

**NOTICE OF DECISION ON TIME EXTENSION OF SUBDIVISION: APPROVAL WITH CONDITIONS**

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION & DEVELOPMENT  
LAND USE & ENVIRONMENTAL PLANNING DIVISION

Development Services Building, 150 Beaver Creek Road, Oregon City, OR 97045

Phone: (503) 742-4500 Fax: (503) 742-4550

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

**DATE:** October 15, 2009

**LAST DATE TO APPEAL:** October 27, 2009

**FILE NO:** Z0583-09-TE

**STAFF CONTACT:** Steve Hanschka

**APPLICANT:** Pavel Dubintsov, 4610 SE Whipple Avenue, Milwaukie, OR, 97267

**OWNER OF PROPERTY:** Same as Applicant

**LEGAL DESCRIPTION:** T2S R2E Sec. 18BA TL 2500

**SITE ADDRESS:** 4610 SE Whipple Avenue

**TOTAL AREA INVOLVED:** Approximately 0.84 acres

**PRESENT ZONING:** Low Density Residential — 7,000-square-foot District (R-7)

**CITIZENS PLANNING ORGANIZATION FOR AREA:**

Oak Lodge CPO  
Terry Dolan (503) 659-3818  
14912 SE Fair Oaks Avenue  
Oak Grove, OR 97267

**PROPOSAL:** A Time Extension of a Subdivision (File No. Z1024-05-SS) to divide the subject property into five (5) separate parcels.

**FINDINGS:** The Planning Division staff has reviewed this application for a Time Extension of File No. Z1024-05-SS. This application is subject to Section 1105 of the Clackamas County Zoning and Development Ordinance (ZDO). The Planning Division has reviewed this Section of the ZDO in conjunction with this proposal and makes the following findings:

1. *The applicant is requesting a one-year Time Extension of File No. Z1024-05-SS — that proposes to divide the subject property into five (5) separate parcels — to allow the*

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*applicant additional time to obtain Final Subdivision Plat Approval, the process of which has been delayed by financial circumstances and market conditions.*

2. Section 1105 of the ZDO sets forth the process, standards and requirements for undergoing a land use application for a subdivision, which is defined as a division of property that creates four (4) or more lots in a calendar year.
- A. Pursuant to Subsection 1105.06(A), approval of a preliminary plat is valid for 2 years from the date of the final written decision. Otherwise, up to three (3), one-year extensions of the approval may be granted as a Planning Director decision pursuant to Subsection 1305.02, subject to the following provisions:

*The applicant has proposed the Time Extension to gain additional time to meet the conditions that are required for Final Subdivision Plat Approval of File No. Z1024-05-SS, the process of which has been delayed by financial circumstances and market conditions.*

- i. A time extension shall be requested in writing, on forms provided by the Planning Division, prior to the expiration of preliminary plat approval; and

*The applicant has timely filed this request for a Time Extension. The written request was filed on September 14, 2009. The original expiration date of the preliminary subdivision approval was the end of the business day on September 17, 2009.*

- ii. The applicant shall demonstrate that:

- a. The subdivision is consistent with the provisions of this ordinance in effect on the date a complete application for a time extension is submitted; and

*There have been no amendments to Sections 301, 1105, 1305 or the 1000 series (development standards) of the ZDO, the Comprehensive Plan, ORS Chapter 92 or any other applicable regulations that would serve to require a reversal or substantial modification of the original decision to approve the subdivision. The applicant has not proposed any changes to the approved preliminary subdivision plan that would render it inconsistent with applicable provisions of the ZDO, the Comprehensive Plan or the original approval.*

- b. There exists good cause for the failure to record the final plat with the County Clerk; and

*The applicant states that there is good cause for the failure to record the final subdivision plat due to financial circumstances and market conditions.*

- c. There is reasonable expectancy that the final plat will be recorded within the 1-year extension period; and

*The applicant states that the development plans and funding structures are now proceeding in manner that indicates that Final Subdivision Plat Approval can be obtained within the one-year extension period.*

- d. There have been no changes in the property or surrounding area that would be cause for reconsideration of the original decision.

*The staff finds that there have been no changes to the subject property or surrounding area since the date of the original preliminary subdivision approval decision that would cause a reversal or significant modification of the decision to approve the proposed five-lot subdivision. There have been no physical changes to the subject property that would render it unsuitable for the proposed development. There have been no changes within the neighborhood that would render the subject property unsuitable for the proposed development.*

- 3. 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 approve this Time Extension of final subdivision plat approval. Approval is subject to the conditions of approval identified below:

#### CONDITIONS OF APPROVAL

1. The proposed subdivision is subject to the original conditions of approval specified in the final written decision from the County, by the Clackamas County Hearings Officer, dated September 17, 2007, File No. Z1024-05-SS.
2. This approval extends the period during which Final Subdivision Plat Approval must be obtained to September 17, 2010. Prior to expiration of this approval, the applicant may request a second, one-year extension subject to subsection 1105.06(A) of the ZDO.

#### 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 5:00 PM ON THE LAST DATE TO APPEAL, WHICH IS OCTOBER 27, 2009. THIS DECISION WILL NOT BE EFFECTIVE UNTIL THE DAY AFTER THE APPEAL DEADLINE.**

### CONDITIONS OF APPROVAL

The proposed subdivision is subject to the following conditions of approval as set forth in the final written decision from the County, by the Clackamas County Planning Director, dated September 17, 2007, File No. 2007-05-02.

This approval expires the period during which final subdivision map approval shall be required to Chapter 21.010 from expiration of this review. The applicant may request a second, one-year extension subject to resolution (1) of the NRZ.

### Final Decision

If the approval of the application granted by this decision expires only the applicant's right to the decision. The decision does not include any conditions or other specific requirements or activities allowed, which will not have in conflict with the provisions of the decision. The applicant shall be responsible for any conditions or other requirements or activities that will conflict with or violate the ESA. It is the applicant's responsibility to ensure that the final subdivision map is consistent with the provisions of the decision.