

“AMENDED”

**NOTICE OF TYPE II DECISION
MINOR LAND PARTITION (MLP) 2007-00009
FISHER PARTITION**



THIS DECISION HAS BEEN AMENDED TO ADD A CONDITION OF APPROVAL (CONDITION #7). IN ADDITION, OWNERSHIP OF THE SUBJECT PROPERTY WAS TRANSFERRED PRIOR TO THE DECISION BEING ISSUED AND NOTICE HAS BEEN AMENDED TO INCLUDE THE NEW OWNER. THE NEW OWNER HAS ALSO GRANTED AN EXTENSION TO THE 120-DAY RULE FOR 60 DAYS AND THE APPEAL PERIOD HAS BEEN EXTENDED ACCORDINGLY. REVISIONS ARE SHOWN IN *ITALICS* AND DELETIONS ARE SHOWN IN ~~STRIKETHROUGH~~.

120 DAYS = 1/16/2008 ~~120 DAYS = 11/17/2007~~

SECTION I. APPLICATION SUMMARY

FILE NAME: FISHER PARTITION
CASE NO: Minor Land Partition (MLP) MLP2007-00009

PROPOSAL: The applicant is requesting approval to partition a 21,646-square foot lot into two lots of 12,787 square feet and 7,500 square feet to build an additional single-family home. The existing single-family home will remain on proposed Parcel 1 (12,787 SF), which will become a flag lot.

APPLICANT/ OWNER:	<i>Sherry Stellar</i> <i>17755 SW 131st Avenue</i> <i>Tigard, OR 97224</i>	APPLICANT'S REP:	Anthony Fisher 1300 Glenmorrie Drive Lake Oswego, OR 97034
	Anthony Fisher 1300 Glenmorrie Drive Lake Oswego, OR 97034		

ZONING DESIGNATION: R-4.5: Low Density Residential. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally.

LOCATION: 9240 SW O'Mara Street; Washington County Tax Map 2S102DC, Tax Lot 302.

PROPOSED PARCEL 1: 12,787 Square Feet
PROPOSED PARCEL 2: 7,500 Square Feet

APPLICABLE REVIEW CRITERIA: Community Development Code Chapters: 18.390, 18.420, 18.510, 18.705, 18.715, 18.730, 18.745, 18.765, 18.790, 18.795 and 18.810.

SECTION II. DECISION

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the request for a partition subject to certain conditions. The findings and conclusions on which the decision is based are noted in Section V.

CONDITIONS OF APPROVAL

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO COMMENCING ANY ONSITE IMPROVEMENTS, INCLUDING DEMOLITION, GRADING, EXCAVATION AND/OR FILL ACTIVITIES:

The applicant shall contact or submit the following requirements to the CITY ARBORIST, TODD PRAGER (503) 718-2700:

1. Prior to site work, the Project Arborist shall revise the tree plan to indicate that Tree #10101 (29-inch Cedar) will be removed to construct the required 5-foot floating sidewalk.
2. Prior to site work, the Project Arborist shall revise the tree plan to state that any trees proposed to be saved shall be removed only if they are hazardous as defined by the Tigard Development Code.
3. Because of recent construction activity, there is fill in the critical root zones of trees on the site. The Project Arborist shall remove the fill with a hand excavator immediately or at least prior to site work. The Project Arborist shall submit a letter to the City Arborist reassessing the health of the trees.
4. Prior to site work, the Project Arborist shall revise the tree protection plan to indicate that all trees to be preserved shall be protected with five or six (5' - 6') foot-high chain link fences and that tree protection fencing shall not be moved without the supervision of the Project Arborist.
5. Prior to any site work, the applicant shall install all proposed tree protection fencing as approved by the Project Arborist. Tree protection fencing shall be five or six (5' - 6') foot-high chain link. Fences are to be mounted on two inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10 foot spacing. The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed. Tree fencing shall not be moved without the supervision of the Project Arborist. The tree protection fencing shall remain in place through the duration of all of the building construction phases, until the final inspection has been passed. After approval from the City Arborist, the tree protection measures may be removed.

If the Builder is different from the developer or initial applicant:

Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot during site development, location of tree protection fencing, and a signature of approval from the Project Arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to beginning construction. The fencing shall remain in place through the duration of all of the building construction phases, until the final inspection has been passed. After approval from the City Arborist, the tree protection measures may be removed.

6. The Project Arborist shall submit written reports to the City Arborist at least once every two weeks, from initial tree protection zone (TPZ) fencing installation through the building construction phases, as he/she monitors the construction activities and progress. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated. These reports must be provided to the City Arborist until the final inspection. The reports shall include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, long-term health and stability of the tree(s).

If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until the City Arborist and the Project Arborist can do an inspection.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO APPROVAL OF THE FINAL PLAT:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: EMILY ENG (503) 718-2712. The cover letter shall clearly identify where in the submittal the required information is found:

7. *Prior to approval of the final plat, the applicant shall provide a copy of the recorded lot line adjustment survey map for MIS2007-00004 (Fisher Lot Line Adjustment). If the lot line adjustment cannot be recorded within the specified timeline, this land use approval (MLP2007-00009) is void.*
8. The applicant is required to provide screening along the property line of a lot of record where the paved drive in an accessway is located within ten feet of an abutting lot in accordance with Section 18.745.040. Prior to approval of the final plat, the applicant shall either plant a hedge or earthen berm along the driveway (see 18.745.050.B.5) within the property line of Lot 1. Otherwise, the applicant shall indicate on the plat that screening is to be maintained by the property owner of Lot 1 and if the fence on the neighboring lot is removed, a new fence will be installed along the driveway on Lot 1.
9. Prior to approval of the final plat, the applicant shall reconfigure Lot 1 (and revise the site plan) so that the average lot width meets the minimum of 50 feet. "Average lot width," or "lot width," is the average horizontal distance between the side lot lines measured within the building envelope. "Building envelope" is that portion of a buildable area exclusive of the areas required for front, side and rear yards and other required open spaces and which is available for siting and constructing a building or buildings.
10. Prior to approval of the final plat, the applicant shall revise the site plan to indicate that the pavement within each driveway will be at least 10 feet wide.

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DEPARTMENT, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

11. A Public Facility Improvement (PFI) permit is required for this project to cover the public sidewalk and any other work in the public right-of-way. Six (6) sets of detailed public improvement plans shall be submitted for review to the Engineering Department. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to public improvements. Public Facility Improvement (PFI) permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.tigard-or.gov).
12. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Engineering Department will delay processing of project documents.
13. The applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the public improvement construction phase.
14. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the home building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
15. Prior to final plat approval, the applicant shall pay the addressing fee. (STAFF CONTACT: Bethany Stewart, Engineering).
16. The applicant shall submit construction plans to the Engineering Department as a part of the Public Facility Improvement permit, indicating that they will construct the following frontage improvements along SW O'Mara Street as a part of this project:
 - A. 5-foot concrete sidewalk with planter strip;
 - B. street trees in the planter strip spaced per TDC requirements; and
 - C. driveway apron.

17. The driveways for Parcels 1 and 2 and for 9220 SW O'Mara shall meet the City of Tigard Public Improvement Design Standards. The applicant's plans shall be detailed to show they comply with these standards.
18. The applicant shall execute a Restrictive Covenant whereby they agree to complete or participate in the future improvements of SW O'Mara Street adjacent to the subject property, when any of the following events occur:
 - A. when the improvements are part of a larger project to be financed or paid for by the formation of a Local Improvement District,
 - B. when the improvements are part of a larger project to be financed or paid for in whole or in part by the City or other public agency,
 - C. when the improvements are part of a larger project to be constructed by a third party and involves the sharing of design and/or construction expenses by the third party owner(s) of property in addition to the subject property, or
 - D. when construction of the improvements is deemed to be appropriate by the City Engineer in conjunction with construction of improvements by others adjacent to the subject site.
19. Prior to final plat approval, the applicant shall pay \$468.75 to the City for the striping of the bike lane along the frontage of SW O'Mara Street.
20. Prior to final plat approval, the applicant shall pay the sewer reimbursement fee and install a separate sewer lateral for Parcel 1.
21. The final plat shall include private storm and sanitary sewer easements as needed for laterals that cross over parcels.
22. An erosion control plan shall be provided as part of the Public Facility Improvement (PFI) permit drawings. The plan shall conform to the "Erosion Prevention and Sediment Control Design and Planning Manual, February 2003 edition."
23. The applicant's final plat shall contain State Plane Coordinates on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22) as recorded in Washington County survey records. These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:
 - ◆ GPS tie networked to the City's GPS survey.
 - ◆ By random traverse using conventional surveying methods.
24. Final Plat Application Submission Requirements:
 - A. Submit for City review four (4) paper copies of the final plat prepared by a land surveyor licensed to practice in Oregon, and necessary data or narrative.
 - B. Attach a check in the amount of the current final plat review fee (Contact Planning/Engineering Permit Technicians, at (503) 639-4171, ext. 2421).
 - C. The final plat and data or narrative shall be drawn to the minimum standards set forth by the Oregon Revised Statutes (ORS 92.05), Washington County, and by the City of Tigard.
 - D. The right-of-way dedication for SW O'Mara Street, providing 29 feet from centerline, shall be made on the final plat.
 - E. NOTE: Washington County will not begin their review of the final plat until they receive notice from the Engineering Department indicating that the City has reviewed the final plat and submitted comments to the applicant's surveyor.
 - F. After the City and County have reviewed the final plat, submit two mylar copies of the final plat for City Engineer signature (for partitions), or City Engineer and Community Development Director signatures (for subdivisions).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO ISSUANCE OF SITE OR BUILDING PERMITS:**

The applicant shall submit the following to the CITY ARBORIST, TODD PRAGER (503) 718-2700:

25. Prior to receiving a building permit, the applicant/owner shall record a deed restriction to the effect that any existing tree greater than 12" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the ENGINEERING DEPARTMENT, ATTN: KIM MCMILLAN 503-639-4171, EXT 2642. The cover letter shall clearly identify where in the submittal the required information is found:

26. Prior to issuance of building permits, the applicant shall provide the Engineering Department with a "photomylar" copy of the recorded final plat.
27. Prior to issuance of building permits, the applicant shall provide the City with as-built drawings of the public improvements as follows: 1) 3 mil mylar, 2) a diskette of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
28. The applicant shall either place the existing overhead utility lines along SW O'Mara Street underground as a part of this project, or they shall pay the fee in-lieu of undergrounding. The fee shall be calculated by the frontage of the site that is parallel to the utility lines and will be \$35.00 per lineal foot. If the fee option is chosen, the amount will be \$2,600.50 and it shall be paid prior to issuance of building permits.
29. During issuance of the building permit, the applicant shall pay the fee in-lieu of constructing an on-site water quality and water quantity facility. The fee is based on the total area of new impervious surfaces in the proposed development.

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO A FINAL INSPECTION:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: EMILY ENG 503-718-2712. The cover letter shall clearly identify where in the submittal the required information is found:

30. Prior to a final inspection, the Project Arborist shall submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.
31. Prior to a final inspection, a member of the planning staff will visit the site to ensure that the development is in conformance with this decision.
32. RECOMMENDATION: The site plan shows two existing trees and two new street trees within the vision clearance areas. The applicant is hereby notified that no branches can be lower than 8 feet from the ground. The property owner of Lot 1 shall be responsible for maintaining clear vision.
33. RECOMMENDATION: If planting trees along the driveway of Lot 1 abutting the existing lot to the east, the applicant shall ensure that the trunk of any tree is entirely within the property line of Lot 1.

**THIS APPROVAL IS VALID IF EXERCISED WITHIN EIGHTEEN (18) MONTHS OF THE
EFFECTIVE DATE OF THIS DECISION NOTED UNDER THE PROCESS AND APPEAL SECTION
OF THIS DECISION.**

SECTION III. BACKGROUND INFORMATION

Site Information and History:

The subject property is 20,977 square feet and is located on the south side of SW O'Mara Street, about 0.35-mile west of SW Hall Blvd near SW Hill Street. The surrounding area is single-family residential. Fanno Creek Park is about ¼ mile away by foot. The lot is irregularly shaped and slopes down about 10% toward the northeast. The existing single-family house was built in 2006 as an addition to an existing house and accessory structure on the site. The addition connected the existing 950-square foot home to the existing 500-square foot accessory structure. Because of the recent construction activity, the site is mostly dirt and gravel other than the new house. However, several large trees have been retained. The applicant has received previous land use approvals for the following: Lot Line Adjustments (MIS2003-00001, MIS2003-00002, MIS2007-00004) and Rear Setback Adjustment (VAR2005-00075). *The most recent lot line adjustment, MIS2007-00004, has not yet been recorded at Washington County; therefore, the proposed partition is contingent upon the proper recording of the lot line adjustment.*

Proposal:

The applicant is requesting approval to partition a 21,646-square foot lot into two lots of 12,787 square feet and 7,500 square feet to build an additional single-family home. The existing single-family home will remain on proposed Parcel 1 (12,787 SF), which will become a flag lot.

SECTION IV. PUBLIC COMMENTS

Staff sent notice to all property owners within 500 feet of the subject property and received no comments.

SECTION V. APPLICABLE REVIEW CRITERIA AND FINDINGS

Land Partitions (18.420):

Approval Criteria (18.420.050.A):

The proposed partition complies with all statutory and ordinance requirements and regulations;

The proposed partition complies or can be made to comply with all statutory and ordinance requirements and regulations as demonstrated by the analysis contained within this administrative decision and through the imposition of conditions of approval. Provided all conditions of approval are satisfied as part of the development and building process, this criterion is met.

There are adequate public facilities available to serve the proposal;

Public facilities are discussed in detail later in this decision under Street & Utility Improvement Standards (Chapter 18.810). Based on the analysis provided therein, adequate public facilities are available to serve the proposal. Therefore, this criterion is met.

All proposed improvements meet City and applicable agency standards; and

The public facilities and proposed improvements are discussed in the Public Facility Concerns section of this decision. Conditions of approval will ensure that all proposed improvements meet City and agency standards. Improvements will be reviewed as part of the permit process and during construction, at which time the appropriate review authority will ensure that City and applicable agency standards are met. Based on the analysis in this decision, this criterion is met.

All proposed lots conform to the specific requirements below:

(a) The minimum width of the building envelope area shall meet the lot requirement of the applicable zoning district.

Lot 1 will be an irregular-shaped flag lot with an average lot width (width of the building envelope area) of 74.62 feet. The width of the building envelope area for Lot 2 will be 48.42 feet. Therefore, the standard of 50 feet is not met for Lot 2 and the applicant has been conditioned to adjust the configuration of the lot so that it meets the minimum average lot width.

(b) The lot area shall be as required by the applicable zoning district. In the case of a flag lot, the accessway may not be included in the lot area.

The lot area for Lots 1 and 2 are 12,787 square feet and 7,500 square feet respectively, thereby meeting the minimum standard of 7,500 square feet. Lot 1 is a flag lot, the lot area for which excludes the accessway (690 SF).

(c) Each lot created through the partition process shall front a public right-of-way by at least 15 feet or have a legally recorded minimum 15-foot wide access easement.

Lot 1 will have a 15-foot-wide access easement. Lot 2 will have 59.29 feet of frontage on SW O'Mara Street. Therefore, both lots meet the minimum frontage requirement.

(d) Setbacks shall be as required by the applicable zoning district.

Setback requirements in the R-4.5 zone are as follows: 20 feet front, 5 feet side and 15 feet rear. Flag lots must maintain side setbacks of at least 10 feet. Front and east side setbacks for the existing house on Lot 1 will be non-conforming from zoning and flag lot standards. While the applicant's narrative states that "setbacks can be met," the site plan shows that Lot 1 will have the following setbacks: 14 feet front, 5 feet east side, 16 feet west side and 13 feet rear (with rear setback adjustment, VAR2005-00075). The site plan shows that Lot 2 has a 20-foot front and garage setback, 5-foot side setbacks and a rear setback exceeding the required 15 feet. While existing setbacks on Lot 1 do not meet current standards, setbacks for the new house on Lot 2 can be met. Therefore, setbacks will be as required by the R-4.5 zoning district.

(e) When the partitioned lot is a flag lot, the developer may determine the location of the front yard, provided that no side yard is less than 10 feet. Structures shall generally be located so as to maximize separation from existing structures.

Lot 1 will become a flag lot. Because the house on proposed Lot 1 is pre-existing, the developer cannot determine the location of the front yard other than what exists. The site plan shows that setbacks for the existing house are 14 feet front, 4.5 feet east side, 16 feet west side and 13 feet rear (with rear setback adjustment, VAR2005-00075). Therefore, the front and east side setbacks are non-conforming. However, the west side setback exceeds the 10-foot side requirement.

(f) A screen shall be provided along the property line of a lot of record where the paved drive in an accessway is located within ten feet of an abutting lot in accordance with Sections 18.745.040. Screening may also be required to maintain privacy for abutting lots and to provide usable outdoor recreation areas for proposed development.

The applicant is required to provide screening along the driveway where the pavement is within 10 feet of the abutting lot to the east. The pavement of the driveway for Lot 1 will be within 10 feet of the existing lot to the east. The site plan indicates there is a fence on the west and south boundaries of neighbor's property where it abuts proposed Lot 1. The applicant has indicated that the fence is sufficient for screening. However, since the fence is not on the subject property, the applicant shall either plant a hedge or earthen berm along the driveway (see 18.745.050.B.5). Otherwise, the applicant shall indicate on the plat that screening is to be maintained by the property owner of Lot 1 and if the fence on the neighboring lot is removed, a new fence will be installed on Lot 1.

Section 18.745.050.B.5 specifies that where screening is required the applicant shall provide:

A hedge of narrow or broad leaf evergreen shrubs shall be planted which will form a four-foot continuous screen of the height specified in Table 18.745.2 within two years of planting; or an earthen berm planted with evergreen plant materials shall be provided which will form a continuous screen of the height specified in Table 18.745.2 within two years. The unplanted portion of the berm shall be planted in lawn or other living ground cover; or a fence or wall of the height specified in Table 18.745.2 shall be constructed to provide a continuous sight obscuring screen.

(g) The fire district may require the installation of a fire hydrant where the length of an accessway would have a detrimental effect on fire-fighting capabilities.

Tualatin Valley Fire and Rescue (TVF&R) has not commented on the proposed accessway to Lot 1. The Engineering Department has required TVF&R approval prior to receiving a site permit.

(h) Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved partition map.

A common drive is not proposed or required. Therefore, this criterion does not apply.

Any access way shall comply with the standards set forth in Chapter 18.705, Access, Egress and Circulation.

As shown later in this decision under “Access, Egress and Circulation (18.705),” the standards in Chapter 18.705 have been met.

Where landfill and/or development is allowed within or adjacent to the one-hundred year floodplain, the city shall require consideration of the dedication of sufficient open land area for greenway adjoining and within the floodplain. This area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway with the floodplain in accordance with the adopted pedestrian/bicycle pathway plan.

The proposed partition is not adjacent to or in the one-hundred year floodplain. The nearest floodplain is about 720 feet (0.14 mile) away from the proposed partition. The highest elevation of the nearest floodplain is 150 feet. The lowest elevation of the partition site is 195 feet. Therefore, this criterion does not apply.

An application for a variance to the standards prescribed in this chapter shall be made in accordance with Chapter 18.370, Variances and Adjustments. The applications for the partition and variance(s)/adjustment(s) will be processed concurrently.

The applicant has not requested any variances.

FINDING: All approval criteria for the proposed partition have been met or can be met by satisfying conditions of approval.

Residential Zoning Districts (18.510):

Development standards in residential zoning districts are contained in Table 18.510.2. Below is a comparison of the development standards and the proposed dimensions:

DEVELOPMENT STANDARDS and PROPOSED DIMENSIONS

STANDARD	R-4.5 Standards	Proposed Lot 1	Proposed Lot 2
Minimum Lot Size - Detached unit	7,500 sq. ft.	12,787 sq. ft.	7,500 sq. ft.
Average Minimum Lot Width - Detached unit lots	50 ft.	74.62 ft.	48.42 ft.
Minimum Setbacks - Front yard - Side facing street on corner & through lots - Side yard - Side yard flag lot (18.730) - Rear yard - Distance between property line and front of garage	20 ft. 15 ft. 5 ft. 10 ft. 15 ft. 20 ft.	14 ft. NA NA 16 ft., 5 ft. 13 ft. 44 ft.	20 ft. NA 5 ft., 5 ft. NA 96 ft. 20 ft.
Maximum Height	30 ft.	Can bet met	Can be met

FINDING: The proposed partition does not meet all development standards. Proposed ot 1 does not meet the front setback and east side setback requirement in the R-4.5 zone and for a flaglot. The existing house has a front setback of 14 feet and an east side setback of 5 feet. The required front and side setbacks are 20 feet and 10 feet, respectively. However, because the house is pre-existing and built before the property would become a flag lot, these setbacks are non-conforming. Proposed Lot 2 does not meet the average minimum lot width of 50 feet. While Lot 2’s frontage is 59.29 feet, the lot becomes significantly narrower (37.55 feet) toward the end of the building envelope¹. The applicant indicates that the average lot width is 59.29 feet, but it is actually 48.42 feet ((59.29 feet + 37.55

¹ “Building Envelope” - That portion of a buildable area exclusive of the areas required for front, side and rear yards and other required open spaces and which is available for siting and constructing a building or buildings (Chapter 18.120).

feet)/2)², which does not meet the 50 foot standard. The applicant will be conditioned to adjust Lot 1 so that it meets the minimum average lot width of 50 feet.

CONDITION: The applicant shall reconfigure Lot 1 (and revise the site plan) so that the average lot width meets the minimum of 50 feet. “Average lot width,” or “lot width,” is the average horizontal distance between the side lot lines measured within the building envelope. “Building envelope” is that portion of a buildable area exclusive of the areas required for front, side and rear yards and other required open spaces and which is available for siting and constructing a building or buildings.

Access, Egress and Circulation (18.705):

Chapter 18.705 establishes standards and regulations for safe and efficient vehicle access and egress on a site and for general circulation within the site.

General Provisions (18.705.030)

Continuing obligation of property owner. The provisions and maintenance of access and egress stipulated in this title are continuing requirements for the use of any structure or parcel of real property in the City.

Access plan requirements.

No building or other permit shall be issued until scaled plans are presented and approved as provided by this chapter that show how access, egress and circulation requirements are to be fulfilled. The applicant shall submit a site plan. The Director shall provide the applicant with detailed information about this submission requirement.

The applicant has submitted a site plan showing how access, egress and circulation requirements will be fulfilled. Therefore, this criterion is met.

Public street access.

All vehicular access and egress as required in Sections 18.705.030H and 18.705.030I shall connect directly with a public or private street approved by the City for public use and shall be maintained at the required standards on a continuous basis.

Proposed Lot 2 will have direct access to SW O’Mara Street. Proposed Lot 1 will be a flag lot with access through a 15-foot wide flag pole. Therefore, the criterion is met.

Curb Cuts. Curb cuts shall be in accordance with Section 18.810.030N.

The applicant is required to construct a floating sidewalk along the project’s frontage. Therefore, no curbs are required.

Inadequate or hazardous access.

(1) Applications for building permits shall be referred to the Commission for review when, in the opinion of the Director, the access proposed would cause or in crease existing hazardous traffic conditions; or would provide inadequate access for emergency vehicles; or would in any other way cause hazardous conditions to exist which would constitute a clear and present danger to the public health, safety and general welfare.

The Director has not determined the proposed accesses would require review by the Commission. Therefore, this criterion does not apply.

(2) Direct individual access to arterial or collector streets from single-family dwellings and duplex lots shall be discouraged. Direct access to major collector or arterial streets shall be considered only if there is no practical alternative way to access the site.

SW O’Mara Street is not a collector or arterial street. Therefore, direct access is permitted.

(3) In no case shall the design of the service drive or drives require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley. Single-family and duplex dwellings are exempt from this requirement.

No service drive is proposed or required. Therefore, this criterion does not apply.

² “Lot width” - The average horizontal distance between the side lot lines measured within the building envelope (Chapter 18.120).

Access Management

An access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.

A transportation analysis was prepared by Lancaster Engineering, dated May 30, 2007 for the proposed development. Lancaster Engineering prepared a preliminary sight distance certification for the proposed access points. The posted speed for a local street is 25 mph, requiring a minimum of 280 feet of sight distance and 152 feet is the minimum required stopping sight distance. The engineer states there are no significant vertical obstructions to the east or west of the proposed access driveways on O'Mara Street. Sight distance was measured to be 367 feet to the west and greater than 500 feet to the east from the proposed future driveway location, thereby meeting the sight distance criterion.

Driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.

The exiting and proposed driveways are not located near an arterial or collector street, therefore this standard does not apply.

Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.

SW O'Mara Street is classified as a Neighborhood Route on the City of Tigard's Transportation System Plan (TSP). There are no spacing requirements for a neighborhood route, however the City of Tigard Public Improvement Design Standards do apply. The applicant's plans shall comply with the driveway design standards for size and spacing. If the spacing between the driveway for parcel 1 and the driveway for 9220 SW O'Mara Street cannot be met, the driveway shall become a shared driveway and comply with all shared driveway standards for size, ownership and maintenance.

Minimum Access Requirements for Residential Use

(1) Vehicular access and egress for single-family, duplex or attached single-family dwelling units on individual lots and multi-family residential uses shall not be less than as provided in Table 18.705.1 and Table 18.705.2;

Table 18.705.1 states that the minimum vehicular access and egress for single-family dwelling units on individual lots shall be one, 10-foot paved driveway within a 15-foot-wide access for up to 2 lots. The site plan shows that both proposed lots have driveways that are 15-feet wide, but does not indicate the pavement width. Therefore, the applicant shall indicate that the pavement within each driveway will be at least 10 feet wide.

FINDING: Based on the findings above, the access, egress and circulation standards have mostly been met.

CONDITION: Prior to approval of the final plat, the applicant shall revise the site plan to indicate that the pavement within each driveway will be at least 10 feet wide.

Density Computations (18.715):

Section 18.715.020 provides density calculation formulas. Number of dwelling units is determined by the following:

Definition of net development area. Net development area, in acres, shall be determined by subtracting the following land area(s) from the gross acres, which is all of the land included in the legal description of the property to be developed:

- 1. All sensitive land areas**
- 2. All land dedicated to the public for park purposes;**
- 3. All land dedicated for public rights-of-way.**
- 4. All land proposed for private streets; and**

5. A lot of at least the size required by the applicable base zoning district, if an existing dwelling is to remain on the site.

The applicant provided the following calculation for net developable area:

Gross site area:	21,646 SF
Public ROW dedication:	669 SF
Flag pole	1,278 SF
<hr/>	
Net developable area:	19,699 SF

Calculating maximum number of residential units. To calculate the maximum number of residential units per net acre, divide the number of square feet in the net acres by the minimum number of square feet required for each lot in the applicable zoning district.

The maximum number of residential units permitted is 2, as shown below:

$$19,699 \text{ SF} / 7,500 \text{ SF} = 2.62 \text{ units} = 2 \text{ units}$$

Calculating minimum number of residential units. As required by Section 18.510.040, the minimum number of residential units per net acre shall be calculated by multiplying the maximum number of units determined in Subsection B above by 80% (0.8).

The minimum number of residential units is 2, as shown below:

$$2.62 \text{ units} \times 0.8 = 2.1 \text{ units} = 2 \text{ units}$$

FINDING: The proposed partition complies with the minimum and maximum density permitted by the Code.

Exceptions to Development Standards (18.730):

Building heights and flag lots (18.730.020.C):

Limitations on the placement of residential structures on flag lots apply when any of the following exist:

- a. A flag lot was created prior to April 15, 1985;
- b. A flag lot is created after April 15, 1985 by an approved partition; or
- c. A flag lot is created by the approval of a subdivision and the flag lot is located on the periphery of the subdivision so that the lot adjoins other residentially-zoned land.

Lot1 will be a flag lot. The existing house does not meet all flag lot setback standards, but its pre-existing status would make it a legal non-conforming structure. Any additions after the date of this decision will be subject to flag lot limitations.

The maximum height for an attached or detached single-family, duplex, or multiple-family residential structure on a flag lot or a lot having sole access from an accessway, private drive or easement is 1-1/2 stories or 25 feet, whichever is less, except that the maximum height may be 2-1/2 stories or 35 feet [in certain zones], whichever is less, provided:

- a. The proposed dwelling otherwise complies with the applicable dimensional requirements of the zoning district;
- b. A 10 feet side yard will be preserved;
- c. A residential structure on any abutting lot either is located 50 feet or more from the nearest point of the subject dwelling, or the residential structure exceeds 1-1/2 stories or 25 feet in height on any abutting lot; and
- d. Windows 15 feet or more above grade shall not face dwelling unit windows or patios on any abutting lot unless the proposal includes an agreement to plant trees capable of mitigating direct views, or that such trees exist and will be preserved.

Lot 1 is subject to flag lot standards. The site plan shows that the proposed house meets the 10-foot side setbacks for the west side but not the east side. Because of the pre-existing status of the house, the 5-foot east side setback is non-conforming but permitted. The applicant indicates that the house is not higher than 25 feet.

Landscaping and Screening (18.745):

Street trees (18.745.040):

All development projects fronting on a public street, private street or a private driveway more than 100 feet in length approved after the adoption of this title shall be required to plant street trees in accordance with the standards in Section 18.745.040C.

Street trees are required on SW O'Mara Street. The applicant proposes two new street trees on SW O'Mara Street along with an existing tree that will remain in the right-of-way. The applicant also proposes trees along the flagpole to Lot 1 where Lot 1 abuts the existing lot to the east. However, because the flag pole is not over 100 feet long, trees are not required. The applicant may plant trees, but the City Arborist has indicated that the tree trunks must be entirely within Lot 1's property line.

If planting trees along the driveway of Lot 1 abutting the existing lot to the east, the applicant shall ensure that the trunk of any tree is entirely within the property line of Lot 1.

Street Tree Planting List. Certain trees can severely damage utilities, streets and sidewalks or can cause personal injury. Approval of any planting list shall be subject to review by the Director.

The applicant has indicated that the street trees will be *Acer platanoides* (Norway Maple), which the City Arborist has determined is a suitable street tree.

Size and Spacing of Street Trees. The specific spacing of street trees by size of tree shall be as stated in Section 18.745.040.C.2 of the code.

The site plan shows that the street trees will be 20 feet apart, which is adequate for the medium-stature Norway Maples.

FINDING: Based on the findings above, all Landscaping and Screening criteria are met or can be met by satisfying conditions of approval.

RECOMMENDATION: If planting trees along the driveway of Lot 1 abutting the existing lot to the east, the applicant shall ensure that the trunk of any tree is entirely within the property line of Lot 1.

Tree Removal (18.790):

Tree Plan Requirements (18.790.030):

A tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided for any lot, parcel or combination of lots or parcels for which a development application for a subdivision, partition, site development review, planned development or conditional use is filed. Protection is preferred over removal wherever possible.

A tree preservation and removal plan has been prepared by Randy Killen, certificate number PN-5948A.

Plan requirements. The tree plan shall include the following:

Identification of the location, size and species of all existing trees including trees designated as significant by the city;

The tree inventory identifies the size and species of all existing trees including trees over 12 caliper inches. There are no trees under 12 caliper inches. The tree plan shows an inventory table and location of all trees. Therefore, this criterion is met.

Identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper. Mitigation must follow the replacement guidelines of Section 18.790.060D, in accordance with the following standards and shall be exclusive of trees required by other development code provisions for landscaping, streets and parking lots:

- (a) Retention of less than 25% of existing trees over 12 inches in caliper requires a mitigation program in accordance with Section 18.790.060D of no net loss of trees;
- (b) Retention of from 25% to 50% of existing trees over 12 inches in caliper requires that two-thirds of the trees to be removed be mitigated in accordance with Section 18.790.060D;

- (c) **Retention of from 50% to 75% of existing trees over 12 inches in caliper requires that 50 percent of the trees to be removed be mitigated in accordance with Section 18.790.060D;**
- (d) **Retention of 75% or greater of existing trees over 12 inches in caliper requires no mitigation.**

The applicant proposes to retain all of the trees over 12 caliper inches. However, because the applicant is required to construct a floating sidewalk, the 19-inch Cedar tree in the right-of-way dedication will have to be removed. Therefore, seven (7) out of 8 trees over 12 caliper inches will be retained and protected. Because 87.5% of the trees will be retained, no mitigation is required. The Project Arborist shall revise the tree plan to indicate that Tree #10101 (29-inch Cedar) will be removed to construct the required 5-foot floating sidewalk.

Identification of all trees which are proposed to be removed;

The applicant proposes to remove no trees, but has been conditioned to remove one tree to construct the required sidewalk. The applicant indicates that, at the discretion of the future lot owner, additional trees may be requested for removal as part of the building permit review. However, any trees that are proposed to be saved can only be removed later if they are hazardous as defined by the code. Otherwise, removal of protected trees will require a new Type II land use review or constitute a civil penalty and fines. Therefore, the Project Arborist shall revise the tree plan to state that any trees proposed to be saved shall be removed only if they are hazardous as defined by the Tigard Development Code.

A protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

The tree plan includes a protection program defining standards and methods that will be used by the applicant to protect trees during and after construction. However, the City Arborist has indicated that plastic mesh protection fencing is not adequate for tree protection because it can be easily moved. Therefore, the Project Arborist shall revise the tree protection plan to indicate that all trees to be preserved shall be protected with five or six (5' - 6") foot high chain link fences and that tree protection fencing shall not be moved without the supervision of the Project Arborist. Fences are to be mounted on two inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10-foot spacing. The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.

In addition, there is fill in the critical root zones of the existing trees because of recent construction activity on the site. The City Arborist recommends that the Project Arborist remove the fill with a hand excavator immediately and requires the fill to be removed prior to site work. The Project Arborist shall submit a letter to the City Arborist reassessing the health of the trees.

Subsequent tree removal. Trees removed within the period of one year prior to a development application listed above will be inventoried as part of the tree plan above and will be replaced according to Section 18.790.060D.

No trees have been removed between within the period of one year prior to the application being submitted, which is April 13, 2006 to April 13, 2007.

Subsequent Removal of a Tree (18.790.040):

Any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

A condition of approval requiring the above shall ensure that this criterion is met.

FINDING: Tree protection has not fully been met. The applicant shall satisfy the conditions below:

CONDITIONS:

- ◆ Prior to site work, the Project Arborist shall revise the tree plan to indicate that Tree #10101 (29-inch Cedar) will be removed to construct the required 5-foot floating sidewalk.
- ◆ Prior to site work, the Project Arborist shall revise the tree plan to state that any trees proposed to be saved shall be removed only if they are hazardous as defined by the Tigard Development Code.
- ◆ Because of recent construction activity, there is fill in the critical root zones of trees on the site. The Project Arborist shall remove the fill with a hand excavator immediately or at least prior to site work. The Project Arborist shall submit a letter to the City Arborist reassessing the health of the trees.
- ◆ Prior to site work, the Project Arborist shall revise the tree protection plan to indicate that all trees to be preserved shall be protected with five or six (5' - 6') foot high chain link fences and that tree protection fencing shall not be moved without the supervision of the Project Arborist.
- ◆ Prior to any site work, the applicant shall install all proposed tree protection fencing as approved by the Project Arborist. Tree protection fencing shall be five or six (5' - 6') foot high chain link. Fences are to be mounted on two inch diameter galvanized iron posts, driven into the ground to a depth of at least 2-feet at no more than 10-foot spacing. The applicant shall position fencing as directed by the project arborist to protect the trees to be retained. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed. Tree fencing shall not be moved without the supervision of the Project Arborist. The tree protection fencing shall remain in place through the duration of all of the building construction phases, until the final inspection has been passed. After approval from the City Arborist, the tree protection measures may be removed.

If the Builder is different from the developer or initial applicant:

Prior to issuance of building permits, the applicant shall submit site plan drawings indicating the location of the trees that were preserved on the lot during site development, location of tree protection fencing, and a signature of approval from the Project Arborist regarding the placement and construction techniques to be employed in building the structures. All proposed protection fencing shall be installed and inspected prior to beginning construction. The fencing shall remain in place through the duration of all of the building construction phases, until the final inspection has been passed. After approval from the City Arborist, the tree protection measures may be removed.

- ◆ The Project Arborist shall submit written reports to the City Arborist at least once every two weeks, from initial tree protection zone (TPZ) fencing installation through the building construction phases, as he/she monitors the construction activities and progress. This inspection will be to evaluate the tree protection fencing, determine if the fencing was moved at any point during construction, and determine if any part of the Tree Protection Plan has been violated. These reports must be provided to the City Arborist until the final inspection. The reports shall include any changes that occurred to the TPZ as well as the condition and location of the tree protection fencing. If the amount of TPZ was reduced then the Project Arborist shall justify why the fencing was moved, and shall certify that the construction activities to the trees did not adversely impact the overall, long-term health and stability of the tree(s).

If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until the City Arborist and the Project Arborist can do an inspection.

- ◆ Prior to a final inspection, the Project Arborist will submit a final certification indicating the elements of the Tree Protection Plan were followed and that all remaining trees on the site are healthy, stable and viable in their modified growing environment.
- ◆ Prior to receiving a building permit, the applicant/owner shall record a deed restriction to the effect that any existing tree greater than 12” diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this decision should either die or be removed as a hazardous tree.

Off-Street Parking and Loading Requirements (18.765):

Section 18.765.020.A states that at the time of the erection of a new structure within any zoning district, offstreet vehicle parking will be provided in accordance with Section 18.765.070 (minimum and maximum parking requirements).

For single-family dwellings, one parking space per dwelling unit is required. The applicant acknowledges this requirement. In addition, compliance will be regulated at the time of building permits. Therefore, this criterion is met.

Section 18.765.030.B.1 states that off-street parking spaces for single-family and duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwelling(s).

The applicant indicates that the parking spaces will be provided on the individual lots. In addition, compliance will be regulated at the time of building permits. Therefore, this criterion is met.

FINDING: Based on the findings above, parking and loading requirements have met.

Visual Clearance Areas (18.795):

This Chapter requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height. Trees may be placed within this area provided that all branches below eight (8) feet are removed. A visual clearance area is the triangular area formed by measuring from the corner, 30-feet along the right of way and along the driveway and connecting these two points with a straight line.

FINDING: The site plan correctly shows visual clearance triangles for all proposed driveway and shows two existing trees and two new street trees within the vision clearance areas. The applicant is hereby notified that no branches can be lower than 8 feet from the ground.

CONDITION: The site plan shows two existing trees and two new street trees within the vision clearance areas. The applicant is hereby notified that no branches can be lower than 8 feet from the ground.

PUBLIC FACILITY CONCERNS

Street And Utility Improvements Standards (Section 18.810):

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

Streets:

Improvements:

Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.

Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.

Minimum Rights-of-Way and Street Widths: Section 18.810.030.E requires a Neighborhood Route with bike lanes to have a 58 foot right-of-way width and 36-foot paved section. Other improvements required may include on-street parking, sidewalks and bikeways, underground utilities, street lighting, storm drainage, and street trees.

This site lies adjacent to SW O'Mara Street, which is classified as a Neighborhood Route on the City of Tigard Transportation Plan Map. At present, there is approximately 20 feet of ROW from centerline, according to the most recent tax assessor's map. The applicant should dedicate the additional ROW to provide 29 feet from centerline. SW O'Mara is currently partially improved. In order to mitigate the impact from this development, the applicant should construct a 5 foot sidewalk at ultimate location and enter into a future street improvement agreement for all other improvements.

Future Street Plan and Extension of Streets: Section 18.810.030.F states that a future street plan shall be filed which shows the pattern of existing and proposed future streets from the boundaries of the proposed land division. This section also states that where it is necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed and a barricade shall be constructed at the end of the street. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.

The applicant did not address this section of the code. O'Mara Street and Edgewood Street form a large block approximately 5,000 lf in size. Due to the development pattern of the neighborhood there are no opportunities at this property to provide for a street extension or future street.

Street Alignment and Connections:

Section 18.810.030.H.1 states that full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.

Section 18.810.030.H.2 states that all local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

Due to the existing development pattern there are no opportunities for street connections through this development.

Block Designs - Section 18.810.040.A states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

Block Sizes: Section 18.810.040.B.1 states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ♦ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ♦ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ♦ For non-residential blocks in which internal public circulation provides equivalent access.

The proposed partition is within a block that has an approximately 4,800 feet perimeter along the right-of-way line. While this perimeter exceeds 1,800 feet, existing development prevents the proposed partition from providing any street connections that would create shorter blocks.

Lots - Size and Shape: Section 18.810.060.A prohibits lot depth from being more than 2.5 times the average lot width, unless the parcel is less than 1.5 times the minimum lot size of the applicable zoning district.

Lots 1 and 2 will be 12,787 SF and 7,500 SF respectively. Because proposed Lot 2 would not be greater than 1.5 times the minimum lot size (11,250 SF), the standard does not apply. Proposed Lot 1 will be greater than 1.5 times the minimum lot size; therefore, the standard applies. The average lot width of Lot 1 would be 74.62 feet and the lot depth would be 84 feet. Therefore, the depth of Lot 1 will be 1.1 times greater than the average lot width, thereby meeting the requirement of not more than 2.5 times greater.

Lot Frontage: Section 18.810.060(B) requires that lots have at least 25 feet of frontage on public or private streets, other than an alley. In the case of a land partition, 18.420.050.A.4.c applies, which requires a parcel to either have a minimum 15-foot frontage or a minimum 15-foot wide recorded access easement. In cases where the lot is for an attached single-family dwelling unit, the frontage shall be at least 15 feet.

Proposed Lot 1 will be a flag lot with 15 feet of frontage on SW O'Mara Street. Proposed Lot 2 will have 59.29 feet of frontage on SW O'Mara Street. Therefore, the proposed lots meet or exceed the frontage requirement.

Sidewalks: Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets. Private streets and industrial streets shall have sidewalks on at least one side.

SW O'Mara is partially improved and as part of the mitigation for this development the applicant will construct a 5 foot sidewalk along the street frontage at the ultimate location, thereby meeting this criterion.

Sanitary Sewers:

Sewers Required: Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

Over-sizing: Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

This property is in Sewer Reimbursement District 23. The reimbursement fee must be paid prior to final plat approval. Parcel 1 is connected to the public sewer via a lateral that is not allowed by Oregon Plumbing Code. The applicant's plans shall be revised to provide a new, separate lateral to Parcel 1.

The applicant's plans show a new, separate lateral for Parcel 2. However, the lateral crosses over Parcel 1 and will require an easement or realignment of the lateral. The applicant's engineer shall revise the lateral on the PFI Permit plan submittal.

Storm Drainage:

General Provisions: Section 18.810.100.A requires developers to make adequate provisions for storm water and flood water runoff.

Accommodation of Upstream Drainage: Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

There are no upstream drainage ways that impact this development.

Effect on Downstream Drainage: Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by Clean Water Services in 2000 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide onsite detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

The addition, of one new single-family home will have little effect on downstream drainage. As such, the applicant shall pay a fee in-lieu of on-site detention.

The applicant’s plans show proposed storm lines for both parcels. These lines shall be separated at the ROW line. Appropriate easements shall be shown on the plat for the storm line for Parcel 1 as it crosses over Parcel 2.

Bikeways and Pedestrian Pathways:

Bikeway Extension: Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City’s adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

SW O’Mara Street is a designated bicycle facility.

Cost of Construction: Section 18.810.110.B states that development permits issued for planned unit developments, conditional use permits, subdivisions, and other developments which will principally benefit from such bikeways shall be conditioned to include the cost or construction of bikeway improvements.

It is not practical to have small projects, like a minor land partition, stripe a bike lane for a short frontage. However, it is appropriate for the developer to pay into a fund for bicycle striping.

The amount of the striping would be as follows:

♦	74.3 feet of 8-inch white stripe, at \$2.50/lf	\$185.75
♦	2 Mono-directional reflective markers @ \$4.00/ea	\$ 8.00
♦	1 Bike lane legends @ \$175/ea	\$175.00
♦	1 Directional mini-arrows @ \$100/ea	\$100.00
		<u>\$468.75</u>

Utilities:

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- ♦ The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- ♦ The City reserves the right to approve location of all surface mounted facilities;
- ♦ All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- ♦ Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

Exception to Under-Grounding Requirement: Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant’s property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along the frontage of SW O'Mara Street. If the fee in-lieu is proposed, it is equal to \$35.00 per lineal foot of street frontage that contains the overhead lines. The frontage along this site is 74.3 lineal feet; therefore the fee would be \$2,600.50.

ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:

Public Water System:

The City of Tigard provides service in this area. The applicant's plans indicate separate services to each parcel. The meter size must be approved by City Engineering staff.

Storm Water Quality:

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

The CWS standards include a provision that would exclude small projects such as residential land partitions. It would be impractical to require an on-site water quality facility to accommodate treatment of the storm water from Parcels 1 and 2. Rather, the CWS standards provide that applicants should pay a fee in-lieu of constructing a facility if deemed appropriate. Staff recommends payment of the fee in-lieu on this application.

Grading and Erosion Control:

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

Address Assignments:

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard and within the Urban Service Boundary (USB). An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the City prior to final plat approval.

Survey Requirements:

The applicant's final plat shall contain State Plane Coordinates [NAD 83 (91)] on two monuments with a tie to the City's global positioning system (GPS) geodetic control network (GC 22). These monuments shall be on the same line and shall be of the same precision as required for the subdivision plat boundary. Along with the coordinates, the plat shall contain the scale factor to convert ground measurements to grid measurements and the angle from north to grid north. These coordinates can be established by:

- ♦ GPS tie networked to the City's GPS survey.
- ♦ By random traverse using conventional surveying methods.

In addition, the applicant's as-built drawings shall be tied to the GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).

Impact Study (18.390):

Section 18.360.090 states, "The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions or denying an application:"

Section 18.390.040 states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.

In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. Section 18.390.040 states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.

The applicant has provided an impact study that quantifies the effect of the proposed partition on the services below:

Sewer: The applicant has been conditioned to provide a new later for each proposed lot (Lot1 and Lot 2).

Water: The subject property receives City of Tigard water. Lot 1 is already hooked up to the water line in SW O'Mara Street. Lot 2 will hook up to the same water line.

Storm Drainage: The applicant will provide a storm line for each proposed lot to connect to the public system in SW O'Mara Street. The applicant will also pay a fee in-lieu of on-site detention.

Parks: The subject property is about a ¼ mile walk to Fanno Creek Park. The applicant will be paying a parks system development charge for the additional home at the time of building permits.

Transportation: Both lots will have access to SW O'Mara Street, a neighborhood route. The new home on Lot 2 will add about 10 total trips per day. The nearest collector is SW McDonald Street, which is about 0.4 mile westward on SW O'Mara street. The nearest arterial is SW Hall Boulevard, which is about 0.35 mile eastward on SW O'Mara Street. The nearest bus line is on SW Hall Blvd. The applicant will mitigate impacts to the transportation system by dedicating right-of-way and signing an agreement for future street improvements. In addition, the applicant will pay a Washington County Transportation Impact Fee (TIF) for the additional house at the time of building permits.

Mitigated Costs and Rough Proportionality:

The TIF is a mitigation measure that is required for new development. Based on a transportation impact study prepared by Mr. David Larson for the A-Boy Expansion/Dolan II/Resolution 95-61, TIF's are expected to recapture 32 percent of the traffic impact of new development on the Collector and Arterial Street system. The applicant will be required to pay TIF's of approximately \$3,020 (Effective July 1, 2004) per new dwelling unit. Therefore, the TIF for this proposed development is \$3,020 (\$3,020 * 1 new dwelling unit).

Based on the estimate that total TIF fees cover 32 percent of the impact on major street improvements citywide, a fee that would cover 100 percent of this project's traffic impact is \$9,437 (\$3,020 ÷ 0.32). The difference between the TIF paid, and the full impact, is considered the unmitigated impact on the street system. The unmitigated impact of this project on the transportation system is \$6,417 (\$9,437 - \$3,020). The applicant's total cost of mitigating traffic impacts is \$3,961, as shown under "Mitigated Costs" below. Based on the analysis below, the required improvements do not exceed the estimated value of the unmitigated impacts. Therefore, the required improvements meet the rough proportionality test.

Mitigated Costs

ROW Dedication (669 square feet).....	\$2,007
Bike Striping Fee.....	\$ 469
Floating 5 ft. Sidewalk.....	\$1,485
<u>Estimated Value of Mitigated Costs</u>	<u>\$3,961</u>

Estimated Value of Impacts

Full Impact.....	\$ 9,437
Less TIF Assessment.....	3,020
<u>Less Mitigated Costs.....</u>	<u>3,961</u>
<u>Estimated Value of Unmitigated Impacts</u>	<u>\$2,456</u>

SECTION VI. OTHER STAFF COMMENTS

The City of Tigard Engineering Department has reviewed the proposal. Full comments are included in the land use file (MLP2007-00009). Findings and conditions of approval are included in the Access, Egress and Circulation (18.705) section and Streets and Utility Improvements (18.810) section of this decision.

The City of Tigard Building Department has reviewed the proposal and has no objections.

The City of Tigard Public Works Department has reviewed the proposal and has commented on the sanitary sewer connection, indicating that if the lateral is going to turn so close to the right-of-way, cleanout would be advised.

RESPONSE: The Engineering Department will review placement of the sewer laterals during construction plan review for the Public Facility Improvement (PFI) Permit.

SECTION VII. AGENCY/OTHER SERVICE PROVIDER COMMENTS

Clean Water Services (CWS) has reviewed the proposal and provided general comments and comments related to sanitary sewer, storm drainage and water quality and erosion control. Full comments are included in the land use file (MLP2007-00009). The City of Tigard Engineering Department has included CWS comments in its conditions of approval.

Tualatin Valley Fire and Rescue has reviewed the proposal and endorses the proposal based on certain conditions of approval. Full comments are included in the land use file (MLP2007-00009). The City of Tigard Engineering Department has included TVF&R requirements in the conditions of approval.

Qwest has reviewed the proposal and notes the proposed partition is not within its service area.

SECTION VIII. PROCEDURE AND APPEAL INFORMATION

Notice: Notice was mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

Final Decision:

THIS DECISION IS FINAL ON ~~OCTOBER 9, 2007~~ OCTOBER 22, 2007 AND BECOMES EFFECTIVE ON ~~OCTOBER 24, 2007~~ NOVEMBER 6, 2007 UNLESS AN APPEAL IS FILED.

Appeal:

The Director's Decision is final on the date that it is mailed. All persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the Notice of Decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

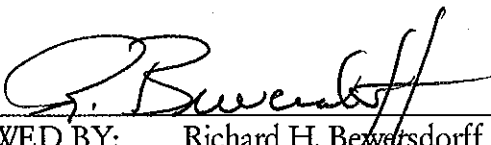
THE DEADLINE FOR FILING AN APPEAL IS 5:00 PM ON ~~OCTOBER 23, 2007~~ NOVEMBER 5, 2007.

Questions:

If you have any questions, please call the City of Tigard Current Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.


PREPARED BY: Emily Eng
Assistant Planner

October 22, 2007
DATE


REVIEWED BY: Richard H. Bewersdorff
Planning Manager

October 22, 2007
DATE

VISUAL CLEARANCE
 FOR
PARTITION PLAT
 BEING A PORTION OF LOT 16, "EDGEWOOD"
 BEING SITUATED IN SECTION 2,
 TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN,
 CITY OF TIGARD, WASHINGTON COUNTY, OREGON.
 CITY OF TIGARD COMMUNITY DEVELOPMENT
 1100 N.W. 10TH PARTMENT PLAT
 CASE NO. _____

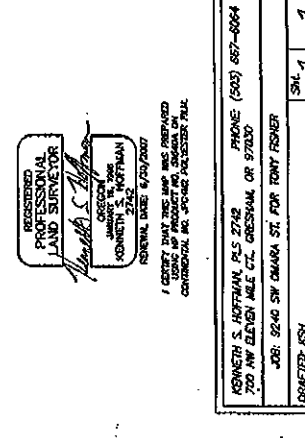
DEVIATIONS BASED ON AN ASSIGNED TOLLY FIRST ELEVATION ON THE INITIAL
 POINT.
NARRATIVE
 PURPOSE OF THIS SURVEY IS TO MONUMENT THE BOUNDARY OF THE PARTITION PLAT LOT.
 THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE OREGON PLAT ACT.
 BASIS OF BEARINGS FOR THIS SURVEY IS METROPOLITAN BETWEEN MONUMENTS (1) AND (2)
 AND (3) AND (4).
 BEARING DETERMINATIONS
 HELD BY SIZES FOR BOUNDARY RESOLUTION.
 MONUMENT BEARINGS, SPOON WOODEN
 AND CONTAINAL BASED ON MAP DATA.

LEGEND
 ● POINTS 5/0" R/W/C MARKED "PARKS & RECREATION PLS 2742".
 ○ STR. 5/0" X 3/4" R/W/C MARKED "HOFFMAN PLS 2742" BY
 R/W/C ROW AND WITH YELLOW PLASTIC CAP
 (1) MONUMENT BEARING
 (2) SURVEY MONUMENT, WASHINGTON COUNTY SURVEY RECORDS (MCD)
 (3) MONUMENT, WASHINGTON COUNTY ASSESSOR'S RECORDS
 (4) SIDE OF ALLEVIATION
 (5) CORNER MARK
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REGISTERED PROFESSIONAL LAND SURVEYOR
 KENNETH S. HOFFMAN
 GENERAL LICENSE # 27072007
 1100 N.W. 10TH PARTMENT PLAT
 TIGARD, OREGON 97130
 PHONE (503) 857-8064
 FAX (503) 857-8064

APPROVED
 CITY OF TIGARD
 Conditionally Approved
 For only the work as described in:
 PERMIT NO. _____
 See Letter to: Follow
 Attach

Job Address: _____
 by: *EAE*
 Date: *10/19/2007*



APPROVED
 CITY OF TIGARD
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 For only the work as described in:
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