

**NOTICE OF DECISION FOR FLEXIBLE LOT SIZE PARTITION :**  
**PRELIMINARY APPROVAL WITH CONDITIONS**

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION & DEVELOPMENT  
LAND USE & ENVIRONMENTAL PLANNING DIVISION  
Sunnybrook Service Center, 9101 SE Sunnybrook Blvd., Clackamas OR 97015  
Phone: (503) 353-4500 Fax: (503) 353-4550

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

**DATE:** January 31, 2007

**LAST DATE TO APPEAL:** February 12, 2007

**FILE NO:** Z0840-06-M

**STAFF CONTACT:** Rick McIntire (503) 353-4516 E-MAIL: rickm@co.clackamas.or.us

**APPLICANT:** JDA Acquisitions, LLC, c/o Michael Priestley and J.D. Ashton, 16991 Maple Circle, Lake Oswego, OR 97034

**PROPERTY OWNER:** JDA Acquisitions, LLC

**LEGAL DESCRIPTION:** T.2S., R.1E., Section 12BB, Tax Lot 8600

**SITE ADDRESS:** 2407 SE Oak Grove Blvd., Milwaukie, OR.

**TOTAL AREA INVOLVED:** Approximately 0.33 Ac. (14,560 square feet)

**PRESENT ZONING:** Urban Low Density Residential, R-7; 7,000 s.f. average lot size district.

**CITIZENS PLANNING ORGANIZATION FOR AREA:**

Oak Lodge CPO  
c/o Dick Jones; 503-652-2998  
3205 SE Vineyard Rd.  
Milwaukie, OR 97267

**PROPOSAL:** A Flexible Lot Size Partition to divide the subject property into two (2) separate parcels; one with an existing single family dwelling and one for a new single family residential home site.

**FINDINGS:** The Planning Division staff has reviewed this application for a two (2) parcel Flexible Lot Size Partition. This application is subject to Section(s) 301, 1001, 1002, 1003, 1006, 1007, 1008, 1012, 1014, 1022, and 1105 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) separate parcels; one with an existing single family dwelling and one for a new single family residential home site.

The proposed partition is a "flag-lot" type division with the existing home, Parcel 1 being on the front parcel and the proposed new home site, Parcel 2, being the rear parcel. Access to both parcels will be provided by a shared access and utility easement along the west side of the subject property, formerly used as secondary access to a church site to the north of the property. The applicant has previously obtained County approval of a Variance, file no. Z0841-06-V, to the secondary front yard setback requirement of 15 ft. from the easterly line of the proposed easement to the front of the existing home in Parcel 1 to permit an 12 ft. setback. Proposed Parcel 1 will be 6700 s.f. in size and proposed Parcel 2 will be 7860 s.f. in size.

The subject property is located on the north side of SE Oak Grove Blvd. 200 ft. west of the intersection with SE Linden Ln. in the Oak Grove area. The property is generally level. The property is developed with an existing single family dwelling on the southerly part of the property and 15 ft. wide paved access drive along the entire west side of the property. The subject property is cleared of significant native trees and other vegetation. A hedge exists along the entire west boundary of the property and at least one tree is located within the front yard area of Parcel 1.

2. Section 1106 of the ZDO sets forth the process, standards and requirements for undergoing a land use application for a Partition, which is defined as a division of property that creates three (3) or fewer parcels in a calendar year.
  - A. Pursuant to Subsection 1105.01(B), a Partition is defined as a division of property that creates not more than three (3) parcels in a calendar year and shall be processed as a Planning Director decision, pursuant to subsection 1305.02.
  - B. Pursuant to Subsection 1106.02(A), partitions shall comply with the relevant standards of the ZDO and Oregon Revised Statutes (ORS) Chapter 92. Compliance with the applicable provisions of the ZDO is discussed in the findings that follow.
3. Section 301 of the ZDO sets forth the allowed uses, dimensional standards and development requirements of the R-7 zoning district, which is the applicable zoning for the subject property, the standards of which apply to this proposal.

A condition of approval is warranted requiring that all structures on, and uses of, the parcels created by this proposal shall conform to the requirements of the R-7 Zoning District, subject to the provisions of Section 301 of the ZDO. *These standards will be satisfied.*

- A. Pursuant to Subsection 301.08B of the ZDO, the minimum lot size requirement for new lots or parcels in the R-7 district is 7,000 s.f. except as modified pursuant to Sections 902, 1014 and/or 1205 of the ZDO. In this case, the applicant is requesting approval of a Flexible Lot Size Partition subject to Section 1014.04B of the ZDO. Under this provision, the average lot size required is 7,000 s.f., the minimum lot size required is 5600 ft. and the proposal must not exceed the maximum density permitted for the site pursuant to Section 1012 of the ZDO.

Proposed Parcel 1, the smaller parcel, will be 6700 s.f. in size, the average parcel size is 7280 s.f. and a maximum of two (2) dwelling units (and lots or parcels) may be permitted pursuant to Section 1012 of the ZDO. *The relevant lot size, average lot size and density standards found in Sections 301, as modified by Section 1014 and Section 1012 of the ZDO will be satisfied.*

4. Section 1001 of the ZDO sets forth the general provisions of the 1000 Sections that, taken together, set forth the general standards for development of property and associated facilities within the unincorporated area of Clackamas County.
- A. Pursuant to Subsection 1001.02(A), the standards set forth in the 1000 Sections apply to all partition applications and approvals.
- B. 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 Oregon Structural Specialty Code, Fire and Life Safety Code and, pursuant to Subsection 1001.03(F), 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. These County ordinances are administered by the County Department of Transportation & Development (DTD), Construction & Development and Traffic Engineering sections. 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.*

5. Section 1002 of the ZDO sets forth the standards, requirements and considerations that pertain to the protection of the natural features of Clackamas County.
- A. Pursuant to Subsection 1002.02(A), all developments shall be planned, designed, constructed and maintained with maximum regard to significant natural terrain features and topography, such as hillside areas, floodplains and other significant landforms.
- B. Pursuant to Subsection 1002.02(B), developments shall be planned, designed, constructed, and maintained to avoid the substantial probability of accelerated erosion; pollution, contamination, or siltation of lakes, rivers, and streams; damage to

vegetation; and injury to wildlife and fish habitats. Developments shall also be planned, designed, constructed and maintained 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.

There are no significant natural terrain features, topography, rivers or streams or significant native trees or vegetation within the site. The site is level and cleared of any significant native vegetation and it does not appear that any significant site grading will be necessary to construct a new dwelling in Parcel 2 if this request is approved. *The staff finds that these criteria will be satisfied.*

- C. Pursuant to Subsection 1002.03, specific development standards and considerations apply on hillsides that exhibit slopes of 20 percent or greater. Pursuant Subsection 1002.03(A), development on slopes of 20 percent or greater shall be limited to the extent that no subdivision shall create any new lot or parcel which cannot be developed under the provisions of this Section.

See previous Finding. The subject property does not contain any slopes equal to or greater than 20%. *This criterion is not applicable.*

- D. Pursuant to Subsection 1002.04, specific development standards and considerations apply to trees and wooded areas.
- i. Pursuant to Subsection 1002.04(A), existing wooded areas, significant clumps and groves of trees, and vegetation shall be incorporated into a development plan wherever feasible, using site planning and design techniques that include, but are not limited to, a series of site planning and design techniques listed under this Subsection.
  - ii. Pursuant to Subsection 1002.04(B), trees and wooded areas to be retained shall be protected during site preparation and construction, according to County design and specifications listed under this Subsection

The subject property does not appear to contain any significant native trees. A few landscaping trees and a hedge are found along the perimeter boundaries and in the yard area of the site. There are no trees in proposed Parcel 2, the future new home site. Based upon the location of the existing trees, it appears that no tree removal will be necessary. However, removal or pruning of the hedge in proximity to the entrance onto Oak Grove Blvd. may be necessary to comply with County sight distance requirements. If so, such removal will be permitted. *The staff finds that these criteria will be met.*

- E. Pursuant to Subsection 1002.05, specific development standards and considerations apply to river and stream corridors.

There are no river or streams within, or in close proximity to the site. *Therefore, these criteria are not applicable.*

- F. Pursuant to Subsection 1002.06, specific development standards and considerations apply to wildlife habitats and distinctive resource areas.

There are no wetlands or distinctive resource areas within the subject property. These criteria are not applicable.

6. Section 1003 of the ZDO sets forth the standards, requirements and considerations that pertain to natural hazards to safety such as areas of landslides, floodplains, soil hazards, and fire hazards. The primary inventory for potential hazard areas, as adopted in the Comprehensive Plan, is the DOGAMI Bulletin 99 quadrangles that map geological hazards for Clackamas County.

Based upon review of the DOGAMI geologic hazards map (Bulletin 99, Lake Oswego and Gladstone Quadrangle), there is no evidence to indicate that the subject property is located within an earth movement or soils hazard area, designated regulatory floodplain hazard area or forested area subject to special fire protection and prevention measures. *Therefore; these criteria are not applicable.*

7. Section 1006 of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

- A. Pursuant to Subsection 1006.02(A), the location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the rules and regulations of districts for surface water management.

The site is developed with an existing home, a paved access drive, and utilities. Some additional utility work is likely to be necessary, however any trenching should be transitory in nature and will require the applicant to obtain an Erosion Control Permit from the Oak Lodge Sanitary District. It is not anticipated that any significant grading will be necessary to develop one additional home site. *This criterion will be met.*

- B. Pursuant to Subsection 1006.02(B), all development which has a need for water service shall install water facilities and grant necessary easements pursuant to the requirements of the district serving the development and under the applicable standards outlined in this Subsection, most of which relate to whether the proposal is a rural or urban development.

The subject property is located within the Oak Lodge Water District, a public water system service area. Subsec. 1006.02B(3)(a) requires that water service for partitions shall be provided according to the provisions or ORS 92.090. The applicant has submitted a Preliminary Statement of Feasibility from the OLWD indicating that the District has adequate potable water supplies in sufficient quantities to provide for normal domestic and fire protection needs provided that any required water supply improvements are installed by the developer consistent with OLWD requirements.

A condition of approval is warranted to ensure compliance with the requirements of subsec. 1006.02B of the ZDO and the requirements of the OLWD prior to final partition plat approval. *This criterion will be satisfied.*

- C. Pursuant to Subsection 1006.02(C), all development which has a need for electricity, gas and communications 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 underground.

A condition of approval is warranted requiring the underground installation of any new utility lines. *This criterion will be satisfied.*

- D. Pursuant to Subsection 1006.02(D), 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 such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.

The subject property is located within an area-wide sewerage service district administered by the Oak Lodge Sanitary District (OLSD). Pursuant to subsec. 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. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.

The applicant has submitted a Preliminary Feasibility Statement from the OLSD indicating that compliance with the OLSD Sewer Code is feasible subject to review of the final engineered plans.

A condition of approval is warranted to assure compliance with the requirements of the OLSD and subsec. 1006.02D of the ZDO. *These criteria will be satisfied.*

- E. Pursuant to Subsection 1006.02(G), street lights shall be required for all developments inside the urban growth boundary, as outlined under this Subsection.

The subject property is within the Portland Metropolitan Urban Growth Boundary; therefore, street lighting is required for this development. The County Service District no. 5 (CCSD#5) has submitted comments dated November 1, 2006. Street lighting currently exists on the SE Oak Grove Blvd. frontage; therefore no additional lighting is required. However, the applicant must submit a request for inclusion of the two parcels in an assessment area to help pay for the operational costs of the lighting. The applicant will need to contact Kevin Noreen of the CCSD#5 (503-353-4699) for additional information.

A condition of approval is warranted requiring the applicant/developer to submit a written request to the CCSD#5 for the formation of an assessment area to include both of the parcels to help pay for the operation and maintenance of area street lighting. *This criterion will be satisfied.*

- F. Pursuant to Subsection 1006.02(H), easements for utility lines shall be provided along property lines or as deemed necessary, by the DTD, OLSD, OLWD, any 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 such easements shall be determined during the street and street frontage, sanitary sewer and storm sewer plans review processes. A condition of approval to this effect is warranted. *This criterion will be satisfied.*

8. The following discussion pertains to the provision of access to the proposed lots and adjoining property. This proposed partition plat is subject to the provisions of Secs. 1007 and 1014 of the ZDO and Chapter V of the Comprehensive Plan pertaining to the provision of adequate access to, within and through the development as well as required frontage improvements. The proposed means of access to the new lots is also subject to the provisions of the County Roadway Standards. The County DTD, Construction and Development (C&D) and Traffic Engineering (TE) Sections have reviewed this proposed development and the proposed means of access to determine if the preceding standards can be satisfied.

The DTD, Construction & Development and Traffic Engineering staff have reviewed this development and the proposed improvements and means of access. Comments were submitted on January 30, 2007 that describe the necessary street and street frontage improvements, dedications, improvements, widths, grades, plan review and permit requirements for the proposed development to achieve compliance with applicable sections of the ZDO, Comprehensive Plan and County Roadway Standards outlined above, as follows:

The applicant has proposed a 2-parcel partition on the north side of SE Oak Grove Boulevard. The existing property has approximately 70 feet of frontage on the north side of SE Oak Grove Boulevard. Parcel 1 is developed with an existing single-family residence, generally situated along the east property line. Parcel 2 is proposed as a “flag lot” with the access running along the west side of the project site to be shared by both parcels. A variance application has been approved under file Z0841-06-V to the setback of the existing house to the proposed “flag pole” access easement.

SE Oak Grove Boulevard is a County-maintained Minor Arterial 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 Minor Arterial 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).

The existing SE Oak Grove Boulevard right-of-way appears to be 60 feet in width along the applicant’s frontage. The minimum right-of-way width standard for a Minor Arterial Roadway is 70 feet (Reference *Clackamas County Roadway Standards, Table 2-3*). Therefore, the applicant will be required to dedicate additional right-of-way to provide a minimum one-half right-of-way width of 35 feet along the site frontage on SE Oak Grove Boulevard. Approximately 5 feet of right-of-way dedication will be required along the entire site frontage.

The portion of SE Oak Grove Boulevard adjacent to the subject property is part of the Essential Pedestrian Network, as shown on *Comprehensive Plan Map V-8*, which requires sidewalk improvements for partition applications (*Comprehensive Plan* Table V-3 and *ZDO* subsection 1007.05 B3). There are existing sidewalks along the site frontage that are adequate and satisfy the pedestrian requirement.

The minimum improvements on the SE Oak Grove Boulevard 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 one-half street improvement, pavement widening,

and storm drainage facilities. In addition, standard curb or curb and gutter when curbline slope is less than one percent, a 5-foot set-back sidewalk (Reference ZDO 1007.05), and a driveway approach are required. The minimum paved width for a Minor Arterial roadway is 36-90 feet, per *Clackamas County Comprehensive Plan Table V-3*. Partition applications are required to provide a one-half street improvements along the site frontage. The typical street section for a Minor Arterial roadway is 50 feet of paved width, per *Clackamas County Roadway Standards, Table 2-3*. SE Oak Grove Boulevard is improved with 2 travel lanes and bike lanes with a total paved width of approximately 35 feet. The curb line has been established along the north side of SE Oak Grove Boulevard. Additionally, sidewalk and a concrete driveway have been constructed along the site frontage. No additional improvements will be required along the SE Oak Grove Boulevard frontage.

In accordance with Clackamas County Comprehensive Plan Table V-5, access onto Minor Arterial roadways is restricted and generally does not allow for individual single-family access. Where there are no alternatives, shared access is required. In addition, to address safety and maintain the function of an arterial roadway, the applicant will be required to provide an on-site turnaround for each parcel so that vehicles can enter the roadway "head first".

Partition applications are required to provide adequate sight distance where access is taken from a County road. All access is required to meet current County standards. SE Oak Grove Boulevard is posted at a speed of 35 miles per hour. In accordance with the Clackamas County Roadway Standards, intersection sight distance shall be 390 feet per AASHTO Exhibit 9-55. Sight distance is measured from a location that is 15 feet back from the travel lane from a driver's eye height of 3.5 feet to an object height for an oncoming vehicle of 3.5 feet. The County's minimum sight distance standards can be challenged on a case by case basis subject to submittal of overwhelming evidence to the contrary prepared by a licensed professional. The existing driveway approach meets minimum intersection sight distance.

Clackamas County has adopted design and construction standards for individual and shared private access drives. Access drives in urban partitions of 1 to 2 parcels are required to design and construct a minimum 12-foot wide paved driveway, located within a minimum 20-foot wide legal access. The existing driveway is paved to a width of approximately 17 feet along the entire west side of the property extending to the rear property line, providing adequate width to serve the proposed partition. As required by variance file Z0841-06-V, a 6 inch curb will be required along the east edge of the shared access easement adjacent to Parcel 1. It appears the driveway once served as a secondary access to the adjacent church. There is a gate between the two properties and the pavement is continuous onto the church's property. The access between the church and the project site will be required to be physically eliminated either by removal of a section of paving and/or by replacement of the gate with solid fencing.

Clackamas County Roadway Standards require that driveways and private roads in partitions be designed to provide emergency service access. Driveways in excess of 150 feet in length and where the furthest corner of a house exceeds a total of 300 feet from the street or an approved turnaround are typically required to provide an emergency vehicle turnaround area at the end of the driveway. The proposed access drive will be

approximately 150 feet in length to the buildable portion of Parcel 2 and may not require an emergency services turnaround. Written verification from the fire district will be required indicating that adequate emergency services access is provided or adequate prior to final partition plat approval.

Surface water from the private access drive and proposed home construction must be managed in accordance with the Oak Lodge Sanitary District requirements and Clackamas County Zoning and Development Ordinance Section 1008.

Clackamas County requires that adequate transportation facilities be provided concurrent with development. With the proposed partition, one additional lot will be created, generating one additional vehicle trip during the AM and PM peak hours of typical weekdays. Staff is confident that the driveway intersection with the County 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.

*The staff finds that the proposed partition can be provided with adequate access and improvements consistent with the relevant provisions of Sections 1007 and 1014 of the ZDO, the County Roadway Standards, and the Comprehensive Plan.*

9. Section 1008 of the ZDO sets forth the standards, requirements and considerations for storm drainage that are typically addressed by the storm water management agency with jurisdiction over the proposal.
  - A. Pursuant to Subsection 1008.02(A), a storm drainage and erosion control plan shall be required for all significant residential, commercial, industrial and recreational development. This requirement includes all proposals in or immediately adjacent to an area identified as Open Space on the Comprehensive Plan Map, in or adjacent to an identified Major Hazard area, and in areas of or adjacent to an area that exhibits a historic localized flooding problem resulting from storm drainage. The storm drainage and erosion control plan shall contain, at a minimum, the requirements listed under this Subsection.
  - B. Pursuant to Subsection 1008.02(B), the County may require the applicant to design and construct a drainage system that will ensure that offsite impacts caused by that development can be mitigated.
  - C. Pursuant to Subsection 1008.02(C), facilities developed onsite may be used to implement a basin-wide or sub-basin drainage management plan, if necessary.
  - D. Pursuant to Subsection 1008.03, storm drainage plans shall meet the General Standards outlined under the applicable portions of this Subsection.
  - E. Pursuant to Subsection 1008.04, storm drainage plans shall meet the Specific Standards outlined under the applicable portions of this Subsection.

The subject property is within Oak Lodge Sanitary District (OLSD), the storm water management regulatory agency for the area including the subject property. This development is subject to the Surface Water Management Rules and Regulations of the OLSD in addition to the requirements of Sec. 1008 of the ZDO. The OLSD has not

submitted specific comments, however the applicant has submitted a Preliminary Statement of Feasibility signed by the OLSD staff stating that it is feasible to provide adequate surface water management facilities to accommodate the existing and proposed development of the property.

A condition of approval is warranted to assure compliance with Sec. 1008 of the ZDO and the standards and the Surface Water Management Rules and Regulations of the OLSD. Prior to final plat approval, the applicant shall obtain approval of the plans for surface water collection, conveyance, detention (if required), infiltration and disposal from the OLSD. Where the provisions of Sec. 1008 and the District's Rules and Regulations conflict, the more restrictive regulation shall apply.

*The relevant criteria of Sec. 1008 of the ZDO will be satisfied prior to final plat approval.*

10. Section 1014 sets forth design standards for land divisions.

A. Pursuant to Subsection 1014.03, streets shall be designed to meet the provisions of this Subsection.

The required street and street frontage improvements are subject to the standards of Section 1007, 1014 and 1106 of the ZDO, the County Roadway Standards and the County Comprehensive Plan. The required street and street frontage improvements have been addressed in Findings no. 8 above by the County DTD, Construction & Development and Traffic Engineering sections. *These criteria will be satisfied.*

11. Section 1022 of the ZDO sets forth the Concurrency Standards for sanitary sewer, surface water management and water service, as well as minimum standards for transportation facilities.

A. Pursuant to Subsection 1022.03 pertaining to sanitary sewer service, approval of a development that requires public sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider. The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve sanitary sewer system capacity for the development.

The applicant has provided the necessary Preliminary Statement of Feasibility from the OLSD.

B. Pursuant to Subsection 1022.04 pertaining to surface water management, approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner. The statement shall be dated no more than one

year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.

The applicant has provided the necessary Preliminary Statement of Feasibility from the OLSD.

- C. Pursuant to Subsection 1022.04 pertaining to water service, approval of a development that requires public water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve water system capacity for the development.

The applicant has provided the necessary Preliminary Statement of Feasibility from the OLWD.

- D. Pursuant to Subsection 1022.07 pertaining to transportation facilities, approval of a development shall be granted only if transportation facilities are adequate or will be made adequate in a timely manner, except those exception areas identified in Subsection 1022.07(A)(1-4).

As stated in Findings No. 9 above, the County Construction & Development and Transportation Engineering Sections have found that the transportation facilities are adequate, or will be made adequate in a timely manner. The subject property is not located in one of the exception areas identified in Subsection 1022.07(A)(1-4).

*The staff finds that the relevant criteria of Sec. 1022 of the ZDO have been satisfied.*

12. The request is consistent with the Comprehensive Plan. The subject property is within an Low Density Residential Comprehensive Plan designation. The provisions of Sections 301, 1001, 1002, 1003, 1006, 1007, 1008, 1012, 1014, 1022 and 1105 of the ZDO implement the Comprehensive Plan goals and policies with respect to development in this Comprehensive Plan designation. The request satisfies, or will satisfy, the requirements of the ZDO, which implements the goals and policies of the Comprehensive Plan. *This criterion is met.*
13. 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 a two-parcel Flexible Lot Size Partition. Final partition plat approval is subject to the conditions of approval identified below:

### **CONDITIONS OF APPROVAL**

1. Preliminary partition approval is based upon the preliminary partition plan received with the application, the Findings discussed therein and these conditions of approval. Any change in design, including lot layout and access to lots, shall 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 issuance of any development permits, unless otherwise noted below.
3. Pursuant to ORS 92, a final partition plat survey of the development shall be submitted to the Planning Dept. for review. The final plat shall be prepared by a 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 partition 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. Pursuant to subsection 1106.05(A), approval of a preliminary plat is valid for 2 years from the date of the final written decision. **Failure to record the final partition 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 subsection 1106.05(A) of the ZDO.
4. Pursuant to ORS 92, all existing, required and proposed easements shall be shown and properly documented upon the final plat. 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 by the County Engineering Div., the OLSD and the OLWD.
5. The individual parcels shall not be sold, transferred or assigned individually until the final plat has been approved by the County Surveyor and recorded with the County Clerk.

6. The use and development of the parcels created by this proposal shall conform to the requirements of the R-7 Zoning District, subject to the standards of Section 301 of the ZDO, except as modified pursuant to Z0841-06-V for the secondary front yard setback on the west side of the home in Parcel 1. The setback from the home to the east boundary of the shared easement shall be 12 ft. per that Variance approval.
7. Pursuant to Subsection 1001.03, development of the subject property is subject to all applicable codes and ordinances adopted by the BCC and incorporated into the ZDO.
8. Pursuant to Subsection 1001.03, **prior to final plat approval**, the applicant shall submit stamped and approved plans 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.
9. The existing hedge along the west boundary of the property shall be protected and retained unless removal is required by the CCFD#1 Fire Marshal to provide adequate horizontal clearance for emergency vehicle access.
10. 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 DTD, Soils and Building Services Sections.
11. Pursuant to Subsection 1006.02(A), the location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbance of soil and site consistent with the Surface Water Management Rules and Regulations of the Oak Lodge Sanitary District.
12. Pursuant to Subsection 1006.02(B), domestic and fire flow water supply improvements shall be installed and necessary easements granted, consistent with the rules & regulations of the Oak Lodge Water District.
13. Pursuant to Subsection 1006.02(C), electricity, gas, and communications services shall be installed consistent with the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all utilities shall be installed underground and in accordance with the requirements of the service providers.
14. Any sanitary sewer system improvements, if deemed necessary by the Oak Lodge Sanitary District (OLSD), shall be designed and constructed in accordance with Section 1006 of the ZDO and the Sewer Code of the Oak Lodge Sanitary District (OLSD).

15. This development is subject to Sec. 1008 of the ZDO and the Surface Water Management Rules and Regulations of the Oak Lodge Sanitary District pertaining to storm water management.

- a) **Prior to final subdivision plat approval**, the applicant shall obtain written plans approval of the storm water management facilities needed to serve the subject property and any required on- and off-site road improvements.
- b) Construction resulting in disturbance of soil on any lot shall require that an Erosion Control Prevention/Sedimentation Control Application be prepared and a permit be obtained from the Oak Lodge Sanitary District, including the payment of all necessary fees.
- c) The applicant shall obtain written verification of compliance with the OLSD Surface Water Management Rules and Regulations **prior to final plat approval**.
- d) The final subdivision plat shall bear the following plat notes/restrictions:

"Subject to Oak Lodge Sanitary District Rules and Regulations for Surface Water Management."

16. **Prior to final plat approval**, the applicant shall submit a written request to the CCSD#5 (contact: Kevin Noreen, 503-353-4699) for the formation of an assessment area to pay for the operation and maintenance costs of the lighting.

17. The following requirements are intended to ensure compliance with the standards found in Sections 1007, 1014, and 1106 of the ZDO, the County Roadway Standards and the Comprehensive Plan pertaining to access, right of way widths, road frontage improvements, access to lots and to adjoining properties. The following standards may be modified upon approval of the Engineering Division:

All required street, street frontage and related improvements shall comply with the standards and requirements of the Clackamas County Zoning and Development Ordinance and the Clackamas County Roadway Standards unless otherwise noted herein.

The applicant shall verify by a professional survey that a 35-foot wide, one-half right-of-way width exists along the entire site frontage on SE Oak Grove Boulevard or shall dedicate additional right-of-way as necessary to provide the minimum one-half right-of-way width.

The applicant shall grant an 8-foot wide public easement for sign, slope, sidewalk and public utilities purposes along the entire frontage of SE Oak Grove Blvd.

Pursuant to Clackamas County Roadway Standards, the private access drive serving Parcels 1 and 2 shall meet the following minimum requirements:

A minimum 20-foot wide common access and utility easement, with access to SE Oak Grove Boulevard.

The access drive shall meet all conditions from variance file Z0841-06-V, including a 6 inch curb along the eastern edge of the “flag pole” access easement adjacent to Parcel 1

An on-site turnaround shall be provided for each Parcel to allow passenger vehicles to turnaround and enter SE Oak Grove Boulevard in the “head first” direction. The turnaround areas shall be shown on the Street Construction and Encroachment Permit for the project.

The vehicular access to the adjacent church property shall be eliminated. The applicant shall remove a section of the asphalt 5 feet in width from the property line and/or shall replace the gate with solid fencing.

Written approval from the CCFD#1 shall be submitted indicating adequate emergency service access is provided. If required by the Fire Marshal, an emergency services turnaround shall be constructed per Standard Drawing C350.

Drainage facilities in conformance with Oak Lodge Sanitary District requirements, ZDO section 1008 and *Clackamas County Roadway Standards* Chapter 3.

Access for Parcels 1 and 2 shall be limited to a single driveway approach on SE Oak Grove Boulevard. A note shall be placed on the final plat prohibiting direct access from Parcel 1 onto SE Oak Grove Boulevard.

Positive drainage shall be provided for all parcels to an acceptable surface water management system having the capacity to accommodate the anticipated contribution per the Clackamas County Zoning and Development Ordinance Section 1008 and Oak Lodge Sanitary District standards. Any necessary storm water detention facilities cannot be located within public rights-of-way. Provisions shall be made for collection of stormwater from roof and foundation drains within the partition.

The applicant shall furnish sanitary sewer, storm drainage and domestic water easements as deemed necessary by the DTD Engineering Div., Oak Lodge Water District, 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.

A Utility Placement Permit shall be required for any utility work required within the right-of-way of SE Oak Grove Blvd.

Construction of the required access improvements requires a Street Construction and Encroachment Permit. The Permit shall be obtained from the County Engineering Div. **prior to commencement of site work and final plat approval.** To obtain the Permit the applicant shall submit construction plans prepared and stamped by an engineer registered in the State of Oregon, provide Performance Guarantee equal to 125% of the estimated cost of construction, and pay an Inspection Fee equal to 4% of the estimated cost of required improvements. The minimum Fee is \$400.00.

All required private street improvements shall be constructed and inspected, or financially guaranteed **prior to final plat approval.**

#### **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 **FEBRUARY 12, 2007.** THIS DECISION WILL NOT BE EFFECTIVE UNTIL THE DAY AFTER THE APPEAL DEADLINE.