

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application by Voris D. and Mildred C. Probst Revocable Living Trust for a Property Line Adjustment and Minor Partition of a 7.84 Acre Property in the Rural Residential (RR-2) Zone)
)
) FINAL ORDER NO. 1-2023
)
)

WHEREAS, on September 13, 2021, the Voris D. and Mildred C. Probst Revocable Living Trust, (hereinafter, the “Applicant”), submitted an application to Columbia County proposing a property line adjustment and replat of Parcel 2 of Partition Plat No. 2020-10 (hereinafter the “Property”) located in the Rural Residential (RR-2) Zone so as to adjust the eastern property line to remove the Property’s easternmost 1.34 acres (containing facilities of the Miloris Water Association) from the remaining 6.61 acres, and combining the 1.34 acre portion with the adjacent lot located at 36370 Miloris Way, File No. PLA 22-20; and

WHEREAS, as part of a consolidated application, the Applicant also proposed replating the remaining 6.61 acre parcel into two parcels, one 3.63-acre parcel and another 2.98 acre resulting parcel, both of which would be eligible for development separately consistent with applicable RR-2 zoning regulations, File No. MP 22-04 (the consolidated File No. PLA 22-20/MP 22-04 is collectively referred to herein as the “Application”); and

WHEREAS, after deeming it complete on January 25, 2022, Land Development Services reviewed the Application and on June 14, 2022, adopted the findings of the staff report dated June 10, 2022, and approved the Application subject to six (6) conditions of approval (the “LDS Approval”); and

WHEREAS, notice of the LDS Approval was duly mailed as required by applicable law on June 27, 2022; and

WHEREAS, an appeal was filed with Land Development Services by James and Paulette Lichatowich on July 6, 2022; and

WHEREAS, on July 20, 2022, the Applicant granted a waiver of the “150 Day Rule” pursuant to ORS 215.427; and

WHEREAS, because the appeal submitted was related, in part, to the approval of a different land use application issued by the Board of County Commissioners (hereinafter, the “Board”) (File No. 76-2003), and in order to comply with statutory review timeframes as extended by the applicant in accordance with ORS 227.427, the Board took original jurisdiction over the application on August 3, 2022, in accordance with Sections 1603 and 1612 of the Columbia County Zoning Ordinance and Section 11 of the Columbia County Planning Commission Ordinance (Ordinance No. 91-2, as amended); and

WHEREAS, following proper notice by publication and by mailing to adjacent property owners, the Board held a hearing on the Application on December 21, 2022, at which time the Board took testimony and admitted all written evidence submitted prior to and during the hearing; and


WHEREAS, after closing the record to additional testimony and evidence, the Board deliberated on the Application and voted to tentatively approve the Application (File No. PLA 22-20/MP 22-04), subject to the original recommended conditions of approval presented by LDS staff in the June 10, 2022, LDS staff report, with the addition of Condition 5(D) as proposed by LDS staff in the December 14, 2022, LDS Staff Report;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

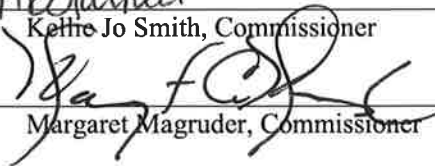
- A. The Board of County Commissioners adopts the following as findings in support of its decision:
 1. The findings and conclusions in the LDS Staff Report dated December 14, 2022, which is attached hereto as Exhibit A and is incorporated herein by this reference, to the extent those findings are consistent with this Final Order, but excluding the addition of proposed Condition 5 (D), and excluding staff's finding ("Finding 3") supporting the need to impose proposed Condition 5 (D); and
 2. The findings and conclusions in the LDS Staff Report dated June 10, 2022, which is attached hereto as Exhibit B and is incorporated herein by this reference, to the extent those findings are consistent with this Final Order or the findings and conclusions in Exhibit A hereby adopted, and not explicitly rejected by, the Board; and
 3. The above recitals.
- B. Based on the foregoing and the whole record on this matter, the Board of County Commissioners upholds the decision of the Planning Director and hereby APPROVES File No. MP22-04/PLA 22-20 for a property line adjustment and replat of the Property removing the Property's easternmost 1.34 acres (as proposed by the Applicant) and adding such 1.34 acre portion to the adjacent lot located at 36370 Miloris Way, as well as a replat of the resulting 6.61 acre parcel into one 3.63 acre parcel and one 2.98 acre parcel (also as proposed by the Applicant), subject to the conditions of approval imposed as part of the appealed Planning Director Decision Final Order MP 22-02 and PLA 22-20, which is attached hereto as Exhibit C and incorporated herein by this reference.

DATED this 20 day of January, 2023.

BOARD OF COUNTY COMMISSIONERS FOR
COLUMBIA COUNTY, OREGON

By: 
Casey Garrett, Chair

By: Abstained
Kelle Jo Smith, Commissioner

By: 
Margaret Magruder, Commissioner

Approved as to form

By: 
Office of County Counsel

EXHIBIT A

**COLUMBIA COUNTY BOARD OF COMMISSIONERS
STAFF REPORT**

December 14, 2022

Appeal of Planning Commission’s Approval of a Minor Partition and Property Line
Adjustment in the Rural Residential (RR-2) Zone

BOC HEARING DATE: December 21, 2022

FILE NUMBERS: PLA 22-20 and MP 22-04

PROPERTY OWNER: Voris D Probst and Mildred C Probst Revocable Living Trust,
52490 SE 2nd Street, Suite 100, Scappoose, OR 97056

APPLICANT: MSS Engineering, 215 NW 4th Street, Corvallis, OR 97330

PROPERTY LOCATION: The subject property is located along Miloris Way near the City
of Columbia City, Oregon

**TAX MAP ID AND
ACCOUNT NOS:** 5128-CA-04002 and & 5128-CA-04600
51646 and 51652

ZONING: Rural Residential (RR-2)

SIZE: 7.84-acre Tax Lot 4002 and 2.17 acre Tax Lot 4600

REQUEST: To reconfigure both subject properties that will relocate the
Miloris Way Water Association’s existing Infrastructure and
Easements onto the enlarged 3.4 acre Tax Lot 4600 and allow
the decreased and vacant 6.61-acre Tax Lot 4002 to be
partitioned into 2 new parcels of 3.63 acres and 2.98 acres each.

APPLICABLE REVIEW CRITERIA:

<u>Columbia County Subdivision and Partitioning Ordinance (CCSPO)</u>	<u>Page</u>
Article X -Section 1005 – Frontage requirements for newly created RR-2 Parcels	8

APPLICATIONS COMPLETE: 01/25/22 ***150 DAY DEADLINE:** 06/24/22

*On July 20, 2022, the applicants waived the requirements in ORS 215.427(1) that Columbia County must take final action on the submitted applications within 150 days of deeming them complete (Attachment 1).

SUMMARY OF LAND USE ACTIONS FOR PLA 22-20 and MP 22-04:

This matter came before the Columbia County Planning Department on the applications of the Voris D and Mildred C Probst Revocable Living Trust (PROPERTY OWNERS) represented by MSS Engineering (APPLICANTS) for a Minor Partition (MP 22-04) and Property Line Adjustment (PLA 22-20) in the Rural Residential (RR-2) Zone pursuant to the provisions in Section 620 of the Columbia County Zoning Ordinance (CCZO) and in Articles II, VII, and X of the Columbia County Subdivision and Partitioning Ordinance (CCSPO). The subject properties are approximately 10 acres and are further described per the County Assessor's records as Tax Map Identification Numbers 5128-CA-04002 and 5128-CA-04600.

Pursuant to the requirements in Section 1601.2 of the Columbia County Zoning Ordinance, on January 31, 2022 Notification of the applications submitted for PLA 22-20 and MP 22-04 were sent to affected agencies, surrounding property owners and the St. Helens Columbia City CPAC who were given ten (10) calendar days in which to request a public hearing before the Columbia County Planning Commission (Attachment 2 – Affidavit of Mailing).

Because no public hearing was requested, the Planning Director reviewed these applications and all submitted comments and objections to the proposal which included February 7, 2022 comments from James and Paulette Lichatowich. Based upon the review of the facts in the case and these County Ordinances, on June 14, 2022 the Director **APPROVED** the applications proposed for **PLA 22-40 and MP 22-04** with six (6) Conditions of Approval identified in the June 10, 2022 Staff Report and Final Order (Attachment 3- Affidavit of Mailing). On June 27, 2022 the applicant and parties who responded to these applications were notified of this Administrative Decision and were given 12 calendar days to APPEAL this Administrative Decision to the Planning Commission (Attachment 3).

On July 6, 2022 James and Paulette Lichatowich (APPELLENTS) timely submitted with fees the APPEAL of the Conditions of Approval of PLA 22-20 and MP 22-04 to the Board of Commissioners for a public hearing (Attachment 4). This APPEAL was to the Board of Commissioners, rather than the Planning Commission, because the current Conditions did not require the gravel turnaround of Miloris Way to be paved which was inconsistent with Conditions 3 (3E and 3I) the Board's Final Order No. 76-2003 titled "*Modification of Columbia County Road Standards and a Minor Partition to create an 8th 2-acre Lot with access onto Miloris Way*" (Also included in Attachment 4).

Land Development Services received a December 3, 2004 MEMO from Dave Hill County Public Works Director identifying the status of Final Order 76-2003 Conditions 3's requirements (Attachment 5).

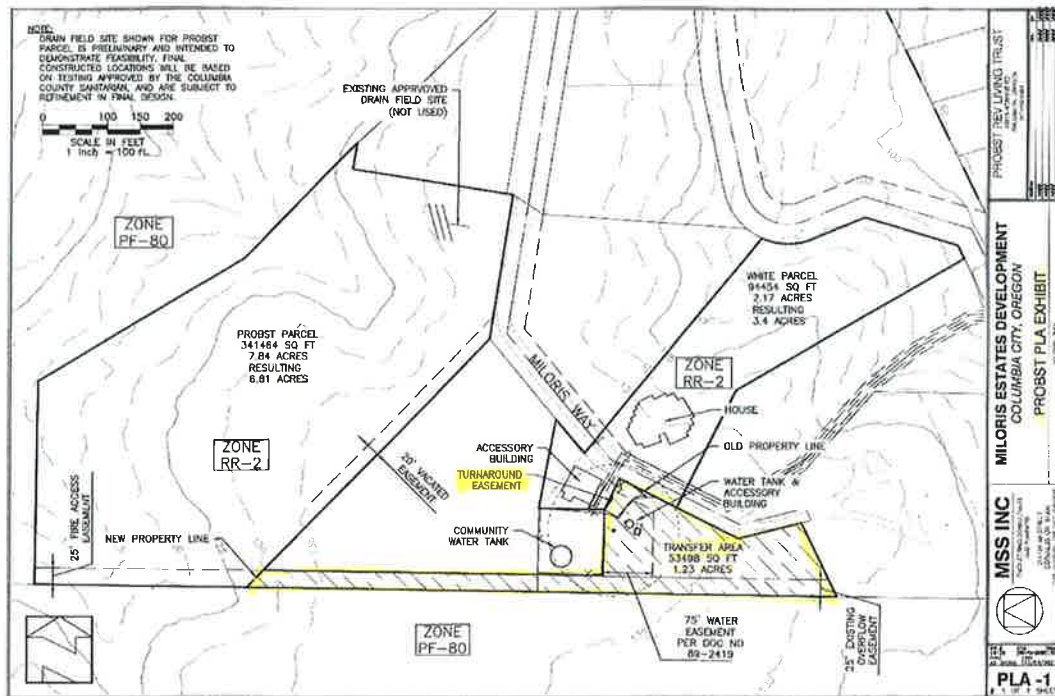
The Board of Commissioners took jurisdiction on August 3, 2022 and scheduled a public hearing for December 21, 2022 to consider the Appellants APPEAL. Notification of this Public Hearing

was sent to the surrounding property owners, affected agencies, the St. Helens -Columbia City CPAC on November 22, 2022 and to the Chronicle for publication in their November 30, 2022 edition (Attachment 6).

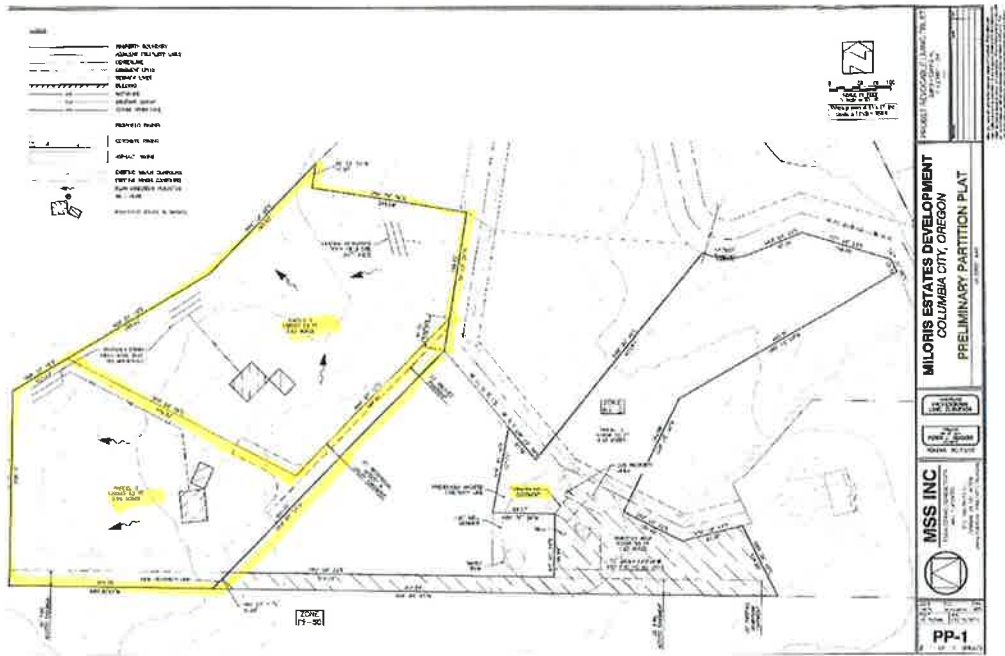
Joel D. Kalberer of Weatherford Thompson submitted comments to the APPEAL dated October 18, 2022 in support of both applications submitted for PLA 22-20 and MP 22-04 (Attachment 7). Mike Russell, Columbia County Public Works Director, submitted comments on the applications proposed for PLA 22-30 and MP 22-04 dated December 8, 2022 (Attachment 8).

The remainder of this report will address, evaluate and make Findings pertaining only to the Appellants' Issues identified in their 7/6/2022 APPEAL of the Planning Director's 6/27/2022 Final Decision. Issues not identified in this APPEAL will not be addressed in this Staff Report but are available for the Board to review in the Planning Division's June 10, 2022 Staff Report, Findings and Conditions of Approval in Attachment 3.

Preliminary Plat of Probst Property Line Adjustment proposed for PLA 22-20 with location of improvements/easements



Preliminary Plat of Probst 2-Parcel Partition proposed for MP 22-04



Zoning & Aerial Views of Proposed PLA 22-20 and MP 22-04



REVIEW CRITERIA, FACTS, ANALYSIS & FINDINGS:

Beginning with the applicable provisions of the Columbia County Subdivision and Partitioning (CCSPO):

ARTICLE X – SUBDIVISION AND PARTITION REQUIREMENTS**SECTION 1005. STREETS.**

- A. General Requirements. Except for private streets within Planned Unit Developments approved pursuant to Section 1200 of the Columbia County Zoning Ordinance, no subdivision or partition shall be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of development or with a more restrictive provision of an applicable Urban Growth Area Management Agreement. (emphasis added)

APPELLANTS' POINT OF ISSUE The Appellants' 07/06/2022 Point of Issue is unique in that their Appeal of the Planning Director's Final Decision was to the Board of Commissioners, and not the Planning Commission, because they contend that "*We believe this order is a County Road Standards Modification and falls under the jurisdiction of County Commissioners which required County Land Development Services to enforce all requirements prior to continued land development along Miloris Way, Columbia City.*"

The Appellants' submitted Appeal of PLA 22-20 and MP 22-04 states the **Reason for appeal** as "*Condition of Approval does not follow the Code of County Final Order 76-2003-the gravel turnaround has moved and is not paved as directed by Modified Road Standards per County Road Department in 2004 (in Conditions 3 E and 3 I).*"

Discussion

The paving and relocation of Miloris Way's gravel turnaround: The first component of the Appellant's Point of Issue needs to begin with an explanation of the Board of Commissioners Final Order 76-2003 (Attachment 4) titled "Applications of Voris and Mildred Probst for a Modification of Columbia County Road Standards and Minor Partition to Create an 8th 2-acre Lot with Access onto Miloris Way".

The applicable Findings and Conditions of Approval of Final Order 76-2003 that allow Land Development Services to process both land use applications proposed for PLA 22-20 and MP 22-04 include the following:

WHEREAS on September 4, 2002, Voris and Mildred Probst submitted an application to partition a 2 acre parcel from a parcel consisting of approximately 82 acres near the end of Miloris Way, a private road; and

WHEREAS the Columbia County Road Standards Section IV, allows a private road to serve up to six lots; and

WHEREAS on July 10 2003, Voris and Mildred Probst submitted an application for a Modification of Columbia County Road Standards to allow twelve residential lots and a Municipal Water Reservoir site to be served by Miloris Way; and

WHEREAS because the application of a Modification of Road Standards has a significant impact on the Minor Partition and future development on Miloris Way, the Board determined that the Road Modification application is a land use decision; and

WHEREAS having considered the evidence and testimony in the record, the Board of County Commissioners deliberated on the matter and voted to approve the application for a Modification of Road Standards for up to 11 lots with access onto Miloris Way subject to several conditions of approval, and noted to approved the application for a Minor Partition MP 02-13 subject to several conditions of approval.

Condition 3 The application to Modify the Road Standard is APPROVED subject to the following conditions of approval. Prior to recording the final plat for MP 02-13 or any other further division or development of land with access onto Miloris Way, the Applicant shall:

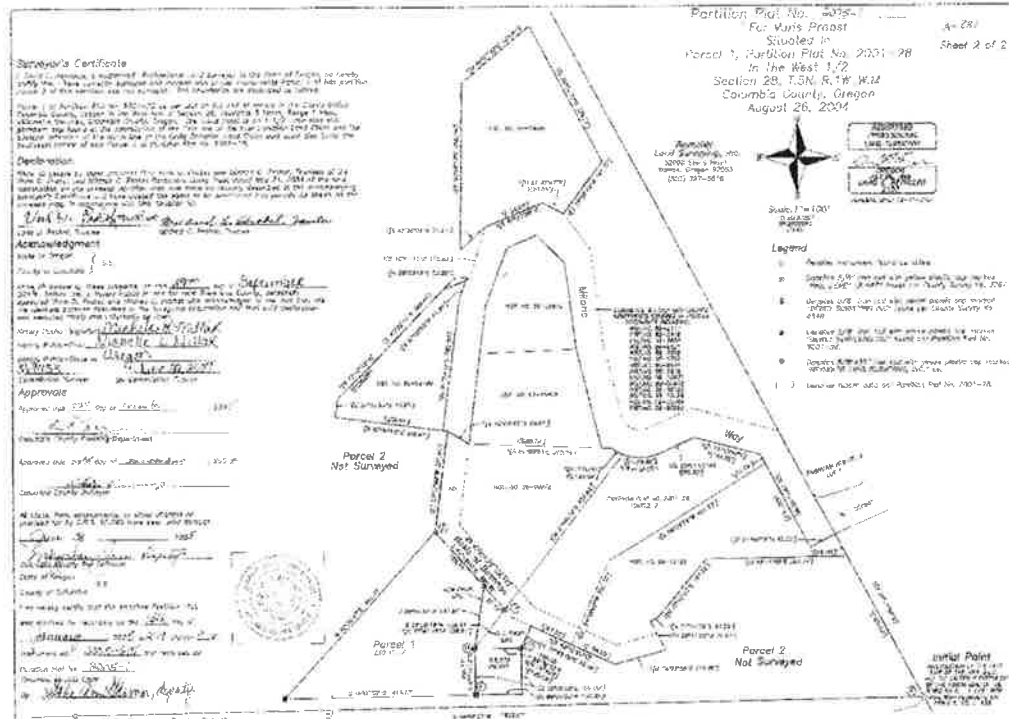
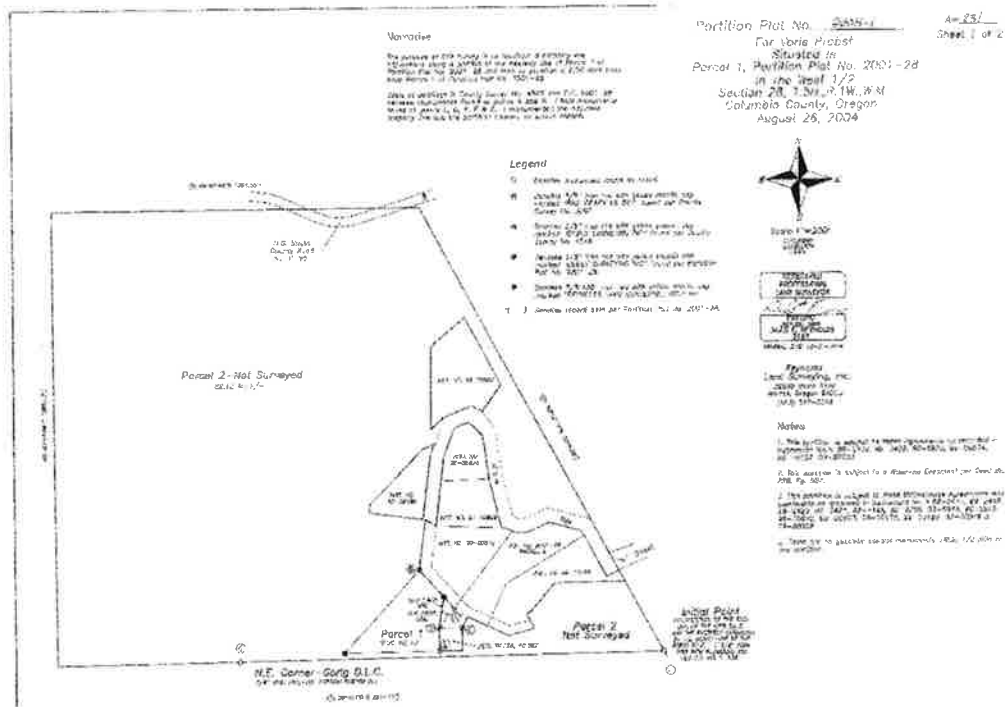
- E. Construct a standard paved turnaround in the vicinity of the existing gravel turnaround as directed by the Public Works Director.
- I. All road improvements are subject to the direction of the Columbia County Public Works Director. All improvements shall be approved by the Public Works Director

On December 3, 2004 Dave Hill, Columbia County Public Works Director provided written confirmation to Glen Higgins, Land Development Services (Attachment 5) concerning Miloris Way, Order 76-2003. In this MEMO Dave Hill stated:

“Condition No. 3 (A through G) for the Final Order relating to the road improvements on Miloris Way has been satisfied. I do not believe there are any outstanding issues related to the road improvements.”

Subsequently, the Final Plat proposed for MP 02-13 was recorded with the County Surveyor and County Clerk as Partition Plat 2005-01 shown below on Page 7. The recording of PP 2005-01 platted Miloris Way as Private Road with a 60’ right-of-way in compliance with the Conditions of Approval in Final Order 76-2003.

Partition Plat 2005-01 authorized through Final Order 76-2003



The October 18, 2022 Letter to Columbia County Planning Division from Joel D. Kalberer (Attachment 7) also provides the following Oregon statutory law governing Land Use Planning Definitions and Procedures in the Oregon Revised Statutes which contradict the Appellants' Point of Issue related to the paving of Miloris Way's turnaround.

“The decision to allow the recording of the 2005 Partition Plat is not a land use decision subject to any right of appeal. A local government’s decision “that approves or denies approval of a final subdivision or partition plat or that determines whether a final subdivision or partition plat substantially conforms to the tentative subdivision or partition plan” is not a land use decision that may be appealed. ORS 197.015(10)(b)(G).

Likewise, a local government’s determination that final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility that is otherwise authorized by and consistent with the comprehensive plan and land use regulations is not a land use decision that may be appealed. ORS 197.015(10)(b)(D).

Even assuming the recording of the 2005 Partition Plat is final land use decision subject to appeal, any rights to appeal the County’s approval of the conditions has long lapsed over 17 years ago and beyond any applicable status of repose. ORS 197.830.

Further conditions of approval in Final Order 76-2003 were conditions placed by the County prior to allowing the recording of a partition plat in that set of land use applications. These are not conditions of approval for future development permits.

The conditions of approval in Final Order 76-2003 were conditions not only for the partition but for the road modification application.

Finding 1: With the December 3, 2004 Memo (Attachment 5) from Dave Hill to Glen Higgins confirming the County Public Works Director approved all required improvements identified in Conditions 3 A through G of Final Order 76-2003, Staff finds that the authorized party acknowledged a standard paved turnround for Miloris Way was installed by the Probsts subject to the direction of and approval of the County Public Works Director in December 2004.

Finding 2: Although the Appellants statement that Miloris Way’s “gravel turnaround has moved and is not paved as directed by Modified Road Standards in 2004...”, Staff finds that provisions in ORS 197.015 and ORS 197.830 do not allow the current PLA and MP to revisit provisions in Condition 3 of Board Order 76-2003 that were signed off on by the Public Works Department in 2004 and, based on that, allowed for recording of the final plat. Specifically, Columbia County and the County Public Works Director approved the Miloris Way’s platted 60’ right-of-way and its installed turnaround and road improvements in December 2004 which, in turn, allowed the recording of PP 2005-01 and the finalization of Final Order 76-2003.

For these reasons, Staff finds the Appellants assertion that Miloris Way’s relocated gravel turnaround needs to be paved in 2022 because this was a Condition of Approval for Final Order 76-2003 is not warranted. Any such requirement would need to be imposed to satisfy one or more criteria applicable to the application *currently* before the County. Because no such criterion/criteria

have been identified the appellants, and because such improvements are not otherwise *currently* being required by the Public Works Director as a Condition of Approval for PLA 22-20 and MP 22-04, the imposition of such requirements is not merited.

Minimum Street Frontage requirements for the applications proposed for PLA 22-20 and MP 22-04

ARTICLE X – SUBDIVISION AND PARTITION REQUIREMENTS

SECTION 1005. STREETS.

- A. General Requirements. Except for private streets within Planned Unit Developments approved pursuant to Section 1200 of the Columbia County Zoning Ordinance, no subdivision or partition shall be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of development or with a more restrictive provision of an applicable Urban Growth Area Management Agreement. (emphasis added)

Discussion

The applications proposed for PLA 22-20 and MP 22-04 are exempt from the CCSPO's minimum 50 feet of public street frontage in Article I Section 1005.A. These existing and new parcels are authorized to have these minimum frontage on Miloris Way, a private road which can serve up to 11 new residential lots pursuant to of Board Order 76-2003.

Finding 17 of the June 10, 2022 Staff Report (Attachment 3) explained that the County Public Works' Engineering Technician I submitted comments that that they had no objections of MP 22-04 and PLA 22-20, provided that the applicant obtains road access permits prior to any site development; the Miloris Way turnaround was not mentioned. Similarly, under the Comments Section of the June 10, 2022 Staff Report, showed that Fire Marshall for Columbia River Fire and Rescue (CRF&R) did not submit any comments to Land Development Services. Without any documentation from the County Public Works Department or CRF&R stating that Miloris Way has any deficiencies to its surface or foundations and is not in compliance with the minimum private road standards and specifications of the current County Road Standards Ordinance, Staff found that the proposals presented for PLA 22-20 and MP 22-04 complied with the Subdivision and Partition requirements in Article X Section 1005.A of the CCSPO.

The Appellants' Appeal of PLA 22-20 and MP 22-04 also brings in to question whether or not Miloris Way's existing gravel turnaround complies with the minimum requirements for Fire Service Turnarounds in Part II (C) of the County Road Standards Ordinance referred to in Article X Section 1005.A of the CCSPO.

Mike Russell, Director of County Public Works' comment dated December 13, 2022 (Attachment 8) identifies the following concerns related to PLA 22-20 and MP 22-04.

“It is Public Works desire that there be an adequate paved turnaround for fire apparatus at the end of Miloris Way consistent with previous development requirements.

It is my understanding that the initial paved turnaround next to a garage is insufficient for use by a fire truck and therefore a new turnaround was constructed. The new turnaround has not been paved and remains gravel. The new turnaround is obviously constructed for the purpose of a fire turnaround as it is signed as such. Public Works desires that the developer meet the original intent of previous requirements and pave this turnaround.

Public Works staff have inspected the site and determined that the new turnaround is adequate as constructed but needs to be prepared and paved to be finalized.”

Because Miloris Way is an established *private* road, all responsibilities for its maintenance, upkeep and repair are borne by the property owners who use Miloris Way according to the terms of the recorded *Miloris Way Roadway, Utility and Maintenance Agreements*. These private agreements between all affected property owners also describe authorized uses of this private roadway for which the county has no enforcement responsibility or obligations.

The Appellants’ concern regarding the described relocation of Miloris Way’s turnaround was identified as Condition 3.b of PLA 22-20 and MP 22-04. That condition requires the Final Plat to contain the *“The location, dimensions and purpose of any recorded easements.”* (Attachment 3).

Finding 3: The County Public Works’ 12/13/2022 concerns that the existing Miloris Way fire service turnaround *“is adequate but needs to be prepared and paved to be finalized”*, support the Appellants’ assertions for PLA 22-20 and MP 22-04. Staff finds that requiring the applicants to install these improvements which shall be approved by the County Public Works Department prior to final partition approval, will ensure that PLA 22-20 and MP 22-04 comply with the minimum turnaround requirements in Part II (C) of the County Road Standards Ordinance. Consequently, Staff recommends that the Board of Commissioners add one new Condition, Condition 5 (D) to PLA 22-20 and MP 22-04’s Final Order to ensure compliance with Article X Section 1005.A of the CCSPO as follows:

5. The following shall be submitted to Land Development Services before final partition approval:

D . The applicants shall submit written documentation to Land Development Services confirming that the County Public Works Department and Columbia River Fire & Rescue have inspected and approved the Miloris Way fire service turnaround to the minimum applicable provisions of Part II (C) of the County Road Standards Ordinance.

No other comments were received by the date of this Staff Report, December 14, 2022.

CONCLUSION AND RECOMMENDATION

Based upon the December 14, 2022 Planning Staff Report's research, analysis and evaluations of the Appellant's Point of Issue identified in the APPEAL of the Planning Director's Final Decision of **PLA 22-20 and MP 22-04**, Staff recommends the Board of Commissioners **UPHOLD** the original Planning Director's approval of the applicants' request for a Property Line Adjustment and a 2 Parcel Partition of the subject RR-2 property, subject to the original Conditions of Approval identified in the Planning Director's June 27, 2022 Final Order with the addition of Condition 5(D) that will require Miloris Way's fire service turnaround to be improved to the minimum standards of Part II (C) of the Columbia County Road Standards Ordinance.

Attachments:

- Attachment 1 Property Owner's Waiver of 150 Day Rule in ORS 215.427(1)
- Attachment 2 January 31, 2022 Affidavit of Mailing of the Notifications of the applications submitted for PLA 22-20 and MP 22-04
- Attachment 3 June 27, 2022 Affidavit of Mailing of Planning Staff's June 10, 2022 Staff Report including Attachments and Appeal Information for Final Order PLA 22-20 and MP 22-04
- Attachment 4 July 6, 2022 James and Paulette Lichatowich's APPEAL (with fee) of the Planning Director's Final Decision for PLA 22-20 and MP 22-04 including Board's Final Order No. 76-2003 titled "*Modification of Columbia County Road Standards and a Minor Partition to create an 8th 2-acre Lot with Access onto Miloris Way*"
- Attachment 5 December 3, 2004 MEMO from Dave Hill, County Public Works Director.
- Attachment 6 November 22, 2022 Notifications of the Board of Commissioners 12/21/2022 Public Hearing for PLA 22-20 and MP 22-04
- Attachment 7 October 18, 2022 Comments from Joel D. Kalberer of Weatherford Thompson
- Attachment 8 December 13, 2022 Comments from Mike Russell, Columbia County Public Works Director

cc: Peter Seaders, MSS Engineering Peter@mssengineering.com
 Joel D. Kalberer, Weatherford Thompson Attorneys at Law jdk@wtlegal.com
 Tad Pederson, Fire Marshall Columbia River Fire & Rescue pedersenr@crfr.com
 Mike Russell, County Public Works Department michael.russell@columbiacountyor.gov

**COLUMBIA COUNTY LAND DEVELOPMENT SERVICES`
STAFF REPORT**

June 10, 2022

A Property Line Adjustment and Replat of Parcel 2 of PP 2020-10 into 2 Parcels

FILE NUMBERS: MP 22-04 and PLA 22-20

APPLICANT: MSS Engineering, 215 NW 4th Street, Corvallis, OR 97330

OWNERS: Voris D. and Mildred C. Probst Rev Living Trust, 52490 SE 2nd Street,
Suite 100 Scappoose, OR 97056

David and Phyllis White, 36370 Miloris Way, Columbia City, OR 97018

LOCATION: The subject properties are located off Miloris Way

TAX MAP ID NOS: 5128-CA-4002 and 5128-CA-04600

TAX ACCT NOS: 15646 and 15652

ZONING: Rural Residential (RR-2)

SIZE: Proposed Parcels 1 and 2 will be 3.63 acres and 2.98 acres each while the reconfigured property will be enlarged from 2.17 acres to 3.4 acres

REQUEST: To Replat Parcel 2 of PP 2020-10 that will relocate the Miloris Water Association's existing facilities onto the adjacent property addressed at 36370 Miloris Way and partition the remaining 6.61 acres into two parcels of 3.63 acres and 2.98 acres.

REVIEW CRITERIA:

Columbia County Zoning Ordinance
Section 620 - Rural Residential (RR-2)

Columbia County Subdivision and Partition Ordinance
Article II, Administrative and General Provisions
Article VII, Minor Land Partitioning
Article X, Subdivision & Partition Requirements

Columbia County Stormwater & Erosion Control Ordinance

APPLICATION COMPLETE: 1/25/2022

150 DAY DEADLINE: 6/24/2022

MP 22-04/PLA 22-20 – Probst (RR-2)

SUMMARY:

The applicant, MSS Engineering representing the property owners, Voris D. and Mildred C. Probst Trust propose to property line adjust and replat Parcel 2 of Partition Plat 2020-10 in order to separate the Rural Residential (RR-2) subject property's eastern 1.34 acres containing the Miloris Water Associations' facilities from its western vacant 6.61-acres. The submitted Property Line Adjustment (PLA 22- 20) will relocate the Miloris Water Association's facilities (water tank, accessory building and water easements) onto the adjacent property addressed at 36370 Miloris Way. This property line adjustment will then allow the remaining 6.61 acres to be replatted and create 3.63-acre proposed Parcel 1 and 2.98-acre proposed Parcel 2 both of which are intended and authorized for separate RR-2 uses and development.

The preliminary plat proposed for MP 22-04 verifies that both parcels will have usable frontage on Miloris Way, an existing private road that has been authorized to serve up to 11 dwellings by the Columbia County Board of Commissioners through their approval of Board Order 76-2003 dated February 4, 2004 (attached). Currently, Miloris Way serves 7 existing dwellings and 3 currently vacant RR-2 properties that are authorized to contain single family dwellings. The finalization of requested MP 22-04 will result in one more dwelling using Miloris Way which will be the last and 11th dwelling authorized to use this private road and will fulfill the approved limitations of Board Order 76-2003.

Zoning & Aerial Views of Proposed Replat and PLA into 2 Parcels accessed by Miloris Way

MP 22-04/PLA 22-20 – Probst (RR-2)

**Miloris Water Association Facilities to be relocated to 36370 Miloris Way
Tank and well house directly across Miloris Way from existing residence**



City of Columbia City's Waterline Easement looking east and west



The County Sanitarian has evaluated and approved proposed Parcel 1 for an onsite sewage disposal system in 2003 (LOV 03-037). However, the submitted application states that in order to relocate the building site further from Miloris Way, the County Sanitarian will need to review and approve another Lot Evaluation prior to final partition approval. The County Sanitarian's comments also state that site evaluations for both parcels shall be approved prior to final plat approval.

MP 22-04/PLA 22-20 – Probst (RR-2)

The application also states that Parcels 1 and 2 will be served by the Miloris Water Association which is limited to serving 11 dwellings; the authorized dwellings on Parcels 1 and 2 will be the 10th and 11th dwellings that will fulfill this community water association's authorized number of connections. The water lines for the Miloris Water Association are located within Miloris Way's existing private right-of-way easement.

The National Wetlands Inventory of Deer Island indicates there are no identified wetlands or waterways on the subject property. Likewise this property does not contain any identified flood hazard areas per FEMA FIRM Panel No 41009CO340. Similarly, the site does not contain any hydric soils, sensitive plant or animal species and is located in a Non Game Area according to the St Helens -Columbia City Beak Maps. Emergency services are provided by the Columbia County Sheriff's Department and Columbia River Fire and Rescue (CRF&R). The LDS Project Planner visited the property on June 2, 2022 and confirmed the accuracy of the information submitted with the MP and PLA applications and the preliminary partition plat.

REVIEW CRITERIA:

Beginning with the Columbia County Zoning Ordinance:

Section 620 RURAL RESIDENTIAL - 2

RR-2

[Amended by Ordinance 98-02, effective 1/11/00; Amd. Ordinance 2015-4, eff. 11-25-15].

- 621 **Purpose:** This district is designed for rural areas where lot sizes at the time of initial zoning are predominantly two acres or less. The intent is to recognize existing areas, not to create substantially new two acre parcel areas. Uses in this zoning district will be predominantly residential with a rural level of public services; i.e., domestic water from water districts, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and rural road standards per County plans and regulations. Other uses will be those customary to such areas, including farm and forest uses, churches and home occupations of a rural character.

Finding 1: As shown on Pages 2 & 3, the areas of proposed Parcels 1 and 2 have been zoned for Rural Residential with a 2-acre minimum lot size since 1984. The purpose of these two proposals is two-fold. First, these proposals will partition and separate the subject property's vacant western 6.61-acres from its 1.34-acre eastern portion containing the Miloris Water Association's tank, accessory building/well and waterline easements. Second, these proposals will relocate all of the Miloris Water Association's facilities onto an enlarged new 3.4 acre RR-2 residentially developed property addressed at 37360 Miloris Way. This will ensure the property's critical community water system will remain with a current and active member of the Miloris Water Association. Proposed Parcels 1 and 2 are intended for single family residential development, will each have at least 50' of usable frontage on Miloris Way, will be served by septic systems and will be the last two dwellings authorized to be served by the Miloris Way Water Association and to use Miloris Way.

The subject property is also within the Columbia River Fire & Rescue (CRF&R) service area. As of the date of this report, the CRF&R has not submitted any comments related to either proposal. No site -

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specific development is proposed or authorized with the approval and recording of this Minor Partition and Property Line Adjustment alone. All properties' future site development will be reviewed for consistency with the applicable land use and building permit provisions of the County's Zoning Ordinance at time of future building permit issuance. For these reasons, Staff finds that the 2 parcel partition and related property line adjustment are consistent with the purpose of the RR-2 Zone.

Discussion related to concerns received on February 7, 2022 (attached) from James and Paulette Lichatowich who reside at 36343 Miloris Way:

The Lichatowichs expressed three (3) specific concerns with MP 22-04 and PLA 22-20 which will be addressed separately:

First, they identified a typographical error in the *Referral and Acknowledgement* which identified the subject property was 37 acres in size, which conflicts with the actual 7.84 acre size of the subject property a.k.a. Parcel 2 of PP 2020-10. Staff regrets this typographical error and thanks the Lichatowichs for bringing it to the County's attention.

Second, they have concerns that the "*turnaround for Miloris Way does not have a recorded legal easement even though it is depicted as an easement on the Probst PLA Exhibit.*" Staff would like to clarify that the private road known as Miloris Way was originally surveyed and platted as directed by Board Order 76-2003 through the subsequent filing of various Miloris Way Easements and Road Maintenance Agreements beginning with Document Number 89-2417 in Columbia County Deed Records. This Easement/Road Maintenance Agreements have been amended at least sixteen (16) times since 1989, the last of which was recorded with the County Clerk via Document Number 2018-00806 in 2018. The recording of these documents and related surveys with the County Clerk demonstrate that Miloris Way is a legal recorded private easement as noted and delineated on the Final Partition Plat for PP 2020-10 that created the subject property proposed for reconfiguration and further division.

Third, they pointed out that the two applications incorrectly referred to the *Miloris Water Association* as the "Miloris Way Community Water District". This Staff Report however, consistently refers to this existing community water system as the Miloris Water Association.

Finding 1(a): For these reasons, Staff finds that the Lichatowichs' concerns have been addressed and are incorporated into this Staff Report that describe the terms and conditions of the processing and the approval of both proposals requested for MP 22-04 and PLA 22-20.

Continuing with Columbia County Zoning Ordinance:

622 Permitted Uses:

- .1 Single family detached dwellings.

Finding 2: The requested proposal is for a minor partition that will separate future single family residential development on Parcels 1 and 2 from the 1.34 acre portion containing the existing facilities of the Miloris Water Association that can serve up to 11 dwellings off Miloris Way. All properties' future site development will be required to comply with the applicable regulatory requirements of the County

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Zoning Ordinance and the Oregon Building Code at time of future building permit issuance. Parcels 1 & 2 will utilize septic systems and water from the Miloris Water Association and will have frontage on and access to Miloris Way. The County Sanitarian will need to conduct Lot Evaluations and approve onsite sewage disposal system for both proposed Parcels 1 and 2 prior to final partition approval to ensure both newly created parcels can safely support their intended RR-2 development. Staff finds that with approved lot evaluations for Parcels 1 and 2, the presented proposals will create two parcels in the RR-2 Zone and reconfigure one adjacent RR-2 zoned property to include the Miloris Water Association's facilities. These proposals will authorize both parcels to be developed separately in compliance with their zoning designations, provided all land use and building permits are obtained.

Continuing with Columbia County Zoning Ordinance:

625 Standards:

- .1 The minimum lot size for uses permitted under this section shall be 2 acres.
- .2 Dwellings permitted under this section must meet all of the following standards:
 - A. be within an existing public or community water district providing adequate domestic water; and
 - B. be approved for an individual subsurface septic system, or be served by a public or community sewer system; and
 - C. have direct access onto a public right-of-way meeting applicable County road standards; and
 - D. be within and can be served by a rural fire protection district.

Finding 3: The submitted request for MP 22-04 and PLA 22-20 will allow two newly created parcels to be developed for future RR-2 uses and will relocate the Miloris Water Association's existing community water facilities onto an adjacent RR-2 property owned by a current member of this community water association. Parcels 1 and 2 will both comply with the minimum 2-acre size for newly created RR-2 parcels and the adjacent RR-2 property addressed at 36370 Miloris Way will be enlarged to 3.40 acres.

As already stated, the County Sanitarian will be required to conduct lot evaluations for both Parcels 1 and 2 prior to final partition approval to ensure both parcels have areas for onsite sewage disposal. Prior to final approval, the County Sanitarian shall review a separate surveyed map and approve the location of all septic components for compliance with the minimum provisions in the OAR 340-071-0220 for Onsite Wastewater Treatment. Likewise, both parcels will be able to be served by the Miloris Water Association and will be the last two dwellings authorized to use this existing community water system.

All properties have usable frontage on Miloris Way a private road that has been approved by the MP 22-04/PLA 22-20 – Probst (RR-2)

Board of Commissioners to serve up to 11 residences, 7 of which are already constructed. The County Public Works Department's Engineer Technician I reviewed the proposal on 2/3/22, had no objections to its approval as submitted, and will require the applicant to obtain Road Access Permits for both parcels prior to the issuance of development permits.

Planning Staff conducted additional research for these two proposals. This revealed that the subject property (aka Parcel 2 of PP 2020-10) is subject to the following recorded Water and Access Easements and Agreements that details the terms and conditions of the Miloris Water Association and the Miloris Way Private Access, Utility and Road Maintenance Easement as follows.

Water Easements and Agreements beginning with Book 256 Page 587 Columbia County Deed Records as amended from Document No. 89-2419 through Document No. 2006-001008 and

Access to 'K' Street via Miloris Way Easements and Road Maintenance Agreements beginning with Document No. 89-2417 Columbia County Deed Records as amended through Document No. 2018-00806. (See related discussion pertaining to **Finding 1(a)**).

Finally, the subject property is within the Columbia River Fire and Rescue (CRF&R) service area. As of the date of this report, the CRF&R has yet to submit any comments related to either submitted proposal. For the reasons herein, staff finds the proposed partition will comply with the requirements in Section 604.1 and 604.2 with conditions of final partition approval.

Continuing with Section 625 of the Columbia County Zoning Ordinance (CCZO):

625.3 The minimum average lot width shall be 100 feet.

625.4 The minimum average lot depth shall be 100 feet.

Finding 4: According to the submitted preliminary plat the minimum average width and depth for both Parcels 1 and 2 are both over 200' which will comply with these dimensional requirements for newly created RR-2 parcels. Staff finds that these criteria have been met.

Continuing with Section 625 of CCZO:

625.5 Lots or parcels shall conform to the following requirements before a building permit may be issued for construction on the property;

- A. All lots or parcels legally recorded on or after June 4, 1991 shall have a minimum of 50 feet of usable frontage on a public right-of-way. The entire public right-of-way adjacent to the property shall be improved in accordance with the requirements of the Columbia County Road Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvements will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance.

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Parcels' 1 and 2 usable frontage on Miloris Way



Finding 5: As demonstrated on the above pictures Parcels 1 and 2 will have usable frontage on Miloris Way, an existing private road that has been authorized to serve up to 11 dwellings by the Columbia County Board of Commissioners through Board Order 76-2003. This 2003 Board Order varies MP 22-04 from the Zoning provisions in Section 644.5(A)'s minimum public right-of-way frontage requirements to the minimum frontage on a private road for newly created parcels off Miloris Way. Currently there are nine dwellings authorized to use Miloris Way. The finalization of MP 22-04 will enable the future residents on Parcels 1 and 2 to also use Miloris Way.

In addition, with Miloris Way's existing improvements as demonstrated in these pictures, neither the County Public Works Department nor the CRF&R submitted any comments requesting improvements to this private road although the Public Works Department will require the applicant Road Access Permits for both parcels prior to the issuance of development permits. For these reasons, Staff finds Miloris Way is currently improved to the applicable provisions of the Columbia County Road Standards Ordinance as modified through the approval of Board Order 76-2003. For these reasons, Staff finds that MP 22-04 is exempted from the public right-of-way provisions in Section 644.5(A) for newly created parcels along Miloris Way.

Continuing with Section 625 of CCZO:

- .6 No dwelling shall be constructed closer than 30 feet to a property line. Where the property abuts resource zoning, the setback shall be increased to 50 feet.
- .7 Unless otherwise prohibited, the maximum building height for all non-farm, non-forest structures shall be 35 feet or 2½ stories, whichever is less.

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- .8 Unless otherwise prohibited, structures such as barns, silos, windmills, antennas, chimneys, or similar structures may exceed the height limitations to a maximum height of 50 feet.

Finding 6: No development is proposed at this time nor is any site development authorized with the submittal and approval of MP 22-04 and PLA 22-20 alone. Prior to building permit issuance on the newly created RR-2 parcels, the final Partition Plat must be recorded with the County and the County Planner will verify all requested future site development complies with the maximum height limitations for authorized structures in both Zoning Districts.

Continuing with the Columbia County Subdivision and Partitioning Ordinance (CCSPO):

ARTICLE II ADMINISTRATION & GENERAL PROVISIONS

Section 204 Conflict with Public and Private Provisions.

- A. **Public Provisions.** The regulations are not intended to interfere with or annul any other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, regulation or other provision of law, whichever provision are more restrictive or impose higher standards shall control.

Finding 7: When the applicable public provisions of this Zoning Ordinance conflict, the more restrictive ordinance will control the Minor Partition proposed for MP 22-04.

ARTICLE VII MINOR LAND PARTITIONING

SECTION 702. CONTENTS OF TENTATIVE MAP FOR MINOR PARTITIONING.

- A. The following general information shall be shown on the tentative map:
- (1) Location of the partition by (quarter-quarter) section, township, and range and a legal description sufficient to find the location and boundaries of the proposed tract or the tract designation or other description. (Assessor's map is recommended.)
 - (2) Date, north point, and scale of drawing.
 - (3) Appropriate identification clearly stating the map is part of the minor partition.
 - (4) Names and addresses of the owner, partitioner, engineer and/or surveyor, land planner, if any, or any other professional person employed in the preparation, layout design of the minor partition.
 - (5) The location, approximate dimensions, and acreage of lots, and the proposed lot and block numbers.
 - (6) Location of approved means of sewage disposal for each lot in accordance with MP 22-04/PLA 22-20 – Probst (RR-2)

Section 913.2 of this ordinance, if known.

- (7) Location of approved means of water supply for each lot in accordance with Sections 913.C. (1) and 913.D. (1) of this ordinance, if known.

Finding 8: The application materials submitted with MP 22-04/PLA 22-20 included a *Preliminary Partition Plat and Probst PLA Exhibit* prepared by MSS Inc. Engineering Consultants and Planners. The Notes and Preliminary Site Plan for both parcels include all information referenced in Section 702.A. All existing and approved site development on Parcels 1 and 2 were included in the Preliminary Site Plan along with the location of all private and public waterlines, access and proposed onsite sewage disposal areas. Staff finds the documentation submitted with MP 22-04 complies with these provisions of the Subdivision and Partitioning Ordinance.

Section 704 REVIEW OF MINOR PARTITIONS.

- A. Upon Receipt of the application for minor partition by the Planning Department, the Director shall determine whether or not the proposed minor partition meets the standards of this ordinance. If a variance from the standards of this ordinance is necessary, the provision as stated in Section 210 of this ordinance shall be followed. The Planning Director shall submit the application for minor partition to the Planning Commission for its review and approval, remand or denial.
- B. If the application for minor partition is found to meet the specifications of this ordinance, the Planning Director shall review and approve the proposal, provided that he or she finds the application to be in conformance with the Comprehensive Plan, Zoning Ordinance and any other pertinent ordinances.

SECTION 706. REVIEW BY THE PLANNING DIRECTOR.

- A. The Planning Director shall review the proposed minor land partitioning within 120 calendar days of receipt of the tentative map and approve or disapprove the map based upon the provisions of this ordinance and all applicable state and local rules and regulations. The Director may attach any reasonable conditions necessary to ensure the minor partition meets the standards and intent of this ordinance.

Finding 9: The applicant submitted all information necessary to process this minor partition request by February 2, 2022. This application does not require a variance to the standards of the Zoning Ordinance, therefore it will be reviewed administratively and approved by the Planning Manager provided the Minor Partition complies with the applicable provisions of the county's Subdivision and Partitioning and Zoning Ordinances. These criteria can be met subject to conditions of final plat approval that are evaluated throughout this Staff Report.

Continuing with the Columbia County Subdivision and Partitioning Ordinance (CCSPO):

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SECTION 709 SUBMISSION OF FINAL PLAT

- A. Not more than one year following approval of the tentative map, the partitioner shall prepare a final plat in conformance with the tentative map as approved and submit it along with a copy of the approved tentative map to the county surveyor and Planning Department.
- B. If the final plat is not submitted within one year of the approval of the tentative map, the tentative map must be resubmitted for approval in accordance with these regulations or their successors.

Finding 10: A condition of approval will require the Final Partition Plat to be recorded with the County Clerk and Surveyor within one year of approval or the applicants/property owners will have to resubmit their Minor Partition Application Permit, including a review fee, which will be re-examined under the standards current at the time.

Continuing with the applicable provisions of Section 710 of the CCSPO:**SECTION 710 INFORMATION ON FINAL PLAT**

- C. The survey and plat of the partition shall be made by a registered professional land surveyor. Unless the Planning Director provides otherwise, created parcels that are 20 acres or greater, but less than 40 acres, need to be surveyed or monumented if zoned Primary Forest, Forest Agriculture or Primary Agriculture. Similarly zoned parcels that are 40 acres or greater need not be surveyed or monumented.

Finding 11: The Planning Manager has acknowledged that this paragraph is outdated and conflicts with other provisions of County ordinances and ORS Chapter 92.055. To ensure consistency with the current provisions of the ORS Chapter 92.055, both proposed Parcels 1 and 2 and the enlarged adjacent property addressed at 36370 Miloris Way will be required to be surveyed and monumented as a condition of final approval for MP 22-04 and PLA 22-20 since they are all less than 10-acres in size.

Continuing with the applicable provisions in Section 710 of the CCSPO:

- F. The locations, dimensions and purpose of all recorded and proposed public and private easements shall be shown on the partition plat along with the county clerk's recording reference if the easement has been recorded.

Finding 12: As already covered during the Summary and for Finding 3, the subject property is subject to the various provisions of the recorded *Miloris Way Water Association Water Agreements, Waterline Easements, and Miloris Way's Roadway, Utility and Maintenance Agreements*. All of these existing, as well as any new easements, shall be clearly identified and labeled on the final partition plat.

The southern boundary of the subject property contains an Overflow Waterline Easement for the City of Columbia City which is also identified on the preliminary plat. The City of Columbia City's attached comments dated 2/3/22 included a letter from Rob Peacock, PE City Engineer dated 2/2/22. The City's

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comments verify that the requested Property Line Adjustment is adjacent to the City's Upper Reservoir and that a portion of the City's existing Overflow Easement will be transferred to the new property owners (the Whites) through this PLA. Consequently, the City is requiring written documentation between the affected property owners and the City of Columbia City confirming the intended relocation of this existing Waterline Easement and its related terms and conditions. To ensure the City of Columbia City's Waterline Easement will not be compromised with the finalization of the Minor Partition and Property Line Adjustment, Staff will require the applicants to submit written confirmation to Land Development Services that they and the City of Columbia City have a signed agreement to the relocation of the City's existing Overflow Easement as one condition of final partition approval. With these conditions of final partition approval, Staff finds that these criteria will be satisfied.

Continuing with the applicable provisions in Section 710 of the CCSPO:

- G. The area of each lot or parcel shall be shown on the partition plat.
- L. Unless there is proof of adequate water supply and sewage disposal for each lot pursuant to Section 913 of this ordinance, the final plat shall indicate those lots for which an adequate supply of water or sewage disposal has not been proven.

Finding 13: Pursuant to the provisions in Section 710.G a condition of approval will require the Final Plat to identify the number and acreage of each proposed parcel as well as the locations, dimensions, and purpose of any recorded private or public easements on the subject property. As already covered both parcels will be residentially developed and served by the Miloris Water Association as the 10th and 11th dwellings authorized to use this community water system. As covered for Finding 3, the County Sanitarian will be required to conduct lot evaluations for both Parcels 1 and 2 prior to final partition approval to ensure both parcels have an area for onsite sewage disposal.

For these reasons and with conditions of final partition approval, Staff finds that MP 22-04 will be able to satisfy these provisions for newly created parcels.

ARTICLE X SUBDIVISION AND PARTITION REQUIREMENTS

Section 1001 Minimum Standards

The requirements and standards set forth in this ordinance are the minimum ones to which a subdivision plat shall conform before approval by the Commission. These requirements are also the minimum ones to which partitions must conform when the standard is applicable.

Finding 14: The minimum standards of this ordinance will be adhered to with the development of this partition. Conditions that are made as part of the tentative approval of this partition must be satisfied prior to the Planning Manager's approval of the Final Partition Plat authorizing the division of the subject property.

Continuing with the applicable provisions of Article X of the CCSPO:

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Section 1003 LOTS

The minimum area, width, depth, and frontage of lots and the minimum building setback line from streets shall conform to the requirements of the County Zoning Ordinance, where applicable, and all other applicable regulations. However, in no case shall a lot be approved which is less than 7,000 feet in area, has a width less than 70 feet, a depth of less than 80 feet, a frontage of less than 30 feet. No building setback line from a street of less than 20 feet shall be accepted. A minimum of 50 feet of usable frontage shall be provided for access to each lot created.

Finding 15: Both proposed parcels meet Section 1003's minimum area, width, depth and frontage requirements for newly created parcel. As already covered during the Summary, the final approval of MP 22-04 as presented will lawfully separate two RR-2 zoned parcels from the portion of the subject property that contains the facilities of the Miloris Water Association. Staff finds that these proposals are consistent with the overall RR-2 development of the subject property authorized by the Columbia County Board of Commissioners through the approval of Board Order 76-2003.

A. Lot Improvements.

- (1) Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reason of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Ordinance.

Finding 16: With the natural characteristics of both parcels as well as their ability to utilize the Miloris Way Water Association's water and individual septic systems, the county does not anticipate any limitations to securing authorized building permits for either of the two approximate 3-acre parcels intended for residential uses. Relocating the Miloris Water Association's facilities and waterline easements to the adjacent property that is owned by a current member of this community water system will also help to ensure all future uses will comply with its existing Water Easements and Agreements. With confirmation from the City of Columbia City that the affected portions of their Waterline Easement will be transferred to the adjacent property prior to final partition approval, Staff finds that the future development and uses of all RR-2 zoned properties will comply with the applicable provisions of the County Zoning Ordinance provided all required land use and building permits are obtained prior to any future site development satisfying the criteria in Section 1003.(A-1) for newly created RR-2 parcels.

Section 1005 Streets

- A. **General Requirements.** Except for private streets within Planned Unit Developments approved pursuant to Section 1200 of the Columbia County Zoning Ordinance, no subdivision or partition shall be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of Development or with a more restrictive provision on an applicable Urban Growth Area Management Agreement. [Amended 4-9-97]

Finding 17: As seen in the pictures on Page 8 as covered for Finding 5, both parcels will have usable frontage on Miloris Way, an existing private road that was approved by the Columbia County Board of Commissioners to serve up to 11 new residential lots through the approval of Board Order 76-2003.

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Supplemental Finding Number 5 of Board Order 76-2003 moreover, discussed the criteria the Board of Commissioners and County Public Works Director reviewed and considered for the applicant's requested modification of the Private Road Standards in Section IV of the County Road Standards Ordinance in order to allow Miloris Way to serve up to 12, rather than 6, residential lots. The Board determined that Miloris Way needed to be limited to 11 dwellings based on the 2003 Public Works Directors analysis of the applicant's traffic study on Miloris Way's Average Daily Traffic (ADT) and the related Guidelines of the American Association of State Highway and Transportation Officials.

The County Public Works' Engineering Technician I comments dated 2/3/22 stated that they had no objections of MP 22-04 and PLA 22-20 provided that the applicant obtains road access permits prior to any site development.

Staff finds that the creation of two RR-2 zoned parcels requested for MP 22-04 are consistent with the intended residential use of Miloris Way as approved by the Board of Commissioners with the approval of Miloris Way in 2003. The finalization of MP 22-04 will allow all of the 11 authorized residences to be served by this private road that is maintained by the members of the Miloris Estates. These private agreements between all affected property owners also describe authorized uses of this private roadway for which the county has no enforcement abilities. The County cannot dictate any uses of this private roadway nor has the County Public Works Department or Columbia River Fire and Rescue notified the county of any deficiencies to its surface or foundations that must be rectified prior to building permit issuance. For these reasons and without any additional evidence, Staff finds the criteria in Section 1005 has been satisfied and that the members of Miloris Estates, and not the county, will be the sole approval agent of the future development needing to use the private road known as Miloris Way.

Continuing with the CCSPQ:

Section 1013 Utilities

- B. **Sewerage Facilities.** The method of sewage disposal for each lot within a subdivision or partition shall be in accordance with the requirements and standards for sewage disposal administered by and under the jurisdiction of the following agencies and political subdivisions when applicable: The Oregon State Department of Environmental Quality, the County, other state or federal agencies which have regulations applicable to septic tank/drainfields, community collection and treatment facilities or other methods of sewage disposal. The subdivider shall be responsible for providing the necessary information required to determine the adequacy of the method of sewage disposal proposed. All methods of sewage disposal shall also meet any additional requirements of the Commission, the Board, or the Sanitarian, whichever is more restrictive. The method of sewage disposal must be approved for every buildable lot prior to final plat approval.

Finding 18: As already covered during the Summary and for Finding 3, prior to final partition approval, the County Sanitarian will need to conduct a Lot Evaluation for Parcels 1 and 2 and approve onsite sewage disposal system for both. In addition, the Sanitarian will need to review and approve a separate surveyed map showing these approval areas (on Parcels 1 and 2) in relation to new property lines in compliance with the minimum onsite sewage disposal siting requirements in OAR 340-071-0220. With these conditions of final partition approval, Staff finds that this criterion will be satisfied.

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Continuing with the Columbia County Subdivision and Partitioning Ordinance:

- D. Requirements for Rural Areas.
- (1) **Water Facilities.** If a subdivision or partition proposes to take water from individual wells, the developer must show there is adequate potential for water at the site. This may be done by drilling test wells or by documentation from well drilling logs for the area of the subdivision.

If the subdivision will be served by a community water system, the developer must show there is adequate supply for all dwellings served by the system. Water lines serving the subdivision or partition shall be installed to provide adequate water pressure to serve present and future consumer demand. Materials, sizes, and locations of water mains, valves and hydrants shall be in accordance with the standards of the Fire District, the County, the State and the American Public Works Association.

Finding 19: The applicants have preserved rights to the Miloris Water Association (MWA) for both parcels as discussed during the Summary and Finding 3 in compliance with the minimum provisions for newly created RR-2 parcels.

- (2) **Utilities.** Underground utilities are not required but are encouraged where the cost of installing underground and above ground utilities are approximately equal. Utilities shall be installed pursuant to the requirements of the utility company. Electric power transmission lines (over 50,000 volts or primary feeder lines), and transformer vaults are exempted from these requirements.

Finding 20: No development is proposed at this time and that utilities can be extended to both parcels from the existing utility lines along the existing Miloris Way easement at time of future building permit issuance.

Following with the applicable provisions of the County Stormwater and Erosion Control (SEC) Ordinance:**SECTION III - STANDARDS SPECIFIC TO ACTIVITIES****D. Partitions****1. Erosion Control**

Erosion control measures and an erosion control plan are not required for partitions.

2. Long Term Water Quality Protection

- a. A Conceptual Stormwater Plan is required for single family and duplex parcels. A Preliminary Stormwater Plan is required for partitions of multifamily, commercial, and industrial parcels.
- b. The Preliminary Stormwater Plans shall be prepared by Engineer. The applicant may prepare Conceptual Stormwater Plans.
- c. The plan shall describe how the treatment and runoff control measures required for future building permits on the parcels will be achieved.
- d. The plan shall be completed in the format specified in Section IV.

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- e. The plan shall be submitted to the county with the partition application.
- f. The partition will not be approved until the plan is approved by the county.

Finding 21: The submitted proposals included the submittal of the **Probst Miloris Way Partition Preliminary Stormwater Report** dated October 11, 2021 and prepared by MSS Engineering, Inc.. This engineered report included analysis of the subject property's existing site, drainage, soil and sensitive/critical areas conditions and compared them to the projected storm-water quality, quantity and conveyance resulting from the 2 parcels' future site development. Specifically this analysis states:

"The Proposed Site Conditions resulting from two buildable home sites are expected to generate a net increase of 19,000 square feet of impervious areas including houses, garages, driveways and patio areas. This increase in storm-water runoff will continue to drain into the existing intermittent stream to the west as is currently the case. The proposal is to route the runoff from the new impervious area to the dispersion trenches on the hillside below the houses. One trench is proposed for each of the two parcels. While these trenches are not designed to provide detention or treatment, they will spread the flow evenly over a wide area to prevent erosive drainage from the increased runoff.

Storm-water quality treatment is provided by the several hundred feet of overland flow across the forest floor before reaching the intermittent stream to the west. Some additional treatment may be provided by settlement in the dispersion trenches, but no formal storm-water quality treatment facilities are proposed. Stormwater design for this project was completed in accordance with the criteria set forth in the Columbia County Stormwater and Erosion Control Ordinance. Hydrological analysis is based on the Santa Barbara Unity Hydrograph (SBHU) method."

With this engineered storm-water report and analysis, Staff finds these provisions for proposed partitions identified in Section III (D) of the Columbia County's Stormwater and Erosion Control Ordinance have been met.

COMMENTS RECEIVED:

Columbia County Building Official: The County Building Official will require all permits to be obtained necessary for the construction of the two new homes including all electrical, plumbing and mechanical permits for all structures. If homes have wood stoves, fire places, pellet stoves or outdoor fireplaces a spark arrestor is required for all properties abutting adjacent forest zoned properties to the west.

Columbia County Sanitarian: Site evaluations for both proposed parcels will be required prior to final plat approval. Areas proposed for sewage disposal shall meet all siting criteria per OAR 340-071-0150 and OAR 340-071-0220.

City of Columbia City: The City's comments and concerns have been incorporated into the Discussions related to Finding 12 of this Staff Report pertaining to the relocation of the City's Overflow Waterline Easement from the subject property onto the adjacent property addressed at 36370 Miloris Way.

Columbia County Surveyor: Has reviewed the proposed partition and has no objections to its approval as submitted.

Columbia County Public Works Department/Engineer Technician I: No objections to its approval as submitted provided the applicant obtains Road Access Permit for both parcels prior to the issuance of development permits.

Columbia River Fire and Rescue: As of the date of this report, the CRF&R has not submitted any comments for the proposal presented for MP 22-04 and PLA 22-20.

St. Helens - Columbia City CPAC: As of the date of this report, no comments have been received.

Paulette and James Lichatowich: The comments received from these residents at 36343 Miloris Way have been incorporated into the Discussion related to Finding 1(a) of this Staff Report.

Columbia River PUD: Has reviewed the requested proposals and have no objections to their approval as presented.

Columbia County Assessor: Has reviewed the requested proposals and have no objections to their approval as presented.

No other comments have been received from government agencies or nearby property owners as of the date of this staff report. June 10, 2022.

CONCLUSION, DECISION & CONDITIONS:

Based on the research, evaluations and subsequent findings in this staff report, the Planning Manager **APPROVES** Minor Partition and Property Line Adjustment requested for **MP 22-04 and PLA 22-20** authorizing the 2 parcel partition of a 7.84 acres associated with current Tax Map ID Number 5128-CA-04002 and the concurrent property line adjustment with current Tax Map ID Number 5128-CA-04600 subject to the following conditions:

1. This Preliminary Land Partition shall remain valid for one (1) year from the date of the final decision. The approved preliminary plat shall become void unless a surveyed final plat is prepared and submitted to Land Development Services within the one-year validity period. This Final Plat shall conform to 1) the approved preliminary plat as submitted in accordance with the conditions described herein, and 2) the form and content requirements of the Columbia County Subdivision and Partitioning Ordinance and Oregon Revised Statutes. One extension of time of up to six months may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date.
2. The subject property and all new and/or altered property lines shall be surveyed by a professional land surveyor. This survey shall then be filed with the County Surveyor and the Final Plat shall be recorded with the County Clerk.

MP 22-04/PLA 22-20 – Probst (RR-2)

3. In addition to all County and State requirements, the following shall be included on the Final Plat:
- a. The area of and number of each parcel.
 - b. The location, dimensions and purpose of any recorded easements.
 - c. The statement: *"This plat is subject to Columbia County Land Development Services File Numbers MP 22-04 and PLA 22-20."*
5. The following shall be submitted to Land Development Services before final partition approval:
- A. The County Sanitarian shall conduct a Lot Evaluation for Parcels 1 and 2 and approve an onsite sewage disposal system for each parcel.
 - B. The County Sanitarian shall review and approve a separate surveyed map showing the septic approval areas (on Parcels 1 and 2) in relation to new property lines comply with the minimum onsite sewage disposal siting requirements in the OAR 340-071-0220.
 - C. The applicants shall submit written documentation to Land Development Services confirming that the City of Columbia City have a signed agreement with the affected property owners on the relocation of portions of the City of Columbia City's Waterline Easement onto the adjacent property addressed at 36370 Miloris Way.
6. The following shall be required prior to Building Permit issuance on any parcels:
- a) The Final Plat must be recorded in the Columbia County Clerk's Office creating separate parcels.
 - b) A Road Access Permit shall be obtained from the Road Department.

Attachments:

MP 20-04 and PLA 22-20 Partition and Property Line Adjustment Applications and submitted Documentation
Zoning, Address & Vicinity Maps

Probst Miloris Way Partition Preliminary Stormwater Report October 11, 2021

Final Order for Board Order 76-2003 and Supplemental Findings

February 7, 2022 comments from Paulette and James Lichatowich, residents at 36343 Miloris Way

February 3, 2022 comments received from the City of Columbia City, City Administrator

February 2, 2022 letter from Rob Peacock, City Engineer to Michael McGlothlin City of Columbia City Administrator

February 3, 2022 comments received from Scott Toenjes, Public Works Engineering Technician I

February 7, 2022 comments received from Erin O'Connell, County Sanitarian

cc: Paulette and James Lichatowich, P.O. Box 439 Columbia City, OR 97018
Michael McGlothlin City of Columbia City Manager

MP 22-04/PLA 22-20 – Probst (RR-2)

**BEFORE THE COLUMBIA COUNTY
DEPARTMENT OF LAND DEVELOPMENT SERVICES
ST. HELENS, OREGON**

In the matter of an application of the)
Voris D. and Mildred C. Probst Rev)
Living Trust for a Minor Partition and)
Property Line Adjustment of a 7.84)
acre property in the Rural Residential)
(RR-2) Zone.)

FINAL ORDER MP 22-04 and PLA 22-20

This matter came before the Columbia County Department of Land Development Services on the application of the Voris D and Mildred C Probst Rev Living Trust for a Minor Partition and Property Line Adjustment in the RR-2 Zone. The subject property is located along Miloris Way, contains approximately 7.84 acres, and is further described per the County Assessor's records as Tax Map Identification Numbers 5128-CA-04002/ 5128-CA-04600.

Notification of this request was sent to the St. Helens –Columbia City CPAC, affected agencies and surrounding property owners. Those notified were given ten (10) days to submit comments or objections regarding the proposal or to request that the matter be referred to the Planning Commission for review at a public hearing. Receiving no request for a public hearing, Land Development Services Staff has considered the application.

The Columbia County Planning Director hereby adopts the findings, conclusions and conditions as stated in the staff report and incorporates herein by this reference and **APPROVES** the requests for the Minor Partition and Property Line Adjustment presented for **MP 22-04** and **PLA 22-20** subject to the following conditions:

CONDITIONS OF APPROVAL:

1. This Preliminary Land Partition shall remain valid for one (1) year from the date of the final decision. The approved preliminary plat shall become void unless a surveyed final plat is prepared and submitted to Land Development Services within the one-year validity period. This Final Plat shall conform to 1) the approved preliminary plat as submitted in accordance with the conditions described herein, and 2) the form and content requirements of the Columbia County Subdivision and Partitioning Ordinance and Oregon Revised Statutes. One extension of time of up to six months may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date.
2. The subject property and all new and/or altered property lines shall be surveyed by a professional land surveyor. This survey shall then be filed with the County Surveyor and the Final Plat shall be recorded with the County Clerk.

3. In addition to all County and State requirements, the following shall be included on the Final Plat:
 - a. The area of and number of each parcel.
 - b. The location, dimensions and purpose of any recorded easements.
 - c. The statement: *"This plat is subject to Columbia County Land Development Services File Numbers MP 22-04 and PLA 22-20."*

5. The following shall be submitted to Land Development Services before final partition approval:
 - A. The County Sanitarian shall conduct a Lot Evaluation for Parcels 1 and 2 and approve an onsite sewage disposal system for each parcel.
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 - b) A Road Access Permit shall be obtained from the Road Department.

COLUMBIA COUNTY LAND DEVELOPMENT SERVICES



HAYDEN RICHARDSON - PLANNING MANAGER

6/14/22

DATE