

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Applications of	)	FINAL ORDER NO. 13-2007
Terry Deaton for a Modification	)	
of a Condition of Preliminary Partition	)	FINDINGS AND CONCLUSIONS
Approval and Modification of Columbia	)	
County Road Standards	)	

WHEREAS, on October 6, 2006, Terry Deaton received preliminary plat approval to partition a 25.54 acre parcel zoned Light Industrial (M-2), into three parcels of approximately 9.35, 6.0 and 10.19 acres on Barton Road, within the Urban Growth Boundary of the City of Rainier; and

WHEREAS, Condition No. 5 of the approval (MP 07-08) required "The Columbia County Road Department will require the applicant to widen Barton Road to a 20 foot travel lane in accordance with the Columbia County Road Standards Section IB.(3) and CCZO Section 1005.C. Documentation from the County Road Department stating these improvements have been made will be required to be submitted to LDS prior to final plat approval; and

WHEREAS, Terry Deaton failed to appeal Final Order MP 07-08 within the required time period and the decision is final; and

WHEREAS, on November 29, 2006, Terry Deaton submitted an application for a Modification of Prior Approval and Modification of Columbia County Road Standards to complete the required road improvements after final plat approval; and

WHEREAS, because the application for a Modification of Road Standards has a significant impact on the Minor Partition and future development on Barton 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 scheduled a hearing on both matters before the Board of County Commissioners during a Special Hearing on January 10, 2007; and

WHEREAS, on January 10, 2007, the Board of County Commissioners held a Special Public Hearing on both applications; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing, deliberated on the matter and voted to tentatively approve the applications subject to several conditions of approval;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

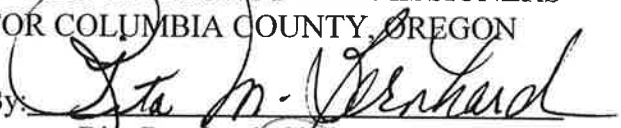
1. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the Staff Report to the Board of County Commissioners, dated January 10, 2007, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The Applications to modify Condition # 5 of MP 07-08, and the Columbia County Road Standards to authorize construction of the required road improvements after final plat approval are APPROVED subject to the following conditions of approval:
  - a. The Applicant shall widen Barton Road to a 20' travel lane in accordance with the Columbia County Road Standards as set forth in Attachment 2, which is attached hereto and is incorporated herein by this reference.
  - b. The improvements set forth in Attachment 2 shall be completed, as follows:
    - i. The portion of the Applicant's property from Dike Road to the Southernmost point of the driveway on Parcel #2, shall be improved within 6 months of the recorded sale of any of resulting parcels; and
    - ii. The portion of the Applicant's property from the Southernmost point of the driveway on Parcel #2 to the end of Barton Road adjacent to the resulting parcels, shall be improved prior to application for a building permit for Parcel #3.
  - c. The Applicant shall sign and record, at Applicants cost, a Development Agreement in the form which is attached hereto as Attachment 3, and is incorporated herein by this reference.


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- d. This modification is specific only to the time in which the Applicant is permitted to complete the required road improvements. The Applicant shall, in all other respects, comply with the Columbia County Zoning Code, Subdivision and Partition Ordinance and Road Standards, and shall comply with all other conditions of approval imposed in MP 07-08.

Dated this 24<sup>th</sup> day of January, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Rita Bernhard, Chair

By:   
Anthony Hyde, Commissioner

By:   
Joe Corsiglia, Commissioner

Approved as to form

By: 

**COLUMBIA COUNTY BOARD OF COMMISSIONERS**

**STAFF REPORT**

January 10, 2007

**Modifications of Conditions of Approval for MP 07-16**

**HEARING DATE:** January 17, 2007

**FILE NUMBER:** MP 07-16 - Modification to Condition # 5 of MP 07-08 and Modification to existing County Road Standards

**APPLICANT/  
PROPERTY OWNER:** Terry Deaton  
76579 Barton Road  
Rainier, OR 97048

**PROPERTY LOCATION:** 76579 Barton Road in Rainier, Oregon

**TAX ACCT. NUMBER:** 7207-000-00500 & 7207-000-00501

**ZONING:** Light Industrial (M-2)

**SIZE:** 25.54 acres

**REQUEST:** The applicant is requesting a Modification to Condition # 5 of Partition MP 07-08 as well as a Modification to existing County Road Standards. These Modification requests, if approved, will defer minimum improvements to Barton Road so it will comply with fire apparatus access standards prior to the issuance of building permits on this Light Industrial zoned property, rather than prior to Final Plat approval.

**PARTITION APPLICATION COMPLETE:** 08/29/06      **120 DAY DEADLINE:** 12/27/06  
**ROAD MOD APPLICATION RECEIVED:** 11/29/06

**REVIEW CRITERIA:**

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**BACKGROUND:**

On October 6, 2006, the Final Order for partition file MP 07-08 was administratively approved. Six conditions of approval needed to met before Land Development Services would sign the Final Plat (attached). The appeal period for this decision was twelve days from the date the decision was mailed out on October 6, 2006. No appeals were filed within these twelve calendar days. After the twelve day appeal period had already expired, the applicant, Terry Deaton, asked the Board of County Commissioners to review and approve her Permit for Modification to Condition # 5 of MP 07-08 as well as a Modification to the existing County Road Standards at a Special Hearing provided for in Section 1612 of the Columbia County Zoning Ordinance (CCZO).

On November 29, 2006 Ms. Deaton filed and paid the fee for the Permit to modify Condition No 5 of MP 07-08 which also includes a modification for the timing of needed improvements to Barton Road required by the Columbia County Road Standards Ordinance. Specifically, the applicant disputes Condition # 5 placed on her Preliminary Partition approval which requires road improvements to Barton Road be made prior to final partition approval.

Oregon State law protects buyers from purchasing newly created properties that cannot be used for their intended purposes. Chapter 92 Divisions 16 and 25 of the Oregon Revised Statues prohibit people from selling referenced parcels in a partition before the partition obtains tentative jurisdictional approval *and* prior to the recording of the final plat. In essence, state and local statutes that regulate land uses and land division can, and often do, identify and require minimum development standards that property owners must comply with before they can subdivide their land.

The Columbia County Board of Commissioners initially adopted the Subdivision & Partitioning Ordinance in January 1975 and the Zoning Ordinance in July 1984. Then in November 1996, the Board adopted the current County Road Standards recommended by the Columbia County Road Department, Land Development Services, and Legal Counsel. Columbia County has been regulating the division of land for over 30 years.

The remainder of this Staff Report will discuss how local and state regulatory requirements apply to this request to modify the timing of minimum site improvements for newly created properties.

**FINDINGS:**

**Beginning with Columbia County Subdivision and Partitioning Ordinance Article X - Subdivision & 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.

**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]
- 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]

**Discussion:**

As stated above, Section 1001 of Article X of the Subdivision & Partitioning Ordinance specifies that its provisions are the *minimum (emphasis added)* standards to which partitions must conform to before final approval. The purpose of requiring sub-dividers to meet these minimum standards is to ensure that the newly created properties are ready to be developed for their intended uses. Columbia County's two ordinances that regulate, manage, and appropriately plan for land development are its Zoning and Subdivision and Partitioning Ordinances. These ordinances work together by first designating how and why land can be put to different uses through the Zoning Ordinance, and then guaranteeing that all newly created land is ready to be developed for their intended use(s) through the Subdivision & Partitioning Ordinance. The end result is this: developers are selling and buyers are buying land that is ready to be developed for their intended uses.

Columbia County has 3 general land classifications, listed in order from more to less intensive land uses: Suburban Development, Rural Development, and Resource Lands. As land uses become more intensive, the capacity of public facilities must also be simultaneously improved in order to adequately and safely support the intended uses of these additional lands. This Permit request is asking Land Development Services to delay road improvements for a proposed 3 parcel partition of 25.54 acres in the Light Industrial (M-2) zone until building permits on newly created parcels area applied for and before building permits are issued. The Zoning Ordinance classifies M-2 as a suburban zone which allows property owners to develop their land for manufacturing, warehousing, and sales operations appropriate for properties in close proximity to the county's 7 incorporated cities.

Pertaining to this Permit request, MP 07-16, Article X, Section 2005 (A) of the Columbia County's Subdivision & Partitioning Ordinance (CCS & PO) requires all proposed development to not only have frontage on existing public streets, but to also comply with County Road Standards and Specifications in effect at the time of development. Both conditions are required prior to final partition approval, rather than waiting for the actual building permits to be issued. This helps to ensure that all legally subdivided properties can be developed for their intended uses when they are created, rather than waiting for the issuance of building permits. Moreover, for those sub-divided properties containing geographical and physical features that may physical limit their actual development, the CCS & PO requires these restrictions identified on the final plat; potential buyers buy these properties fully aware of these site specific limitations.

With regards to this request to modify the timing of site improvements of preliminary approved MP 07-08, all three of its proposed parcels have frontage on Barton Road. Ms. Deaton currently has 2 legal properties zoned for Light Industrial uses. Because she is creating 1 more parcel of Light Industrial land, the County Roadmaster is requiring her to improve Barton Road so it will meet the minimum standards required for fire apparatus access roads, pursuant to the County Road Standards. Section 1005 (L) of the CCS & PO also requires minimum street surfacing improvements to be made in accordance with requirements of the Columbia County Road Standards.

**Finding 1:** Staff finds that both local and state statutory regulations authorize jurisdictions to require sub-dividers appropriately improve their newly created properties prior to final plat approval. Concerning preliminary approved MP 07-08, the County Road Standards Ordinance Part II (A) requires properties along existing public roads be built to the following standards for fire apparatus access roads:

1. At least 20 feet wide,
2. Designed and maintained to support loads of fire apparatus,
3. Provided with a uniform all-weather driving surface, and
4. Approved by a Oregon Registered Professional Engineer.

Staff finds that this property has no physical or geographical characteristics that prohibit Barton Road from being minimally improved so it complies with fire apparatus access standards in this Light Industrial zoned area of our county. These provisions are not only specifically required by Sections 1001 and 1005. (A) and (L) of the adopted CCS & PO and by Part II (A) of the County Road Standards, but by the ORS Chapter 92 Divisions 16 and 25 as well.

Continuing with the Columbia County Subdivision & Partitioning Ordinance Article IX - Assurance for Completion and Maintenance of Improvements, Construction Drawing Requirements, and Acceptance of Construction Improvements:

**SECTION 901. ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS.**

- A. General. After approval of the Preliminary Plat and the construction plans, and before the commencement of any construction, the applicant shall be required to secure a bond, or place cash in escrow or trust, to insure that all improvements in the development will be completed and maintained in accordance with the requirements of this ordinance, the Commission's decision, and the County Engineer or Roadmaster's specifications. The applicant shall guarantee both workmanship and materials.

**Discussion:** Requiring land dividers to financially secure the means of guaranteeing site improvements through either bonding or establishing an escrow/trust is the mechanism the CCS & PO uses to ensure site improvements, related workmanship, and materials will meet the County Engineer's, County Roadmaster's, and applicable Ordinances' specifications before properties are created, sold, and then developed for their intended uses. Specific financial amounts and their disbursement will be discussed in the following section of this Report.

**Finding 2:** Staff finds that Condition # 5 of MP 07-08 that requires the applicant to widen Barton Road to the entrance of the Mobile Home Park to a 20 foot travel lane ( a 3 foot widening) and then to 12 feet for the property's remaining road frontage is in accordance with County Road Standards. The Public Works Director has determined that the applicant is responsible for only 3/8 of the requirement for a full standard roadway based on the share of lots along the road. The actual road improvements, or their performance guarantees also need the County Roadmaster's approval prior to final partition approval. This will ensure these properties in this Light Industrial Zone have the needed minimum improvements for emergency vehicle access. Articles X and IX of the CCS & PO not only requires these improvements, but also have provisions to financially secure and guarantee their construction prior to final partition approval. This Section of CCSPO require the applicant to either complete these road improvements or secure the finances to guarantee their improvement prior to final approval.

B. Performance Guarantee Requirements.

- (1) Following approval of the construction drawings (See Section 802 for construction plans approval procedure), the applicant shall secure a bond, or place cash in escrow or trust, in an amount equal to 125% of the estimated cost of the improvements. The amount may be reviewed by the County Engineer or Roadmaster to verify the estimated cost of the project.

Bonds, or funds placed in escrow or trust, shall comply with all statutory requirements and shall be satisfactory to the County Counsel as to form, sufficiency, and manner of execution as set forth in these regulations.

- (2) The period within which required improvements must be completed shall be two years from the date of approval of the final subdivision plat or partition map. The Planning Commission, upon



extraordinary difficulty, may extend the completion date.

**Discussion:** These Performance Guarantee Requirements are how the Columbia County Roadmaster and Land Development Services assure the completion and maintenance of needed site improvements meet all applicable County specifications. Interestingly, the Ordinance does not specify *who*, other than applicant, needs to secure these finances, the buyer and/or the developer. It only requires that the bond is secured with a company lawfully able to sell bonds, or that the escrow or trust account complies with all statutory requirements. Buyers and developers are free to jointly or independently secure these finances; this is arranged between the buyers, developers, and financial or insurance agencies. These are the criteria subdividers must comply with before the County will agree to the amount and means of securing these finances:

1. The amount in the bond or escrow or trust needs to equal 125% for the estimated cost of the improvements,
2. The County Engineer or Roadmaster verifies the estimated costs, and
3. The County Counsel shall review the bond, or funds placed in escrow or trust to ensure they comply with all statutory requirements.

In addition under certain circumstances, Development Agreements have been used to assure required large off-site road improvements, approved by the Columbia County Counsel and accepted by the Board of Commissioners, prior to development action. With regards to the required interim and minimum improvements, to fire apparatus access standards for Barton Road, the applicant, Ms. Deaton, prepare this Development Agreement with assistance with County Counsel to ensure all statutory requirements are met and submit an approved Development Agreement to Land Development Services before approval of final plat for MP 07-08.

**Finding 3:** Staff finds the Performance Guarantee Requirements listed in Article IX of the CCS & PO are reasonable and necessary requirements for the applicant to comply with prior to final MP 07-08 approval. The applicant's partition is for the creation of 1 additional piece of Light Industrial land near the City of Rainier, Oregon in close proximity to the cities of Longview and Kelso in Washington. These minimum improvements to widen Barton Road between 12 and 20 feet with gravel and improve it to meet weather surfacing and load requirements of fire apparatus access roads further, will also ensure that all 3 properties have, at least in the interim, adequate and safe emergency vehicular access prior to their creation. The applicant can either construct the improvements, insure the improvements through bonding or establishing an escrow account, or through a Development Agreement accepted by the Board prior to final partition approval. These minimum interim requirements comply with provisions in Article IX of the Subdivision and Partitioning Ordinance.

#### **SECTION 904. REVIEW PROCEDURE.**

The County Engineer or Roadmaster shall have 30 calendar days following submission of the construction drawings to review the plans. One copy of the construction drawings, along with the Engineer's or Roadmaster's comments, shall be returned to the applicant. In the event significant modifications are necessary, the County Engineer or Roadmaster may require the drawings be altered and resubmitted for final approval. The County Engineer or Roadmaster shall have another 30 calendar days to review the resubmitted drawings.

**Discussion:** For this proposed partition, having the County Roadmaster's review and approve construction drawings for Barton Road improvements will ensure these needed improvements comply with interim minimum fire

apparatus access road standards. Protecting residents, businesses, and employees from potentially hazardous fires in this Light Industrial zone is a valid public safety issue that developers should be required to guarantee prospective buyers with before they acquire newly created Light Industrial and that is ready to be developed for its intended use.

**Finding 4:** Staff finds that requiring the County Roadmaster to review and approve plans for Barton Road's proposed improvements, is an appropriate way to verify these improvements comply with the minimum County Road Standards. The required documentation approving these planned improvements and construction from the County Road Department must be provided to Land Development Services prior to final approval of preliminary approved MP 07-08.

#### **SECTION 905. ACCEPTANCE OF CONSTRUCTION IMPROVEMENTS.**

The County may accept the improvements only after all of the following have been completed:

- A. The applicant has submitted a letter to the Board requesting the County accept the improvements and that the improvements have been built to County standards and the approved construction drawings.
- B. The applicant has submitted two sets of "as built" drawings.
- C. The County Engineer or Roadmaster has approved the improvements and recommended acceptance.
- D. In the event a maintenance guarantee has not previously been submitted, the applicant must submit a maintenance bond, escrow or trust agreement, in an amount which is not less than 10% of the cost of the improvements. The bond shall be in a form which is satisfactory to the County Counsel. The bond shall run for a period of at least one year and the applicant shall be required to correct all deficiencies of workmanship and materials within the development for that period. The Board may require a larger bond, or allow the bond to run for a longer period (two years) if the County has good reason to believe that the construction improvements will fail because of workmanship or materials.

**Discussion:** These provisions help clarify what actions the developer needs to undertake before the County will accept any improvements to Barton Road and before another Light Industrial property is created through this proposed partition.

**Finding 5:** If the applicant selects to improve Barton Road prior to final partition approval, Staff finds she should also submit a letter to the Board requesting they accept these improvements along with the approved as built drawings and recommendation for acceptance from the County Roadmaster before final approval for preliminary approved MP 07-08. These acceptances are necessary to ensure the improvements comply with applicable portions for the County Road Standards and the CCS & PO and are acceptable to County Counsel.

Continuing with the Columbia County Road Standards:

#### **Part I (B) Overview of the Road Standards - Partitions**

- 3) Existing Public Road Rights-of-way. Developers of partitions with frontage on existing public roads or county road rights-of-ways may be required to make improvements to roads within such rights-of-ways beyond the limits of the frontage proportionate to the maximum build of the area. Such improvements shall be made in accordance with the "Development of Existing Public Road" standards (Section V). If such improvements cannot feasibly be constructed, other means of access to the property will be required.

**Discussion:** This basically explains the conditions under which proposed partitions on existing public roads may be required to make improvements proportionate to the total number of properties using the roads. Finally, it is important for subdividers to recognize that if these minimum improvements cannot be feasibly constructed, the property will not be able to continue to use the unimproved access and will need to build and construct a different access to their property.

**Finding 6:** Staff finds that although the County Roadmaster has the authority to require the applicant improve Barton Road to a gravel base width of 30 feet for 7 or more parcels " (see latter dated November 21, 2006), he is not. Instead he is only requiring the applicant "to widen Barton Road to the Mobile Home Park to 20 feet and 12 feet for the remaining frontage." Staff finds that at a minimum the applicant should comply with the County Roadmaster's interim and minimum improvements to Barton Road listed in the November 21, 2006 Memorandum from the Public Works Director which was included in the Final Order for MP 07-08.

## **Part II (A) Fire Service Requirements - Fire Apparatus Access Roads**

- 2) All fire apparatus access roads shall be at least 20 feet wide, a minimum curve radius of 45 feet and have a clear height of 13 feet, 6 inches and be maintained clear of debris/obstructions, see UFC 902.2.1 and 902.2.2.3

**Discussion:** This identifies the minimum specifications of Fire Apparatus Access Roads that need to be made to Barton Road before the County Roadmaster will approve its construction.

**Finding 7:** Staff finds the minimum road improvements required by Public Works Director in his November 21, 2006 Memorandum complies with the County Road Ordinance's fire apparatus access road standards necessary, in the interim, for emergency vehicular access to all 3 properties prior to their creation.

## **Part V Existing Public Roads**

### **(A.3) Construction Standards for Existing Public Roads**

**Fire Standards:** Must comply with the Columbia County Fire Services fire apparatus access roads and driveways standards

**Road Width:** Road rock base requirements for public roads shall be 30 feet for 7 or more properties, 20 feet for 2 to 6 properties, and 12 feet with turnouts for 1 or 2 properties. Approved turn-arounds are also required at the end of all dead-end roads.

**Discussion:** It is appropriate and necessary that all public roads be constructed to Fire Service access road standards. In addition, the minimum rock base requirements for public roads will depend on their usage. The width of a public road's base rock is directly proportional to its use. The more users, the wider the needed base. Although the County Roadmaster has required improvements to Barton Road that apply to public roads only serving 2 to 6 properties, Parcel 2 of this partition is Rainier Gardens Mobile Home Park and contains over 20 mobile home sites. Consequently, although the Public Works Director has the authority to require the applicant to widen Barton Road to 30 feet, he is not. Rather he is allowing the applicant to improve Barton Road to minimum fire apparatus access standards in the interim, prior to final approval of preliminary approved MP 07-08. It is important for the applicant and future buyers to fully understand that although these minimal improvements will suffice for final approval of this partition, additional road improvements will be required prior to the issuance of future building permits on these 3 parcels.

**Finding 8:** Staff finds that the County Roadmaster's required improvement for the widening of Barton Road to 20 feet to the entrance of the Mobile Home Park and 12 feet for the remainder frontage of this property complies with County Road Standards Part I (B .3) and Part V (A.3) and are minimum and the interim level of improvement that is required only for the final partition of preliminary approved MP 07-08.

#### **Section VI - G**      **Creation of New Public Roads - Design Modification**

##### 1) General - Request to Modify Specifications/Standards

To seek approval, non-compliant specifications/standards must be sent through the following process. It is to be noted that if the requested modification involves public safety, the County will rule in the direction of safety.

**Discussion:** This emphasizes that public safety is the County Roadmaster's paramount concern when subdividers request modifications to specifications to County Road Standards.

**Finding 9:** Staff finds that prior to modifying conditions of final partition approval for MP 07-08 and the creation of one additional Light Industrial zoned property, Land Development Services and the County Roadmaster are obligated to place the public's safety highest in their considerations of whether or not to recommend approval of these modifications. Staff also finds, with regards to this Permit request, that guaranteeing minimal interim emergency vehicular access improvements to Barton Road that serves all 3 Light Industrial properties meets and passes this test to protect the public's health, safety and welfare for residents and businesses residing and working on Barton Road.

#### **Continuing with Part VI of the Columbia County Road Standards:**

##### 2) Modification Process

###### a) Submittal

Requests to modify shall be submitted in writing to the County Public Works Director on the application form. This written request shall state the desired modification(s), the reason(s) for the request (s) and a comparison between the specification(s) or standard(s) and the modification(s) as far as performance, etc.

Any modification or variance of these standards should be documented and reference nationally accepted specifications/standards. The use thereof shall not compromise public safety or the intent of the County's standards.

B) Review

The request to modify shall be reviewed by the County Public Works Director, County Counsel, Land Development Services Staff, and appropriate Fire Services Officer. The Public Works Director shall make a report to the Board of County Commissioners, who shall make one of the following decisions:

Approve as is,  
Approve with changes, or  
Deny with an explanation.

Approval of a request shall not constitute a precedent.

**Discussion:** The applicant submitted on November 29, 2006 the modification application on forms provided by the Public Works Director and Land Development Services. The applicant then requested the Board of County Commissioners consider her Permit to modify Condition # 5 and to modify County Road Standards at a Special Hearing provided by Section 1612 of the Zoning Ordinance. The Notice of this Special Hearing was then published December 27, 2006 and scheduled for January 17, 2007. The Public Works Director submitted his comments, in two Memorandums dated November 21, 2006 and December 15, 2006, to Land Development Services stating the following minimum level of interim improvements to Barton Road: widen Barton Road from Dike Road to the entrance to the Mobile Home Park to 20 feet and widen it to 12 feet for its remaining frontage.

It is important to note that the Public Works Director/County Roadmaster is requiring these interim minimal improvements be made prior to final partition approval of this 25.54 property zoned for Light Industrial uses. Barton Road's frontage for currently vacant Parcel 1 is only required to be improved to a minimum of 12 feet instead of the 20 feet road base required for Parcels 2 & 3. Both the Public Works and Land Development Services Departments consider these improvements to be interim in nature; all future development on these parcels will require additional road improvements prior to the issuance of future building permits. Finally and because these improvements are needed to guarantee emergency vehicle access to this property, they must be completed within 2 years of the issuance of the bond, the opening of the escrow/cash account, or the Board's acceptance of the Development Agreement.

**Finding 10:** The applicant may provide for the minimum level of interim improvements to Barton Road in one of the following ways.

1. Widen Barton Road to a 20 foot travel lane to the Mobile Home Park entrance and then 12 feet for the remainder of the property in accordance with the Columbia County Road Standards Section I. B (3) and CCZO Section 1005.C, and stated in the November 21 & December 15, 2006 Memorandums from the Public Works Director. Documentation from the County Road Department stating these improvements have been made will be required to be submitted to LDS prior to final plat approval. or
2. Provide a Performance Guarantee for completion of required improvements to Barton Road pursuant to Section 901 of the Subdivision and Partitioning Ordinance, prior to recording of the final plat. After approval of the proposed road construction plans, and before the commencement of any construction, the applicant shall be required to secure a bond, or place cash in escrow or trust, to insure that all improvements in the development will be completed and maintained in accordance with the requirements of this ordinance, the Commission's decision, and the County Roadmaster's specifications. The applicant shall guarantee both workmanship and materials.
  - 2a These are the performance guarantee's requirements:
    1. The amount in the bond or escrow or trust needs to equal 125% fo the estimated cost of the improvements, and construction must be completed by 2 years of the bond issuance,
    2. The County Engineer or Roadmaster verifies the estimated costs, and
    3. The County Counsel shall review the bond, or funds placed in escrow or trust to ensure they comply with all statutory requirements. This was discussed in Finding 1 of this Staff Report. or
3. Enter into a Development Agreement with the County that guarantees the interim minimum improvements to Barton Road prior to the issuance of building permits on the applicant's parcels. This Development Agreement shall be written by the County Counsel and approved by the Board of Commissioners before final partition approval.

Section 901 of the Subdivision and Partitioning Ordinance already provides ways for developers to reduce the full cost of site improvements. For preliminary approved MP 07-08, the applicant can fulfill the required minimum interim improvements to Barton Road prior to final partition approval, by any one of these three options. It is important for the applicant to understand that these minimum requirements are necessary to ensure the Mobile Home Park and single family residence on Parcels 2 & 3 have emergency vehicular access. In conclusion, Staff finds these minimum improvements to Barton Road are interim in nature because additional improvements will be required to it prior to the issuance of future building permits on any of these 3 parcels zoned for Light Industrial uses.

Continuing with the Columbia County Zoning Ordinance:

**Section 1600 ADMINISTRATION:**

- 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 the heard at a Special

Hearing in lieu of a hearing before the Planning Commission or the Board of County Commissioners.

**Discussion:** The applicant submitted a complete application for Modifications to Conditions # 5 of MP 07-08 and to County Road Standards (MP 07-16) to Land Development Services November 29, 2006. The Board of County Commissioners scheduled the Public Hearing for January 17, 2007 and published the Notice of Public Hearing with the required Contents of Notice on December 27, 2006.

**Finding 11:** The Board of County Commissioners took jurisdiction of this Request to modify Conditions of Final Partition approval and hold this Special Hearing as the applicant requested.

Continuing with the Columbia County Comprehensive Plan:

### INDUSTRIAL DEVELOPMENT

**GOAL 3:** To encourage industrial growth in Columbia County to diversify its economy. New industry should locate to take maximum advantage of existing public and private investments

**POLICIES:** It shall be policy of the County to establish, implement, and maintain an industrial development program that:

7. Supports improvements in local conditions in order to make the area attractive to private capital investment. Consideration of such factors as the following shall be undertaken:
  - A. Tax incentives
  - B. Land use controls and ordinances
  - C. Capital improvements programming

**Discussion:** Requiring a minimum level of site improvements prior to final approval for newly created Light Industrial properties encourages industrial growth to occur in areas of our county zoned for these uses. Further it is expected that buyers and developers of properties in these zones also realize that the industrial use of land can also potentially require significant capital improvements to ensure the availability of adequate public facilities to support these intensive land uses. In this case, the County Roadmaster is requiring the applicant to widen Barton Road's base by 3 feet for a total 20 foot wide base for approximately only ½ of the its 1800 feet of road frontage. Interim improvements and widening Barton Road to a 12 foot road base will also be required from the Mobile Home Park entrance to the remainder of the property heading west along Barton Road. These improvements are interim to ensure Barton Road has a minimum road base width necessary for emergency vehicular access to all three properties in this proposed partition. Parcel 1 is currently vacant while Parcel 2 contains a 21-space Mobile Home Park and Parcel 3 is the location of the applicant's existing single family residence. Prior to the issuance of any building permits on these properties, Barton Road will require additional road improvements pursuant to the County Road Standards in effect at the time of development.

**Finding 12:** Staff finds the minimum level of constructed improvements to Barton Road, requiring Performance Guarantees of these improvements, or approval of a Development Agreement with the County are needed prior to final partition approval to ensure emergency vehicle access to this Light Industrial properties. The applicant should be required to select one of the three options listed in Finding 10 of this Report. Condition # 5 of the October 6, 2006 preliminary approval of MP 07-08 should be modified and replaced with the options listed in Finding 10 of this Report.

**COMMENTS RECEIVED:**

1. See the attached 2 letters from Dave Hill, Public Works Director, dated November 21, 2006 and December 15, 2006.

No other comments have been received as of the date of this Report January 10, 2007.

**STAFF COMMENTS, CONCLUSIONS, AND RECOMMENDATIONS:**

Based on comments received, research conducted, and findings in this Staff Report, Staff find that this Permit to Modify Condition # 5 of MP 07-08 and to modify County Road Standards is not consistent with the review criteria for a final partition approval in this Light Industrial Zone and recommends that the Board of County Commissioners **DENY** this Permit request because the Subdivision and Partitioning Ordinance already provides a way for developers to reduce the full cost of site improvements.

Planning Staff further recommends that the applicant comply with one of the options listed in Finding 10 of this Staff Report, listed below, before final approval of preliminary approved MP 07-08. These options below will replace Condition # 5 of the October 6, 2006 Final Order for MP 07-08

1. Widen Barton Road to a 20 foot travel lane to the Mobile Home Park entrance and then 12 feet for the remainder of the property in accordance with the Columbia County Road Standards Section I. B (3) and CCZO Section 1005.C, and stated in the November 21, 2006 Memorandum from the Public Works Director. Documentation from the County Road Department stating these improvements have been made will be required to be submitted to LDS prior to final plat approval.  
or
2. Provide a Performance Guarantee for completion of required improvements to Barton Road pursuant to Section 901 of the Subdivision and Partitioning Ordinance, prior to recording of the final plat. After approval of the proposed road construction plans, and before the commencement of any construction, the applicant shall be required to secure a bond, or place cash in escrow or trust, to insure that all improvements in the development will be completed and maintained in accordance with the requirements of this ordinance, the Commission's decision, and the County Engineer or Roadmaster's specifications. The applicant shall guarantee both workmanship and materials.

- 2a These are the performance guarantee's minimum requirements:



1. The amount in the bond or escrow or trust needs to equal 125% fo the estimated cost of the improvements, and construction must be completed by 2 years of the bond issuance,
  2. The County Engineer or Roadmaster verifies the estimated costs, and
  3. The County Counsel shall review the bond, or funds placed in escrow or trust to ensure they comply with all statutory requirements. This was discussed in Finding 1 of this Staff Report. or
3. Enter into a Development Agreement with the County that guarantees the interim minimum improvements to Barton Road prior to the issuance of building permits on the applicant's parcels. This Development Agreement shall be written by the County Counsel and approved by the Board of Commissioners before final partition approval.

Permit Request to Modify Conditions of preliminary approved MP 07-08  
Request to Modify County Road Standards  
Final Order of MP 07-08  
Memorandums from Public Works Director  
Proposed Site Plan  
Vicinity, Address, and Zoning Maps



**Columbia County Road Department**

1054 Oregon Street, St. Helens, OR 97051

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**Dave Hill, Public Works Director**

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Ph: (503) 366-3964 Fax: 397-7215

e-mail: [hilld@co.columbia.or.us](mailto:hilld@co.columbia.or.us)

**to:** Sarah Hanson, County Counsel  
**from:** Dave Hill, Public Works Director  
**date:** January 24, 2007

**subject:** Deaton Partition, Road Standard Requirements

The Road Standard requirements for the Deaton Partition in the West Rainier area are as follows:

- Widening of the Barton Road shall consist of a base rock to a total depth of 12 inches. Ten inches shall be of a size of either 4"-0, 1 ½"- 0, or a pre-approved pit run. The top 2 inches shall be a size of 3/4"-0.
- The base rock shall be compacted such that a fully loaded dump truck does not deflect the base rock by more than 1/4".
- The widening may be constructed on either side of the road, or partially on both sides of the road.
- Care shall be taken not to damage utilities (a locate of utilities is required prior to excavation) and the existing ditches shall not be plugged or compromised.
- Notification shall be given to the Road Department at least 12 hours prior to beginning work on the road.

## ATTACHMENT 3

### DEVELOPMENT AGREEMENT

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2007, by and between Columbia County, a political subdivision of the State of Oregon (hereinafter "County"), and Terry Deaton, an individual (hereinafter "Terry Deaton").

WHEREAS, Terry Deaton received preliminary approval for a minor partition plat (MP 07-08) from the County on October 6, 2006; and

WHEREAS, Condition #5 of MP 07-08 requires, as follows:

"The Columbia County Road Department will require the applicant to widen Barton Road to a 20 foot travel lane in accordance with the Columbia County Road Standards Section I.B(3) and CCZO Section 1005.C. Documentation from the County Road Department stating these improvements have been made will be required to be submitted to LDS prior to final plat approval"; and

WHEREAS, on November 29, 2006, Terry Deaton applied for a modification of prior approval and road modification to modify Condition # 5 and Section I.B(3) of the Road Standards to defer completion of the road improvements until after the final plat is approved; and

WHEREAS, on January 10, 2007, the Board of County Commissioners held a hearing on the applications and voted to approve the modifications to allow road improvements to be completed after the final plat is approved; and

WHEREAS, the Board of County Commissioners approved Final Order No. 13-2007 on January 24, 2007; and

WHEREAS, Condition # 2(a) , of Final Order No. 13-2007 requires, as follows:

"The Applicant shall widen Barton Road to a 20' travel lane in accordance with the Columbia County Road Standards as set forth in Attachment 2, which is attached hereto and is incorporated herein by this reference."; and

WHEREAS, Condition #2(b), of Final Order No. 13-2007 requires, as follows:

"The improvements set forth in Attachment 2 shall be completed, as follows:

- i. The portion of the Applicant's property from Dike Road to the Southernmost point of the driveway on Parcel #2, shall be improved within 6 months of the recorded sale of any of resulting parcels; and
- ii. The portion of the Applicant's property from the Southernmost

point of the driveway on Parcel #2 to the end of Barton Road adjacent to the resulting parcels, shall be improved prior to application for a building permit Parcel #3.”; and

WHEREAS, a copy of Final Order No. 13-2007, is attached hereto as Exhibit 1, and is incorporated herein by this reference; and

WHEREAS, Terry Deaton desires to satisfy Condition # 2 so as to obtain Final Plat Approval from the County as soon as possible; and

WHEREAS, the County does not desire to hinder Terry Deaton’s ability to proceed with final plat approval, but must be assured that the construction required by Condition # 2 is actually done;

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

1. Terry Deaton shall obtain a written estimate of the cost to complete the road improvements set forth in Final Order No. 13-2007 from Dike Road to the driveway on Parcel #2. Upon approval by the Columbia County Roadmaster that such estimate is a reasonable estimate to complete the required improvements, Terry Deaton shall either purchase a bond in the amount of 125% of the estimate or shall place 125% of the estimated amount in escrow, with bond or escrow instructions which shall be acceptable to the County reflecting the following:  
  
Within 6 months of the recorded sale of parcel # 2, (the mobile home park), Terry Deaton shall complete the road improvements from Dike Road to the driveway of the mobile home park, as required by Final Order No. 13-2007. Upon approval of the construction by the Columbia County Roadmaster, the bond or escrow funds shall be released. If such construction is not completed within 6 months of the recorded sale of parcel # 2, the funds shall be released to the County and the County shall complete the construction.
2. If the County completes construction of the improvements required in Section 1, above, the County may recover the actual cost to complete the construction, over and above the amount received from a bond or escrow, from Terry Deaton or any successor in interest in the resulting parcels. The amount due to the County shall be a lien on the property. The County may collect the amount due in any court of competent jurisdiction.
3. The portion of Terry Deaton’s property from the Southernmost point of the driveway on Parcel #2 to the end of Barton Road adjacent to the resulting parcels, must be improved prior to application for a building permit on Parcel #3, regardless of who owns the parcel to be developed. Upon sale of any resulting parcels, Terry Deaton shall either complete the improvements required by this section or shall require that the purchaser will complete the improvements prior to applying for a building permit. Terry Deaton shall notify the County Road Department within 5 days after the recorded sale of any of the resulting parcels.
4. Terry Deaton shall pay all Escrow fees and/or costs associated with a bond.

5. Terry Deaton shall notify the County in writing with documentation that an Escrow Account has been established according to the escrow instructions set forth in Section 1, above, or a bond has been purchased according to the instructions set forth in Section 1, above, and that the required funds have been deposited.
6. The County will proceed to process the Final Plat for MP 07-08 upon receipt of adequate documentation that the bond has been purchased and/or escrow deposit has been made.
7. This Agreement shall run with the land and shall be binding on all future owners, or assigns. This Agreement shall be recorded in Columbia County Deed Records with recording fees to be paid by Terry Deaton.

STATE OF OREGON            )  
   ) ss.  
 COUNTY of Columbia        )

TERRY DEATON

By: \_\_\_\_\_  
       Terry Deaton

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
 Notary Public of Oregon

STATE OF OREGON            )  
   ) ss.  
 COUNTY of Columbia        )

COLUMBIA COUNTY, OREGON

By: \_\_\_\_\_  
       Todd Dugdale, Land Development Services Director

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
 Notary Public of Oregon