

NOTICE OF DECISION ON
PARTITION – APPROVAL WITH CONDITIONS

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
LAND USE AND ENVIRONMENTAL PLANNING DIVISION
9101 SE Sunnybrook Blvd., Clackamas, OR 97015
Phone: 503-353-4500/4501

TO: Applicant, Citizens Planning Organization, Agencies, and Property Owners within 300 feet of this application.

DATE: October 7, 2008

LAST DATE TO APPEAL: October 20, 2008

FILE NOS.: Z0467-08-M

STAFF CONTACT: Steve Koper – 503-353-4551; stevekop@co.clackamas.or.us

APPLICANT: Chris Marek; 18495 Rose Court, West Linn, OR 97068

OWNER: Kirk Lena; 20240 S. Ferguson Road, Oregon City, OR 97045

LEGAL DESCRIPTION: T22S, R1E, Section 12AC, Tax Lot 2300W.M.

SITE ADDRESS: 15154 SE Kellogg Avenue, Milwaukie, OR 97267

TOTAL AREA INVOLVED: Approximately 0.46 acres.

PRESENT ZONING: Urban Low Density Residential (R-10); 10,000 square foot average lot size single family residential zoning district.

CITIZENS PLANNING ORGANIZATION FOR AREA: Oak Lodge CPO, c/o Richard Jones (503-652-2998), 3205 SE Vineyard Road, Oak Grove, OR 97267; bulldogjones@prodigy.net

The CPO submitted comments recommending approval. The CPO recommended conditions of approval relating to open ditches in Kellogg Avenue near Risley Avenue, construction of a sidewalk and half-street improvement. These recommendations are addressed at Finding 16, below. The CPO also identified a cedar tree, three feet in diameter, on the northwest portion of the property. The cedar tree is addressed at Finding 6, below.

PROPOSAL: A Flexible Lot Size Partition to divide the subject property into two (2) parcels; one containing an existing single family residence (8,000 square feet) and one for a new home site (12,000) accessed by a flagpole access drive from Kellogg Avenue.

FINDINGS: The Planning Division staff has reviewed your application for preliminary approval of a Flexible Lot Size Partition. This Partition application is subject to Section(s) 301, 1001, 1002, 1003, 1006, 1007, 1008, 1012, 1014, 1022 and 1106 of the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Division has reviewed these sections of the ZDO in conjunction with this proposal and makes the following findings:

1. The applicant is requesting preliminary approval of a Flexible Lot Size Partition to divide the subject property into two (2) parcels. The subject property is approximately 20,000 square feet in size and contains an existing single family dwelling in the approximate center of the property. Proposed Parcel 1 will contain this dwelling and will be approximately 8,000 square feet in size. Proposed Parcel 2, a "flag lot", will be located to the north of the existing dwelling with a 20 ft. wide access strip to SE Kellogg Avenue located along the south side of Parcel 1. Proposed Parcel 2 will be approximately 12,000 square feet in size.

The subject property is located on the east side of SE Kellogg Avenue Road approximately 2500 feet north of the intersection of Kellogg Avenue and Risley Avenue. The subject property is relatively level with no significant natural features.

2. The partitioning of land is subject to the provisions of Sec. 1106 of the ZDO. Pursuant to subsection 1106.02C of the ZDO, partitions are subject to the applicable provisions of the Sec. 1000 series, Development Standards, of the ZDO, including Sec. 1012, Density Standards, and Sec. 1014, Design Standards for Land Divisions, of the ZDO.
3. The subject property is zoned R-10 and is subject to the dimensional and density standards of subsection 301.09 and Sec. 1012 of the ZDO. The subject property is approximately 20,000 square feet in size. The minimum average parcel size requirement in the R-10 zoning district is 10,000 square feet per dwelling unit. The maximum density permitted for the site is two (2) single family dwelling units according to the procedures set forth in Sec. 1012 of the ZDO. The applicant has proposed to create two (2) parcels; one of 8,000 square feet and a second of 12,000 square feet. The average parcel size is 10,000 square feet. Lot size averaging, or Flexible Lot Size Partitioning, is permitted pursuant to Sections 301.09 and 1014.04B of the ZDO. The smaller of the proposed lots (8,000 square feet) is within 80% of the underlying minimum lot size in the R-10 zone, as required by subsection 1014.04B(2)(b). The staff notes that there are no identified Restricted Areas (steep slopes, wetlands, stream corridors, potential landslide hazards, etc.) within the subject property that would require an adjustment in the density calculations. *The staff finds that this proposal will satisfy the dimensional and density requirements of Sections 301.0, 1012 and 1014 of the ZDO.*
4. Section 1000 of the ZDO sets forth the general standards for development of property within the unincorporated area of Clackamas County. The standards set forth in the Sec. 1000 series of the ZDO apply to all partition applications and approvals.
5. Pursuant to subsection 1001.03 of the ZDO, all development in the County is subject to several specified codes and/or ordinances adopted by the Board of County Commissioners (BCC) and incorporated into the ZDO. These include the current adopted residential building codes, Oregon Structural Specialty Code, Fire and Life Safety Code, and, pursuant to subsection 1001.03F, any other code or ordinance adopted by the BCC. The latter provision includes the County Roadway Standards and County Road Use Ordinance that have particular importance in the review of land division requests. The County Roadway Standards also incorporate the Fire Apparatus Access Road Standards adopted by most of the fire districts in Clackamas County including the Clackamas County Fire District No. 1, the fire protection services provider for the area including the subject property. The relevance of these codes will be discussed later in these Findings. Conditions of approval will be imposed to assure compliance with the codes and ordinances incorporated in the ZDO pursuant to subsection 1001.03 of the ZDO.

6. Sec. 1002 pertains to the protection of natural features and is intended to encourage site planning and development practices that protect and enhance significant natural features such as streams, swales, hillsides, ridges, rock outcroppings, large trees, and wooded areas. The subject property does not contain any identified perennial streams, known wetlands, hillsides with slopes of 20% or greater, ridges, rock outcroppings, or other significant natural features.

Based on aerial photography of the property, in addition to the front portion being developed with a single-family residence, the remainder of the site is predominantly landscaped lawn and small landscape trees. There are no other known or identified natural features.

The applicant's site plan shows a cedar tree (three feet in diameter) on the northwest corner of the subject property which the CPO believes is a significant native tree. According to the proposed site development plan, the driveway entrance for this parcel would be located to the south of the cedar tree and the proposed home would likely be located to the east of the tree, likely to be located on Parcel 2. However, if the cedar tree in the northwest corner of Parcel 2 needs to be removed in order to place the new home and/or related utilities, such removal will be permitted.

Staff finds that a condition of approval is warranted requiring the applicant to retain and protect the cedar tree on Parcel 2. The tree and its root zone shall be protected during construction of any required road, home site and utility construction from damage. Temporary fencing shall be erected around the tree and encompassing the root zone throughout the construction period.

The staff finds that the requirements of Sec. 1002 are not applicable with the exception of subsection 1002.04 pertaining to trees and wooded areas, and that the latter can be met by condition.

7. Sec. 1003 of the ZDO pertains to hazards to safety such as landslides, floodplains, soil hazards, and fire hazard area. According to the DOGAMI Geologic Hazards map, Bulletin No. 99, Lake Oswego-Gladstone quadrangle, none of these potential hazards are to be found within, or in proximity to the subject property. *The staff finds that the provisions of Sec. 1003 of the ZDO are not applicable to this application.*
8. This development is subject to the standards found in Sec. 1006 of the ZDO pertaining to utility lines and facilities and compliance with these standards is discussed in detail in the following Findings.
9. Pursuant to subsection 1006.02A of the ZDO, the location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soils and the site consistent with the rules and regulations of the surface water management regulatory authority. Storm water management and sanitary sewer services are subject to the Rules and Regulations of the Oak Lodge Sanitary District no. 5 (OLSD #5). Water service is subject to the standards of the Oak Lodge Water District (OLWD). Electricity, gas, telephone and other services shall be installed to the standards of the relevant service provider.

All new utility lines and facilities needed to serve the proposed development can be extended from SE Kellogg Avenue within the proposed new private access drive. Access to proposed Parcel 2 will be taken via a private access drive along the east boundary of the site. With the exception of any necessary improvements to the access road, storm drainage improvements, and

individual home site and utility excavations, it appears that the likelihood of substantial soil disturbance can be minimized except to the extent necessary to serve the proposed new home site. *The staff finds that this criterion can be satisfied.*

10. This development is subject to the provisions of subsection 1006.02B of the ZDO. This requires that all development that has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the district serving the development, in this case the Oak Lodge Water District (OLWD). Subsection 1006.02B(2) requires written certification from a public water system that the OLWD has the authority to provide water service to the development and that the OLWD can provide the development with adequate potable water in quantities sufficient for year-round use. Subsection 1006.02B(4) requires that land divisions shall not be approved unless they can be served by a public water system in compliance with the drinking water standards of the Oregon State Health Div., and that new development within the boundaries of a water service system shall receive service from this system.

Pursuant to subsection 1006.04B(4) of the ZDO, the proposed development shall be provided with water service by the OLWD subject to availability of water and compliance with the standards and requirements of the OLWD. The OLWD has not submitted comments concerning this proposal, however the applicant has submitted a Preliminary Statement of Feasibility from the OLWD dated August 5, 2008, stating that adequate domestic water service can be provided for the proposed development. Fire flow requirements are subject to review by the Clackamas County Fire District no. 1 (CCFD #1). A condition of approval is warranted requiring that domestic and fire protection water supply shall be installed in accordance with the requirements of the OLWD and CCFD #1 (fire flow requirements). *The staff finds that this criterion can be satisfied.*

11. This development is subject to the provisions of subsection 1006.02C of the ZDO pertaining to underground installation of utilities. All development that has a need for electricity, gas and communication services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the district or company, all such facilities shall be installed underground. A condition of approval will be imposed requiring that all new and relocated utility lines or other utility facilities necessary to serve the development shall be installed underground. *The staff finds that this criterion will be satisfied.*
12. This development is subject to the provisions of subsection 1006.02D of the ZDO pertaining to the provision of public/private sanitary sewerage. Pursuant to subsection 1006.02F of the ZDO, the development of the subject property is contingent upon the availability of area-wide sanitary sewerage since this property is within the Portland Metro Urban Growth Boundary. Pursuant to subsection 1006.02D of the ZDO, all development that has a need for public and/or private sanitary sewers shall install the facilities pursuant to the requirements of the District serving the development.

The subject property is located within an area-wide sewerage service district administered by the Oak Lodge Sanitary District no. 5 (OLSD #5). The applicant has submitted a Preliminary Statement of Feasibility signed by the OLSD #5, dated August 5, 2008, stating that sanitary sewer capacity is available to serve the proposed development. The OLSD #5 has submitted

additional comment indicating that sanitary sewer in Kellogg Avenue is available to serve the proposed new lot.

A condition of approval is warranted requiring the applicant to install sanitary sewer improvements consistent with the OLSD #5 requirements. *The staff finds that this criterion can be satisfied.*

13. Pursuant to subsection 1006.02G of the ZDO, street lighting is required for new development within the Urban Growth Boundary where street lighting does not exist.

The County Street Lighting Service District no. 5 (CCSD#5) has submitted comments indicating that street lighting does not exist on the Kellogg Avenue frontage and thus will be required, on existing wood utility poles. Comments also indicate that the property is not part of an assessment district. The CCSD#5 will require the owner to submit a request in writing to create a new assessment area for the proposed new lots to help pay for the operation and maintenance of existing area street lighting. A condition of approval is warranted requiring compliance with the requirements of subsection 1006.02G and the CCSD#5. *The staff finds that this criterion will be satisfied.*

14. Pursuant to subsection 1006.02H of the ZDO, easements shall be provided along property lines as deemed necessary by the County DTD, OLSD #5, OLWD, and utility companies. Easements for special purposes shall be of a width deemed appropriate by the responsible agency. The need for, width and location of such easements is usually determined during the street and street frontage, sanitary sewer and storm sewer plans review processes. A condition of approval is warranted requiring that such easements, if required, shall be shown upon the final plat of the partition. *The staff finds that this criterion can be satisfied.*

15. This development is subject to the provisions of Sec. 1008 of the ZDO pertaining to storm drainage. The subject property is within the OLSD #5, the storm water management regulatory agency for the area including the subject property.

The applicant has submitted a Preliminary Statement of Feasibility from the OLSD #5 indicating that adequate surface water treatment and conveyance can be made available through improvements to be completed by the developer. The OLSD has submitted detailed comments concerning this proposal indicating that the frontage of this property and along several adjacent properties consists of roadside ditch and 12-inch diameter driveway culverts. The ditch system flows to SE Risley Avenue and available for stormwater disposal if the owner demonstrates that it has adequate capacity. If County Engineering requires half-street improvements, the ditch system may need to be improved with storm piping and a catch basin at the downstream end of this property. Therefore, the proposal appears to be feasible, however further review by the OLSD #5 will be required prior to final plat approval.

The staff notes that prior to final partition plat approval, the applicant must demonstrate to the OLSD #5 that surface water from roof, foundation and footing drains and from new access road improvements can effectively be collected and disposed of in accordance with the OLSD #5 Surface Water Management Rules and Regulations. A condition of approval is warranted requiring that storm water management plans approval shall be obtained from the OLSD #5 prior to final partition plat approval. *The staff finds that these criteria can be satisfied.*

16. The following pertains to the provision of access to the proposed parcels and required street and street frontage improvements. This development is subject to the provisions of Sections 1007, 1014, 1022 and 1106 of the ZDO pertaining to access and street system adequacy. The following findings discuss compliance with the provisions of the ZDO and the County Roadway Standards noted above. The County DTD, Construction and Development Sec. has reviewed this proposal and submitted comments dated September 23, 2008 (incorporated herein by reference) containing the following information.

The applicant has proposed a 2-parcel partition of a 0.46 acre property on SE Kellogg Avenue. The project site has approximately 100 feet of frontage on the easterly side of SE Kellogg Avenue, with an existing single-family residence proposed to remain on Parcel 1. Parcel 2 is undeveloped and is proposed as a “flag lot” with the “flag pole” running along the southerly side of the site.

SE Kellogg Avenue is a County-maintained Local Roadway (*Comprehensive Plan* map V-2a). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for Local roads. The portion of SE Kellogg Avenue adjacent to the subject property is part of the Essential Pedestrian Network, as shown on *Comprehensive Plan Map V-8 (Comprehensive Plan Chapter 5, Tables V-2, V-3, V-4, and V-5, and Roadway Standards Chapter 2, sections 210 through 240.11.2)*

The existing right-of-way of SE Kellogg Avenue appears to be 40 feet in width. The minimum right-of-way for a Local roadway is 40-50 feet, depending on whether curb-tight or setback sidewalks are to be developed on the roadway. The existing right-of-way is adequate for the proposed partition.

Minimum improvements on the SE Kellogg Avenue frontage, consistent with *Comprehensive Plan* Tables V-2, V-3, V-4, and V-5, and *ZDO* Section 1007 include, but are not necessarily limited to, up to a half-street improvement, pavement widening, and storm drainage facilities. In addition, standard curb or curb and gutter when curblines slope is less than one percent, 5-foot wide sidewalk, concrete driveway approaches, and pavement tapers are required.

The Oak Lodge CPO has provided comments, noting that the width and condition of the street are a safety issue, warranting repaving and construction of a sidewalk.

SE Kellogg Avenue has an existing paved width of approximately 17.5 feet along the project site frontage, with no curb or sidewalk constructed. There is a roadside drainage ditch immediately adjacent to the edge of existing pavement. The minimum paved width for a Local roadway is 28 feet, per *Clackamas County Roadway Standards, Table 2-1*. Partition applications are required to improve up to a one-half street width of 14 feet from the centerline of the right-of-way along the entire site frontage. Generally, a minimum width of 20 feet is needed for adequate, safe two-way travel. To mitigate the existing roadway width, the applicant will be required to widen SE Kellogg Avenue approximately 5.5 feet to provide the minimum 14-foot wide one half right-of-way width along the entire project site frontage. Additionally, given the poor condition of the asphalt, the widening will include paving to the centerline of right-of-way.

ZDO Subsection 1007.05.B requires sidewalk improvements along the frontage of partition applications. Although, full frontage improvements are required for urban partitions, ZDO

Subsection 1007.3.H provides a *Fee-In-Lieu* process for sidewalk and frontage improvements. Under this code section, a fee can be paid based on estimated construction costs as an alternative to constructing the sidewalk and other portions of frontage improvements, as deemed appropriate. The funds are placed in a pedestrian improvement fund to be used to develop pedestrian facilities on the County's Essential Pedestrian Network. When a project is located on a roadway designated as part of the Essential Pedestrian Network, as in the case of the project site, *Fee-In-Lieu* can be considered when the department of Transportation deems it acceptable and at least one of the following criteria under ZDO 1007.03.H is met:

- a. *The improvements are included in the Five-Year Capital Improvement Program;*
- b. *The improvements are located on a road where significant topographical or natural feature constraints exist; or*
- c. The improvements are located on a local or collector road where a sidewalk or pathway does not exist within 200 feet of the required improvements.

There are no sidewalks constructed on SE Kellogg Avenue. The nearest sidewalk is located approximately 250 feet to the south on the south side of SE Risley Avenue. Although, the project site meets criterion "c", given the location of the property in relation to the McLoughlin commercial corridor, and the neighborhood desire through the Oak Lodge Community Council for sidewalk improvements, *Fee-in-Lieu* would not be an acceptable alternative.

In order to accommodate the required pavement widening and sidewalk, the ditch will need to be eliminated and drainage pipe installed. Since there is not a standard storm drain system in the roadway, the pipe to be installed will be shallow and will not be the ultimate storm drainage improvement and could be removed in the future if a permanent system is ever constructed. However, the cost of a future permanent drainage system along the site frontage will not be part of the requirements for the proposed partition.

Access for the proposed partition includes an individual driveway for the existing home on Parcel 1, and an individual access driveway through a 20-foot wide flag pole for Parcel 2. Clackamas County has adopted design and construction standards for private access drives. These standards are contained in the *Clackamas County Roadway Standards* book. The minimum access width for 1 to 2 lots is a 20-foot wide easement or deeded width, with a minimum 12-foot wide driveway surface. The existing home on proposed Parcel 1 has a paved driveway that generally meets County standards. Access for Parcel 2 will be required to be constructed prior to final plat approval. The County requires that driveways located within narrow "flag poles" are constructed as part of the partition in order to address grading and drainage, and to assure an adequate access is provided to the buildable area of the new parcel.

Clackamas County Roadway Standards require that driveways and private roads in partitions be designed to provide emergency service access. Private access drives in excess of 150 feet are typically required to construct an emergency vehicle turnaround area at or near the end of the roadway. The proposed private access drive for Parcel 2 will be approximately 100 feet in length and does not appear to require an emergency services turnaround. Written verification from the fire district will be required indicating that adequate emergency services access is

provided to each parcel. If a turnaround is required, it shall be designed and constructed per Clackamas County Roadway Standards Drawing C350.

Oak Lodge Sanitary District is the surface water management authority for the area including the subject site. The proposal must be in conformance with the rules and regulations of Oak Lodge Sanitary District and Clackamas County Zoning and Development Ordinance Section 1008. Positive drainage must be provided to an existing storm drainage system capable of accommodating the estimated contribution.

Clackamas County requires that adequate transportation facilities be provided concurrent with development. Since this proposal will add one additional lot generating approximately 10 average daily vehicle trips, with approximately 1 vehicle trip during the AM and PM peak hours of typical weekdays, the influence area for the transportation system is considered to be the driveway intersection with SE Kellogg Avenue. Staff is confident that the driveway intersections with the road will operate at level of service “D” or better during the AM and PM peak hours of typical weekdays with the additional of site generated traffic. Therefore, this proposal meets the County’s concurrency requirements as they relate to the transportation system.

Clackamas County's Roadway Standards indicate that Local roadways shall include a 5-foot wide public easement for sign, slope, and public utilities on each side of the roadway. Due to recent requirements of PGE, the easement widths have been increased to 8 feet. The applicant will be required to provide the easement as part of the proposed partition.

The Planning staff finds that access to the proposed partition can comply with the relevant provisions of Sections 1007, 1014, and 1106 of the ZDO, the County Roadway Standards and the Comprehensive Plan pertaining to access for partitions. Conditions of approval are warranted requiring compliance with these standards.

17. The requirements of Section 1022, Concurrency, of the ZDO have been satisfied. The applicant has submitted the required Preliminary Statements of Feasibility from the OLSD #5 pertaining to sanitary sewer service and storm water management and from the OLWD pertaining to provision of domestic and fire protection water supply. The County Construction and Development and has found the transportation system to be adequate to accommodate the additional traffic that will be generated by one additional home.
18. ESA DISCLAIMER: The Federal Endangered Species Act (ESA) is not a criterion for approval of this application. The County has reviewed the approval standards in light of the requirements of the ESA, believes that the criteria for approval are consistent with the terms of the ESA and has submitted the Development Ordinances for consideration for a “4(d)” programmatic limitation. However, the analysis included in this report does not include an evaluation by the County of the application for consistency with the ESA nor does the report reach any conclusions concerning that federal law. The applicant is responsible for designing, constructing, operation and maintaining the activities allowed by an approval of this application in a manner that ensures compliance with the ESA. Any questions concerning this issue should be directed to the applicant, its consultant and the federal agencies responsible for administration and enforcement of the ESA for the affected species.

DECISION: **Approval with conditions.** Based upon the above findings, it is the decision of the Clackamas County Planning Division staff to grant preliminary approval of the proposed Flexible Lot Size Partition. Final plat approval is subject to the conditions of approval identified below:

CONDITIONS OF APPROVAL

1. Approval is based upon the preliminary plan submitted with the application, the Findings discussed above, and the conditions of approval contained herein. Any change in design, including lot layout and access to lots, must be approved by the Planning Division prior to final plat approval.
2. All conditions of approval shall be financially guaranteed or completed prior to issuance of any building permits dependent upon this approval unless otherwise noted below.
3. Within two (2) years of the date of this decision, a final partition plat survey of the partition must be submitted to this office for review. Once approved by the Planning Division, the approved partition plat will be sent to the County Surveyor for review. When approved by the Surveyor, the plat must then be filed and recorded by the County Clerk. **Failure to record the final partition plat with the County Clerk within two (2) years of the date of this decision will void this partition approval.** Prior to expiration of this approval, the applicant may request a one-time, one (1) year extension subject to Sec. 1106 of the ZDO. The final partition plat shall be prepared by a registered professional land surveyor in a form and with information consistent with ORS Chap. 92, relevant portions of ORS Chap. 209.250, the County ZDO, and these conditions of approval.
4. Pursuant to subsection 1106.06B of the ZDO, the individual parcels shall be not be sold, transferred or assigned until the final plat has been approved by the County Surveyor and recorded with the County Clerk. No Building or Manufactured Home Placement permits will be issued until the final partition plat is recorded and any required street frontage and access drive improvements and sanitary sewer and storm water management facilities are approved, installed and operational, or financially guaranteed.
5. All structures and uses shall conform to the requirements of the R-10 Zoning District. Nothing in this approval shall be construed to allow any use or structure that is not otherwise permitted in the zoning district subject to Sec. 301 of the ZDO. Any structures crossing proposed parcel boundaries shall be removed prior to final plat approval.
6. The applicant's surveyor shall verify by survey that the subject property is a minimum of 20,000 square feet in size. If not, the applicant must obtain approval from the County Planning Div. of a Variance to the minimum average lot size requirement of 10,000 square feet per lot.
7. The applicant's surveyor shall submit a stamped scale drawing depicting existing structures on the site to verify that the setback requirements of the R-10 zoning district are met. In order to comply with the side yard setback of 5 ft. from the existing dwelling to the proposed deeded access strip of Parcel 2, Parcel 1 shall not be permitted access to the driveway serving Parcel 2.
8. **Prior to the final plat approval and issuance of permits on either parcel**, pursuant to Section 1002 of the ZDO, the applicant shall protect and preserve the cedar tree located in the northwest

corner of Parcel 2. Temporary construction fencing shall be installed around the tree and root zone during the construction period (for all on-site and street frontage improvements) to protect the tree from damage during construction activities. A deed restriction and attached site plan depicting the location of the tree prepared by applicant's surveyor shall be recorded with and referenced upon the final partition plat requiring retention and protection of this tree unless removal is authorized by the Clackamas County Planning Division pursuant to Section 1002.04 of the ZDO.

9. Pursuant to subsection 1006.04B(4) of the ZDO, the proposed parcels shall be provided with domestic and fire protection water service by the Oak Lodge Water District (OLWD) subject to compliance with the standards and requirements of the OLWD and subject to the requirements of the Clackamas County Fire District no. 1 for fire flows and hydrant locations.
10. This development is subject to the provisions of subsection 1006.02C of the ZDO pertaining to underground installation of utilities. Except where otherwise prohibited by a service district or utility company, all utility facilities shall be installed underground.
11. All existing, proposed and required easements shall be shown and properly documented upon the final plat pursuant to ORS Chap. 92 and Sec. 1006 of the ZDO.
12. **Prior to final plat approval**, shall obtain approval from the the Clackamas County Service District no. 5 (through the County Engineering Div.). The applicant shall submit a request in writing to create a new assessment area to help pay for the operation and maintenance of any new and existing street lighting. CCSD #5 has also indicated that new street lights will be required along Kellogg Avenue on existing wood utility poles. Please contact Kevin Noreen at (503) 353-4699 with any questions.
13. **Prior to final plat approval**, the applicant shall obtain approval from the Oak Lodge Sanitary District no. 5 (OLSD #5) of the plans for sanitary sewers and storm water management. The applicant shall comply with the current OLSD #5 Surface Water Management Rules and Regulations and Standard Specifications.
14. **Prior to final plat approval**, the applicant shall obtain approval from the OLWD for domestic water service
15. **Prior to final plat approval**, the applicant shall obtain approval from CCFD #1 for fire protection water supply (fire slows).
16. The following conditions are designed to assure compliance with the provisions of Secs. 1007, 1014, and 1106 of the ZDO, the County Roadway Standards and the Comprehensive Plan pertaining to access design and construction standards, right-of-way dedications, street frontage improvements, pedestrian and bicycle improvements, etc.
 - a. **Prior to final plat approval**: all required improvements shall be constructed and inspected or financially guaranteed. Construction of the frontage improvements on SE Kellogg Avenue and the private access drive requires a Development Permit from the Engineering Division for site and road work. The Permit shall be obtained prior to commencement of site work and recording of the subdivision plat. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon, or

plans acceptable to the Engineering Division, provide a performance guarantee equal to 125% of the estimated cost of the construction, and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit application.

- b. All required street, street frontage and related improvements, and the private drives shall comply with the standards and requirements of the Clackamas County Zoning and Development Ordinance, and with the *Clackamas County Roadway Standards*, unless otherwise noted herein.
- c. The applicant shall verify by a professional survey that a 20-foot wide, one-half right-of-way width exists along the entire site frontage on SE Kellogg Avenue or shall dedicate additional right-of-way as necessary to provide the one-half right-of-way width.
- d. The applicant shall grant an 8-foot wide public easement for sign, slope, and public utilities along the entire SE Kellogg Avenue site frontage.
- e. The applicant shall design and construct the following improvements along the entire site frontage of on SE Kellogg Avenue. These improvements shall consist of:
 - i. Up to a one half-street improvement to a width of 14 feet from the centerline of the right-of-way. The structural section for SE Kellogg Avenue improvements shall consist of 3 inches Level 3 Hot Mix Asphalt Concrete (HMAC) Performance Grade (PG) 64-22, ¾” dense or ½” dense placed in 2 lifts, consisting of 1 1/2 inches per lift, over 3 inches of ¾"-0 aggregate leveling course, over 6 inches of 1-1/2"-0 aggregate base course, over geotextile fabric.
 - ii. A 5-foot wide unobstructed curb-tight sidewalk with standard curb. The applicant shall relocate mailboxes, fire hydrants, utility poles, etc, when they are located within the limits of the sidewalk or construct an eyebrow so that the full width of the sidewalk is provided around the obstruction. Mailboxes shall be relocated or replaced in accordance with standards established by the local Post Office. Additional easement, as necessary, shall be granted to provide for any sidewalk eyebrows.
 - iii. Concrete driveway approaches for each parcel, per Standard Drawing D600.
 - iv. An appropriate pavement taper. More specifically, the taper shall be 10:1 for the transition from a narrower to a wider section of roadway and in accordance with *Roadway Standards* Section 240.7 for the transition from a wider to a narrower section of roadway.
 - v. Drainage facilities in conformance with Oak Lodge Sanitary District requirements, *ZDO* section 1008 and *Clackamas County Roadway Standards* Chapter 3. The existing roadside ditch shall be eliminated and drainage pipe installed to accommodate pavement widening.
- f. Access to SE Kellogg Avenue for Parcel 2 shall meet the following requirements:
 - i. A minimum 20-foot wide easement or deed width to SE Kellogg Avenue.

- ii. A minimum paved width driving surface of 12 feet, per Standard Drawing R100 shall be provided from SE Kellogg Avenue through the “flag pole” to the buildable portion of the parcel prior to final plat approval.
- iii. Drainage facilities in conformance with Oak Lodge Sanitary District requirements, *ZDO* section 1008 and *Clackamas County Roadway Standards* Chapter 3.
- iv. Written verification from the Fire District shall be provided indicating that adequate emergency services access is available. If an emergency vehicle turnaround is required, it shall be constructed per Standard Drawing C350.
- g. A Utility Placement Permit shall be required for any utility work required within the right-of-way of SE Kellogg Avenue.
- h. Positive drainage shall be provided for all parcels to an acceptable surface water management system having the capacity to accommodate the anticipated contribution per Oak Lodge Sanitary District requirements and the Clackamas County Zoning and Development Ordinance Section 1008. Storm water detention facilities cannot be located within public rights-of-way. Provisions shall be made for roof and foundation drains from the new home buildings the partition.
- i. The applicant’s attorney and/or surveyor or engineer shall provide written verification that all proposed lots have legal access and utility easements as required prior to recording of the plat.
- j. All existing and proposed easements shall be shown on the final plat.
- k. The applicant’s surveyor/engineer must certify that the proposed road construction corresponds to the approved plan.

ESA Disclaimer

The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the County concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS CHAPTER 215
REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY
FORWARDED TO THE PURCHASER.**

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE. IF YOU DISAGREE WITH THESE FINDINGS OR CONDITIONS, YOU MAY APPEAL THIS DECISION TO THE CLACKAMAS COUNTY HEARINGS OFFICER. THE COST OF THE APPEAL IS \$250.00. YOUR APPEAL MUST BE

RECEIVED IN THE PLANNING DIVISION OFFICE BY 4:30 PM ON THE LAST DATE TO APPEAL, WHICH IS **October 20, 2008**.

THIS DECISION WILL NOT BE EFFECTIVE UNTIL THE DAY AFTER THE APPEAL DEADLINE PROVIDED THAT AN APPEAL OF THIS DECISION IS NOT FILED BY THE APPEAL DEADLINE.