met by the implementation of accepted engineering practices at the time of development" is not an adequate response to the requirements of this policy. The applicant has not carried its burden of proof concerning this policy.

Energy and Communication: Portland General Electric provides electric power and US West provides telephone service. The proposal satisfies Items *H* and *I* above.

Policy 38 - Facilities

The property is located in the Portland School District, which does not anticipate any negative impact due to student enrollment from houses located on the site. The Scappoose Fire District does not currently provide fire protection to the subject site, but is working with unprotected landowners in the area to provide fire service through contracts. A condition of approval could require the applicant to enter into a contract with the district for fire protection prior to partition plat approval. The Multnomah County Sheriff's Office provides police protection and has stated that the level of police service available to serve the proposed development is adequate. Subject to the above conditions, the proposed land division can satisfy Policy 38.

Policy 40 - Development Requirements: This policy requires a finding that:

- A. Pedestrian and bicycle path connections to parks open space areas and community facilities will be*

dedicated when appropriate and where designated in the Bicycle Corridor Capital Improvements Program and Map.

B. *Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.*

C. *Areas for bicycle parking facilities will be required in development proposals, where appropriate.*

The hearings officer finds that this policy is not applicable.

B. Development of the Remainder [MCC 11.45.230 (B)]

The hearings officer finds that there is no remainder of the property under the same ownership. Therefore, this criteria does not apply.

C. Purposes and Intent of Land Division Ordinance [MCC 11.45.230(C)]

MCC 11.45.015 states that the Land Division Ordinance. . . "is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County."

The hearings officer finds that the proposed land division does not satisfy the purpose of the Land Division Ordinance for the following reasons:

- (a) The proposed land division does not comply with all of the applicable elements of the Comprehensive Plan, in particular it does not meet Policies 14, 22, and 37.
- (b) The proposed land division does not insure that safe access can be made available.

D. Zoning Ordinance Considerations

The minimum lot size in the MUF-19 District applies for the reasons set forth in the hearings officer's Amended Intermediate Ruling. All three parcels meet or exceed this requirement. The following Residential Use Development Standards apply pursuant to MCC 11.15.2194:

- (1) *The fire safety measure outlined in the Fire Safety Considerations for Development in Forested Areas, published by the Northwest Interagency Fire Prevention Group, including at least the following:*

- (a) *Fire lanes at least 30 feet wide shall be maintained between a residential structure and an adjacent forested area; and*
- (b) *Maintenance of a water supply and of fire fighting equipment sufficient to prevent fire from spreading from the dwelling to adjacent forested areas;*

The hearings officer finds that these safety measures can be required as conditions of approval. Therefore, this criteria can be met.

- (2) *An access drive at least 16 feet wide shall be maintained from the property access road to any perennial water source on the lot or an adjacent lot. [MCC 11.15.2194(B)]*

No perennial water source has been identified on the site or an adjacent land. The hearings officer therefore finds that this provision is not applicable.

- (3) *The dwelling shall be located in as close proximity to a publicly maintained street as possible, considering the requirements of MCC .2178(B). [MCC 11.15.2194(C)]*

The applicant indicates that "Parcels 1 and 3 have no public road frontage. Another part of this proposal consists of an application for access by easement to these two parcels." The hearings officer finds that the fact that parcel 1 and 3 do not have frontage on a public street is irrelevant for purposes of this criteria. Even in cases where proposed parcels obtain access from private easements, this criteria requires that the dwellings that will be located on such parcels must be located as close to the public street as possible.

As explained more fully above, the applicant has not chosen to locate the proposed dwellings as close to the public street as possible, but instead has proposed to locate the dwellings in such a manner as to require several hundred feet of additional roadway to be constructed through the resource area. It is possible for the applicant to locate the dwellings closer to the public road, even considering what may be prudent distances from the PGE powerlines. Therefore, the application does not satisfy this criteria because the proposed homesites are not located as close to the public road as possible. The length of the private easement required to access this site from St. Helens Road (Segments A and B) does not excuse the need to satisfy this criteria. Such

conditions simply make the criteria more important, because the homesites do not have direct frontage on a public street, and Parcels 1 and 3 are already a significant distance from the public street. Placing the dwellings hundreds of feet farther back from the public street conflicts with the purpose and intent of this criteria.

- (4) ***The physical limitations of the site which require a driveway in excess of 500 feet shall be stated in writing as part of the application for approval. [MCC 11.15.2194(D)]***

The applicant indicates that the building sites are located on portions of the site that avoid power line effects, avoid geologically unstable areas, provide maximum fire breaks and maximize solar energy potential for the homesites. These physical limitations were stated in writing as part of the application as required by the code. Therefore, the procedural requirement of this criteria has been met.

- (5) ***The dwelling shall be located on that portion of the lot having the lowest productivity characteristics for the proposed primary use, subject to the limitations of subsection (C), above. [MCC 11.15.2194(E)]***

The applicant indicates that according to the Forest Management Plans developed for each parcel, the site has "fairly uniform" productivity potential and is currently wooded, except for the PGE power line easement. The applicant then discusses a number of factors which the applicant uses to conclude that the proposed homesite location strikes a balance between cost and other mitigation factors.

As Mr. Rochlin correctly points out in his written testimony of September 11, the applicant has somewhat misapplied this criteria. The criteria does not envision a balancing test.

Nonetheless, the applicant's assertion that the site has fairly uniform productivity characteristics is based on the October 5, 1993 letter from Mr. Richard Couter, a forester with Genetechs. The hearings officer accepts the expert testimony of Mr. Courter, and finds that since the soils are all in the same productivity category, the location of a potential dwelling on the site will not be based on soil productivity differences. Therefore, other criteria in the code, rather than this one, will together dictate the

appropriate location, if any, for potential dwelling sites on the property.

- (6) ***Building setbacks of at least 200 feet shall be maintained from all property lines, wherever possible, except: [MCC 11.15.2194(F)]***

- (a) ***A setback of 30 feet or more may be provided from a public road, or***
- (b) ***The location of dwelling(s) on adjacent lot(s) at a lesser distance will allow for the clustering of dwellings or the sharing of access.***

The applicant has indicated that "The proposed building site on Parcel 3 is situated less than 200' from the property line to the south. An approved and developed building site on adjacent Tax Lot 19 to the south, is less than 50' from the property boundary with Parcel 3. The placement of the building site on Parcel 3 allows clustering of dwellings, and the potential for shared access. The building site complies with the 200' setback on the other boundaries."

In addition, the applicant asserts that moving the building site on Parcel 3 further from the property line might place it on a slope exceeding 20 percent, on the edge of a geologically unstable area. The owner indicates that he is planning to develop the potential for solar energy as a renewable resource that will, as a clean fuel, have the additional benefit of minimizing impact on the surrounding environment. In this regard, he asserts that the building site is situated on the only portion of Parcel 3 that provides solar potential.

The hearings officer finds that the location of the dwelling on parcel 3 does not provide for shared access with parcel 1. Each of these parcels have there own separate driveway easements of approximately 1,000 and 850 feet respectively. They share common access from segments A and B of the easement, but these common segments do not require the dwelling site on parcel 3 to be located less than 200 feet from the southern property line. Therefore, part (a) of the criteria is not met.

Nonetheless, the applicant is correct that the location of the proposed dwelling on parcel one will allow it to be clustered with the residence to the south on Tax Lot 19. For this reason, part (b) of the criteria is met. Therefore, this criteria has been met.

- (7) ***Construction shall comply with the standards of the building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes.*** [MCC 11.15.2194(G)]

This criterion could be met by a condition requiring the relevant inspection prior to the issuance of building permits

- (8) ***The dwelling shall be attached to a foundation for which a building permit has been obtained.*** [MCC 11.15.2194(H)]

This criterion could be met by a condition requiring a foundation attachment prior to issuing occupancy permits.

- (9) ***The dwelling shall have a minimum floor area of 600 square feet.*** [MCC 11.15.2194(I)]

The criterion is not applicable at this time, and could be satisfied later as a condition of approval for any dwellings.

- (10) ***The dwelling shall be located outside a big game habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable.*** [MCC 11.15.2194(J)]

The site is not in an area so designated. Therefore, the criteria does not apply.

- E. **Subdivision Name [MCC 11.45.230(E)]:** The proposed land division is not a subdivision. Therefore, it will not have a name and MCC 11.45.230(E) is not applicable.
- F. **Street Layout [MCC 11.45.230(F)]:** The proposed land division does not include any new public streets or extensions of existing streets. Therefore, MCC 11.45.230(F) is not applicable.
- G. **Private Streets [MCC 11.45.230(G)]:** The planning staff indicated that the proposed land division does not include any private streets, and that therefore, MCC 11.45.230(G) is not applicable.

The applicant did not address this criteria. The hearings officer finds that the private access easements amount to a privately maintained road and that these easements have been treated and defined as private streets for purposes of the Multnomah County Minimum Design Standards which apply to "residential driveways and privately maintained roads". (See Exhibit C).

As noted above, one of the problems with this application is that the applicant has not fully thought through the needed road improvements and consequently has not located all the turnarounds and side slopes that would be required to construct the road. Therefore, the full width of the street that will be developed and held for private use has not been clearly indicated on the tentative plan. Some of the neighbors have complained about this lack of specificity and the hearings officer finds that this section of the code specifically requires that such information be included on the tentative plan. Since the applicant has still not decided where these roadway improvements should be located, the hearings officer is not in a position to decide whether such improvements are feasible and whether they would meet the applicable substantive criteria.

- H. **Flooding and Flood Hazards [MCC 11.45.230(H)]:** There is no evidence that there is any flooding hazard on the property. This criteria therefore does not apply.

5. General Standards and Requirements

Neither the applicant nor staff have specifically addressed the applicable standards and criteria in MCC 11.45.460 through 11.45.610, which apply to all land divisions pursuant to 11.45.450. The hearings officer has reviewed the evidence in the record with regard to the applicable portions of these criteria, (the full text of which is included as an exhibit to this decision), and makes the following findings concerning these criteria:

A. 11.45.460 Land Suitability

The hearings officer finds that there is some evidence in the record that portions of the roadway may contain slopes in excess of 20%. The applicant has indicated in his testimony that his own topo information on the preliminary plan is inaccurate in some places. The reliability of the applicant's topo data is further reduced because it does not contain contour lines at 5 foot intervals as required by the code. More detailed data, at a better scale would have improved the reliability of the topo information. As it is, the hearings officer cannot find that development will not be occurring on slopes exceeding 20%.

In addition, there is insufficient information in the record for the hearings officer to conclude that the intended road improvements will not take place on land with severe soil erosion potential. Since the applicant has not indicated where the turnouts and sideslopes would need to be located, the soil erosion potential for these locations cannot be assessed. For these reasons the land suitability criteria has not been met.

B. 11.45.470 Lots and Parcels

Most of the standards in this criteria are met or can be met through conditions of approval. For instance, the size, shape, width, and orientation of the parcels are appropriate. However, the access for the parcels is not appropriate, in

part because of the extensive use of separate easements to serve each home site. In particular, easement segments C and D do not preserve the maximum amount of existing vegetation. Many portions of the easement will require extensive grading of natural slopes. The grading will presumably affect natural drainage patterns. For these reasons the applicant has not carried his burden of proof with regard to the standards in this criteria.

C. 11.45.490 Street Layout

The hearings officer finds that there is insufficient evidence in the record demonstrating that the following standards in this criteria can be met:

1. The applicant has not complied with standard #3, which requires that the development (including the proposed road) assures the maximum possible preservation of existing slopes, vegetation and natural drainage.

2. The applicant has not complied with standard #5 which requires that streets be designed to permit surveillance of street areas by residents and users for maximum security. Most segments of the proposed easement are in a heavily wooded area with steep slopes. The extensive roadway system does not provide adequate visibility, even for a rural development, and for that additional reason the access is unsafe and inconvenient. Unsafe access also violates standard #8 in 11.45.490.

3. The applicant has not complied with standard #7, because a preliminary drainage plan for the necessary roadway construction, including the turnouts and the side slopes, has not been submitted.

D. 11.45.500 Street Design

The applicant has not provided evidence that the private easement can comply with the Site Development Standards Ordinance, and as a result, there is no evidence that the hearings officer can use to find that such standards will be met.

E. 11.45.550 Easements

The standards in this criteria can be met so long as utility easements are placed on the final plat. There are no known water courses on the site, and drainage rights of way or storm water easements could be provided along the access easement if adjacent owners consent to such easements. However, since the applicant has not provided any indication that such consent is forthcoming, it cannot be presumed that these easements can be provided. Therefore, there is insufficient evidence to determine whether this criteria can be met.

F. 11.45.580 Water System

The applicant has not demonstrated that domestic water systems for each lot can comply with the requirements of ORS.090 (4)(a), (b) or (c), and with MCC 11.45.640.

G. 11.45.590 Sewage Disposal

The applicant has not demonstrated that the sewage disposal system for each lot can comply with the requirements of ORS 92.090 (5) (a),(b) or (c) and with MCC 11.45.650.

H. 11.45.600 Surface Drainage

The applicant has not demonstrated that the drainage system as required by 11.45.660 can be provided in relation to the access easement. The applicant has not analyzed the preliminary drainage needs of the roadway at all, and in particular has not indicated how and whether the applicant has permission from other owners to locate drainage facilities in particular locations along segments A & B of the access easement

I. 11.45.610 Electrical and Other Wires

The applicant has not indicated whether these utilities would be placed underground, but the hearings officer presumes that it is impracticable to place this utilities underground because it would be unnecessarily expensive to do so in consideration of the need. Therefore this criteria is presumably met.

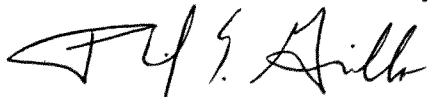
V. SUMMARY AND DECISION

The hearings officer concludes that the application for Alternative Access should be denied because the evidence in the record does not demonstrate that safe access can and will be provided.

Furthermore, the hearings officer concludes that the proposed Land Division should be denied because many of the relevant criteria and standards are either not supported by substantial evidence in the record, or the evidence in the record conflicts with certain criteria and policies.

For the reasons set out above, and incorporating the written evidence and oral testimony submitted to the hearings officer, the Access by Easement Request and Land Division Request are denied.

It is so Ordered, this 24th Day of November, 1993



Phillip E. Grillo
Hearings Officer

In the matter of LD 2-93 / MC 1-93

Signed by the Hearings Officer: November 24, 1993

Decision mailed to parties: December 1, 1993

Submitted to Clerk of the Board: December 3, 1993

Last day to Appeal to the Board: December 13, 1993

Decision reported to the Board: December 14, 1993

The Hearings Officer Decision may be appealed to the Board of County Commissioners by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer Decision is submitted to the Clerk of the Board. An appeal requires a completed "Notice of Review" form and a fee of \$300.00 plus a \$3.50-per-minute charge for a transcript of the initial hearing(s) [ref. MCC 11.15.9020(A)(1) and MCC 11.15.9020(B)]. Instructions and forms are available at the County Planning and Development Office at 2115 SE Morrison Street, Portland.

Failure to raise an issue by the close of the Record at or following the final hearing, (in person or by letter), precludes appeal to the Land Use Board of Appeals (LUBA) on that issue. Failure to provide specificity on an issue sufficient for the Board to respond, precludes appeal to LUBA on that issue.

shall be delivered to the Planning Director for approval within one year following the approval of the tentative plan, and shall incorporate any modification or condition required by approval of the tentative plan. The Planning Director may, upon written request by the applicant, and payment of the required fee, grant an extension of the approval period, not to exceed six months, upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the tentative plan.

11.45.430 Staged Development for Subdivision

When an applicant desires to record and develop subdivision plats covering portions of an approved tentative plan in stages, the approval authority may authorize a time schedule for platting the various stages in periods of time in excess of one year, but in no case shall the total time period for platting of all stages be greater than five years without re-filing of the tentative plan. Each stage so platted and developed shall conform to all applicable requirements of this Chapter.

11.45.440 Re-Approval After Expiration

After the expiration of the approval period, and extension, if any, a tentative plan shall be re-filed and considered as a new application.

11.45.450 Application of General Standards and Requirements

Every land division proposal shall comply with the applicable provisions of MCC 11.45.460 through 11.45.610.

11.45.460 Land Suitability

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

- (A) Slopes exceeding 20%;
- (B) Severe soil erosion potential;
- (C) Within the 100-year flood plain;
- (D) A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;

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

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

11.45.470 Lots and Parcels

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

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

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

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

(C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.

11.45.480 Acreage Tracts

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

11.45.490 Street Layout

(A) Except as otherwise provided in subsections

(B) and (C) of this section, the arrangement of streets in a land division shall be designed:

- (1) To conform to the arrangement established or approved in adjoining land divisions;
 - (2) To continue streets to the boundary of any adjoining undivided tract where such is necessary to the proper development of the adjoining land;
 - (3) To assure the maximum possible preservation of existing slopes, vegetation and natural drainage;
 - (4) To limit unnecessary through traffic in residential areas;
 - (5) To permit surveillance of street areas by residents and users for maximum safety;
 - (6) To assure building sites with appropriate solar orientation and protection from winter wind and rain;
 - (7) To assure storm water drainage to an approved means of disposal; and
 - (8) To provide safe and convenient access.
- (B) Where topography or other conditions make conformance to the existing street pattern or continuance to an adjoining tract impractical, the street layout shall conform to an alternate arrangement authorized by the approval authority.
- (C) Where a street layout affecting the proposed land division has been established by the Comprehensive Plan, a future street plan under MCC 11.45.160, or as an element of a Special Plan Area under MCC 11.15.6604, the arrangement of streets in the land division shall conform to the established layout.
- (D) A half street may be permitted only where appropriate to the future division of adjoining undeveloped property.
- (E) When necessary for adequate protection of existing or proposed land uses or to afford separation of through and local traffic, a land division abutting or containing an existing or proposed arterial may be required to include, among other things, a frontage street, reverse frontage lots with extra depth, or screen plant-

ings in a non-access reservation along a property line.

11.45.500 Street Design

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

- (A) For a public street — in accordance with the Street Standards Ordinance; and
- (B) For a private street — in accordance with the Site Development Standards Ordinance.

11.45.510 Street Reserve Strips

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

11.45.520 Temporary Turnarounds

A temporary turnaround shall be provided on any street that is appropriate for continuation, either within the land division or beyond, when the street serves more than six interior lots. However, in the case of a subdivision to be recorded and developed in stages under MCC 11.45.450, a temporary turnaround shall not be required on a street to be continued in a subsequent stage. In such case, an appropriate improvement agreement under MCC 11.45.680 may be required by the Planning Director to assure that a temporary turnaround will be provided should the subsequent stage not proceed according to the approved schedule.

11.45.530 Street Names

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

11.45.540 Sidewalks, Pedestrian Paths and Bikeways

- (A) Sidewalks shall be required in Urban Area

public streets in accordance with the provisions of the Street Standards Ordinance.

- (B) A sidewalk shall be required along any private street serving more than six dwelling units.
- (C) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.
- (D) Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.
- (E) In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.

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

- (1) In a public right-of-way — in accordance with the Street Standards Ordinance; and
- (2) On private property — in accordance with the Site Development Standards Ordinance.

11.45.550 Easements

Easements shall be provided and designed according to the following:

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

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

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

11.45.560 Street Trees

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

11.45.570 Street Lighting

Street lighting shall be provided in all Urban Area subdivisions in accordance with the requirements of the Street Standards Ordinance.

11.45.580 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 11.45.640 of this Chapter.

11.45.590 Sewage Disposal

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsections (5)(a), (b) or (c) of ORS 92.090 and MCC 11.45.650 of this Chapter.

11.45.600 Surface Drainage

Surface drainage and storm sewer systems shall be provided as required by section 11.45.660. 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.

11.45.610 Electrical and Other Wires

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

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

11.45.620 Required Improvements

Improvements in a land division shall be made in accordance with the provisions of MCC 11.45.630 through 11.45.680.

11.45.630 Streets, Sidewalks, Pedestrian Paths and Bikeways

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

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

11.45.640 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 Ordinance; and
- (B) In a private street — in accordance with the Site Development Standards Ordinance.

11.45.650 Sewage Disposal

- (A) Except as provided in subsection (B) of this section, a sanitary sewer line shall be installed to serve every lot or parcel in a land division by extension of an existing sewer line:
- (1) In a public street — in accordance with

the Street Standards Ordinance; and

- (2) In a private street — in accordance with the Site Development Standards Ordinance.

- (B) In the event the State Department of Environmental Quality determines that it is impractical to serve any lot or parcel by an existing sewer system, a private sewage disposal system approved by the Department, shall be provided. In such cases, the County Engineer 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.

11.45.660 Surface Drainage and Storm Sewer Systems

Drainage facilities shall be constructed as follows:

- (A) In a public street — in accordance with the Street Standards Ordinance; and
- (B) In a private street and on lots or parcels — in accordance with the Site Development Standards Ordinance and Ordinance No. 106.

11.45.670 Other Utilities

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

- (A) In a public street — in accordance with the Street Standards Ordinance; and
- (B) In a private street or easement — in accordance with the Site Development Standards Ordinance.

11.45.680 Improvement Agreement

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

- (A) A schedule for the completion of required improvements;
- (B) Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the

MEETING DATE: December 14, 1993

AGENDA NO: P-2

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Proposed Ordinance - First Reading

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: December 14, 1993

Amount of Time Needed: 1 hour

DEPARTMENT: DES

DIVISION: Planning

CONTACT: R. Scott Pemble

TELEPHONE #: 3182

BLDG/ROOM #: 412/103

PERSON(S) MAKING PRESENTATION: David Prescott

ACTION REQUESTED:

☐ INFORMATIONAL ONLY ☐ POLICY DIRECTION ☐ APPROVAL ☐ OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

C 7-93 A proposed Ordinance amending Sections of MCC 11.45, the Multnomah County Land Division Ordinance - First Reading

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

OR

DEPARTMENT MANAGER:

[Signature]
[Signature]

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

0516C/63

BOARD OF
COUNTY COMMISSIONERS
1993 DEC -8 AM 11:51
MULTNOMAH COUNTY
OREGON



MULTNOMAH COUNTY OREGON

DIVISION OF PLANNING & DEVELOPMENT/2115 S.E. MORRISON/PORTLAND, OREGON 97214

DIVISION OF PLANNING AND DEVELOPMENT

Board Planning Packet Check List

File No. C 7-93

☒ Agenda Placement Sheet No. of Pages 1

☒ Case Summary Sheet No. of Pages 1
☐ Previously Distributed _____

☐ Notice of Review No. of Pages _____
*(Maybe distributed at Board Meeting)
☐ Previously Distributed _____

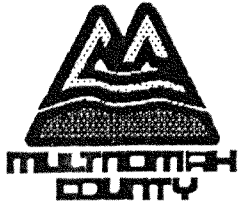
☐ Decision No. of Pages _____
(Hearings Officer/Planning Commission)
☐ Previously Distributed _____

☒ Proposed Ordinance No. of Pages 65

☒ Planning Commission Resolution No. of Pages 1

☒ Planning Commission Staff Report No. of Pages 54

*Duplicate materials will be provided upon request.
Please call 2610.



Department of Environmental Services
Division of Planning and Development
2115 S.E. Morrison Street
Portland, Oregon 97214 (503) 248-3043

MEMORANDUM

TO: Board of County Commissioners

FROM: Dave Prescott *DP*

SUBJECT: Amendments to County Land Division Ordinance (C 7-93)

DATE: December 14, 1993

Enclosed is an ordinance containing proposed amendments to the Multnomah County Land Division Ordinance (MCC 11.45). Some of the amendments are the result of changes in State Statutes that regulate subdivisions and partitions. Other amendments are proposed because of changes in the County's organization and administrative procedures as they relate to land divisions. Finally, some proposed amendments are intended to make the land division process work better. Such amendments consist of changes in procedure and additions of new standards or clarifications of existing standards.

The Planning Commission considered the proposed changes in public hearings held on October 4 and November 1, 1993, and approved them on November 1, 1993. Exhibit A is the Staff Report which contains the proposed amendments and explains the reasons for each amendment. Resolution No. C 7-93 (also enclosed) signifies the Planning Commission's approval of the proposed amendments.

**BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY**

In the Matter of Recommending Adoption of Ordinances)	
Amending the Multnomah County Land Division Ordinance (MCC 11.45))	RESOLUTION
	C 7-93

WHEREAS, The Planning Director is authorized by Multnomah County Code, Chapter 11.45.830(A)(3) to recommend to the Board of County Commissioners the adoption of amendments to the Land Division Ordinance; and

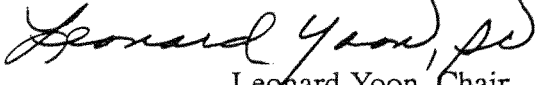
WHEREAS, Changes in state law regarding subdivisions, partitions, property line adjustments and other matters relating to division of land, have been adopted by the Oregon Legislative Assembly, thereby causing certain portions of the County Land Division Ordinance to be out of date; and

WHEREAS, Changes in the organizational structure of various County administrative departments and divisions have resulted in the assignment of certain land division review functions to officials and departments different from those officials and departments designated in the Land Division Ordinance; and

WHEREAS, Experience with the present Land Division Ordinance has shown that certain changes to the Ordinance will improve the way in which the Ordinance achieves its purpose of providing classifications and standards for dividing land in the County's unincorporated area; and

WHEREAS, The Planning Commission considered these Ordinance revisions at public hearings on October 4, 1993 and November 1, 1993 where all interested persons were given an opportunity to appear and be heard,

NOW, THEREFORE BE IT RESOLVED that the Ordinance captioned "An Ordinance amending sections of MCC 11.45, the Multnomah County Land Division Ordinance," is hereby recommended for adoption by the Board of County Commissioners.

Approved this 1st day of November, 1993

Leonard Yoon, Chair
Multnomah County Planning Commission

ORDINANCE FACT SHEET

Ordinance Title: Land Division Ordinance (MCC 11.45)

Give a brief statement of the purpose of the ordinance including rationale for adoption, description of persons benefited, alternatives explored: Some of the proposed amendments are necessary due to changes in the State subdivision laws in Chapter 92 of Oregon Revised Statutes. Some amendments reflect changes in County organization and procedures. Other amendments are intended to improve the way that the Ordinance performs its purpose of providing classifications and standards for dividing land in unincorporated Multnomah County. What other local jurisdictions have enacted similar legislation?

All counties (including Multnomah County) and cities in Oregon have land division ordinances.

What has been the experience in other areas with this type of legislation?

The experience has been favorable.

What is the fiscal impact, if any?

None, except for reprinting the Ordinance.

(Please use other side if you need more space)

SIGNATURES

Person Filling out form

David H. Proctor

Planning & Budget (if fiscal impact)

Department Manager/Elected Official

Betsy H. Williams

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. _____

An Ordinance amending sections of MCC 11.45, the Multnomah County Land Division Ordinance.

(Underlined sections are new or replacements; [~~bracketed~~] sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings.

(A) The Planning Director is authorized by Multnomah County Code, Chapter 11.45.830(A)(3) to recommend to the Board of County Commissioners the adoption of amendments to the Land Division Ordinance.

(B) Changes in state law regarding subdivisions, partitions, property line adjustments and other matters relating to division of land, have been adopted by the Oregon Legislative Assembly, thereby causing certain portions of the County Land Division Ordinance to be out of date.

(C) Changes in the organizational structure of various County administrative departments and divisions have resulted in the assignment of certain land division review functions to officials and departments different from those officials and departments designated in the Land Division Ordinance.

(D) Experience with the present Land Division Ordinance has shown that certain changes to the Ordinance will improve the way in which the Ordinance achieves its purpose of providing classifications and standards for dividing land in the County's unincorporated area.

(E) A 54 page Staff Report dated November 1, 1993 explains the reasons for the proposed changes and is attached as Exhibit A. The Staff Report has the title "C 7-93, Exhibit A, Findings Associated with Amending the Multnomah County Land Division Ordinance" The Staff Report is incorporated by reference, and is adopted.

1 (F) On October 4, 1993 and November 1, 1993 the Planning Commission held public hearings on
2 the proposed amendments. Hearings before the Board of County Commissioners followed on December
3 14, 1993 and December 28, 1993. At each of the hearings all interested persons were given an opportunity
4 to appear and be heard.

5

6 Section II. Amendments.

7 Multnomah County Code Chapter 11.45 is amended to read as follows:

8

9 **11.45.005 Title**

10

11 This Chapter shall be known as the Multnomah County Land Division Ordinance and may be so plead-
12 ed and referred to.

13

14 **11.45.010 Definitions**

15

16 As used in this Chapter, unless the context requires otherwise:

17

18 (A) *Accessway* means a private street which is not a part of a lot or parcel and which provides access to
19 more than one lot or parcel.

20

21 (B) *Applicant* means the record owner or owners of a unit, area or tract of land or contiguous units,
22 areas or tracts, proposing subdivision or partitioning and includes the authorized representative of
23 the record owner or owners.

24

25 (C) *Approval authority* means the Hearings [~~Council~~] Officer, Planning Commission or Planning
26 Director authorized by this Chapter to approve tentative plans or final plans for land divisions.

(D) *Board* means the Board of County Commissioners of Multnomah County.

(E) *Comprehensive Plan* means the Comprehensive Plan adopted by Multnomah County, including any plan or plan element adopted as a component of the Comprehensive Plan.

(F) *Cul-de-sac* means a short public street which is open to traffic at one end and is terminated by a vehicle turnaround at the other.

(G) *Development permit* means any permit required by this or other Multnomah County Ordinances as a prerequisite to the use or improvement of any land and includes a building, land use, occupancy, sewer connection or other similar permit.

(H) *Flag lot* means a parcel which includes a private driveway as a part thereof.

(I) *Frontage street* means a minor street substantially parallel and adjacent to an arterial street, providing access to abutting properties and separation from through traffic.

(J) *Future street plan* means a plan approved by the Hearings [~~Council~~] Officer or Planning Commission, as appropriate, for the continuation into nearby property of any street in an Urban Area Type [H] 1 Land Division to facilitate the future division of the nearby land according to the provisions of this Chapter.

(K) *Half street* means a portion of the standard width of a street along the boundary of a land division, where the remaining portion of the street width could be provided from the adjoining property.

(L) *Hearings [Council] Officer* means the Hearings [Council] Officer of Multnomah County.

(M) *Land Division* means a subdivision[, [~~major partition~~] or [~~minor~~] partition. For the purposes of this Chapter, land divisions are further classified as

Type[~~I~~] 1, Type [~~H~~] 2, and]Type [~~HH~~] 3, and Type 4 Land Divisions, as provided in MCC 11.45.070 through 11.45.[~~100~~]110.

(N) *Land Feasibility Study* means a Site Evaluation Report as defined in OAR 340-71-150(1) which is the first step in obtaining a construction permit for an on-site sewage disposal system.

(~~N~~)Q *Lot* means a unit of land that is created by a subdivision of land.

~~[(O)Major partition means a partition which includes the creation of a street, but not the widening of an existing street.]~~

~~[(P) Map means a final diagram, drawing or other writing concerning a major or minor partition.]~~

~~[(Q)Minor partition means a partition which does not include the creation of a street, but may include the widening of an existing street.]~~

(~~R~~)P *Parcel* means a unit of land that is created by a partitioning of land.

(~~S~~)Q *Partition* means either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter.

([F]R) *Partition land* means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. *Partition land* does not include;

(1) ~~a divisions of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;~~ and ~~“partition land” does not include any~~

(2) ~~An~~ adjustment of a ~~[lot]~~ property line by the relocation of a common boundary where an additional ~~[parcel]~~ unit of land is not created and where the existing ~~[parcel]~~ unit of land reduced in size by the adjustment is not reduced below the minimum lot size established by MCC 11.15; or

(3) ~~Partition land does not include the~~ A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies, in the case of a county road, with the Street Standards Ordinance, or, in the case of other right of way, the applicable standards of the agency to which the sale or grant is made. However, any property divided by the sale or grant of property for state highway or county road or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

(4) ~~the~~ sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

(S) *Partition Plat* means means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

1
2 ([U]T) *Pedestrian path and bikeway* means a right- of-way or easement for pedestrian, bicycle or
3 other non-motorized traffic.

4
5 ([V]U) *Person* means a natural person, firm, partnership, association, social or fraternal organiza-
6 tion, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combina-
7 tion acting as a unit.

8
9 ([W]V) *Planning Commission* means the Planning Commission of Multnomah County.

10
11 ([X]W) *Planning Director* means the Director of the Division of Planning and Development or the
12 Director's delegate.

13
14 ([Y]X) *Plat* includes a final [~~map, diagram, drawing, replat or other writing containing all the~~
15 ~~descriptions, locations, specifications, dedications, provisions and information concerning a subdi-~~
16 ~~vision]~~ subdivision plat or partition plat.

17
18 ([ZY]) *Private driveway* means a private street which is a part of and provides access only to one
19 lot or parcel.

20
21 ([AA]Z) *Private street* means a street which is either a private driveway or an accessway, which is
22 under private ownership and which passes through or alongside the full length or width of, a sepa-
23 rate lot or parcel, either existing or proposed.

24
25 (AA) *Property Line* means the division line between two units of land.

26

(BB) Property Line Adjustment means the relocation of a common property line between two abutting properties.

([BB]CC) Public street means a street dedicated for public use or proposed to be dedicated for public use in a land division.

([CC]DD) Right-of-way means the area between boundary lines of a public street or other area dedicated for pedestrian or vehicular circulation.

([DD]EE) Rural Area means the unincorporated area of Multnomah County located outside of the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan.

([EE]FF) Sale or sell includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

([FF]GG) Sidewalk means a pedestrian walkway with all weather surfacing.

([GG]HH) Street means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

([HH]II) Street classifications such as *Arterial, Collector, Minor Arterial*, etc., shall have the meanings stated in the Multnomah County Street Standards Ordinance.

([H]JJ) Street lighting means the total system of wiring, poles, arms, fixtures and lamps, including all parts thereof that are necessary to light a street or pedestrian path and bikeway.

~~(JJ)~~KK) *Subdivide land* means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

~~(KK)~~LL) *Subdivision* means either an act of subdividing land or an area or a tract of land subdivided as defined in this Chapter.

MM) *Subdivision Plat* means means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a subdivision.

~~(LL)~~NN) *Tentative plan* means the applicant's proposal for subdivision or partition and consists of the drawings, written information and supplementary material required by this Chapter.

~~(MM)~~OO) *Urban Area* Means the unincorporated area of Multnomah County located within the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan.

11.45.015 Purpose

This Chapter is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County.

11.45.020 Intent

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

11.45.030 Scope

This Chapter shall apply to the subdivision and partitioning of all land within the unincorporated area of Multnomah County.

11.45.040 Compliance Required

No land may be divided in the unincorporated area of Multnomah County except in accordance with this Chapter.

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

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

(C) The requirements of this Chapter shall apply to the applicant for a land division and to the appli-

cant's successors in interest in the land division or any portion thereof.

11.45.050 Board findings Concerning Land Division Types

The Board of County Commissioners finds that:

(A) The Comprehensive Framework Plan, adopted in accordance with the Statewide Planning Goals, classifies certain County lands as within the Urban Area and therefore suitable for intensive development, and other lands as within the Rural Area and therefore suitable for agricultural, forest, natural resource and other non-intensive uses.

(B) Land division proposals, consisting of subdivisions, [~~major partitions~~] and [~~minor~~] partitions are steps in the land development process which should be encouraged in the Urban Area where supportive services exist, subject to review for conformance with the Comprehensive Plan and other legal requirements.

(C) Procedures governing land division in the urban area should be expeditious and inexpensive while protective of the public interest. The County system in effect since 1955, however, has involved time-consuming and costly procedures which, in many instances, have tended to discourage otherwise appropriate urban area land divisions.

(D) Under ORS 92.044 and 92.046, it is the Board's policy to delegate the review and approval function over certain land division proposals to the Hearings [~~Council~~] Officer or Planning Commission and over certain other proposals to an administrative official, provided that decisions in either instance shall be guided by the procedures and standards established by this Chapter.

(E) Determination of whether administrative or public hearing review should be required depends on the size, location and foreseeable impacts on the community of a given land division proposal. Type [H] 2 and Type [HH] 3 Land Division proposals, as defined in this Chapter, are appropriate for administrative review and decision due to their minor impacts on nearby properties and their consistency with the objectives of facilitating development in accordance with the Statewide Planning Goals, particularly Nos. 9, 10, 11, 13 and 14, and with the Comprehensive Plan.

11.45.060 Land Division Approval Authority Delegated

Based on the findings in MCC 11.45.050, the Board hereby:

(A) Adopts the classification system of Type[F] 1, Type [H] 2, ~~and~~ Type [HH] 3 and Type 4 Land Divisions as distinguished in MCC 11.45.070 through 11.45.100;

(B) Delegates to the Hearings [~~Council~~] Officer and to the Planning Commission, as appropriate, the authority to approve tentative plans for Type[F] 1 Land Divisions;

(C) Delegates to the Hearings [~~Council~~] Officer and to the Planning Commission, as appropriate, the authority to approve a future street plan for an Urban Area of 40 acres or less in conjunction with and in addition to action on a Type[F] 1 Land Division, provided that affected property owners are notified thereof, according to subsection (A) of MCC 11.45.220. Subsequent land division proposals of 10 lots or less within the area affected by an approved future street plan and consistent with it, are designated Type [H] 2 Land Divisions;

(D) Delegates to the Planning Director the authority to approve tentative plans and final plats ~~and maps~~ of Type [H] 2, ~~and~~-Type [HH] 3 and Type 4 Land Divisions, and to approve final plats ~~and~~

maps] of Type[H] 1 Land Divisions; and

(E) Delegates to the Planning Director the authority to determine into which classification any proposed land division falls. Doubt as to the classification of a land division proposal shall be resolved in favor of Type[H] 1 classification.

11.45.070 Land Division Types Distinguished

For the purposes of this Chapter, the land division classifications listed in sections 11.45.080 through 11.45.100 are established.

11.45.080 Type [H] 1 Land Divisions

The following proposals are designated Type[H] 1 Land Divisions:

(A) A Rural Area subdivision;

(B) An Urban Area subdivision of more than 10 lots;

(C) Except as provided in subpart (3) herein, a Rural or Urban Area [major] partition which creates a new street, ~~[in either a Rural or an Urban Area]~~ and an Urban Area subdivision of 10 lots or less when the Planning Director determines that:

(1) The proposal includes the continuation of an existing or planned street to adjacent property, or

(2) The proposal either eliminates or makes impractical the continuation of an existing street or the

provision of needed access to adjacent property.

(3) Exception: A land division described in subsection [~~C of MCC 11.45.080~~] (1) or (2) above is designated a Type [H] 2 Land Division when, as determined by the Planning Director, the proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan, with a future street plan approved under MCC 11.45.200 through 11.45.280, or with a street pattern approved as an element of a Special Plan Area under MCC 11.15.6604;

(D) A subdivision or partition associated with an application affecting the same property for any action proceeding requiring a public hearing under MCC 11.15 or for a variance under this Chapter; and

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

(1) The nature of nearby land uses or the pattern of existing land divisions in relation to the applicable elements of the Comprehensive Plan;

(2) Plans or programs for the extension of the street or utility systems on or near the proposed division; or

(3) Physical characteristics of the tract or nearby area such as steep slopes, a history of flooding, poor drainage, land slides or other existing or potential hazards.

11.45.090 Type [H] 2 Land Division

~~[The following proposals are designated Type II Land Divisions:]~~ A Type 2 Land Division is an Urban area subdivision of 10 lots or less, or a partition which includes the creation of a new street when:

(A) ~~[A major partition in either a Rural or Urban Area or an Urban Area subdivision of 10 lots or less, when e]~~ Continuation of an existing street is neither proposed nor needed to complete an appropriate street system or to provide access to adjacent undivided property, as determined by the Planning Director; and

(B) ~~[A major partition in either a Rural or an Urban Area or an Urban Area subdivision of 10 lots or less when t]~~ The proposed street layout is consistent with ~~[(1)A]~~ a street pattern adopted as part of the Comprehensive Plan; ~~[(2)W]~~, with a future street plan approved under MCC 11.45.~~[440]~~160, or ~~[(3) A]~~ a street pattern approved as an element of a Special Plan Area, under MCC 11.15.6604.

11.45.100 Type ~~[HH]~~ 3 Land Divisions

A land division proposal under any of the following circumstances is designated a Type ~~[HH]~~ 3 Land Division:

(A) A ~~[minor]~~ partition located at the end of a street;

(B) A ~~[minor]~~ partition abutting a street which has a centerline to property line width less than one-half the width specified for that functional street classification according to the Multnomah County Street Standards Ordinance;

(C) A partition which will result in a flag lot;

(D) A ~~[minor]~~ partition which will result in one or more parcels with a depth-to-width ratio exceeding 2.5 to 1;

(E) A ~~[minor]~~ partition which will result in a proposed parcel with an area four or more times the area of the smallest proposed parcel; and

(F) A ~~[minor]~~ partition of land classified as Significant Environmental Concern (SEC), Willamette River Greenway (WRG), Flood Hazard (FH), Exclusive Farm Use (EFU), or Special Plan Area (SPA) under MCC 11.15.

[Amended 1990, Ord. 642 § 2]

(G) A partition resulting in the creation of a lot for which an Exception or Variance is required under MCC 11.15.

11.45.110 ~~[Minor Partitions Exempted]~~ Type 4 Land Division

~~[minor p]~~ Partitions not listed in MCC 11.45.080 to 11.45.100 are ~~[exempt from the provisions of this Chapter.]~~ designated Type 4 Land Divisions.

(A) The Planning Director may approve a Type 4 Land Division based on a finding that the proposed parcels comply with the area and dimensional requirements of the zoning district in which the land division site is located.

(B) The procedure and forms for review and approval of a Type 4 Land Divisions shall be as provided for by the Planning Director.

11.45.115 Property Line Adjustment (Lot Line Adjustment)

1
2 A property line adjustment is the relocation of a common property line between two abutting proper-
3 ties.

4
5 (A) The Planning Director may approve a property line adjustment between two properties, in either
6 the Urban Area or the Rural Area, where an additional lot or parcel is not created and where the
7 existing lot or parcel reduced in size by the adjustment is not reduced below the minimum lot size
8 established by the applicable zoning designation.

9
10 (B) The Planning Director may approve a property line adjustment between two properties in the Rural
11 Area where an additional lot or parcel is not created but where one or both of the adjusted proper-
12 ties are below the minimum lot size established by the applicable zoning district designation. Such
13 an adjustment shall comply with any applicable zoning district standards for a Lot of Exception or
14 Lot Line Adjustment.

15
16 (C) Property line adjustments approved under subsections (A) and (B) above shall meet the following
17 additional standards:

18
19 (1) No additional lot or parcel shall be created from any parcel by the property line adjustment; and
20

21 (2) Owners of both properties involved in the property line adjustment shall consent in writing to
22 the proposed adjustment and record a conveyance or conveyances conforming to the approved
23 property line adjustment; and

24
25 (3) The adjusted properties shall meet all dimensional requirements in the underlying zoning dis-
26 trict designation except for lot area.

(4) The right-of-way width between the front line of each adjusted property and the centerline of any adjacent County road shall comply with the applicable provisions of the Street Standards Ordinance as determined by the County Engineer.

(D) The procedure and forms for obtaining approval of a property line adjustment shall be as provided for by the Planning Director.

11.45.120 Future Street Plan Requirements: Findings and Purposes

(A) Many urban area tracts have been divided into parcel sizes too large for efficient land development under present needs. Prior divisions have resulted in block sizes typically of 40 acres or less which are now appropriate for redivision. The diverse ownerships within these blocks make redivision difficult without an overall pattern for future streets.

(B) The purposes of the future street plan requirement are to aid in determining the suitability of an Urban Area Type [H] 1 Land Division in relation to the existing and potential development of nearby land; to establish a guide for the appropriate and economical provision of streets, land divisions and needed support services and to facilitate the orderly division or redivision of nearby lands.

11. 45.130 Future Street Plan Required

A future street plan shall be filed in conjunction with an application for an Urban Area Type [H] 1 Land Division. The plan shall show the pattern of future streets from the boundaries of the Type [H] 1 Land Division to the boundaries of those other tracts within a 40-acre area surrounding or adjacent to the Type [H] 1 Land Division which are capable of subsequent Type [H] 1 or 2 Land Division under MCC

11.45.090.

11.45.140 Exception to Future Street Plan Requirement

A future street plan shall not be required for any portion of the 40-acre area described in MCC 11.45.130 for which a proposed street layout has been established by:

(A) The Comprehensive Plan;

(B) A future street plan approved under MCC 11.45.~~140~~200 through 11.45.280; or

(C) A Special Plan Area, under MCC 11.15.6604.

11.45.150 Future Street Plan Contents

The future street plan shall show the proposed continuation of streets in the Type~~[H]~~ 1 Land Division in sufficient detail to demonstrate that future division of the adjacent area in compliance with the provisions of this Chapter is reasonably possible.

11.45.160 ~~[Approval Procedures]~~ Deleted by Ord.

~~[A required future street plan shall be filed, reviewed and approved in the manner provided in MCC 11.45.190 through 11.45.280]~~

11.45.170 Recording and Filing

Upon final approval, a future street shall be:

(A) Recorded by the applicant with the [~~Recording Section of the Department of Administrative Services~~] public office responsible for public records; and

(B) Indexed and filed by the Planning Director in the offices of the Department of Environmental Services.

11.45.180 Revision of Future Street Plan

An approved future street plan may be revised by:

(A) Action by the Hearings [~~Council~~] Officer or Planning Commission, as appropriate, to approve a revised future street plan filed by an applicant in conjunction with a Type[F] 1 Land Division; or

(B) Action by the Board to approve a revised future street plan, to approve an alternative street pattern as part of the Comprehensive Plan or to approve an alternative street pattern as an element of a Special Plan Area under MCC 11.15.6604.

11.45.190 Type [F] 1 and Type 2 Tentative Plan and Future Street Plan approval procedures

[~~R~~] Filing and review [~~and approval~~] of [a] Type[F] 1 or Type 2 tentative plan and a future street plan shall be in accordance with the provisions of MCC 11.45.200 through [~~11.45.280~~] 11.45.270.

11.45.200 Pre-Filing Conference

(A) Prior to the submission of a tentative plan for a Type ~~[F]~~ 1 Land Division, the applicant shall request the Planning Director to arrange a pre-filing conference. The request shall include six copies of a preliminary sketch of the proposal, general information entered on forms provided by the Director, and the required fee. The conference shall be held within ~~[40]~~ 25 business days of the filing of the request and shall provide for an exchange of information regarding procedures, applicable elements of the Comprehensive Plan, zoning and development requirements, and such technical and design assistance in better land use practices and techniques as will aid the applicant in preparing a tentative plan and a future street plan, if required.

(B) The Planning Director shall provide the applicant with a written summary of the conference within five business days thereof.

(C) The Director shall supply information concerning the proposal to other agencies deemed affected.

11.45.210 Filing of Type ~~[F]~~ 1 Tentative Plan and Future Street Plan

(A) Following the pre-filing conference, the applicant for a Type ~~[F]~~ 1 Land Division shall file with the Planning Director a completed tentative plan and future street plan, if required, including 15 copies of the drawings required under MCC 11.45.250. The tentative plan shall be accompanied by the required fee.

(B) On receipt of the completed application for a Type 1 Land Division or future street plan, the Planning Director shall set a date for the public hearing thereon before the Hearings ~~[Council]~~ Officer or Planning Commission, as appropriate.

(C) The Planning Director shall furnish copies of the tentative plan and future street plan, if any, to all

affected city, county, state and federal agencies and special districts with a request for their review and written comment.

(D) Failure of an agency or district to provide written comment to the Planning Director concerning a Type I tentative plan or future street plan within 10 business days after the furnishing thereof may be deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period.

~~[11.45.220 Public Hearing and Action, Type I Tentative Plan and Future Street Plan~~ *Renumbered to*
285

~~(A) Notice of a hearing on a Type I tentative plan or a future street plan shall be given as required by MCC 11.15.8220, provided that mailed and posted notice shall also include a sketch indicating the proposed lotting and street patterns, the proposed future street plan, if any, and the location of the proposed land division in relation to adjoining properties and nearby streets.~~

~~(B) A decision on a Type I tentative plan and future street plan, if any, shall be deemed an action as defined in MCC 11.15.8205, and shall be determined in the manner prescribed for action proceedings in MCC 11.15.8225 through .8230(C), and MCC 11.15.8235 through .8250(H).~~

~~(C) The burden of the applicant for a Type I Land Division shall be to satisfy the hearing body that the criteria for approval listed in MCC 11.45.230 of this Chapter have been met. The findings and conclusions adopted by the hearing body shall specifically address the relationships between the application and those criteria.~~

~~(D) The written decision on a Type I tentative plan and future street plan, if any, shall be submitted to~~

~~the Clerk of the Board by the Planning Director not later than ten days after the decision is announced. The Clerk shall summarize each decision on the agenda for the next Board meeting on planning and zoning matters for which notice can be given according to the Charter.~~

~~(E) Review of a decision on a Type I tentative plan or future street plan shall be according to the provisions of MCC 11.15.8260 through .8285(E).~~

~~11.45.225~~ Rescheduled Hearings Renumbered to .295

~~In the case of any hearing required under this Chapter which must be rescheduled at the request of or due to the neglect of the applicant, a fee in accordance with subsection (K) of MCC 11.45.810 shall be assessed against the applicant. Said fee may be waived in whole or part by the Planning Director if it is determined that the requested rescheduling was due to unavoidable circumstances or that the applicant proceeded with all possible diligence to give adequate advance notice of the request for rescheduling.~~

11.45.230 Criteria for Approval, Type ~~[F]~~ 1 and Type 2 Tentative Plan and Future Street Plan

In granting approval of a Type~~[F]~~ 1 or Type 2 tentative plan or future street plan, the approval authority shall find that:

(A) The tentative plan or future street plan is in accordance with[:

~~(1) F]the applicable elements of the Comprehensive Plan;~~

~~(2) The applicable Statewide Planning Goals adopted by the Land Conservation and Development Commission, until the Comprehensive Plan is acknowledged to be in compliance~~

1 ~~with said Goals under ORS Chapter 197; and~~

2
3 (3) ~~The applicable elements of the Regional Plan adopted under ORS Chapter 197.]~~

4
5 (B) Approval will permit development of the remainder of the property under the same ownership, if
6 any, or of adjoining land or of access thereto, in accordance with this and other applicable ordi-
7 nances;

8
9 (C) The tentative plan or future street plan complies with the applicable provisions, including the pur-
10 poses and intent of this Chapter.

11
12 (D) The tentative plan or future street plan complies with the Zoning Ordinance or a proposed change
13 thereto associated with the tentative plan proposal;

14
15 (E) If a subdivision, the proposed name has been approved by the [~~Division of Assessment and~~
16 ~~Taxation~~] County Surveyor and does not use a word which is the same as, similar to or pronounced
17 the same as a word in the name of any other subdivision in Multnomah County, except for the
18 words *town, city, place, court, addition* or similar words, unless the land platted is contiguous to
19 and platted by the same applicant that platted the subdivision bearing that name or unless the appli-
20 cant files and records the consent of the party that platted the subdivision bearing that name and the
21 block numbers continue those of the plat of the same name last filed.

22
23 (F) The streets are laid out and designed so as to conform, within the limits of MCC 11.45.490 and
24 11.45.500 and the Street Standards Ordinance, to the plats of subdivisions and maps of [~~major~~] par-
25 titions already approved for adjoining property unless the approval authority determines it is in the
26 public interest to modify the street pattern; and

(G) Streets held for private use are laid out and designed so as to conform with MCC 11.45.490 and 11.45.500 and the Street Standards Ordinance, and are clearly indicated on the tentative plan and all reservations or restrictions relating to such private streets, including ownership, are set forth thereon.

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

(1) The infiltration of flood waters into the system; and

(2) The discharge of matter from the system into flood waters.

[Added 1982, Ord. 324 § 2]

11.45.240 Contents of Type ~~[H]~~ 1 and Type 2 Tentative Plan

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 11.45.250 through 11.45.280.

11.45.250 Type ~~[H]~~ 1 and Type 2 Tentative Plan Map Specifications

(A) ~~[For a subdivision, t]~~ The tentative plan map shall be drawn on a sheet 18 x 24 inches or 11 x 17 inches in size or a size approved by the Planning Director. ~~at a~~ The scale of ~~[one inch to]~~ the map shall be 10, 20, 30, 40, [fifty] 50, 60 [feet], 100 [feet] or [two hundred] 200 feet to the inch or mul-

tiples of ten of any of these scales. The map shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8.5 x 11 inches, suitable for reproduction, mailing and posting with the notices required by subsection (A) of MCC 11.45.220.

~~[(B) For a major partition, the sheet size and the scale of tentative plan map shall be drawn on a sheet 8.5 x 11 inches in size at a scale of one inch to fifty feet or one hundred feet.]~~

~~[(C)]~~ B A future street plan may be combined with ~~[subsection (A) or (B) of this section]~~ the tentative plan map or may be drawn on a sheet 8.5 x 11 inches or larger in size at a scale of one inch to one hundred feet.

11.45.260 Type ~~[H]~~ 1 and Type 2 Tentative Plan Map Contents

The tentative plan map shall indicate~~[d]~~ the following:

(A) General information:

(1) In the case of a subdivision, the proposed name which shall be in accord with subsection (E) of MCC 11.45.230.

(2) Date, north point and scale of drawing.

(3) Description of the proposed land division sufficient to define its location and boundaries.

(4) Identification as a tentative plan map.

(B) Existing conditions:

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

(2) Easements: location, width and nature of any easement of record on or serving the tract.

(3) Utilities: location and identity of all utilities on or serving the tract.

~~[(4) Ground elevations shown by contour lines at five foot vertical intervals for ground slopes exceeding 10%. Ground elevation shall be related to an established bench mark or other point of reference approved by the County Engineer.]~~ Contour lines at two foot intervals for land inside the Urban Growth Boundary with 10% slope or less, five foot intervals for land inside the Urban Growth Boundary with slope exceeding 10%; contour lines at ten foot intervals for land outside the Urban Growth Boundary. The map shall state the source of the contour information.

(5) The location of at least one temporary bench mark within the land division.

(6) Any natural features such as rock outcroppings, marshes, wooded areas, major vegetation, etc., which may affect the proposal.

(7) Water courses on and abutting the tract, including their location, width and direction of flow.

(8) The approximate location of areas subject to periodic inundation or storm sewer overflow, the location of any designated Flood Hazard District, and all areas covered by water. *[Amended*

1 1982, Ord. 324 § 3]

2
3 (9) The location of any harbor line.
4

5 (10) Scaled location and size of all existing driveways and pedestrian walkways, and the
6 [§]scaled location and size and present use of all existing buildings or other structures, and des-
7 ignation of any existing buildings or structures proposed to remain on the property after divi-
8 sion.
9

10 (C) Proposed improvements:
11

12 (1) Streets: location, proposed name, right-of-way width and approximate radii of curves of each
13 proposed street.
14

15 (2) Any proposed pedestrian path or bikeway.
16

17 (3) Easements: location, width and nature of all proposed easements.
18

19 (4) Lots or parcels: location and approximate dimensions of all lots or parcels, the minimum lot or
20 parcel size and, in the case of a subdivision, the proposed lot and block numbers.
21

22 (5) Water supply: the proposed domestic water supply system.
23

24 (6) Sewage disposal: the proposed method of sewage disposal.
25

26 (7) Drainage: proposed methods for surface water disposal and any proposed drainage easements.

(8) Other utilities: the approximate location and nature of other utilities including the location of street lighting fixtures.

(9) Railroad rights-of-way, if any.

(10) Changes to navigable streams, if any.

(11) A street tree planting plan and schedule.

11.45.270 Written Information; Type [I] 1 and Type 2 Tentative Plan

Written information shall include:

(A) Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any.

(B) Proof of record ownership of the tract and the representative's authorization.

(C) Legal description of the tract.

(D) Present and proposed uses of the tract including all areas proposed to be dedicated to the public.

(E) Statements of the manner in which the criteria for approval listed in MCC 11.45.230 are satisfied.

(F) Statement of the improvements to be made or installed, including street tree planting, and the time such improvements are to be made or completed.

11.45.280 Supplementary Material; Type [H] 1 and Type 2 Tentative Plan

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

(A) A survey of the tract.

(B) A vicinity map showing existing divided and undivided land adjacent to the proposed land division, the existing uses and structures thereon, and an indication of the manner in which the proposed streets and utilities may be extended to connect to existing streets and utilities or to serve future land divisions.

(C) Proposed deed restrictions and methods of proposed ownership.

(D) Such other material as the Planning Director deems necessary to assist in the review and assessment of the land division proposal according to the provision of this Chapter.

11.45.[220] 285 Public Hearing and Action, Type [I] 1 Tentative Plan and Future Street Plan

Renumbered from >220

(A) Notice of a hearing on a Type[I]-1 tentative plan or a future street plan shall be given as required by MCC 11.15.8220, provided that mailed and posted notice shall also include a sketch indicating the proposed lotting and street patterns, the proposed future street plan, if any, and the location of the proposed land division in relation to adjoining properties and nearby streets.

(B) A decision on a Type[~~I~~] 1 tentative plan and future street plan, if any, shall be deemed an *action* as defined in MCC 11.15.8205, and shall be determined in the manner prescribed for *action proceedings* in MCC 11.15.8225 through .8230(C), and MCC 11.15.8235 through .8250(H).

(C) The burden of the applicant for a Type[~~I~~] 1 Land Division shall be to satisfy the hearing body that the criteria for approval listed in MCC 11.45.230 of this Chapter have been met. The findings and conclusions adopted by the hearing body shall specifically address the relationships between the application and those criteria.

(D) The written decision on a Type[~~I~~] 1 tentative plan and future street plan, if any, shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced. The Clerk shall summarize each decision on the agenda for the next Board meeting on planning and zoning matters for which notice can be given according to the Charter.

(E) Review of a decision on a Type[~~I~~] 1 tentative plan or future street plan shall be according to the provisions of MCC 11.15.8260 through .8285(E).

~~11.45.290~~ [Type II Tentative Plan Approval Procedures] [~~Repealed 199~~ ~~Ord.~~ §]

~~[Review and approval of a Type II tentative plan shall be in accordance with the provisions of MCC 11.45.300 through 11.45.340.]~~

11.45.[225] 295 Rescheduled Hearings Renumbered from .225

In the case of any hearing required under this Chapter which must be rescheduled at the request of or

1 due to the neglect of the applicant, a fee in accordance with subsection (K) of MCC 11.45.810 shall be
2 assessed against the applicant. Said fee may be waived in whole or part by the Planning Director if it is
3 determined that the requested rescheduling was due to unavoidable circumstances or that the applicant
4 proceeded with all possible diligence to give adequate advance notice of the request for rescheduling.

5
6 **11.45.300 [Pre Filing Conference]** *[Repealed 199_, Ord. ___, § __]*

7
8 ~~[A pre filing conference shall be requested and held prior to the filing of a tentative plan for a Type II~~
9 ~~Land Division, in the manner provided in MCC 11.45.200.~~

10
11 **11.45.310 [Filing of Type II Tentative Plan]** *[Repealed 199_, Ord. ___, § __]*

12
13 ~~[(A) Following the pre filing conference the applicant for a Type II Land Division shall file with the~~
14 ~~Planning Director a completed tentative plan, including 15 copies of the tentative plan map, as pro-~~
15 ~~vided in MCC 11.45.240 through 11.25.280. The tentative plan shall be accompanied by the~~
16 ~~required fee.~~

17
18 ~~[(B) The Planning Director shall furnish copies of the tentative plan to all affected city, county, state~~
19 ~~and federal agencies and special districts with a request for their review and written comment.~~

20
21 ~~[(C) Failure of an agency or district to provide written comment to the Planning Director concerning~~
22 ~~a Type II tentative plan within 10 business days after the furnishing thereof, may be deemed a rec-~~
23 ~~ommendation of approval unless the agency or district has filed a written request for an additional~~
24 ~~review period.]~~

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26 **11.45.320 Decision by Planning Director; Type [H] 2 Tentative Plan**

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(A) Within 25 business days of the filing of a Type [H] 2 tentative plan, the Planning Director shall approve the tentative plan with or without modifications or conditions, as appropriate, or disapprove it, and shall file the decision with the Director of the Department of Environmental Services and furnish a copy of the decision to the applicant and to other persons who request the same.

(B) A decision by the Planning Director on a Type [H] 2 tentative plan shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationships between the proposal and the criteria for approval listed in MCC 11.45.230.

(C) A decision by the Planning Director on a Type [H] 2 tentative plan application may be appealed to the Hearings [Council] Officer in the manner provided in MCC 11.15.8290 and .8295.

11.45.330 [~~Criteria for Approval, Type II Tentative Plan~~] [~~Repealed 199_, Ord. ___, § __~~]

~~[In granting approval of a Type II tentative plan, the Planning Director shall find that the proposal complies with the applicable criteria listed in MCC 11. 45. 230.]~~

11.45.340 [~~Contents of Type II Tentative Plan~~] [~~Repealed 199_, Ord. ___, § __~~]

~~[A tentative plan for a Type II Land Division shall consist of a map, written information and supplementary material adequate to provide the applicable information required in MCC 11.45.240 through 11.45.280.]~~

11.45.350 Type [HH]-3 Tentative Plan Approval Procedures

Review and approval of a Type [HH] 3 tentative plan shall be in accordance with the provisions of MCC 11.45.360 through 11.45.400.

11.45.360 Pre-Filing Conference

A pre-filing conference may be requested by the applicant for a Type [HH] 3 Land Division or by the Planning Director. The conference shall be held in the manner provided in MCC 11.45.200.

11.45.370 Filing of Type [HH] 3 Tentative Plan

(A) The applicant for a Type [HH] 3 Land Division shall file with the Planning Director a completed tentative plan, following the pre-filing conference, if any. The application, including three copies of the tentative plan map, shall include the information required by MCC 11.45.400. The tentative plan shall be accompanied by the required fee.

(B) The Planning Director may furnish copies of the tentative plan to any city, county, state and federal agency deemed by the Director to be affected, with a request for their review and written comment.

(C) Failure of any such agency or district to provide written comment to the Planning Director concerning a Type [HH] 3 tentative plan within 10 business days after the furnishing thereof, may be deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period.

11.45.380 Decision by Planning Director; Type [HH] 3 Tentative Plan.

(A) Within 25 business days of the filing of a Type [HH] 3 tentative plan, the Planning Director shall approve the tentative plan with or without modifications or conditions, as appropriate, or disapprove it, and shall file the decision with the Director of the Department of Environmental Services, and furnish a copy of the decision to the applicant and to other persons who request the same.

(B) A decision by the Planning Director on a Type [HH] 3 tentative plan shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationships between the proposal and the criteria for approval listed in MCC 11.45.390.

(C) A decision by the Planning Director on a Type [HH] 3 tentative plan application may be appealed to the Hearings [Council] Officer in the manner provided in MCC 11.15.8290 and .8295.

11.45.390 Criteria for Approval, Type [HH] 3 Tentative Plan

In granting approval of a Type [HH] 3 tentative plan, the Planning Director shall find that the criteria listed in subsections [(A)], (B), (C) and (H) of MCC 11.45.230 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district and the solar access regulations in the Zoning Ordinance.

[Amended 1982, Ord. 324 § 4]

11.45.400 Contents of Type [HH] 3 Tentative Plan

A tentative plan for a Type [HH] 3 Land Division shall consist of maps, written information and supplementary material adequate to provide the following:

(A) Type [HH] 3 tentative plan map contents. A tentative plan map ~~[drawn on a sheet 8 1/2 x 11 inch-~~

~~es in size at a scale of one inch to fifty feet or one hundred feet,]~~ of a sheet size and scale as specified in MCC 11.45.250(A) shall indicate the following:

- (1) Date, north point and scale of drawing.
- (2) Description of the proposed land division sufficient to define its location and boundaries.
- (3) Identification as a tentative plan map.
- (4) Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.
- (5) Natural features, water courses or areas covered by water.
- (6) The location and use of any buildings or structures proposed to remain after division.
- (7) The proposed parcels, their dimensions and areas.
- (8) The location of any designated Flood Hazard District. *[Added 1982, Ord. 324 § 5]*
- (9) Contiguous property under the same ownership

(B) Written information; Type ~~[H]~~ 3 tentative plan. Written information shall include:

- (1) Name, address and telephone number of the record owner(s), owner's representative, designer(s), engineer(s) or surveyor(s), and the date of survey, if any.

(2) Proof of record ownership of the tract and the representative's authorization.

(3) Legal description of the tract .

(4) Present and proposed uses .

(5) Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.

(6) Statements of the manner in which the criteria for approval listed in MCC 11.45. 390 are satisfied.

(7) Statement of the improvements to be made or installed and the time schedule therefor.

(C) Supplementary material; Type [H] 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 11.45.240 through 11.45.280, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Chapter.

11.45.410 Tentative Plan Approval Time Limits; Staged Development

The time limits for approval of tentative plans and staged development proposals shall be in accordance with MCC 11.45.420 through 11.45.440.

11.45.420 Time Limit

1
2 The final subdivision plat or final partition [~~map~~] plat shall be delivered to the Planning Director for
3 approval within one year following the approval of the tentative plan, and shall incorporate any modifi-
4 cation or condition required by approval of the tentative plan. The Planning Director may, upon written
5 request by the applicant, and payment of the required fee, grant an extension of the approval period, not
6 to exceed six months, upon a written finding that the facts upon which the approval was based have not
7 changed to an extent sufficient to warrant re-filing of the tentative plan.

8 9 **11.45.430 Staged Development for Subdivision**

10
11 When an applicant desires to record and develop subdivision plats covering portions of an approved ten-
12 tative plan in stages, the approval authority may authorize a time schedule for platting the various stages
13 in periods of time in excess of one year, but in no case shall the total time period for platting of all
14 stages be greater than five years without re-filing [~~of~~] the tentative plan. Each stage so platted and devel-
15 oped shall conform to all applicable requirements of this Chapter.

16 17 **11.45.440 Re-Approval After Expiration**

18
19 After the expiration of the approval period, and extension, if any, a tentative plan shall be re-filed and
20 considered as a new application.

21 22 **11.45.450 Application of General Standards and Requirements**

23
24 Every land division proposal shall comply with the applicable provisions of MCC 11.45.460 through
25 11.45.610.

1 **11.45.460 Land Suitability**

2

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

5

6 (A) Slopes exceeding 20%;

7

8 (B) Severe soil erosion potential;

9

10 (C) Within the 100-year flood plain;

11

12 (D) A high seasonal water table within 0–24 inches of the surface for three or more weeks of the
13 year;

14

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

16

17 (F) Subject to slumping, earth slides or movement.

18

19 **11.45.470 Lots and Parcels**

20

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

22

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

24

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

26

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

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

(4) To the need for privacy through such means as transition from public to semi-public to private use areas and the separation of conflicting areas by suitable distances, barriers or screens; and

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

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

(C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.

(D) A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:

(1) When a flag lot does not adjoin another flag lot, as shown in Figure .470(D)(1), the pole portion of the flag lot shall be at least 16 feet wide.

(2) Where two flag lots are placed back to back as shown in Figure .470(D)(2), the pole portion of each flag lot shall be at least 12 feet wide.

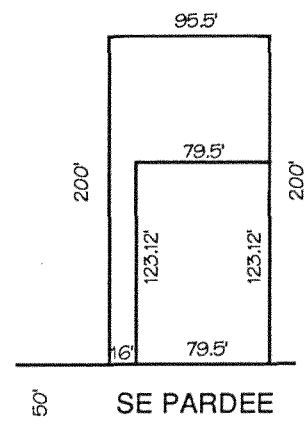


Figure .470(D)(1)

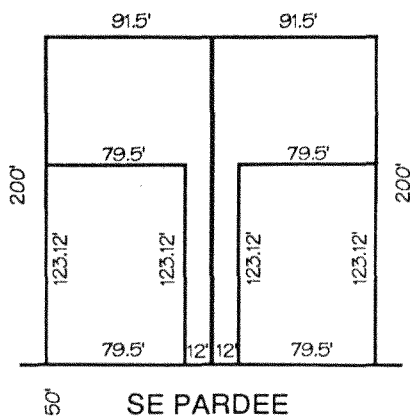


Figure .470(D)(2)

(E) Within a land division, flag lots shall not be stacked one behind the other as shown in Figure .470(E)(1). Instead, a private accessway shall be used as shown in Figure .470(E)(2).

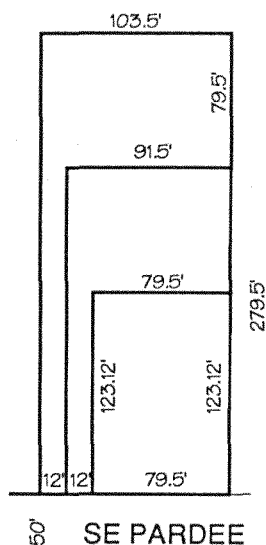


Figure .470(E)(1)

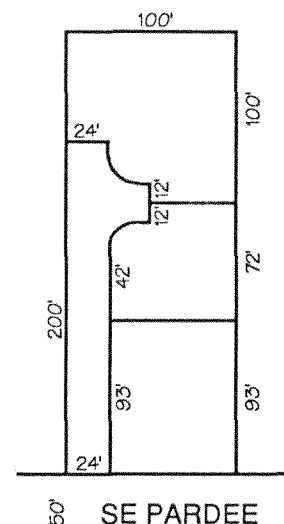


Figure .470(E)(2)

11.45.480 Acreage Tracts

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

future rights-of-way or building sites.

11.45.490 Street Layout

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

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

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

(C) Where a street layout affecting the proposed land division has been established by the Comprehensive Plan, a future street plan under MCC 11.45.160, or as an element of a Special Plan Area under MCC 11.15.6604, the arrangement of streets in the land division shall conform to the established layout.

(D) A half street may be permitted only where appropriate to the future division of adjoining undeveloped property, provided that when possible, additional dedicated right-of-way exceeding one-half of a street may be required to provide adequate width to accommodate two-way vehicle traffic.

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

11.45.500 Street Design

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

(A) For a public street — in accordance with the Street Standards Ordinance; and

(B) For a private street — in accordance with the ~~[Site Development]~~ Street Standards Ordinance.

1 subject to the following additional requirements:

2
3 (1) Accessways shall be designed in accordance with *Permit Requirements for Accessway*
4 *Construction* published by the Multnomah County Department of Environmental Service.
5 Accessways shall have a maximum length of 300 feet.
6

7 (C) A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve
8 building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround
9 having a radius of 50 feet.
10

11 **11.45.510 Street Reserve Strips**

12

13 The land division shall provide for the appropriate extension or widening of streets serving the division
14 or for allocating the improvement costs among future land divisions. A reserve strip or street plug may
15 be required for such purposes. The control and disposition of reserve strips or plugs shall be placed
16 within the jurisdiction of the County.
17

18 **11.45.520 Temporary Turnarounds**

19

20 A temporary turnaround shall be provided on any street that is appropriate for continuation, either with-
21 in the land division or beyond, when the street serves more than six interior lots. However, in the case of
22 a subdivision to be recorded and developed in stages under MCC 11.45.450, a temporary turnaround
23 shall not be required on a street to be continued in a subsequent stage. In such case, an appropriate
24 improvement agreement under MCC 11.45.680 may be required by the Planning Director to assure that
25 a temporary turnaround will be provided should the subsequent stage not proceed according to the
26 approved schedule.

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11.45.530 Street Names

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

11.45.540 Sidewalks, Pedestrian Paths and Bikeways

- (A) Sidewalks shall be required in Urban Area public streets in accordance with the provisions of the Street Standards Ordinance.
- (B) A sidewalk shall be required along any private street serving more than six dwelling units.
- (C) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.
- (D) Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.
- (E) In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.
- (F) The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable ordinance standards, as follows:

(1) In a public right-of-way — in accordance with the Street Standards Ordinance; and

(2) On private property — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the Planning Director in accordance with the Design Review provisions of the Zoning Ordinance.

11.45.550 Easements

Easements shall be provided and designed according to the following:

(A) Easements for utilities and storm or sanitary sewers may be required where appropriate to serve abutting lots or parcels. Such easements shall be not less than 10 feet in width, centered on side or rear property lines or five feet in width along front property lines.

(B) Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.

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

11.45.560 Street Trees

Street trees shall be planted by the applicant according to the ~~[Street Standards Ordinance or the Site~~

~~Development Standards Ordinance, as appropriate, and to the]~~ street tree planting plan and schedule approved by the County Engineer as an element of the tentative plan. Trees which have not survived for one year after initial planting shall be replaced by the applicant within four months of loss.

11.45.570 Street Lighting

Street lighting shall be provided in all Urban Area subdivisions in accordance with the requirements of the Street Standards Ordinance.

11.45.580 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 11.45.640 of this Chapter.

11.45.590 Sewage Disposal

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsections (5)(a), (b) or (c) of ORS 92.090 and MCC 11.45.650 of this Chapter.

11.45.600 Surface Drainage

Surface drainage and storm sewer systems shall be provided as required by section 11.45.660. 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.

11.45.610 Electrical and Other Wires

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

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

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

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

11.45.620 Required Improvements

Improvements in a land division shall be made in accordance with the provisions of MCC 11.45.630 through 11.45.680.

11.45.630 Streets, Sidewalks, Pedestrian Paths and Bikeways

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

(A) In a public street — in accordance with this Chapter and the Street Standards Ordinance; and

(B) In a private street — in accordance with the ~~[Site Development]~~ Street Standards Ordinance.

(C) Underground utilities and street lighting facilities, sanitary sewers, storm drains and water mains

located in a street shall be installed prior to the surfacing of the street.

11.45.640 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 Ordinance; and

(B) In a private street — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the approval authority

11.45.650 Sewage Disposal

(A) Except as provided in subsection (B) of this section, a sanitary sewer line shall be installed to serve every lot or parcel in a land division by extension of an existing sewer line:

(1) In a public street — in accordance with the Street Standards Ordinance; and

(2) In a private street — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the approval authority.

(B) In the event the State Department of Environmental Quality determines that it is impractical to serve any lot or parcel by an existing sewer system, a private sewage disposal system approved by the Department, 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 [County Engineer] 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.

11.45.660 Surface Drainage and Storm Sewer Systems

Drainage facilities shall be constructed as follows:

(A) In a public street — in accordance with the Street Standards Ordinance; and

(B) In a private street and on lots or parcels — in accordance with the ~~[in accordance with the Site Development Standards Ordinance]~~ plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority.

11.45.670 Other Utilities

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

(A) In a public street — in accordance with the Street Standards Ordinance; and

(B) In a private street — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the approval authority.

11 45 680 Improvement Agreement

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

(A) A schedule for the completion of required improvements;

(B) Provision that the applicant file with the County Engineer a maintenance bond, on forms provided by the Engineer, guaranteeing the materials and workmanship in the improvements required by this Chapter against defects for a period of 12 months following the issuance of a certificate of acceptance by the County Engineer; and

(C) A surety bond, executed by a surety company authorized to transact business in the State of Oregon, or a certified check or other assurance approved by the County Counsel, guaranteeing complete performance. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer.

11.45.690 Final Subdivision Plat or Partition [~~Map~~] Plat-Requirements

A final subdivision plat or [~~a final~~] partition [~~map~~] plat shall be prepared and reviewed as provided in MCC 11.45.700 through 11.45.740, and approval shall be effective according to MCC 11.45.750.

11.45.700 Final Drawing and Prints

Two prints of the subdivision or partition plat [~~or map~~] shall accompany the final drawing, which shall be prepared as follows:

(A) The final subdivision [~~plat~~] or partition plat shall be drawn in the manner provided by ORS

92.080 and shall include an exact copy thereof, according to subsection (2) of ORS 92.120.

(B) The final subdivision or partition [~~map~~] plat shall be [~~drawn in the manner provided by~~] subject to the requirements of subsection (2) of ORS 209.250.

11.45.710 Information Required on Subdivision Plat or Partition [~~Map~~] Plat

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition [~~map~~] plat

(A) The information required by subsections (1) and (2) of ORS 92.070 and subsections (3)(a), (b), (e) and (f) of ORS 92.090.

(B) Recording numbers of existing surveys which are identified, related to the plat or map by distances and bearings, and related to a field book or map by any of the following:

(1) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division;

(2) Corners of adjoining subdivisions or partitions; or

(3) Other monuments found or established in making the survey or required to be set by law.

(C) The location, width and centerline of streets and easements abutting the boundaries of the land division.

(D) Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.

(E) Tract, block, and lot or parcel boundary lines and street rights-of-way and centerlines, with dimensions, bearings or deflection angles, radii arc, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings. Distances shall be shown to the nearest 0.01 feet. All curve data, including length of cord and cord bearing, shall be shown in tabular form. Arc lengths shall be shown on the lines.

(F) The width of the portion of any street being created and the width of any existing right-of-way. For a curved street, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated. Each public street shall be named. The ownership of each private street shall be shown.

(G) Easements shall be clearly identified as to intended purpose. Book and page numbers shall be provided for any easement of record. If an easement is not of record, a description of the nature of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division shall be shown. If an easement is being dedicated by a plat, it shall be so indicated in the owner's certificate of dedication.

(H) For a subdivision — lot numbers beginning with the number "1" and numbered consecutively ~~[in each block]~~.

(I) ~~[For a subdivision — block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure.]~~ [Repealed 199]

Ord. ___, § ___,

(J) Lot and block numbers in an addition to a subdivision of the same name, shall be a continuation of the numbering in the original subdivision.

(K) Identification of land to be dedicated for any purpose, public or private, in a manner sufficient to distinguish it from lots or parcels intended for sale.

~~[(L) Building setback lines, identified as such, which are to be made a part of the subdivision or partition restrictions.]~~

[(M)L] The following certificates, which may be combined where appropriate:

(1) For a subdivision — a certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the recording of the plat.

(2) For a subdivision — a certificate signed and acknowledged as above, dedicating to the public all land and common improvements intended for public use.

(3) For a subdivision or partition — a certificate with the seal of and signed by the surveyor responsible for the survey and the final plat or map.

(4) Other certifications required by law.

11.45.720 Supplemental Information with Subdivision Plat or Partition ~~[Nap]~~ Plat

The following shall accompany the subdivision plat or partition ~~[map]~~ plat, as appropriate:

(A) A title report issued by a title insurance company if any real property is to be dedicated to the public.

(B) Sheets and drawings showing the following:

(1) Traverse data including the coordinates of the boundary of the land division and ties to section corners and Donation Land Claim corners. The error of closure shall not exceed 1:10,000. All error is to be removed by adjustment on the plat or map.

(2) The computation of the distances, angles and courses shown on the plat or map.

(3) Ties to existing monuments, proposed monuments, adjacent subdivisions or partitions and street corners.

(C) A copy of any deed restrictions applicable to the subdivision or partition.

(D) A copy of any dedication requiring separate documents.

(E) A copy of the future street plan, when required, as recorded according to MCC 11.45.170(A).

~~[(F) For a partition, a metes and bounds description of each parcel being created.]~~

11.45.730 Technical Review and Approval of Subdivision Plat or Partition Plat ~~[or Map]~~

1 (A) The subdivision plat or partition [~~map~~] plat and all required material shall be filed with the
2 Planning Director for final approval. Within 10 business days of filing, the Planning Director shall
3 determine whether the material conforms with the approved tentative plan and with the applicable
4 requirements of this Ordinance. If the Planning Director determines that there is not such conformi-
5 ty, the applicant shall be so advised and afforded an opportunity to make corrections. When the plat
6 ~~or map~~ is found to be in conformity, it shall be signed and dated by the Planning Director.

7
8 (B) Following review and approval of a subdivision or partition plat, the Planning Director shall:

9
10 (1) Obtain the approval signature thereon by the County [~~Engineer~~] Surveyor, certifying that the
11 subdivision plat complies with all applicable laws. Before so certifying, the County [~~Engineer~~]
12 Surveyor, may cause field investigations to be made to verify that the plat survey is sufficiently
13 accurate. If it is determined that there has not been full compliance, the applicant shall be so
14 notified and afforded an opportunity to make corrections. When the plat is found to be in confor-
15 mity, it shall be signed and dated by the County [~~Engineer~~] Surveyor. ;

16
17 (2) As required by ORS 92.110, obtain the approval signatures thereon of the Board of Directors, or
18 Board's delegate, of an irrigation district, drainage district, water control district or district
19 improvement company, if the subdivision is within such district;

20
21 (3) [~~Or~~] In the case of a subdivision, obtain the approval signatures thereon of [~~a majority~~] the Chair of
22 the Board of County Commissioners or the [~~Board~~] Chair's delegate, certifying that the plat is
23 approved;

24
25 (4) Obtain the approval signature thereon from the Division of Assessment & Taxation, certifying
26 that all taxes on the property have been paid or bonded for in accordance with State law;

(5) Deliver the approved subdivision plat and accompanying documents to the Recording Section of the ~~[Recording Section of the Department of Administrative Services]~~ public office responsible for public records for recording; and

(6) Notify the applicant that the approved subdivision plat and accompanying documents have been delivered to the Recording Section and may be offered for record.

~~[(C) Following review and approval of a final partition map the Planning Director shall:~~

~~(1) Obtain the approval signature thereon by the County Engineer certifying that it complies with all applicable laws. Before so certifying, the County Engineer may cause field investigations to be made to verify that the map survey is sufficiently accurate. If it is determined that there has not been full compliance, the applicant shall be so notified and afforded an opportunity to make corrections. When the map is found to be in conformity, it shall be signed and dated by the County Engineer and filed in accordance with ORS 209.250;~~

~~(2) As required by ORS 92.110, obtain the approval signatures thereon of the Board of Directors or Board's delegate, of any irrigation district, drainage district, water control district or district improvement company, if the partition is within such district;~~

~~(3) Deliver the approved partition map and accompanying documents to the Recording Section of the Department of Administrative Services for recording; and~~

~~(4) Notify the applicant that the approved partition map and documents have been delivered to the Recording Section and may be offered for record.]~~

(C) No building permit shall be issued or parcel sold, transferred or assigned until the partition plat has been approved by the Planning Director and County Surveyor and recorded with the public office responsible for public records.:

11.45.740 ~~[Appeal From Action on Final Plat or Map]~~ *[Repealed 199__ , Ord. ____, § __]*

~~A decision of the Planning Director on a final subdivision plat or final partition plat may be appealed to the Hearings Council in the manner provided in MCC 11.15.8290 and .8295.]~~

11.45.750 Final Approval Effective

~~[The approval process for a s]~~ Subdivision and partition approvals shall become final upon the recording of the approved [subdivision] plats, under [subsection (1) of] ORS 92.120, ~~[and for a partition, upon the recording of the approved partition map]~~ any required street dedications and other required documents with the ~~[Recording Section of the Department of Administrative]~~ Services]-public office responsible for public records.

11.45.760 Variances

(A) A variance from the provisions of MCC 11.45.450 through 11.45.610 and MCC 11.45.620 through 11.45.670 of this Chapter may be authorized by the Hearings ~~[Council]~~ Officer or the Planning Commission, as appropriate. Such a variance may be authorized only when substantially all of the following factors exist:

(1) Special circumstances or conditions apply to the property or to the intended use that do not apply

1 to other property in the same vicinity;

2
3 (2) The variance is necessary for the preservation and enjoyment of a substantial property right of
4 the applicant and extraordinary hardship would result from strict compliance with the ordinance
5 requirements;

6
7 (3) The authorization of the variance will not be materially detrimental to the public welfare or inju-
8 rious to other property in the vicinity;

9
10 (4) The granting of the variance will not adversely affect implementation of the Comprehensive
11 Plan; and

12
13 (5) The circumstances of any hardship are not of the applicant's making.

14
15 (B) Application for a variance shall be filed with the Planning Director, on the forms provided, at the
16 time of application for tentative plan approval. The application shall be accompanied by the required
17 fee. Notice of the hearing on the tentative plan shall include notice of the proposed variance.

18
19 (C) A variance authorized under the provisions of MCC 11.45.760 shall expire upon expiration of
20 the tentative plan approval or of the phase of an approved staged development associated therewith.

21
22 (D) A variance from the provisions of the Street Standards Ordinance [~~or the Site Development~~
23 ~~Standards Ordinance~~] may be authorized as provided therein.

24
25 **11.45.770 Appeals from Hearings [~~Council~~] Officer or Planning Commission Decision**

26 A final decision [~~on a land division proposal made~~] by the Hearings [~~Council~~] Officer or the Planning

Commission under this Chapter may be appealed to the Board of County Commissioners in the manner provided in MCC 11.15.~~[8260]~~8205 through .~~[8285(E)]~~8295.

11.45.780 Interpretation

It shall be the duty of the Planning Director to interpret the provisions of this Chapter. The provisions of this Chapter shall be held to the minimum requirements necessary for the promotion of the public health, safety, convenience and general welfare.

11.45.790 ~~[Continuation of Previous Approvals]~~ *[Repealed 199 . Ord. . §]*

~~[The provisions of this Chapter shall apply to all tentative plans for land divisions for which application is made after July 13, 1982.]~~

~~(A) An application for a preliminary subdivision or plat or for the creation of a street or road under ORS 92.014, completed and filed prior to July 13, 1982, shall be processed in accordance with and subject to the requirements of the pre-existing regulations.~~

~~(B) An approval of a preliminary subdivision plat or of the creation of a street or road under ORS 92.014, which was granted prior to July 13, 1982, shall expire one year after said approval date.]~~

11.45.800 Enforcement

The Director of the Department of Environmental Services shall be responsible for the enforcement of the provisions of this Chapter.

11.45.810 Fee Schedule

(A) Pre-filing Conference.

(1) Type [I] 1 or Type [H] 2 Land Division \$50.00

(2) Type [HH] 3 and [HV] 4 Land Division \$50.00

(B) Type [I] 1 Tentative Plan.

(1)20 lots or less \$800.00

(2)More than 20 lots \$800.00 plus \$25.00 for each lot over 20.

(3) A land division which is classified as Type [I] 1 according to the criteria in MCC 11.45.080(D) which would otherwise be designated a Type [H] 2, Type [HH] 3, or Type [HV] 4 Land Division shall be assessed the lesser respective fee.

(C)Type [H] 2 Tentative Plan \$450.00

(D)Type [HH] 3 Tentative Plan \$250.00

(E)Type [HV] 4 Tentative Plan \$ \$125.00

(F) ~~Lot~~ Property Line Adjustment \$75.00

1 (F)G Final Plat [~~or Map~~] Survey Check.

2
3 (l) For subdivision as follows:

4
5 (a) The fee to be paid by the applicant to the County Surveyor for checking subdivision plats
6 having all boundary and lot corner monuments in place on the subdivision site at the time of
7 inspection by the County Surveyor, shall be \$500 plus \$25 for each lot contained in the sub-
8 division.

9
10 (b) The fee to be paid by the applicant to the County Surveyor for checking subdivision plats
11 having all boundary angle points and all points of intersection of parcel lines with the bound-
12 ary marked by monuments at the time of inspection by the County Surveyor, but with the
13 interior parcel and roadway monuments to be delayed in accordance with ORS 92.060(5),
14 shall be \$650 plus \$35 for each lot contained within the subdivision.

15
16 (2) For partitions The fee to be paid by the applicant to the County Surveyor for checking partition
17 plats as required by ORS 92.100(3) shall be \$300.00

18
19 (3) In addition to the above fees the applicant shall pay to the County Surveyor for repeated calcula-
20 tions and review due to necessary data changes or erroneous data, and necessary repeated field
21 inspections due to omitted, erroneously placed, disturbed or destroyed monuments, an amount
22 equal to the actual cost to the Department of Environmental Services

23
24 (4) The fees to be paid by the applicant for the services of the County Surveyor described in subsec-
25 tions (1) and (2) are payable to the County Surveyor in advance of inspections, at the time the
26 final subdivision plat and/or survey map is submitted to the office of County Surveyor. Any fees

necessarily assessed for services of the County Surveyor described in subsection (3) shall be payable prior to approval of the subject plat.

(5) As used in this section, *lot* means a unit of land that is created by a subdivision of land, and a *tract* will be considered a lot, except for street plugs.

(G).....Variance [MCC 11.45.760] \$400.00

(H).....Notice Sign [MCC 11.15.9020(A)] \$5.00

(I) Time Limit Extension [MCC 11.45.420] \$75.00

(J) Appeals

(1) From administrative decisions under MCC 11.45.320(C), 11.45.380(C) [~~and 11.45.740~~] \$100.00

(2) From decisions of the Hearings [~~Council~~] Officer or Planning Commission under MCC 11.45.770..... \$300.00

Plus transcript cost per minute of hearing time \$3.50

(K) Records and Reports, per page \$0.30

(L) Rescheduled Hearing \$200.00

(M) The fees required under MCC 11.45.810 shall apply to all actions specified in this Chapter, regardless of applicant.

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11.45.820 Amendment

This Chapter may be amended according to the provisions of MCC 11.45.830 through 11.45.860.

11.45.830 Initiation of Amendment

(A) An amendment of this Chapter may be initiated by:

- (1) Order of the Board;
- (2) Vote of a majority of the entire Planning Commission; or
- (3) Request of the Planning Director.

(B) The provisions of this section or any other provision of this Chapter which relates to procedures for amendment hereof shall not apply to any amendment which relates to fees. The establishment of any such fees, and the amendment thereof, shall be prescribed by the Board of County Commissioners acting in accordance with Chapter V of the Charter.

11.45.840 Procedure for Amendment; Notice

- (A) A public hearing shall be held by a majority of the entire Planning Commission on a proposed amendment of this Chapter. A proposed amendment shall be in draft form.
- (B) Notice of the time, place and purpose of the hearing and a description of the land to be subject to

1 the amendment shall be given as follows:

2
3 (1) As required by MCC 11.05.110; and

4
5 (2) Once a week for two successive weeks prior to the hearing in a newspaper of general circulation
6 published in Multnomah County.

7
8 **11.45.850 Planning Commission Recommendation on Proposed Amendment**

9
10 (A) A recommendation to approve an amendment of this Chapter shall be by majority vote of the
11 entire Planning Commission. A recommendation, together with relevant information, shall be
12 referred by the Planning Commission to the Board.

13
14 (B) An amendment initiated by the Planning Director shall be referred to the Planning Commission
15 for report and recommendation.

16
17 (C) An amendment initiated by the Board shall be referred to the Planning Commission for report
18 and recommendation by a date certain. If no timely report and recommendation is made by the
19 Planning Commission and no extension is granted by the Board, the Board may consider the amend-
20 ment without recommendation of the Planning Commission thereon.

21
22 **11.45.860 Board Procedure on Amendment; Notice**

23
24 (A) The Board shall conduct a public hearing and take action on a proposed amendment of this
25 Chapter in accordance with the Charter and the rules of the Board.

26
(B) The Board shall give notice of the hearing as required by the Charter and
in the manner provided in subsection (B) of MCC 11.45.840.



DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING AND DEVELOPMENT
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

C 7-93
Exhibit A

STAFF REPORT ASSOCIATED WITH AMENDING THE
MULTNOMAH COUNTY LAND DIVISION ORDINANCE

November 1, 1993

I. INTRODUCTION

The Multnomah County Land Division Ordinance (MCC 11.45) was adopted in 1978 and has had very few amendments since then. During the 15 years since adoption of the Land Division Ordinance, changes have occurred in the State Statutes that regulate subdivisions and partitions. Also, there have been changes at the County level in terms of organizational structure and process by which the County conducts its planning process. As a result, some provisions in the Land Division Ordinance are out of date because of inconsistencies with statutory definitions, for example, or because the County departments and officers authorized to perform certain functions under the Land Division Ordinance are not the same today as they were in 1978. Many of the proposed amendments are of a "housekeeping" nature in that they address problems such as those identified above.

The second broad category of amendments relates to matters in which Staff, based on experience with the existing Ordinance, believes that improvements could be made in the way that the Ordinance performs its purpose of providing classifications and standards for the division of land in unincorporated Multnomah County.

In Part II, the left side of the following pages contains the complete text of the Land Division Ordinance. Proposed amendments are shown within the text by the new wording being underlined and language to be deleted in ~~[brackets and crossed through]~~. On the right side of the page, aligned with the proposed code amendments, is the explanation of the reason for the amendment. The "Item #" reference for a comment in the right column refers to a master list of proposed amendments compiled by staff. In this draft, we have deleted many "repeat" comments that refer to the same change over and over again (e.g., change from partition "map" to "plat"). Comments that are preceded only by the word "**Comment**" accompany changes that were added after the October 4 draft. Part II incorporates changes approved by the Planning Commission on November 1, 1993

Code provisions that state "as shown in Figure ___" indicate the location of graphics that have been incorporated into the ordinance to illustrate specific situations or concepts.

II. PROPOSED CODE AMENDMENTS

11.45.005 Title

This Chapter shall be known as the Multnomah County Land Division Ordinance and may be so pleaded and referred to.

11.45.010 Definitions

As used in this Chapter, unless the context requires otherwise:

- (A) *Accessway* means a private street which is not a part of a lot or parcel and which provides access to more than one lot or parcel.
- (B) *Applicant* means the record owner or owners of a unit, area or tract of land or contiguous units, areas or tracts, proposing subdivision or partitioning and includes the authorized representative of the record owner or owners.
- (C) *Approval authority* means the Hearings [~~Council~~ Officer], Planning Commission or Planning Director authorized by this Chapter to approve tentative plans or final plans for land divisions.
- (D) *Board* means the Board of County Commissioners of Multnomah County.
- (E) *Comprehensive Plan* means the Comprehensive Plan adopted by Multnomah County, including any plan or plan element adopted as a component of the Comprehensive Plan.
- (F) *Cul-de-sac* means a short public street which is open to traffic at one end and is terminated by a vehicle turnaround at the other.
- (G) *Development permit* means any permit required by this or other Multnomah County Ordinances as a prerequisite to the use or improvement of any land and includes a building, land use, occupancy, sewer connection or other similar permit.

- (H) *Flag lot* means a parcel which includes a private

Item #20 The County has not had a Hearings Council since 1981. The County most recently began using Hearings Officers in 1992

driveway as a part thereof.

- (I) *Frontage street* means a minor street substantially parallel and adjacent to an arterial

street, providing access to abutting properties and separation from through traffic.

- (J) *Future street plan* means a plan approved by the Hearings [~~Council~~] Officer or Planning Commission, as appropriate, for the continuation into nearby property of any street in an Urban Area Type [I] 1 Land Division to facilitate the future division of the nearby land according to the provisions of this Chapter.

- (K) *Half street* means a portion of the standard width of a street along the boundary of a land division, where the remaining portion of the street width could be provided from the adjoining property.

- (L) *Hearings* [~~Council~~] Officer means the Hearings [~~Council~~] Officer of Multnomah County.

- (M) *Land Division* means a subdivision[, [~~major partition~~] or [~~minor~~] partition. For the purposes of this Chapter, land divisions are further classified as

Type[I] 1, Type [II] 2, and Type [III] 3, and Type 4 Land Divisions, as provided in MCC 11.45.070 through 11.45.[~~100~~]110.

- (N) *Land Feasibility Study* means a Site Evaluation Report as defined in OAR 340-71-150(1) which is the first step in obtaining a construction permit for

Item # 21: Numerical references to different types of Land Divisions are proposed to be changed from Roman to Arabic numerals for the sake of simplicity.

Item #10: The Future Street Plan findings section (MCC 11.45.120) make it clear that Future Street Plans were intended to be used in the urban and not the rural areas of the County. The proposed amendment clarifies the point.

Item #1: The 1991 Legislature removed the statutory distinction between major and minor partitions, instead simply defining a partition as a division creating 2 or 3 parcels. The proposed change removes a source of confusion.

Item #9: See comment at MCC 11.45.110 concerning new Type 4 Land Division category

Comment: New definition requested by Planning Commission for sake of clarity.

an on-site sewage disposal system.

(~~[N]~~Q) *Lot* means a unit of land that is created by a subdivision of land.

~~[(O)Major partition means a partition which includes the creation of a street, but not the widening of an existing street.]~~

~~[(P)Map means a final diagram, drawing or other writing concerning a major or minor partition.]~~

~~[(Q)Minor partition means a partition which does not include the creation of a street, but may include the widening of an existing street.]~~

(~~[R]~~P) *Parcel* means a unit of land that is created by a partitioning of land.

(~~[S]~~Q) *Partition* means either an act of partitioning land or an area or tract of land partitioned as defined in this Chapter.

(~~[T]~~R) *Partition land* means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. *Partition land* does not include:

(1) a divisions of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots; and ~~"partition land" does not include any~~

(2) An adjustment of a [lot] property line by the relocation of a common boundary where an additional [parcel] unit of land is not created and where the existing [parcel] unit of land reduced in size by the adjustment is not reduced below the minimum lot size established by MCC 11.15; or

(3) ~~Partition land does not include the~~ A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or

See previous comment on Item #1

Item #2: See comment opposite new definition of *Partition Plat*.

See previous comment for Item #1.

Item #34: The proposed changes in this definition reflect changes in the definition *partition land* in Chapter 92 of ORS as amended by the 1992 Legislature.

right-of-way complies, in the case of a county road, with the Street Standards Ordinance, or, in the case of other right of way, the applicable standards of the agency to which the sale or grant is made. However, any property divided by the sale or grant of property for state highway or county road or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned; or

(4) the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner.

(S) Partition Plat means means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

(~~U~~)T *Pedestrian path and bikeway* means a right-of-way or easement for pedestrian, bicycle or other non-motorized traffic.

(~~V~~)U *Person* means a natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

(~~W~~)V *Planning Commission* means the Planning Commission of Multnomah County.

(~~X~~)W *Planning Director* means the Director of the Division of Planning and Development or the Director's delegate.

(~~Y~~)X *Plat* includes a final [~~map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision~~] subdivision plat or partition plat.

Item #2: The 1989 Legislature established the partition plat as the statewide standard for the final map and other documents associated with completing a partition. In essence, the partition plat is to a partition what the *final plat* is to a subdivision

Item #17: This amended definition matches the definition for *plat* in the current Oregon Revised Statutes.

~~([ZY])~~ *Private driveway* means a private street which is a part of and provides access only to one lot or parcel.

~~([AA])~~[Z] *Private street* means a street which is either a private driveway or an accessway, which is under private ownership and which passes through or alongside the full length or width of, a separate lot or parcel, either existing or proposed.

(AA) *Property Line* means the division line between two units of land.

(BB) *Property Line Adjustment* means the relocation of a common property line between two abutting properties.

~~([BB])~~(CC) *Public street* means a street dedicated for public use or proposed to be dedicated for public use in a land division.

~~([CC])~~(DD) *Right-of-way* means the area between boundary lines of a public street or other area dedicated for pedestrian or vehicular circulation.

~~([DD])~~(EE) *Rural Area* means the unincorporated area of Multnomah County located outside of the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan.

~~([EE])~~(FF) *Sale or sell* includes every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

~~([FF])~~(GG) *Sidewalk* means a pedestrian walkway with all weather surfacing.

~~([GG])~~(HH) *Street* means a public or private way that is created to provide access to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide access to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

~~([HH])~~(I) Street classifications such as *Arterial, Collector, Minor Arterial*, etc., shall have the meanings

Item #4: The definitions for property line and property line adjustment match those in Chapter 92 of ORS. See comment At MCC 11.45.115 regarding the new Property Line Adjustment process.

stated in the Multnomah County Street Standards Ordinance.

(~~[H]~~JJ) *Street lighting* means the total system of wiring, poles, arms, fixtures and lamps, including all parts thereof that are necessary to light a street or pedestrian path and bikeway.

(~~[H]~~KK) *Subdivide land* means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

(~~[KK]~~LL) *Subdivision* means either an act of subdividing land or an area or a tract of land subdivided as defined in this Chapter.

(MM) *Subdivision Plat* means means a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a subdivision.

(~~[LL]~~NN) *Tentative plan* means the applicant's proposal for subdivision or partition and consists of the drawings, written information and supplementary material required by this Chapter.

(~~[MM]~~OO) *Urban Area* Means the unincorporated area of Multnomah County located within the Urban Growth Boundary as designated by the Multnomah County Comprehensive Plan.

11.45.015 Purpose

This Chapter is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County.

11.45.020 Intent

Language Added, [~~Language Deleted~~]

Exhibit A, Staff Report, November 1, 1993 7

Item #16: This amended definition matches the definition for *subdivision plat* in the current Oregon Revised Statutes.

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

11.45.030 Scope

This Chapter shall apply to the subdivision and partitioning of all land within the unincorporated area of Multnomah County.

11.45.040 Compliance Required

No land may be divided in the unincorporated area of Multnomah County except in accordance with this Chapter.

- (A) No person shall create a street for the purpose of dividing land without the approval of a subdivision or ~~major~~ partition as provided by this Chapter.
- (B) No development permit shall be issued for the improvement or use of any land divided in violation of the provisions of this Chapter, regardless of whether the permit applicant created the violation. A division of land which is contrary to an approved subdivision plat or partition map is a violation of this Chapter.
- (C) The requirements of this Chapter shall apply to the applicant for a land division and to the applicant's successors in interest in the land division or any portion thereof.

11.45.050 Board findings Concerning Land Division Types

The Board of County Commissioners finds that:

- (A) The Comprehensive Framework Plan, adopted in

Language Added, [~~Language Deleted~~]

accordance with the Statewide Planning Goals, classifies certain County lands as within the Urban Area and therefore suitable for intensive development, and other lands as within the Rural Area and therefore suitable for agricultural, forest, natural resource and other non-intensive uses.

- (B) Land division proposals, consisting of subdivisions, ~~[major partitions]~~ and ~~[minor]~~ partitions are steps in the land development process which should be encouraged in the Urban Area where supportive services exist, subject to review for conformance with the Comprehensive Plan and other legal requirements.
- (C) Procedures governing land division in the urban area should be expeditious and inexpensive while protective of the public interest. The County system in effect since 1955, however, has involved time-consuming and costly procedures which, in many instances, have tended to discourage otherwise appropriate urban area land divisions.
- (D) Under ORS 92.044 and 92.046, it is the Board's policy to delegate the review and approval function over certain land division proposals to the Hearings ~~[Council]~~ Officer or Planning Commission and over certain other proposals to an administrative official, provided that decisions in either instance shall be guided by the procedures and standards established by this Chapter.
- (E) Determination of whether administrative or public hearing review should be required depends on the size, location and foreseeable impacts on the community of a given land division proposal. Type ~~[H]~~ 2 and Type ~~[H]~~ 3 Land Division proposals, as defined in this Chapter, are appropriate for administrative review and decision due to their minor impacts on nearby properties and their consistency with the objectives of facilitating development in accordance with the Statewide Planning Goals, particularly Nos. 9, 10, 11, 13 and 14, and with the Comprehensive Plan.

11.45.060 Land Division Approval Authority Delegated

Language Added, ~~[Language Deleted]~~

Based on the findings in MCC 11.45.050, the Board hereby:

- (A) Adopts the classification system of Type~~[H]~~ 1, Type ~~[H]~~ 2, ~~[and]~~ Type ~~[H]~~ 3 and Type 4 Land Divisions as distinguished in MCC 11.45.070 through 11.45.100;
- (B) Delegates to the Hearings ~~[Council]~~ Officer and to the Planning Commission, as appropriate, the authority to approve tentative plans for Type~~[H]~~ 1 Land Divisions;
- (C) Delegates to the Hearings ~~[Council]~~ Officer and to the Planning Commission, as appropriate, the authority to approve a future street plan for an Urban Area of 40 acres or less in conjunction with and in addition to action on a Type~~[H]~~ 1 Land Division, provided that affected property owners are notified thereof, according to subsection (A) of MCC 11.45.220. Subsequent land division proposals of 10 lots or less within the area affected by an approved future street plan and consistent with it, are designated Type ~~[H]~~ 2 Land Divisions;
- (D) Delegates to the Planning Director the authority to approve tentative plans and final plats ~~[and maps]~~ of Type ~~[H]~~ 2, ~~[and]~~-Type ~~[H]~~ 3 and Type 4 Land Divisions, and to approve final plats ~~[and maps]~~ of Type~~[H]~~ 1 Land Divisions; and
- (E) Delegates to the Planning Director the authority to determine into which classification any proposed land division falls. Doubt as to the classification of a land division proposal shall be resolved in favor of Type~~[H]~~ 1 classification.

11.45.070 Land Division Types Distinguished

For the purposes of this Chapter, the land division classifications listed in sections 11.45.080 through 11.45.100 are established.

11.45.080 Type ~~[H]~~ 1 Land Divisions

The following proposals are designated Type~~[H]~~ 1 Land Divisions:

Language Added, [Language Deleted]

(A) A Rural Area subdivision;

(B) An Urban Area subdivision of more than 10 lots;

(C) Except as provided in subpart (3) herein, a Rural or Urban Area ~~[major]~~ partition which creates a new street, [in either a Rural or an Urban Area] and an Urban Area subdivision of 10 lots or less when the Planning Director determines that:

(1) The proposal includes the continuation of an existing or planned street to adjacent property, or

(2) The proposal either eliminates or makes impractical the continuation of an existing street or the provision of needed access to adjacent property.

(3) Exception: A land division described in subsection ~~[(C of MCC 11.45.080)]~~ (1) or (2) above is designated a Type ~~[H]~~ 2 Land Division when, as determined by the Planning Director, the proposed street layout is consistent with a street pattern adopted as part of the Comprehensive Plan, with a future street plan approved under MCC 11.45.200 through 11.45.280, or with a street pattern approved as an element of a Special Plan Area under MCC 11.15.6604;

(D) A subdivision or partition associated with an application affecting the same property for any action proceeding requiring a public hearing under MCC 11.15 or for a variance under this Chapter; and

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

(1) The nature of nearby land uses or the pattern of existing land divisions in relation to the applicable elements of the Comprehensive Plan;

(2) Plans or programs for the extension of the street or utility systems on or near the proposed division; or

Changes in wording of Subsections (C) and (C)(3) are suggested by Planning staff to make language more straightforward while keeping the same meaning.

- (3) Physical characteristics of the tract or nearby area such as steep slopes, a history of flooding, poor drainage, land slides or other existing or potential hazards.

11.45.090 Type [H] 2 Land Division

~~[The following proposals are designated Type II Land Divisions:]~~ A Type 2 Land Division is an Urban area subdivision of 10 lots or less, or a partition which includes the creation of a new street when:

- (A) ~~[A major partition in either a Rural or Urban Area or an Urban Area subdivision of 10 lots or less, when~~
e] Continuation of an existing street is neither proposed nor needed to complete an appropriate street system or to provide access to adjacent undivided property, as determined by the Planning Director; and
- (B) ~~[A major partition in either a Rural or an Urban Area or an Urban Area subdivision of 10 lots or less when t]~~ The proposed street layout is consistent with ~~[(1) A]~~ a street pattern adopted as part of the Comprehensive Plan; ~~[(2) W]~~, with a future street plan approved under MCC 11.45.~~[(10)]~~160, or ~~[(3) A]~~ a street pattern approved as an element of a Special Plan Area, under MCC 11.15.6604.

11.45.100 Type [H] 3 Land Divisions

A land division proposal under any of the following circumstances is designated a Type [H] 3 Land Division:

- (A) A ~~[minor]~~ partition located at the end of a street;
- (B) A ~~[minor]~~ partition abutting a street which has a centerline to property line width less than one-half the width specified for that functional street classification according to the Multnomah County Street Standards Ordinance;
- (C) A partition which will result in a flag lot;
- (D) A ~~[minor]~~ partition which will result in one or more

Changes in wording of MCC 11.45.090 are suggested by staff to make language more straightforward while keeping the same meaning.

Item #4 Correction of citation.

parcels with a depth-to-width ratio exceeding 2.5 to 1;

- (E) A ~~[minor]~~ partition which will result in a proposed parcel with an area four or more times the area of the smallest proposed parcel; and
- (F) A ~~[minor]~~ partition of land classified as Significant Environmental Concern (SEC), Willamette River Greenway (WRG), Flood Hazard (FH), Exclusive Farm Use (EFU), or Special Plan Area (SPA) under MCC 11.15.

[Amended 1990, Ord. 642 § 2]

- (G) A partition resulting in the creation of a lot for which an Exception or Variance is required under MCC 11.15.

11.45.110 ~~[Minor Partitions Exempted]~~ Type 4 Land Division

~~[minor p]~~ Partitions not listed in MCC 11.45.080 to 11.45.100 are ~~[exempt from the provisions of this Chapter.]~~ designated Type 4 Land Divisions.

- (A) The Planning Director may approve a Type 4 Land Division based on a finding that the proposed parcels comply with the area and dimensional requirements of the zoning district in which the land division site is located.
- (B) The procedure and forms for review and approval of a Type 4 Land Divisions shall be as provided for by the Planning Director.

Item 15: This change expands the Type 3 Land Division definition to include divisions where a lot area or dimension Exception or Variance is required to create a proposed lot or parcel.

Item #9: This change established a new class of land division with clear, objective, non-discretionary approval standards. Although the Land Division Ordinance declares all partitions that are not listed as Type 3's to be "exempt" from the ordinance's provisions, the exclusion makes little sense when state law requires those same partitions to be subject to the partition plat requirements. The present language, could produce the bizarre result in which a partition might contain parcels having less than the minimum area required by zoning, but would be "exempt" because it did not qualify as a Type 3. The proposed change formalizes a procedure that the Planning Division has followed since 1978, in which so-called "Exempt Minor Partitions" were recognized as a courtesy to landowners who wanted County "approval" of their partitions, even though the ordinance required no approval.

11.45.115 Property Line Adjustment (Lot Line Adjustment)

A property line adjustment is the relocation of a common property line between two abutting properties.

(A) The Planning Director may approve a property line adjustment between two properties, in either the Urban Area or the Rural Area, where an additional lot or parcel is not created and where the existing lot or parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the applicable zoning designation.

(B) The Planning Director may approve a property line adjustment between two properties in the Rural Area where an additional lot or parcel is not created but where one or both of the adjusted properties are below the minimum lot size established by the applicable zoning district designation. Such an adjustment shall comply with any applicable zoning district standards for a Lot of Exception or Lot Line Adjustment.

(C) Property line adjustments approved under subsections (A) and (B) above shall meet the following additional standards:

(1) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

(2) Owners of both properties involved in the property line adjustment shall consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and

(3) The adjusted properties shall meet all dimensional requirements in the underlying zoning district designation except for lot area.

(4) The right-of-way width between the front line of each adjusted property and the centerline of any adjacent County road shall comply with the applicable provisions of the Street Standards

Item 3: At present there are no provisions in the Land Division Ordinance relating to property line adjustments. Despite the lack of ordinance provisions, the Planning Division has developed an unofficial process for reviewing and approving property line adjustments as a courtesy to landowners seeking assurance from the planning staff that their proposed adjustments complied with zoning requirements. The proposed amendment essentially incorporates that process into the Land Division Ordinance.

This change was suggested by the Transportation Division staff to assure that adjusted lots meet applicable right-of-way width standards.

Ordinance as determined by the County Engineer.

(D) The procedure and forms for obtaining approval of a property line adjustment shall be as provided for by the Planning Director.

11.45.120 Future Street Plan Requirements: Findings and Purposes

(A) Many urban area tracts have been divided into parcel sizes too large for efficient land development under present needs. Prior divisions have resulted in block sizes typically of 40 acres or less which are now appropriate for redivision. The diverse ownerships within these blocks make redivision difficult without an overall pattern for future streets.

(B) The purposes of the future street plan requirement are to aid in determining the suitability of an Urban Area Type [F] 1 Land Division in relation to the existing and potential development of nearby land; to establish a guide for the appropriate and economical provision of streets, land divisions and needed support services and to facilitate the orderly division or redivision of nearby lands.

11. 45.130 Future Street Plan Required

A future street plan shall be filed in conjunction with an application for an Urban Area Type [F] 1 Land Division. The plan shall show the pattern of future streets from the boundaries of the Type [F] 1 Land Division to the boundaries of those other tracts within a 40-acre area surrounding or adjacent to the Type [F] 1 Land Division which are capable of subsequent Type [H] 1 or 2 Land Division under MCC 11.45.090.

11.45.140 Exception to Future Street Plan Requirement

A future street plan shall not be required for any portion of the 40-acre area described in MCC 11. 45.130 for which a proposed street layout has been established by:

(A) The Comprehensive Plan;

(B) A future street plan approved under MCC 11.

Language Added, [Language Deleted]

See previous comment on Item #10.

See previous comment on Item #10.

45.~~[160]~~200 through 11.45.280; or

(C) A Special Plan Area, under MCC 11.15.6604.

11. 45.150 Future Street Plan Contents

The future street plan shall show the proposed continuation of streets in the Type[F] 1 Land Division in sufficient detail to demonstrate that future division of the adjacent area in compliance with the provisions of this Chapter is reasonably possible.

11.45.160 ~~[Approval Procedures]~~ Deleted by Ord. _____

~~[A required future street plan shall be filed, reviewed and approved in the manner provided in MCC 11.45.190 through 11.45.280]~~

11.45.170 Recording and Filing

Upon final approval, a future street shall be:

(A) Recorded by the applicant with the ~~[Recording Section of the Department of Administrative Services]~~ public office responsible for public records; and

(B) Indexed and filed by the Planning Director in the offices of the Department of Environmental Services.

11.45.180 Revision of Future Street Plan

An approved future street plan may be revised by:

(A) Action by the Hearings ~~[Council]~~ Officer or Planning Commission, as appropriate, to approve a revised future street plan filed by an applicant in conjunction with a Type[F] 1 Land Division; or

(B) Action by the Board to approve a revised future street plan, to approve an alternative street pattern as part of the Comprehensive Plan or to approve an alternative street pattern as an element of a Special Plan Area under MCC 11.15.6604.

11.45.190 Type [F] 1 and Type 2 Tentative Plan and Future Street Plan approval procedures

Language Added, ~~[Language Deleted]~~

Exhibit A, Staff Report, November 1, 1993 16

This section is recommended for deletion because it says the same thing as 11.45.190.

Item #29: The Recording Section is now part of the Department of Environmental Services.

Comment: Under the present ordinance, Type 1 and Type 2 Land

[R] Filing and review [and approval] of [a] Type [1] 1 or Type 2 tentative plan and a future street plan shall be in accordance with the provisions of MCC 11.45.200 through [11.45.280] 11.45.270.

11.45.200 Pre-Filing Conference

(A) Prior to the submission of a tentative plan for a Type [1] 1 Land Division, the applicant shall request the Planning Director to arrange a pre-filing conference. The request shall include six copies of a preliminary sketch of the proposal, general information entered on forms provided by the Director, and the required fee. The conference shall be held within [40] 25 business days of the filing of the request and shall provide for an exchange of information regarding procedures, applicable elements of the Comprehensive Plan, zoning and development requirements, and such technical and design assistance in better land use practices and techniques as will aid the applicant in preparing a tentative plan and a future street plan, if required.

(B) The Planning Director shall provide the applicant with a written summary of the conference within five business days thereof.

(C) The Director shall supply information concerning the proposal to other agencies deemed affected.

11.45.210 Filing of Type [1] 1 Tentative Plan and Future Street Plan

(A) Following the pre-filing conference, the applicant

Language Added, [Language Deleted]

Divisions both have the same criteria for approval and the same submittal requirements for tentative plan maps and written information. The only difference between the approval process for Type 1 and 2 Land Divisions is that Type 1 Land Divisions require approval at a public hearing, whereas Type 2 Land Divisions are approved by the Planning Director. Therefore, various modifications and deletions to Sections .190 through .340 are proposed in order to streamline the requirements by reducing duplication of language and cross-references.

Comment: It is not always possible to stay within the 10-day time frame during periods of extremely heavy application volume.

Comment: Change consistent with (A) above

for a Type[I] 1 Land Division shall file with the Planning Director a completed tentative plan and future street plan, if required, including 15 copies of the drawings required under MCC 11.45.250. The tentative plan shall be accompanied by the required fee.

(B) On receipt of the completed application for a Type 1 Land Division or future street plan, the Planning Director shall set a date for the public hearing thereon before the Hearings [~~Council~~] Officer or Planning Commission, as appropriate.

(C) The Planning Director shall furnish copies of the tentative plan and future street plan, if any, to all affected city, county, state and federal agencies and special districts with a request for their review and written comment.

(D) Failure of an agency or district to provide written comment to the Planning Director concerning a Type[I] 1 tentative plan or future street plan within 10 business days after the furnishing thereof may be deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period.

~~[11.45.220 Public Hearing and Action, Type I Tentative Plan and Future Street Plan~~ Renumbered to .285

~~(A) Notice of a hearing on a Type I tentative plan or a future street plan shall be given as required by MCC 11.15.8220, provided that mailed and posted notice shall also include a sketch indicating the proposed lotting and street patterns, the proposed future street plan, if any, and the location of the proposed land division in relation to adjoining properties and near-by streets.~~

~~(B) A decision on a Type I tentative plan and future street plan, if any, shall be deemed an action as defined in MCC 11.15.8205, and shall be determined in the manner prescribed for action proceedings in MCC 11.15.8225 through .8230(C), and MCC 11.15.8235 through .8250(H).~~

See Comment at MCC 11.45.190.

See Comment at MCC 11.45.190.

~~(C) The burden of the applicant for a Type I Land Division shall be to satisfy the hearing body that the criteria for approval listed in MCC 11.45.230 of this Chapter have been met. The findings and conclusions adopted by the hearing body shall specifically address the relationships between the application and those criteria.~~

~~(D) The written decision on a Type I tentative plan and future street plan, if any, shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced. The Clerk shall summarize each decision on the agenda for the next Board meeting on planning and zoning matters for which notice can be given according to the Charter.~~

~~(E) Review of a decision on a Type I tentative plan or future street plan shall be according to the provisions of MCC 11.15.8260 through .8285(E).~~

11.45.225 Rescheduled Hearings Renumbered to .295

~~In the case of any hearing required under this Chapter which must be rescheduled at the request of or due to the neglect of the applicant, a fee in accordance with subsection (K) of MCC 11.45.810 shall be assessed against the applicant. Said fee may be waived in whole or part by the Planning Director if it is determined that the requested rescheduling was due to unavoidable circumstances or that the applicant proceeded with all possible diligence to give adequate advance notice of the request for rescheduling.~~

11.45.230 Criteria for Approval, Type [F] 1 and Type 2 Tentative Plan and Future Street Plan

In granting approval of a Type[F] 1 or Type 2 tentative plan or future street plan, the approval authority shall find that:

(A) The tentative plan or future street plan is in accordance with[+]

~~(1) F]the applicable elements of the Comprehensive Plan;~~

See Comment at MCC 11.45.190.

~~[(2) The applicable Statewide Planning Goals adopted by the Land Conservation and Development Commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and~~

~~(3) The applicable elements of the Regional Plan adopted under ORS Chapter 197.]~~

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

(C) The tentative plan or future street plan complies with the applicable provisions, including the purposes and intent of this Chapter.

(D) The tentative plan or future street plan complies with the Zoning Ordinance or a proposed change thereto associated with the tentative plan proposal;

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

(F) The streets are laid out and designed so as to conform, within the limits of MCC 11.45.490 and 11.45.500 and the Street Standards Ordinance, to the plats of subdivisions and maps of ~~[major]~~ partitions already approved for adjoining property unless the approval authority determines it is in the public interest to modify the street pattern; and

(G) Streets held for private use are laid out and designed

Comment: The Comprehensive Plan already complies with the Regional Plan, and has been acknowledged by LCDL. If a land division complies with the County Comprehensive Plan, it therefore automatically complies with the Regional Plan and with LCDL Goals

Item #22: This amendment reflects a change in Chapter 92 of ORS whereby the County Surveyor has the authority for checking of plat names.

Comment: This change was suggested by Transportation Division staff to make clear the need for roads to conform to the design and layout standards in the Land Division Ordinance.

Comment: This change was sug-

so as to conform with MCC 11.45.490 and 11.45.500 and the Street Standards Ordinance, and are clearly indicated on the tentative plan and all reservations or restrictions relating to such private streets, including ownership, are set forth thereon.

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

(1) The infiltration of flood waters into the system; and

(2) The discharge of matter from the system into flood waters.

[Added 1982, Ord. 324 § 2]

11.45.240 Contents of Type [F] 1 and Type 2 Tentative Plan

A tentative plan shall consist of maps, written information and supplementary material adequate to provide the information required in MCC 11.45.250 through 11.45.280.

11.45.250 Type [F] 1 and Type 2 Tentative Plan Map Specifications

(A) ~~[For a subdivision, t]~~ The tentative plan map shall be drawn on a sheet 18 x 24 inches or 11 x 17 inches in size or a size approved by the Planning Director. ~~at a~~ The scale of ~~[one inch to]~~ the map shall be 10, 20, 30, 40, ~~[fifty]~~ 50, 60 [feet], 100 ~~[feet]~~ or ~~[two hundred]~~ 200 feet to the inch or multiples of ten of any of these scales. The map shall include one copy of a scaled drawing of the proposed subdivision, on a sheet 8.5 x 11 inches, suitable for reproduction, mailing and posting with the notices required by subsection (A) of MCC 11.45.220.

~~[(B) For a major partition, the sheet size and the scale of~~

gested by Transportation Division staff to make clear the need for roads to conform to the design and layout standards in the Land Division Ordinance. The reference to ownership was recommended by the County Surveyor.

See Comment at MCC 11.45.190.

See Comment at MCC 11.45.190.

Item #32: The changes to this section are intended to clarify the requirements pertaining to the scale to which tentative plan maps are to be drawn.

~~tentative plan map shall be drawn on a sheet 8.5 x 11 inches in size at a scale of one inch to fifty feet or one hundred feet.]~~

([C]B) A future street plan may be combined with ~~[subsection (A) or (B) of this section]~~ the tentative plan map or may be drawn on a sheet 8.5 x 11 inches or larger in size at a scale of one inch to one hundred feet.

11.45.260 Type [H] 1 and Type 2 Tentative Plan Map Contents

The tentative plan map shall indicate[~~d~~] the following:

(A) General information:

- (1) In the case of a subdivision, the proposed name which shall be in accord with subsection (E) of MCC 11.45.230.
- (2) Date, north point and scale of drawing.
- (3) Description of the proposed land division sufficient to define its location and boundaries.
- (4) Identification as a tentative plan map.

(B) Existing conditions:

- (1) Streets: the location, name and present width of each street, alley or right-of-way in or serving the tract.
- (2) Easements: location, width and nature of any easement of record on or serving the tract.
- (3) Utilities: location and identity of all utilities on or serving the tract.

~~[(4) Ground elevations shown by contour lines at five foot vertical intervals for ground slopes exceeding 10%. Ground elevation shall be related to an established bench mark or other point of reference approved by the County Engineer.]~~
Contour lines at two foot intervals for land inside the Urban Growth Boundary with 10%

See Comment at MCC 11.45.190.

Item #23: This change is intended to fit the contour line requirements to the characteristics of the land division site. Urban sites are typically smaller in size and contour information for those sites is available at 2-foot intervals. Rural sites are typi-

slope or less, five foot intervals for land inside the Urban Growth Boundary with slope exceeding 10%; contour lines at ten foot intervals for land outside the Urban Growth Boundary. The map shall state the source of the contour information.

- (5) The location of at least one temporary bench mark within the land division.
- (6) Any natural features such as rock outcroppings, marshes, wooded areas, major vegetation, etc., which may affect the proposal.
- (7) Water courses on and abutting the tract, including their location, width and direction of flow.
- (8) The approximate location of areas subject to periodic inundation or storm sewer overflow, the location of any designated Flood Hazard District, and all areas covered by water. *[Amended 1982, Ord. 324 § 3]*
- (9) The location of any harbor line.
- (10) Scaled location and size of all existing driveways and pedestrian walkways, and the ~~[§]~~scaled location and size and present use of all existing buildings or other structures, and designation of any existing buildings or structures proposed to remain on the property after division.

(C) Proposed improvements:

- (1) Streets: location, proposed name, right-of-way width and approximate radii of curves of each proposed street.
- (2) Any proposed pedestrian path or bikeway.
- (3) Easements: location, width and nature of all proposed easements.
- (4) Lots or parcels: location and approximate dimensions of all lots or parcels, the minimum lot or parcel size and, in the case of a subdivi-

cally larger in size, and adequate contour information is available at 10-foot intervals.

Item #31: The additional information required by this change is valuable in determining the most appropriate provision for access to existing structures in relation to new lots and parcels.

sion, the proposed lot and block numbers.

- (5) Water supply: the proposed domestic water supply system.
- (6) Sewage disposal: the proposed method of sewage disposal.
- (7) Drainage: proposed methods for surface water disposal and any proposed drainage easements.
- (8) Other utilities: the approximate location and nature of other utilities including the location of street lighting fixtures.
- (9) Railroad rights-of-way, if any.
- (10) Changes to navigable streams, if any.
- (11) A street tree planting plan and schedule.

**11.45.270 Written Information; Type [H] 1 and Type 2
Tentative Plan**

Written information shall include:

- (A) Name, address and telephone number of the record owner(s), owner's representative, and designer(s) of the proposed land division and the name of the engineer(s) or surveyor(s) and the date of the survey, if any.
- (B) Proof of record ownership of the tract and the representative's authorization.
- (C) Legal description of the tract.
- (D) Present and proposed uses of the tract including all areas proposed to be dedicated to the public.
- (E) Statements of the manner in which the criteria for approval listed in MCC 11.45.230 are satisfied.
- (F) Statement of the improvements to be made or installed, including street tree planting, and the time such improvements are to be made or completed.

See Comment at MCC 11.45.190.

**11.45.280 Supplementary Material; Type [F] 1 and Type
2 Tentative Plan**

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

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

**11.45.[220] 285 Public Hearing and Action, Type [I] 1
Tentative Plan and Future Street Plan Renumbered
from >220**

- (A) Notice of a hearing on a Type[F]-1 tentative plan or a future street plan shall be given as required by MCC 11.15.8220, provided that mailed and posted notice shall also include a sketch indicating the proposed lotting and street patterns, the proposed future street plan, if any, and the location of the proposed land division in relation to adjoining properties and nearby streets.
- (B) A decision on a Type[F] 1 tentative plan and future street plan, if any, shall be deemed an *action* as defined in MCC 11.15.8205, and shall be determined in the manner prescribed for *action proceedings* in MCC 11.15.8225 through .8230(C), and MCC 11.15.8235 through .8250(H).
- (C) The burden of the applicant for a Type[F] 1 Land Division shall be to satisfy the hearing body that the criteria for approval listed in MCC 11.45.230 of this Chapter have been met. The findings and conclu-

See Comment at MCC 11.45.190.

See Comment at MCC 11.45.190

Language Added, [Language Deleted]

sions adopted by the hearing body shall specifically address the relationships between the application and those criteria.

(D) The written decision on a Type[~~H~~] 1 tentative plan and future street plan, if any, shall be submitted to the Clerk of the Board by the Planning Director not later than ten days after the decision is announced. The Clerk shall summarize each decision on the agenda for the next Board meeting on planning and zoning matters for which notice can be given according to the Charter.

(E) Review of a decision on a Type[~~H~~] 1 tentative plan or future street plan shall be according to the provisions of MCC 11.15.8260 through .8285(E).

~~[11.45.290 [Type II Tentative Plan Approval Procedures] [Repealed 199_, Ord. ___, § ___]]~~

See Comment at MCC 11.45.190

~~[Review and approval of a Type II tentative plan shall be in accordance with the provisions of MCC 11.45.300 through 11.45.340.]~~

11.45.[~~225~~] 295 Rescheduled Hearings *Renumbered from .225*

See Comment at MCC 11.45.190

In the case of any hearing required under this Chapter which must be rescheduled at the request of or due to the neglect of the applicant, a fee in accordance with subsection (K) of MCC 11.45.810 shall be assessed against the applicant. Said fee may be waived in whole or part by the Planning Director if it is determined that the requested rescheduling was due to unavoidable circumstances or that the applicant proceeded with all possible diligence to give adequate advance notice of the request for rescheduling.

11.45.300 ~~[Pre Filing Conference]~~ *[Repealed 199_, Ord. ___, § ___]]*

See Comment at MCC 11.45.190

~~[A pre filing conference shall be requested and held prior to the filing of a tentative plan for a Type II Land Division, in the manner provided in MCC 11.45.200.]~~

11.45.310 ~~[Filing of Type II Tentative Plan]~~ *[Repealed 199_, Ord. ___, § ___]]*

See Comment at MCC 11.45.190.

Language Added, [Language Deleted]

~~[(A) Following the pre filing conference the applicant for a Type II Land Division shall file with the Planning Director a completed tentative plan, including 15 copies of the tentative plan map, as provided in MCC 11.45.240 through 11.25.280. The tentative plan shall be accompanied by the required fee.~~

~~(B) The Planning Director shall furnish copies of the tentative plan to all affected city, county, state and federal agencies and special districts with a request for their review and written comment.~~

~~(C) Failure of an agency or district to provide written comment to the Planning Director concerning a Type II tentative plan within 10 business days after the furnishing thereof, may be deemed a recommendation of approval unless the agency or district has filed a written request for an additional review period.]~~

11.45.320 Decision by Planning Director; Type [H] 2 Tentative Plan

(A) Within 25 business days of the filing of a Type [H] 2 tentative plan, the Planning Director shall approve the tentative plan with or without modifications or conditions, as appropriate, or disapprove it, and shall file the decision with the Director of the Department of Environmental Services and furnish a copy of the decision to the applicant and to other persons who request the same.

(B) A decision by the Planning Director on a Type [H] 2 tentative plan shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationships between the proposal and the criteria for approval listed in MCC 11.45.230.

(C) A decision by the Planning Director on a Type [H] 2 tentative plan application may be appealed to the Hearings [Council] Officer in the manner provided in MCC 11.15.8290 and .8295.

11.45.330 [~~Criteria for Approval, Type II Tentative Plan~~] [~~Repealed 199__ Ord. __, § __~~]

See Comment at MCC 11.45.190

Language Added, [Language Deleted]

~~[In granting approval of a Type II tentative plan, the Planning Director shall find that the proposal complies with the applicable criteria listed in MCC 11.45.230.]~~

11.45.340 [~~Contents of Type II Tentative Plan~~]
[Repealed 199__ Ord. ___, § __/]

~~[A tentative plan for a Type II Land Division shall consist of a map, written information and supplementary material adequate to provide the applicable information required in MCC 11.45.240 through 11.45.280.]~~

11.45.350 Type [~~II~~] 3 Tentative Plan Approval Procedures

Review and approval of a Type [~~II~~] 3 tentative plan shall be in accordance with the provisions of MCC 11.45.360 through 11.45.400.

11.45.360 Pre-Filing Conference

A pre-filing conference may be requested by the applicant for a Type [~~II~~] 3 Land Division or by the Planning Director. The conference shall be held in the manner provided in MCC 11.45.200.

11.45.370 Filing of Type [~~II~~] 3 Tentative Plan

(A) The applicant for a Type [~~II~~] 3 Land Division shall file with the Planning Director a completed tentative plan, following the pre-filing conference, if any. The application, including three copies of the tentative plan map, shall include the information required by MCC 11.45.400. The tentative plan shall be accompanied by the required fee.

(B) The Planning Director may furnish copies of the tentative plan to any city, county, state and federal agency deemed by the Director to be affected, with a request for their review and written comment.

(C) Failure of any such agency or district to provide written comment to the Planning Director concerning a Type [~~II~~] 3 tentative plan within 10 business days after the furnishing thereof, may be deemed a recommendation of approval unless the agency or

See Comment at MCC 11.45.190

district has filed a written request for an additional review period.

11.45.380 Decision by Planning Director; Type [HH] 3 Tentative Plan.

- (A) Within 25 business days of the filing of a Type [HH] 3 tentative plan, the Planning Director shall approve the tentative plan with or without modifications or conditions, as appropriate, or disapprove it, and shall file the decision with the Director of the Department of Environmental Services, and furnish a copy of the decision to the applicant and to other persons who request the same.
- (B) A decision by the Planning Director on a Type [HH] 3 tentative plan shall include written modifications and conditions, if any, and findings and conclusions which shall specifically address the relationships between the proposal and the criteria for approval listed in MCC 11.45.390.
- (C) A decision by the Planning Director on a Type [HH] 3 tentative plan application may be appealed to the Hearings [~~Council~~] Officer in the manner provided in MCC 11.15.8290 and .8295.

11.45.390 Criteria for Approval, Type [HH] 3 Tentative Plan

In granting approval of a Type [HH] 3 tentative plan, the Planning Director shall find that the criteria listed in subsections [~~(A)~~], (B), (C) and (H) of MCC 11.45.230 are satisfied and that the tentative plan complies with the area and dimensional requirements of the underlying zoning district and the solar access regulations in the Zoning Ordinance.

[Amended 1982, Ord. 324 § 4]

11.45.400 Contents of Type [HH] 3 Tentative Plan

Language Added, [~~Language Deleted~~]

Exhibit A, Staff Report, November 1, 1993 29

Item 11: The proposed amendment streamlines the approval criteria for a Type 3 Land Division by removing the requirement of compliance with "the applicable elements of the Comprehensive Plan." The theory behind the proposed amendment is that compliance with the underlying zoning district area and dimensional requirements and solar access standards is sufficient demonstration of Comprehensive Plan compliance in that zoning designation are required to comply with the Comprehensive Plan in the first place.

A tentative plan for a Type [HH] 3 Land Division shall consist of maps, written information and supplementary material adequate to provide the following:

(A) Type [HH] 3 tentative plan map contents. A tentative plan map [~~drawn on a sheet 8 1/2 x 11 inches in size at a scale of one inch to fifty feet or one hundred feet,~~] of a sheet size and scale as specified in MCC 11.45.250(A) shall indicate the following:

- (1) Date, north point and scale of drawing.
- (2) Description of the proposed land division sufficient to define its location and boundaries.
- (3) Identification as a tentative plan map.
- (4) Location, names or purpose and width of all streets, rights-of-way or easements on or abutting the tract.
- (5) Natural features, water courses or areas covered by water.
- (6) The location and use of any buildings or structures proposed to remain after division.
- (7) The proposed parcels, their dimensions and areas.
- (8) The location of any designated Flood Hazard District. *[Added 1982, Ord. 324 § 5]*
- (9) Contiguous property under the same ownership

(B) Written information; Type [HH] 3 tentative plan. Written information shall include:

- (1) Name, address and telephone number of the record owner(s), owner's representative, designer(s), engineer(s) or surveyor(s), and the date of survey, if any.

Item #24: This change is proposed because contiguous parcels under common ownership are aggregated into single zoning lots in some zones under certain circumstances.

- (2) Proof of record ownership of the tract and the representative's authorization.
 - (3) Legal description of the tract .
 - (4) Present and proposed uses .
 - (5) Description of the water supply, methods of sewage disposal and storm water disposal, and the availability of other utilities.
 - (6) Statements of the manner in which the criteria for approval listed in MCC 11.45. 390 are satisfied.
 - (7) Statement of the improvements to be made or installed and the time schedule therefor.
- (C) Supplementary material; Type [HH] 3 tentative plan. The Planning Director may require such additional information, listed in sections MCC 11.45.240 through 11.45.280, as the Director deems necessary to assist in the review and assessment of the land division proposal according to the provisions of this Chapter.

11.45.410 Tentative Plan Approval Time Limits; Staged Development

The time limits for approval of tentative plans and staged development proposals shall be in accordance with MCC 11.45.420 through 11.45.440.

11.45.420 Time Limit

The final subdivision plat or final partition [~~map~~] plat shall be delivered to the Planning Director for approval within one year following the approval of the tentative plan, and shall incorporate any modification or condition required by approval of the tentative plan. The Planning Director may, upon written request by the applicant, and payment of the required fee, grant an extension of the approval period, not to exceed six months, upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the tentative

plan.

11.45.430 Staged Development for Subdivision

When an applicant desires to record and develop subdivision plats covering portions of an approved tentative plan in stages, the approval authority may authorize a time schedule for platting the various stages in periods of time in excess of one year, but in no case shall the total time period for platting of all stages be greater than five years without re-filing ~~of~~ the tentative plan. Each stage so platting and developed shall conform to all applicable requirements of this Chapter.

sComment: This is a grammatical revision

11.45.440 Re-Approval After Expiration

After the expiration of the approval period, and extension, if any, a tentative plan shall be re-filed and considered as a new application.

11.45.450 Application of General Standards and Requirements

Every land division proposal shall comply with the applicable provisions of MCC 11.45.460 through 11.45.610.

11.45.460 Land Suitability

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

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

Language Added, [Language Deleted]

11.45.470 Lots and Parcels

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

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

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

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

(C) Double frontage or reverse frontage lots or parcels shall be provided only when essential for separation of land uses from arterials or to overcome specific disadvantages of topography or orientation.

(D) A land division may include creation of a flag lot with a pole that does not satisfy the minimum frontage requirement of the applicable zoning district, subject to the following:

- (1) When a flag lot does not adjoin another flag lot, as shown in Figure , the pole portion of the flag lot shall be at least 16 feet wide.
- (2) Where two flag lots are placed back to back as shown in Figure , the pole portion of each flag lot shall be at least 12 feet wide..

Item #5: At present neither the Land Division Ordinance nor the Zoning Ordinance has a minimum standard for the width of the flag-pole portion of a flag lot. The 12-foot and 16-foot widths proposed have been used unofficially for 15 years and have worked well for purposes of assuring adequate width for driveways.

Language Added, [Language Deleted]

(E) Within a land division, flag lots shall not be stacked one behind the other as shown in Figure . Instead, a private accessway shall be used as shown in Figure .

Comment: This change reflects the policy that the Planning Division has followed since before 1978 of requiring private accesways in land divisions where two or more new lots are proposed behind a front lot.

11.45.480 Acreage Tracts

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

11.45.490 Street Layout

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

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

Language Added, [Language Deleted]

(8) To provide safe and convenient access.

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

(C) Where a street layout affecting the proposed land division has been established by the Comprehensive Plan, a future street plan under MCC 11.45.160, or as an element of a Special Plan Area under MCC 11.15.6604, the arrangement of streets in the land division shall conform to the established layout.

(D) A half street may be permitted only where appropriate to the future division of adjoining undeveloped property, provided that when possible, additional dedicated right-of-way exceeding one-half of a street may be required to provide adequate width to accommodate two-way vehicle traffic.

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

11.45.500 Street Design

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

(A) For a public street — in accordance with the Street Standards Ordinance; and

(B) For a private street — in accordance with the [Site Development] Street Standards Ordinance, subject to the following additional requirements:

Comment: This change addresses situations where dedication of more than half the right-of-way width is needed to provide room for a road that will handle 2-way traffic.

Item #33: The Site Development Standards Ordinance was intended to regulate the design of private roads and other privately owned facilities used by the public, but were never adopted. The proposed

(1) Accessways shall be designed in accordance with Permit Requirements for Accessway Construction published by the Multnomah County Department of Environmental Service. Accessways shall have a maximum length of 300 feet.

(C) A cul-de-sac shall be as short as possible and shall have a maximum length of 400 feet and serve building sites for not more than 18 dwelling units. A cul-de-sac shall terminate with a turnaround having a radius of 50 feet.

11.45.510 Street Reserve Strips

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

11.45.520 Temporary Turnarounds

A temporary turnaround shall be provided on any street that is appropriate for continuation, either within the land division or beyond, when the street serves more than six interior lots. However, in the case of a subdivision to be recorded and developed in stages under MCC 11.45.450, a temporary turnaround shall not be required on a street to be continued in a subsequent stage. In such case, an appropriate improvement agreement under MCC 11.45.680 may be required by the Planning Director to assure that a temporary turnaround will be provided should the subsequent stage not proceed according to the approved schedule.

11.45.530 Street Names

Names for public streets shall conform to the street naming system of Multnomah County. In order to discourage unnecessary traffic, the nature of a private street, a dead end street or a cul-de-sac shall be identi-

change substitutes the Street Standards Ordinance.as the basic design standard for private streets.

Item #6: This change incorporated by reference the document that the Planning Division has used as its standard for accessway design since 1979.

Item #35: This change provides a standard in a case where none currently exists in County regulations. The language is identical to that used by the City of Portland.

fied by a sign approved as to design, content and placement by the County Engineer.

11.45.540 Sidewalks, Pedestrian Paths and Bikeways

- (A) Sidewalks shall be required in Urban Area public streets in accordance with the provisions of the Street Standards Ordinance.
- (B) A sidewalk shall be required along any private street serving more than six dwelling units.
- (C) A pedestrian path located outside a street right-of-way may be substituted for a required sidewalk when it serves the same circulation function.
- (D) Where a pedestrian path and bikeway is part of an approved plan for the area or has been approved on adjoining property, the approval authority may require the provision of a pedestrian path or bikeway within the land division.
- (E) In order to provide for an appropriate circulation system, the approval authority may require a pedestrian path and bikeway across an unusually long or oddly-shaped block.
- (F) The width, design and configuration of sidewalks and pedestrian paths and bikeways shall comply with applicable ordinance standards, as follows:
 - (1) In a public right-of-way — in accordance with the Street Standards Ordinance; and
 - (2) On private property — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the Planning Director in accordance with the Design Review provisions of the Zoning Ordinance.

11.45.550 Easements

Easements shall be provided and designed according to the following:

- (A) Easements for utilities and storm or sanitary sewers may be required where appropriate to serve abutting

Comment: This change reflects the fact that there is no Site Development Standards Ordinance.

Comment: This change was recommended by Transportation Division

Language Added, [Language Deleted]

lots or parcels. Such easements shall be not less than 10 feet in width, centered on side or rear property lines or five feet in width along front property lines.

(B) Where a tract is traversed by a water course such as a drainage way, channel or stream, a storm water easement or drainage right-of-way adequate to conform substantially with the lines of the water course shall be provided. In a drainage district or water control district, such easement or right-of-way shall be approved by the district board, in accordance with ORS 92.110. If not within such District, approval shall be by the County Engineer.

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

11.45.560 Street Trees

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

11.45.570 Street Lighting

Street lighting shall be provided in all Urban Area subdivisions in accordance with the requirements of the Street Standards Ordinance.

11.45.580 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 11.45.640 of this Chapter.

11.45.590 Sewage Disposal

The provision for the disposal of sewage from every lot or parcel in a land division shall comply with the requirements of subsections (5)(a), (b) or (c) of ORS 92.090 and MCC 11.45.650 of this Chapter.

staff.

Comment: This change was recommended by Transportation Division staff to reflect actual practice in the absence of an adopted Site Development Standards Ordinance

11.45.600 Surface Drainage

Surface drainage and storm sewer systems shall be provided as required by section 11.45.660. 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.

11.45.610 Electrical and Other Wires

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

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

11.45.620 Required Improvements

Improvements in a land division shall be made in accordance with the provisions of MCC 11.45.630 through 11.45.680.

11.45.630 Streets, Sidewalks, Pedestrian Paths and Bikeways

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

- (A) In a public street — in accordance with this Chapter and the Street Standards Ordinance; and
- (B) In a private street — in accordance with the [~~Site Development~~] Street Standards Ordinance.

See previous comment on Item #33.

- (C) Underground utilities and street lighting facilities, sanitary sewers, storm drains and water mains located in a street shall be installed prior to the surfacing of the street.

11.45.640 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 Ordinance; and
- (B) In a private street — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the approval authority

11.45.650 Sewage Disposal

- (A) Except as provided in subsection (B) of this section, a sanitary sewer line shall be installed to serve every lot or parcel in a land division by extension of an existing sewer line:

- (1) In a public street — in accordance with the Street Standards Ordinance; and
- (2) In a private street — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the approval authority.

- (B) In the event the State Department of Environmental Quality determines that it is impractical to serve any lot or parcel by an existing sewer system, a private sewage disposal system approved by the Department, 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 ~~[County Engineer]~~ 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.

Comment: This change reflects the absence of an adopted Site Development Standards Ordinance.

Comment: This change reflects the absence of an adopted Site Development Standards Ordinance.

Item 25: This change is consistent with Comprehensive Framework Plan Policy #37 which requires "a finding prior to approval of a legislative or quasi-judicial action" that a permit for subsurface sewage disposal system will be approved. Evidence of an approved Land Feasibility Study meets this requirement.

11.45.660 Surface Drainage and Storm Sewer Systems

Drainage facilities shall be constructed as follows:

- (A) In a public street — in accordance with the Street Standards Ordinance; and
- (B) In a private street and on lots or parcels — in accordance with the ~~[in accordance with the Site Development Standards Ordinance]~~ plans prepared by an Oregon licensed and registered professional engineer and approved by the approval authority.

11.45.670 Other Utilities

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

- (A) In a public street — in accordance with the Street Standards Ordinance; and
- (B) In a private street — ~~[in accordance with the Site Development Standards Ordinance]~~ as approved by the approval authority.

11 45 680 Improvement Agreement

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

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

Comment: This change reflects the absence of an adopted Site Development Standards Ordinance.

Comment: This change reflects the absence of an adopted Site Development Standards Ordinance.

Language Added, [Language Deleted]

County Counsel, guaranteeing complete performance. Such assurance shall be for a sum equal to 110% of the actual costs of the improvements as estimated by the County Engineer.

11.45.690 Final Subdivision Plat or Partition [~~Map~~] Plat Requirements

A final subdivision plat or [~~a final~~] partition [~~map~~] plat shall be prepared and reviewed as provided in MCC 11.45.700 through 11.45.740, and approval shall be effective according to MCC 11.45.750.

11.45.700 Final Drawing and Prints

Two prints of the subdivision or partition plat [~~or map~~] shall accompany the final drawing, which shall be prepared as follows:

- (A) The final subdivision [~~plat~~] or partition plat shall be drawn in the manner provided by ORS 92.080 and shall include an exact copy thereof, according to subsection (2) of ORS 92.120.
- (B) The final subdivision or partition [~~map~~] plat shall be [~~drawn in the manner provided by~~] subject to the requirements of subsection (2) of ORS 209.250.

11.45.710 Information Required on Subdivision Plat or Partition [~~Map~~] Plat

In addition to the information required to be shown on the tentative plan, the following shall be shown on the subdivision plat or partition [~~map~~] plat

- (A) The information required by subsections (1) and (2) of ORS 92.070 and subsections (3)(a), (b), (e) and (f) of ORS 92.090.
- (B) Recording numbers of existing surveys which are identified, related to the plat or map by distances and bearings, and related to a field book or map by any of the following:
 - (1) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division;

Language Added, [Language Deleted]

- (2) Corners of adjoining subdivisions or partitions;
or
- (3) Other monuments found or established in making the survey or required to be set by law.
- (C) The location, width and centerline of streets and easements abutting the boundaries of the land division.
- (D) Normal flood plain or high water line for any creek or other minor body of water or natural drainageway and the 100-year flood line of any major water body.
- (E) Tract, block, and lot or parcel boundary lines and street rights-of-way and centerlines, with dimensions, bearings or deflection angles, radii arc, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest second with basis of bearings. Distances shall be shown to the nearest 0.01 feet. All curve data, including length of cord and cord bearing, shall be shown in tabular form. Arc lengths shall be shown on the lines.
- (F) The width of the portion of any street being created and the width of any existing right-of-way. For a curved street, curve data shall be based on the street centerline. In addition to the centerline dimensions, the radius and central angle shall be indicated. Each public street shall be named. The ownership of each private street shall be shown.
- (G) Easements shall be clearly identified as to intended purpose. Book and page numbers shall be provided for any easement of record. If an easement is not of record, a description of the nature of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division shall be shown. If an easement is being dedicated by a plat, it shall be so indicated in the owner's certificate of dedication.
- (H) For a subdivision — lot numbers beginning with the number "1" and numbered consecutively [~~in each~~

Comment: This change was recommended by the County Surveyor.

Comment: This change was recommended by the County Surveyor.

Comment: This revision reflects a Legislative change in ORS ch. 92

block].

~~[(I) For a subdivision — block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed as not to obliterate any figure.]~~

(J) Lot and block numbers in an addition to a subdivision of the same name, shall be a continuation of the numbering in the original subdivision.

(K) Identification of land to be dedicated for any purpose, public or private, in a manner sufficient to distinguish it from lots or parcels intended for sale.

~~[(L) Building setback lines, identified as such, which are to be made a part of the subdivision or partition restrictions.]~~

~~[(M)]~~ (L) The following certificates, which may be combined where appropriate:

(1) For a subdivision — a certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the recording of the plat.

(2) For a subdivision — a certificate signed and acknowledged as above, dedicating to the public all land and common improvements intended for public use.

(3) For a subdivision or partition — a certificate with the seal of and signed by the surveyor responsible for the survey and the final plat or map.

(4) Other certifications required by law.

11.45.720 Supplemental Information with Subdivision Plat or Partition ~~[Nap]~~ Plat

Language Added, ~~[Language Deleted]~~

Comment: This revision reflects a Legislative change in ORS ch. 92

Item #36: The 1991 Legislature amended Chapter 92 of ORS to disallow the showing of setback lines on final plats on the basis that such lines could become obsolete if local zoning laws were later amended and changed the setback requirements.

The following shall accompany the subdivision plat or partition ~~[map]~~ plat, as appropriate:

(A) A title report issued by a title insurance company if any real property is to be dedicated to the public.

(B) Sheets and drawings showing the following:

(1) Traverse data including the coordinates of the boundary of the land division and ties to section corners and Donation Land Claim corners. The error of closure shall not exceed 1:10,000. All error is to be removed by adjustment on the plat or map.

(2) The computation of the distances, angles and courses shown on the plat or map.

(3) Ties to existing monuments, proposed monuments, adjacent subdivisions or partitions and street corners.

(C) A copy of any deed restrictions applicable to the subdivision or partition.

(D) A copy of any dedication requiring separate documents.

(E) A copy of the future street plan, when required, as recorded according to MCC 11.45.170(A).

~~[(F) For a partition, a metes and bounds description of each parcel being created.]~~

Comment: This change is due to the new partition plat rules.

11.45.730 Technical Review and Approval of Subdivision Plat or Partition Plat ~~[or Map]~~

(A) The subdivision plat or partition ~~[map]~~ plat and all required material shall be filed with the Planning Director for final approval. Within 10 business days of filing, the Planning Director shall determine whether the material conforms with the approved tentative plan and with the applicable requirements of this Ordinance. If the Planning Director determines that there is not such conformity, the applicant shall be so advised and afforded an opportunity

Language Added, [Language Deleted]

to make corrections. When the plat ~~or map~~ is found to be in conformity, it shall be signed and dated by the Planning Director.

(B) Following review and approval of a subdivision or partition plat, the Planning Director shall:

- (1) Obtain the approval signature thereon by the County ~~[Engineer]~~ Surveyor, certifying that the subdivision plat complies with all applicable laws. Before so certifying, the County ~~[Engineer]~~ Surveyor, may cause field investigations to be made to verify that the plat survey is sufficiently accurate. If it is determined that there has not been full compliance, the applicant shall be so notified and afforded an opportunity to make corrections. When the plat is found to be in conformity, it shall be signed and dated by the County ~~[Engineer]~~ Surveyor. ;
- (2) As required by ORS 92.110, obtain the approval signatures thereon of the Board of Directors, or Board's delegate, of an irrigation district, drainage district, water control district or district improvement company, if the subdivision is within such district;
- (3) ~~[O]~~ In the case of a subdivision, obtain the approval signatures thereon of ~~[a majority]~~ the Chair of the Board of County Commissioners or the ~~[Board]~~ Chair's delegate, certifying that the plat is approved;
- (4) Obtain the approval signature thereon from the Division of Assessment & Taxation, certifying that all taxes on the property have been paid or bonded for in accordance with State law;
- (5) Deliver the approved subdivision plat and accompanying documents to the Recording Section of the ~~[Recording Section of the Department of Administrative Services]~~ public office responsible for public records for recording; and
- (6) Notify the applicant that the approved subdivision plat and accompanying documents have been delivered to the Recording Section and

Item #28: This revision reflects a change in County organization wherein the position of County Surveyor was formally established following the 1978 adoption of the Land Division Ordinance. Signing of the plat by the County Surveyor is consistent with Chapter 92 of ORS.

Item 18: The 1993 Legislature amended Chapter 92 of ORS so that only the County Chair needs to sign the plat instead of a majority of the Board.

may be offered for record.

~~[(C) Following review and approval of a final partition map the Planning Director shall:~~

~~(1) Obtain the approval signature thereon by the County Engineer certifying that it complies with all applicable laws. Before so certifying, the County Engineer may cause field investigations to be made to verify that the map survey is sufficiently accurate. If it is determined that there has not been full compliance, the applicant shall be so notified and afforded an opportunity to make corrections. When the map is found to be in conformity, it shall be signed and dated by the County Engineer and filed in accordance with ORS 209.250;~~

~~(2) As required by ORS 92.110, obtain the approval signatures thereon of the Board of Directors or Board's delegate, of any irrigation district, drainage district, water control district or district improvement company, if the partition is within such district;~~

~~(3) Deliver the approved partition map and accompanying documents to the Recording Section of the Department of Administrative Services for recording; and~~

~~(4) Notify the applicant that the approved partition map and documents have been delivered to the Recording Section and may be offered for record.]~~

(C) No building permit shall be issued or parcel sold, transferred or assigned until the partition plat has been approved by the Planning Director and County Surveyor and recorded with the Recording Section of the Department of Environmental Services.±

11.45.740 ~~[Appeal From Action on Final Plat or Map~~
~~[Repealed 199 , Ord. , §]~~

~~A decision of the Planning Director on a final subdivision plat or final partition plat may be appealed to the Hearings Council in the manner provided in MCC~~

Language Added, [Language Deleted]

Comment: Subsections (C)(1) through (4) are proposed for deletion because the approval processes for subdivision plats and partition plats are identical.

Item #27: The purpose of this amendment is to emphasize the need for all appropriate signatures to be on the partition plate for the division to be valid.

Item #19: It makes no sense for a final plat approval to be appealable if the plat conforms with the approved tentative plan as required by MCC 11.45.730(A).. There appears to be no basis in state subdi-

11.45.750 Final Approval Effective

~~[The approval process for a s]~~ Subdivision and partition approvals shall become final upon the recording of the approved [subdivision] plats, under [subsection (1) of] ORS 92.120, ~~[and for a partition, upon the recording of the approved partition map]~~ any required street dedications and other required documents with the ~~[Recording Section of the Department of Administrative Services]~~ public office responsible for public records.

11.45.760 Variances

(A) A variance from the provisions of MCC 11.45.450 through 11.45.610 and MCC 11.45.620 through 11.45.670 of this Chapter may be authorized by the Hearings ~~[Council]~~ Officer or the Planning Commission, as appropriate. Such a variance may be authorized only when substantially all of the following factors exist:

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

(B) Application for a variance shall be filed with the

vision law (ORS ch. 92) for making final plat approvals appealable. Staff finds no record of any final plat approval ever having been appealed.

Comment: This change was recommended by the County Surveyor.

Planning Director, on the forms provided, at the time of application for tentative plan approval. The application shall be accompanied by the required fee. Notice of the hearing on the tentative plan shall include notice of the proposed variance.

(C) A variance authorized under the provisions of MCC 11.45.760 shall expire upon expiration of the tentative plan approval or of the phase of an approved staged development associated therewith.

(D) A variance from the provisions of the Street Standards Ordinance [~~or the Site Development Standards Ordinance~~] may be authorized as provided therein.

11.45.770 Appeals from Hearings [~~Council~~] Officer or Planning Commission Decisions

A final decision [~~on a land division proposal made~~] by the Hearings [~~Council~~] Officer or the Planning Commission under this Chapter may be appealed to the Board of County Commissioners in the manner provided in MCC 11.15.[~~8260~~]8205 through .[~~8285(E)~~]8295.

11.45.780 Interpretation

It shall be the duty of the Planning Director to interpret the provisions of this Chapter. The provisions of this Chapter shall be held to the minimum requirements necessary for the promotion of the public health, safety, convenience and general welfare.

11.45.790 [~~Continuation of Previous Approvals~~] *[Repealed 199__ Ord. ____, § __]*

~~[The provisions of this Chapter shall apply to all tentative plans for land divisions for which application is made after July 13, 1982.]~~

~~(A) An application for a preliminary subdivision or plat or for the creation of a street or road under ORS 92.014, completed and filed prior to July 13, 1982, shall be processed in accordance with and subject to the requirements of the pre-existing regulations.~~

~~(B) An approval of a preliminary subdivision plat or of the creation of a street or road under ORS 92.014,~~

Comment: There is no Site Development Standards Ordinance.

Comment: This revision corrects two citations.g

Comment: This section no longer applies because the July 13, 1983 expiration date has past.

~~which was granted prior to July 13, 1982, shall
expire one year after said approval date.]~~

11.45.800 Enforcement

The Director of the Department of Environmental Services shall be responsible for the enforcement of the provisions of this Chapter.

11.45.810 Fee Schedule

(A) Pre-filing Conference.

- (1) Type ~~[I]~~ 1 or Type ~~[H]~~ 2 Land Division \$50.00
- (2) Type ~~[H]~~ 3 and ~~[IV]~~ 4 Land Division \$50.00

(B) Type ~~[I]~~ 1 Tentative Plan.

- (1) 20 lots or less\$800.00
- (2) More than 20 lots \$800.00 plus \$25.00 for each lot over 20.
- (3) A land division which is classified as Type ~~[I]~~ 1 according to the criteria in MCC 11.45.080(D) which would otherwise be designated a Type ~~[H]~~ 2, Type ~~[H]~~ 3, or Type ~~[IV]~~ 4 Land Division shall be assessed the lesser respective fee.

(C) Type ~~[H]~~ 2 Tentative Plan ...\$450.00

(D) Type ~~[H]~~ 3 Tentative Plan\$250.00

(E) Type ~~[IV]~~ 4 Tentative Plan\$ 125.00

(F) ~~[Lot]~~ Property Line Adjustment \$75.00

(~~[F]~~G) Final Plat [~~or Map~~] Survey Check.

(I) For subdivision as follows:

- (a) The fee to be paid by the applicant to the County Surveyor for checking subdivision plats having all boundary and lot corner

monuments in place on the subdivision site at the time of inspection by the County Surveyor, shall be \$500 plus \$25 for each lot contained in the subdivision.

- (b) The fee to be paid by the applicant to the County Surveyor for checking subdivision plats having all boundary angle points and all points of intersection of parcel lines with the boundary marked by monuments at the time of inspection by the County Surveyor, but with the interior parcel and roadway monuments to be delayed in accordance with ORS 92.060(5), shall be \$650 plus \$35 for each lot contained within the subdivision.
- (2) For partitions The fee to be paid by the applicant to the County Surveyor for checking partition plats as required by ORS 92.100(3) shall be \$300.00
- (3) In addition to the above fees the applicant shall pay to the County Surveyor for repeated calculations and review due to necessary data changes or erroneous data, and necessary repeated field inspections due to omitted, erroneously placed, disturbed or destroyed monuments, an amount equal to the actual cost to the Department of Environmental Services
- (4) The fees to be paid by the applicant for the services of the County Surveyor described in subsections (1) and (2) are payable to the County Surveyor in advance of inspections, at the time the final subdivision plat and/or survey map is submitted to the office of County Surveyor. Any fees necessarily assessed for services of the County Surveyor described in subsection (3) shall be payable prior to approval of the subject plat.
- (5) As used in this section, *lot* means a unit of land that is created by a subdivision of land, and a *tract* will be considered a lot, except for street plugs.

- (G) Variance [MCC 11.45.760] \$400.00
- (H) Notice Sign [MCC 11.15.9020(A) \$5.00
- (I) Time Limit Extension [MCC 11.45.420] \$75.00
- (J) Appeals
- (1) From administrative decisions under MCC 11.45.320(C), 11.45.380(C) and 11.45.740 \$100.00
 - (2) From decisions of the Hearings [~~Council~~] Officer or Planning Commission under MCC 11.45.770\$300.00
Plus transcript cost per minute of hearing time\$3.50
- (K) Records and Reports, per page\$0.30
- (L) Rescheduled Hearing.....\$200.00
- (M)The fees required under MCC 11.45.810 shall apply to all actions specified in this Chapter, regardless of applicant.

11.45.820 Amendment

This Chapter may be amended according to the provisions of MCC 11.45.830 through 11.45.860.

11.45.830 Initiation of Amendment

- (A) An amendment of this Chapter may be initiated by:
- (1) Order of the Board;
 - (2) Vote of a majority of the entire Planning Commission; or
 - (3) Request of the Planning Director.
- (B) The provisions of this section or any other provision of this Chapter which relates to procedures for amendment hereof shall not apply to any amendment which relates to fees. The establishment of any such fees, and the amendment thereof, shall be pre-

scribed by the Board of County Commissioners acting in accordance with Chapter V of the Charter.

11.45.840 Procedure for Amendment; Notice

- (A) A public hearing shall be held by a majority of the entire Planning Commission on a proposed amendment of this Chapter. A proposed amendment shall be in draft form.
- (B) Notice of the time, place and purpose of the hearing and a description of the land to be subject to the amendment shall be given as follows:
 - (1) As required by MCC 11.05.110; and
 - (2) Once a week for two successive weeks prior to the hearing in a newspaper of general circulation published in Multnomah County.

11.45.850 Planning Commission Recommendation on Proposed Amendment

- (A) A recommendation to approve an amendment of this Chapter shall be by majority vote of the entire Planning Commission. A recommendation, together with relevant information, shall be referred by the Planning Commission to the Board.
- (B) An amendment initiated by the Planning Director shall be referred to the Planning Commission for report and recommendation.
- (C) An amendment initiated by the Board shall be referred to the Planning Commission for report and recommendation by a date certain. If no timely report and recommendation is made by the Planning Commission and no extension is granted by the Board, the Board may consider the amendment without recommendation of the Planning Commission thereon.

11.45.860 Board Procedure on Amendment; Notice

- (A) The Board shall conduct a public hearing and take action on a proposed amendment of this Chapter in accordance with the Charter and the rules of the

Board.

(B) The Board shall give notice of the hearing as required by the Charter and in the manner provided in subsection (B) of MCC 11.45.840.

11.45.870 [~~Repeal of Subdivision Regulations~~]

[Repealed 199_, Ord. ___, § __]

~~[The Subdivision Regulations of Multnomah County, adopted April 19, 1955, and all amendments thereto are repealed, except for the purposes of MCC 11.45.790.]~~

Comment: This revision is consistent with repeal of MCC 11.45.790.