

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Appeal of the Approval of the)
Application of Agnes Marie Petersen for an Eight)
Lot Subdivision in the Forest Agriculture (FA-80)) FINAL ORDER NO. 2-2024
Zone)
)

WHEREAS, on June 21, 2023, Agnes Marie Petersen, (hereinafter, the “Applicant”), submitted an application to Columbia County (referred to herein as the “Application”) proposing to subdivide approximately 44.96 acres in the Forest Agriculture (FA-80) zone into 8 lots between 2.0 and 2.65 in size with an approximately 31 acre remainder lot, pursuant to three separate Measure 49 approvals (E132340, E132337 and E132342), File No. S 23-01; and

WHEREAS, after deeming the Application complete, and duly providing notice in accordance with Columbia County Subdivision and Partitioning Ordinance (“SPO”) Section 213, the Planning Commission held a hearing on the Application on September 11, 2023, received evidence and testimony into the record, and continued the hearing to October 2, 2023, leaving the record open for additional evidence and testimony; and

WHEREAS, at the continued hearing on October 2, 2023, the Planning Commission received additional evidence and testimony into the record, closed the hearing to additional oral testimony and continued the hearing to November 6, 2023, leaving the record open for additional written evidence and testimony in accordance with ORS 197.797(6); and

WHEREAS, on November 6, 2023, the Planning Commission received the additional written evidence and testimony submitted into the record, deliberated on the matter, and voted to approve File No. S 23-01, subject to thirteen (13) conditions of approval; and

WHEREAS, notice of the Planning Commission decision was duly mailed to the Applicant and other interested parties on November 15, 2023; and

WHEREAS, on November 21, 2023, an appeal of the Planning Commission’s approval of the Application was filed with the Columbia County Board of Commissioners (“Board”) pursuant to Columbia County Zoning Ordinance (“CCZO”) Section 1703; and

WHEREAS, a hearing on the matter was scheduled before the Board for January 24, 2023; and

WHEREAS, after duly providing notice in accordance with SPO Section 213, the Board held a hearing on the Application on January 24, 2024, received evidence and testimony into the record, deliberated on the matter and voted to tentatively approve File No. S 23-01 subject to the thirteen (13) conditions of approval adopted by the Planning Commission, except for Approval Condition 10(i), which the Board excluded from the conditions of approval to be imposed;

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 above recitals.
 2. The findings and conclusions in the LDS Staff Report dated January 17, 2024 (the “January 2024 Staff Report”), attached hereto as Exhibit A and incorporated herein by this reference, to the extent those findings and conclusions are consistent with the Board’s decision. Because Condition 10(i) is not being adopted, however, the Board does not adopt Finding 37 from the January 2024 Staff Report, and instead relies on Finding 28 to find the Application complies with both SPO Section 404.A and SPO Section 511.
 3. The findings and conclusions in the LDS Supplemental Staff Report dated November 2, 2023 (the “November 2023 Supplemental Staff Report”), attached hereto as Exhibit B and incorporated herein by this reference, to the extent those findings and conclusions are consistent with the Board’s decision. Because Condition 10(i) is not being adopted, however, the Board does not adopt Finding 10 from the November 2023 Supplemental Staff Report, and instead finds that SPO Section 1015 does not apply.
 4. The findings and conclusions in the LDS Staff Report dated August 10, 2023 (the “August 2023 Staff Report”), attached hereto as Exhibit C and incorporated herein by this reference, to the extent those findings and conclusions are consistent with the Board’s decision. Because Condition 10(i) is not being adopted, however, the Board does not adopt Finding 37 from the August 2023 Staff Report, and instead relies on Finding 28 to find the Application complies both with SPO Section 404.A and SPO Section 511.
- B. Based on the foregoing and the whole record on this matter, the Board of County Commissioners upholds the decision of the Planning Commission subject to one modification to the conditions of approval, and hereby APPROVES File No. S 23-01, subject to the following thirteen (13) conditions of approval, as modified:
1. A surveyed Final Subdivision Plat shall be prepared and submitted to Land Development Services within one year of the date of approval of the Preliminary Plat. If this one-year deadline is not met, the Preliminary Plat must be resubmitted for approval under the Subdivision and Partitioning Ordinance that is in effect at the time the plat is submitted. An extension may be granted, upon application, by the Planning Commission for a period not to exceed 6 months.
 2. All future site development shall be authorized provided it is consistent with the Terms of the applicant’s Measure 49 Final Order and Home Site Authorizations as well as with the applicable provisions in OAR Chapter 660 Division 33 and the Columbia County Primary Agriculture Zone.

3. Per the provisions in Term 12 of Measure 49 Claims E142340, E132337, and E132342, should any of the eight lots be conveyed to parties who do not have rights of survivorship of the Measure 49 Claimant, the subsequent owner(s) must establish the authorized dwelling(s) within 10 years of the land conveyance.
4. The Applicant or future property owners shall obtain all necessary building permits for future dwellings or structures.
5. The Applicant shall submit a Grade and Fill permit prior to any ground disturbing activities or road construction. The applicant shall use applicable erosion control measures consistent with subsection III(C) of the Stormwater and Erosion Control Ordinance.
6. Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area.
7. The Applicant and/or subsequent owners of the proposed lots shall obtain all necessary permits from the Department of State Lands (DSL) for work within identified wetlands.
8. The responsibility for protection from wildlife damage on the property shall be assumed by future dwelling owners and/or occupants.
9. Driveways for lots 1 and 8 onto Tide Creek Road be designed and arranged to avoid requiring vehicles to back into traffic.
10. Prior to acceptance and approval of the Final Plat:
 - a. The Applicant shall submit an Engineered Final Stormwater and Erosion Control (SEC) Plan for the subdivision that is consistent with the Stormwater & Erosion Control Ordinance, and specifically subsection III(E)(2)(b).
 - b. The County Public Works Department and the Columbia River Fire & Rescue shall inspect all private road improvement plans for Lupine Meadow Drive and submit documentation to Land Development Services that the new private road is constructed to the minimum private road specifications in the County Road Standards Ordinance as well as those in the 2017 Columbia County Transportation Plan.
 - c. The Applicant shall obtain approved septic lot evaluations or lot evaluation confirmations for methods of onsite sewage disposal for lots 3, 4, 5, 6, and 8.
 - d. The Applicant shall submit a Road Naming Application for the proposed private

road.

e. The Applicant shall obtain and submit to LDS Road Access Permits for each lot.

f. The Applicant shall submit to LDS engineered plans for all improvements, including the proposed private road and stormwater facilities. The Applicant shall submit to LDS documentation from the Public Works Department and Columbia River Fire and Rescue certifying that the engineered road plan meets all applicable standards.

g. The proposed private road shall be constructed to Private Road Standards as adopted by the County in Section IV of the County Road Standards Ordinance. The Applicant shall submit to LDS approval from the Public Works Department and CRF&R certifying that the proposed private road has been improved to applicable standards.

11. The following shall be recorded concurrently with the Final Plat:

a. The Applicant shall record a notarized Waiver of Remonstrance concurrent with S 23-01 that prohibits future landowners and their successors from pursuing a claim for relief or cause of action alleging injury from farming or forest practices occurring on adjacent properties. This shall be referenced on the Final Plat.

b. The Applicant shall record a Road Maintenance Agreement for the proposed private road to be utilized by lots 2, 3, 4, 5, 6, and 7. This agreement shall be referenced on the Final Plat.

c. The Applicant shall record deed restrictions on the properties associated with State Election Numbers E132337 and E132342 to reflect the transfer of Measure 49 development rights to the subject property.

d. The Applicant shall record a stormwater facility maintenance agreement between all lots for stormwater facilities detailed in the Final Stormwater and Erosion Control Plan. This agreement shall be referenced on the Final Plat.

12. In addition to all County and State requirements, the following shall be included on the Final Plat:

a. The proposed private road shall be identified as a 40-foot-wide private access and utility easement.

b. A stormwater easement conforming substantially with the course of the drainageway identified on lot 5.

c. Stormwater facility easements consistent with subsection II(F) of the Stormwater and Erosion Control Ordinance for all stormwater facilities detailed in the Final Stormwater and Erosion Control Plan.

d. A minimum 5' wide utility easement along the lot lines of all 8 lots.

e. A Statement that "*Lupine Meadow Subdivision is subject to Columbia County Land Development Services File No. S 23-01 and the applicable provisions of the Columbia County Zoning Ordinance.*"

f. A "10' public right-of-way dedication" shall be surveyed and identified on the subject property's frontage on Tide Creek Road parallel and adjacent to Tide Creek Road's existing 40' right-of-way.


13. Before a building permit may be issued for any individual lots resulting from this subdivision:


a. The property and all division lines must be surveyed and filed in the office of the County Surveyor, and the Final Subdivision Plat must be recorded in the office of the County Clerk.

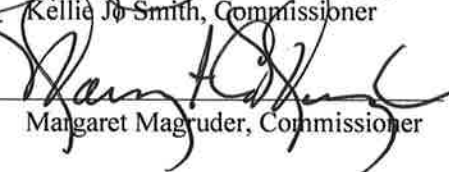
b. Per existing County building permit requirements, any building permit application for a dwelling on an individual lot which depends upon a shared well requires proof of a recorded waterline easement between the shared well and the individual lot being served.

DATED this 7th day of February, 2024.


BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON

By: 
Casey Garrett, Chair

By: 
Kellie Jo Smith, Commissioner

By: 
Margaret Magruder, Commissioner

Approved as to form

By: 
Office of County Counsel

**COLUMBIA COUNTY BOARD OF COMMISSIONERS'
STAFF REPORT**

January 17, 2024

Appeal of Planning Commission's Approval of Lupine Meadows - 8 Lot Measure 49
Subdivision in the FA-80 Zoning District

HEARING DATE: January 24, 2024

FILE NUMBER: S 23-01

**APPLICANT/
OWNER:** Agnes M. Petersen, P.O. Box 748, St. Helens, OR 97051

LOCATION: The site is located along the north side of Tide Creek Road approximately 1.3 miles west of Highway 30

TAX MAP ID #: 6225-00-00400 (Account No. 16380)

ZONING: Forestry Agriculture (FA-80)

SIZE: ~ 44.96 acres

REQUEST: To subdivide the 44.96-acre property into 8 Lots between 2.0 and 31 acres in size as authorized by State Final Order and Approval of Measure 49 Claim Numbers E132340, E132337, and E132342.

REVIEW CRITERIA:

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APPLICATION COMPLETE: 6/29/2023**150 DAY DEADLINE: 11/26/2023****NEED TO UPDATE WITH AUTHORIZED 150 DAY EXTENSION****SUMMARY**

The applicant and property owner, Agnes M. Petersen, proposes to subdivide an approximate 44.96-acre Forest-Agriculture (FA-80) zoned property into 8 lots, 7 of which will be between 2.0 and 2.65 acres in size with the remnant lot being 31 acres. This proposed 8-lot subdivision named "*Lupine Meadow*" will allow 8 dwellings on the property as approved by the State of Oregon through Measure 49. Although Oregon Revised Statute (ORS) Chapter 215 and Oregon Administrative Rule (OAR) 660, Divisions 33 and 6 generally prohibit the establishment of a lot or parcel less than 80 acres in size in the Primary Agriculture (PA-80) Zone, this subdivision is authorized through the approvals of three Measure 49 claims exempting it from the 80-acre minimum parcel size requirements in the FA-80 Zone. Historical aerial imagery of the subject property verify that the Claimant has predominantly conducted agricultural rather than forestry uses.

The attached Department of Land Conservation and Development Final Order and Home Site Authorizations for the applicant's Measure 49 Claims identifies the property owner or her spouse as the Claimants. Consequently, the authorized home site approvals run with and transfer with all newly created lots consistent with the provisions in Term 12 of the Claimant's Measure 49 claims. The claimant has owned the subject property since October 6, 1965, a time when the property was not subject to local or state land use laws. Between 2005 and 2007, ORS 197.352 (Measure 37) and subsequent ORS 195.300 - ORS 195.336 (Measure 49) allowed property owners (who could meet specific criteria) to file claims requesting exemption from current land use regulations. Under Section 6 of Measure 49, the Claimant qualified and was approved for two additional lots or parcels and three additional home sites (dwellings) on the 44.96-acre subject property through Claim Number E132340.

In addition, the applicant qualified and was approved for two additional lots or parcels and two additional dwellings on a ~62.51-acre Primary Forest (PF-80) property through Claim Number E132337 as well as two additional lots or parcels and three additional dwellings on another ~71.4-acre PF-80 and Surface Mining (SM) zoned property through Claim Number E132342. Claim Number E132337 is associated with tax lot number 5205-00-00200 and Claim Number E1323342 is associated with tax lot number 6236-00-00500. There is one existing dwelling on tax lot 5205-00-00200 addressed at 66020 Bishop Creek Road.

To maximize the forest and farm use suitability of the other properties, under the transfer provisions in Term 11 of the three Measure 49 Claims the applicant has elected to "cluster" or transfer all eight new dwellings and all the 6 new lots or parcels on the subject property along Tide Creek Road. Additionally, the applicant will be transferring the two existing parcels associated with E132340 and E132337 to the subject property as well, bringing the total allowable lots for this subdivision to 8. This is necessary for each new dwelling to be located on its own lot or parcel, as required by Term 1 of the Measure 49 Final Orders. Term 7 of all three

Final Orders allows for the claimant to "...reconfigure existing lots, parcels or dwellings so that the number is equivalent to the number of home site approvals" The existing lots to be transferred (located on tax map nos. 5205-00-00200 and 6236-00-00500) will therefore need to have deed restrictions recorded on them prohibiting future Measure 49 development excepting the existing house and lot associated with E132337. This report will review S 23-01 for compliance with the Terms of the applicant's Measure 49 Claims associated with this proposal.

The February 8, 2010 Final Order for the Measure 49 homesite authorization, requires the new dwellings to be sited on separate lots or parcels and contained within the claim property. It further limits newly created lots or parcels to not exceed five (5) acres in size since the property consists of the following Soil Types, none of which are classified as high value farmland or high value forestland according to the United States Department of Agriculture's Soil Survey of Columbia County:

Soils and Type	Acreage	High value-farmland/forestland?
Delena silt loam (Type 17C)	31.0 acres	No/No
Dowde silt loam (Type 19E)	5.8 acres	No/No
Goble silt loam warm (Type 23C)	0.2 acres	No/No
Goble silt loam warm (Type 23D)	6.6 acres	No/No

As shown on Page 4, the subject property is located along the north side of Tide Creek Road which is an existing county road with a 40' wide right-of-way at this location. The submitted preliminary plat illustrates that Lots 1 and 8 will be accessed directly from Tide Creek Road and will have at least 50' of usable frontage on this county road. Proposed Lots 2-7 however are intended to utilize a new private road with a 40' wide right-of-way.

The County Sanitarian has conducted Lot Evaluations and approved methods of onsite sewage disposal for proposed Lots 1, 2, and 7, but the applicant has yet to submit a Lot Evaluation for Lots 3, 4, 5, 6, and 8. One condition prior to Final Plat acceptance for S 23-01 will therefore require the applicant to obtain an approved Lot Evaluation for these lots. The submitted Preliminary Plat identifies the areas approved for onsite sewage disposal on Lots 1, 2, and 7 as well as potential locations of drain field areas on all other lots.

The County Building Official submitted comment on 7/11/2023 stating that all necessary building permits for future structures must be obtained. This will be reflected as a condition of approval.

Since this property is not within the service district of any existing community water system, the authorized dwellings on all lots will be served by private wells. Per submitted application materials, there are drilled wells on lots 1, 2, and 8 with corresponding well numbers COLU 55655, COLU 55656, and COLU 55654. The submitted well logs recorded with the Oregon Department of Water Resources show that COLU 55654 has a yield of 20 gallons of water per minute, while COLU 55655 and COLU 55656 both have a yield of 25 gallons per minute. Natural features of the subject property are as follows. Per FEMA FIRM Panel 41009C0325D, no portion of the property is located within a Flood Hazard Zone. The applicant has obtained a

Wetland Delineation Report (WD #2021-0400, attached) which was reviewed and approved by the Department of State Lands.

This delineation report identified 5 wetlands totaling approximately 5.72 acres and one roadside ditch. Based on County GIS data, it appears these wetlands are isolated and not associated with any identified body of water. The site is also within an area identified as Peripheral Big Game Habitat per the Tide Creek Beak Maps; therefore, the siting criteria of Section 1190 will be addressed in this report. The subject property does not contain any identified threatened or endangered plant or animal species. The subject property is within the Columbia River Fire & Rescue (CRF&R) Fire district and is served by the Columbia County Sheriff.

The Planning Commission held public hearings on September 11, 2023 which was continued to October 2, 2023 which was then continued to November 6, 2023 where the Planning Commission considered written materials and testimony, deliberated and moved to APPROVE S 23-01 adopting the Findings and Conditions of Approval as presented in the original staff report dated August 8, 2023 and the Supplemental staff report dated November 2, 2023,

On November 15, 2023 the County's Final Decision of S 23-01 was mailed and/or emailed to all affected parties and agencies including Frank Hall the resident at 33268 Tide Creek Road, Deer Island, Oregon. Pursuant to the provisions in Section 1703 of the Zoning Ordinance, on November 21, 2023 Frank Hall filed and paid for the **APPEAL** of **S 23-01** stating the Planning Commission ignored the three following concerns expressed by neighbors along Tide Creek Road: (1) water problems, (2) the property owner's contiguous property with a dwelling and an invalid deed, and (3) the unsafe conditions of Tide Creek Road. All of these concerns will be addressed and evaluated in Findings 4, 37, 43, 51 and 52 of this Staff Report.

Aerial and FA-80 Zoning Maps of 44.96-acre Subject Property



Site Visit Photos

Main Subdivision Area & Proposed Private Road



Eastern Portion of Remnant Parcel (Lot 5)



APPLICABLE REVIEW CRITERIA

Beginning with the Measure 49 Home Site Authorization and Final Order of State Election #E132340:

[...]

III. CONCLUSION

Based on the analysis above, the claimants qualify for up to three home sites. However, the number of lots, parcels or dwellings that a claimant may establish pursuant to a home site authorization is reduced by the number of lots, parcels or dwellings currently in existence on the Measure 37 claim property and any contiguous property under the same ownership according to the methodology stated in Section 6(2)0 and 6(3) of Measure 49.

Based on the documentation provided by the claimants and information from Columbia County, the Measure 37 claim property includes one lot or parcel and no dwellings. There is no contiguous property under the same ownership. Therefore, the three home site approvals the claimants qualify for under Section 6 of Measure 49 will authorize the claimants to establish up to two additional lots or parcels and three dwellings on the Measure 37 claim property.

IV. HOME SITE AUTHORIZATION

Based on the analysis set forth above, this claim is approved, and the claimant qualifies for three home site approvals. As explained in Section III above, after taking into account the number of existing lots, parcels, or dwellings, the claimants are authorized for two additional lots or parcels and three additional dwellings on the property on which the claimant is eligible for Measure 49 relief, subject to the following terms:

1. Each dwelling must be on a separate lot or parcel and must be contained within the property on which the claimants are eligible for Measure 49 relief. The establishment of a land division or dwelling based on this homesite authorization must comply with all applicable standards governing the siting or development of the land division or dwelling. However, those standards must not be applied in a manner that prohibits the establishment of the land division or dwelling, unless the standards are reasonably necessary to avoid or abate a nuisance, to protect public health or safety, or to carry out federal law.

Finding 1: The applicant has applied for Columbia County to review and approve an 8 Lot Subdivision on the subject FA-80 zoned property associated with Tax Map Number 6225-00-00400. This subdivision is authorized by the applicant's Measure 49 State Election No. E132340 that was approved on 2/9/2010 as well as the two other Measure 49 Claims approved for State Election Nos. E132337 and E132342 in February and March 2010. The submitted preliminary plat proposes the creation of 8 residential lots (including one remnant lot), all of which fall within the boundary of the existing subject property that is eligible for Measure 49 relief. This Subdivision will be reviewed for consistency with the applicable provisions of both the County's Zoning and Subdivision and Partitioning Ordinances prior to approval.

This first term of the applicant's Measure 49 Claim prohibits jurisdictions from applying

standards "...in a manner that prohibits the establishment of the land division or dwelling unless the standards are reasonably necessary to avoid or abate a nuisance, to protect health or safety, or to carry out federal law..." With this Term, the County is prevented from applying the usual restrictions and conditions of the Zoning and Subdivision and Partitioning Ordinance that would prohibit subdivision into parcels for residential development in the FA-80 zone. The only exception to this is if the prohibitive standards are necessary to prevent a nuisance or protect public health and safety. Nevertheless, the applicant's proposal will still be reviewed for compliance with applicable criteria in a manner which would not be prohibitive.

2. This home site authorization will not authorize the establishment of a land division or dwelling in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14).

195.305 Compensation for restriction of use of real property due to land use regulation.

[...]

(3) Subsection (1) of this section shall not apply to land use regulations that were enacted prior to the claimant's acquisition date or to land use regulations:

- (a) That restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) That restrict or prohibit activities for the protection of public health and safety;
- (c) To the extent the land use regulations are required to comply with federal law;
- (d) That restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing;
- (e) That plan and rezone land to an industrial zoning classification for inclusion within an urban growth boundary; or
- (f) That plan and rezone land within an urban growth boundary to an industrial zoning classification.

[...]

195.300 Definitions for ORS 195.300 to 195.336. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010:

[...]

(14) "Land use regulation" means:

- (a) A statute that establishes a minimum lot or parcel size;
- (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter 215 that restricts the residential use of private real property;
- (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use;
- (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property;
- (e) A provision, enacted or adopted on or after January 1, 2010, of:
 - (A) The Oregon Forest Practices Act;
 - (B) An administrative rule of the State Board of Forestry; or

- (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest practice;
- (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;
- (g) An administrative rule or goal of the Land Conservation and Development Commission; or
- (h) A provision of a Metro functional plan that restricts the residential use of private real property.

Finding 2: The applicant's requested 8 lot subdivision of the subject property will not violate any local, state, or federal land use regulations described in ORS 195.305(3), nor violate any other law that is not a land use regulation defined in ORS 195.300(14) that are necessary to protect the public's welfare, health and safety. Individual home site approvals are not being reviewed at this time. Staff finds the proposal submitted for subdivision S 23-01 complies with Term 2 of State Election No. E132340 provided all conditions of approval are satisfied.

3. A claimant is not eligible for more than 20 home site approvals under Sections 5 to 11 of Measure 49 regardless of how many properties a claimant owns or how many claims a claimant filed. If the claimants have developed the limit of twenty homes under Measure 49, the claimants are no longer eligible for the home site approvals that are the subject of this order.

Finding 3: The applicant is proposing to utilize 8 home site approvals between the three Measure 49 claims mentioned in the summary of this report. The applicant has not yet developed any Measure 49 home site approvals and this proposal will not exceed the limit of twenty homes listed in the above Term. Staff finds the proposal complies with Term 3.

4. The number of lots, parcels or dwellings a claimant may establish under this home site authorization is reduced by the number of lots, parcels and dwellings currently in existence on the Measure 37 claim property and contiguous property in the same ownership, regardless of whether evidence of their existence has been provided to the department. If, based on the information available to the department, the department has calculated the number of currently existing lots, parcels, or dwellings to be either greater than or less than the number of lots, parcels, or dwellings actually in existence on the Measure 37 claim property or contiguous property under the same ownership, then the number of additional lots, parcels, or dwellings a claimant may establish pursuant to this home site authorization must be adjusted according to the methodology stated in Section 6(2)(b) and 6(3) of Measure 49. Statements in this final order regarding the number of lots, parcels, or dwellings currently existing on the Measure 37 claim property and contiguous property are not a determination on the current legal status of those lots, parcels, or dwellings.

Finding 4: Per the submitted Measure 49 claims with state election numbers E132340, E142337, and E132342, the applicant elected supplemental of all three claims, which allowed for three home site approvals for each claim, reduced by the number of existing dwellings and lots or parcels. There is one existing dwelling on the property associated with election number E132337, which reduces the possible number of new homesites to 8. Further, the existing parcels associated with these claims reduces the possible number of new lots down to 6.

M49 Election #	Existing Lots	New Lots	Existing Dwellings	New Dwellings
E132340	1	2	0	3
E132337	1	2	1	2
E132342	1	2	0	3
Total	3	6	1	8

The applicant is eligible for 6 new buildable lots and 8 new dwellings per the Final Orders associated with their three Measure 49 claims. As stated in the summary, the applicant will also be “transferring” the existing buildable lot associated with E132342 to the subject property so that each of the 8 authorized dwellings will be on its own lot or parcel as required by Term 1. Staff finds the applicant’s proposal for an 8-lot subdivision is consistent with the terms of the subject’s property’s Measure 49 claim.

APPELLANT’S 2ND Concern - The applicant/property owner’s contiguous property with a dwelling and an invalid deed.

Although the Appellant did not include any specific document(s) for his 2nd concern, Thomas H. Cutler, the legal representative of Frank Hall and Gene Hester submitted the attached letter dated September 11, 2023 from Thomas H. Cutler (Attachment 2 of Supplemental Findings Report) related to the number of lots, parcels or dwellings that may be established under a Measure 37/49 home site authorization. Mr. Cutler’s letter details concerns about the applicant’s Measure 49 determination regarding deed records and the ownership of the subject and contiguous properties. Staff notes that under writ of review statutes, neighboring property owners had 60 days from the date of DLCDD’s decision to challenge the applicant’s Measure 49 determination. As the final order associated with state election no. E132340 is dated February 8th, 2010, this time for challenges has passed. Consequently, LDS will treat the applicant’s home site authorization as final.

5. Temporary dwellings are not considered in determining the number of existing dwellings currently on the property. The claimant may choose to convert any temporary dwelling currently located on the property on which the claimant is eligible for Measure 49 relief to an authorized home site pursuant to a home site approval. Otherwise, any temporary dwelling is subject to the terms of the local permit requirements under which it was approved, and is subject to removal at the end of the term for which it was allowed.

Finding 5: Neither the subject property nor the other two properties associated with the applicant’s Measure 49 claims have any temporary dwellings per Land Development Services (LDS) or County Assessor records. Staff finds the subject proposal is consistent with Term 5.

6. A home site approval only authorizes the establishment of a new lot, parcel or dwelling on the property on which the claimants are eligible for Measure 49 relief. No additional development is authorized on contiguous property for which no Measure 37 claim was filed or on Measure 37 claim property on which the claimants are not eligible for Measure 49 relief. A lot or parcel established pursuant to a home site approval must

either be the site of a dwelling that is currently in existence or be the site of a dwelling that may be established pursuant to the home site approval.

Finding 6: The proposed subdivision would create 8 separate lots completely within the subject property, each of which will be authorized to contain one dwelling provided LDS reviews and approves building permits for each. The applicant has applied for a subdivision only; therefore, while a home site on each individual lot is authorized, specific development is not being reviewed currently.

Prior to the issuance of building permits for residences on the subject property, this Subdivision shall be approved, a final plat recorded, and necessary building permit application(s) on the proposed Lot shall be reviewed and approved by the County. With these conditions, Staff finds the conditions in Term 6 of the approved Measure 49 Claim can be met.

7. The claimants may use a home site approval to convert a lot, parcel or dwelling currently located on the property on which the claimants are eligible for Measure 49 relief to an authorized home site. If the number of lots, parcels or dwellings existing on the property on which the claimant is eligible for Measure 49 relief exceeds the number of home site approvals the claimants qualify for under a home site authorization, the claimant may select which existing lots, parcels or dwellings to convert to authorized home sites; or may reconfigure existing lots, parcels or dwellings so that the number is equivalent to the number of home site approvals.

Finding 7: To create this 8-lot subdivision, the applicant will be utilizing the three home sites and parcels (two new plus one existing) approved for the subject property by State Election No. E132340. Additionally, the applicant will be using a “full transfer” of Measure 49 development rights from E132342 and a “partial transfer” of Measure 49 development from E132337 to bring the allowable home sites and parcels to 8 on the subject property. These transfers of development rights will require the applicant to record deed restrictions prohibiting further Measure 49 development on the properties associated with associated with State Election Nos. E132342 and E132337. With this as a condition of approval, Staff finds the proposal is consistent with Term 7.

8. The claimants may not implement the relief described in this Measure 49 home site authorization if a claimant has been determined to have a common law vested right to a use described in Measure 37 waiver for the property. Therefore, if a claimant has been determined in a final judgment for final order that is not subject to further appeal to have a common law vested right as described in Section 5(3) of Measure 49 to any use on the Measure 37 claim property, then the Measure 49 Home Site Authorization is void. However, so long as no claimant has been determined in such a final judgement or final order to have a common law vested right to a use described in a Measure 37 waiver for the property, a use that has been completed on the property pursuant to a Measure 37 waiver may be converted to an authorized home site.

Finding 8: Documentation submitted with S 23-01 does not include any evidence that the applicant has vested a common law right to a use described in Measure 37 waiver for any of the affected Measure 49 properties. For these reasons and without any additional evidence, Staff finds that the provisions in Term 8 do not apply to S 23-01.

9. A home site approval does not authorize the establishment of a new dwelling on a lot or parcel that already contains one or more dwellings. The claimant may be required to alter the configuration of the lots or parcels currently in existence on the Measure 37 claim property and contiguous property so that each additional dwelling established on the property on which the claimant is eligible for Measure 49 relief, pursuant to this home site authorization, is sited on a separate lot or parcel.

Finding 9: As stated in Finding 7, the Applicant will be transferring Measure 49 Development rights onto the subject property for the proposed 8-lot subdivision. One existing dwelling on parcel 5205-00-00200 (E132337) will remain, and no new Measure 49 development will occur on this parcel. A condition of approval will require a deed restriction prohibiting additional Measure 49 development on this parcel to ensure compliance. With this, every proposed home site will be located on its own vacant parcel. Staff finds the proposal meets the criteria of Term 9.

10. Because the property is located in a mixed farm and forest zone, the home site authorization does not authorize new lots or parcels that exceed five acres. However, existing or remnant lots or parcels may exceed five acres. Before beginning construction, the owner must comply with the requirements of ORS 215.293. Further, the home site authorization will not authorize new lots or parcels that exceed two acres if the new lots or parcels are located on high-value farmland, on high-value forestland or on land within a ground water restricted area. However, existing or remnant lots or parcels may exceed two acres.

Finding 10: The soil types of the subject property are not classified as High-Value farmland or forestland per County GIS data and the USDA Soil Survey of Columbia County. Therefore, new lots or parcels may not exceed five acres in size, excepting the remnant parcel. The preliminary plat submitted with this proposal indicates that parcels will range from 2.07 to 2.65 acres in size, with the remnant parcel being 31.27 acres. Staff finds that these parcel sizes comply with the requirements of Term 10.

To satisfy ORS 215.293, a condition of approval will require the applicant or future property owner(s) to record a *Waiver of Remonstrance* prohibiting legal action against accepted farming and forestry uses. This Waiver shall be recorded concurrently with and referenced on the Final Plat. With this condition, Staff finds the proposal will be consistent with Term 10.

11. Because the property is located in a mixed farm and forest zone, Measure 49 requires new home sites to be clustered so as to maximize suitability of the remnant lot or parcel for farm or forest use. Further, if an owner of the property is authorized by other home site authorizations to subdivide, partition, or establish dwellings on other Measure 37 claim properties, Measure 49 authorizes the owner to cluster some or all of the authorized lots parcels or dwellings that would otherwise be located on land in an exclusive farm use zone, a forest zone or a mixed forest zone on a single Measure 37 claim property that is zoned residential use or is located in an exclusive farm use zone, a forest zone or a mixed farm and forest zone but is less suitable for farm or forest use than the other Measure 37 claim properties.

Finding 11: Between the three Measure 49 Claims submitted with the subject proposal, the applicant is authorized for 8 new home sites and 8 new lots in total. Using the “clustering”

provision of Term 11, the applicant will be transferring all further Measure 49 development rights from State Election Nos. E132337 and E132342 to the subject property. The clustering of development on one parcel will maximize suitability of the other parcels (5205-00-00200 and 6236-00-00500) for resource uses, consistent with their zoning designations. The existing dwelling on parcel 5205-00-00200 will remain and development rights of that dwelling will not be transferred to the subject property. As stated previously, deed restrictions prohibiting new Measure 49 development on the parcels associated with E132337 and E132342 will be required to be recorded as conditions of approval. With this, Staff finds the criteria of Term 11 is met.

12. If the claimants transferred ownership interest in the Measure 37 claim property prior to the date of this order, this order is rendered invalid and authorizes no home site approvals. Provided this order is valid when issued, a home site approval authorized under this order runs with the property and transfers with the property. A home site approval will not expire, except that if a claimant who received this home site authorization later conveys the property to a party other than the claimant's spouse or the trustee of a revocable trust in which the claimant is the settlor, the subsequent owner of the property must establish the authorized lots, parcels and dwellings within 10 years of the conveyance. A lot or parcel lawfully created based on this homesite authorization will remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. A dwelling lawfully created based on a home site approval is a permitted use.

Finding 12: The applicant Agnes Petersen is either the claimant or the spouse of the claimant for the three Measure 49 claims submitted with this proposal. The applicant is authorized to file the S 23-01 application, record the final plat, and develop the eight homesites associated with the proposed subdivision without any time restrictions per Term 12. However, should any of the newly created Lots be conveyed to a party other than the claimant's spouse or trustee of a revocable trust in which the claimant is the settlor, the subsequent owner(s) must establish the authorized dwelling(s) within 10 years of the conveyance(s). With this requirement listed as a condition of approval, Staff finds the proposed subdivision will satisfy Term 12's conditions.

13. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, this home site authorization will not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the subject property imposed by private parties.

Finding 13: Final authorization of any new home site on the subject property will not be granted until a final plat has been recorded to create the 8 lots proposed in this subdivision application. The applicant will need to obtain all necessary building permits for dwellings associated with Measure 49 home site authorizations. Consistency with all applicable county, state and federal regulatory requirements for the new Measure 49 dwellings can be ensured at time of building permit review. Staff finds the proposal meets the criteria of Term 13.

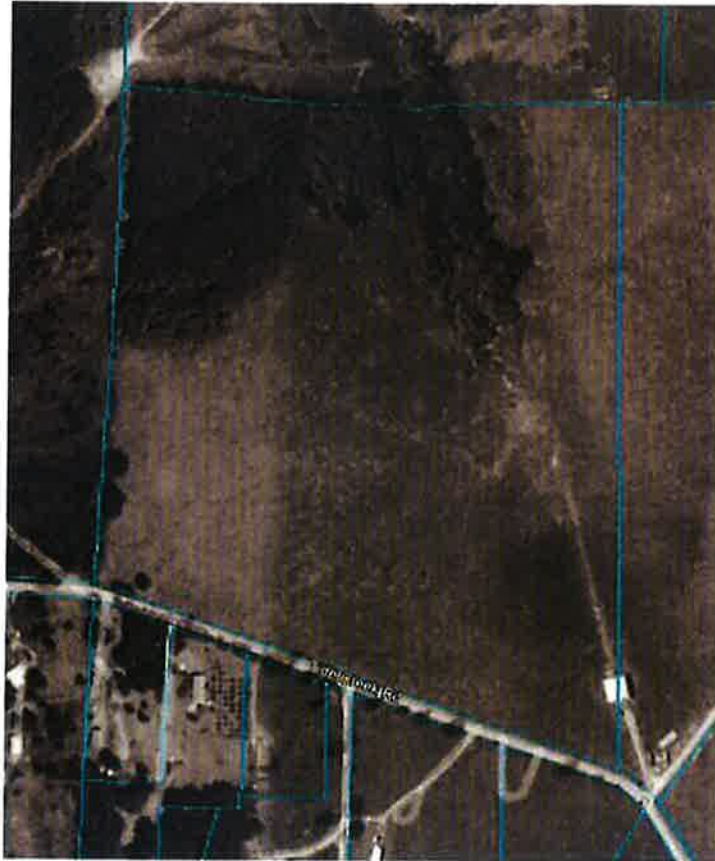
Continuing with Section 400 of the Zoning Ordinance Forestry-Agriculture (FA-80):

[...]

402 Predominant Use Test [(OAR 660-06-0050 (2))]. The uses, activities and development in the Forest/Agriculture Zone, except provisions identified in Section 404 for land divisions, are based on a determination of the predominant use of a tract as of January 1, 1993 as either Farm or Forest land. These uses, activities, and development are authorized subject to review and approval under applicable regulatory standards for either the Primary Agriculture (PA-80) Zone or the Primary Forest (PF-80) Zone property. A "tract" is defined as one (1) or more contiguous lots or parcel(s) under the same ownership.

Finding 14: The submitted application, County GIS historical imagery, and the Staff site visit all verify that the applicant has predominantly maintained the subject property for agricultural uses since at least 1993.

Google Earth Pro - 1990 Aerial Imagery



Without any contradictory evidence, Staff finds that the development proposed through S 23-01 will be processed for compliance with the applicable provisions of the Primary Agriculture (PA-80) Zone due to the historical predominant agricultural use of this property.

Continuing with Section 300 of the Zoning Ordinance – Primary Agriculture (PA-80)**308 Development Standards**

- .1 The minimum average lot width shall be 100 feet for all activities except farming and forestry.
- .2 The minimum average lot depth shall be 100 feet for all activities except farming and forestry.
- .3 All newly created lots or parcels and those with permitted, reviewed or conditional uses, shall have a minimum of 50 foot frontage on a public or private right-of-way and an approved access in accordance with this ordinance, the Columbia County Road Standards and the Rural Transportation System Plan.

Finding 15: Per the submitted preliminary plat for Lupine Meadow, the average width and depth exceeds 100 feet for each lot. Additionally, all 8 lots will have 50' of frontage on a public or private right-of-way. Lots 1 and 8 will access directly off Tide Creek Road, while lots 2-7 will access off a newly proposed 40' wide private road. Before the proposed private road can be named and usable for addressing, the applicant will need to submit a Road Naming application concurrent with the final plat. This will consequently be reflected as a condition of approval.

To ensure all accesses are approved in accordance with the Columbia County Road Standards, one condition will require the applicant to obtain Road Access Permits for each proposed Lot from the County Public Works Department prior to final plat acceptance.

Also prior to final plat acceptance, the proposed private road will need to be improved to Private Road Construction Standards as adopted by the County in Section IV of the County Road Standards. A condition of approval will require the applicant to obtain and submit to LDS approval from the Public Works Department and CRF&R certifying that the proposed private road has been improved to applicable standards. Additional analysis will be conducted later in this report when evaluating S 23-01 for compliance with the applicable provisions of the Subdivision and Partitioning Ordinance.

With these conditions of approval, Staff finds S 23-01 will comply with these provisions for newly created lots in the PA-80 Zone.

- .4 Setbacks. The following are minimum setbacks for all buildings and structures. In addition, all structures are subject to any special setback lines, where specified on designated arterial or collectors.
 - A. No structure shall be constructed closer than 30 feet to a property line. In the event the subject property is bordered by a zone with more restrictive setbacks, the more restrictive setback of the adjoining zone shall control on the side of the subject property adjoining the more restrictive setback.
 - B. Setbacks in wetland areas shall be required in accordance with Sections

1170 and 1180 of the Columbia County Zoning Ordinance.

- .5 Height. There shall be a height limitation of 100 feet in the PA-80 Zone for farm use structures, except for on those lands containing abandoned mill sites that were rezoned to industrial uses pursuant to ORS 197.719 or are subject to Airport Overlay Zone, or any structure which has received a conditional use or variance approval which allows a greater height of said structure. Unless otherwise prohibited, the maximum building height for all non-farm, non-forest structures shall be 50 feet or 2 ½ stories, whichever is less.

Finding 16: As individual homesites are not being reviewed at this time, compliance with the setback and height requirements of the PA-80 zone will be ensured during building permit review for the authorized Measure 49 home sites. Regarding setbacks from wetland areas, this will be discussed in further detail later in this report.

[...]

- .7 The Oregon Department of Fish & Wildlife shall be notified and provided with the opportunity to comment on any development within a Goal 5 protected wildlife habitat area.
- .8 Dwellings and other structures to be located on a parcel within designated big game habitat areas pursuant to the provisions of Section 1190 are also subject to the additional siting criteria contained in Section 1190.

Finding 17: The Oregon Department of Fish and Wildlife (ODFW) was notified of the subject proposal on July 10th, 2023. As of the date of this report, LDS has not received a response. Per the Tide Creek CPAC Beak Maps, the subject property is within an area designated as Peripheral Big Game Habitat. Therefore, the siting criteria of Section 1190 will be reviewed later in this report.

309 Land Division Requirements [ORS 215.263].

- .1 No land(s) located within the Primary Agriculture Exclusive Farm Use Zone shall be divided without the express approval of Columbia County under the provisions set forth in the Columbia County Subdivision and Partitioning Ordinance and the provisions of Sections 307 and 308 of this ordinance. A proposed division of land in the PA-80 Zone may not occur for the land application of reclaimed water, agricultural or industrial process water or biosolids described in ORS 215.213(1)(y) or 215.283(1)(v). Parcels resulting from a foreclosure action and the creation of cemetery lots in existing cemeteries are exempt from this Section. A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

Finding 18: The proposed division into 8 residential lots is explicitly authorized by the Measure 49 claims (Nos. E132337, E132340, E132342) approved by the State of Oregon. These approvals authorize the division and siting of dwellings on these properties outside of the normal requirements in Section 309. Generally, new parcels in the PA-80 zone have an 80-acre minimum size or must follow other specific criteria as listed in Section 309. None of these provisions apply to the subject

proposal, as the County is prohibited from applying zoning criteria in a manner which would prohibit the proposal. As the applicant is not qualifying the proposed subdivision under any of the specific provisions in Section 309, none will be reviewed here.

Continuing with Section 1180 of the Zoning Ordinance:

Section 1180 WETLAND AREA OVERLAY WA

[Amended by Ordinance No. 2003 - 5, effective December 15, 2003].

- 1181 **Purpose:** The purpose of this zone is to protect significant wetlands within the identified Wetland Areas as shown on the State Wetland Inventory and Local Wetland Inventories, from filling, drainage, or other alteration which would destroy or reduce their biological value. The Wetland Area Overlay does not apply to land legally used for commercial forestry operations or standard farm practices, both of which are exempt from these wetland area corridor standards. The use of land for commercial forestry is regulated by the Oregon Department of Forestry. The use of land for standard farm practices is regulated by the Oregon Department of Agriculture, with riparian area and water quality issues governed by ORS 568.210 to ORS 568.805.
- 1182 **Definition:** A significant wetland is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. In case of dispute over whether an area is of biological value and should be considered a significant wetland, the County shall obtain the recommendation of the Oregon Department of Fish and Wildlife, the Columbia County Soil and Water Conservation District, and the Division of State Lands.
- 1183 **Permitted Uses:** Uses and development activities permitted outright or conditionally in the underlying zone shall be permitted in the Wetland Area Overlay Zone if they will not result in filling, drainage, removal of vegetation, or other alteration which would destroy or degrade a significant wetland as defined in Section 1182. Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands under Oregon Department of Agriculture wetland rules shall be allowed where such an action has been fully coordinated with the Oregon Department of Fish and Wildlife, the Columbia County Soil and Water Conservation District, and the Division of State Lands. Existing drainage ditches may be cleared to original specifications without County review.
- 1184 **Development Standards:**
- A. **Riparian Corridor Standards for Wetlands.** For the purposes of this Section, "Fish-bearing streams" shall mean all streams identified as being fish-bearing, by the Oregon Department Forestry in the Stream Classification Maps, as amended, and "Fish-bearing lakes" shall mean those streams identified in "Lakes of Columbia County". The current Oregon Department of Forestry Stream Classification Map is attached to the Comprehensive Plan, Technical Appendix, Part XVI, Article X (B),

for reference. The Map, "Lakes of Columbia County" is also attached to the Comprehensive Plan, Technical Appendix, Part XVI, Article X (B), and is incorporated therein. Significant Wetlands are identified on the State Wetlands Inventory (SWI), and Local Wetlands Inventories (LWI's). The SWI is attached to the Comprehensive Plan, Part XVI, Article X (A), for reference.

[...]

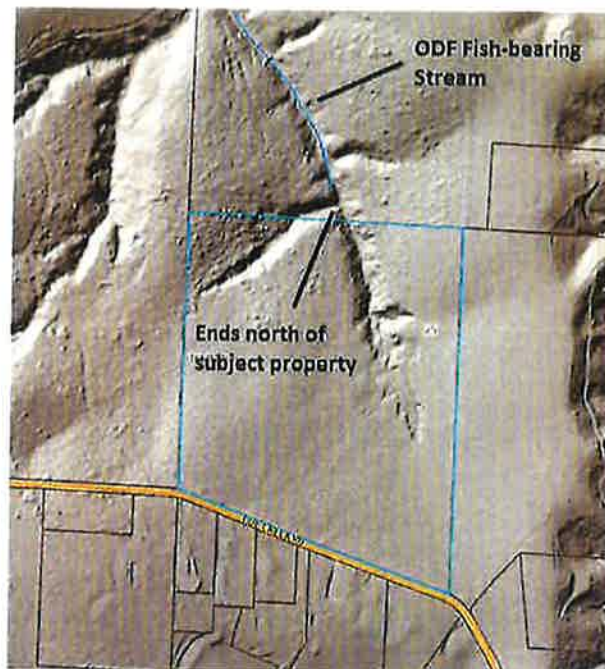
1. Wetlands not associated with Streams, Rivers, Sloughs, or Fish Bearing Lakes. Along all wetlands not associated with a stream, river, slough, or non-fish-bearing lake, there shall not be a protective riparian corridor boundary. However, development is prohibited from encroaching within a delineated wetland boundary.

Finding 19: The applicant has submitted a DSL-approved Wetland Delineation (WD #2021-0400, attached) which was completed in 2021 for a 27.66-acre portion of the subject property focused on the proposed subdivision area. The wetland delineation identified 5 individual wetlands along with a roadside ditch, with total wetland area totaling approximately 5.72 acres.

Overview Map from submitted Wetland Delineation Report



The delineated wetlands are also identified on the submitted preliminary plat in relation to the proposed lots and home sites. Per County GIS Data and the Oregon Department of Forestry (ODF) Statewide Streams Map, it does not appear that these wetlands are associated with any identified body of water.



While there is a fish-bearing stream on the adjacent property to the north, it does not continue into the subject property per ODF mapping. It appears only a drainageway to this stream exists on the subject property, as identified in the submitted Preliminary Plat and Stormwater and Erosion Control Plant. Therefore, there are no Riparian Corridor setbacks to these isolated wetlands. However, future development, removal, or fill within the identified wetland boundary may require permits and approval from the Oregon DSL. A condition of approval will therefore state that the applicant and any future property owner(s) shall obtain necessary permits from DSL for any work within identified wetlands.

The preliminary plat shows that all lots except Lot 1 contain portions of the delineated wetlands. However, while individual homesites are not being reviewed, it appears that each lot will contain adequate space to site a septic system and dwelling outside of these identified wetland areas. This will be confirmed at time of building permit issuance. Staff finds the proposed subdivision is consistent with the applicable provisions of Section 1180.

Continuing with Section 1900 of the Zoning Ordinance:

Section 1190 BIG GAME HABITAT OVERLAY BGR

[Amended by Ordinance 2003-06, eff. 7/30/03].

1191 Purpose: To protect sensitive habitat areas for the Columbian white-tailed deer and other Big Game by limiting uses and development activities that conflict with maintenance of the areas. This section shall apply to all areas identified in the Comprehensive Plan as a major and peripheral big game range or Columbian white-tailed deer range, as shown on the 1995 Beak Consultant's map, entitled "Wild Game Habitat" in the Comprehensive Plan in Appendix Part XVI, Article VIII(A). [Amended by

Ordinance 2003-06, eff. 7/30/03].

- 1192 Permitted Uses: All uses permitted in the underlying zone either outright or conditionally shall be permitted IN THE Big Game Range Overlay provided that such use or development is consistent with the maintenance of Big Game and Columbian White-tailed Deer Habitat identified in the Comprehensive Plan. [Amended by Ordinance 2003-06, eff. 7/30/03].
- 1193 Development Siting Standards: [Amended by Ordinance 2003-06, eff. 7/30/03]. All new residential development and uses located in Major and Peripheral Big Game or Columbian White-tailed Deer Habitat shall be subject to following siting standards:
- A. Dwellings and structures shall be located as near each other and existing developed areas as possible considering topography, water features, required setbacks, and firebreaks.
 - B. Dwellings and structures shall be located to avoid habitat conflicts and utilize least valuable habitat areas.
 - C. Road development shall be minimized to that which is necessary to support the proposed use and the applicant shall utilize existing roads as much as possible.
 - D. The owner/occupant of the resource parcel shall assume responsibility for protection from damage by wildlife.
 - E. Riparian and Wetland areas shall be protected in accordance with Sections 1170 and 1180.
1194. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) of all proposed uses or development activities which require a permit and are located in Major or Peripheral Big Game Habitat. The County will consider the comments and recommendations of ODFW, if any, before making a decision concerning the requested use or activity. [Added by Ordinance 2003-06, eff. 7/30/03].
1195. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife (USFW) of all proposed uses or development activities which require a permit and are located in Columbian White-tailed Deer Habitat. The County will consider the comments and recommendations of ODFW and USFW, if any, before making a decision concerning the requested use or activity. [Added by Ordinance 2003-06, eff. 7/30/03].

Finding 20: Per the Tide Creek CPAC Beak maps, the subject property is identified as Peripheral Big Game Habitat. Therefore, the siting criteria will apply to this proposed subdivision and the authorized future dwellings. Regarding the provisions in 1193 above, the proposed subdivision is designed in such a way to cluster lots and potential homesites closely together in the southwest corner of the existing parcel. The proposed private road is similarly clustered together with the proposed lots and is only as long and wide as necessary to be utilized by the future residential uses. Developing the subdivision in this way will minimize the amount of land used for residential development, consistent with 1193(A) through 1193(C). Specific dwellings and structures will be evaluated for compliance with Section 1190 at time of future

building permit review. Regarding 1193(D), a condition of approval will state that the property owner shall resume all responsibility for protection from damage by wildlife. Regarding 1193(E) and identified wetlands, this subject is already addressed in Finding 19. The Oregon Department of Fish and Wildlife (ODFW) was notified of this proposal on July 10th, 2023. As of the date of this report, no response has been received by LDS.

With the preceding discussion and condition of approval, Staff finds the proposed subdivision is consistent with the Big Game Habitat Overlay criteria, with further review at time of building permit applications.

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 21: When provisions of this ordinance conflict, the more restrictive ordinance will control.

[...]

SECTION 208. TERMINATION OF TENTATIVE PARTITION OR SUBDIVISION APPROVAL.

Failure by the developer to submit a final plat within one year of the date of the approval, or conditional approval, of the tentative plan, shall terminate all proceedings. Upon application of the developer in writing, an extension of time not exceeding six calendar months may be granted by the Planning Department for partitions, or by the Commission for subdivisions or planned unit developments.

In the event the developer's application for extension is denied, the developer may appeal to the next highest governing body. Where proceedings have terminated because of failure to receive extension, a new tentative plan shall be filed in accordance with the provisions of this ordinance.

Finding 22: The applicant will be required to submit the Final Subdivision Plat and recording documentation within one year of the Final Decision or will have to resubmit a new application, including review fee, which will be re-examined under the standards current at that time. An extension may be granted, upon application, by the Planning Commission for a period not to exceed 6 months.

[...]

SECTION 213. NOTICE REQUIREMENTS.

A. Notice of Public Hearing Items. The Planning Department shall provide notice of any required public hearings, in writing, to the applicant and owners of record of property on the most recent property tax assessment roll where such property is located:

- (1) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
- (2) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (3) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

Finding 23: On July 11, 2023 the County sent notice of the subdivision requested for S 23-01 to property owners within 500 feet of the subject property informing them of the August 21, 2023 Planning Commission public hearing in compliance with these notification requirements in Section 213(A) of the Zoning Ordinance.

[...]

SECTION 214. DISTRIBUTION OF SUBDIVISION AND PARTITION PLANS.

Upon receipt of the proposed land division, the Planning Department shall transmit one copy to each of the following for their review and recommendations, except when previously routed by the developer.

- CPAC
- County Surveyor
- County Roadmaster
- County Sanitarian
- County Assessor
- Board of County Commissioners
- Any city, if the land division is located within that city's Urban Growth Boundary
- The State of Oregon Highway Division, when applicable
- School districts within which jurisdiction the land division is located.
- Any other affected public district
- Any public, private, or municipal utility serving the area
- Any fire protection agency involved
- State of Oregon Department of Forestry, when applicable
- State of Oregon Department of Fish and Wildlife, when applicable
- State of Oregon Department of Land Conservation and Development, when applicable
- Any affected federal agency

At a minimum the developer shall provide 20 copies. Additional copies shall be provided by the developer within 14 calendar days when necessary to permit transmittal to all parties listed above. Transmittal shall include a request for comments and recommendations which may

assist the Commission in their review of the proposal. These officials and agencies shall have 20 days in which to review and to submit to the Planning Director any revisions that appear to be indicated in the public interest.

Finding 24: On July 10 2023, a Referral and Acknowledgment form for the proposed 8 Lot Lupine Meadow Subdivision requested for S 23-01 was distributed to the affected agencies listed above. In addition, the County submitted a Wetland Land Use Notification (WLUN) to the Oregon DSL on July 13, 2023. All recommendations and comments received from these agencies have been included in this Staff Report. For these reasons, Staff finds this notification criteria for S 23-01 have been satisfied.

[...]

ARTICLE IV - PRELIMINARY PLAT FOR SUBDIVISION

SECTION 403. INFORMATION ON PRELIMINARY PLAT.

The preliminary plat shall include:

A. General Information:

- (1) A subdivision name which does not conflict with the name of an existing subdivision, or any name on a recorded plat in Columbia County.
- (2) Name and address of the owner and/or subdivider.
- (3) Name and address of the licensed surveyor who prepared the plat.
- (4) Date of preparation, north point, scale, approximate acreage and boundary line.
- (5) Appropriate identification clearly stating the map is a preliminary plat.
- (6) Section, range, township in which proposed subdivision is located and Tax Account Number.

Finding 25: A preliminary plat was submitted with S 23-01's application on 6/2/2023 which contained all identifying factors listed above.

The proposed subdivision name is "Lupine Meadow" and the property owner of record for the subject parcel associated with Tax Map ID Number 6225-00-00400 is the Measure 49 Claimant and applicant, Agnes M. Petersen. The preliminary plat was prepared by Akaan Architecture and Design LLC and contains all appropriate identifying information necessary for the County to process this request for an 8 Lot Subdivision in the FA-80 Zone. Staff finds these criteria have been satisfied.

B. Existing Conditions:

- (1) The location, names, and widths of improved and unimproved streets within or adjacent to the subdivision.

- (2) The location, width, and use or purpose of any easement on the property.
- (3) Contour lines sufficient to show the direction and general grade of land slope. Contours shall be at one foot intervals for slopes of less than 10%, 5 foot intervals for slopes of 10% to 20%, and at 10 foot intervals for slopes greater than 20%. Such ground elevations shall be related to some established bench mark (where possible).
- (4) The location and directions of natural water courses and areas subject to flooding.
- (5) The location of structures, irrigation canals and ditches, pipelines, railroads, and any natural features, such as rock outcroppings, marshes, and wooded areas. Also, the record high water line for any water course.
- (6) The location of city boundary lines and the boundary lines of public districts which lie within the subdivision or within 500 feet of the exterior boundaries of the subdivision.
- (7) A vicinity map showing: the relationship of the proposed subdivision to the surrounding development, streets, any public sewer and water utilities, extent and availability of electric and gas utility facilities, and the location of any existing septic systems or wells on the property.

Finding 26: The submitted preliminary plat includes the location, name, and width of Tide Creek Road, which is a Public Road adjacent to the proposed subdivision. Lots 1 and 8 will directly access off this private road. The location and width of a proposed private road is also detailed, which will be utilized for access by lots 2-7. As stated previously in this report, the applicant will need to record a Road Maintenance agreement for this private road to be utilized by lots 2-7 concurrent with the final plat. This Road Maintenance Agreement shall be referenced on the Final Plat as well. Additionally, the applicant will need to submit a Road Naming Application to name this proposed private road in accordance with the County's Rural Addressing Ordinance as a requirement prior to acceptance of the Final Plat. These requirements will be listed as conditions of approval.

The submitted preliminary plat contains contour lines which indicate that lots all lots have approximated average slopes of 7-10%. Possible homesite and septic drain field areas are shown on the preliminary plat, but as previously stated no specific home sites are being reviewed at this time. While the actual locations of dwellings can only be determined at time of building permit review, the preliminary plat indicates that each lot can support its intended use provided all necessary building and septic permits are obtained.

The submitted preliminary plat identifies relevant natural features on the subject property including the previously mentioned delineated wetlands. The only structure on the property is the identified barn along Lot 5's southeastern boundary and there does not appear to be any irrigation canals/ditches, railroads, or natural features within the subject property's boundary. Finally, since the proposed Lupine Meadow subdivision is occurring in a rural area rather than urban or

suburban areas, there are no city boundaries or any public sewer and water services in close proximity. Utility lines can be extended to all 8 lots via the existing lines along Tide Creek Road and the proposed private road.

The applicant has obtained septic site evaluations for 3 of the proposed 8 lots; the preliminary plat identifies these evaluations on lots 1, 2, and 7. Comment from the County Sanitarian received by Staff on 7/26/2023 states that lots 3, 4, 5, 6, and 8 will need new site evaluations or site evaluation confirmations to approve or relocate disposal areas. Consequently, a condition of approval will require the applicant to obtain approved septic site evaluations for these lots prior to acceptance of the Final Plat. Existing wells located on lots 1, 2, and 8 are identified as required.

With preceding discussion, Staff finds the submitted preliminary plat meets the Existing Conditions criteria listed in Section 403(B) of the CCSPO.

C. Information Concerning Proposed Development:

- (1) The location, names, width, approximate grades, and curve radii of all proposed streets.
- (2) The location, width, and purpose of proposed easements.
- (3) The location and approximate dimensions of lots, proposed lot and block numbers.
- (4) The location, approximate acreage, and approximate dimensions of areas proposed for public use.
- (5) The proposed use of any lot which is not intended for single-family residential use.
- (6) An outline of the areas proposed for partial recording of a final plat if phased recording is contemplated.
- (7) The relationship of the proposed subdivision to future streets on adjacent land controlled by the subdivider.
- (8) Source and method of water supply to serve the subdivision, and the location of any proposed water lines.
- (9) Proposed method of sewage disposal, and the location of any proposed sewer lines which will serve the subdivision if applicable.
- (10) Draft of proposed restrictions and covenants affecting the plat.
- (11) The method of disposing of storm water runoff caused by this subdivision, which, if applicable, shall include both on and off-site improvements necessary to deal with storm water generated by the proposed subdivision.

- (12) Statement pertaining to types and dimension of roads and who will be responsible for their maintenance.
- (13) If, upon investigation by the Commission, it is found that additional information is necessary, it shall be furnished by the applicant.

Finding 27: The submitted preliminary plat identifies a proposed private road including its width and includes a statement that “This configuration of the private ROW/ road meets all applicable County Standards”. For this private road to be usable for lots 2-7, a new private access and utility easement will need to be accurately delineated and identified on the final plat as will Tide Creek Road. This will be listed as a condition of approval. There are no other proposed private easements nor is any area intended for public use for future residents. All lots are intended for residential use per submitted application materials. No phasing of plat recording is proposed.

The proposed private road is not expected to be extended beyond its location on the preliminary plat, nor do zoning provisions relating to the Big Game Habitat Overlay encourage connecting this new private road beyond the subject parcel onto adjoining resource zoned properties. The applicant will be required to file a Road Maintenance Agreement concurrent with the Final Subdivision Plat that will ensure the future property owners of the newly platted Lupine Meadow Subdivision will maintain this new private road to the minimum applicable provisions of the County Road Standards Ordinance. This Road Maintenance Agreement shall be referenced on the Final Plat.

Wells are the proposed method of water supply for all eight lots, and three existing wells are shown on the preliminary plat. All lots will utilize subsurface septic systems and will have at least 50' of usable frontage on the new private road or Tide Creek Road. Once again, although no lot specific site plans are being reviewed at this time, the Preliminary Plat shows that all lots appear to have sufficient acreage for their intended and authorized single-family residential development in the PA-80 Zone.

The application materials submitted with S 23-01 included the attached *Preliminary Storm Water Plan* prepared by Ryan Sheehan, PE, a licensed engineer in Portland Oregon. This states that the current drainage pattern on the site will be maintained wherein runoff “...flows to undeveloped grassland for filtration and dispersal” No flow control is proposed for the subdivision, but biofiltration swales are proposed for each side of the proposed driveway which will convey driveway runoff north into undeveloped grassland.

Per 403(C)(10) above, the applicant will need to submit a draft of proposed deed restrictions affecting the plat. As stated in the application, this will need to include deed restrictions on parcels 5205-00-00200 and 6236-00-00500 associated with State Election Nos. E132337 and E132342 respectively. The Measure 49 development rights on these parcels are being transferred to the subject property excluding the existing house/parcel associated with E132337. The deed restrictions shall prohibit future Measure 49 development on these properties, excluding the existing home on tax lot 5205-00-00200. These deed restrictions shall be recorded concurrent with the final plat and will be listed as a condition of approval.

For these reasons and with conditions, Staff finds that all information pertaining to the proposed

development of the Lupine Meadow Subdivision will be satisfied.

SECTION 404. STATEMENT TO ACCOMPANY PRELIMINARY PLAT.

The preliminary plat shall be accompanied by written statements giving essential information regarding the following matters:

- A. Water Supply. In addition to the requirements imposed by Section 410 of this ordinance, a statement of the proposed method of water supply, including source, quality, quantity, and method of distribution.

Where the proposed source of water is by an individual or community wells, proof of an adequate supply of water for all anticipated needs of the platted area shall be presented. Proof of an adequate supply may consist of:

- (1) Test wells drilled with adequate frequency to demonstrate the general availability of water; or
- (2) A hydrology report documenting the availability of water and the general history of wells in the area (taken from well logs).
- (3) Certification by the State Watermaster of adequate amounts of potable water to serve the proposed use(s).

- B. Water Right. A statement of water right and, if a water right is appurtenant, a copy of the acknowledgment from the Water Resources Department.

Finding 28: The submitted application states that water supply for the subdivision will be by private wells. The applicant has submitted three well logs (COLU55655, COLU55656, and COLU55654, attached) for wells located on lots 1, 2, and 8 respectively. The yield of these wells ranges from 20-25 gallons per minute. The applicant additionally submitted a water availability report completed by McMullen Well Drilling Corp. This report states that currently recorded well logs in the area show that the proposed addition of residential lots "...can be successfully completed". The report further states that wells drilled in this area have a typical water flow of 10 to 60 gallons per minute. With the well logs drilled on the subject property and this water availability report together, Staff finds there is proof of an adequate water supply for the platted area. The submitted application indicates that the subject property does not have a water right.

- C. Sewage Disposal. A statement of feasibility for the proposed method of sewage disposal from the appropriate state and/or county agencies.

Finding 29: The applicant states that sewage disposal will be through installation of septic systems on each individual lot. Site evaluations have been completed on lots 1, 2, and 7 only. Therefore, as a condition prior to final approval of the proposed subdivision, the applicant must obtain septic site evaluations for lots 3-6 and 8 to ensure that each lot has a feasible manner of sewage disposal. With this condition, the above criterion will be met.

- D. Estimated Schedule. The estimated time when improvements are proposed to be made or installed.

Finding 30: The application includes a statement that improvements needed for approval of the Final Plat will be installed within one year. The criterion is met.

- E. Public and Private Utilities. A letter from each of the utility companies serving the area in which the subdivision is located stating that each is able and willing to serve the subdivision as proposed, and that satisfactory arrangements have been made as to the cost for financing the utility installation.
- F. Fire Protection. A letter indicating the proposed method of fire protection.
- G. Proof of Ownership. A letter from a licensed title company stating the record owner(s) of the land proposed to be subdivided.

Finding 31: The application includes a letter (attached) from Columbia River PUD dated June 6th, 2023 stating that the PUD will provide electrical service to the proposed lots.

Per the submitted application and County GIS maps, the subject property is within jurisdiction of Columbia County Fire and Rescue (CRF&R). This agency will provide fire protection for these newly proposed lots and future residences. Finally, the applicant submitted a letter from Deschutes Title Company stating that the applicant, Agnes Petersen, along with John Petersen are the owners of the subject property. The applicant has also submitted a court certification which states that John Petersen is deceased, and that Agnes Petersen has been appointed the Personal Representative of his will and estate. With this, Staff finds that proof of ownership has been provided and the above criterion is satisfied.

SECTION 405. LANDS SUBJECT TO HAZARDOUS CONDITIONS.

Lands which the Commission has found to be unsuitable for development due to flooding, poor drainage or ponding, steep slopes, rock formations, or other features likely to be harmful to the safety and general health of the future residents, and which the Commission considers inappropriate for development, shall not be developed for building purposes and shall be used for open space unless adequate methods for overcoming these conditions are submitted and approved by all appropriate agencies.

Finding 32: Per FEMA FIRM Panel No. 41009C0325D, no portion of the subject parcel is within a designated Flood Hazard Zone. County GIS data and the submitted preliminary plat further shows that there are no steep slopes that would endanger development in the proposed lots. Without any evidence to the contrary, Staff finds that hazardous conditions do not exist on the subject property.

SECTION 406. PRELIMINARY SUBDIVISION APPROVAL.

- A. The Planning Director shall set a date for the Commission to consider the preliminary plat at the earliest possible date, but in any case, they shall act upon the proposed subdivision within 130 calendar days from the date of formal submittal of the proposal. When the Commission feels that further information is necessary to take proper action on the preliminary plat, the Commission may continue action on the proposal.

- B. The Planning Director shall submit the preliminary plat, along with the recommendations of agencies, to the Commission. The Commission shall consider the recommendations of other agencies and determine whether the preliminary plat is in conformity with the provisions of this ordinance. Upon that basis, the Commission shall approve, conditionally approve, or disapprove the proposed subdivision. Within seven calendar days of Commission action on the subdivision, the Planning Director shall report such action, in writing, directly to the subdivider and his engineer or, if there is no engineer, to the surveyor.

Approval of the preliminary plat shall constitute approval of the final plat, subject to the requirements of Article VIII of this Ordinance, if there is no change in the plat of the subdivision at the time of filing the final plat. If the plat is disapproved by the Commission, the reasons therefore shall be set forth in the report to the subdivider.

If the preliminary plat is approved subject to conditions, conditions shall relate only to the authority granted to the Commission by this ordinance. A preliminary plat approved subject to conditions by the Commission need not be revised to reflect such conditions, but such conditions shall be reflected in the preparation of the final plat.

- C. If no action is taken by the Commission within the time limits prescribed above in this section, the subdivision, as filed, shall be deemed to be approved and it shall be the duty of the Planning Director to certify the approval.
- D. Within seven calendar days after the date of the Commission's action, the Planning Director shall transmit the complete record of its review and action to the Board. Upon receipt of the record, the Board may review the decision of the Commission. The Board may affirm, reverse, or modify the decision of the Commission, provided that such decision is not in conflict with the provisions and intent of this ordinance. Unless notified within 21 calendar days, the decision of the Commission shall be affirmed.
- E. Appeals shall be filed in accordance with Section 215 of this ordinance.

Finding 33: The subject application was received by LDS on 6/2/2023 and deemed complete on 6/29/2023. The proposal was scheduled for the soonest available Planning Commission public hearing on 8/21/2023, which is within 130 days of receipt by LDS. If the Commission feels that more information is needed to issue a decision for this proposal, they may continue the hearing.

The county's land review process for S 23-01 is consistent with the Preliminary Subdivision Approval criteria in Section 406 related to the Planning Commission's consideration of the Preliminary Plat, recommendation from agencies, and comments from adjacent property owners. Analysis conducted throughout this Staff Report has identified the conditions under which S 23-01 will be able to conform with the applicable provisions of the County's Zoning and Subdivision and Partitioning Ordinances that will allow the Planning Commission to take action on this proposal. Finally, the Planning Commission's final decision shall be reviewed by the County Board of Commissioners pursuant to the provisions in Section 406(D). Frank Hall's APPEAL of the Planning Commission's Final Decision of S 23-01 dated 11/21/23 was filed in accordance with Section 215 of the CCSPO. Staff finds these criteria in Section 406 have been met.

ARTICLE V – FINAL SUBDIVISION PLAT PROCEDURE**SECTION 501. FINAL SUBDIVISION PLAT APPLICATION.**

Within one year from the date of any approval or conditional approval of the preliminary plat (or as otherwise provided for in Section 208 of this ordinance), the subdivider may submit a final subdivision plat to the County Planning Department which shall conform to the preliminary plat as approved by the Commission.

Finding 34: The applicant will be required to submit the final Subdivision Plat including all information required in conditions of this report within one year of the Final Decision or they will have to resubmit a new application. Any new application will include a new review fee and will be re-examined under the standards current at that time. An extension may be granted, upon application, to the Planning Commission for a period not to exceed 6 months.

Sections 502 – 506 pertain to procedural certifications, forms, and County Surveyor review of the Final Subdivision plat that are governed in Chapter 92 of the Oregon Revised Statutes and do not require the Planning Commission's review/approval.

SECTION 507. DEDICATIONS AND PUBLIC UTILITY REQUIREMENTS.

- A. All parcels of land shown on the final plat as intended for public use shall be offered for dedication for public use at the time the proposed final plat is filed, except those parcels which are intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and employees. Lands to be devoted to public use are subject to utility or other easements.
- B. All streets, pedestrian ways, drainage channels, easements and other rights-of-way shown on the final plat as intended for public use shall be offered for dedication for public use at the time the final plat is filed.
- C. All rights of access to and from streets, lots, and parcels of land shown on the final plat intended for dedication shall be offered for dedication at the time the final plat is filed.

Finding 35: There are no lots, easements, or other right-of-way that are intended for public use in this proposed subdivision, other than the additional 10' public ROW dedication for Tide Creek Road that will be addressed in Findings 43 and 51. The right-of-way to be utilized by lots 2-7 will be a private road and will not be offered for dedication for public use. Staff finds the criteria in Section 507 will be satisfied with this condition of approval.

Section 508 Pertains to the Dedication and Conveyance of Reserve Strips as Lots in Subdivisions and does not apply to S 23-01 since the new private road is not being extended to the north property line of the subject property.

SECTION 509. IMPROVEMENT PLANS.

The County Planning Department shall require engineered plans for all the improvements showing street grades and physical improvements, natural drainage ways and drainage works for both on and off-site drainage. These plans shall be inspected by the Planning Department

and any other persons or agencies necessary to ensure that the proposed improvements will be adequate to serve the subdivision. These plans will be accompanied by cost estimates for the construction of the improvements.

SECTION 510. IMPROVEMENTS.

- A. As a condition precedent to acceptance and approval of the final plat the subdivider shall improve, or shall agree to improve: all lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements, and other rights-of-way; all parks, lawns, and recreation areas.
- B. Improvements shall conform to the specifications of design and materials prescribed by the County. The subdivider shall give notice to the County and Road Department prior to the commencement of construction of improvements.
- C. Prior to the date of recording, the County shall have the right to enter upon the sites of improvements for the purpose of inspecting them.
- D. Any required improvements, plans and profiles and specifications of proposed road, water and sewage improvements shall be submitted to the appropriate county department for approval at the time the final plat is submitted for checking if this has not previously been done. Such plans and profiles shall show the full details of the proposed improvements. In the event that the developer wishes to construct improvements prior to the filing of the final plat, the appropriate county department may authorize initiation of such construction, upon submission by the developer of plans and profiles giving full details of the proposed improvements which conform substantially to the approved tentative plat.

Finding 36: To comply with Section 509, the County will require, as a condition of approval, the applicant to submit engineered plans for the construction of the private road and all associated drainage and stormwater facilities. These plans shall be approved by LDS, the County Public Works Department, and Columbia River Fire and Rescue prior to construction of the proposed private road. Prior to Final Plat acceptance, a condition of approval will require the applicant to obtain and provide to LDS written confirmation from the County Public Works Department and Columbia River Fire and Rescue that the proposed private road has been constructed in line with applicable standard and is adequate to serve the proposed subdivision.

Per the attached County Road Standard Ordinance, "Maintenance agreements and easements are required for new private roads before any development permits can be processed or issued" Therefore, an additional condition of approval will require the applicant to submit a Road Maintenance Agreement between the lots which will utilize the new private road. This maintenance agreement shall be recorded concurrently with and referenced as a note on the Final Plat. Further, a condition of approval prior to acceptance of the Final Plat will require all proposed easements, including that for the private road, to be accurately identified on the Final Plat.

With these conditions of approval, the proposal will be able to comply with the criteria of Sections 509 and 510 relating to road improvements.

SECTION 511. EVIDENCE OF WATER SUPPLY.

Written proof of available water supply adequate to serve water on each lot as required in Section 304.1 of this ordinance shall be provided prior to approval of the final plat by the County.

Finding 37: The applicant has provided recorded well logs (attached) for wells located on lots 1, 2, and 8 of the proposed subdivision. In total, these wells provide 70 gallons per minute of water. The submitted application does not state whether these wells will be shared between lots and homesites. Therefore, evidence of water supply has only been shown for three of the proposed eight lots. Consequently, to comply with Section 511, conditions of approval will require the applicant to do the following:

- Drill wells on the remaining 5 lots and submit recorded well logs to LDS as a condition of approval prior to Final Plat acceptance; or
- Incorporate well waterline easements into the Final Plat so that each lot will have access to a well. Well maintenance agreements between lots sharing wells shall be submitted together with and referenced on the Final Plat.

APPELLANT'S 1st Concern – Water Problems.

Although the Appellant did not provide specifics, staff considers this is the appropriate section of this report to address Mr. Hall's concerns about water.

Staff notes that water scarcity in the vicinity of the subdivision was a major topic of discussion at the at the initial 9/11/23 and at the continued public hearings as reflected in comments received afterwards. If the applicant does not provide a concrete mechanism – drilling 5 more wells or record well maintenance agreements and easements for all affected Lots - prior to the acceptance and approval of the final plat- as already required in Condition 10(i), staff finds that the county cannot guarantee that Lots 3,4,5,6 and 7 will be able to support their intended residential development authorized through the applicant's approved Measure 49 Claims in a rural area where current long-term residents have been experiencing water scarcity issues for the past decade.

Staff also notes that neither the Columbia County Zoning nor Subdivision & Partitioning Ordinances nor the Oregon Department of Water Resources have any existing statutory requirements mandating property owners to demonstrate the impact that new wells will have on any existing wells. Until such time when the county or the state have these new requirements in place, the Columbia County has no legal mechanism for not approving S 23-01 provided the applicant satisfies this condition of approval by either drilling 5 more wells or file and record shared-well maintenance agreements with surveyed easements concurrent with the final plat as required for Condition 10 (i).

Another clarification to this requirement of final plat approval is that Lupine Meadow residents will still have the option of choosing to drill their own well, instead of using one of the three

existing drilled shared wells. Consequently, although this requirement does not mandate that all future residents use one of the three existing wells, it will ensure all residents will have legal access to an existing approved shared potable water supply if they are unable to provide their own private well.

Staff finds that Condition 10 (i) is a reasonable final plat requirement since the 3 shared wells have already been drilled. Following through with the establishment of shared well- maintenance agreements and surveyed waterline easements for these existing wells, moreover, are not unreasonable or cost-prohibitive final plat requirement for the applicant/developer to undertake for the Measure 49 authorized 8-Lot Lupine Meadow Subdivision on the subject property that has been zoned and used for resource-related development for the last 50 years.

Given that water scarcity has been a major theme raised by concerned neighbors, Staff finds that ensuring water supply for each proposed lot should be a requirement made of the applicant. Water is a basic need of all future residents of the subdivision, and the Commission is explicitly allowed to attach requirements necessary for the health and welfare of the future residents. For these site-specific reasons, Consequently and with these conditions, Staff finds available water supply for each lot can be assured, this criterion is met, and that the County has addressed the Appellant's concerns about water.

SECTION 512. EVIDENCE OF SEWAGE DISPOSAL.

Written proof of an available method of sewage disposal adequate to serve each lot intended for sewage disposal shall be provided prior to approval of final plat by the Board as required in Section 304.C of this ordinance. If the sewage disposal system of the subdivision utilizes septic tanks, there shall be an approved site for subsurface sewage disposal on every lot prior to final platting.

Finding 38: The applicant has obtained septic site evaluations for lots 1, 2, and 7 of the proposed subdivision. Comment from the County Sanitarian received by Staff on 7/26/2023 states that lots 3, 4, 5, 6, and 8 will need new site evaluations or site evaluation confirmations to approve or relocate disposal areas. Consequently, a condition of approval will require the applicant to obtain approved septic site evaluations for these lots prior to acceptance of the Final Plat.

[...]

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 39: The minimum standards in Section 1001 of this ordinance will be adhered to with the development of this subdivision. Conditions that are made as part of the approval of this subdivision must be satisfied prior to the Planning Department approval of the final plat authorizing the division of the subject property.

SECTION 1002. CONFORMITY TO THE COMPREHENSIVE PLAN.

The intent and design of the proposed subdivision shall conform to and be in harmony with the Comprehensive Plan and County Zoning Ordinance.

Finding 40: The intent and design of the subdivision, as proposed, complies with applicable goals and policies of the Comprehensive Plan and provisions of the Zoning Ordinance. The subject property is zoned Forest-Agriculture (FA-80) and is being processed as a Farm Use pursuant to the Predominant Use of the subject property in 1993 per the provisions in Section 402 of the Zoning Ordinance. The State of Oregon Measure 49 approval allows the applicant to waive the agricultural protections found in Part V of the Comprehensive Plan regarding non-farm encroachments. With the Oregon DSL's approved Wetlands Delineation of the subject property identifying the location of wetlands in relation to all lots proposed for S 23-01, all provisions relating to development of the subject property will comply with applicable provisions of the Primary Agriculture Zone and the Wetlands Overlay Area as reviewed in this staff report. The wetland delineation is also consistent with wetland protections found in Part XVI, Article X of the Comprehensive Plan. The proposed subdivision additionally complies with Comprehensive Plan goals and policies of Housing through providing additional housing options to citizens of the County. All future development on all eight lots will be further reviewed for compliance with the applicable provisions of the Zoning Ordinance at time of future building permit review. For these reasons, Staff finds that S 23-01 will comply with Section 1002 of the CCSPO.

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, a width of less than 70 feet, a depth of less than 80 feet, or frontage of less than 30 feet. No building setback line from the 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. [Amended by Ordinance No. 01-09 effective 4/07/02].

For unincorporated areas within the St. Helens urban growth area, lots proposed to be created through subdivision or major or minor partition, shall conform to the size and dimension standards outlined in the City of St. Helens Comprehensive Plan and implementing ordinances. [Amended by Ordinance No. 01-09 effective 4/07/02].

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.
- (2) **Lot Dimensions.** The lot dimensions shall comply with the minimum standards of the Zoning Ordinance. When lots are more than double the minimum required area for the zoning district, the Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets

where they would be necessary to serve such potential lots.

- (3) Double Frontage Lots and Access to Lots. Double frontage lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography and/or orientation.
- (4) Lots should avoid driving access from arterials. When driveway access from arterials may be necessary for several adjoining lots, the Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials.
- (5) Fencing. An applicant shall be required to furnish and install fencing wherever the Commission determines a hazardous condition may exist. The fencing shall be constructed according to standards established by the County Engineer or Roadmaster. No certificate of occupancy shall be issued until said fence improvements have been duly installed.
- (6) Erosion Control. Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area.
- (7) Lot Boundary of Right-of-way Lines. No new lot shall be divided by the boundary line of a county, city, school district, or other taxing district or by the right-of-way of a street, utility transmission line or major drainage way.

Finding 41: The submitted preliminary plat, staff site visit, and County GIS data do not present any foreseeable topographical difficulties for future site development. Regarding lot dimension requirements, the minimum parcel size requirements in the PA-80 zone are expressly overridden by the applicant's Measure 49 claims. Per Term 1 of each of the applicant's Home Site Authorizations, the County may not apply standards "*in a manner that prohibits the establishment of the land division...*" Term 10 of the Home Site Authorizations state that lots may not exceed 5 acres except for a remnant parcel. S 23-01 complies with this requirement, as all lots are under 5 acres in size excepting lot 5, the 31.27-acre remnant parcel. Each lot will have over 50' of usable frontage on a public or private right-of-way.

Regarding double frontage lots and accesses, lots 1, 5, and 8 will have frontage on both Tide Creek Road as well as the proposed private road. However, per the submitted application materials, Lot 5 will be accessing off the private road only, and Lots 1 and 8 will each access only off Tide Creek Road. Staff finds usage of double frontage will be avoided. To comply with 1003(A)(4), a condition of approval will require the driveways for Lots 1 and 8 onto Tide Creek Road be designed and arranged to avoid requiring vehicles to back into traffic.

Regarding the erosion control and grass seed planting requirement of 1003(A)(6), this criterion shall be included as a condition of approval. It does not appear to staff that any proposed lot will be divided by the boundary line of any government jurisdiction, taxing district, right-of-way, utility line, or drainageway.

With preceding discussion and conditions of approval, staff finds the proposal will comply with Section 1003.

SECTION 1004. BLOCKS.

- A. In subdivisions with an average lot size of under one acre, no block shall be longer than 1,000 feet in length and there shall be a cross walkway of not less than 10 feet in width near the middle of the block. The width of blocks shall be such as to allow two tiers of lots of appropriate depths, unless exceptional conditions exist, in the opinion of the Commission, so as to render this requirement undesirable and make a relatively short length of double frontage lots unavoidable. Exceptions to the block width shall be allowed for blocks which are adjacent to arterial streets or natural features.
- B. Blocks along arterials or collector streets shall not be less than 1,000 feet in length, wherever possible.
- C. In long blocks, the Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic. Pedestrian ways, not less than 12 feet wide, may be required by the Commission through the center of blocks more than 800 feet long where deemed essential to provide circulation or access to schools, parks, shopping centers, public transportation, or other community facilities.

Finding 42: Due to the size of the subdivision with all lots complying with the minimum acreage requirement in the applicant's Measure 49 Claims, the provisions for blocks typically associated with urban levels of development do not apply to this Subdivision.

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. [Amended 4-9 97]
- B. **Existing Streets.** Additional street right-of-way shall be dedicated as per the County Road Standards at the time of subdivision or partition when the following conditions exist:
 - (1) The subject property is located within an urban growth boundary and fronts on a county road; or [Amended 4-9-97]
 - (2) The subject property is subdivided or partitioned to lots or parcels containing 2 acres or less. [Amended 4-9-97]
- C. **Street Widths and Roadways.** Unless otherwise indicated on the official map, or the roadway meets the criteria in 1005.C(5), the width of rights-of-way and roadway improvements shall be in compliance with the following:

- (1) Minor Arterial. Right-of-way width 80 feet.
 - (2) Collector. Right-of-way width 50 60 feet.
 - (3) Local. Right-of-way width 50 feet.
 - (4) The Board may, upon a recommendation by the County Roadmaster, require additional right-of-way width to protect the public health, safety, and welfare.
 - (5) For roadways within a UGB but outside city limits, the County will apply the adopted roadway and access spacing standards of the applicable jurisdiction, where these standards are equal to, or more restrictive than, adopted County standards.
- D. Topography and Arrangement. Local streets shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be properly related to special traffic generators such as industries, business districts, schools, and shopping centers; and to the pattern of existing and proposed land uses.
- E. Local Streets (Residential). Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, to require the minimum number of streets necessary to provide convenient and safe access to property, and to allow for the southern exposure of homes.
- F. Business and Industrial Streets. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
- G. Proposed Streets. Proposed streets shall be extended to the boundary lines of the tract to be subdivided. A reserve strip across the end of the street shall be deeded to the County at the applicant's own expense. In addition, a barricade shall be built at the end of the street by the applicant and it shall not be removed until authorized by the Planning Director.
- H. Access to Arterials. When major partitions or subdivisions abut an existing or proposed arterial, the Commission may require that access to such streets be limited by one of the following means:
- (1) The subdivision of lots so as to back onto the arterial and front onto a parallel local street.
 - (2) A series of cul-de-sacs, u-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial.
- I. Curve Radius. All local and neighborhood collector streets shall have a minimum curve radius (at intersections) of 20 feet, unless otherwise approved by the Commission.

- J. **Street Signs.** The County shall install street signs and the applicant shall pay for the signs and the installation. In addition, the applicant may be required to pay for traffic safety devices as related to the development and their installation. The type and location of the street signs and/or traffic safety devices shall be designated by the County Roadmaster.
- K. **Cul-de-sacs.** A cul-de-sac street shall only be used where the County Public Works Director determines that environmental or topographical constraints, existing development patterns, or compliance with other applicable County requirements preclude a street extension. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with the County construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to six times the minimum lot width, serving no more than 18 dwelling units, and not exceeding 400 feet in length in urban areas and 800 feet in rural areas, from entrance to center of turnaround, with a radius of 50 feet at the property line and not less than 40 feet at the outer curb line or traveled way. The cul-de-sac shall provide, or not preclude the opportunity to later install, a shared-use path between it and adjacent developable lands. Such access ways shall conform to Section 1011.
- L. **Street Surfacing and Improvements.** Public streets, including alleys, within developments shall be improved in accordance with the requirements of the Columbia County Road Standards. Within urban growth boundaries streets shall be developed in accordance with any applicable city/county joint management agreements. [Amended 11-4-92]
- M. **Arterial Street Setback.** In residential districts, a building setback line shall extend an additional 20 feet back from the right-of-way line of an arterial street. The placement of structures within the buffer strip is prohibited.
- N. **Intersections.** Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any point unless specifically approved by the Commission.
- O. **Street Lighting.** A complete lighting system (including but not limited to: conduits, wiring, bases, poles, arms and fixtures) shall be the financial responsibility of the applicant on all cul-de-sacs, local streets, and neighborhood collector streets. The developer will be responsible for providing the arterial luminaries in those cases where the developer is required to improve a collector or arterial street.
- P. **Fire Protection.** In forested areas, housing shall be set back so as to not to constitute a fire hazard to the forest. Provisions for fire protection may include:
- (1) **Fire Breaks.** Fire breaks shall be provided as may be specified by the appropriate fire protection agency. Access roads may be used as fire breaks where provided at suitable locations.
 - (2) **Emergency Access.** Two or more improved all-weather access roads from the

development, subdivision, or major partition may be required by the Commission for the purpose of fire protection egress and ingress to insure public safety as may be specified by the appropriate fire protection agency.

Finding 43: On 9/8/2023, Scott Toenjes from the County Public Works Department submitted comments stating that the applicant must dedicate 10' of public right-of-way along the entire frontage of the subject property (**Attachment 5 of Supplemental Findings Report**). Per the Department, Tide Creek Road is classified as a minor collector road which has a 60' right-of-way standard. Currently, Tide Creek Road has only a substandard 40' right-of-way. Under the provisions of subsection 1005.C, the Board may require right-of-way dedication upon recommendation by the County Roadmaster.

Tide Creek Road needs 20' in additional right-of-way to be brought to standard. The dedication of 10' on the subject property would bring the Road up to standard on the applicant's side of the road in this location. The required dedication is additionally consistent with the criteria of subsection 1005(A) which states "...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..." Staff recommends the dedication of 10' should be included as a condition of approval.

The proposed private road is likely to be a dead-end street, and County Zoning would discourage future extension of this street into adjacent resource-zoned parcels. Most of the street criteria of this Section apply only urban-level subdivisions of a greater size which typically utilize new public streets. For these site-specific characteristics, Staff finds that S 23-01 will comply with all applicable street improvements as conditions of approval and with the dedication of 10" public right-of-way for Tide Creek Road.

[...]

SECTION 1009. STREET NAMES.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area, and if near to a city, to the pattern of the city, present and projected. Street names and numbers shall be assigned in accordance with Ordinance No. 81-6 as amended by Ordinance No. 83-2 and any subsequent ordinances.

Finding 44: The applicant's proposed 40' wide private road shall be named according to the procedures in Section 7 of the Columbia County Rural Addressing Ordinance. As a condition of approval prior to acceptance of the Final Plat, the applicant shall submit a Road Naming Application to LDS. The proposed road name and future house numbers will be assigned in accordance with all criteria of the addressing ordinance. Staff finds the above criteria will be met.

[...]

SECTION 1012. DRAINAGEWAYS.

If a subdivision is traversed by a water course such as a drainage way, channel, canal, or stream, there shall be provided a storm-water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to major water courses or drainageways may be required.

A. Surface Drainage and Storm Sewer Systems.

- (1) General Provisions. The Commission shall not recommend for approval any partition or subdivision which does not make adequate provisions for storm or flood water runoff. The storm water drainage system shall be separate and independent of any sanitary sewer system. Inlets shall be provided so surface water is not carried across any intersection. Surface water drainage patterns shall be shown for each and every lot and block. The sewer system shall be built to the standards of the County.
- (2) Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside of the development. The County's Engineer or Roadmaster shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications, assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.
- (3) Effect on Downstream Drainage. Where it is anticipated that the additional runoff incidental to the development of the subdivision will overload an existing drainage facility, the Commission may withhold approval of the subdivision until provisions have been made for improvement of the existing drainage facility.
- (4) Drainage Easements. When topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements, at least 15 feet in width, for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the street. When a proposed drainage system will carry water across private land outside the development, appropriate drainage rights must be secured.

Finding 45: The applicant has submitted a preliminary Stormwater plan completed by a certified engineer, Ryan B. Sheehan, P.E... The report addresses pre and post development impacts on stormwater runoff generated by impervious surface associated with future residential development. Per the submitted plan, *"The site hydrologic analysis shows an insignificant increase in peak runoff from pre to post developed conditions. Generally, the existing drainage patterns are maintained, where runoff will sheet flow to undeveloped grassland..."* Biofiltration swales are proposed on each side of the private road to convey runoff north.

Per the submitted Preliminary Plat and Stormwater and Erosion Control Plan, a drainageway to the Columbia River runs through the north end of the subject property. This drainageway appears to be connected to a fish-bearing stream to the north, but as addressed in Finding 18 there are no

identified streams on the subject property. The provisions of Section 1012 will require the applicant to include a stormwater easement conforming substantially with the course of this drainageway on the final plat. With this as a condition, Staff finds the criteria of Section 1012 are met.

[...]

SECTION 1013. UTILITIES.

- A. Utility Easements. A minimum five-foot utility easement shall be required along the front, side, and rear lot lines for all lots within the subdivision.
- B. Sewerage Facilities. The method of sewage disposal for each lot within a subdivision or partitioning 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.

[...]

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 an 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.

- (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 46: The provisions related to potable water and sewage disposal have already been addressed in Findings 28, 29, 37 & 38 and related conditions of approval. All lots within the subdivision will be served by individual onsite septic systems and will either share water supply between the existing three wells or will have individual wells drilled on each. As a condition of approval, the Final Plat shall include a minimum 5' utility easement along the lot lines of all proposed lots, in accordance with Section 1013(A). Utilities to the 8 proposed lots can be extended underground to these properties via the existing facilities along Tide Creek Road and future facilities along the proposed private road. Columbia River Public Utility District was notified of this proposal on July 10th, 2023 and have not submitted comment to LDS as of the date of this report. Staff finds the criteria are met.

SECTION 1015. OTHER REQUIREMENTS.

In rural and urban areas, in addition to the improvements required by the provisions of this ordinance, the subdivider may be required to provide other improvements because of specific features of the land and the design and location of the subdivision or major partition. Improvements such as bridges, culverts, and the fencing of watercourses, rights-of-way, and recreation areas and facilities may be required where necessary for the health, safety, and general welfare of residents of the subdivision or major partition.

Finding 47: The Planning Commission may require additional improvements, on or off the site of the proposed development, as conditions of approval.

Continuing with the applicable provisions of the Columbia County Stormwater and Erosion Control Ordinance:

I. INTRODUCTION

A. Purpose

1. The purpose of this ordinance is to:
2. Prevent water quality degradation of the county's water resources;
3. Prevent damage to property from increased runoff rates and volumes;
4. Protect the quality of waters for drinking water supply, contact recreation, fisheries, irrigation, and other beneficial uses;
5. Establish sound developmental policies which protect and preserve the county's water and land resources;
6. Protect county roads and rights-of-way from damage due to inadequately controlled runoff and erosion;
7. Protect the health, safety, and welfare of the inhabitants of the county;
8. Maintain existing instream flows; and
9. Preserve and enhance the aesthetic quality of the county's water resources.

B. Applicability

1. Provisions of this ordinance apply to:

[...]

- c. Applications for partitions and subdivisions;

[...]

II. GENERAL REQUIREMENTS

The following requirements apply to all activities regulated under this ordinance:

[...]

F. Stormwater Easements

1. Stormwater easements shall be provided to the county or state for emergency maintenance of all stormwater facilities created within new subdivisions.
2. The parties responsible maintenance of these stormwater facilities shall be identified and approved by the county during the subdivision review process.
3. Responsibility for maintenance of these stormwater facilities shall be enforced by maintenance agreements running with the land.
4. If the county needs to maintain a stormwater facility, the property owner shall be liable for reimbursement to the county for the cost of this maintenance.
5. The requirements for stormwater easements include:
 - a. For pipes, culverts, and storm sewers, easements shall be 20 feet wide and centered on the pipe.
 - b. For stormwater facilities that are not enclosed, the easements shall include the open water plus 10 feet horizontally from the ordinary high water mark.
 - c. Excluded from easements shall be any existing private buildings.
 - d. No new buildings or other structures, which prevent access, are permitted within easements. The zonal setbacks of no less than a 10 foot setback shall be maintained from the easement to the dwelling or accessory structure so as to provide unimpeded access to the stormwater easement by emergency maintenance vehicles. Fences crossing or bordering easements shall provide gates of sufficient width to allow access by maintenance vehicles to the easement.

Finding 48: The bioswale facilities detailed in the submitted Stormwater and Erosion Control Plan shall be subject to stormwater easements and maintenance agreements in accordance with the provisions of section 2(F) of the County's SEC Ordinance. The stormwater easement shall be dedicated to the County for emergency maintenance. To comply with the provisions of Section 2(F), conditions of approval will require the following:

- The appropriate stormwater easement(s) for emergency maintenance by the County shall be detailed on the Final Plat.
- A stormwater facility maintenance agreement between the 8 lots shall be submitted to LDS prior to acceptance of the Final Plat.
- A 10' setback from the stormwater easement shall be maintained to all future dwellings and accessory structures.

With these conditions, Staff finds the proposed subdivision will meet the requirements of Section 2(F).

III. STANDARDS SPECIFIC TO ACTIVITIES

The following requirements apply, in addition to the General Requirements above, to activities meeting the Applicability portion of this ordinance. Requirements citing a section number refer to the portion of the Erosion Control Manual (ECM) where a complete description of the practice can be found. Erosion control practices shall be installed and maintained as prescribed in the manual.

E. Subdivisions

1. Erosion Control
 - a. Required Measures
 - i. A Gravel Construction Entrance (ECM-Section 3.3.1) shall be installed prior to the beginning of grading.
 - ii. Where slopes exceed 5%, a Sediment Fence (ECM-Section 3.3.2) shall be installed at the base of the disturbed area or dirt stockpiles.
 - iii. On slopes exceeding 10%, sediment fences are required at intervals specified in Table 3-2 of the Erosion Control Manual.
 - iv. As an alternative to a sediment fence, vegetated and undisturbed buffers at the base of the slope on the subject property can be utilized. Slopes above the buffer cannot exceed 10% and the buffer width must be at least equal to the uphill-disturbed area draining to it.
 - v. During wet weather, October 1-April 30, a 6-mil plastic sheet cover (ECM-Section 3.3.9) or a minimum 2" of straw mulch cover shall be required on stockpiles where sediment is eroding and leaving the subject property or entering a water resource.
 - vi. Ground cover shall be reestablished prior to removing the erosion control measures described above (ECM-Section 3.3.6).
 - b. Erosion Control Plans

- i. Preliminary and Final Erosion Control Plans are required.
- ii. The plans shall be prepared by an Engineer.
- iii. The plans shall specify use of the erosion control measures outlined above, plus additional measures as may be necessary to prevent sediment from leaving the subject property or entering a water resource.
- iv. The plans shall be completed in the format specified in Section IV.
- v. The preliminary plan shall be submitted to the county with the subdivision application. The final plan shall be submitted to the county with the final engineering plans.
- vi. Subdivision approval will not occur until the preliminary plan is approved by the county.
- vii. Construction and grading on the site shall not begin until the final plan is approved by the county and required erosion control measures are in place.

Finding 49: The applicant has submitted a preliminary Stormwater and Erosion Control plan completed by a licensed engineer. The plan details the required erosion control measures listed in subsection III(E)(1) including a sediment fence at the end of the proposed private road and construction entrance. A final engineered Erosion Control plan shall be submitted to the County prior to acceptance of the Final Plat. This plan shall include all information listed in subsection III(B) of the County's SEC ordinance.

Additionally, as the construction of the proposed private road will likely involve moving more than 50 cubic yards of material and disturbing more than 2000 square feet of land, a grade and fill permit will be required. This grade and fill permit must be consistent with the erosion control measures listed in subsection III(C). This will be listed as another condition of approval.

With this, Staff finds the proposal will meet applicable erosion control requirements.

2. Long Term Water Quality Protection

a. Required Treatment Measures

- i. Runoff from parking lots, driveways, and other exposed traffic areas shall be treated using one of the following treatment methods: biofiltration swales, vegetative filter strips, alternative treatment methods.
- ii. Treatment methods shall be sized to treat the water quality storm.
- iii. Biofiltration swales and vegetative filter strips shall be sized for a

9-minute hydraulic residence time.

- iv. Oil/water separators shall be required on commercial and industrial sites for activities exhibiting a significant risk of high oil loading in runoff, oil spills, or illegal dumping of oil or grease.

b. Required Runoff Control Measures

- i. Runoff from the development site shall be controlled such that the following criteria are met:
 - A) The peak flows for the 10 and 100-year design storms after development does not exceed the respective predevelopment peak flows.
 - B) The peak flow for the 2-year design storm after development does not exceed one-half the predevelopment peak flow for the 2-year storm.
- ii. Discharges directly into tidal waterbodies are exempt from the above runoff control measures but not treatment requirements.

c. Stormwater Plans

- i. Preliminary and Final Stormwater Plans are required.
- ii. The plans shall be prepared by an Engineer.
- iii. The plans shall specify use of the treatment and runoff control measures outlined above.
- iv. The plans shall be completed in the format specified in Section IV.
- v. The preliminary plan shall be submitted to the county with the subdivision application. The final plan shall be submitted to the county with the final engineering plans.
- vi. Subdivision approval will not occur until the preliminary plan is approved by the county.
- vii. Construction and grading on the site shall not begin until the final plan is approved by the county and required erosion control measures are in place.

Finding 50: The applicant has submitted an engineered preliminary stormwater management plan which details compliance with required stormwater runoff treatment measures. Proposed facilities will include two bioswales along either side of the proposed private road, planted with a grass seed mix. Per the submitted plan, these bioswales will convey runoff north where it will

infiltrate into open grassland. The bioswales are sized for a 54-minute resident time, which exceeds the 9-minute requirement.

Regarding runoff control measures, table 4-2 of the submitted preliminary plan shows post-development peak flows increasing from pre-development peak flows for the 2, 10, 25 and 100-year design storms. However, the requirements of subsection III(E)(2)(b) state that post-development peak flows cannot exceed the pre-development peak flows for the 10 and 100-year design storms and cannot exceed one-half the pre-development peak flow for the 2-year design storm. Therefore, the preliminary stormwater plan does not meet the runoff control criteria. As a condition of approval, the applicant will be required to submit a final engineered stormwater plan which includes sufficient facilities so that the criteria in subsection III(E)(2)(b) are met. This plan shall include all information required in subsection III(E) of the County's SEC ordinance. With these conditions, Staff finds the proposal will meet applicable stormwater control and treatment requirements.

Continuing with the applicable provisions of Section 1450 of the Columbia County Zoning Ordinance related to Transportation Impact Analysis (TIA):

APPELLANT'S 3rd Concern - The unsafe conditions of Tide Creek Road. These TIA criteria were included in the Supplemental Findings Report prepared for the 11/6/23 continued public hearing.

Section 1450 TRANSPORTATION IMPACT ANALYSIS

1450 Transportation Impact Analysis: A Transportation Impact Analysis (TIA) must be submitted with a land use application if the proposal is expected to involve one or more of the conditions in 1450.1 (below) in order to minimize impacts on and protect transportation facilities, consistent with Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule.

.1 Applicability – A TIA shall be required to be submitted to the County with a land use application if the proposal is expected to involve one (1) or more of the following:

C. Potential impacts to intersection operations

[...]

.3 Approval Criteria. When a TIA is required, a proposal is subject to the following criteria:

A. The TIA addresses the applicable elements identified by the County Public Works Director and the County's Guidelines for Transportation Impact Analysis;

B. The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the County Public Works Director and, when state highway facilities are affected, to ODOT;

C. For affected non-highway facilities, the TIA establishes that mobility standards adopted by the County have been met; and

D. Proposed public improvements are designed and will be constructed consistent with County Road Standards and access spacing standards in the Transportation System Plan.

4 Conditions of Approval.

- A. The County may deny, approve, or approve a proposal with conditions necessary to meet operational and safety standards; provide the necessary right-of-way for improvements; and to require construction of improvements to ensure consistency with the future planned transportation system.
- B. Construction of off-site improvements may be required to mitigate impacts resulting from development that relate to capacity deficiencies and public safety; and/or to upgrade or construct public facilities to County Standards. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

Finding 51: On September 8, 2023 Scott Toenjes from the Public Works Department submitted the comment (**Attachment 5 of Supplemental Findings Report**) stating that the applicant will be required to prepare a Transportation Impact Analysis (TIA) and dedicate a 10' right-of-way parallel and adjacent to Tide Creek Road's existing 40' public ROW for all of the subject property's frontage of Tide Creek Road.

On 9/13/2023, the Public Works Director, Mike Russell (**Attachment 7 of Supplemental Findings Report**) provided additional comment stating that that *"Creating a new intersection inherently creates impacts at the location and I want to see what those might be to determine if there will be any geometric, sight distance, striping, signage, lighting or other improvements needed on Tide Creek Road at this location to mitigate those impacts"*. The Director also provided a scope of what the TIA should address - mainly the impacts on the new intersection of the subdivision onto Tide Creek Road and on the intersection of Tide Creek Road and Highway 30. Staff notes that the existing condition of Tide Creek Road and the impact of 8 new dwellings utilizing it was a major theme in concerns raised by neighboring property owners at the 9/11/2023 hearing.

On October 27, 2023 LDS received the attached Lupine Meadow Transportation Impact Analysis, Columbia County (**Attachment 11 of Supplemental Findings Report**) dated 10/27/2023 prepared by Jennifer Danziger PE, Senior Transportation Engineer and Myla Cross, Transportation Analyst with *Lancaster Mobley*.

This Transportation Impact Study (TIA) evaluated the transportation impacts of the development of 8 single family homes, to be constructed on the subject property and follows the *Columbia County Guidelines for Transportation Impact Analysis* identified in the 2017 Columbia County Transportation System Plan, Volume 2, Section P as required by the Columbia County Director of Public Works, Mike Russell. Through discussions with and direction from Public Works Director and Public Works Staff, the TIA also evaluated the intersection of Highway 30 and Tide

Creek Road along with the three proposed new site accesses presented for S 23-01. Its purpose is to determine whether the transportation system within the vicinity of the ~45-acre FA-80 site is capable of safely and efficiently supporting the existing and proposed uses, as well as to determine any mitigation that may be necessary.

This TIA collected data and evaluated the following categories and components of Transportation Impacts on this portion of Tide Creek Road as well at Tide Creek Road's intersection with Highway 30 resulting from establishment of 8 more residences as presented for S 23-01: Site Trips (trip generation, distribution and assignment), Traffic Volumes(Existing Background and Build-Out Conditions), Safety (Crash History, Sight Distance, Access Spacing, Warrants for Left-turn lane/ Preliminary traffic signals, Potential Access Conflicts) and Operation Analysis (Performance Targets, Delay and Capacity Analysis).

The *Executive Summary* of this TIA and the calculated Site Trips, Traffic Volumes, Safety and Operational Analysis demonstrate the following conclusions:

- “4. The trip generation calculations show that the proposed project is projected to generate 6 morning peak hour trips, 8 evening peak hour trips, and 76 average weekday trips.*
- 5. No significant trends or crash patterns were identified at any of the study intersections. Accordingly, no specific safety mitigation is recommended.*
- 6. Sight distance requirements per Columbia County standards can be met at all of the site accesses.*
- 7. The projected traffic demand at the shared site access does not meet the left-turn lane warrant thresholds under buildout conditions.*
- 8. Traffic signal warrants are not met at the intersection of Tide Creek Road and US 30.*
- 9. The new accesses and added traffic from the proposed development will not create significant conflicts with existing driveways.*
- 10. All study intersections are projected to meet ODOT and the Columbia County standards under all analysis scenarios.*
- 11. With a peak hour increase of only 1 vehicle every 7 to 10 minutes, residents along Tide Creek Road will perceive no change in average delay; driveways will continue to operate at LOS A”.*

On October 30, 2023, Mike Russell, Director of Columbia County Public Works submitted the following responses (**Attachment 7 of 11/2/23 Supplemental Report**) to the Lupine Meadow Transportation Impact Analysis, Columbia County dated 10/27/2023 prepared by Lancaster Mobley.

Public Works staff have heard concerns regarding the proposed application of 8 new residences along Tide Creek Road as presented for S 23-01 including:

- The additional traffic will cause safety issues on Tide Creek Road by causing additional congestion along the section of the roadway adjacent to the proposed development where there are existing driveways and shared driveways and
- Increases in congestion and safety issues at the intersection of Tide Creek with Highway 30.

The Public Works Director required the applicant's engineer to perform a Traffic Impact Analysis (TIA) that would address the congestion and safety aspects of these concerns. Consequently, the Public Works Director's evaluation of Lancaster Mobley's Lupine Meadow Transportation Impact Analysis dated 10/27/2023 is summarized below.

Tide Creek Road Safety

- The addition of driveways onto any county road introduces the potential for turning movement conflicts where there were none, this alone does not necessarily restrict rural development or provide cause for denying a particular application.
- The applicant has demonstrated the proposed development has adequate access onto Tide Creek Road.
- The specifics of each access will be determined through the issuance of individual Road Access permits issued by the Public Works Department, so **the requirement that the applicant obtain Road Access Permits is still in place.**
- This TIA specifically looked at peak hour trips as a measure of the busiest time of day. As demonstrated, the applicant's engineer determined that the most peak (evening) hour trips at full buildout of the development would be 8 trips total.
- The applicant's engineer also determined that this increase will effectively cause no delay along Tide Creek.
- **Public Works is satisfied that the proposal will have a negligible effect on the current operations of Tide Creek Road in terms of traffic loading and Level Of Service (LOS) that Tide Creek Road currently provides.**
- The Applicant's engineer also addressed sight distance and a review of crash history to determine if any modifications to the proposal or to Tide Creek Road were warranted.
- **Public Works is satisfied that there are no significant trends that indicate a specific safety concern on this section of Tide Creek Road and that the sight distance of the proposed driveway locations will meet Columbia County Road Standards and not create significant conflicts with existing driveways.**

Tide Creek Road @ Highway 30

- The TIA found that traffic signal warrants were not met at this intersection and that there were no significant crash patterns that would indicate any specific safety mitigation as a result of the proposal.
- **Public Works is satisfied that the proposal does not trigger any specific improvements or modifications to the intersection of Tide Creek Road at Highway 30.**

Inconclusion, Mike Russell stated that “The Public Works Director finds that there are no significant traffic-related impacts that need to be mitigated as a result of full buildout of the proposed development. As stated in the TIA “[with a peak hour increase of only 1 vehicle every 7 to 10 minutes, residents along Tide Creek Road will perceive no change in average delay; driveways will continue to operate at LOS A.”

Finding 52: With the Director of Public Works evaluation of the Lupine Meadow Transportation Impact Analysis, Columbia County dated 10/27/2023 prepared by *Lancaster Mobley* and conducted in accordance with the parameters of his 9/13/2023 comments, Staff finds the applicant has satisfied the necessary TIA Approval Criteria identified in Section 1450.3 of the Zoning Ordinance. Specifically, Staff finds that the TIA demonstrates:

1. Addresses the applicable elements identified by the County Public Works Director and the County’s Guidelines for Transportation Impact Analysis;
2. Adequate transportation facilities on this portion of Tide Creek Road and its intersection with Highway 30 exist to serve the proposed development requested for S 23-01;
3. Mobility standards adopted by the County have been met; and
4. Proposed public improvements (public dedication of 10’ right-of-way along all of the subject property’s Tide Creek Frontage and obtaining Road Access Permits as a condition of building permit issuance for each new residence) are consistent with County Road Standards and access spacing standards in the Transportation System Plan.

For these site-specific reasons and with these conditions of approval, Staff finds the applicant has satisfied all applicable provisions in Section 1450 of the Zoning Ordinance and also addresses the Appellant’s 3rd issue related to unsafe conditions of Tide Creek Road.

COMMENTS RECEIVED

County Sanitarian: Due to wetland boundaries & reconfiguration lots #3,4,5,6, and 8 will need new site evaluations or site evaluation confirmation to approve or relocate disposal areas.

County Building Official: Owner will be required to obtain all building, electrical, plumbing, and mechanical permits.

County Assessor: Property is under farm deferral and will need to be disqualified and pay taxes prior to recording the subdivision.

Columbia River PUD: Have reviewed the proposal and have no objection to its approval as submitted.

Mike Russell and Scott Toenjes, Columbia County Department of Public Works: Have been incorporated into the Discussion related to Findings 31, 51 and 52

Thomas H. Cutler, legal representative of Frank Hall and Gene Hester comments dated

9/8/2023 have been incorporated into the discussion related to Finding 4.

CONCLUSION, RECOMMENDATION & CONDITIONS

Based on the above findings and analysis of the relevant criteria discussed in this report as well as in the Staff Report dated August 8, 2023 and the Supplemental Findings Report dated November 2, 2023, staff recommends the Board of Commissioners **AFFIRM** the Planning Commission's Final Decision to **APPROVE** the proposed 8-Lot Subdivision – Lupine Meadow- as presented for S 23-01 subject to the following conditions:

CONDITIONS OF APPROVAL:

1. A surveyed Final Subdivision Plat shall be prepared and submitted to Land Development Services within one year of the date of approval of the Preliminary Plat. If this one-year deadline is not met, the Preliminary Plat must be resubmitted for approval under the Subdivision and Partitioning Ordinance that is in effect at the time the plat is submitted. An extension may be granted, upon application, by the Planning Commission for a period not to exceed 6 months.
2. All future site development shall be authorized provided it is consistent with the Terms of the applicant's Measure 49 Final Order and Home Site Authorizations as well as with the applicable provisions in OAR Chapter 660 Division 33 and the Columbia County Primary Agriculture Zone.
3. Per the provisions in Term 12 of Measure 49 Claims E142340, E132337, and E132342, should any of the eight lots be conveyed to parties who do not have rights of survivorship of the Measure 49 Claimant, the subsequent owner(s) must establish the authorized dwelling(s) within 10 years of the land conveyance.
4. The applicant or future property owners shall obtain all necessary building permits for future dwellings or structures.
5. The applicant shall submit a Grade and Fill permit prior to any ground disturbing activities or road construction. The applicant shall use applicable erosion control measures consistent with subsection III(C) of the Stormwater and Erosion Control Ordinance.
6. Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area.
7. The applicant and/or subsequent owners of the proposed lots shall obtain all necessary permits from the Department of State Lands (DSL) for work within identified wetlands.
8. The responsibility for protection from wildlife damage on the property shall be assumed by future dwelling owners and/or occupants.

9. Driveways for lots 1 and 8 onto Tide Creek Road be designed and arranged to avoid requiring vehicles to back into traffic.

10. Prior to acceptance and approval of the Final Plat:

- a. The applicant shall submit an Engineered Final Stormwater and Erosion Control (SEC) Plan for the subdivision that is consistent with the Stormwater & Erosion Control Ordinance, and specifically subsection III(E)(2)(b).
- b. The County Public Works Department and the Columbia River Fire & Rescue shall inspect all private road improvement plans for Lupine Meadow Drive and submit documentation to Land Development Services that the new private road is constructed to the minimum private road specifications in the County Road Standards Ordinance as well as those in the 2017 Columbia County Transportation Plan.
- c. The applicant shall obtain approved septic lot evaluations or lot evaluation confirmations for methods of onsite sewage disposal for lots 3, 4, 5, 6, and 8.
- e. The applicant shall submit a Road Naming Application for the proposed private road.
- f. The applicant shall obtain and submit to LDS Road Access Permits for each lot.
- g. The applicant shall submit to LDS engineered plans for all improvements, including the proposed private road and stormwater facilities. The applicant shall submit to LDS documentation from the Public Works Department and Columbia River Fire and Rescue certifying that the engineered road plan meets all applicable standards.
- h. The proposed private road shall be constructed to Private Road Standards as adopted by the County in Section IV of the County Road Standards Ordinance. The applicant shall submit to LDS approval from the Public Works Department and CRF&R certifying that the proposed private road has been improved to applicable standards.
- i. The applicant shall either:
 1. Drill wells on lots 3, 4, 5, 6, and 7, and submit to LDS associated well logs that have been recorded with the Oregon Water Resources Department; **or**
 2. Submit well maintenance agreements between lots sharing wells and detail all waterline easements on the Final Plat. Well maintenance agreements shall be referenced on the Final Plat.

11. The following shall be recorded concurrently with the Final Plat:

- a. The applicant shall record a notarized Waiver of Remonstrance concurrent with S 23-01 that prohibits future landowners and their successors from pursuing a claim for relief or cause of action alleging injury from farming or forest practices occurring on adjacent properties. This shall be referenced on the Final Plat.
- b. The applicant shall record a Road Maintenance Agreement for the proposed private road to be utilized by lots 2, 3, 4, 5, 6, and 7. This agreement shall be referenced on the Final Plat.
- c. The applicant shall record deed restrictions on the properties associated with State Election Numbers E132337 and E132342 to reflect the transfer of Measure 49 development rights to the subject property.
- d. The applicant shall record a stormwater facility maintenance agreement between all lots for stormwater facilities detailed in the Final Stormwater and Erosion Control Plan. This agreement shall be referenced on the Final Plat.

12. In addition to all County and State requirements, the following shall be included on the Final Plat:

- a. The proposed private road shall be identified as a 40-foot-wide private access and utility easement.
- b. A stormwater easement conforming substantially with the course of the drainageway identified on lot 5.
- c. Stormwater facility easements consistent with subsection II(F) of the Stormwater and Erosion Control Ordinance for all stormwater facilities detailed in the Final Stormwater and Erosion Control Plan.
- d. A minimum 5' wide utility easement along the lot lines of all 8 lots.
- e. If utilizing shared wells, waterline easements shall be detailed between wells and any lots being served.
- f. A Statement that "*Lupine Meadow Subdivision is subject to Columbia County Land Development Services File No. S 23-01 and the applicable provisions of the Columbia County Zoning Ordinance*"
- g. A "*10' public right-of-way dedication*" shall be surveyed and identified on the subject property's frontage on Tide Creek Road parallel and adjacent to Tide Creek Road's existing 40' right-of-way.

13. Before a building permit may be issued for any individual lots resulting from this

subdivision:

- a. The property and all division lines must be surveyed and filed in the office of the County Surveyor, and the Final Subdivision Plat must be recorded in the office of the County Clerk.

Attachments:

Frank Hall's, Appellant, 11/21/23 Referral of S 23-01 to the Board of Commissioners
Submitted Application Materials for S 23-01
August 8, 2023 Staff Report
November 2, 2023 Supplemental Findings Report
Comments Received to Date

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

November 2, 2023

Measure 49 Subdivision

HEARING DATE: October 2, 2023 that was continued to November 6, 2023 at the applicant's request.

FILE NUMBER: S 23-01

**APPLICANT/
OWNER:** Agnes M. Petersen, P.O. Box 748, St. Helens, OR 97051

LOCATION: The site is located along the north side of Tide Creek Road approximately 1.3 miles west of Highway 30

**TAX MAP ID
NUMBER:** 6225-00-00400 (Account No. 16380)

ZONING: Forestry Agriculture (FA-80)

SIZE: ~ 44.96 acres

REQUEST: To subdivide the 44.96-acre property into 8 Lots between 2.0 and 31 acres in size as authorized by State Final Order and Approval of Measure 49 Claim Numbers E132340, E132337, and E132342.

SUPPLEMENTAL REVIEW CRITERIA:

Page

Columbia County Zoning Ordinance

Section 1450 – Transportation Impact Analysis 3

Columbia County Subdivision and Partitioning Ordinance

Article IV- Preliminary Plat for Subdivision 8

Article V- Final Subdivision Plat Procedure 9

Article X - Subdivision & Partition Requirements 9

APPLICATION COMPLETE: 6/29/2023

150 DAY DEADLINE: 11/26/2023

*The applicant has extended this ORS 215.427 deadline by 35 -days to 12/31/2023

SUMMARY:

The subject proposal had a first hearing scheduled for August 21, 2023 Planning Commission meeting which was cancelled and continued to the next scheduled hearing on September 11th, 2023. During this hearing neighboring property owners stated numerous concerns surrounding the proposal related to traffic increases along Tide Creek Road and Highway 30 and the adequacy of potable water in this area. The meeting was continued to October 2, 2023 to afford time for additional comment. Concerns raised included the traffic impact of the proposed subdivision as well as impacts to the area's water availability.

Attachment 1 includes written comments submitted by Gene Hester and Frank Hall on September 8th, 2023 and include signatures from neighbors and includes their concerns about domestic water shortages in this area. Mr. Hester's and Mr. Halls' legal representative, Thomas H. Cutler submitted concerns related to shortage of water, increases in traffic along Tide Creek Road and Highway 30 as well as the validity of the applicant's Measure 37/49 claims on September 11, 2023 and October 18, 2023 (**Attachment 2**).

The applicant, represented by Mary Anne Anderson, submitted the attached responses to the initial Staff Report on 8/10/2023 and 8/29/2023 requesting removal of Conditions 10(d) 10(i) and 10(j), identified as **Attachment 3**.

On 8/29/2023, the County Assessor submitted additional comment (**Attachment 4**) retracting the requirement associated with condition 10(d) that the applicant disqualify the subject property from farm tax deferral. On 9/8/2023, Scott Toenjes from the County Public Works Department submitted comment (**Attachment 5**) listing multiple requirements, and specifically stating that the applicant will be required to complete a Transportation Impact Analysis (TIA) and dedicate 10' of right-of-way.

At the October 2, 2023 continued hearing, the applicant, Agnes Petersen, submitted a partial waiver of the 150-day deadline in ORS 215.427 (**Attachment 6**) and requested the Planning Commission continue the consideration of S 23-01 to the November 6, 2023 scheduled hearing. This request would allow the applicant time to conduct the Transportation Impact Analysis (TIA) required by the County Department of Public Works.

A motion was made and seconded to continue the consideration of S 23-01 to the November 6, Planning Commission Hearing after which there was a unanimous vote to approve this continuation.

Concerns raised at the September 11th hearing and all additional comments received by LDS through October 31, 2021 will be addressed in the following supplemental findings. To simply the multitude of comments received, all comments received from the same person or entity will be listed in the same Attachment.

Finding 1: The original 8/10/2023 Staff Report included in the summary, a condition (condition 10(d)) that the applicant disqualify the subject property from farm tax deferral. This was based on County Assessor comment received 7/27/2023 which stated that the subject property must be disqualified, and taxes paid prior to recording of the subdivision plat. On 8/29/2023, the applicant submitted a response requesting removal of this condition. This was forwarded to the County Assessor, who on 8/29/2023 submitted additional comment (**Attachment 4**) retracting this requirement. Staff recommends condition 10(d) be removed.

Finding 2: Attachment 2 comments from Thomas H. Cutler, the legal representative of neighboring property owners Frank Hall and Gene Hester details concerns about the applicant's Measure 49 determination regarding deed records and the ownership of the subject property. Staff notes that under writ of review statutes, neighboring property owners had 60 days from the date of DLCD's decision to challenge the applicant's measure 49 determination. As the final order associated with state election no. E132340 is dated February 8th, 2010, this time for challenges has passed. Consequently, LDS will treat the applicant's home site authorization as final.

Section 1450 TRANSPORTATION IMPACT ANALYSIS

1450 Transportation Impact Analysis: A Transportation Impact Analysis (TIA) must be submitted with a land use application if the proposal is expected to involve one or more of the conditions in 1450.1 (below) in order to minimize impacts on and protect transportation facilities, consistent with Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule.

- .1 Applicability – A TIA shall be required to be submitted to the County with a land use application if the proposal is expected to involve one (1) or more of the following:

C. Potential impacts to intersection operations

[...]

- .3 Approval Criteria. When a TIA is required, a proposal is subject to the following criteria:
- A. The TIA addresses the applicable elements identified by the County Public Works Director and the County's Guidelines for Transportation Impact Analysis;
 - B. The TIA demonstrates that adequate transportation facilities exist to serve the proposed development or, identifies mitigation measures that resolve identified traffic safety problems in a manner that is satisfactory to the County Public Works Director and, when state highway facilities are affected, to ODOT;
 - C. For affected non-highway facilities, the TIA establishes that mobility standards adopted by the County have been met; and
 - D. Proposed public improvements are designed and will be constructed

consistent with County Road Standards and access spacing standards in the Transportation System Plan.

.4 Conditions of Approval.

- A. The County may deny, approve, or approve a proposal with conditions necessary to meet operational and safety standards; provide the necessary right-of-way for improvements; and to require construction of improvements to ensure consistency with the future planned transportation system.
- B. Construction of off-site improvements may be required to mitigate impacts resulting from development that relate to capacity deficiencies and public safety; and/or to upgrade or construct public facilities to County Standards. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on transportation facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.

Finding 3: On 9/8/2023 Scott Toenjes from the Public Works Department submitted comment (**Attachment 5**) stating that the applicant will be required to prepare a Transportation Impact Analysis (TIA). On 9/13/2023, the Public Works Director, Mike Russell (**Attachment 7**) provided additional comment stating that that *“Creating a new intersection inherently creates impacts at the location and I want to see what those might be to determine if there will be any geometric, sight distance, striping, signage, lighting or other improvements needed on Tide Creek Road at this location to mitigate those impacts”*. The Director also provided a scope of what the TIA should address - mainly the impacts on the new intersection of the subdivision onto Tide Creek Road and on the intersection of Tide Creek Road and Highway 30. Staff notes that the existing condition of Tide Creek Road and the impact of 8 new dwellings utilizing it was a major theme in concerns raised by neighboring property owners at the 9/11/2023 hearing.

Finding 4: On 9/25/2023 Michael Newton (**Attachment 8**) submitted comments about the stability of properties along Tide Creek Road. On 10/16/2023 Lowell and Teresa Norbom submitted similar stability concerns (**Attachment 9**) for Tide Creek Road as well as concerns related to signs that existing wells along Tide Creek Road have been decreasing output over the past decade. Thomas H. Cutler’s 10/18/2023 comments also referenced these concerns and stated that the required Transportation Impact Analysis (TIA) must be broad and comprehensive enough to properly ensure transportation safety and adequacy of properties served by Tide Creek Road.

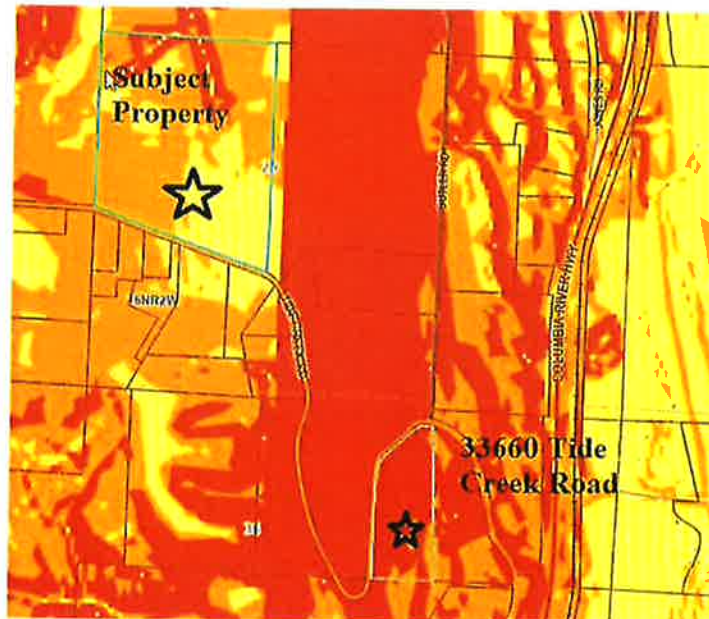
Finding 5: On October 30, 2023 Al Petersen submitted his response (**Attachment 10**) to Michael Newton's concerns about potential landslides near his residence at 33660 Tide Creek Road. Mr. Petersen explains Mr. Newton's property is approximately 1 mile east of the ~45-acre subject property in an area that is identified as high susceptible to landslides as demonstrated in the county GIS map shown below which originates from the Oregon Department of Geology and Mineral Industries (DOGAMI).

With this data verifying the subject property's low – medium landslide susceptibility significantly differs from the high land susceptibility of the property addressed at 33660 Tide Creek Road approximately 1 mile east, Staff finds that any site-specific slope stability issues will be assessed and evaluated by the County Building and Planning Officials at time of building permit submittal/issuance for each of the proposed eight Lots of Lupine Meadow.

Natural Features

Landslide Susceptibility

- Low
- Medium
- High
- Very High



Finding 6: On October 27, 2023 LDS received the attached Lupine Meadow Transportation Impact Analysis, Columbia County (Attachment 11) dated 10/27/2023 prepared by Jennifer Danziger PE, Senior Transportation Engineer and Myla Cross, Transportation Analyst with *Lancaster Mobley*.

This Transportation Impact Study (TIA) evaluated the transportation impacts of the development of 8 single family homes, to be constructed on the subject property and follows the *Columbia County Guidelines for Transportation Impact Analysis* identified in the 2017 Columbia County Transportation System Plan, Volume 2, Section P as required by the Columbia County Director of Public Works, Mike Russell. Through discussions with and direction from Public Works Director and Public Works Staff, the TIA also evaluated the intersection of Highway 30 and Tide Creek Road along with the three proposed new site accesses presented for S 23-01. Its purpose is to determine whether the transportation system within the vicinity of the ~45-acre FA-80 site is capable of safely and efficiently supporting the existing and proposed uses, as well as to determine any mitigation that may be necessary.

This TIA collected data and evaluated the following categories and components of Transportation Impacts on this portion of Tide Creek Road and this road's intersection with Highway 30 resulting from establishment of 8 more residences as presented for S 23-01: Site Trips (trip generation, distribution and assignment), Traffic Volumes (Existing Background and Build-Out Conditions), Safety (Crash History, Sight Distance, Access Spacing, Warrants for Left-turn lane/ Preliminary traffic signals, Potential Access Conflicts) and Operation Analysis (Performance Targets, Delay and Capacity Analysis).

The *Executive Summary* of this TIA and the calculated Site Trips, Traffic Volumes, Safety and Operational Analysis demonstrate the following conclusions:

- “4. The trip generation calculations show that the proposed project is projected to generate 6 morning peak hour trips, 8 evening peak hour trips, and 76 average weekday trips.*
- 5. No significant trends or crash patterns were identified at any of the study intersections. Accordingly, no specific safety mitigation is recommended.*
- 6. Sight distance requirements per Columbia County standards can be met at all of the site accesses.*
- 7. The projected traffic demand at the shared site access does not meet the left-turn lane warrant thresholds under buildout conditions.*
- 8. Traffic signal warrants are not met at the intersection of Tide Creek Road and US 30.*
- 9. The new accesses and added traffic from the proposed development will not create significant conflicts with existing driveways.*
- 10. All study intersections are projected to meet ODOT and the Columbia County standards under all analysis scenarios.*
- 11. With a peak hour increase of only 1 vehicle every 7 to 10 minutes, residents along Tide Creek Road will perceive no change in average delay; driveways will continue to operate at LOS A”.*

Finding 7: On October 30, 2023, Mike Russell, Director of Columbia County Public Works

submitted the following responses (**Attachment 7**) to the Lupine Meadow Transportation Impact Analysis, Columbia County dated 10/27/2023 prepared by *Lancaster Mobley*.

Public Works staff have heard concerns regarding the proposed application of 8 new residences along Tide Creek Road as presented for S 23-01 including:

- The additional traffic will cause safety issues on Tide Creek Road by causing additional congestion along the section of the roadway adjacent to the proposed development where there are existing driveways and shared driveways and
- Increases in congestion and safety issues at the intersection of Tide Creek with Highway 30.

The Public Works Director required the applicant's engineer to perform a Traffic Impact Analysis (TIA) that would address the congestion and safety aspects of these concerns. Consequently, the Public Works Director's evaluation of Lancaster Mobley's Lupine Meadow Transportation Impact Analysis dated 10/27/2023 is summarized below.

Tide Creek Road Safety

- The addition of driveways onto any county road introduces the potential for turning movement conflicts where there were none, this alone does not necessarily restrict rural development or provide cause for denying a particular application.
- The applicant has demonstrated the proposed development has adequate access onto Tide Creek Road.
- The specifics of each access will be determined through the issuance of individual Road Access permits issued by the Public Works Department, so **the requirement that the applicant obtain Road Access Permits is still in place.**
- This TIA specifically looked at peak hour trips as a measure of the busiest time of day. As demonstrated, the applicant's engineer determined that the most peak (evening) hour trips at full buildout of the development would be 8 trips total.
- The applicant's engineer also determined that this increase will effectively cause no delay along Tide Creek.
- **Public Works is satisfied that the proposal will have a negligible effect on the current operations of Tide Creek Road in terms of traffic loading and Level Of Service (LOS) that Tide Creek Road currently provides.**
- The Applicant's engineer also addressed sight distance and a review of crash history to determine if any modifications to the proposal or to Tide Creek Road were warranted.
- **Public Works is satisfied that there are no significant trends that indicate a specific safety concern on this section of Tide Creek Road and that the sight distance of the proposed driveway locations will meet Columbia County Road Standards and not create significant conflicts with existing driveways.**

Tide Creek Road @ Highway 30

- The TIA found that traffic signal warrants were not met at this intersection and that there were no significant crash patterns that would indicate any specific safety mitigation as a

result of the proposal.

- **Public Works is satisfied that the proposal does not trigger any specific improvements or modifications to the intersection of Tide Creek Road at Highway 30.**

In conclusion, Mike Russell stated that “The Public Works Director finds that there are no significant traffic-related impacts that need to be mitigated as a result of full buildout of the proposed development. As stated in the TIA “[with a peak hour increase of only 1 vehicle every 7 to 10 minutes, residents along Tide Creek Road will perceive no change in average delay; driveways will continue to operate at LOS A.”

Finding 8: With the Director of Public Works evaluation of the Lupine Meadow Transportation Impact Analysis, Columbia County dated 10/27/2023 prepared by Lancaster Mobley and conducted in accordance with the parameters of his 9/13/2023 comments, Staff finds the applicant has satisfied the necessary TIA Approval Criteria identified in Section 1450.3 of the Zoning Ordinance. Specifically, Staff finds that the TIA demonstrates:

1. Addresses the applicable elements identified by the County Public Works Director and the County’s Guidelines for Transportation Impact Analysis;
2. Adequate transportation facilities on this portion of Tide Creek Road and its intersection with Highway 30 exist to serve the proposed development requested for S 23-01;
3. Mobility standards adopted by the County have been met; and
4. Proposed public improvements (public dedication of 10’ right-of-way along all of the subject property’s Tide Creek Frontage and obtaining Road Access Permits as a condition of building permit issuance for each new residence) are consistent with County Road Standards and access spacing standards in the Transportation System Plan.

For these site-specific reasons and with these conditions of approval, Staff finds the applicant has satisfied all applicable provisions in Section 1450 of the Zoning Ordinance

ARTICLE IV - PRELIMINARY PLAT FOR SUBDIVISION

[...]

SECTION 404. STATEMENT TO ACCOMPANY PRELIMINARY PLAT.

The preliminary plat shall be accompanied by written statements giving essential information regarding the following matters:

[...]

- E. Public and Private Utilities. A letter from each of the utility companies serving the area in which the subdivision is located stating that each is able and willing to serve the subdivision as proposed, and that satisfactory arrangements have been made as to the cost for financing the utility installation.

Finding 9: The original August 8th Staff Report included a finding and condition that the S 23-01 Supplemental Findings

Applicant provide a will-serve letter from Northwest (NW) Natural, which is the Natural Gas utility in Columbia County. On August 10th, the applicant submitted a response stating that there is no Natural Gas availability in the area of the subject property. The applicant also included the result of a gas availability request done through NW Natural's website which states that gas service is unavailable. Staff verified this using NW Natural's website as well. Staff finds that the criteria of subsection 404(E) is not applicable regarding natural gas service. A will-serve letter from NW Natural should thus not be required. Staff recommends condition 10(j) be removed.

ARTICLE V – FINAL SUBDIVISION PLAT PROCEDURE

[...]

SECTION 511. EVIDENCE OF WATER SUPPLY.

Written proof of available water supply adequate to serve water on each lot as required in Section 304.1 of this ordinance shall be provided prior to approval of the final plat by the County.

[...]

ARTICLE X – SUBDIVISION AND PARTITION REQUIREMENTS

[...]

SECTION 1013. UTILITIES.

- 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.

[...]

SECTION 1015. OTHER REQUIREMENTS.

In rural and urban areas, in addition to the improvements required by the provisions of this ordinance, the subdivider may be required to provide other improvements because of specific features of the land and the design and location of the subdivision or major partition. Improvements such as bridges, culverts, and the fencing of watercourses, rights-of-way, and recreation areas and facilities may be required where necessary for the health, safety, and general welfare of residents of the subdivision or major partition.

Finding 10: The applicant has wells drilled on lots 1, 2, and 8, which together provide 70 gallons of water a minute per submitted well logs. In the applicant's response dated 8/29/2023, they request that condition 10(j) be removed. This condition as currently written requires them to prove water availability on the other 5 lots either by drilling wells on the remaining lots or by incorporating waterline easements and maintenance agreements into the Final Plat.

The comments (**Attachment 3**) from Mary Anne Anderson submitted August 29, 2023 and October 30, 2023 all state that the provisions of the CCZO and CCSPO do not require them to prove a water supply for each individual lot. The applicant further states that they are required

only to show “adequate potential for water at the site” as is stated in Section 1013(D). Applicant states that they have satisfied this requirement by submitting well logs for the wells on lots 1, 2, and 8. Mary Anne Anderson also submitted Water Availability Report from McMullen Will Drilling Corporation (**Attachment 12**) stating the current recorded three (3) wells show that there is adequate water available at the site to serve the eight (8) residential lots proposed for S 23-01.

Staff would like to bring attention to the criterion of Section 1015 of the Zoning Ordinance, which states that the subdivider may be required to “...provide other improvements because of specific features of the land and the design and location of the subdivision...” The criterion further states that “Improvements such as...facilities may be required where necessary for the health, safety, and general welfare of residents of the subdivision or major partition”.

Staff notes that water scarcity in the vicinity of the subdivision was a major topic of discussion at the September 11th hearing and reflected in comments received afterwards (**Attachments 1, 2 and 9**). If the applicant does not provide a concrete mechanism – drilling 5 more wells or record well maintenance agreements and easements for all affected Lots - prior to the acceptance and approval of the final plat- as already required in Condition 10 (i), Staff finds that the county cannot guarantee that Lots 3,4,5,6 and 7 will be able to support their intended residential development authorized through the applicant’s approved Measure 49 Claims in a rural area where current long-term residents have been experiencing water scarcity issues for the past decade.

Another clarification to this requirement of final plat approval is that future residents will still have the option of choosing to drill their own well, instead of using one of the three existing drilled wells. Consequently, although this requirement does not mandate that all future residents use one of the existing wells, it will ensure all residents will have legal access to an existing approved shared potable water supply if they are unable to provide their own private well.

Staff finds that Condition 10 (i) is a reasonable final plat requirement since the 3 shared wells have already been drilled. Following through with the establishment of shared well- maintenance agreements and surveyed waterline easements for these existing wells, moreover, are not unreasonable or cost-prohibitive final plat requirement for the applicant/developer to undertake for the Measure 49 authorized 8-Lot Lupine Meadow Subdivision on the subject property that has been zoned and used for resource-related development for the last 50 years.

Given that water scarcity has been a major theme raised by concerned neighbors, Staff finds that ensuring water supply for each proposed lot should be a requirement made of the applicant. Water is a basic need of all future residents of the subdivision, and the Commission is explicitly allowed to attach requirements necessary for the health and welfare of the future residents. For these site-specific reasons, Staff recommends condition 10(i) remain as a condition of approval for this proposal.

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.
- B. **Existing Streets.** Additional street right-of-way shall be dedicated as per the County Road Standards at the time of subdivision or partition when the following conditions exist:
- (1) The subject property is located within an urban growth boundary and fronts on a County road; or
 - (2) The subject property is subdivided or partitioned to lots or parcels containing 2 acres or less.
- C. **Street Widths and Roadways.** Unless otherwise indicated on the official map, or the roadway meets the criteria in 1005.C(5), the width of rights-of-way and roadway improvements shall be in compliance with the following:
- (1) **Minor Arterial.** Right-of-way width 80 feet.
 - (2) **Collector.** Right-of-way width 60 feet.
 - (3) **Local.** Right-of-way width 50 feet.
 - (4) The Board may, upon a recommendation by the County Roadmaster, require additional right-of-way width to protect the public health, safety, and welfare.
 - (5) For roadways within a UGB but outside city limits, the County will apply the adopted roadway and access spacing standards of the applicable jurisdiction, where these standards are equal to, or more restrictive than, adopted County standards.

Finding 11: On 9/8/2023, the County Public Works Department submitted comment stating that the applicant must dedicate 10' of right-of-way along the entire frontage of the subject property. Per the Department, Tide Creek Road is classified as a minor collector road which has a 60' right-of-way standard. Currently, Tide Creek Road has only a substandard 40' right-of-way. Under the provisions of subsection 1005.C, the Board may require right-of-way dedication upon recommendation by the County Roadmaster.

Tide Creek Road needs 20' in additional right-of-way to be brought to standard. The dedication of 10' by the subject property would bring the Road up to standard on the applicant's side of the road in this location. The required dedication is additionally consistent with the criteria of

subsection 1005(A) which states "...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..." Staff recommends the dedication of 10' should be included as a condition of approval.

CONCLUSION, RECOMMENDATION & CONDITIONS

Based upon the Staff analysis and Supplemental Findings as stated above, Staff recommends the Planning Commission **APPROVES** S 23-01 as presented in the original staff report dated 8/10/2023 subject to the identified conditions of approval and with the 3 modifications:

The elimination of Conditions 10 (d) and 10(j) related to the disqualification of property from farm deferral and documentation from NW Natural and

The addition of Condition 12 (g) of Final Plat requirements as *A 10' public right-of-way dedication shall be surveyed and identified on the subject property's frontage on Tide Creek Road parallel and adjacent to Tide Creek Road's existing 40' right-of-way.*

Attachments:

- Attachment 1 – Submission received from Gene and Lynn Hester on September 8, 2023
- Attachment 2 – Submissions received from Thomas H. Cutler dated September 11, 2023 and October 18, 2023
- Attachment 3 – Submissions received from Mary Anne Anderson dated August 10, 2023, August 29, 2023 and two (2) received on October 30, 2023
- Attachment 4 – Submission received from Andrea Jurkiewicz (County Assessor) dated August 29, 2023
- Attachment 5 – Submission received from Scott Toenjes; County Engineering Technician dated September 8, 2023
- Attachment 6 – Partial (35-day extension) Waiver of 150-day deadline set in ORS 215.427 signed by applicant to allow for the continuance of the October 2, 2023 hearing to November 6, 2023
- Attachment 7 – Submissions received from Mike Russell, County Public Works Director, dated September 13, 2-023 and October 31, 2023
- Attachment 8 – Submission received from Michael Newton dated September 25, 2023
- Attachment 9 – Submission received from Lowell and Teresa Norbom dated October 16, 2023
- Attachment 10 – Submission received from Al Petersen dated October 30, 2023
- Attachment 11 – Submission received from Lancaster Mobley "Lupine Meadow Transportation Impact Analysis Columbia County OR dated October 27, 2023."
- Attachment 12 – Submission received from McMullen Well Drilling Corp – Water Availability Report for Lupine Meadow S 23-01 dated October 30, 2023

cc: Mike Russell, Michael.russell@colubiacountyor.gov
 Gene Hester gene450x@yahoo.com
 Al Petersen alpetersen@akaandesign.com

Thomas H, Cutler: thomas@cutlerlawgrp.com
Michael Newton micknewton@centurylink.net
Lowell and Teresa Norbom Lowell.norbom@gmail.com
Teresa.norbom@gmail.com

COLUMBIA COUNTY LAND DEVELOPMENT SERVICES`
STAFF REPORT
 August 10, 2023
Measure 49 Subdivision

HEARING DATE: August 21, 2023

FILE NUMBER: S 23-01

**APPLICANT/
OWNER:** Agnes M. Petersen, P.O. Box 748, St. Helens, OR 97051

LOCATION: The site is located along the north side of Tide Creek Road approximately 1.3 miles west of Highway 30

**TAX MAP ID
NUMBER:** 6225-00-00400 (Account No. 16380)

ZONING: Forestry Agriculture (FA-80)

SIZE: ~ 44.96 acres

REQUEST: To subdivide the 44.96-acre property into 8 Lots between 2.0 and 31 acres in size as authorized by State Final Order and Approval of Measure 49 Claim Numbers E132340, E132337, and E132342.

REVIEW CRITERIA:

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Oregon Department of Land Conservation and Development
ORS 195.300 to ORS 195.336 (Measure 49) Supplemental Review
Of Measure 37 Claim - Final Order and Home Site Authorization
dated February 8, 2010 for Election Number E132340

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Section 300 - Primary Agriculture
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Columbia County Subdivision and Partitioning Ordinance

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Columbia County Stormwater & Erosion Control Ordinance

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APPLICATION COMPLETE: 6/29/2023**150 DAY DEADLINE: 11/26/2023****SUMMARY**

The applicant and property owner, Agnes M. Petersen, proposes to subdivide an approximate 44.96-acre Forest-Agriculture (FA-80) zoned property into 8 lots, 7 of which will be between 2.0 and 2.65 acres in size with the remnant lot being 31 acres. This proposed 8-lot subdivision named "*Lupine Meadow*" will allow 8 dwellings on the property as approved by the State of Oregon through Measure 49. Although Oregon Revised Statute (ORS) Chapter 215 and Oregon Administrative Rule (OAR) 660, Divisions 33 and 6 generally prohibit the establishment of a lot or parcel less than 80 acres in size in the Primary Agriculture (PA-80) Zone, this subdivision is authorized through the approvals of three Measure 49 claims exempting it from the 80-acre minimum parcel size requirements in the FA-80 Zone. Historical aerial imagery of the subject property verify that the Claimant has predominantly conducted agricultural rather than forestry uses.

The attached Department of Land Conservation and Development Final Order and Home Site Authorizations for the applicant's Measure 49 Claims identifies the property owner or her spouse as the Claimants. Consequently, the authorized home site approvals run with and transfer with all newly created lots consistent with the provisions in Term 12 of the Claimant's Measure 49 claims. The claimant has owned the subject property since October 6, 1965, a time when the property was not subject to local or state land use laws. Between 2005 and 2007, ORS 197.352 (Measure 37) and subsequent ORS 195.300 - ORS 195.336 (Measure 49) allowed property owners (who could meet specific criteria) to file claims requesting exemption from current land use regulations. Under Section 6 of Measure 49, the Claimant qualified and was approved for two additional lots or parcels and three additional home sites (dwellings) on the 44.96-acre subject property through Claim Number E132340.

In addition, the applicant qualified and was approved for two additional lots or parcels and two additional dwellings on a ~62.51-acre Primary Forest (PF-80) property through Claim Number E132337 as well as two additional lots or parcels and three additional dwellings on another ~71.4-acre PF-80 and Surface Mining (SM) zoned property through Claim Number E132342. Claim Number E132337 is associated with tax lot number 5205-00-00200 and Claim Number E132342 is associated with tax lot number 6236-00-00500. There is one existing dwelling on tax lot 5205-00-00200 addressed at 66020 Bishop Creek Road.

To maximize the forest and farm use suitability of the other properties, under the transfer provisions in Term 11 of the three Measure 49 Claims the applicant has elected to "cluster" or transfer all eight new dwellings and all the 6 new lots or parcels on the subject property along Tide Creek Road. Additionally, the applicant will be transferring the two existing parcels associated with E132340 and E132337 to the subject property as well, bringing the total allowable lots for this subdivision to 8. This is necessary for each new dwelling to be located on its own lot or parcel, as required by Term 1 of the Measure 49 Final Orders. Term 7 of all three Final Orders allows for the claimant to "...reconfigure existing lots, parcels or dwellings so that the number is equivalent to the number of home site approvals" The existing lots to be transferred (located on tax map nos. 5205-00-00200 and 6236-00-00500) will therefore need to

have deed restrictions recorded on them prohibiting future Measure 49 development excepting the existing house and lot associated with E132337. This report will review S 23-01 for compliance with the Terms of the applicant's Measure 49 Claims associated with this proposal.

The February 8, 2010 Final Order for the Measure 49 homesite authorization, requires the new dwellings to be sited on separate lots or parcels and contained within the claim property. It further limits newly created lots or parcels to not exceed five (5) acres in size since the property consists of the following Soil Types, none of which are classified as high value farmland or high value forestland according to the United States Department of Agriculture's Soil Survey of Columbia County:

Soils and Type	Acreage	High value-farmland/forestland?
Delena silt loam (Type 17C)	31.0 acres	No/No
Dowde silt loam (Type 19E)	5.8 acres	No/No
Goble silt loam warm (Type 23C)	0.2 acres	No/No
Goble silt loam warm (Type 23D)	6.6 acres	No/No

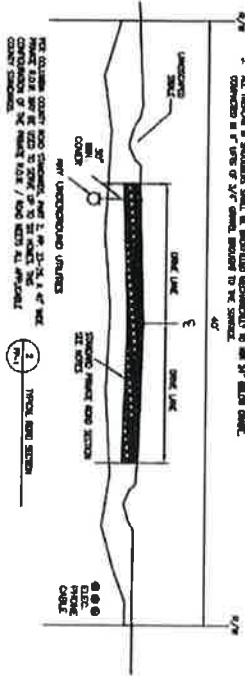
As shown on Page 4, the subject property is located along the north side of Tide Creek Road which is an existing county road with a 40' wide right-of-way at this location. The submitted preliminary plat illustrates that Lots 1 and 8 will be accessed directly from Tide Creek Road and will have at least 50' of usable frontage on this county road. Proposed Lots 2-7 however are intended to utilize a new private road with a 40' wide right-of-way.

The County Sanitarian has conducted Lot Evaluations and approved methods of onsite sewage disposal for proposed Lots 1, 2, and 7, but the applicant has yet to submit a Lot Evaluation for Lots 3, 4, 5, 6, and 8. One condition prior to Final Plat acceptance for S 23-01 will therefore require the applicant to obtain an approved Lot Evaluation for these lots. The submitted Preliminary Plat identifies the areas approved for onsite sewage disposal on Lots 1, 2, and 7 as well as potential locations of drain field areas on all other lots.

The County Building Official submitted comment on 7/11/2023 stating that all necessary building permits for future structures must be obtained. This will be reflected as a condition of approval. The County Assessor's office submitted comment on this proposal on 7/27/2023 stating that the subject property property is currently in farm tax deferral and must be disqualified prior to subdivision approval, with all taxes paid. This will be listed as a condition of approval prior to acceptance of the final site plan.

Since this property is not within the service district of any existing community water system, the authorized dwellings on all lots will be served by private wells. Per submitted application materials, there are drilled wells on lots 1, 2, and 8 with corresponding well numbers COLU 55655, COLU 55656, and COLU 55654. The submitted well logs recorded with the Oregon Department of Water Resources show that COLU 55654 has a yield of 20 gallons of water each minute, while COLU 55655 and COLU 55656 both have a yield of 25 gallons a minute.

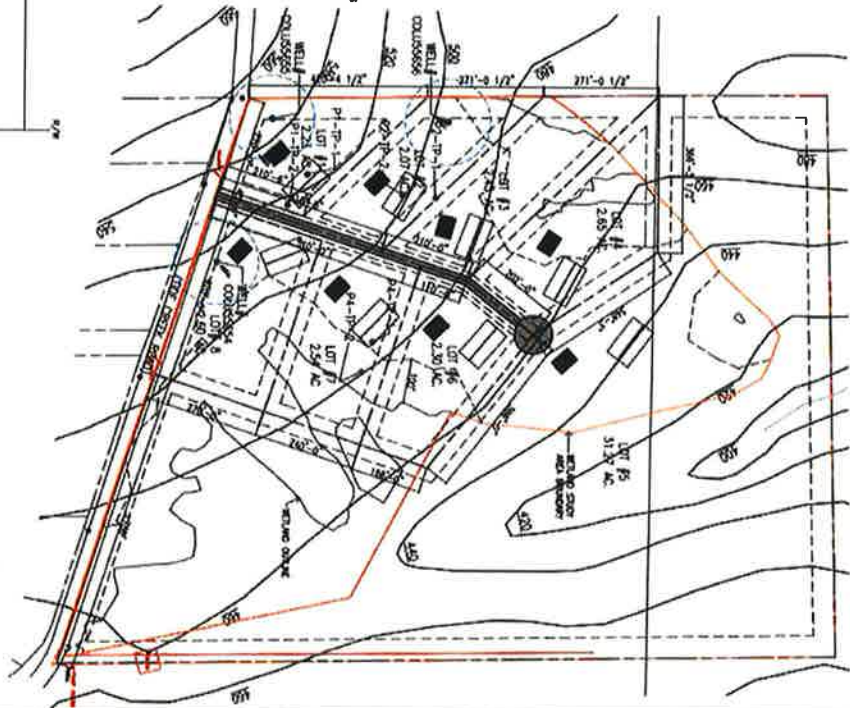
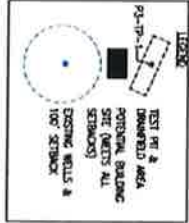
Submitted Preliminary Plat



- WELL SCREENS:**
1. ALL WELLS SHALL BE INSTALLED TO A MINIMUM DEPTH OF 10 FEET BELOW THE WATER TABLE.
 2. ALL WELLS SHALL BE INSTALLED TO A MINIMUM DEPTH OF 10 FEET BELOW THE WATER TABLE.
 3. ALL WELLS SHALL BE INSTALLED TO A MINIMUM DEPTH OF 10 FEET BELOW THE WATER TABLE.

GENERAL NOTES:

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PP-2.1

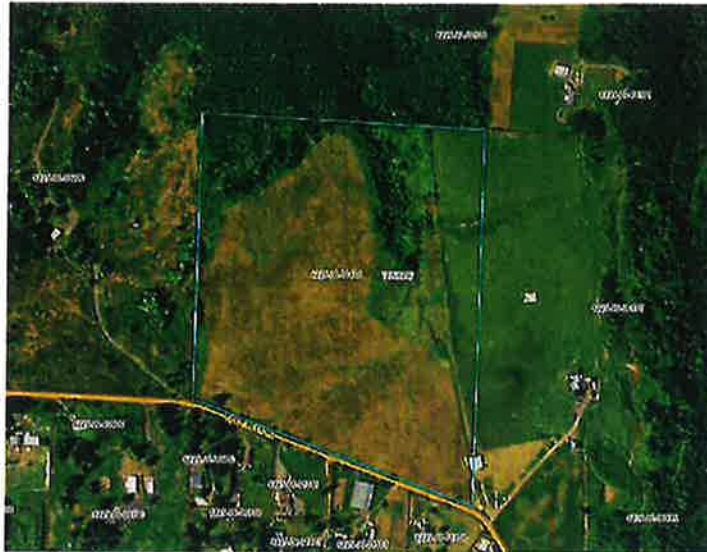
SCALE:	AS SHOWN
DRAWN BY:	AKAAN
CHECKED BY:	AKAAN
DATE:	08/27/2012
PROJECT NO.:	PP-2.1
PROJECT NAME:	PRELIMINARY PLAT

PRELIMINARY PLAT
Lupine Meadow
MEASURE 49 AUTHORIZATIONS
TAX LOT 6N2W-2500-400

TIDE CREEK ROAD,
 DEER ISLAND, OR 97054

AKAAN
 architecture • design inc

101 ST HELENS
 ST HELENS, OR 97051
 T: 503 366 3050 F: 503 366 3055

Aerial and FA-80 Zoning Maps of 44.96-acre Subject Property

Natural features of the subject property are as follows. Per FEMA FIRM Panel 41009C0325D, no portion of the property is located within a Flood Hazard Zone. The applicant has obtained a Wetland Delineation Report (WD #2021-0400, attached) which was approved by the Department of State Lands. This delineation report identified 5 wetlands totaling approximately 5.72 acres and one roadside ditch. Based on County GIS data, it appears these wetlands are isolated and not associated with any identified body of water. The site is also within an area identified as Peripheral Big Game Habitat per the Tide Creek Beak Maps; therefore, the siting criteria of Section 1190 will be addressed in this report. The subject property does not contain any identified threatened or endangered plant or animal species. The subject property is within the Columbia River Fire & Rescue (CRF&R) Fire district and is served by the Columbia County Sheriff.

Site Visit Photos

Main Subdivision Area & Proposed Private Road



Eastern Portion of Remnant Parcel (Lot 5)



APPLICABLE REVIEW CRITERIA

Beginning with the Measure 49 Home Site Authorization and Final Order of State Election #E132340:

[...]

III. CONCLUSION

Based on the analysis above, the claimants qualify for up to three home sites. However, the number of lots, parcels or dwellings that a claimant may establish pursuant to a home site authorization is reduced by the number of lots, parcels or dwellings currently in existence on the Measure 37 claim property and any contiguous property under the same ownership according to the methodology stated in Section 6(2)0 and 6(3) of Measure 49.

Based on the documentation provided by the claimants and information from Columbia County, the Measure 37 claim property includes one lot or parcel and no dwellings. There is no contiguous property under the same ownership. Therefore, the three home site approvals the claimants qualify for under Section 6 of Measure 49 will authorize the claimants to establish up to two additional lots or parcels and three dwellings on the Measure 37 claim property.

IV. HOME SITE AUTHORIZATION

Based on the analysis set forth above, this claim is approved, and the claimant qualifies for three home site approvals. As explained in Section III above, after taking into account the number of existing lots, parcels, or dwellings, the claimants are authorized for two additional lots or parcels and three additional dwellings on the property on which the claimant is eligible for Measure 49 relief, subject to the following terms:

1. Each dwelling must be on a separate lot or parcel, and must be contained within the property on which the claimants are eligible for Measure 49 relief. The establishment of a land division or dwelling based on this homesite authorization must comply with all applicable standards governing the siting or development of the land division or dwelling. However, those standards must not be applied in a manner that prohibits the establishment of the land division or dwelling, unless the standards are reasonably necessary to avoid or abate a nuisance, to protect public health or safety, or to carry out federal law.

Finding 1: The applicant has applied for Columbia County to review and approve an 8 Lot Subdivision on the subject FA-80 zoned property associated with Tax Map Number 6225-00-00400. This subdivision is authorized by the applicant's Measure 49 State Election No. E132340 that was approved on 2/9/2010 as well as the two other Measure 49 Claims approved for State Election Nos. E132337 and E132342 in February and March 2010. The submitted preliminary plat proposes the creation of 8 residential lots (including one remnant lot), all of which fall within the boundary of the existing subject property that is eligible for Measure 49 relief. This Subdivision will be reviewed for consistency with the applicable provisions of both the County's Zoning and Subdivision and Partitioning Ordinances prior to approval.

This first term of the applicant's Measure 49 Claim prohibits jurisdictions from applying

standards "...in a manner that prohibits the establishment of the land division or dwelling unless the standards are reasonably necessary to avoid or abate a nuisance, to protect health or safety, or to carry out federal law..." With this Term, the County is prevented from applying the usual restrictions and conditions of the Zoning and Subdivision and Partitioning Ordinance that would prohibit subdivision into parcels for residential development in the FA-80 zone. The only exception to this is if the prohibitive standards are necessary to prevent a nuisance or protect public health and safety. Nevertheless, the applicant's proposal will still be reviewed for compliance with applicable criteria in a manner which would not be prohibitive.

2. This home site authorization will not authorize the establishment of a land division or dwelling in violation of a land use regulation described in ORS 195.305(3) or in violation of any other law that is not a land use regulation as defined by ORS 195.300(14).

195.305 Compensation for restriction of use of real property due to land use regulation.

[...]

(3) Subsection (1) of this section shall not apply to land use regulations that were enacted prior to the claimant's acquisition date or to land use regulations:

- (a) That restrict or prohibit activities commonly and historically recognized as public nuisances under common law;
- (b) That restrict or prohibit activities for the protection of public health and safety;
- (c) To the extent the land use regulations are required to comply with federal law;
- (d) That restrict or prohibit the use of a property for the purpose of selling pornography or performing nude dancing;
- (e) That plan and rezone land to an industrial zoning classification for inclusion within an urban growth boundary; or
- (f) That plan and rezone land within an urban growth boundary to an industrial zoning classification.

[...]

195.300 Definitions for ORS 195.300 to 195.336. As used in this section and ORS 195.301 and 195.305 to 195.336 and sections 5 to 11, chapter 424, Oregon Laws 2007, and sections 2 to 9 and 17, chapter 855, Oregon Laws 2009, and sections 2 to 7, chapter 8, Oregon Laws 2010:

[...]

(14) "Land use regulation" means:

- (a) A statute that establishes a minimum lot or parcel size;
- (b) A provision in ORS 227.030 to 227.300, 227.350, 227.400, 227.450 or 227.500 or in ORS chapter 215 that restricts the residential use of private real property;
- (c) A provision of a city comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property zoned for residential use;
- (d) A provision of a county comprehensive plan, zoning ordinance or land division ordinance that restricts the residential use of private real property;
- (e) A provision, enacted or adopted on or after January 1, 2010, of:
 - (A) The Oregon Forest Practices Act;
 - (B) An administrative rule of the State Board of Forestry; or

- (C) Any other law enacted, or rule adopted, solely for the purpose of regulating a forest practice;
- (f) ORS 561.191, a provision of ORS 568.900 to 568.933 or an administrative rule of the State Department of Agriculture that implements ORS 561.191 or 568.900 to 568.933;
- (g) An administrative rule or goal of the Land Conservation and Development Commission; or
- (h) A provision of a Metro functional plan that restricts the residential use of private real property.

Finding 2: The applicant's requested 8 lot subdivision of the subject property will not violate any local, state, or federal land use regulations described in ORS 195.305(3) nor violate any other law that is not a land use regulation defined in ORS 195.300(14) that are necessary to protect the public's welfare, health and safety. Individual home site approvals are not being reviewed at this time. Staff finds the proposal submitted for subdivision S 23-01 complies with Term 2 of State Election No. E132340 provided all conditions of approval are satisfied.

3. A claimant is not eligible for more than 20 home site approvals under Sections 5 to 11 of Measure 49 regardless of how many properties a claimant owns or how many claims a claimant filed. If the claimants have developed the limit of twenty homes under Measure 49, the claimants are no longer eligible for the home site approvals that are the subject of this order.

Finding 3: The applicant is proposing to utilize 8 home site approvals between the three Measure 49 claims mentioned in the summary of this report. The applicant has not yet developed any Measure 49 home site approvals, so this proposal will not exceed the limit of twenty homes listed in the above Term. Staff finds the proposal complies with Term 3.

4. The number of lots, parcels or dwellings a claimant may establish under this home site authorization is reduced by the number of lots, parcels and dwellings currently in existence on the Measure 37 claim property and contiguous property in the same ownership, regardless of whether evidence of their existence has been provided to the department. If, based on the information available to the department, the department has calculated the number of currently existing lots, parcels, or dwellings to be either greater than or less than the number of lots, parcels, or dwellings actually in existence on the Measure 37 claim property or contiguous property under the same ownership, then the number of additional lots, parcels, or dwellings a claimant may establish pursuant to this home site authorization must be adjusted according to the methodology stated in Section 6(2)(b) and 6(3) of Measure 49. Statements in this final order regarding the number of lots, parcels, or dwellings currently existing on the Measure 37 claim property and contiguous property are not a determination on the current legal status of those lots, parcels, or dwellings.

Finding 4: Per the submitted Measure 49 claims with state election numbers E132340, E142337, and E132342, the applicant elected supplemental of all three claims, which allowed for three home site approvals for each claim, reduced by the number of existing dwellings and lots or parcels. There is one existing dwelling on the property associated with election number E132337, which reduces the possible number of new homesites to 8. Further, the existing parcels associated with these claims reduces the possible number of new lots down to 6.

M49 Election #	Existing Lots	New Lots	Existing Dwellings	New Dwellings
E132340	1	2	0	3
E132337	1	2	1	2
E132342	1	2	0	3
Total	3	6	1	8

The applicant is eligible for 6 new buildable lots and 8 new dwellings per the Final Orders associated with their three Measure 49 claims. As stated in the summary, the applicant will also be “transferring” the existing buildable lot associated with E132342 to the subject property so that each of the 8 authorized dwellings will be on its own lot or parcel as required by Term 1. Staff finds the applicant’s proposal for an 8-lot subdivision is consistent with the terms of the subject’s property’s Measure 49 claim.

5. Temporary dwellings are not considered in determining the number of existing dwellings currently on the property. The claimant may choose to convert any temporary dwelling currently located on the property on which the claimant is eligible for Measure 49 relief to an authorized home site pursuant to a home site approval. Otherwise, any temporary dwelling is subject to the terms of the local permit requirements under which it was approved, and is subject to removal at the end of the term for which it was allowed.

Finding 5: Neither the subject property nor the other two properties associated with the applicant’s Measure 49 claims have any temporary dwellings per Land Development Services (LDS) or County Assessor records. Staff finds the subject proposal is consistent with Term 5.

6. A home site approval only authorizes the establishment of a new lot, parcel or dwelling on the property on which the claimants are eligible for Measure 49 relief. No additional development is authorized on contiguous property for which no Measure 37 claim was filed or on Measure 37 claim property on which the claimants are not eligible for Measure 49 relief. A lot or parcel established pursuant to a home site approval must either be the site of a dwelling that is currently in existence or be the site of a dwelling that may be established pursuant to the home site approval.

Finding 6: The proposed subdivision would create 8 separate lots completely within the subject property, each of which will be authorized to contain one dwelling provided LDS reviews and approves building permits for each. The applicant has applied for a subdivision only; therefore, while a home site on each individual lot is authorized, specific development is not being reviewed currently.

Prior to the issuance of building permits for residences on the subject property, this Subdivision shall be approved, a final plat recorded, and necessary building permit application(s) on the proposed Lot shall be reviewed and approved by the County. With these conditions, Staff finds the conditions in Term 6 of the approved Measure 49 Claim can be met.

7. The claimants may use a home site approval to convert a lot, parcel or dwelling currently located on the property on which the claimants are eligible for Measure 49 relief to an authorized home site. If the number of lots, parcels or dwellings existing on the

property on which the claimant is eligible for Measure 49 relief exceeds the number of home site approvals the claimants qualify for under a home site authorization, the claimant may select which existing lots, parcels or dwellings to convert to authorized home sites; or may reconfigure existing lots, parcels or dwellings so that the number is equivalent to the number of home site approvals.

Finding 7: To create this 8-lot subdivision, the applicant will be utilizing the three home sites and parcels (two new plus one existing) approved for the subject property by State Election No. E132340. Additionally, the applicant will be using a “full transfer” of Measure 49 development rights from E132342 and a “partial transfer” of Measure 49 development from E132337 to bring the allowable home sites and parcels to 8 on the subject property. These transfers of development rights will require the applicant to record deed restrictions prohibiting further Measure 49 development on the properties associated with associated with State Election Nos. E132342 and E132337. With this as a condition of approval, Staff finds the proposal is consistent with Term 7.

8. The claimants may not implement the relief described in this Measure 49 home site authorization if a claimant has been determined to have a common law vested right to a use described in Measure 37 waiver for the property. Therefore, if a claimant has been determined in a final judgment for final order that is not subject to further appeal to have a common law vested right as described in Section 5(3) of Measure 49 to any use on the Measure 37 claim property, then the Measure 49 Home Site Authorization is void. However, so long as no claimant has been determined in such a final judgement or final order to have a common law vested right to a use described in a Measure 37 waiver for the property, a use that has been completed on the property pursuant to a Measure 37 waiver may be converted to an authorized home site.

Finding 8: Documentation submitted with S 23-01 does not include any evidence that the applicant has vested a common law right to a use described in Measure 37 waiver for any of the affected Measure 49 properties. For these reasons and without any additional evidence, Staff finds that the provisions in Term 8 do not apply to S 23-01.

9. A home site approval does not authorize the establishment of a new dwelling on a lot or parcel that already contains one or more dwellings. The claimant may be required to alter the configuration of the lots or parcels currently in existence on the Measure 37 claim property and contiguous property so that each additional dwelling established on the property on which the claimant is eligible for Measure 49 relief, pursuant to this home site authorization, is sited on a separate lot or parcel.

Finding 9: As stated in Finding 7, the Applicant will be transferring Measure 49 Development rights onto the subject property for the proposed 8-lot subdivision. One existing dwelling on parcel 5205-00-00200 (E132337) will remain, and no new Measure 49 development will occur on this parcel. A condition of approval will require a deed restriction prohibiting additional Measure 49 development on this parcel to ensure compliance. With this, every proposed home site will be located on its own vacant parcel. Staff finds the proposal meets the criteria of Term 9.

10. Because the property is located in a mixed farm and forest zone, the home site authorization does not authorize new lots or parcels that exceed five acres. However, existing or remnant lots or parcels may exceed five acres. Before beginning construction, the owner must comply with the requirements of ORS 215.293. Further, the

home site authorization will not authorize new lots or parcels that exceed two acres if the new lots or parcels are located on high-value farmland, on high-value forestland or on land within a ground water restricted area. However, existing or remnant lots or parcels may exceed two acres.

Finding 10: The soil types of the subject property are not classified as High-Value farmland or forestland per County GIS data and the USDA Soil Survey of Columbia County. Therefore, new lots or parcels may not exceed five acres in size, excepting the remnant parcel. The preliminary plat submitted with this proposal indicates that parcels will range from 2.07 to 2.65 acres in size, with the remnant parcel being 31.27 acres. Staff finds that these parcel sizes comply with the requirements of Term 10.

To satisfy ORS 215.293, a condition of approval will require the applicant or future property owner(s) to record a Waiver of Remonstrance prohibiting legal action against accepted farming and forestry uses. This Waiver shall be recorded concurrently with and referenced on the Final Plat. With this condition, Staff finds the proposal will be consistent with Term 10.

11. Because the property is located in a mixed farm and forest zone, Measure 49 requires new home sites to be clustered so as to maximize suitability of the remnant lot or parcel for farm or forest use. Further, if an owner of the property is authorized by other home site authorizations to subdivide, partition, or establish dwellings on other Measure 37 claim properties, Measure 49 authorizes the owner to cluster some or all of the authorized lots parcels or dwellings that would otherwise be located on land in an exclusive farm use zone, a forest zone or a mixed forest zone on a single Measure 37 claim property that is zoned residential use or is located in an exclusive farm use zone, a forest zone or a mixed farm and forest zone but is less suitable for farm or forest use than the other Measure 37 claim properties.

Finding 11: Between the three Measure 49 Claims submitted with the subject proposal, the applicant is authorized for 8 new home sites and 8 new lots in total. Using the "clustering" provision of Term 11, the applicant will be transferring all further Measure 49 development rights from State Election Nos. E132337 and E132342 to the subject property. The clustering of development on one parcel will maximize suitability of the other parcels (5205-00-00200 and 6236-00-00500) for resource uses, consistent with their zoning designations. The existing dwelling on parcel 5205-00-00200 will remain and development rights of that dwelling will not be transferred to the subject property. As stated previously, deed restrictions prohibiting new Measure 49 development on the parcels associated with E132337 and E132342 will be required to be recorded as conditions of approval. With this, Staff finds the criteria of Term 11 is met.

12. If the claimants transferred ownership interest in the Measure 37 claim property prior to the date of this order, this order is rendered invalid and authorizes no home site approvals. Provided this order is valid when issued, a home site approval authorized under this order runs with the property and transfers with the property. A home site approval will not expire, except that if a claimant who received this home site authorization later conveys the property to a party other than the claimant's spouse or the trustee of a revocable trust in which the claimant is the settlor, the subsequent owner of the property must establish the authorized lots, parcels and dwellings within 10 years of the conveyance. A lot or parcel lawfully created based on this homesite authorization will remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or

parcel is further divided, as provided by law. A dwelling lawfully created based on a home site approval is a permitted use.

Finding 12: The applicant Agnes Petersen is either the claimant or the spouse of the claimant for the three Measure 49 claims submitted with this proposal. The applicant is authorized to file the S 23-01 application, record the final plat, and develop the eight homesites associated with the proposed subdivision without any time restrictions per Term 12. However, should any of the newly created Lots be conveyed to a party other than the claimant's spouse or trustee of a revocable trust in which the claimant is the settlor, the subsequent owner(s) must establish the authorized dwelling(s) within 10 years of the conveyance(s). With this requirement listed as a condition of approval, Staff finds the proposed subdivision will satisfy Term 12's conditions.

13. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, this home site authorization will not authorize the use of the property unless the claimants first obtain that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a permit as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies, and restrictions on the use of the subject property imposed by private parties.

Finding 13: Final authorization of any new home site on the subject property will not be granted until a final plat has been recorded to create the 8 lots proposed in this subdivision application. The applicant will need to obtain all necessary building permits for dwellings associated with Measure 49 home site authorizations. Consistency with all applicable county, state and federal regulatory requirements for the new Measure 49 dwellings can be ensured at time of building permit review. Staff finds the proposal meets the criteria of Term 13.

Continuing with Section 400 of the Zoning Ordinance:

[...]

402 Predominant Use Test [(OAR 660-06-0050 (2))]. The uses, activities and development in the Forest/Agriculture Zone, except provisions identified in Section 404 for land divisions, are based on a determination of the predominant use of a tract as of January 1, 1993 as either Farm or Forest land. These uses, activities, and development are authorized subject to review and approval under applicable regulatory standards for either the Primary Agriculture (PA-80) Zone or the Primary Forest (PF-80) Zone property. A "tract" is defined as one (1) or more contiguous lots or parcel(s) under the same ownership.

Finding 14: The submitted application, County GIS historical imagery, and the Staff site visit all verify that the applicant has predominantly maintained the subject property for agricultural uses since at least 1993.

Google Earth Pro - 1990 Aerial Imagery



Without any contradictory evidence, Staff finds that the development proposed through S 23-01 will be processed for compliance with the applicable provisions of the Primary Agriculture (PA-80) Zone due to the historical predominant agricultural use of this property.

Continuing with Section 300 of the Zoning Ordinance:308 Development Standards

- .1 The minimum average lot width shall be 100 feet for all activities except farming and forestry.
- .2 The minimum average lot depth shall be 100 feet for all activities except farming and forestry.
- .3 All newly created lots or parcels and those with permitted, reviewed or conditional uses, shall have a minimum of 50 foot frontage on a public or private right-of-way and an approved access in accordance with this ordinance, the Columbia County Road Standards and the Rural Transportation System Plan.

Finding 15: Per the submitted preliminary plat for Lupine Meadow, the average width and depth exceeds 100 feet for each lot. Additionally, all 8 lots will have 50' of frontage on a public or private right-of-way. Lots 1 and 8 will access directly off frontage on Tide Creek Road, while lots 2-7 will access off a newly proposed 40' wide private road. To name this proposed private road and make it usable for addressing, the applicant will need to submit a Road Naming application concurrent with the final plat. This will consequently be reflected as a condition of approval.

To ensure all accesses are approved in accordance with the Columbia County Road Standards, as a condition of approval the applicant will need to obtain Road Access Permits for each proposed lot from the County Public Works Department prior to final plat acceptance.

Also prior to final plat acceptance, the proposed private road will need to be improved to Private Road Construction Standards as adopted by the County in Section IV of the County Road Standards. A condition of approval will require the applicant to obtain and submit to LDS approval from the Public Works Department and CRF&R certifying that the proposed private road has been improved to applicable standards. Additional analysis will be conducted later in this report when evaluating S 23-01 for compliance with the applicable provisions of the Subdivision and Partitioning Ordinance.

With these conditions of approval, Staff finds S 23-01 will comply with these provisions for newly created lots in the PA-80 Zone.

- .4 Setbacks. The following are minimum setbacks for all buildings and structures. In addition, all structures are subject to any special setback lines, where specified on designated arterial or collectors.
 - A. No structure shall be constructed closer than 30 feet to a property line. In the event the subject property is bordered by a zone with more restrictive setbacks, the more restrictive setback of the adjoining zone shall control on the side of the subject property adjoining the more restrictive setback.
 - B. Setbacks in wetland areas shall be required in accordance with Sections

1170 and 1180 of the Columbia County Zoning Ordinance.

- .5 **Height.** There shall be a height limitation of 100 feet in the PA-80 Zone for farm use structures, except for on those lands containing abandoned mill sites that were rezoned to industrial uses pursuant to ORS 197.719 or are subject to Airport Overlay Zone, or any structure which has received a conditional use or variance approval which allows a greater height of said structure. Unless otherwise prohibited, the maximum building height for all non-farm, non-forest structures shall be 50 feet or 2 ½ stories, whichever is less.

Finding 16: As individual homesites are not being reviewed at this time, compliance with the setback and height requirements of the PA-80 zone will be ensured during building permit review for the authorized Measure 49 home sites. Regarding setbacks from wetland areas, this will be discussed in further detail later in this report.

[...]

- .7 The Oregon Department of Fish & Wildlife shall be notified and provided with the opportunity to comment on any development within a Goal 5 protected wildlife habitat area.
- .8 Dwellings and other structures to be located on a parcel within designated big game habitat areas pursuant to the provisions of Section 1190 are also subject to the additional siting criteria contained in Section 1190.

Finding 17: The Oregon Department of Fish and Wildlife (ODFW) was notified of the subject proposal on July 10th, 2023. As of the date of this report, LDS has not received a response. Per the Tide Creek CPAC Beak Maps, the subject property is within an area designated as Peripheral Big Game Habitat. Therefore, the siting criteria of Section 1190 will be reviewed later in this report.

309 Land Division Requirements [ORS 215.263].

- .1 No land(s) located within the Primary Agriculture Exclusive Farm Use Zone shall be divided without the express approval of Columbia County under the provisions set forth in the Columbia County Subdivision and Partitioning Ordinance and the provisions of Sections 307 and 308 of this ordinance. A proposed division of land in the PA-80 Zone may not occur for the land application of reclaimed water, agricultural or industrial process water or biosolids described in ORS 215.213(1)(y) or 215.283(1)(v). Parcels resulting from a foreclosure action and the creation of cemetery lots in existing cemeteries are exempt from this Section. A deed or instrument conveying land in lieu of foreclosure shall not constitute a foreclosure action.

Finding 18: The proposed division into 8 residential lots is explicitly authorized by the Measure 49 claims (Nos. E132337, E132340, E132342) approved by the State of Oregon. These approvals authorize the division and siting of dwellings on these properties outside of the normal requirements in Section 309. Generally, new parcels in the PA-80 zone have an 80-acre minimum size or must follow other specific criteria as listed in Section 309. None of these provisions apply to the subject

proposal, as the County is prohibited from applying zoning criteria in a manner which would prohibit the proposal. As the applicant is not qualifying the proposed subdivision under any of the specific provisions in Section 309, none will be reviewed here.

Continuing with Section 1180 of the Zoning Ordinance:

Section 1180 WETLAND AREA OVERLAY WA

[Amended by Ordinance No. 2003 - 5, effective December 15, 2003].

- 1181 **Purpose:** The purpose of this zone is to protect significant wetlands within the identified Wetland Areas as shown on the State Wetland Inventory and Local Wetland Inventories, from filling, drainage, or other alteration which would destroy or reduce their biological value. The Wetland Area Overlay does not apply to land legally used for commercial forestry operations or standard farm practices, both of which are exempt from these wetland area corridor standards. The use of land for commercial forestry is regulated by the Oregon Department of Forestry. The use of land for standard farm practices is regulated by the Oregon Department of Agriculture, with riparian area and water quality issues governed by ORS 568.210 to ORS 568.805.
- 1182 **Definition:** A significant wetland is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. In case of dispute over whether an area is of biological value and should be considered a significant wetland, the County shall obtain the recommendation of the Oregon Department of Fish and Wildlife, the Columbia County Soil and Water Conservation District, and the Division of State Lands.
- 1183 **Permitted Uses:** Uses and development activities permitted outright or conditionally in the underlying zone shall be permitted in the Wetland Area Overlay Zone if they will not result in filling, drainage, removal of vegetation, or other alteration which would destroy or degrade a significant wetland as defined in Section 1182. Minor drainage improvements necessary to ensure effective drainage on surrounding agricultural lands under Oregon Department of Agriculture wetland rules shall be allowed where such an action has been fully coordinated with the Oregon Department of Fish and Wildlife, the Columbia County Soil and Water Conservation District, and the Division of State Lands. Existing drainage ditches may be cleared to original specifications without County review.
- 1184 **Development Standards:**
- A. **Riparian Corridor Standards for Wetlands.** For the purposes of this Section, "Fish-bearing streams" shall mean all streams identified as being fish-bearing, by the Oregon Department Forestry in the Stream Classification Maps, as amended, and "Fish-bearing lakes" shall mean those streams identified in "Lakes of Columbia County". The current Oregon Department of Forestry Stream Classification Map is attached to the Comprehensive Plan, Technical Appendix, Part XVI, Article X (B),

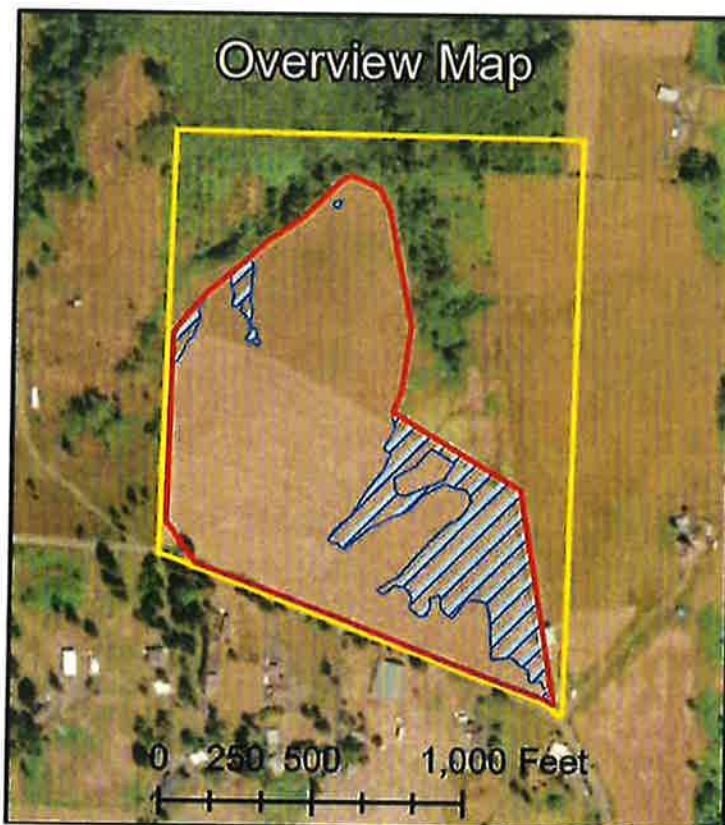
for reference. The Map, "Lakes of Columbia County" is also attached to the Comprehensive Plan, Technical Appendix, Part XVI, Article X (B), and is incorporated therein. Significant Wetlands are identified on the State Wetlands Inventory (SWI), and Local Wetlands Inventories (LWI's). The SWI is attached to the Comprehensive Plan, Part XVI, Article X (A), for reference.

[...]

1. Wetlands not associated with Streams, Rivers, Sloughs, or Fish Bearing Lakes. Along all wetlands not associated with a stream, river, slough, or non-fish-bearing lake, there shall not be a protective riparian corridor boundary. However, development is prohibited from encroaching within a delineated wetland boundary.

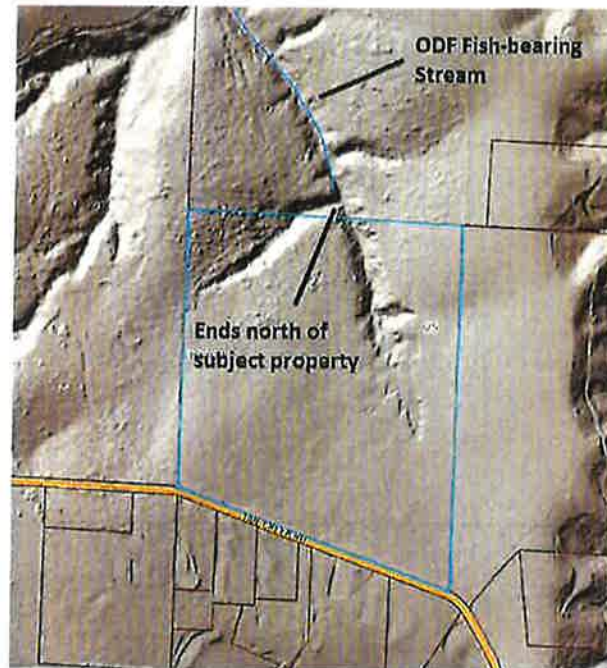
Finding 19: The applicant has submitted a DSL-approved Wetland Delineation (WD #2021-0400, attached) which was completed in 2021 for a 27.66-acre portion of the subject property focused on the proposed subdivision area. The wetland delineation identified 5 individual wetlands along with a roadside ditch, with total wetland area totaling approximately 5.72 acres.

Overview Map from submitted Wetland Delineation Report



The delineated wetlands are also identified on the submitted preliminary plat in relation to the proposed lots and home sites. Per County GIS Data and the Oregon Department of Forestry

(ODF) Statewide Streams Map, it does not appear that these wetlands are associated with any identified body of water.



While there is a fish-bearing stream on the adjacent property to the north, it does not continue into the subject property per ODF mapping. It appears only a drainageway to this stream exists on the subject property, as identified in the submitted Preliminary Plat and Stormwater and Erosion Control Plant. Therefore, there are no Riparian Corridor setbacks to these isolated wetlands. However, future development, removal, or fill within the identified wetland boundary may require permits and approval from the Oregon DSL. A condition of approval will therefore state that the applicant and any future property owner(s) shall obtain necessary permits from DSL for any work within identified wetlands.

The preliminary plat shows that all lots except lot 1 contain portions of the delineated wetlands. However, while individual homesites are not being reviewed, it appears that each lot will contain adequate space to site a septic system and dwelling outside of these identified wetland areas. This will be confirmed at time of building permit issuance. Staff finds the proposed subdivision is consistent with the provisions of Section 1180.

Continuing with Section 1900 of the Zoning Ordinance:

Section 1190 BIG GAME HABITAT OVERLAY BGR

[Amended by Ordinance 2003-06, eff. 7/30/03].

- 1191 Purpose: To protect sensitive habitat areas for the Columbian white-tailed deer and other Big Game by limiting uses and development activities that conflict with maintenance of the areas. This section shall apply to all areas identified in the Comprehensive Plan as a major and peripheral big game range or Columbian white-

tailed deer range, as shown on the 1995 Beak Consultant's map, entitled "Wild Game Habitat" in the Comprehensive Plan in Appendix Part XVI, Article VIII(A). [Amended by Ordinance 2003-06, eff. 7/30/03].

- 1192 Permitted Uses: All uses permitted in the underlying zone either outright or conditionally shall be permitted IN THE Big Game Range Overlay provided that such use or development is consistent with the maintenance of Big Game and Columbian White-tailed Deer Habitat identified in the Comprehensive Plan. [Amended by Ordinance 2003-06, eff. 7/30/03].
- 1193 Development Siting Standards: [Amended by Ordinance 2003-06, eff. 7/30/03]. All new residential development and uses located in Major and Peripheral Big Game or Columbian White-tailed Deer Habitat shall be subject to following siting standards:
- A. Dwellings and structures shall be located as near each other and existing developed areas as possible considering topography, water features, required setbacks, and firebreaks.
 - B. Dwellings and structures shall be located to avoid habitat conflicts and utilize least valuable habitat areas.
 - C. Road development shall be minimized to that which is necessary to support the proposed use and the applicant shall utilize existing roads as much as possible.
 - D. The owner/occupant of the resource parcel shall assume responsibility for protection from damage by wildlife.
 - E. Riparian and Wetland areas shall be protected in accordance with Sections 1170 and 1180.
1194. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) of all proposed uses or development activities which require a permit and are located in Major or Peripheral Big Game Habitat. The County will consider the comments and recommendations of ODFW, if any, before making a decision concerning the requested use or activity. [Added by Ordinance 2003-06, eff. 7/30/03].
1195. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife (USFW) of all proposed uses or development activities which require a permit and are located in Columbian White-tailed Deer Habitat. The County will consider the comments and recommendations of ODFW and USFW, if any, before making a decision concerning the requested use or activity. [Added by Ordinance 2003-06, eff. 7/30/03].

Finding 20: Per the Tide Creek CPAC maps, the subject property is identified as Peripheral Big Game Habitat. Therefore, the siting criteria will apply to this proposed subdivision and the authorized future dwellings. Regarding 1193 above, the proposed subdivision is designed in such a way to cluster lots and potential homesites closely together in the southwest corner of the existing parcel. The proposed private road is similarly clustered together with the proposed lots and is only as long and wide as necessary to be utilized by the future residential uses. Developing the subdivision in this way will minimize the amount of land used for residential development,

consistent with 1193(A) through 1193(C). Specific dwellings and structures will be evaluated for compliance with Section 1190 at time of future building permit review. Regarding 1193(D), a condition of approval will state that the property owner shall resume all responsibility for protection from damage by wildlife. Regarding 1193(E) and identified wetlands, this subject is already addressed in Finding 19. The Oregon Department of Fish and Wildlife (ODFW) was notified of this proposal on July 10th, 2023. As of the date of this report, no response has been received by LDS.

With the preceding discussion and condition of approval, Staff finds the proposed subdivision is consistent with the Big Game Habitat Overlay criteria, with further review at time of building permit applications.

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 21: When provisions of this ordinance conflict, the more restrictive ordinance will control.

[...]

SECTION 208. TERMINATION OF TENTATIVE PARTITION OR SUBDIVISION APPROVAL.

Failure by the developer to submit a final plat within one year of the date of the approval, or conditional approval, of the tentative plan, shall terminate all proceedings. Upon application of the developer in writing, an extension of time not exceeding six calendar months may be granted by the Planning Department for partitions, or by the Commission for subdivisions or planned unit developments.

In the event the developer's application for extension is denied, the developer may appeal to the next highest governing body. Where proceedings have terminated because of failure to receive extension, a new tentative plan shall be filed in accordance with the provisions of this ordinance.

Finding 22: The applicant will be required to submit the Final Subdivision Plat and recording documentation within one year of the Final Decision or will have to resubmit a new application, including review fee, which will be re-examined under the standards current at that time. An extension may be granted, upon application, by the Planning Commission for a period not to exceed 6 months.

[...]

SECTION 213. NOTICE REQUIREMENTS.

A. Notice of Public Hearing Items. The Planning Department shall provide notice of any required public hearings, in writing, to the applicant and owners of record of property on the most recent property tax assessment roll where such property is located:

- (1) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;
- (2) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or
- (3) Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

Finding 23: On July 11, 2023 the County sent notice of the subdivision requested for S 23-01 to property owners within 500 feet of the subject property informing them of the August 21, 2023 Planning Commission public hearing in compliance with these notification requirements in Section 213(A) of the Zoning Ordinance.

[...]

SECTION 214. DISTRIBUTION OF SUBDIVISION AND PARTITION PLANS.

Upon receipt of the proposed land division, the Planning Department shall transmit one copy to each of the following for their review and recommendations, except when previously routed by the developer.

- CPAC
- County Surveyor
- County Roadmaster
- County Sanitarian
- County Assessor
- Board of County Commissioners
- Any city, if the land division is located within that city's Urban Growth Boundary
- The State of Oregon Highway Division, when applicable
- School districts within which jurisdiction the land division is located.
- Any other affected public district
- Any public, private, or municipal utility serving the area
- Any fire protection agency involved
- State of Oregon Department of Forestry, when applicable
- State of Oregon Department of Fish and Wildlife, when applicable
- State of Oregon Department of Land Conservation and Development, when applicable
- Any affected federal agency

At a minimum the developer shall provide 20 copies. Additional copies shall be provided by the

developer within 14 calendar days when necessary to permit transmittal to all parties listed above. Transmittal shall include a request for comments and recommendations which may assist the Commission in their review of the proposal. These officials and agencies shall have 20 days in which to review and to submit to the Planning Director any revisions that appear to be indicated in the public interest.

Finding 24: On July 10 2023, a Referral and Acknowledgment form for the proposed 8 Lot Lupine Meadow Subdivision requested for S 23-01 was distributed to the affected agencies listed above. In addition, the County submitted a Wetland Land Use Notification (WLUN) to the Oregon DSL on July 13, 2023. All recommendations and comments received from these agencies have been included in this Staff Report. For these reasons, Staff finds this notification criteria for S 23-01 have been satisfied.

[...]

ARTICLE IV - PRELIMINARY PLAT FOR SUBDIVISION

SECTION 403. INFORMATION ON PRELIMINARY PLAT.

The preliminary plat shall include:

A. General Information:

- (1) A subdivision name which does not conflict with the name of an existing subdivision, or any name on a recorded plat in Columbia County.
- (2) Name and address of the owner and/or subdivider.
- (3) Name and address of the licensed surveyor who prepared the plat.
- (4) Date of preparation, north point, scale, approximate acreage and boundary line.
- (5) Appropriate identification clearly stating the map is a preliminary plat.
- (6) Section, range, township in which proposed subdivision is located and Tax Account Number.

Finding 25: A preliminary plat was submitted with S 23-01's application on 6/2/2023 which contained all identifying factors listed above.

The proposed subdivision name is "Lupine Meadow" and the property owner of record for the subject parcel associated with Tax Map ID Number 6225-00-00400 is the Measure 49 Claimant and applicant, Agnes M. Petersen. The preliminary plat was prepared by Akaan Architecture and Design LLC and contains all appropriate identifying information necessary for the County to process this request for an 8 Lot Subdivision in the FA-80 Zone. Staff finds these criteria have been satisfied.

B. Existing Conditions:

- (1) The location, names, and widths of improved and unimproved streets within or adjacent to the subdivision.
- (2) The location, width, and use or purpose of any easement on the property.
- (3) Contour lines sufficient to show the direction and general grade of land slope. Contours shall be at one foot intervals for slopes of less than 10%, 5 foot intervals for slopes of 10% to 20%, and at 10 foot intervals for slopes greater than 20%. Such ground elevations shall be related to some established bench mark (where possible).
- (4) The location and directions of natural water courses and areas subject to flooding.
- (5) The location of structures, irrigation canals and ditches, pipelines, railroads, and any natural features, such as rock outcroppings, marshes, and wooded areas. Also, the record high water line for any water course.
- (6) The location of city boundary lines and the boundary lines of public districts which lie within the subdivision or within 500 feet of the exterior boundaries of the subdivision.
- (7) A vicinity map showing: the relationship of the proposed subdivision to the surrounding development, streets, any public sewer and water utilities, extent and availability of electric and gas utility facilities, and the location of any existing septic systems or wells on the property.

Finding 26: The submitted preliminary plat includes the location, name, and width of Tide Creek Road, which is a Public Road adjacent to the proposed subdivision. Lots 1 and 8 will directly access off this private road. The location and width of a proposed private road is also detailed, which will be utilized for access by lots 2-7. As stated previously in this report, the applicant will need to record a Road Maintenance agreement for this private road to be utilized by lots 2-7 concurrent with the final plat. This Road Maintenance Agreement shall be referenced on the Final Plat as well. Additionally, the applicant will need to submit a Road Naming Application to name this proposed private road in accordance with the County's Rural Addressing Ordinance as a requirement prior to acceptance of the Final Plat. These requirements will be listed as conditions of approval.

The submitted preliminary plat contains contour lines which indicate that lots all lots have approximated average slopes of 7-10%. Possible homesite and septic drain field areas are shown on the preliminary plat, but as previously stated no specific home sites are being reviewed at this time. While the actual locations of dwellings can only be determined at time of building permit review, the preliminary plat indicates that each lot can support its intended use provided all necessary building and septic permits are obtained.

The submitted preliminary plat identifies relevant natural features on the subject property including the previously mentioned delineated wetlands. The only structure on the property is the identified barn along Lot 5's southeastern boundary and there does not appear to be any irrigation canals/ditches, railroads, or natural features within the subject property's boundary. Finally,

since the proposed Lupine Meadow subdivision is occurring in a rural area rather than urban or suburban areas, there are no city boundaries or any public sewer and water services in close proximity. Utility lines can be extended to all 8 lots via the existing lines along Tide Creek Road and the proposed private road.

The applicant has obtained septic site evaluations for 3 of the proposed 8 lots; the preliminary plat identifies these evaluations on lots 1, 2, and 7. Comment from the County Sanitarian received by Staff on 7/26/2023 states that lots 3, 4, 5, 6, and 8 will need new site evaluations or site evaluation confirmations to approve or relocate disposal areas. Consequently, a condition of approval will require the applicant to obtain approved septic site evaluations for these lots prior to acceptance of the Final Plat. Existing wells located on lots 1, 2, and 8 are identified as required.

With preceding discussion, Staff finds the submitted preliminary plat meets the Existing Conditions criteria listed in Section 403(B) of the CCSPO.

C. Information Concerning Proposed Development:

- (1) The location, names, width, approximate grades, and curve radii of all proposed streets.
- (2) The location, width, and purpose of proposed easements.
- (3) The location and approximate dimensions of lots, proposed lot and block numbers.
- (4) The location, approximate acreage, and approximate dimensions of areas proposed for public use.
- (5) The proposed use of any lot which is not intended for single-family residential use.
- (6) An outline of the areas proposed for partial recording of a final plat if phased recording is contemplated.
- (7) The relationship of the proposed subdivision to future streets on adjacent land controlled by the subdivider.
- (8) Source and method of water supply to serve the subdivision, and the location of any proposed water lines.
- (9) Proposed method of sewage disposal, and the location of any proposed sewer lines which will serve the subdivision if applicable.
- (10) Draft of proposed restrictions and covenants affecting the plat.
- (11) The method of disposing of storm water runoff caused by this subdivision, which, if applicable, shall include both on and off-site improvements necessary to deal with storm water generated by the proposed subdivision.

- (12) Statement pertaining to types and dimension of roads and who will be responsible for their maintenance.
- (13) If, upon investigation by the Commission, it is found that additional information is necessary, it shall be furnished by the applicant.

Finding 27: The submitted preliminary plat identifies a proposed private road including its width and includes a statement that "This configuration of the private R.O.W / road meets all applicable County Standards". For this private road to be usable for lots 2-7, a new private access and utility easement will need to be accurately delineated and identified on the final plat as will Tide Creek Road. This will be listed as a condition of approval. There are no other proposed private easements nor is any area intended for public use for future residents. All lots are intended for residential use per submitted application materials. No phasing of plat recording is proposed.

The proposed private road is not expected to be extended beyond its location on the preliminary plat, nor do zoning provisions relating to the Big Game Habitat Overlay encourage connecting this new private road beyond the subject parcel onto adjoining resource zoned properties. The applicant will be required to file a Road Maintenance Agreement concurrent with the Final Subdivision Plat that will ensure the future property owners of the newly platted Lupine Meadow Subdivision will maintain this new private road to the minimum applicable provisions of the County Road Standards Ordinance. This Road Maintenance Agreement shall be referenced on the Final Plat.

Wells are the proposed method of water supply for all eight lots, and three existing wells are shown on the preliminary plat. All lots will utilize subsurface septic systems and will have at least 50' of usable frontage on the new private road or Tide Creek Road. Once again, although no lot specific site plans are being reviewed at this time, the Preliminary Plat shows that all lots appear to have sufficient acreage for their intended and authorized single-family residential development in the PA-80 Zone.

The application materials submitted with S 23-01 included the attached *Preliminary Storm Water Plan* prepared by a licensed engineer. This states that the current drainage pattern on the site will be maintained wherein runoff "...flows to undeveloped grassland for filtration and dispersal" No flow control is proposed for the subdivision, but biofiltration swales are proposed for each side of the proposed driveway which will convey driveway runoff north into undeveloped grassland.

Per 403(C)(10) above, the applicant will need to submit a draft of proposed deed restrictions affecting the plat. As stated in the application, this will need to include deed restrictions on parcels 5205-00-00200 and 6236-00-00500 associated with State Election Nos. E132337 and E132342 respectively. The Measure 49 development rights on these parcels are being transferred to the subject property excluding the existing house/parcel associated with E132337. The deed restrictions shall prohibit future Measure 49 development on these properties, excluding the existing home on tax lot 5205-00-00200. These deed restrictions shall be recorded concurrent with the final plat and will be listed as a condition of approval.

For these reasons and with conditions, Staff finds that all information pertaining to the proposed development of the Lupine Meadow Subdivision will be satisfied.

SECTION 404. STATEMENT TO ACCOMPANY PRELIMINARY PLAT.

The preliminary plat shall be accompanied by written statements giving essential information regarding the following matters:

- A. Water Supply. In addition to the requirements imposed by Section 410 of this ordinance, a statement of the proposed method of water supply, including source, quality, quantity, and method of distribution.

Where the proposed source of water is by an individual or community wells, proof of an adequate supply of water for all anticipated needs of the platted area shall be presented. Proof of an adequate supply may consist of:

- (1) Test wells drilled with adequate frequency to demonstrate the general availability of water; or
- (2) A hydrology report documenting the availability of water and the general history of wells in the area (taken from well logs).
- (3) Certification by the State Watermaster of adequate amounts of potable water to serve the proposed use(s).

- B. Water Right. A statement of water right and, if a water right is appurtenant, a copy of the acknowledgment from the Water Resources Department.

Finding 28: The submitted application states that water supply for the subdivision will be by private wells. The applicant has submitted three well logs (COLU55655, COLU55656, and COLU55654, attached) for wells located on lots 1, 2, and 8 respectively. The yield of these wells ranges from 20-25 gallons per minute. The applicant additionally submitted a water availability report completed by McMullen Well Drilling Corp. This report states that currently recorded well logs in the area show that the proposed addition of residential lots "...can be successfully completed". The report further states that wells drilled in this area have a typical water flow of 10 to 60 gallons per minute. With the well logs drilled on the subject property and this water availability report together, Staff finds there is proof of an adequate water supply for the platted area. The submitted application indicates that the subject property does not have a water right.

- C. Sewage Disposal. A statement of feasibility for the proposed method of sewage disposal from the appropriate state and/or county agencies.

Finding 29: The applicant states that sewage disposal will be through installation of septic systems on each individual lot. Site evaluations have been completed on lots 1, 2, and 7 only. Therefore, as a condition prior to final approval of the proposed subdivision, the applicant must obtain septic site evaluations for lots 3-6 and 8 to ensure that each lot has a feasible manner of sewage disposal. With this condition, the above criterion will be met.

- D. Estimated Schedule. The estimated time when improvements are proposed to be made

or installed.

Finding 30: The application includes a statement that improvements needed for approval of the Final Plat will be installed within one year. The criterion is met.

- E. Public and Private Utilities. A letter from each of the utility companies serving the area in which the subdivision is located stating that each is able and willing to serve the subdivision as proposed, and that satisfactory arrangements have been made as to the cost for financing the utility installation.
- F. Fire Protection. A letter indicating the proposed method of fire protection.
- G. Proof of Ownership. A letter from a licensed title company stating the record owner(s) of the land proposed to be subdivided.

Finding 31: The application includes a letter (attached) from Columbia River PUD dated June 6th, 2023 stating that the PUD will provide electrical service to the proposed lots. However, there is no such letter from NW Natural Gas, which is the natural gas utility in the area. Therefore, to satisfy (E) above, a condition of approval will require the applicant to get a will-serve letter from this utility company and supply a copy to LDS.

Per the submitted application and County GIS maps, the subject property is within jurisdiction of Columbia County Fire and Rescue (CRF&R). This agency will provide fire protection for these newly proposed lots and future residences. Finally, the applicant submitted a letter from Deschutes Title Company stating that the applicant, Agnes Petersen, along with John Petersen are the owners of the subject property. The applicant has also submitted a court certification which states that John Petersen is deceased, and that Agnes Petersen has been appointed the Personal Representative of his will and estate. With this, Staff finds that proof of ownership has been provided and the above criterion is satisfied.

SECTION 405. LANDS SUBJECT TO HAZARDOUS CONDITIONS.

Lands which the Commission has found to be unsuitable for development due to flooding, poor drainage or ponding, steep slopes, rock formations, or other features likely to be harmful to the safety and general health of the future residents, and which the Commission considers inappropriate for development, shall not be developed for building purposes and shall be used for open space unless adequate methods for overcoming these conditions are submitted and approved by all appropriate agencies.

Finding 32: Per FEMA FIRM Panel No. 41009C0325D, no portion of the subject parcel is within a designated Flood Hazard Zone. County GIS data and the submitted preliminary plat further shows that there are no steep slopes that would endanger development in the proposed lots. Without any evidence to the contrary, Staff finds that hazardous conditions do not exist on the subject property.

SECTION 406. PRELIMINARY SUBDIVISION APPROVAL.

- A. The Planning Director shall set a date for the Commission to consider the preliminary plat at the earliest possible date, but in any case they shall act upon the proposed

subdivision within 130 calendar days from the date of formal submittal of the proposal. When the Commission feels that further information is necessary to take proper action on the preliminary plat, the Commission may continue action on the proposal.

- B. The Planning Director shall submit the preliminary plat, along with the recommendations of agencies, to the Commission. The Commission shall consider the recommendations of other agencies and determine whether the preliminary plat is in conformity with the provisions of this ordinance. Upon that basis, the Commission shall approve, conditionally approve, or disapprove the proposed subdivision. Within seven calendar days of Commission action on the subdivision, the Planning Director shall report such action, in writing, directly to the subdivider and his engineer or, if there is no engineer, to the surveyor.

Approval of the preliminary plat shall constitute approval of the final plat, subject to the requirements of Article VIII of this Ordinance, if there is no change in the plat of the subdivision at the time of filing the final plat. If the plat is disapproved by the Commission, the reasons therefore shall be set forth in the report to the subdivider.

If the preliminary plat is approved subject to conditions, conditions shall relate only to the authority granted to the Commission by this ordinance. A preliminary plat approved subject to conditions by the Commission need not be revised to reflect such conditions, but such conditions shall be reflected in the preparation of the final plat.

- C. If no action is taken by the Commission within the time limits prescribed above in this section, the subdivision, as filed, shall be deemed to be approved and it shall be the duty of the Planning Director to certify the approval.
- D. Within seven calendar days after the date of the Commission's action, the Planning Director shall transmit the complete record of its review and action to the Board. Upon receipt of the record, the Board may review the decision of the Commission. The Board may affirm, reverse, or modify the decision of the Commission, provided that such decision is not in conflict with the provisions and intent of this ordinance. Unless notified within 21 calendar days, the decision of the Commission shall be affirmed.
- E. Appeals shall be filed in accordance with Section 215 of this ordinance.

Finding 33: The subject application was received by LDS on 6/2/2023 and deemed complete on 6/29/2023. The proposal was scheduled for the soonest available Planning Commission public hearing on 8/21/2023, which is within 130 days of receipt by LDS. If the Commission feels that more information is needed to issue a decision for this proposal, they may continue the hearing.

The county's land review process for S 23-01 is consistent with the Preliminary Subdivision Approval criteria in Section 406 related to the Planning Commission's consideration of the Preliminary Plat, recommendation from agencies, and comments from adjacent property owners. Analysis conducted throughout this Staff Report has identified the conditions under which S 23-01 will be able to conform with the applicable provisions of the County's Zoning and Subdivision and Partitioning Ordinances that will allow the Planning Commission to take action on this proposal. Finally, the Planning Commission's final decision shall be reviewed by the County Board of Commissioners pursuant to the provisions in Section 406(D). Any appeals of

the Commission's final decision shall be filed in accordance with Section 215 of the CCSPO. Staff finds these criteria in Section 406 have been met.

ARTICLE V – FINAL SUBDIVISION PLAT PROCEDURE

SECTION 501. FINAL SUBDIVISION PLAT APPLICATION.

Within one year from the date of any approval or conditional approval of the preliminary plat (or as otherwise provided for in Section 208 of this ordinance), the subdivider may submit a final subdivision plat to the County Planning Department which shall conform to the preliminary plat as approved by the Commission.

Finding 34: The applicant will be required to submit the final Subdivision Plat including all information required in conditions of this report within one year of the Final Decision or they will have to resubmit a new application. Any new application will include a new review fee and will be re-examined under the standards current at that time. An extension may be granted, upon application, to the Planning Commission for a period not to exceed 6 months.

Sections 502 – 506] pertain to procedural certifications, forms, and County Surveyor review of the Final Subdivision plat that are governed in Chapter 92 of the Oregon Revised Statutes and do not require the Planning Commission's review/approval.

SECTION 507. DEDICATIONS AND PUBLIC UTILITY REQUIREMENTS.

- A. All parcels of land shown on the final plat as intended for public use shall be offered for dedication for public use at the time the proposed final plat is filed, except those parcels which are intended for the exclusive use of lot owners in the subdivision, their licensees, visitors, tenants and employees. Lands to be devoted to public use are subject to utility or other easements.
- B. All streets, pedestrian ways, drainage channels, easements and other rights-of-way shown on the final plat as intended for public use shall be offered for dedication for public use at the time the final plat is filed.
- C. All rights of access to and from streets, lots, and parcels of land shown on the final plat intended for dedication shall be offered for dedication at the time the final plat is filed.

Finding 35: There are no lots, easements, or other right-of-way that are intended for public use in this proposed subdivision. The right-of-way to be utilized by lots 2-7 will be a private road and will not be offered for dedication for public use. Staff finds the criteria in Section 507 are not applicable to this proposal.

Section 508 Pertains to the Dedication and Conveyance of Reserve Strips as Lots in Subdivisions and does not apply to S 23-01 since the new private road is not being extended to the north property line of the subject property.

SECTION 509. IMPROVEMENT PLANS.

The County Planning Department shall require engineered plans for all the improvements

showing street grades and physical improvements, natural drainage ways and drainage works for both on and off-site drainage. These plans shall be inspected by the Planning Department and any other persons or agencies necessary to insure that the proposed improvements will be adequate to serve the subdivision. These plans will be accompanied by cost estimates for the construction of the improvements.

SECTION 510. IMPROVEMENTS.

- A. As a condition precedent to acceptance and approval of the final plat the subdivider shall improve, or shall agree to improve: all lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements, and other rights-of-way; all parks, lawns, and recreation areas.
- B. Improvements shall conform to the specifications of design and materials prescribed by the County. The subdivider shall give notice to the County and Road Department prior to the commencement of construction of improvements.
- C. Prior to the date of recording, the County shall have the right to enter upon the sites of improvements for the purpose of inspecting them.
- D. Any required improvements, plans and profiles and specifications of proposed road, water and sewage improvements shall be submitted to the appropriate county department for approval at the time the final plat is submitted for checking if this has not previously been done. Such plans and profiles shall show the full details of the proposed improvements. In the event that the developer wishes to construct improvements prior to the filing of the final plat, the appropriate county department may authorize initiation of such construction, upon submission by the developer of plans and profiles giving full details of the proposed improvements which conform substantially to the approved tentative plat.

Finding 36: To comply with Section 509, the County will require, as a condition of approval, the applicant to submit engineered plans for the construction of the private road and all associated drainage and stormwater facilities. These plans shall be approved by LDS, the County Public Works Department, and Columbia River Fire and Rescue prior to construction of the proposed private road. Prior to Final Plat acceptance, a condition of approval will require the applicant to obtain and provide to LDS written confirmation from the County Public Works Department and Columbia River Fire and Rescue that the proposed private road has been constructed in line with applicable standard and is adequate to serve the proposed subdivision.

Per the attached County Road Standard Ordinance, "Maintenance agreements and easements are required for new private roads before any development permits can be processed or issued" Therefore, an additional condition of approval will require the applicant to submit a Road Maintenance Agreement between the lots which will utilize the new private road. This maintenance agreement shall be recorded concurrently with and referenced as a note on the Final Plat. Further, a condition of approval prior to acceptance of the Final Plat will require all proposed easements, including that for the private road, to be accurately identified on the Final Plat.

With these conditions of approval, the proposal will be able to comply with the criteria of

Sections 509 and 510 relating to road improvements.

SECTION 511. EVIDENCE OF WATER SUPPLY.

Written proof of available water supply adequate to serve water on each lot as required in Section 304.1 of this ordinance shall be provided prior to approval of the final plat by the County.

Finding 37: The applicant has provided recorded well logs (attached) for wells located on lots 1, 2, and 8 of the proposed subdivision. In total, these wells provide 70 gallons per minute of water. The submitted application does not state whether these wells will be shared between lots and homesites. Therefore, evidence of water supply has only been shown for three of the proposed eight lots. Consequently, to comply with Section 511, conditions of approval will require the applicant to do the following:

- Drill wells on the remaining 5 lots and submit recorded well logs to LDS as a condition of approval prior to Final Plat acceptance; or
- Incorporate well waterline easements into the Final Plat so that each lot will have access to a well. Well maintenance agreements between lots sharing wells shall be submitted together with and referenced on the Final Plat.

With these conditions, Staff finds available water supply for each lot can be assured and the criteria are met.

SECTION 512. EVIDENCE OF SEWAGE DISPOSAL.

Written proof of an available method of sewage disposal adequate to serve each lot intended for sewage disposal shall be provided prior to approval of final plat by the Board as required in Section 304.C of this ordinance. If the sewage disposal system of the subdivision utilizes septic tanks, there shall be an approved site for subsurface sewage disposal on every lot prior to final platting.

Finding 38: The applicant has obtained septic site evaluations for lots 1, 2, and 7 of the proposed subdivision. Comment from the County Sanitarian received by Staff on 7/26/2023 states that lots 3, 4, 5, 6, and 8 will need new site evaluations or site evaluation confirmations to approve or relocate disposal areas. Consequently, a condition of approval will require the applicant to obtain approved septic site evaluations for these lots prior to acceptance of the Final Plat.

[...]

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 39: The minimum standards in Section 1001 of this ordinance will be adhered to with the development of this subdivision. Conditions that are made as part of the approval of this subdivision must be satisfied prior to the Planning Department approval of the final plat authorizing the division of the subject property.

SECTION 1002. CONFORMITY TO THE COMPREHENSIVE PLAN.

The intent and design of the proposed subdivision shall conform to and be in harmony with the Comprehensive Plan and County Zoning Ordinance.

Finding 40: The intent and design of the subdivision, as proposed, complies with applicable goals and policies of the Comprehensive Plan and provisions of the Zoning Ordinance. The subject property is zoned Forest-Agriculture (FA-80) and is being processed as a Farm Use pursuant to the Predominant Use of the subject property in 1993 per the provisions in Section 402 of the Zoning Ordinance. The State of Oregon Measure 49 approval allows the applicant to waive the agricultural protections found in Part V of the Comprehensive Plan regarding non-farm encroachments. With the Oregon DSL's approved Wetlands Delineation of the subject property identifying the location of wetlands in relation to all lots proposed for S 23-01, all provisions relating to development of the subject property will comply with applicable provisions of the Primary Agriculture Zone and the Wetlands Overlay Area as reviewed in this staff report. The wetland delineation is also consistent with wetland protections found in Part XVI, Article X of the Comprehensive Plan. The proposed subdivision additionally complies with Comprehensive Plan goals and policies of Housing through providing additional housing options to citizens of the County. All future development on all eight lots will be further reviewed for compliance with the applicable provisions of the Zoning Ordinance at time of future building permit review. For these reasons, Staff finds that S 23-01 will comply with Section 1002 of the CCSP0.

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, a width of less than 70 feet, a depth of less than 80 feet, or frontage of less than 30 feet. No building setback line from the 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. [Amended by Ordinance No. 01-09 effective 4/07/02].

For unincorporated areas within the St. Helens urban growth area, lots proposed to be created through subdivision or major or minor partition, shall conform to the size and dimension standards outlined in the City of St. Helens Comprehensive Plan and implementing ordinances. [Amended by Ordinance No. 01-09 effective 4/07/02].

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.

- (2) Lot Dimensions. The lot dimensions shall comply with the minimum standards of the Zoning Ordinance. When lots are more than double the minimum required area for the zoning district, the Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots.
- (3) Double Frontage Lots and Access to Lots. Double frontage lots shall be avoided except where necessary to provide separation of residential developments from arterial streets or to overcome specific disadvantages of topography and/or orientation.
- (4) Lots should avoid driving access from arterials. When driveway access from arterials may be necessary for several adjoining lots, the Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazards on such streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on arterials.
- (5) Fencing. An applicant shall be required to furnish and install fencing wherever the Commission determines a hazardous condition may exist. The fencing shall be constructed according to standards established by the County Engineer or Roadmaster. No certificate of occupancy shall be issued until said fence improvements have been duly installed.
- (6) Erosion Control. Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area.
- (7) Lot Boundary of Right-of-way Lines. No new lot shall be divided by the boundary line of a county, city, school district, or other taxing district or by the right-of-way of a street, utility transmission line or major drainage way.

Finding 41: The submitted preliminary plat, Staff site visit, and County GIS data do not present any foreseeable topographical difficulties for future site development. Regarding lot dimension requirements, the minimum parcel size requirements in the PA-80 zone are expressly overridden by the applicant's Measure 49 claims. Per term 1 of each of the applicant's Home Site Authorizations, the County may not apply standards "in a manner that prohibits the establishment of the land division..." Term 10 of the Home Site Authorizations state that lots may not exceed 5 acres except for a remnant parcel. S 23-01 complies with this requirement, as all lots are under 5 acres in size excepting lot 5, the 31.27-acre remnant parcel. Each lot will have over 50' of usable frontage on a public or private right-of-way.

Regarding double frontage lots and accesses, lots 1, 5, and 8 will have frontage on both Tide Creek Road as well as the proposed private road. However, per the submitted application materials, lots 5 will be accessing off the private road only, and lots 1 and 8 will each access only off Tide Creek Road. Staff finds usage of double frontage will be avoided. To comply with 1003(A)(4), a condition of approval will require the driveways for lots 1 and 8 onto Tide Creek Road be designed and arranged to avoid requiring vehicles to back into traffic.

Regarding the erosion control and grass seed planting requirement of 1003(A)(6), this criterion shall be included as a condition of approval. It does not appear to staff that any proposed lot will be divided by the boundary line of any government jurisdiction, taxing district, right-of-way, utility line, or drainageway.

With preceding discussion and conditions of approval, Staff finds the proposal will comply with Section 1003.

SECTION 1004. BLOCKS.

- A. In subdivisions with an average lot size of under one acre, no block shall be longer than 1,000 feet in length and there shall be a cross walkway of not less than 10 feet in width near the middle of the block. The width of blocks shall be such as to allow two tiers of lots of appropriate depths, unless exceptional conditions exist, in the opinion of the Commission, so as to render this requirement undesirable and make a relatively short length of double frontage lots unavoidable. Exceptions to the block width shall be allowed for blocks which are adjacent to arterial streets or natural features.
- B. Blocks along arterials or collector streets shall not be less than 1,000 feet in length, wherever possible.
- C. In long blocks, the Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic. Pedestrian ways, not less than 12 feet wide, may be required by the Commission through the center of blocks more than 800 feet long where deemed essential to provide circulation or access to schools, parks, shopping centers, public transportation, or other community facilities.

Finding 42: Due to the size of the subdivision with all lots complying with the minimum 2 – 5-acre minimum requirement in the applicant's Measure 49 Claims, the provisions for blocks typically associated with urban levels of development do not apply to this Subdivision.

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. [Amended 4-9-97]
- B. **Existing Streets.** Additional street right-of-way shall be dedicated as per the County Road Standards at the time of subdivision or partition when the following conditions exist:
 - (1) The subject property is located within an urban growth boundary and fronts on a county road; or [Amended 4-9-97]
 - (2) The subject property is subdivided or partitioned to lots or parcels containing 2 acres or less. [Amended 4-9-97]

- C. **Street Widths and Roadways.** Unless otherwise indicated on the official map, or the roadway meets the criteria in 1005.C(5), the width of rights-of-way and roadway improvements shall be in compliance with the following:
- (1) Minor Arterial. Right-of-way width 80 feet.
 - (2) Collector. Right-of-way width 50 60 feet.
 - (3) Local. Right-of-way width 50 feet.
 - (4) The Board may, upon a recommendation by the County Roadmaster, require additional right-of-way width to protect the public health, safety, and welfare.
 - (5) For roadways within a UGB but outside city limits, the County will apply the adopted roadway and access spacing standards of the applicable jurisdiction, where these standards are equal to, or more restrictive than, adopted County standards.
- D. **Topography and Arrangement.** Local streets shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be properly related to special traffic generators such as industries, business districts, schools, and shopping centers; and to the pattern of existing and proposed land uses.
- E. **Local Streets (Residential).** Local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, to require the minimum number of streets necessary to provide convenient and safe access to property, and to allow for the southern exposure of homes.
- F. **Business and Industrial Streets.** In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
- G. **Proposed Streets.** Proposed streets shall be extended to the boundary lines of the tract to be subdivided. A reserve strip across the end of the street shall be deeded to the County at the applicant's own expense. In addition, a barricade shall be built at the end of the street by the applicant and it shall not be removed until authorized by the Planning Director.
- H. **Access to Arterials.** When major partitions or subdivisions abut an existing or proposed arterial, the Commission may require that access to such streets be limited by one of the following means:
- (1) The subdivision of lots so as to back onto the arterial and front onto a parallel local street.
 - (2) A series of cul-de-sacs, u-shaped streets, or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of

their terminal lots backing onto the arterial.

- I. **Curve Radius.** All local and neighborhood collector streets shall have a minimum curve radius (at intersections) of 20 feet, unless otherwise approved by the Commission.
- J. **Street Signs.** The County shall install street signs and the applicant shall pay for the signs and the installation. In addition, the applicant may be required to pay for traffic safety devices as related to the development and their installation. The type and location of the street signs and/or traffic safety devices shall be designated by the County Roadmaster.
- K. **Cul-de-sacs.** A cul-de-sac street shall only be used where the County Public Works Director determines that environmental or topographical constraints, existing development patterns, or compliance with other applicable County requirements preclude a street extension. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with the County construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to six times the minimum lot width, serving no more than 18 dwelling units, and not exceeding 400 feet in length in urban areas and 800 feet in rural areas, from entrance to center of turnaround, with a radius of 50 feet at the property line and not less than 40 feet at the outer curb line or traveled way. The cul-de-sac shall provide, or not preclude the opportunity to later install, a shared-use path between it and adjacent developable lands. Such access ways shall conform to Section 1011.
- L. **Street Surfacing and Improvements.** Public streets, including alleys, within developments shall be improved in accordance with the requirements of the Columbia County Road Standards. Within urban growth boundaries streets shall be developed in accordance with any applicable city/county joint management agreements. [Amended 11-4-92]
- M. **Arterial Street Setback.** In residential districts, a building setback line shall extend an additional 20 feet back from the right-of-way line of an arterial street. The placement of structures within the buffer strip is prohibited.
- N. **Intersections.** Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet therefrom. Not more than two streets shall intersect at any point unless specifically approved by the Commission.
- O. **Street Lighting.** A complete lighting system (including but not limited to: conduits, wiring, bases, poles, arms and fixtures) shall be the financial responsibility of the applicant on all cul-de-sacs, local streets, and neighborhood collector streets. The developer will be responsible for providing the arterial luminaries in those cases where the developer is required to improve a collector or arterial street.
- P. **Fire Protection.** In forested areas, housing shall be set back so as to not to constitute a fire hazard to the forest. Provisions for fire protection may include:
 - (1) **Fire Breaks.** Fire breaks shall be provided as may be specified by the appropriate

fire protection agency. Access roads may be used as fire breaks where provided at suitable locations.

- (2) **Emergency Access.** Two or more improved all-weather access roads from the development, subdivision, or major partition may be required by the Commission for the purpose of fire protection egress and ingress to insure public safety as may be specified by the appropriate fire protection agency.

Finding 43: The proposed subdivision will have greater than 50 feet of frontage on a public street. As the subject property is not within an Urban Growth Boundary (UGB) and will not contain lots less than 2 acres, no additional right-of-way dedications are required. The proposed private road is likely to be a dead-end street, and County Zoning would discourage future extension of this street into adjacent resource-zoned parcels. Most of the street criteria of this Section apply only urban-level subdivisions of a greater size which typically utilize new public streets. Staff finds that due to the rural size of the proposed lots and the fact that only a new private road is proposed, these criteria do not apply to S 23-01.

[...]

SECTION 1009. STREET NAMES.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area, and if near to a city, to the pattern of the city, present and projected. Street names and numbers shall be assigned in accordance with Ordinance No. 81-6 as amended by Ordinance No. 83-2 and any subsequent ordinances.

Finding 44: The applicant's proposed 40' wide private road shall be named according to the procedures in Section 7 of the Columbia County Rural Addressing Ordinance. As a condition of approval prior to acceptance of the Final Plat, the applicant shall submit a Road Naming Application to LDS. The proposed road name and future house numbers will be assigned in accordance with all criteria of the addressing ordinance. Staff finds the above criteria will be met.

[...]

SECTION 1012. DRAINAGEWAYS.

If a subdivision is traversed by a water course such as a drainage way, channel, canal, or stream, there shall be provided a storm-water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to major water courses or drainageways may be required.

A. Surface Drainage and Storm Sewer Systems.

- (1) **General Provisions.** The Commission shall not recommend for approval any partition or subdivision which does not make adequate provisions for storm or flood water runoff. The storm water drainage system shall be separate and

independent of any sanitary sewer system. Inlets shall be provided so surface water is not carried across any intersection. Surface water drainage patterns shall be shown for each and every lot and block. The sewer system shall be built to the standards of the County.

- (2) Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside of the development. The County's Engineer or Roadmaster shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications, assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.
- (3) Effect on Downstream Drainage. Where it is anticipated that the additional runoff incidental to the development of the subdivision will overload an existing drainage facility, the Commission may withhold approval of the subdivision until provisions have been made for improvement of the existing drainage facility.
- (4) Drainage Easements. When topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements, at least 15 feet in width, for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the street. When a proposed drainage system will carry water across private land outside the development, appropriate drainage rights must be secured.

Finding 45: The applicant has submitted a preliminary Stormwater plan completed by a certified engineer. The report addresses pre and post development impacts on stormwater runoff generated by impervious surface associated with future residential development. Per the submitted plan, "The site hydrologic analysis shows an insignificant increase in peak runoff from pre to post developed conditions. Generally, the existing drainage patterns are maintained, where runoff will sheet flow to undeveloped grassland..." Biofiltration swales are proposed on each side of the private road to convey runoff north.

Per the submitted Preliminary Plat and Stormwater and Erosion Control Plan, a drainageway to the Columbia River runs through the north end of the subject property. This drainageway appears to be connected to a fish-bearing stream to the north, but as addressed in Finding 18 there are no identified streams on the subject property. The provisions of Section 1012 will require the applicant to include a stormwater easement conforming substantially with the course of this drainageway on the final plat. With this as a condition, Staff finds the criteria of Section 1012 are met.

[...]

SECTION 1013. UTILITIES.

- A. Utility Easements. A minimum five foot utility easement shall be required along the front, side, and rear lot lines for all lots within the subdivision.

- B. Sewerage Facilities. The method of sewage disposal for each lot within a subdivision or partitioning 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.

[...]

- 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 an 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.

- (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 46: The provisions related to potable water and sewage disposal have already been addressed in Findings 34 and 35 and related conditions of approval. All lots within the subdivision will be served by individual onsite septic systems and will either share water supply between the existing three wells or will have individual wells drilled on each. As a condition of approval, the Final Plat shall include a minimum 5' utility easement along the lot lines of all proposed lots, in accordance with Section 1013(A). Utilities to the 8 proposed lots can be extended underground to these properties via the existing lines along Tide Creek Road and future lines along the proposed private road. Columbia River Public Utility District was notified of this proposal on July 10th, 2023 and have not submitted comment to LDS as of the date of this report. Staff finds the criteria are met.

SECTION 1015. OTHER REQUIREMENTS.

In rural and urban areas, in addition to the improvements required by the provisions of this ordinance, the subdivider may be required to provide other improvements because of specific features of the land and the design and location of the subdivision or major partition. Improvements such as bridges, culverts, and the fencing of watercourses, rights-of-way, and recreation areas and facilities may be required where necessary for the health, safety, and general welfare of residents of the subdivision or major partition.

Finding 47: The Planning Commission may require additional improvements, on or off the site of the proposed development, as conditions of approval.

Continuing with the applicable provisions of the Columbia County Stormwater and Erosion Control Ordinance:

I. INTRODUCTION**A. Purpose**

1. The purpose of this ordinance is to:
2. Prevent water quality degradation of the county's water resources;
3. Prevent damage to property from increased runoff rates and volumes;
4. Protect the quality of waters for drinking water supply, contact recreation, fisheries, irrigation, and other beneficial uses;
5. Establish sound developmental policies which protect and preserve the county's water and land resources;
6. Protect county roads and rights-of-way from damage due to inadequately controlled runoff and erosion;
7. Protect the health, safety, and welfare of the inhabitants of the county;
8. Maintain existing instream flows; and
9. Preserve and enhance the aesthetic quality of the county's water resources.

B. Applicability

1. Provisions of this ordinance apply to:

[...]

- c. Applications for partitions and subdivisions;

[...]

II. GENERAL REQUIREMENTS

The following requirements apply to all activities regulated under this ordinance:

[...]

F. Stormwater Easements

1. Stormwater easements shall be provided to the county or state for emergency maintenance of all stormwater facilities created within new subdivisions.
2. The parties responsible maintenance of these stormwater facilities shall be identified and approved by the county during the subdivision review process.
3. Responsibility for maintenance of these stormwater facilities shall be enforced by maintenance agreements running with the land.
4. If the county needs to maintain a stormwater facility, the property owner shall be liable for reimbursement to the county for the cost of this maintenance.
5. The requirements for stormwater easements include:
 - a. For pipes, culverts, and storm sewers, easements shall be 20 feet wide and centered on the pipe.
 - b. For stormwater facilities that are not enclosed, the easements shall include the open water plus 10 feet horizontally from the ordinary high water mark.
 - c. Excluded from easements shall be any existing private buildings.
 - d. No new buildings or other structures, which prevent access, are permitted within easements. The zonal setbacks of no less than a 10 foot setback shall be maintained from the easement to the dwelling or accessory structure so as to provide unimpeded access to the stormwater easement by emergency maintenance vehicles. Fences crossing or bordering easements shall provide gates of sufficient width to allow access by maintenance vehicles to the easement.

Finding 48: The bioswale facilities detailed in the submitted Stormwater and Erosion Control Plan shall be subject to stormwater easements and maintenance agreements in accordance with the provisions of section 2(F) of the County's SEC Ordinance. The stormwater easement shall be dedicated to the County for emergency maintenance. To comply with the provisions of Section 2(F), conditions of approval will require the following:

- The appropriate stormwater easement(s) for emergency maintenance by the County shall be detailed on the Final Plat.
- A stormwater facility maintenance agreement between the 8 lots shall be submitted to LDS prior to acceptance of the Final Plat.
- A 10' setback from the stormwater easement shall be maintained to all future dwellings

and accessory structures.

With these conditions, Staff finds the proposed subdivision will meet the requirements of Section 2(F).

III. STANDARDS SPECIFIC TO ACTIVITIES

The following requirements apply, in addition to the General Requirements above, to activities meeting the Applicability portion of this ordinance. Requirements citing a section number refer to the portion of the Erosion Control Manual (ECM) where a complete description of the practice can be found. Erosion control practices shall be installed and maintained as prescribed in the manual.

E. Subdivisions

1. Erosion Control
 - a. Required Measures
 - i. A Gravel Construction Entrance (ECM-Section 3.3.1) shall be installed prior to the beginning of grading.
 - ii. Where slopes exceed 5%, a Sediment Fence (ECM-Section 3.3.2) shall be installed at the base of the disturbed area or dirt stockpiles.
 - iii. On slopes exceeding 10%, sediment fences are required at intervals specified in Table 3-2 of the Erosion Control Manual.
 - iv. As an alternative to a sediment fence, vegetated and undisturbed buffers at the base of the slope on the subject property can be utilized. Slopes above the buffer cannot exceed 10% and the buffer width must be at least equal to the uphill-disturbed area draining to it.
 - v. During wet weather, October 1-April 30, a 6-mil plastic sheet cover (ECM-Section 3.3.9) or a minimum 2" of straw mulch cover shall be required on stockpiles where sediment is eroding and leaving the subject property or entering a water resource.
 - vi. Ground cover shall be reestablished prior to removing the erosion control measures described above (ECM-Section 3.3.6).
 - b. Erosion Control Plans
 - i. Preliminary and Final Erosion Control Plans are required.
 - ii. The plans shall be prepared by an Engineer.
 - iii. The plans shall specify use of the erosion control measures outlined above, plus additional measures as may be necessary to prevent sediment from leaving the subject property or entering a

water resource.

- iv. The plans shall be completed in the format specified in Section IV.
- v. The preliminary plan shall be submitted to the county with the subdivision application. The final plan shall be submitted to the county with the final engineering plans.
- vi. Subdivision approval will not occur until the preliminary plan is approved by the county.
- vii. Construction and grading on the site shall not begin until the final plan is approved by the county and required erosion control measures are in place.

Finding 49: The applicant has submitted a preliminary Stormwater and Erosion Control plan completed by a licensed engineer. The plan details the required erosion control measures listed in subsection III(E)(1) including a sediment fence at the end of the proposed private road and construction entrance. A final engineered Erosion Control plan shall be submitted to the County prior to acceptance of the Final Plat. This plan shall include all information listed in subsection III(B) of the County's SEC ordinance.

Additionally, as the construction of the proposed private road will likely involve moving more than 50 cubic yards of material and disturbing more than 2000 square feet of land, a grade and fill permit will be required. This grade and fill permit must be consistent with the erosion control measures listed in subsection III(C). This will be listed as another condition of approval.

With this, Staff finds the proposal will meet applicable erosion control requirements.

2. Long Term Water Quality Protection

a. Required Treatment Measures

- i. Runoff from parking lots, driveways, and other exposed traffic areas shall be treated using one of the following treatment methods: biofiltration swales, vegetative filter strips, alternative treatment methods.
- ii. Treatment methods shall be sized to treat the water quality storm.
- iii. Biofiltration swales and vegetative filter strips shall be sized for a 9-minute hydraulic residence time.
- iv. Oil/water separators shall be required on commercial and industrial sites for activities exhibiting a significant risk of high oil loading in runoff, oil spills, or illegal dumping of oil or grease.

b. Required Runoff Control Measures

- i. Runoff from the development site shall be controlled such that the

following criteria are met:

- A) The peak flows for the 10 and 100-year design storms after development does not exceed the respective predevelopment peak flows.
 - B) The peak flow for the 2-year design storm after development does not exceed one-half the predevelopment peak flow for the 2-year storm.
- ii. Discharges directly into tidal waterbodies are exempt from the above runoff control measures but not treatment requirements.
- c. Stormwater Plans
- i. Preliminary and Final Stormwater Plans are required.
 - ii. The plans shall be prepared by an Engineer.
 - iii. The plans shall specify use of the treatment and runoff control measures outlined above.
 - iv. The plans shall be completed in the format specified in Section IV.
 - v. The preliminary plan shall be submitted to the county with the subdivision application. The final plan shall be submitted to the county with the final engineering plans.
 - vi. Subdivision approval will not occur until the preliminary plan is approved by the county.
 - vii. Construction and grading on the site shall not begin until the final plan is approved by the county and required erosion control measures are in place.

Finding 50: The applicant has submitted an engineered preliminary stormwater management plan which details compliance with required stormwater runoff treatment measures. Proposed facilities will include two bioswales along either side of the proposed private road, planted with a grass seed mix. Per the submitted plan, these bioswales will convey runoff north where it will infiltrate into open grassland. The bioswales are sized for a 54-minute resident time, which exceeds the 9-minute requirement.

Regarding runoff control measures, table 4-2 of the submitted preliminary plan shows post-development peak flows increasing from pre-development peak flows for the 2, 10, 25 and 100-year design storms. However, the requirements of subsection III(E)(2)(b) state that post-development peak flows cannot exceed the pre-development peak flows for the 10 and 100-year design storms and cannot exceed one-half the pre-development peak flow for the 2-year design storm. Therefore, the preliminary stormwater plan does not meet the runoff control criteria. As a

condition of approval, the applicant will be required to submit a final engineered stormwater plan which includes sufficient facilities so that the criteria in subsection III(E)(2)(b) are met. This plan shall include all information required in subsection III(E) of the County's SEC ordinance. With these conditions, Staff finds the proposal will meet applicable stormwater control and treatment requirements.

COMMENTS RECEIVED

County Sanitarian: Due to wetland boundaries & reconfiguration lots #3,4,5,6, and 8 will need new site evaluations or site evaluation confirmation to approve or relocate disposal areas.

County Building Official: Owner will be required to obtain all building, electrical, plumbing, and mechanical permits.

County Assessor: Property is under farm deferral and will need to be disqualified and pay taxes prior to recording the subdivision.

Columbia River PUD: Have reviewed the proposal and have no objection to its approval as submitted.

CONCLUSION, RECOMMENDATION & CONDITIONS

Based on the above findings and analysis of the relevant criteria discussed in this Staff Report, Staff recommends the Planning Commission **APPROVE** the proposed subdivision, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. A surveyed Final Subdivision Plat shall be prepared and submitted to Land Development Services within one year of the date of approval of the Preliminary Plat. If this one-year deadline is not met, the Preliminary Plat must be resubmitted for approval under the Subdivision and Partitioning Ordinance that is in effect at the time the plat is submitted. An extension may be granted, upon application, by the Planning Commission for a period not to exceed 6 months.
2. All future site development shall be authorized provided it is consistent with the Terms of the applicant's Measure 49 Final Order and Home Site Authorizations as well as with the applicable provisions in OAR Chapter 660 Division 33 and the Columbia County Primary Agriculture Zone.
3. Per the provisions in Term 12 of Measure 49 Claims E142340, E132337, and E132342, should any of the eight lots be conveyed to parties who do not have rights of survivorship of the Measure 49 Claimant, the subsequent owner(s) must establish the authorized dwelling(s) within 10 years of the land conveyance.
4. The applicant or future property owners shall obtain all necessary building permits for future dwellings or structures.
5. The applicant shall submit a Grade and Fill permit prior to any ground disturbing activities or road construction. The applicant shall use applicable erosion control measures consistent with subsection III(C) of the Stormwater and Erosion Control Ordinance.
6. Grass seed planting shall take place prior to September 30th on all lots upon which a dwelling has not been started but the ground cover has been disturbed. The seeds shall be of an annual rye grass variety and shall be sown at not less than four pounds to each 1,000 square feet of land area.
7. The applicant and/or subsequent owners of the proposed lots shall obtain all necessary permits from the Department of State Lands (DSL) for work within identified wetlands.
8. The responsibility for protection from wildlife damage on the property shall be assumed by future dwelling owners and/or occupants.
9. Driveways for lots 1 and 8 onto Tide Creek Road be designed and arranged to avoid requiring vehicles to back into traffic.
10. Prior to acceptance and approval of the Final Plat:

- a. The applicant shall submit an Engineered Final Stormwater and Erosion Control (SEC) Plan for the subdivision that is consistent with the Stormwater & Erosion Control Ordinance, and specifically subsection III(E)(2)(b).
- b. The County Public Works Department and the Columbia River Fire & Rescue shall inspect all private road improvement plans for Lupine Meadow Drive and submit documentation to Land Development Services that the new private road is constructed to the minimum private road specifications in the County Road Standards Ordinance as well as those in the 2017 Columbia County Transportation Plan.
- c. The applicant shall obtain approved septic lot evaluations or lot evaluation confirmations for methods of onsite sewage disposal for lots 3, 4, 5, 6, and 8.
- d. The applicant shall disqualify the subject property from resource tax deferral and pay all taxes due to the County Assessor.
- e. The applicant shall submit a Road Naming Application for the proposed private road.
- f. The applicant shall obtain and submit to LDS Road Access Permits for each lot.
- g. The applicant shall submit to LDS engineered plans for all improvements, including the proposed private road and stormwater facilities. The applicant shall submit to LDS documentation from the Public Works Department and Columbia River Fire and Rescue certifying that the engineered road plan meets all applicable standards.
- h. The proposed private road shall be constructed to Private Road Standards as adopted by the County in Section IV of the County Road Standards Ordinance. The applicant shall submit to LDS approval from the Public Works Department and CRF&R certifying that the proposed private road has been improved to applicable standards.
- i. The applicant shall either:
 1. Drill wells on lots 3, 4, 5, 6, and 7, and submit to LDS associated well logs that have been recorded with the Oregon Water Resources Department; **or**
 2. Submit well maintenance agreements between lots sharing wells and detail all waterline easements on the Final Plat. Well maintenance agreements shall be referenced on the Final Plat.
- j. The applicant shall submit a letter from NW Natural Gas stating that the utility company is able and willing to serve the subdivision as proposed.

11. The following shall be recorded concurrently with the Final Plat:

- a. The applicant shall record a notarized Waiver of Remonstrance concurrent with S 23-01 that prohibits future landowners and their successors from pursuing a claim for relief or cause of action alleging injury from farming or forest practices occurring on adjacent properties. This shall be referenced on the Final Plat.
- b. The applicant shall record a Road Maintenance Agreement for the proposed private road to be utilized by lots 2, 3, 4, 5, 6, and 7. This agreement shall be referenced on the Final Plat.
- c. The applicant shall record deed restrictions on the properties associated with State Election Numbers E132337 and E132342 to reflect the transfer of Measure 49 development rights to the subject property.
- d. The applicant shall record a stormwater facility maintenance agreement between all lots for stormwater facilities detailed in the Final Stormwater and Erosion Control Plan. This agreement shall be referenced on the Final Plat.

12. In addition to all County and State requirements, the following shall be included on the Final Plat:

- a. The proposed private road shall be identified as a 40-foot-wide private access and utility easement.
- b. A stormwater easement conforming substantially with the course of the drainageway identified on lot 5.
- c. Stormwater facility easements consistent with subsection II(F) of the Stormwater and Erosion Control Ordinance for all stormwater facilities detailed in the Final Stormwater and Erosion Control Plan.
- d. A minimum 5' wide utility easement along the lot lines of all 8 lots.
- e. If utilizing shared wells, waterline easements shall be detailed between wells and any lots being served.
- f. A Statement that "*Lupine Meadow Subdivision is subject to Columbia County Land Development Services File No. S 23-01 and the applicable provisions of the Columbia County Zoning Ordinance*"

13. Before a building permit may be issued for any individual lots resulting from this subdivision:

- a. The property and all division lines must be surveyed and filed in the office of the County Surveyor, and the Final Subdivision Plat must be recorded in the office of the County Clerk.

Attachments:

Submitted Application Materials
Wetland Delineation Report WD #2021-0400
County Assessor Comments
County Sanitarian Comments