

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Applications of Ardeshir )  
Talebi for a Modification of the Columbia County ) Final Order No. 18-2005  
Road Standards, a Variance from the Columbia County )  
Zoning Ordinance and a Minor Partition )

WHEREAS, on June 30, 2004, Ardeshir Talebi submitted an application to partition a 10.47 acre parcel into two approximately 5 acre parcels with access onto Pioneer Road, a private road; and

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

WHEREAS, the Columbia County Zoning Ordinance ("CCZO"), Section 604 requires that lots or parcels legally created after 1991 to have 50 feet of usable frontage on a public right-of-way; and

WHEREAS, the Applicant proposed to partition a 12th lot with access onto Pioneer Road, which would exceed the permissible number of lots with access onto a private road, and would not provide each resulting lot with 50 feet of usable frontage on a public right-of-way; and

WHEREAS, on December 10, 2004, Ardeshir Talebi filed an application for a Variance to CCZO Section 604.5; and

WHEREAS, on January 14, 2005, Ardeshir Talebi filed an application for a Road Standards Modification; and

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

WHEREAS, the Board of County Commissioners asserted original jurisdiction over the Minor Partition and Variance and scheduled a hearing on all matters before the Board of County Commissioners during a Special Hearing on April 20, 2005; and

WHEREAS, on April 20, 2005, the Board of County Commissioners held a Special Public Hearing on the three applications; and

WHEREAS, during the hearing evidence was received into the record, a list of which is attached hereto as Attachment 1, and is incorporated herein by this reference; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing and continued the Matter for deliberations to April 27, 2005; and

WHEREAS, on April 27, 2005, the Board of County Commissioners again continued the Matter to May 4, 2005, for deliberations; and

WHEREAS, on May 4, 2005, the Board of Commissioners deliberated in the Matter and voted to tentatively approve the Road Modification application, the Variance and the Minor Partition;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners, dated April 12, 2005, for the Road Modification, which is attached hereto as Attachment 2, and is incorporated herein by this reference.
2. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners dated April 12, 2005, for the Zoning Variance, which is attached hereto as Attachment 3, and is incorporated herein by this reference.
3. The Board of County Commissioners adopts the findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners dated April 12, 2005, for the Minor Partition, which is attached hereto as Attachment 4, and is incorporated herein by this reference.
4. The Application to Modify the Columbia County Road Standard Section IV, is APPROVED subject to the following conditions of approval. Prior to recording the final plat for MP 02-13, or any other further division or development of land with access onto Pioneer Road, the Applicant shall:
  - a. Provide documentation establishing that the Applicant has an easement across the Crown Zellerbach Trail, and across all private property from Scappoose-Vernonia Highway to the subject property.
  - b. Improve Pioneer Road beginning at Scappoose-Vernonia Highway, for a distance of 500 feet, just beyond the first steep grade of 17%. The improvement shall include base preparation and paving to a width of 20 feet, and to a depth of 2 inches. Drainage Improvements shall be made as determined by the Public Works Director.
5. The Application for a Variance (V 05-07) is approved subject to the following conditions of approval:

- a. The Applicant shall comply with the conditions of approval in (4)(a) and (b), above.
  - b. This variance shall become void after the expiration of one (1) year from the date of this order if the next step in the development process has not been applied for. The next step in the development process is to submit a final plat.
6. The application for Minor Partition MP 04-26 is approved subject to the following conditions of approval. Prior to recording the final plat for MP 04-26, the applicant shall:
- a. Survey the property and all division lines, prepare a plat map and record the plat map with the Columbia County Clerk. A final plat must be prepared and submitted to Land Development Services within one year of the date of approval of the Preliminary Plat. If the Final Plat is not submitted within one year after the Preliminary Plat is approved, the Preliminary Plat must be resubmitted to Land Development Services for approval under the then current Subdivision and Partitioning Ordinance.
  - b. Indicate on the Final Plat whether any of the parcels do not have a proven water source or method of sewage disposal.
  - c. Assure that each residential parcel shall be at least 5 acres in size.
  - d. Provide documentation which shows that all owners of the resulting parcels will be covered under a Road Maintenance Agreements, each of which must state that:
    - (1) The Maintenance Agreement shall be enforceable by a majority of the homeowners served by the road; and
    - (2) The owners served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula that is contained in the Maintenance Agreement; and
    - (3) Amendments to the Maintenance Agreement shall be allowed by written and recorded agreement and consent of 75% of the property owners adjacent of the road.
  - e. Make a good faith effort to enter into one or more Road Maintenance Agreements with all record owners of property with access onto Pioneer Road, each of which should state that:
    - (1) The Maintenance Agreement shall be enforceable by a majority of the homeowners served by the road; and
    - (2) The owners served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific

- (3) formula that is contained in the Maintenance Agreement; and  
Amendments to the Maintenance Agreement shall be allowed by written and recorded agreement and consent of 75% of the property owners adjacent to the Road.

f. Comply with all conditions of approval in 4(a) and (b), and 5(a) and (b), above.

Dated this 18th day of May, 2005.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: [Signature]  
Anthony Hyde, Chair

By: [Signature]  
Joe Corsiglia, Commissioner

By: Not present  
Rita Bernhard, Commissioner

Approved as to form

By: [Signature]  
Assistant County Counsel

ATTACHMENT 1

EXHIBIT 1-

- (1) Notice of Public Hearing (Publication)
- (2) Notice of Public Hearing (Property Owner Notice)
- (3) Affidavit of Mailing
- (4) Affidavit of Publication
- (5) Board Communication from Todd Dugdale dated April 14, 2005, with the following attachments:
  - a. Staff Report V 05-07;
  - b. Staff Report MP 04-26;
  - c. Staff Report Road Modification with Road Department Recommendation;
- (6) Board Communication from Kay Clay dated March 9, 2005 with the following attachments:
  - a. Notice of Public Hearing (publication);
  - b. Notice of Public Hearing (Property Owner Notice);
  - c. Partition Application;
  - d. Address Map;
  - e. Zoning Map;
  - f. Tax Account Information;
  - g. Conceptual Stormwater Map
  - h. Topographical Maps;
  - i. Soil Survey;
  - j. Letter to Ardeshir Talebi from Glen Higgins;
  - k. Conceptual Stormwater Plan;
  - l. Certificate of Mailing dated September 23, 2005;
  - m. Site Map;
  - n. Zoning Map;
  - o. Address Map;
  - p. Conceptual Stormwater Map;
  - q. Administrative Notice;
  - r. Partition Application;
  - s. Site Map;
  - t. Zoning Map;
  - u. Address Map;
  - v. Conceptual Stormwater Map;
  - w. List of Persons to Receive Notice;
  - x. Photos
  - y. Letter to Ardeshir Talebi from Glen Higgins;
  - z. Zoning Map
  - aa. Site Map
  - bb. Administrative Notice;
  - cc. Referral and Acknowledgment Building Official;
  - dd. Referral and Acknowledgment RoadMaster;

- ee. Letter from Roger Kadell to Scott Bradley;
  - ff. Referral and Acknowledgment Eddia Cook, Scappoose CPAC;
  - gg. Referral and Acknowledgment Scappoose Fire District;
  - hh. October 12, 2004 Scappoose CPAC Decisions;
  - ii. Referral and Acknowledgment Sanitarian;
  - jj. Referral and Acknowledgment County Watermaster;
  - kk. Memo to file from Glen Higgins
  - ll. Tax Account Info;
  - mm. Tax Account Info;
- (7) Board Communication dated March 7, 2005 with the following attachments:
- a. Draft Notice of Public Hearing;
  - b. Tax Map;
  - c. Letter to Ardeshir Talebi from Glen Higgins dated January 18, 2005;
  - d. Address Map;
  - e. Note to Todd Dugdale from Ardeshir Talebi dated 12/8/04;
  - f. Memo to file MP 04-26;
  - g. Blank Road Modification Application from Lonny Welter;
  - h. Completed Road Standards Modification Application;
  - i. Title Report;
  - j. Tax Lot Map;
  - k. Tax account information;
  - l. List of people to receive notice;
  - m. List of Surrounding property owners;
  - n. Referral Contact List;
  - o. Completed Road Standards Modification Application;
  - p. Referral Contact List;
  - q. Variance Application;
  - r. Easement Agreement;
  - s. Agreement for Easement;
  - t. Site Map;
  - u. Address Map;
  - v. Zoning Map;
  - w. Road Standards;
  - x. Imaging Map;
  - y. Photos;
  - z. Memo from Lonny Welter dated February 22, 2005;
- (8) Memo from Dave Hill dated April 4, 2005;
- (9) Minutes of February 22, 2005 Work Session;
- (10) 150 day Waiver;
- (11) Board Communication dated May 1, 2005.

**COLUMBIA COUNTY LAND DEVELOPMENT SERVICES**  
**STAFF REPORT**  
**BOARD OF COUNTY COMMISSIONERS**  
4/12/05  
**Road Modification**

**FILE NUMBER:** Road Standards Modification Application, Dated January 14, 2005  
For Partition MP 04-26

**APPLICANT:** Ardeshir Talebi  
55373 Pioneer Road  
Scappoose, Oregon 97056

**OWNER:** SAME

**PROPERTY LOCATION:** Approximately 3 miles west of Scappoose on Scappoose - Vernonia Hwy.  
Pioneer Road intersects to the north.

**REQUEST:** A Road Standard Modification is required before the applicant could partition the  
requested 5 acre residential parcel.

**TAX ACCT. NUMBER:** 4227-000-00600

**ZONING:** Rural Residential (RR-5)

**PARTITION APPLICATION COMPLETE:** 07/30/04                      **150 DAY DEADLINE:** Waived  
**ROAD MOD APPLICATION RECEIVED:** January 14, 2005

**REVIEW CRITERIA:**

<u>Columbia County Road Standards</u>		<u>Page</u>
Section IV	Private Roads	2
Section VI(G)(1)	General-Request to Modify Specs/Standards	6
Section VI(G)(2)	Modification Process	6

## **BACKGROUND:**

Pioneer Road has existed for decades serving large forest tracts above the Warren Bench and several dwellings at the it's beginning. Currently, the road serves 10 existing residentially zoned tax lots along the hillsides north of N. Scappoose Creek, plus a large forest zoned tax lot further to the north. Most of the residentially zoned tax lots are under 5 acres, but the tax lot on top of the ridge at the end of traveled Pioneer Road is 43 acres, and the subject property, Talebi lot, is 10.47 acres near the beginning of the road at the bottom. Pioneer Road is steep. The Roadmaster has indicated that steepness of grade is his biggest concern.

The applicant wishes to divide his 10.47 acre parcel into two 5 acre parcels. Talebi presently lives on one of the proposed parcels, the other would support another dwelling. After initial review of the partition request Land Development Services determined that Pioneer Road was a private road, and advised the applicant that a variance to not having frontage on a public road would be necessary, and also there are already more dwellings being served by the private road than the county Road Standards allow, therefore a Modification to this Road Standard is required.

## **REVIEW CRITERIA:**

### **Columbia County Road Standards**

#### **Section IV. Private Roads**

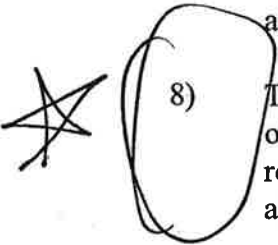
Private roads may serve up to six lots upon approval by the Land Development Services office of the county, may be located within an Urban Growth Boundary upon concurrence with the city, and must access directly to a public road. Private roads shall comply with Fire Department Fire Apparatus Access Road standards and the following:

- A) **Minimum Requirements**
  - 1) Private roads shall not be approved if the road is presently needed, or is likely to be needed, for public road purposes in the normal development of the area, or if the private road is intended to facilitate more intensive development of the area, or if the private road is intended to serve commercial or industrial uses. Private roads shall not be approved for commercial or industrial land divisions.
  - 2) The minimum easement width for a private road shall be 40 feet, except where the natural slope or topography of the land requires a greater width. The minimum right-of-way width shall accommodate the required cut and fill slopes, ditches, turnouts and cul-de-sacs. Additional right-of-way will be required to be dedicated from developers of property if the easement is not currently 40 feet wide or if additional right-of-way is required for the necessary improvements within the limits of the property being developed.



- 3) A lot or parcel abutting a railroad or limited access road right-of-way may require special consideration with respect to its access requirements.
- 4) Guardrails are required on all bridges and for a distance 40 feet along the approaches to all bridges. A guardrail is also required along any roadway where the fill slope, natural ground slope below the road is steeper than 1:1, over 10 feet high, and is within 10 feet horizontally of the edge of the traveled road surface. The guardrail materials must conform to the Oregon State Highway Standard Drawings and Specifications.
- 5) The county may require that the private road being created for partition or other development be dedicated for public road purposes and improved to the applicable standards, if it is determined by the Public Works Director or the Columbia County Land Development Services Department that the access and transportation needs of the public would be better served by such a change.

The determination made by the County will include the following:

- a) Proximity of other roads being used for the same purpose,
  - b) Topography of the parcel and contiguous parcels,
  - c) Potential development and potential buildout densities as determined by the zoning,
  - d) Safety factors such as visibility, frequency or road access points.
- 6) All private dead-end roads shall have a cul-de-sac or other suitable turnaround.
  - 7) A private road shall directly connect only to a public road. (It shall not connect to another private road.)
  - 8)  The County shall require that a maintenance agreement be recorded in the office of the County Clerk of Columbia County with the map or plat creating the private road, and the agreement shall include the following terms:
    - a) That the agreement for maintenance shall be enforceable by a majority of the homeowners served by the road.
    - b) That the owners served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula that is contained in the maintenance agreement.
    - c) Amendments shall be allowed by written and recorded agreement and consent of 75% of property owners adjacent to the road.
  - 9) The County shall require that an easement over the private road for access, including the right of maintenance, be conveyed to the properties served by the road.

**Finding 1:** The applicant is seeking a modification to the standard of a private road may serve up to six lots. Pioneer Road currently serves 11 existing tax lots. Approval of the proposed partition would allow one more lot to be served by a private road, 12 tax lots. Staff finds that Pioneer Road is appropriate to be a private road because the area would be unlikely needed to be served by a public road in the future. The area has a rural large lot pattern and no commercial or industrial uses are present or planned in the future. The easement width for Pioneer Road is 40 feet wide. No guardrails are proposed to be installed on adjacent slopes. Pioneer Road serves a small enclave of residential development in the N. Scappoose Creek valley. The hillsides in this creek valley are not conducive to road access. No other roads are likely to be built in the future. At some time in the past, years ago, residential lot development began along this road, serving only this small area. In addition to the one residential lot proposed by the applicant the only tax lot that could be further divided in this RR-5 zone is the 43 acre tax lot at the end of the road. However, this large lot if divided could be served by an extension of an existing public road adjoining it to the east, View Crest Drive. Staff believes there is an unwritten agreement with all the property owners along Pioneer Road that when improvements are needed they all contribute, and the owner at the end of the road does the work. A private road maintenance agreement will need to be recorded in the Clerks Office.

Concern has been raised as to whether Pioneer Road connects directly to a public road. The Applicant has submitted copies of recorded road easements, however all the descriptions staff has reviewed deal with easement over property on the north side of the Old CZ Road. At the time of this staff report the applicant's agents are still looking for an easement for that portion of the private road between the Old CZ Road and the Scappoose - Vernonia Hwy.

### **Continuing with Road Standards- Private Roads**

#### **B) Minimum Construction Standards**

- 1) Twelve foot wide improved travel surface for one or two lots. Twenty foot wide improved travel surface for 3 to 6 lots.
- 2) The travel surface of the private road shall be constructed to ensure access for the parcels served during all climatic conditions. Minimum requirements:
  - a) Ten inches of pit run or eight inches of 4"-0 base rock or equivalent. The grade of rock shall be approved by the County Road Department prior to construction.
  - b) Two inches of 3/4"-0 surface rock.
- 3) Turnouts shall be required on 12 foot wide roadways at 400 foot maximum intervals, or at distances which ensure continuous visual contact between turnouts. Turnouts shall be constructed to the following dimensional standards: 40 feet in length and 8 feet in width, with 12 foot tapers on each end back from its point of connection with the private road.
- 4) The minimum cut and fill slope ratio shall be 1 1/2 units horizontal to 1 unit

vertical (1 1/2 : 1). The developer shall be required to provide all erosion control measures necessary to maintain the standard cross section and to eliminate increases in any stream turbidity.

- 5) The finish grade within 20 feet of the traveled portion of the public roadway shall not exceed +3 percent. Elsewhere the finish grade shall not exceed 17%. Any section of the road grade that exceeds an average of 12% (excepting up to 75 foot sections of up to 15%) shall be paved. Any section of road with a grade in excess of 15% shall be paved. Minimum compacted depth of pavement on a private road shall be 2 inches.
- 6) A 45 foot radius cul-de-sac, or other suitable turnaround, at the terminus of the private road of within 200 feet of its terminus.
- 7) All culverts, bridges and other waterway crossings shall be constructed and maintained to carry American Association of State Highway and Transportation Officials (AASHTO) HS-20 loading. All culverts shall have a minimum diameter of 12 inches. Bridges and other large water crossings shall be certified by a registered professional engineer.
- 8) All private road points of access to public roads shall include a landing area to extend 20 feet minimum beyond the shoulder of the public road on which the profile grade shall not exceed 3 percent. A greater landing area may be required to allow for future road improvements.
- 9) If the intersecting public road is paved (or asphalt oil matte), the private road shall be paved at least 20 feet back from the edge of the existing asphalt roadway.
- 10) Centerline curve radius shall be at least 45 feet.
- 11) Overhead clearance shall be maintained at least 13 feet 6 inches.
- 12) Variances to this standard shall require a written letter of approval from the appropriate fire department, Rural Fire District, or Oregon State Board of Forestry.
- 13) Approved signs shall be provided and maintained by the owners of the property being accessed by the private road to identify the road and to prohibit parking or obstruction of the roadway as required by the Columbia County Fire Services Apparatus Access Road and Driving Standard.
- 14) An access permit is required from the Road Department for a driveway that accesses a private road.

Approve with changes, or  
Deny with explanation.

Approval of a request shall not constitute a precedent.

c) CRITERIA FOR MODIFICATION OF SPECIFICATIONS / STANDARDS

The County Public Works Director may grant a minor modification to the adopted specifications or standards, without requiring the process of steps a and b above, when any of the following conditions are met:

The standard or specification does not apply in the particular application. Topography, right-of-way or other geographic conditions impose an economic hardship on the applicant and an equivalent alternate which can accomplish the same design is available.

A minor change to a specification or standard is required to address a specific design or construction problem, which, if not enacted, will result in an undue hardship.

Minor modifications include modifications to the requirement for plan submittals, cut or fill slopes, minor shoulder narrowing if other delineation is provided, and alternative drainage facilities and designs. Major modifications not subject to appeal by the Public Works Director include pavement width, right-of-way, or drainage capacity.

**Finding 19:** The applicant submitted the modification application on forms provided by the Public Work Director and has referred application to the Board of Commissioners. Comments were solicited from the appropriate departments. See Public Works Director Report attached. The Board determined a public hearing was necessary and scheduled the hearing for April 20, 2005.

**COMMENTS:**

- 1) Land Development Services had no objection to approval of the Road modification request.
- 2) Scappoose Fire department has no issues with approval or denial of the request.

No other comments have been received as of the date of this staff report.

**CONCLUSION AND RECOMMENDATION:**

The Applications and Staff Reports are for three separate actions. Staff recommends that Board make a decision on each separately.

Based on the above Findings the Partition request (MP 04-26) meets all of the criteria in the county ordinances and should be approved provided the request to Modify Road Standards is approved for more than 6 dwellings to be served by a private road. The Planning Division agrees with the Public Works Department (see memo from Dave Hill) that this is a small residential area served by Pioneer Road, will only be accessed by this private road.

LDS concurs with the Public Works Director's finding that improvements should be made so specified in his 4/4/05 report. If an additional residential parcel is allowed and this modification and application is approved, the following conditions are recommended:

1. The property and all division lines must be surveyed, a plat map prepared and recorded in the office of the County Clerk, Courthouse, St. Helens, Oregon. A final plat must 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 current Subdivision and Partitioning Ordinance.
2. The final plat shall indicate if any of the parcels do not have a proven water source or method of sewage disposal.
3. The new residential parcels shall be at least 5 acres in size.

The road improvements shall consist of:

4. An easement shall be shown that would allow access to the new parcel across the CZ trail and across the private property to Scappoose - Vernonia Hwy.
5. Road improvements must be made beginning at Scappoose - Vernonia Hwy, for a distance of 500 feet. This distance shall be just beyond the first steep grade of 17%. The improvements shall include base preparation and paved to a width of 20 feet, to a depth of 2 inches and some drainage improvements as determined by the Public Works Director.

- Attachments:
- Correspondence received by the Planning Department
  - Application
  - Vicinity Map
  - Zoning Map
  - Address Map
  - Preliminary Plat
  - Memo from Dave Hill, Report and Recommendation Talebi Road Modification

# Columbia County Board of Commissioners

## STAFF REPORT

April 12, 2005

### Major Variance to Public Road Frontage

**FILE NUMBER:** V 05-07

**APPLICANT/OWNER:** Ardeshir Talebi  
55373 Pioneer Road  
Scappoose, Oregon 97056

**PROPERTY LOCATION:** 55373 Pioneer Road, Scappoose, OR 97056

**TAX ACCT. NUMBER:** 4227-000-00600

**ZONING:** Rural Residential (RR-5)

**SIZE:** 10.47 Acres

**REQUEST:** The applicant requests a variance to the requirement to create a parcel without a 50-foot road frontage in the RR-5 zone (CCZO Section 604.5(A)). If approved, the new parcel will have a private road for access.

**APPLICATION COMPLETE:** 12/10/04

**150 DAY DEADLINE:** 5/09/05

#### APPLICABLE CRITERIA:

<u>Columbia County Zoning Ordinance</u>		<u>Page Number</u>
Section 600	Rural Residential	2
Section 604	Standards	2
Section 1504	Variance	3

#### BACKGROUND:

The applicant is applying for a major variance of Section 604.5 (A), of the Columbia County Zoning Ordinance that requires that any parcel created after 1991 have 50 feet of road frontage. The site is located off of Pioneer Road, which is a private road. The road starts from Scappoose - Vernonia Highway, then goes across the Old Crown Zellerbach Logging Road, which is owned by Columbia County. Pioneer Road then continues up to the subject site. The applicant does not own the area between the Old Crown Zellerbach Logging Road and Scappoose - Vernonia Hwy, and can not dedicate it to the public; thereby, the reason for this variance.

Water will be provided to the site by individual private wells. Sewage will be handled by individual subsurface septic systems. The parcel is not within an urban growth boundary. Emergency services are provided by the Columbia River Fire and Rescue Division and the Columbia County Sheriff.

According to the FEMA Flood Hazard map (41009C0450 C), the site does not contain any flood hazard areas. The National Wetland Inventory (NWI) Map, "Chapman," indicates there is no wetland present. The Scappoose - Spitzenberg BEAK Map indicates that the subject property is located in a Peripheral Big Game Habitat Area, has no sensitive species or vegetation, and has no hydric soils. The soil at the site are Bacona Silt Loam (6-D), slopes 3 to 30 percent. This soil is very deep, well-drained soil on stable, convex, broad ridgetops and convex side slopes of mountains. Quatama Silt Loam (40-C), slopes 8 to 15 percent. This soil is very deep, moderately well drained on broad terraces.

#### REVIEW CRITERIA:

#### The following sections of the Columbia County Zoning Ordinance apply to this application:

##### Section 600 RURAL RESIDENTIAL - 5

- 601 ***Purpose:** This district is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses consistent with County acknowledged exception areas. Uses in this zoning district are anticipated to be predominantly residential with a rural level of public services; i.e., domestic water from private wells, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and road access consistent with the County Transportation Plan and County Road Standards. Other uses shall be those customary to such areas, including farm and forest uses and home occupations of a rural character.*

**Finding 1:** The 10.47 acre site has an existing home, with a private well, subsurface septic system and private driveway served by Pioneer Road. Single-Family residences, of a rural character, are a permitted use in the RR-5 zone on parcels created with a minimum 5 acres.

#### Continuing with the Columbia County Zoning Ordinance:

##### 604 Standards:

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

**Finding 2:** The applicant would like to create another 5 acre rural residential lot to be accessed by Pioneer road, a private road. The applicant is seeking a variance to this section because, even though he could presumably dedicate that portion of Pioneer Road that exists on his property, the applicant could not dedicate the portions of Pioneer Road that extends beyond his control, different owner, to the nearest existing public road at Scappoose - Vernonia Hwy. The Road Department has indicated that Pioneer Road is too steep for a public road purposes, has eight existing homes that use the road, and it would be in the public interest to make improvements to the private road to make it safer for the limited number of users and not bring Pioneer into the public road domain as this time. The standards for a constructing a public road are too stringent and appropriate modifications extremely expensive.

**Continuing with the Columbia County Zoning Ordinance:**

Section 1504 **Variances:**

*Except as provided in Section 1504.4 below, there are 2 classes of variances to the standards established in this ordinance. A Minor Variance is defined as a request for a variance of less than 25% from a dimensional requirement such as setbacks, height, lot coverage, lot width, or lot depth, or a request for a variance of less than 10% from a minimum lot size requirement. All other variances are considered Major Variances.*

*Use variances are not permitted under this ordinance except as permitted under Section 1505.1, Temporary Permits: Use not allowed in a district. Major Variances from the lot size requirements of the Primary Agriculture (PA-38), Forest Agriculture (FA-19), Primary Forest (PF-76) and Rural Residential (RR-5) Zones are not permitted under this ordinance.*

**Finding 3:** This application is defined as a Major Variance because it does not fall within the parameters for a minor variance.

**Continuing with the Columbia County Zoning Ordinance Section 1504:**

1. **Major Variances:**

*The Planning Commission may permit and authorize a variance from the requirements of this ordinance when unusual circumstances cause undue hardship in the application of it. The granting of such a variance shall be in the public interest.*

**Finding 4:** The applicant is applying for a major variance to the zoning ordinance to allow a private road to access a home, without providing the 50 feet of frontage on a public road. The Board of Commissioners will be reviewing and making a decision on this application instead of the Planning Commission under the Special Hearing provisions of the Zoning Ordinance.



**Continuing with the Columbia County Zoning Ordinance Section 1504.1:**

- A. *A variance shall be made only when all the following conditions and facts exist:*
1. *The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property;*

**Finding 5:** As noted in the Background Section above, there are no flood or slide hazards affiliated with this site. If the Variance is approved, an additional residential site will be added to the existing 10 residential sites which currently use Pioneer Road for access. Pioneer Road has a gravel surface, is fairly wide and has grades between 11% and 18%. There are several corners, however they are not extremely sharp nor hazardous if negotiated at responsible speeds. The Road Dept. has recommended several improvements for Pioneer Road to make the road safer. These improvements to the private road will help public safety and, if required, will meet this standard.

**Continuing with the Columbia County Zoning Ordinance Section 1504.1(A):**

2. *The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;*

**Finding 6:** This variance is being sought because the applicant can not physically dedicate all of the land required to be dedicated in order to have his property be served by a public road. Pioneer Road goes through the subject property; however, before reaching the property the private road goes across several other properties including the Old CZ Road. The County has determined that any dedicated public road must be connected to the existing public road system. This inability to dedicate to an existing public road is unique to the property.

**Continuing with the Columbia County Zoning Ordinance Section 1504.1(A):**

3. *Approval of the application will allow the property to be used only for purposes authorized by the Zoning Ordinance;*

**Finding 7:** The Zoning Ordinance allows single family residences in the RR-5 district. The applicant is proposing a partition of 5 acres to allow another residence.

**Continuing with the Columbia County Zoning Ordinance Section 1504.1(A):**

4. *Strict compliance with the Zoning Ordinance would create an unnecessary hardship;*

**Finding 8:** Strict compliance with the Zoning Ordinance would require the applicant to dedicate Pioneer Road as a public road. The hardship in this case is that the applicant can not dedicate that portion of Pioneer Road which does not lay within the boundaries of his property.

**Continuing with the Columbia County Zoning Ordinance Section 1504.1(A):**

5. *The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor violate any other provision of the Zoning Ordinance.*

**Finding 9:** This is a residential zoned area. By approving this variance it would allow consideration of a partition to create another 5 acre residential parcel. The Zoning Ordinance and the Comprehensive Plan allow residences, at this density in this designated area.

**Continuing with the Columbia County Zoning Ordinance Section 1504.1:**

- B. *A variance so authorized shall become void after the expiration of 1 year if the next step in the development process has not been applied for.*

**Finding 10:** If this variance is approved, the applicant shall take development action within 1 year, or the approval will expire. The applicant has already applied for a partition.

**Continuing with the Columbia County Zoning Ordinance Section 1504.1:**

- C. *The Planning Commission may impose whatever reasonable requirements it feels will fulfill the intent of this ordinance.*

**Finding 11:** The Board of Commissioners may add conditions onto their decision if necessary.

**COMMENTS:**

No comments have been received as of the date of this Staff report.

**STAFF COMMENTS, CONCLUSION AND RECOMMENDATION:**

Based on the findings in the above staff report (V05-07), staff recommends this request for a variance to the 50 feet road frontage requirement in the RR-5 zone, be **APPROVED**, with no conditions.

VARIANCE APPLICATION  
COLUMBIA COUNTY ZONING ORDINANCE

General Information

APPLICANT: Name: Ardeshir Talchi

Mailing address: 55373 Pioneer rd Scappoose OR 97056

Phone No.: Office (503)249-3200 Home 503-543-3368

Are you the  property owner?  owner's agent?

PROPERTY OWNER:  same as above, OR:

Name: Ardeshir Talchi

Mailing Address: 55373 Pioneer rd Scappoose OR 97056

PROPERTY ADDRESS (if assigned): The same

TAX ACCOUNT NO.: 4227-000-00600 Acres: 10.47 Zoning: RR-5

TYPE OF VARIANCE:

Ordinance Change  
Requires: to:

Lot size: \_\_\_\_\_

Setback: \_\_\_\_\_ front \_\_\_\_\_ side \_\_\_\_\_ rear

Other: 604.5 Frontage on a public Road Pioneer Road

PRESENT LAND USES: (farm, forest, bush, swamp, residential, etc.)

Use:

Approx. Acres

Farm and home 10.47

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Total acres (should agree with above): \_\_\_\_\_

PROPOSED LAND USES: residential

WATER SUPPLY:  Private well. Is the well installed? \_\_\_ Yes \_\_\_ No  
 Community system. Name \_\_\_\_\_

METHOD OF SEWAGE DISPOSAL: \_\_\_ Community Sewer. Name \_\_\_\_\_  
\_\_\_ Not applicable.  
 Septic System.

If Septic, does the subject property already have a system? \_\_\_ Yes \_\_\_ No  
If no, is the property approved for a Septic System?  Yes \_\_\_ No

CONTIGUOUS PROPERTY: List all adjacent property you own with boundaries touching the subject property: \_\_\_ None

Tax Acc't. No.	Acres	Co-owners (if any)

+++++

**CERTIFICATION:**

I hereby certify that all of the above statements, and all other documents submitted, are accurate and true to the best of my knowledge and belief.

Date: 12/19/04 Signature: [Signature]

**NOTE:** Please attach an accurate detailed plot plan, including existing and proposed structures, septic tanks and drain fields, farm and forest areas, large natural features (e.g. cliffs, streams, ravines, etc.), roads and driveways, property lines, easements, etc.

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Planning Department Use Only

Date Rec'd. 12/10/04 Hearing Date: 2/2/05

Receipt No. 46707 CK#0557 Or: Administrative \_\_\_\_\_

Zoning: RR-5 Staff Member: [Signature]

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VARIANCE FACT SHEET

Variance Standards:

Please answer the following (attach extra pages if needed):

The following 5 requirements are from Section 1504.1A of the Columbia County Zoning Ordinance:

"A variance shall be made only when all of the following conditions and facts exist:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property;"

1. State how the granting of your variance will not injure other property in the vicinity, nor be detrimental to the public safety, health or welfare:

*it won't be detrimental to the public or safety because I don't own the road that goes to vernonia Hwy*

"2. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;"

2. Describe the conditions, unique to the property (NOT the owner), over which you have no control, on which you base this variance request (parcel size, shape, location; topography; natural features; etc.):

*I don't own all the road that goes to vernonia Hwy*

"3. Approval of the application will allow the property to be used only for purposes authorized by the Zoning Ordinance;"

3. What uses or structures do you intend to place on the property?

*residential home*

"4. **Strict compliance with the Zoning Ordinance would create an unnecessary hardship;**"

4. Explain in detail the unnecessary hardship. This may be a personal physical or monetary hardship, but it must arise out of the unique physical conditions on the property described in 2 above.

*because I own part of pioneer rd.  
Not call the way to vernonia rd.  
and zoning department tell me to do.*

"5. **The granting of the variance will not adversely affect the realization of the Comprehensive Plan nor violate any other provision of the Zoning Ordinance.**"

5. Will this variance be consistent with the Comprehensive Plan and other requirements of the Zoning Ordinance?

*NO*

+++++

Please submit all of the following:

1. The attached "VARIANCE APPLICATION General Information".
  2. Answers to the above questions.
  3. A good measured sketch of your property, showing all existing structures, septic tanks and drain fields, large natural features, roads and driveways, property lines, easements, etc. Don't forget the North arrow and the scale of the drawing.
  4. A vicinity map, with North arrow and scale.
- The application fee.

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**COLUMBIA COUNTY BOARD OF COMMISSIONERS**

**STAFF REPORT**

April 12, 2005

Partition to Create 2 Parcels

**FILE NUMBER:** MP 04-26

**APPLICANT/OWNER:** Ardeshir Talebi  
55373 Pioneer Road  
Scappoose, OR 97056

**PROPERTY LOCATION:** Approximately 3 miles west of Scappoose along Scappoose Vernonia Hwy. Take Pioneer Road 0.2 miles to above address.

**TAX ACCT. NUMBER:** 4227-000-00600

**ZONING:** Rural Residential (RR-5)

**SIZE:** 10.47 acres

**REQUEST:** To partition the 10.47 acre subject property into two parcels containing approximately 5.47, and 5 acres more or less.

**REVIEW CRITERIA:**

<u>Columbia County Zoning Ordinance</u>		<u>Page</u>
Section 600	Rural Residential - 5	3
Section 604	Rural Residential Standards	3
Section 1603	Quasijudicial Public Hearings	5
Section 1608	Contents of Notice	6
Section 1612	Special Hearings	6
Section 1613	Appointment of Hearings Officer	6
Section 1614	Requests for Special Hearings	6
Section 1616	Procedures for Special Hearings	6

<u>Columbia County Subdivision and Partition Ordinance</u>		
Article II, Administration and General Provisions		7
Article VII, Minor Land Partitioning		10
Article X, Subdivision & Partition Requirements		11
Columbia County Stormwater and Erosion Control Ordinance		14

<u>Columbia County Comprehensive Plan</u>		
<u>Part XIII</u> Transportation Goal and Policy 2		16
<u>Part VII</u> Rural Residential Policy 4 and 6		16

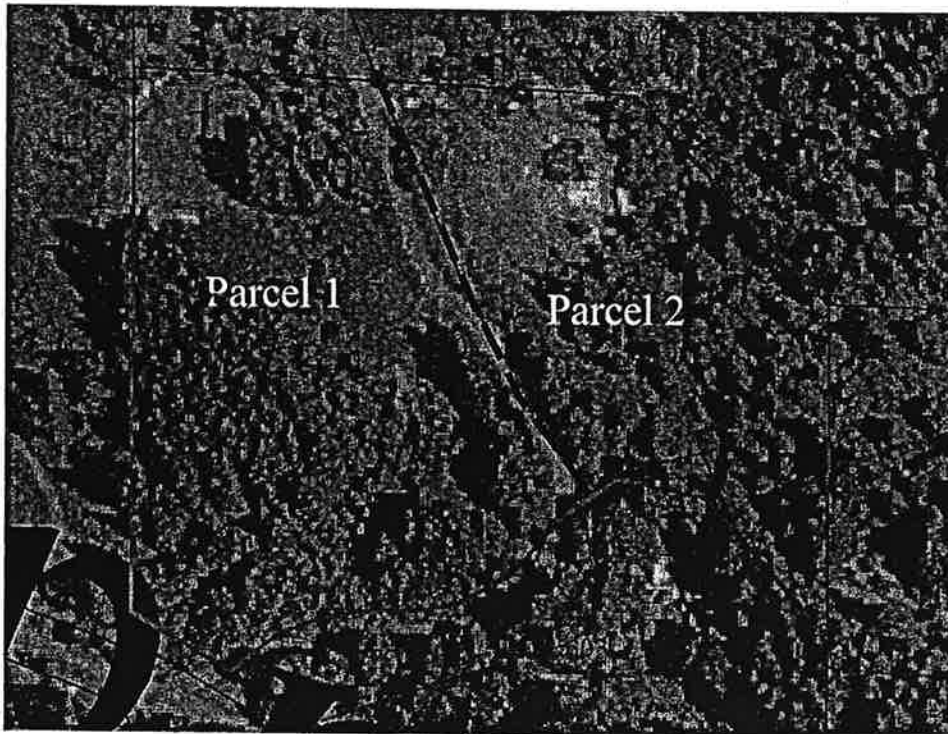
**APPLICATION COMPLETE:** 07/30/04  
(By Rule)

**150 DAY DEADLINE:** Waived

**BACKGROUND:**

The applicant proposes to divide a 10.47 acre property into two parcels of 5.47, and 5 acres. The property is located on Pioneer Road off Scappoose -Vernonia Hwy. The site is divided by Pioneer Road, with 5.47 acres on Parcel 1 and 5 acres on Parcel 2 ; they both have frontage on Pioneer Road. Parcel 1 has an existing home in the northwest corner which is served by a private well and subsurface septic system. Parcel 2 is presently used for farm animal grazing, supports a small barn and has a seasonal drainage way on the slope. The site slopes gradually uphill from Scappoose - Vernonia Highway. Some portions of the site are very steep. Water will be provided by individual private wells and sewage provided by an individual subsurface septic system. The property is located within the Columbia River Fire & Rescue District and served by Columbia County Sheriff.

The site does not contain any flood hazard areas as indicated on FEMA flood map (41009C0450C). The National Wetland Inventory, Chapman quad map, indicates there are no wetlands on the subject property. The Scappoose - Spitzenberg BEAK Map indicates that the subject property is located in a Peripheral Big Game Habitat Area, has no sensitive species of vegetation, and has no hydric soils. The soils at the site are Bacona Silt Loam (6-D), slopes 3 to 30 percent. This soil is very deep, well drained soil is on stable, convex, broad ridgetops and convex side slopes of mountains. Quatama Silt Loam(40-C), slopes 8 to 15 percent. This soil is very deep, moderately well drained on broad terraces.



**REVIEW CRITERIA:**



**Columbia County Zoning Ordinance:**

**Section 600 RURAL RESIDENTIAL - 5** *[Amended by Ordinance 99-2, eff. 1/11/00].*

**RR-5**

601 **Purpose:** This district is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses consistent with County acknowledged exception areas. Uses in this zoning district are anticipated to be predominantly residential with a rural level of public services; i.e., domestic water from private wells, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and road access consistent with the County Transportation Plan and County Road Standards. Other uses shall be those customary to such areas, including farm and forest uses, churches, and home occupations of a rural character.

**Finding 1:** The subject property is within an area designated as RR-5 on the Columbia County Zoning Map. The applicant has indicated that the newly created 5 acre parcel will be for residential purposes. There are no community water or sewer systems serving this rural residential area. All domestic water is provided by private wells and sewage treated by on-site septic systems. Access is provided by Pioneer Road, a private road.

**Section 604 Standards:**

3. The minimum average lot or parcel width shall be one 100 feet.
4. The minimum average lot or parcel depth shall be one 100 feet.

**Finding 2:** The dimensions of the proposed parcels will exceed the 100 foot minimum average lot width and depth dimensions.

**Continuing with Zoning Ordinance Section 604:**

5. Lots or parcels shall conform to the following requirements before a building permit may be issued for construction on the property:
  - A. All lots or parcels legally recorded on or after June 4, 1991 shall have a minimum of 50 feet of usable frontage on a public right-of-way. All such public rights-of-way shall be improved in accordance with the requirements of the Columbia County Uniform Road Improvement Design Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvements will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance.
  - B. All lots or parcels legally recorded before June 4, 1991 shall have a minimum of 50 feet of usable frontage on a public right-of-way or private non-exclusive easement. One-half of the public right-of-way or private non-exclusive easement adjacent to the lot or parcel shall be

improved in accordance with the Columbia County Uniform Road Improvement Design Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvements will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance. However, in the sole discretion of the Board, in lieu of the improvements or cash or surety bond to secure such improvements, the Board may require the owner or developer of the lot or parcel to put up cash in an amount equivalent to the cost of the improvements dedicated toward the improvement of the entire road rather than the portion adjacent to the lot or parcel.

**Finding 3:** The proposed partition application would create a 5 acre parcel to be recorded after June 4, 1991, and therefore, according to this standard would require "50 feet of usable frontage on a public road". Each of the proposed parcels will have 50 feet of frontage on Pioneer Road, a private road. The Board of Commissioners (BOC) are considering variance to this standard, V 05-07, and, the BOC is considering a related Modification to Road Standards to address how many residential parcels can be served by this private road.

From a planning perspective, private roads are used to serve a small specified number of lots where no thoroughfare is needed or desirable in the future. They are usually roads which have existed prior to the County adopting road standards. A private road is only intended to be used by those immediate adjacent owners and affiliated residential traffic. Pioneer Road fits this situation. It begins at Scappoose - Vernonia Hwy, approximately 2 miles west of the City of Scappoose, and proceeds up a hilly area where several homes have existed for many years. It presently serves 8 existing single family dwellings, and three other tax lots without dwellings could be served. These existing homes are on large residential lots, typically with small yards with surrounding trees and some small farm areas. The immediate area served by Pioneer Road could not, given typography, and will not, given the rural zoning, support further divisions of property or create higher densities for more homes. The only exception to this fact is the 43 acre parcel at the end of the driven road. But, this large parcel, if divided in the future, could gain access from a different public road, View Crest Drive off Oester Road, which borders on the east. Staff finds that there are ten (10) existing residentially zoned tax lots that are or could be served by Pioneer Road. An eleventh (11) tax lot, at the end of the driven road, is owned by John Hancock Mutual Life, a large commercial timber land holder.

The Road Department has recommended improvements to Pioneer Road to make the private road safer for these 11 potential users of the road. Those improvements include paving a 500 feet portion of the road, 20 feet wide, at the beginning of the road at Scappoose - Vernonia Hwy. This paving includes a 17% grade section, bringing this portion of the private road up to the Private Road Standards of the Columbia County Road Standards, for the first 500 feet. The County Roadmaster normally requires a developer, when creating a new residential lot along a sub-standard road, to bring the road up to standard along the frontage of the subject property. However, when the road is dead-end serving several other properties the Road Standards provides for the sequencing of road improvements starting at the road's intersection with an existing public road. Therefore, as the undeveloped lots and parcels are built upon, the road will be continually improved until the road is completely improved to standard upon the final development to it's end.

**Continuing with Zoning Ordinance Section 604:**

6. No residential structures shall be constructed closer than 30 feet to a property line. Where the

property abuts resource zoning, the setback shall be increased to 50 feet.

7. Unless otherwise prohibited, the maximum building height for all non-farm, non-forest structures shall be 35 feet or 2-1/2 stories, whichever is less.
8. Unless otherwise prohibited, structures such as barns, silos, windmills, antennas, chimneys, or similar structures may exceed the height limitations to a maximum height of 50 feet.

**Finding 4:** Parcel 1 has an existing home that meets the 30-foot setback, and does not exceed the maximum height limit either. Parcel 2 is currently unimproved, and any new structures will be required to meet the RR-5 setback and height requirements. The subject site is surrounded by RR-5 zoned properties.

**Continuing with Zoning Ordinance Section 1600 Administration:**

1603 **Quasijudicial Public Hearings:** As provided elsewhere in this ordinance, the Hearings Officer, Planning Commission, or Board of Commissioners may approve certain actions which are in conformance with the provisions of this ordinance. Zone Changes, Conditional Use Permits, Major Variances, and Temporary Use Permits shall be reviewed by the appropriate body and may be approved using the following procedures:

- .1 The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. The application shall be reviewed for completeness and the applicant notified in writing of any deficiencies. The application shall be deemed complete upon receipt of all pertinent information. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 5 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of this section upon receipt by the Planning Department of the missing information. [effective 7-15-97]
- .2 Once an application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission or Hearings Officer. The Director will publish a notice of the request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing. Notices will also be mailed to adjacent individual property owners in accordance with ORS 197.763. [effective 7-15-97]

[Note: ORS 197.763 requires 20 days notice (or 10 days before the first hearing if there will be 2 or more hearings), and that notice be provided to property owners within 100' (inside UGBs), 250' (outside UGBs), or 500' (in farm or forest zones).]

- .3 At the public hearing, the staff, applicant, and interested parties may present information relevant to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or what modifications are necessary for approval. [effective 7-15-97]

- 4 Approval of any action by the Planning Commission at the public hearing shall be by procedure outlined in Ordinance 91-2. [effective 7-15-97]

**Finding 5:** The partition application MP 04-26 was deemed complete 31 days after its receipt, July 31, 2004, as per ORS 215.427(2). All of the pertinent information for deciding the partition application was not available until a variance to CCZO Section 604.5 and a request to Modify the Road Standards were decided. The applicant has signed a Waiver of the 120 and 150 Day Rule. On February 22, 2005 the Board of Commissioners voted to take jurisdiction and ordered a Special Hearing under CCZO Section 1612 to review all three requests at one hearing. A hearing date of April 20, 2005 was established. The Board mailed Notice to effected property owners of the hearing for Partition (MP 04-26), Variance (V 05-07) to Public Road Frontage and a request to Modify the Road Standards on April 1, 2005. The Board published notice of the application requests and the modification request in the approved newspapers on April 6, 2005.

1608 Contents of Notice: Notice of a quasijudicial hearing shall contain the following information:

- .1 The date, time, and place of the hearing;
- .2 A description of the subject property, reasonably calculated to give notice as to the actual location, including but not limited to the tax account number assigned to the lot or parcel by the Columbia County Tax Assessor;
- .3 Nature of the proposed action;
- .4 Interested parties may appear and be heard;
- .5 Hearing to be held according to the procedures established in the Zoning Ordinance.

**Finding 6:** The notice had all of the above information included.

- 1612 Special Hearings: The Board of County Commissioners, in its discretion, may order any quasi-judicial land use application or type of quasi-judicial land use application to be heard at a Special Hearing in lieu of a hearing before the Planning Commission or the Board of County Commissioners.
- 1613 Appointment of Hearings Officer: Special Hearings shall be heard by a hearings officer appointed by the Board of County Commissioners.
- 1614 Requests for Special Hearings: In addition to Special Hearings ordered by the Board of County Commissioners on its own initiative, Special Hearings may be initiated by the Board at the request of the Planning Director or his or her designate, or a majority of the Planning Commission, for any quasi-judicial land use application or type of quasi-judicial land use application.

- 1616 Procedure for Special Hearings: The procedure for Special Hearings shall, to the greatest extent practicable, be the same as for other quasi-judicial land use hearings as set forth in the Columbia County Zoning Ordinance, Planning Commission Ordinance, and Subdivision and Partitioning Ordinance, and ORS Chapters 92, 197 and 215. When a Special Hearing is held in lieu of a Planning Commission hearing, the hearings officer's decision may be appealed as provided in Sections 1700 through 1703 of this ordinance. When a Special Hearing is held in lieu of a Board of County Commissioners' hearing, the hearing officer's decision may be appealed as provided in ORS Chapter 197 for appeals to the Land Use Board of Appeals.

**Finding 7:** At the February 22, 2005 Board of Commissioners Work Session the Board ordered a Special Hearing, over which they would preside as the hearings officer. The Board concluded that, given the three issues in this case: a partition, a variance to the CCZO and a modification to the Road Standards, a hearing before the Planning Commission was not appropriate because of their lack of jurisdiction in the Road Standards Ordinance. The notices for the Board hearing followed the procedures for quasi-judicial hearings set forth in CCZO Section 1603 and ORS 197.763; plus, notice was sent to all property owners of record that use Pioneer Road for access.

#### **COLUMBIA COUNTY SUBDIVISION AND PARTITIONING ORDINANCE (CCSPO):**

##### **SECTION 205. APPLICATION FOR APPROVAL OF SUBDIVISION OR PARTITION TENTATIVE PLAN.**

- A. Preliminary Sketch and Discussion. Prior to commencing the application process required by ORS 92.040 et seq., the applicant proposing the subdivision or partition shall submit a sketch to the Planning Department and discuss the property to be divided with respect to the standards of this ordinance, the requirements of state law, any existing private and public development, the relationship to the Comprehensive Plan, and any special problems that may be encountered. The discussion shall include any modification or changes in the sketch plan if the plan, as submitted, does not meet the objectives of those local and state laws.
- B. Compliance With County Ordinances. The Planning Department shall not approve any tentative plan for any proposed subdivision or partition unless the plan complies with the Columbia County Zoning Ordinance, as amended, applicable regulations, this ordinance and any other county ordinance.

**Finding 8:** The applicant has submitted a Partition Application including a preliminary plat (sketch map) along with other pertinent information, and paid the required fee to process the partition. Consideration of Application complying with the Zoning Ordinance is reviewed under V 05-07 together with Findings 1 through 7 above. Consideration of the partition being in compliance with the Road Standards is review under the accompanying Modification Request.

Continuing with Columbia County Subdivision and Partitioning Ordinance

**SECTION 210. VARIANCES.**

- A. General. Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further, provided the Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:
- (1) The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property.
  - (2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property.
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
  - (4) The variances will not, in any manner, vary the provisions of the Zoning Ordinance and the County Comprehensive Plan.
  - (5) The variance is necessary for the proper design and function of the subdivision or partition.
- B. Conditions. In approving variances, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
- C. Procedures. A request for any such variance shall be submitted in writing by the applicant at the time when the preliminary plan is filed at least 35 calendar days prior to the Commission meeting for their consideration. The request shall state fully the grounds for the application and all of the facts relied upon by the petitioner. One-half of the required fee for a variance shall accompany the request.

**Finding 9:** The applicant has applied for a variance (V -05-07) to the Zoning Ordinance Section 604.5(A) which requires the new parcel to 50 feet of frontage on a public right-of-way. This Section 1005 Streets of the CCSPO also requires the new parcel to have 50 feet of frontage on a public street. The Variance procedures for the CCSPO and the CCZO are the same: a review by hearing, with notices to affected parties and publish in newspaper. The criteria

for determining if a variance is granted is almost identical in the two Ordinances, with one exception. Criteria #5 in the CCSPO requires that the variance be necessary for the proper design and function of the partition. Staff finds that the splitting of the 10.47 acre parcel is contingent upon approval of the variance, which if approved would leave Pioneer Road a private street instead of dedicating it to the public. The applicant can not dedicate that portion for which he has no control. Pioneer Road goes over land that the applicant does not own. Without access in some manner, the resultant parcel of the partition could not function. Staff refers to and adopts the Findings in the Related Variance Staff Report V 05-07.

### Continuing with Columbia County Subdivision and Partitioning Ordinance

#### 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.

The notice shall contain all the information required by ORS 197.763(3), and shall be mailed at least 20 days before the hearing.

- B. Notice of Administrative Application. Adjoining property owners within the same distances as noted in Section 213.A shall be notified of the request, as shall the CPAC and any affected agencies. Any of these parties shall be given 10 calendar days in which to respond, and may request the application be referred to the Planning Commission for consideration. If such a request is made with the appropriate fee, the request will be placed on the next possible Planning Commission agenda. Notice of the Planning Commission hearing shall be in accordance with Section 213.A. of this ordinance.  
*[Amended 7-15-97]*

**Finding 10:** Initially, on September 23, 2004, Land Development Services sent notice for the partition as an Administrative Decision to property owners within 250 feet of the subject property, affected agencies and the local CPAC. After receiving comments, the Planning Division advised the Applicant that a Variance and Road Standards Modification would be necessary prior to a decision on the partition. On February 22, 2005 the Board determined that all three reviews would be heard at the same public hearing and scheduled that hearing for April 20, 2005. The Board mailed Notice to the affected property owners of the Partition (MP 04-26), Variance (V 05-07) and a Request to Modify the Road Standards on April 1, 2005. The Board published notice of the hearing in the county approved newspaper on April 6, 2005. (See also Finding 5)

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**ARTICLE VII      MINOR PARTITIONING**

**Section 704              Review of Minor Partitions.**

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

**Finding 11:** The applicant has submitted the information necessary to process this partition request. This application requires a variance to the standards of the Zoning Ordinance and Section 1005 of this Ordinance because 50 feet of frontage on an existing public street is not possible. Therefore, the Director has submitted this application for review under a hearings process.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**Section 710              Submission of Final Plat.**

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

**Finding 12:** The applicant will be required to submit the final plat within one year of the approval of the tentative map or they will have to resubmit their application, including review fee, which will be re-examined under the standards current at the time.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**Section 711              Information On Final Plat.**

- L. Unless there is proof of adequate water supply and sewage disposal for each lot pursuant to Section 913 of this ordinance, the final plat shall indicate those lots for which an adequate supply of water



or sewage disposal has not been proven.

**Finding 13:** The applicant indicated on the application that each parcel will be served by individual private wells and septic system. If proven water supply or sewage disposal has not been proven for each parcel the final plat shall indicate that it has not been proven.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**ARTICLE X SUBDIVISION AND PARTITION REQUIREMENTS**

**Section 1001          Minimum Standards**

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

**Finding 14:** The minimum standards of this ordinance will be adhered to with the development of this partition. Conditions that are made as part of the tentative approval of this partition must be satisfied prior to the Planning Department approval of the final plat authorizing the division of the subject property.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**Section 1003          Lots**

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

**Finding 15:** Each parcel created by this partition, if approved, will be 5.47 and 5.0 acres, and the minimum dimensional standards of the Zoning Ordinance have been found met under Findings 2 through 4. (Note: The Zoning Ordinance requires a minimum lot size of 5 acres) Each parcel is shown on the preliminary plot plan to have 50 feet of usable frontage for access on a private right-of-way.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**Section 1005          Streets**

A. **General Requirements.** Except for private streets within Planned Unit Developments approved pursuant to Section 1200 of the Columbia County Zoning Ordinance, no subdivision or partition shall

be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of Development or with a more restrictive provision on an applicable Urban Growth Area Management Agreement. [Amended 4-9-97]

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, the width of rights-of-way and roadway improvements shall be in compliance with the following:

- (1) Arterial. Right-of-way width 80 feet.
- (2) Collector. Right-of-way width 60 feet.
- (3) Local. Right-of-way width 50 feet-- this width may be varied by the Commission to the width in urban areas to meet the requirements of individual cities.
- (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.

**Finding 16:** There will be no road created from this partition. A variance to the partition having frontage on a public road has been applied for (V 05-07). The road department has indicated that currently, Pioneer Road has 8 developed lots accessing the private road. The Pioneer Road is a pretty wide, graveled road but does not meet County Private Road standards. The new lot will access a portion of Pioneer Road over 1,000 feet from its beginning. The Road Department has recommended the applicant to pave a portion of Pioneer Road to County Road Standards as it leaves Scappoose - Vernonia Highway to a point 500 feet from the start. This will bring the most traveled portion of Pioneer Road up to private road standards. (See Finding 3) No additional right-of-way is being requested for the private road.

### Continuing with the Columbia County Subdivision and Partitioning Ordinance:

#### 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 17:** The site is not shown to contain any drainageways or shown to have any water courses.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance:**

**Section 1013**            **Utilities**

- 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.

**Finding 18:** Each parcel will provide individual subsurface septic systems. As per Finding 12, Section 711, CCSPO, the final plat shall indicate if any proposed parcel does not have proven septic approval.

**Continuing with the Columbia County Subdivision and Partitioning Ordinance Sec. 913:**

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 19:** The applicant will be providing water by individual private wells for the two proposed parcels. This area has not been identified as a water quality limited area by the state Water Resources Division, so it is assumed that a well could produce residential water for a single family dwelling. Utilities are encouraged to be installed underground.

**Following with the County Stormwater and Erosion Control Ordinance:**

III. STANDARDS SPECIFIC TO ACTIVITIES

- D. Partitions
1. Erosion Control  
Erosion control measures and an erosion control plan are not required for partitions.
  2. Long Term Water Quality Protection
    - a. A Conceptual Stormwater Plan is required for single family and duplex parcels. A Preliminary Stormwater Plan is required for partitions of multi-family, commercial, and industrial parcels.

**Finding 20:** This application is for a partition in the Rural Residential Zone which will allow one single-family

dwelling on each parcel created. A Conceptual Stormwater Plan has been submitted for this partition review.

**Continuing with the County Stormwater and Erosion Control Ordinance:**

**IV. OTHER PROVISIONS**

**C. Conceptual Stormwater Plan**

**1. Purpose**

The purpose of the conceptual stormwater plan is to determine whether a proposal can meet the requirements set forth in this ordinance. In general, the conceptual stormwater plan identifies how runoff originating on the site or flowing through the site is presently controlled and how this will change due to the proposed development activity.

**2. Format**

The conceptual stormwater control plan shall include a narrative and plan sheets drawn to scale.

**3. Contents**

**a. Conceptual Stormwater Narrative**

The conceptual stormwater narrative shall contain the following information:

**I. Site Location Map**

At a minimum a USGS 7.5 minute topo series map shall be used showing the following information:

a) Site boundaries or site location for small sites

b) Contributing drainage areas

ii. Soils map from the Columbia County Soil Survey with the site highlighted

iii. Flood plain map with the site highlighted, if the site is in a flood plain

iv. Discussion of the methods to be used to treat runoff from paved surfaces on the site

v. Discussion of the methods to be used to control the flow of stormwater runoff from the developed site. If infiltration is proposed, the discussion should include an analysis of the capability of on-site soils for infiltration of runoff, including the potential impacts on slope stability.

vi. Discussion of who will maintain the stormwater facilities constructed in conjunction with the project

vii. Listing of additional permits (e.g., wetland, flood plain, etc.) that may be required for the project

**b. Existing Conditions Plan**

This plan shall show the information outlined below.

I. Arrows showing the direction of drainage on the site

ii. Existing drainage features including streams, ditches, ponds, and wetlands, on or adjacent to the site

iii. Existing structures on the site

iv. Existing septic systems on the site

v. Existing vegetation on the site

vi. Soil types on the site

**c. Preliminary Development Plan**

This plan shall include the following information:

I. Existing and proposed property boundaries, easements, and right-of-ways

- ii. Proposed building and road locations, if known.

**Finding 21:** The applicant has submitted the Conceptual Stormwater Plan that meets the above conditions.

**Continuing with Review Criteria**

**Columbia County Comprehensive Plan**

**Part XIII**

**TRANSPORTATION**

**GOAL:**

The creation of an efficient, safe, and diverse transportation system to serve the needs of Columbia County residents.

- Policy 2. The dedication of adequate rights-of-way to meet the standards set in the Transportation Plan shall be required of any person seeking a Zone Change, Conditional Use Permit, Subdivision, or Partition. The developer of a subdivision in an urban growth area will be required to make the appropriate improvements to any related street to meet the standards set in a Transportation Plan.

**Finding 22:** Pioneer Road is the transportation improvement to serve the proposed partition. Pioneer Road is a 40 feet wide easement, which is adequate width under the Columbia County Road Standards. No additional width is required. The developer will be required to make the appropriate improvements to Pioneer Road to meet the standards of Columbia County Road Standards and Transportation Plan as approved by the Board.

**Continuing with the Comprehensive Plan**

**Part VII**

**RURAL RESIDENTIAL**

**GOAL:** It is the goal of the County to provide for the continuation and needed expansion of Rural Residential uses on those resource lands where a valid exception can be, or has been shown to be, justified.

- Policy 6. Encourage rural growth in exception areas where facilities and services such as adequate transportation networks, school facilities, fire districts, water and police services, etc. already exist so as to minimize costs of providing such services to these areas.

**Finding 23:** With the initial adoption of Columbia County Comprehensive Plan in 1984, approximately 80 acres

of property, being served by Pioneer Road, had a valid exception to resource uses shown to be justified and the area was zoned for residential use. The area is served by private wells for domestic use, has soils of the site that are capable of treating sewage on-site with an approved septic system, is within and can be served by a fire protection district, and five acre lot sizes are appropriate to maintain the rural character of the area. It has been shown that for this diverse, small population a private right-of-way for access is appropriate. ... Policy 6 above encourages rural growth in this area that is close to schools, fire districts and police services. The private road has served the small population of homeowners adequately, without major problems. Continued development with another home site would seem consistent with the Comprehensive Plan as long as adequate improvements can be made to the private road and continued maintenance is assured.

#### **COMMENTS:**

1. The Roadmaster has indicated the following comments:

Pioneer Road is in fairly decent shape, however, gravel roads with a grade over 14% are extremely difficult to maintain in good condition and become dangerous. Going up the hill the road grade is basically 10-16% with a section of the first corner being 17% grade. The Road Department recommends approval with two conditions:

- A) An easement must be shown that would allow access to the new parcel of property across CZ trail and across the private property to Scappoose -Vernonia Hwy.
  - B) The first 500 feet of the road shall be paved to a width of 20 feet including base preparation and some drainage improvements.
2. The Columbia River Fire District has reviewed the enclosed application and has no objection to its approval as submitted.
  3. The Sanitarian has reviewed the enclosed application and has no objection to its approval as submitted.
  4. The Watermaster has reviewed the enclosed application and has no objection to its approval as submitted.
  5. The Scappoose CPAC has reviewed the enclosed application and has no objection to its approval as submitted.

Land Development Services has received no other comments from government agencies or nearby property owners as of the date of this staff report (April 12, 2005).

**STAFF COMMENTS, CONCLUSIONS AND DECISION:**

Based on the above findings, the Planning Division **RECOMMENDS APPROVAL** of this request to partition 10.47 acres into two parcels, 5.47 and 5 acre parcels in the RR-5 zone with the following conditions:  
(These Condition are Inclusive of Road Modification Conditions)

**Before the Final Plat may be signed:**

1. The property and all division lines must be surveyed, a plat map prepared for recording in the office of the County Clerk, Courthouse, St. Helens, Oregon. A final plat must 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 current Subdivision and Partitioning Ordinance.
2. The final plat shall indicate if any of the parcels do not have a proven water source or method of sewage disposal.
3. The new residential parcels shall be at least 5 acres in size.

The road improvements shall consist of:

4. An easement shall be shown that would allow access to the new parcel across the CZ trail and across the private property to Scappoose - Vernonia Hwy.
5. Road improvements must be made beginning at Scappoose - Vernonia Hwy, for a distance of 500 feet. This distance shall be just beyond the first steep grade of 17%. The improvements shall include base preparation and paved to a width of 20 feet, to a depth of 2 inches and some drainage improvements as determined by the Public Works Director.

Attachments:     - Correspondence received by the Planning Department  
                      - Application  
                      - Vicinity Map  
                      - Zoning Map  
                      - Address Map  
                      - Preliminary Plat