

APPLICANT: Pavel Dubintsov and Alex Shevtsov
FILE NO: Z1024-05-SS
AUTHOR: Rick McIntire
HEARING DATE: June 21, 2007
REPORT DATE: June 14, 2007

**PLANNING STAFF REPORT AND RECOMMENDATION
TO THE HEARINGS OFFICER**

GENERAL INFORMATION:

Applicant: Pavel Dubintsov and Alex Shevtsov; 10337 SE Liebe, Portland, OR 97266

Property Owner: Pavel Dubintsov, 4610 SE Whipple Ave., Milwaukie, OR 97267

Proposal: A single family residential five-lot minor subdivision.

Location: 4610 SE Whipple Ave., Milwaukie, OR; Oak Grove area.

Legal Description: T2S, R2E, Section 18AB, Tax Lot 2500; W.M.

Current Zone: R-7, Urban Low Density Residential, 7,000 s.f./unit district

Comprehensive Plan Designation: Low Density Residential

RECOMMENDATION:

Denial of the proposed five-lot minor subdivision unless the applicant can demonstrate that all, or a substantial part of the subject property is not subject to potential mass movement hazard (see Findings nos. 4 and 8 below) and additional density can be permitted.

BACKGROUND INFORMATION:

The applicant is requesting preliminary approval a five-lot minor subdivision for single family dwellings. The subject property is approximately 37,177 s.f. (0.85 ac.) in size and is currently developed with one single family dwelling on proposed Lot no. 1 at the southwesterly end of the property. The applicant proposes to subdivide the subject property into five (5) lots, each of which will be at least 7,000 s.f. in size.

The applicant has requested that this application be submitted to the Hearings Officer for review and decision as the initial administrative action and decision. Normally, minor subdivisions are decided by the Planning Division staff on behalf of the Planning Director with an opportunity to appeal the decision to the Hearings Officer. In this case, the applicant's have had numerous

conversations with Planning Division and Engineering Division staff and the DTD Director disputing the nature and justification of the street and street frontage improvement requirements for the proposed development and would rather the Hearings Officer make the initial and final County decision on this matter.

The subject property is located at the southeast corner of the intersection of SE Whipple Ave. and SE Gordon St. between SE McLoughlin Blvd. and SE Oatfield Rd. in the Oak Grove area. The property has been cleared of significant trees. The property slopes downhill generally from east to west with a slope of approximately 7%.

FINDINGS & CONCLUSIONS:

The applicant has requested preliminary approval of a five-lot single family residential subdivision. This application is subject to Sections 301, 1001, 1002, 1003, 1006, 1007, 1008, 1012, 1013, 1014, 1017, 1022 and 1105 of the Clackamas County Zoning and Development Ordinance (ZDO) and the pertinent goals and policies within the Comprehensive Plan.

The staff has reviewed this subdivision application with respect to the above criteria and makes the following findings:

1. Section 301 of the ZDO controls land uses within the R-7 zoning district. A condition of approval is warranted requiring that the use, density and development of the proposed lots shall comply with the criteria set forth in Sec. 301 of the ZDO. With these conditions of approval, a single family residential five-lot minor subdivision is a permitted use within the R-7 zoning district. **These criteria can be satisfied.**

2. Sec. 1001 of the ZDO, General Provisions is applicable to subdivision applications pursuant to subsec. 1001.02 of the ZDO. This provision states, in relevant part, that *“the standards set forth in Section 1000 shall apply to partitions; subdivisions; commercial and industrial projects; multifamily and commonwall structures of three (3) or more dwellings.”*

Subsec. 1001.03 of the ZDO states: *“All development in the county is subject to the following codes which are hereby incorporated into this Zoning and Development Ordinance:*

- A. *State of Oregon Structural Specialty Code, and Fire and Life Safety Code.*
- B. *Oregon State Mechanical Specialty Code, and Fire and Life Safety Code.*
- C. *Oregon Plumbing Specialty Code.*
- D. *Uniform Code for the Abatement of Dangerous Buildings as adopted by separate order of the Board of County Commissioners.*
- E. *Chapter 70 of the Uniform Building Code as adopted by separate order by the Board of County Commissioners.*
- F. *Any other code adopted by the Board of County Commissioners.”*

Sec. 1001.03F includes the County Roadway Standards which will be addressed later in this report together with a discussion of compliance with the provisions of Sec. 1007 and 1014 of the ZDO relating to access and street design requirements. Secs. 1001.03A, B, C and D are not generally relevant to the review of the preliminary plan of a subdivision. These codes are relevant to construction of homes and accessory structures on individual lots once a subdivision is approved and recorded. Chapter 70 has been adopted as the County Excavation and Grading Ordinance and is relevant to subdivision development if significant grading outside of proposed road improvements is proposed or needed.

3. Section 1002 of the ZDO, Protection of Natural Features, contains regulatory language regarding development affecting hillsides with slopes of 20% or greater, trees and wooded areas, river and stream corridors, and wildlife habitats and distinctive resource areas.

A. Section 1002.02A, General Terrain Preparation, requires that all developments be planned, designed, constructed and maintained with maximum regard to significant natural terrain features and topography, such as hillside areas, floodplains, and other significant land forms. The protection of each of these features as they relate to the proposed development are guided by the standards in Section 1002.03 through 1002.06 and are addressed below.

B. Section 1002.02B requires that all grading, filling and excavation done in connection with any development shall be accordance with the Clackamas County Excavation and Grading Ordinance.

The applicant has not submitted a preliminary grading plan, however, based upon the proposed lot layout and gentle slope of the site, the staff believes that site grading will largely be limited to individual driveway, utility and home construction and no mass site grading will be necessary to develop the individual home sites. Foundation excavations into the slope are anticipated rather than mass leveling of building sites.

Generally, individual home site excavations do not require a separate Grading Permit as these are covered under the building code. However, if foundations and footings cannot be founded in native soil and must be constructed on fill material, such fill requires a Grading Permit and the fill shall be engineered fill.

The grading within the Whipple Ave. and Gordon St. rights of way for street and frontage improvements will be reviewed by the County Engineering Div. under the required Street Construction and Encroachment Permit plans review for compliance with the County Roadway Standards.

A condition of approval is warranted requiring that the applicant comply with the requirements of the Excavation and Grading Ordinance and obtain a Grading Permit if deemed necessary by the County Soils Sec., Building Codes Div. and/or Engineering Divs. prior to commencement of any grading, filing or excavation upon the property. **This criterion will be satisfied.**

- C. Section 1002.02C requires all developments be planned, designed, constructed and maintained so as to avoid substantial probabilities of accelerated erosion, pollution, contamination, or siltation of lakes, rivers and streams, damage to vegetation, and injury to wildlife and fish habitats and to minimize the removal of trees and other native vegetation that stabilize hillsides, retain moisture, reduce erosion, siltation and nutrient runoff, and preserve the natural scenic character.

The subject property does not include any lakes, rivers or designated significant wildlife or fish habitats. The property has been cleared of trees and other significant native vegetation. Development of the site will require the applicant(s) to obtain Erosion Control Permits for individual home sites as well as any street and street frontage, utilities and drainage improvements necessary to develop the proposed subdivision. Under these permits, the applicant will be required to install and maintain erosion/sedimentation control facilities to prevent sedimentation of on and off site drainage ways and storm drainage systems and adjacent properties.

A condition of approval will require the development to comply with all erosion and pollution control requirements as administered by the Oak Lodge Sanitary District.
This criterion can be met.

- D. Section 1002.03A-G: Hillsides: All development proposed on slopes of twenty (20) percent or greater shall be limited to the extent that:

The proposed development does not contain slopes of 20% or greater. The property has a slope of approximately 7% falling from northeast to southwest. **These criteria are not applicable.**

- E. Section 1002.04A, Trees and Wooded Areas: Existing wooded areas, significant clumps or groves or trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible.

The site has been cleared of significant trees. These criteria are not applicable.

- F. Section 1002.05A, Rivers and Stream Corridors: This Section requires all developments to be planned, designed, constructed and maintained so that 1) River and stream corridors are preserved to the maximum extent feasible and water quality is protected through adequate drainage and erosion control practices, and 2) Buffers or filter strips of natural vegetation are retained along all river and stream banks.

There are no regulated streams or rivers within, or in close proximity to the subject property. **These criteria are not applicable.**

- G. Section 1002.06, Wildlife Habitats and Distinctive Resource Areas:

- (1) Section 1002.06A: The subject property does not contain any wetlands identified on the North Urban Area Land Use Plan Map and Wetlands Inventory maps. **Therefore this criterion is not applicable.**
- (2) Section 1002.06B: Upon review of the Comprehensive Plan maps, there are no identified designated wildlife habitats or distinctive resource areas on site. **This criterion is not applicable.**
- (3) Section 1002.06C: There are no indications that the site contains jurisdictional wetlands or other significant similar natural resources within the subject property. **This criterion is not applicable.**
- (4) Section 1002.06D: The subject property is not located in an area covered by the Mt. Hood Community Plan, Lake Oswego, West Linn or Oregon City Land Use Plan Maps. **This criterion is not applicable.**
- (5) Section 1002.06E: The subject property does not contain any Significant Natural Areas identified on Map III-4 of the Comprehensive Plan. **This criterion is not applicable.**

4. Section 1003, Hazards to Safety:

- A. Section 1003.02, Standards for Earth Movement Hazard Areas: The DOGAMI Bulletin 99 Geologic Hazard map for this area, the Lake Oswego and Gladstone quadrangles, identify this site has exhibiting landslide topography.

The map legend indicates that such areas having active or recent movement are not recommended for development; however, apparently stable areas require careful study and appropriate design and construction methods. Section 1003.02B of the ZDO requires that an engineering geologic study shall be submitted for review by the County demonstrating that the site is either stable or can be made stable for the proposed development. Section 1003.02E of the ZDO states that approved site specific engineering geologic studies shall be used to identify the extent and severity of the hazardous conditions on the site. The staff notes that the identified area of landslide topography is fairly large and generally densely developed with home sites, most of which are at least 40 years or more in age. The staff is not aware of any reports of *active* earth movement in this old landslide area.

Therefore; a condition of approval is warranted requiring the applicant to commission a geotechnical or engineering geology study by a qualified professional. The study shall comply with the criteria set forth in Section 1003.02B(20) of the ZDO. The study, including conclusions as to the stability of the site, recommendations for stabilizing measures and other recommendations for building, utilities and road construction methods, shall be submitted to the Planning Division and Engineering Division for review and approval prior to final plat approval and prior to the commencement of site work. The proposed development can be approved if the

report concludes that the site is stable, or can be made so utilizing appropriate and accepted engineering and construction practices. **These criteria can be satisfied.**

- B. Section 1003.03, Standards for Flood Hazard Areas: According to the Bulletin 99 map and the Federal Emergency Management Area FIRM maps, the subject property does not contain any regulated flood hazard areas. **These criteria are not applicable.**
 - C. Section 1003.04, Standards for Soil Hazard Areas: According to the DOGAMI Bulletin 99 map, the subject property does not contain an identified potential soils hazard. **These criteria are not applicable.**
 - D. Section 1003.05, Standards for Fire Hazard Areas: The subject property is not located in an identified wildfire hazard area and fire protection services are provided by the Clackamas County Fire District no. 1. **This criterion is not applicable.**
5. Section 1006 of the Zoning and Development Ordinance, Utility Lines and Facilities: This section is intended to ensure that adequate services and facilities appropriate to the scale and type of development are provided.
- A. Section 1006.02A: The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and the site consistent with the rules and regulations of districts for surface water management.

A condition of approval is warranted requiring final engineering and construction plans to be reviewed and approved by the Oak Lodge Sanitary District, which is the agency responsible for surface water management and erosion control regulatory functions in this area. **This criterion can be met.**

- B. Section 1006.02B: All development that has a need for water service shall install water facilities and grant necessary easement pursuant to the requirements of the district serving the development.

The subject property is located within the Oak Lodge Water District. Pursuant to Section 1006.02B2 and 4b, the District has verified that an adequate water supply is available to serve the proposed development. A condition of approval is warranted requiring review and approval of water system construction plans by the Oak Lodge Water District prior to final plat approval. The requirements under Subsections 1006.02B1 and 3 are not applicable. **This criterion can be met.**

- C. Section 1006.02C: All development which 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 utility district or company, all such facilities shall be installed underground.

The proposed development will be served with electricity by PGE, gas by NW Natural Gas, and with cable television by the franchised provider for the area. A condition of approval is warranted requiring that all of these utilities shall be installed pursuant to the requirements of the district or company serving the property and will be underground. **This criterion can be met.**

- D. Section 1006.02D: All development which has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the district or company serving the development. Installation of these facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.

The proposed development will be served with sanitary sewers by the Oak Lodge Sanitary District (OLSD). The OLSD has submitted comments indicating that sanitary sewer is available in Whipple Ave. to serve the proposed development. A condition of approval is warranted requiring that sanitary sewers shall be installed pursuant to the requirements of the OLSD and coordinated with the extension of storm drainage and water facilities. **This criterion can be met.**

- E. Section 1006.02G: Street lights shall be required for all developments inside the urban growth boundary. Street lighting shall be installed pursuant to the requirements of the County Service District no. 5 (CCSD#5) and the utility company serving the development (PGE). In every instance, a street light shall be installed where a new road intersects the County right of way and, in the case of subdivisions, at every intersection. The subject property is located within the urban growth boundary and is subject to the street lighting requirements of the CCSD #5.

The CCSD#5 has provided comments and recommendations dated May 25, 2007. These comments state that street lighting does not now exist on the SE Whipple Ave. or SE Gordon St. frontages and will be required. A condition of approval is warranted requiring that the property owner shall submit a request in writing to the CCSD#5 for the installation of street lighting and the formation of an assessment area to pay for the operation and maintenance of lighting prior to final subdivision plat approval. The applicant must contact Kevin Noreen at 503-353-4699 to determine the exact lighting requirements for this development. **This criterion can be met.**

- F. Section 1006.02H: This section requires that easements shall be provided along property lines as deemed necessary by the Department of Transportation and Development.

A condition of approval is warranted requiring that such easements shall be provided along property lines where needed, and as determined during the final plat review process and that such easements shall be designated upon the final subdivision plat. **This criterion can be met.**

6. Section 1007, Roads, Circulation and Parking and Section 1014, Design Standards for Land Divisions: These sections requires right-of-way dedication and improvements for

all new subdivisions *as deemed necessary* by the County Dept. of Transportation & Development according to classifications and guidelines listed in Chapter V of the Clackamas County Comprehensive Plan and the most recent standards adopted by separate order by the Board of County Commissioners. The latter include the Clackamas County Roadway Standards.

The County Engineering Div. has submitted comments and recommendations dated June 11, 2007 and these are incorporated herein. Generally, these comments indicate that it is feasible to comply with the relevant requirements of Secs. 1007 and 1014 of the ZDO, the County Roadway Standards, and Chapter V of the Comprehensive Plan. The Engineering Div. has recommended a number of conditions of approval designed to ensure that the relevant design standards are satisfied. The Planning Div. staff finds that conditions of approval consistent with the recommendations of the County Engineering Div. as set forth in the aforementioned comments and recommendations are warranted.

The applicant has proposed a five-lot subdivision at the southwesterly corner of the intersection of SE Whipple Avenue and SE Gordon Ave. The project site has approximately 309 feet of frontage on the southerly side of SE Whipple Avenue and approximately 119.73 feet of frontage on the easterly side of SE Gordon Avenue. There is an existing single-family residence on proposed Lot 1 that will be retained. The remainder of the site is undeveloped.

SE Whipple Avenue and SE Gordon Avenue are classified as Local Roadways as shown on 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 (*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).

Pursuant to Subsection 1007.03 of the ZDO, public right-of-way dedications along the entire site frontages in accordance with Tables V-2 and V-3 of the Clackamas County Comprehensive Plan are required for subdivisions when the fronting rights of way are of substandard width. The existing right-of-way width of SE Whipple Avenue is 30 feet and SE Gordon Street is 40 feet. The minimum right-of-way width design standard for a local roadway is 40 to 50 feet. A 50-foot wide right-of-way is needed where set-back sidewalks with landscape strips are proposed or required. Based on the existing right-of-way widths in the vicinity of the project site, it is likely that sidewalks will be curb-tight without landscape strips. Therefore, a 40-foot wide public right-of-way width is appropriate in this instance. It appears that the existing one-half right-of-way width along the project site frontage of SE Whipple Avenue is 15 feet. Subdivision applications are required to provide up to one-half of the right-of-way standard width. Therefore; in this case, an additional 5 feet of right-of-way dedication will be required along the entire SE Whipple Avenue site frontage to provide a minimum one-half right-of-way width of 20 feet. The existing 40-foot wide right-of-way of SE Gordon Avenue is adequate to serve the proposed subdivision.

Based on the additional site-generated traffic impact, approximately 40 vehicle trips per day in addition to the existing home, the minimum improvements on the SE Whipple Avenue and SE Gordon Avenue frontages consistent with *Comprehensive Plan* Tables V-2, V-3, V-4, and V-5, and Section 1007 of the ZDO include, but are not necessarily limited to, up to a one-half-street improvement. The minimum street improvements include a pavement width of 14 feet from the centerline of the right-of-way to the new curb line, a standard curb, or curb and gutter when curb line slope is less than one percent, five (5) foot wide unobstructed sidewalk and concrete driveway approaches for each lot.

Pursuant to Section 1007.05B of the ZDO, a 5-foot wide sidewalk is required for urban subdivisions on the entire street frontage(s) adjacent to the subdivision. Based on the creation of four new single-family lots, additional pedestrian impacts will be generated by the proposed subdivision and there are no existing pedestrian improvements along the site frontage. Sidewalk improvements are warranted along the entire site frontage of SE Whipple Avenue and SE Gordon Avenue, consistent with *Comprehensive Plan* Table V-3 and subsection 1007.05 of the ZDO.

Clackamas County requires that adequate transportation facilities be provided concurrent with a development. The County does not generally require a traffic study for subdivisions creating less than 20 lots. This proposal will generate approximately 40 additional vehicles trips per day, not counting the existing house, with approximately four additional vehicle trips during the AM and PM peak hour periods. Staff is confident that the nearby intersections will operate at level of service "D" or better during the AM and PM peak hours of typical weekdays with the addition of site-generated traffic. Therefore, the County's concurrency requirements as they relate to the transportation system are met by the applicant's proposal.

Pursuant to Section 1014.03D & E of the ZDO, the County must consider whether or not additional access to adjoining parcels capable of redevelopment is necessary. In this case, the adjoining property owners to the south, the Antolic's have submitted comments dated May 18, 2007 requesting that the applicant be required to provide access through the proposed development to permit the Antolic's to partition their property, tax lot 2400. Currently, the existing home on tax lot 2400 is situated such that access to the rear portion of the lot is not feasible. The Planning and Engineering Div. staff have reviewed this request and find that alternative future access to the Antolic's property can be more efficiently provided in conjunction with the redevelopment of tax lots 2200, 2300 and 2400. The combination and redevelopment of these three lots, all of which are capable of redivision into 2 or more lots based solely on lot size considerations, as a block would permit the creation of a single shared private access road off SE Gordon Ave. through tax lot 2000 with a T-type turnaround providing access also to tax lots 2300 and 2400. It appears that the three owners in combination might achieve more density than if each attempted a separate development. Requiring the applicant in this case to provide access to the Antolic property would require a 20 ft. wide access easement between Lots 1 and 2 or 2 and 3. This would also require a five foot setback within each of the affected lots from the boundaries of the easement reducing the width of the effective building

envelopes within each lot by 15 ft. (10 ft. each for one-half of the easement plus 5 ft. each for a side yard setback). While this is possible, there appears to be a more efficient alternative as described above and the requiring the applicant to comply with the request is not recommended. However, the Antolic's are not precluded from negotiating with the applicant to provide such an easement.

In summary, based upon these comments, it appears that it is feasible for the proposed development to comply with the relevant provisions of Sec. 1007 of the ZDO, the County Roadway Standards, and Chapter V of the Comprehensive Plan provided that appropriate conditions of approval are imposed regarding right of way dedication, street and street frontage improvements, final design, plan review and permitting. **The staff finds that the relevant criteria can be satisfied.**

7. Section 1008, Storm Drainage, requires a plan for storm drainage and erosion control for significant residential developments.

The proposed development is considered a significant residential development. The applicant has not submitted a detailed preliminary storm drainage plan. Based upon comments received from the OLSD, the applicant has proposed individual on-site infiltration systems rather than a single storm water management facility; e.g. detention system. However, the applicant has not submitted a topographic survey, grading plan, soil test reports or drainage reports to the OLSD or the County for review at this time. The OLSD has also indicated that an existing storm sewer line in Whipple Ave. ends approximately 100 ft. to the southeast of the property. It may also be possible to extend this storm sewer to the site for discharge of stormwater from the development. Storm water detention will also be required. The OLSD did sign a Preliminary Statement of Feasibility indicating that adequate surface water treatment and conveyance is available to serve the development, or can be made available through improvements to be completed by the applicant/developer. The OLSD staff have stated that, in their opinion, the means of providing storm water detention would be best left to further discussions with the applicant's engineer during the plan review (final plat review) stage.

Based upon the OLSD comments, particularly those concerning a feasible extension of the existing storm sewer line in Whipple Ave., the staff finds that it is feasible for the applicant to adequately manage stormwater runoff from the proposed development, however the exact means of doing so is not known at this time. Conditions of approval consistent with those recommended in the OLSD memoranda dated December 29, 2005 and May 22, 2007 are warranted to ensure compliance with the General and Specific Development Standards in Sections 1008.03 and 1008.04 of the ZDO and the CCSD#1 Surface Water Management Rules and Regulations. Section 1008.05 is not applicable as the subject property is not located within the Tualatin River Basin. **These criteria can be met.**

8. Section 1012 of the Zoning and Development Ordinance, Density Standards, Transfers and Bonuses, identifies the density standards for subdivisions within the various zoning districts.

The applicant has not provided a density calculation in the application narrative. The staff has calculated the permitted maximum density for the proposed development based upon the existing R-7 zoning designation.

The Gross Site Area is 37,117 s.f. (GSA). No new road area is required; therefore a subtraction for New Roads is not required. There are no Moderately Restricted Areas (MRA) identified; therefore no subtractions in this category are required. However, as discussed previously, the entire property is subject shown in an area identified as potential Landslide Topography, a Mass Movement hazard in the Highly Restricted Area (HRA) category. Based upon the applicant's preliminary plan, the entire site is proposed to be developed with homes; therefore the entire site area within the Mass Movement HRA category must be subtracted from the Gross Site Area. Doing so results in a Net Site Area (NSA) of zero and no additional lots can be created.

The proposed five-lot minor subdivision cannot be approved based upon the density calculation above. The proposed development does not comply with the relevant criteria in Section 1012 to permit any additional density. The staff will recommend that the applicant request that the record be left open to permit time to commission a geotechnical study to determine if all of the property or any part thereof, is subject to additional mass movement hazard. Once such a study is completed and reviewed by staff, a new density calculation will be performed to determine if the results of the study will permit any division of the site into additional home sites.

9. Section 1014: Design Standards for Land Divisions, lists the specific street and lot design provisions for subdivisions and the requirements for flexible lot size developments
 - A. The discussion in Findings no. 6 and the memorandums dated June 11, 2007 from the County Engineering Div. address the relevant criteria of this section of the ZDO.
10. Section 1022, Concurrency: The relevant criteria of this section have been, or can be satisfied. The applicant has submitted Preliminary Statements of Feasibility concerning the sanitary sewer systems, storm drainage systems and provision of adequate public water supplies as previously discussed in this report. The County Engineering Div. has provided comments, also discussed in detail previously, indicating that the transportation system has adequate capacity. **Therefore; these criteria are met.**
11. Section 1105 of the Zoning and Development Ordinance lists the general requirements for subdivisions. Specifically, Subsection 1105.06B, Subdivision Submittal Requirements, lists all of the information that must be provided for consideration of the tentative plan for this subdivision. All other requirements of this Subsection have been met or are not applicable. **The requirements of this Section have been met.**

Conditions of Approval: If the Hearings Officer grants preliminary approval of this application for a minor subdivision, a list of conditions of approval recommended by the Planning Division and Engineering Division staff is provided below.

1. Preliminary approval of the proposed five-lot minor subdivision is based upon the preliminary subdivision plan submitted with the application, the Findings herein and as modified by these conditions of approval. Any change in design, including lot layout and access to lots, must be approved by the Planning Division prior to final plat approval. Changes in approved access locations may also require additional public notice.
2. All conditions of approval shall be financially guaranteed or completed prior to final plat approval, unless otherwise noted herein.
3. Within two (2) years of the date of this decision, a final subdivision plat survey of the development must be submitted to the Planning Dept. for review. Pursuant to subsec. 110.05A of the ZDO, the final plat shall be prepared by registered professional land surveyor in a form and with information consistent with the provisions of ORS 92, relevant portions of ORS 209.250, the County ZDO, and these conditions of approval. Once approved by the Planning Division, the approved subdivision plat shall be submitted 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 subdivision plat with the County Clerk within two (2) years of the date of this decision will void this approval.** Prior to expiration of this approval, the applicant may request a one (1) year extension subject to Sec. 1106.05A of the ZDO.
4. **None of the individual parcels shall be sold, transferred or assigned until the final subdivision plat has been approved by the County Surveyor and recorded with the County Clerk.** No additional Building or Manufactured Home Placement permits shall be issued until the final subdivision plat is recorded and sanitary sewer and storm water management facilities are approved, installed and operational.
5. All development and uses within the plat shall conform to the use and dimensional requirements of Sec. 301 of the ZDO. Nothing in this approval shall be construed to allow any use or structure that is not otherwise permitted in the zoning district subject to Secs. 301 of the ZDO.
6. All development of the parcels is subject to the provisions of Secs. 301 and 1000 of the ZDO and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, Oregon One and Two Family Dwelling Code, Oregon Manufactured Home Standards, Oregon Structural Specialty Code, etc.
7. Pursuant to subsec. 1002.02B of the ZDO, any grading, filling, and excavation done in connection with any development shall be in accordance with the County Excavation and

Grading Ordinance administered by the County Soils Section and the County Building Codes Division.

- a) All lots shall be graded to provide for gravity flow from homes for sanitary and storm water disposal.
 - b) Depending upon the extent of grading necessary to develop the proposed partition, the applicant/developer shall obtain a Grading Permit from the County WES/Soils Section if deemed necessary by the Soils Sec. and/or County Engineering Div. **prior to the commencement of on site construction and prior to final plat approval.**
 - c) Re-vegetation of all graded and/or filled areas shall be the responsibility of the developer and shall occur as soon as feasible following final grading.
 - d) If the grading within the buildable areas of individual lots results in fills over 12 inches in thickness, the fill shall be inspected and approved as structural fill suitable for home construction by a geologist or engineering geologist licensed to practice in the State of Oregon.
 - e) **Prior to final plat approval**, all grading shall be completed, inspected and approved, or completion of remaining work shall be financially guaranteed through the County Engineering Div.
8. **Prior to final plat approval**, the applicant shall submit a Geotechnical, or Engineering Geology Report, demonstrating the site is stable, or can be made stable, for the proposed development based on established and proven engineering techniques which ensure protection of public and private property to the Planning Div. and Engineering Div. for review. The report shall be consistent with the criteria set forth in Section 1003.02B(2) of the ZDO. All road, utility and homes construction shall be performed consistent with the recommendations of the Report.
 9. All existing, required and proposed easements shall be shown and properly documented upon the final plat pursuant to ORS 92. Pursuant to subsec. 1006.02H of the ZDO, easements shall be provided as deemed necessary by the County Engineering Div., the OLSD, the OLWD, other special districts, and utility companies. Easements for special purposes shall be of a width deemed appropriate by the responsible agency. Such easements shall be shown upon the final plat of the subdivision. The need for, and location of, such easements shall be determined during the street and street frontage, sanitary sewer and storm sewer plans review processes.
 10. **Prior to final plat approval**, the applicant shall submit certification in writing from the Oak Lodge Water District (OLWD) that the plans for extension of the public water system needed to serve the development have been reviewed and approved by that agency.
 11. **Prior to final plat approval**, the applicant shall submit stamped plans approval from the Clackamas County Fire District no. 1 Fire Marshal indicating that the Fire District's

standards, including fire flows, grades, horizontal and vertical clearances, parking limitations and related signing and hydrant locations have been approved.

12. Underground utilities are required for this subdivision and shall be installed pursuant to the requirements of the utility service providers serving the development.
13. **Prior to final plat approval**, the developer shall submit a written request to the CCSD#5 for the installation of street lighting and the formation of an assessment area to pay for the operation and maintenance of street lighting (Contact Kevin Noreen, 503-353-4699).
14. **Prior to any soils disturbance and the commencement of construction** of the development and individual homes, the applicant shall obtain Erosion Control Permits from the Oak Lodge Sanitary District (OLSD).
15. The development is subject to the Surface Water Management Rules & Regulations and Sewer Code of the OLSD for sanitary and storm water systems and surface water management. For storm drainage, Section 1008 of the Zoning Ordinance also applies. Therefore, the developer is required to submit plans for review and approval to the OLSD **prior to final plat approval**.

a) **Sanitary Sewer Conditions:**

- (1) The sanitary sewer plans and specifications are subject to the applicable state and federal laws for the construction of sewerage systems.
- (2) The costs of the sanitary sewer systems shall be borne entirely by the developer. Each lot is subject to a sanitary System Development Charge (SDC), sewer lateral tap fee and inspection fee. These fees shall be paid prior to the issuance of building permits on the individual lots. The OLSD must inspect and approve the construction and testing of each lateral prior to occupancy of the home.
- (3) The developer may be required to install sanitary sewer and storm drain facilities to the limits of the property in order to allow for continuity in the conveyance systems. Easements shall be provided as deemed necessary by the OLSD for gravity connections to adjoining properties.
- (4) The developer shall provide sanitary sewer easements where necessary as determined by the OLSD.
- (5) Preliminary plans for the development shall be submitted to the OLSD for review and approval **prior to final subdivision plat approval**.

b) **Surface Water Conditions:**

- (1) The costs of the storm and sanitary sewer systems shall be borne entirely by the developer. Each lot is subject to a Surface Water System Development Charge (SDC). These fees shall be paid prior to the issuance of building permits.
- (2) Prior to any soils disturbance and the commencement of construction, the applicant shall obtain an Erosion Control Permit from the OLSD.
- (3) The existing storm sewer located in SE Whipple Ave. terminates at 4581 SE Whipple Ave., approximately 100 ft. to the southeast of the subject property. This storm sewer shall be extended to and along the entire site frontage on Whipple Ave. to serve the proposed development unless alternative storm water discharge is approved by the OLSD.
- (4) The applicant's engineer shall submit documentation to the OLSD verifying that the storm sewer has adequate capacity to accommodate the proposed development and existing flows. If not, the applicant shall design and construct necessary improvements to the system to the satisfaction of the OLSD. Plans and profiles for the storm sewer extension shall be prepared by a professional engineer with scales of 1"=50' horizontal and 1"=10' vertical.
- (5) Storm water quantity on-site detention facilities shall be designed and installed to capture runoff from all lots in the subdivision. The facilities shall be designed such that the peak release rate does not exceed the pre-development rates for the 2- through 25-year, 24-hour storms. Detention calculations shall be performed using the King County method (SBUH hydrograph) showing design calculations for the pre-development and post-development detained storm flows using the following rainfall amounts: 2-year storm of 2.6", 5-year storm of 3.1" 10-year storm of 3.5" and 25-year storm of 4.0".
- (6) The detention facilities shall be provided with piping that accepts surface water flows from all paved areas, roof, foundation and footing drains and shall collect storm water crossing onto the property. The flow control manhole shall have a minimum 2-foot deep sump to capture pollutants and all catch basins shall be trapped to remove sediment, oil and grease.
- (7) If any portion of the surface water runoff will be disposed in an underground injection system (as defined in OAR 340, Division 44), the system must be registered with the Oregon Department of Environmental Quality. Any additional State permit requirements will be determined at that time.
- (8) All storm water falling onto or crossing into the site shall be routed around the site to an acceptable outfall or through the on-site conveyance/detention system.
- (9) Building permits for the individual lots shall not be approved by the OLSD until the storm sewer system is complete in all respects and are accepted by the OLSD.

(10) **Prior to construction and final plat approval**, the owner shall sign an Agreement to Maintain Stormwater Detention and Conveyance Facilities on forms prepared by the OLSD. The Agreement shall be recorded with and referenced upon the final subdivision plat.

(11) The applicant shall submit complete civil-engineered plans for surface water management facilities stamped by a licensed Civil Engineer, to the OLSD for review and approval **prior to final plat approval**.

16. The County DTD, Engineering Div. has submitted comments and recommendations containing the following requirements designed to assure compliance with the provisions of Secs. 1007 and 1014 of the ZDO, the relevant provisions of the County Roadway Standards and the Comprehensive Plan pertaining to right of way dedications, street and street frontage improvements and access to, and within, the proposed development:

- a) All required street, street frontage, right of way dedications and related improvements shall be designed and constructed in compliance with the standards and requirements of the Clackamas County Zoning and Development Ordinance, the Clackamas County Roadway Standards and the Comprehensive Plan, unless otherwise noted herein, or an alternative is approved by the Engineering Division.
- b) The applicant's surveyor shall verify by survey that a 20-foot wide, one-half right-of-way width exists along the entire site frontage on SE Whipple Avenue and SE Gordon Avenue or shall dedicate additional right-of-way as necessary to provide the minimum one-half right-of-way widths pursuant to *Clackamas County Roadway Standards* Table 2-1 and subsections 1007.03A and 1007.03F of the ZDO.
- c) The applicant shall grant an 8-foot wide public easement for sign, slope, sidewalk and public utilities purposes along the entire frontage of SE Whipple Avenue and SE Gordon Avenue.
- d) The applicant shall design and construct improvements along the entire site frontage of SE Whipple Avenue to local roadway standards, per Clackamas County Roadway Standards Table 2-1. These improvements shall consist of:
 - (1) A one-half street improvement with a minimum paved width of 14 feet from the centerline of the right-of-way to the curb. The structural section shall consist of 3 inches of Level 3 Hot Mix Asphalt Concrete (HMAC) Performance Grade (PG) 64-22, 3/4" dense or 1/2" dense placed in two lifts, consisting of 1 1/2 inches per lift, over 3 inches of 3/4"-0 aggregate leveling course, over 6 inches of 1-1/2"-0 aggregate base course, over geotextile fabric (ZDO sections 1007.03A and 1007.03F, *Roadway Standards* Tables 2-1 and 2-11, *Comprehensive Plan* Table V-3).
 - (2) Standard curb, or curb and gutter if curblin slope is less than one percent with the face of the new curb located 18 feet from the centerline of the SE Idleman Road right-of-way. Centerline of the right-of-way shall be established by survey (ZDO

subsections 1007.03A, 1007.03F, *Roadway Standards* Table 2-1 and *Comprehensive Plan* Table V-3).

- (3) A 5-foot wide unobstructed sidewalk behind a five-foot wide landscape strip. Where mailboxes, fire hydrants, utility poles, etc, must be located within the limits of the sidewalk, an eyebrow shall be constructed so that the full unobstructed 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 width, as necessary, shall be granted to provide for any sidewalk eyebrows (*Comprehensive Plan* Table V-3 and *ZDO* section 1007.05B(3)).
 - (4) Where the sidewalk does not connect to a sidewalk on adjacent property, the ends of the sidewalks shall require the construction of temporary asphalt ramps, adjacent to the ends of the sidewalks, providing a transition from the new sidewalks to the edge of pavement. The ramps shall meet ADA guidelines and shall be a minimum of two (2) inches in thickness.
 - (5) A twenty-five foot radius curb at the intersection of SE Whipple Avenue and SE Gordon Avenue, per Clackamas County Roadway Standards Table 2-7.
 - (6) Curb/sidewalk ramp at the corner of SE Whipple Avenue and SE Gordon Avenue, per Clackamas County Roadway Standards Drawing S900.
 - (7) Driveway approaches shall be provided for each lot, constructed per Standard Drawing D600.
 - (8) Drainage facilities in conformance with OLSO requirements, Section 1008 of the ZDO and Clackamas County Roadway Standards Chapter 3.
- e) A Utility Placement Permit shall be required for any utility work required within the right-of-way of SE Idleman Road and SE 97th Avenue.
 - f) Positive drainage shall be provided for all lots to an acceptable surface water management system having the capacity to accommodate the anticipated contribution per OLSO requirements and Section 1008 of the ZDO. Storm water detention facilities cannot be located within public rights-of-way. Provisions shall be made for connection of roof and foundation drains from the new homes to the storm drainage system.
 - g) Utility Placement Permits shall be required for any utility work required within the rights-of-way of SE Whipple Avenue and SE Gordon Avenue.
 - h) **Prior to final plat approval** and the commencement of site work, the applicant shall obtain a Street Construction and Encroachment Permit from the County Engineering Div. for the design and construction of all of the street and frontage improvements and storm drainage facilities. 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 SC&E applications.

- i) Prior to approval of the street construction plans, a copy of an approved site-grading plan shall be submitted. Before and after ground line contours shall be shown.
- j) All required improvements shall be constructed and inspected, or financially guaranteed, with the County Engineering Div. **prior to final plat approval**. Sidewalk construction within the plat may be coordinated with new house construction on individual lots, but shall be included within the bond for any remaining required improvements.
- k) The applicant shall furnish sanitary sewer, storm drainage and domestic water easements as deemed necessary by the DTD Engineering Division, Oak Lodge Water, and the Oak Lodge Sanitary District as deemed necessary after final plans reviews. All such easements shall be shown and properly referenced upon the final partition plat.
- l) The applicant shall submit, at time of initial paving, reproducible as built plans for all improvements showing all construction changes, added and deleted items, location of utilities, etc. A professional engineer shall stamp as built plans. In addition, provide one set of AutoCAD as built files on a floppy disk or in DXF format to be translated into AutoCAD format.
- m) The applicant's surveyor/engineer shall certify that the existing/proposed road construction corresponds to the new rights of way, easements and approved plan.

RESPONSES REQUESTED

1. North Clackamas School District
2. Oak Lodge Sanitary District
3. Oak Lodge Water District
4. Clackamas County Fire District #1
5. Oak Lodge CPO
4. Clackamas County Service District No. 5 (Street Lighting)
5. County Engineering Div., Construction and Development Sec.
6. North Clackamas Parks & Recreation District
7. Building Codes Division
8. Property owners within 300 ft.

RESPONSES RECEIVED AND EXHIBITS (See attached Exhibits List).

THE HEARINGS OFFICER IS AN INDEPENDENT DECISION MAKER. SHE WILL MAKE A DECISION BASED ON THE INFORMATION PRESENTED AT THE PUBLIC HEARING. IF YOU CANNOT ATTEND THE HEARING, PLEASE NOTIFY THE PLANNING DIVISION AS SOON AS POSSIBLE. WE WILL ADVISE THE HEARINGS OFFICER AND A POSTPONEMENT OF YOUR APPLICATION MAY BE CONSIDERED. IF YOU DO NOT ATTEND THE HEARING AND THE HEARINGS OFFICER HAS NOT BEEN ADVISED OF YOUR ABSENCE, THE APPLICATION MAY BE HEARD IN YOUR ABSENCE.