

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Forest &)
Geraldine Hemeon to Modify Major Partition) FINAL ORDER NO. 34-2008
Final Board Order 119-2007 and to Modify) (Findings and Conclusions)
Associated Columbia County Road Standards)

WHEREAS, on December 29, 2006, Geraldine and Forest Hemeon applied for a Major Land Partition to create three lots ranging from six acres to 16 acres, from a 32.1 acre parcel off Wallace Road in Mist, Oregon, having tax account number 6514-000-00900; and

WHEREAS, that application was deemed complete on February 12, 2007; and

WHEREAS, on March 22, 2007, the Hemeons received preliminary plat approval to partition the 32.1 acre parcel into three parcels of 7, 10, and 15.1 acres; and

WHEREAS, the Hemeons appealed that approval (Final Order MP 07-20) to the Columbia County Planning Commission; and

WHEREAS, the Board of County Commissioners asserted original jurisdiction over the Major Partition, held a Special Public Hearing on the application on June 13, 2007, and adopted Final Order 119-2007 on June 27, 2007, approving the application subject to several conditions of approval; and

WHEREAS, on February 25, 2008, the Hemeons submitted applications to modify Final Order 119-2007 by reducing the number of parcels created from three to two, and to modify Columbia County Road Standards for the extension of Wallace Road; and

WHEREAS, the Board of County Commissioners asserted original jurisdiction over the Major Partition and scheduled a hearing on both matters before the Board of County Commissioners during a Special Hearing on April 16, 2008; and

WHEREAS, on April 16, 2008, the Board of County Commissioners held a Special Public Hearing on both applications; and

WHEREAS, during the hearing the Board heard testimony and received evidence into the record; and

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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 contained in the Amended Staff Report to the Board of County Commissioners, dated April 10, 2008, which is attached hereto as Attachment 1 and is incorporated herein by this reference.
2. The Applications to modify Final Order 119-2007, reducing the number of lots partitioned from three to two, as indicated in the Preliminary Two-Parcel Partition Plat, and to modify the Road Standards for the extension of Wallace Road, is APPROVED subject to Conditions 1, 3, 4 and 5 contained in the Amended Staff Report attached hereto (Attachment 1), which are hereby adopted. Condition 2 therein is amended to read and is adopted as follows:

“2. Before the County accepts a final plat for review, the following road improvements shall be completed and shall be approved by the County Road Department and the Mist Birkenfeld Fire Department:

- A. The Applicant shall dedicate the Wallace Road extension to the public as a public road and shall construct the Wallace Road extension to private road standards for two lots.
- B. Turnouts shall be constructed at approximate 600 foot intervals from the bridge to the Wallace Road extension. A turn-around shall be constructed near the end of the Wallace Road extension.
- C. The fire official shall approve the fence placement along the road.”

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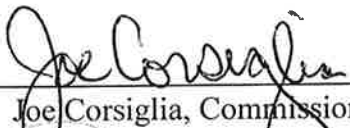
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3. In the event of any conflict between this Final Order and the Amended Staff Report attached hereto (Attachement 1), this Final Order shall control.

Dated this 30th day of April, 2008.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Anthony Hyde, Chair

By: 
Joe Corsiglia, Commissioner

By: 
Rita Bernhard, Commissioner

Approved as to form

By: 
Assistant County Counsel

BOARD COMMUNICATION

FROM THE LAND DEVELOPMENT SERVICES DEPARTMENT

MEETING DATE: April 16, 2008

TO: BOARD OF COUNTY COMMISSIONERS

FROM: Todd Dugdale, Director of Land Development Services

SUBJECT: PUBLIC HEARING
MP 07-20- Modification of Prior Approval (BOC Final Order 119-2007)
Modification of Road Standards

LOCATION: Tax Parcel No: 6514-000-00900 End of Wallace Road near Mist

APPLICANT: Nathan & Leslie Woodward, representing owners' Forest L. & Geraldine L. Hemeon

SUMMARY:

The applicants are requesting modification of the approved partition, MP07-20, a 3-parcel partition creating parcels of 7 acres, 10 acres and 15.1 acres into a 2-parcel partition that will create one 25.26-acre parcel and one 6.07- acre parcel. The partition of the property into parcels which are smaller than the 80-acre minimum lot sizes in the PA-38 zoning is allowable under an approved Measure 37 waiver of Section 304.1(CL05-9, Board Order No. 40-2006).

The applicants have also requested a modification of road standards contained in the earlier Board decision approving the partition, BOC Final Order 119-2007, condition 2(B)(ii), that required the applicants to improve the Wallace Road Extension to private road standards. They request a further modification of road standard to require only that two turnouts be installed on the existing 14 foot wide travel surface of the Wallace Road extension.

This partition was processed administratively and Staff approved the original 3-parcel partition on March 22, 2007 with conditions. The applicants subsequently appealed Condition 2 c of the Final Order for MP 07-20 requiring Wallace Road Extension to be improved to public road standards and the Board approved Condition 2(B)(ii) of BOC Final Order 119-2007 that only required the applicants to improve and construct Wallace Road Extension to private road standards prior to final plat approval.

The Board of Commissioners took original jurisdiction for the review of this request to modify Condition 2(B)(ii) of BOC Final Order 119-2207 and a modification of road standard and scheduled a Special Public Hearing for April 16, 2008.

Staff Recommendation:

Staff recommends the Board of Commissioners approve the modification of prior approval of Major Land Partition MP 07-20 with the five (5) conditions listed in the attached Staff Report. Staff findings/conditions support the modification of the partition reducing new lots to be created from 3 to 2, but do not support the proposed road standard modification. The Road Department has recommended against further modification of the road standards in order to accept the current 14 foot improvement to Wallace Road Extension with two new turnouts (Road Department Memo dated April 7, 2008).

ATTACHMENTS:

- 1) Board of Commissioners Staff Report w/ attachments
- 2) The April 10, 2007 and April 8, 2008 correspondence from County Road Department
- 2) BOC Final Order 119-2007
- 3) Application Materials

APR 10 2008

CLATSOP COUNTY

MANAGER

PREPARED BY: Deborah S. Jacob, Planner II

COLUMBIA COUNTY BOARD OF COMMISSIONERS

AMENDED STAFF REPORT

April 10, 2008

Major Land Partition

Modification of previously approved partition and conditions of BOC Final Order # 119-2007

HEARING DATE: April 16, 2008

FILE NUMBER: MP 07-20

APPLICANT: Nathan & Leslie Woodward, granddaughter of owners
OWNER: Forest L. & Geraldine L. Hemeon; 14090 Wallace Road; Mist, OR 97016

SITE LOCATION: Property is located at the end of Wallace Road Extension, West of Mist.

TAX ACCOUNT NO: 6514-000-00900

ZONING: Primary Agriculture - 38 (PA-38)

SITE SIZE: Approximate 32.1 acres.

REQUEST: The applicants are requesting two modifications of a previously approved partition. The first modification is related to improvements of Wallace Road Extension identified in Condition 2(B)(ii) of BOC Final Order 119-2007, and the second modification is to partition the 32-acre property into 2 parcels instead of the original 3.

REVIEW CRITERIA:

Columbia County Zoning Ordinance

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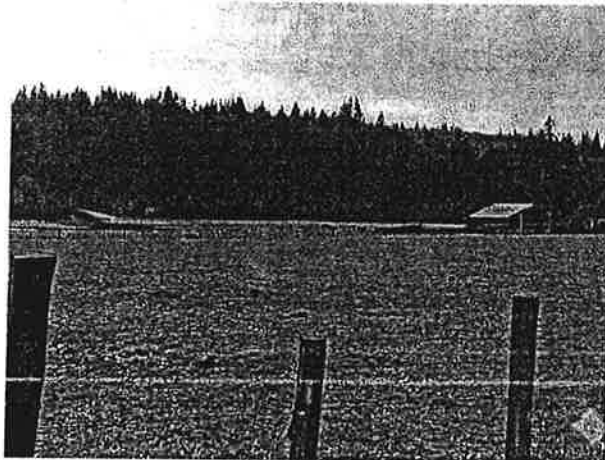
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APPLICATION COMPLETE: March 19, 2008 **150-DAY DEADLINE:** August 16, 2008

BACKGROUND:

The subject property as photographed from Wallace Road facing southwest. The site is mostly flat open field. The south side consists of forested hills as shown here with the Nehalem River on the north side



The applicants propose to partition property into two parcels. The subject property to be partitioned is irregular in shape and does not currently abut any improved road rights-of-way. The Wallace Road right-of-way terminates approximately 400 feet from the northeastern most corner of tax lot 900. At this point, the Wallace Road right-of-way (unbuilt), takes a 90 degree turn southward and then another 90 degree turn westward, cutting a swath through the southern portion of the property, though, this portion is not improved. The site is developed with two dwellings—a single-family dwelling built around 1963 and a manufactured home placed around 1980—and an assortment of accessory structures. Access to these is provided by a private gravel driveway, which begins at the western terminus of the improved portion of the Wallace Road right-of-way. The dwellings on the site are served by septic systems and a well. The property is also being used to raise cattle and is under farm tax deferral.

The subject property consists of open field/pasture, which is more-or-less flat with forested hills beginning in the southern portion of the site. The Nehalem River abuts the north side of the site, while an intermittent drainage that acts as a tributary to the Nehalem goes through the property at

the base of the hills. Based on County data, the river is fish bearing while the stream is not.

Properties immediately surrounding the site are zoned PF-76 and PA-38 to the north, PF-76 to the south and west, and PA-38 to the east. Properties in the area are rural farms in nature and consist of field crops and pasture land.

It appears that there is 100-year floodplain on the subject property associated with the Nehalem River and the site is within an area designated as peripheral big game habitat.

This Land Partition proposal is being applied for under a Measure 37 claim (file CL 06-09), Board Order No. 89-2007 waives certain provisions of the Columbia County Zoning Ordinance. In addition, the State waived the applicable provisions of Goal 3, ORS 215 and OAR 660, Division 33.

The applicant proposes a Property Line Adjustment (PLA) in conjunction with this Land Partition. This is file PLA 07-16. This PLA involves the eastern boundary line of this Partition, north of the proposed extension of the Wallace Road right-of-way. The revised preliminary plat is based on this PLA. The PLA shall be done simultaneously with the Land Partition.

The original administrative decision was made on March 22, 2007 with the Major Land Partition approved with conditions. The applicant filed an appeal to Condition 2(b) in May 2007 which the Board took jurisdiction of, held a Special Public Hearing on June 13, 2007, and approved the appeal subject to conditions of approval in BOC Final Order No. 119-2007 on June 27, 2007.

On February 25, 2008, the applicants submitted an application and related fees for a Modification of Prior Approval for their previously approved partition, MP 07-20 and the amended conditions of approval in BOC Final Order No. 119-2007. This request includes these two modifications to the previously approved partition:

1. The first modification relates to specific improvements that need to be made to the proposed Wallace Road Extension identified in Condition 2(B)(ii) of BOC Final Order 119-2007 and
2. The second modification is to partition the 32-acre property into 2 parcels instead of the original 3.

The applicants are currently requesting the Board modify this earlier Board decision, Condition 2(B)(ii) of BOC Final Order 119-2207, which required the applicants to bring the proposed Wallace Road Extension to private road standards including the following:

- (1) Dedicate a 50 foot public right-of-way for the approximate 600 foot Wallace Road extension on the final partition plat,
- (2) Improving this extension to a 20-foot wide graveled surface,

- (3) Installing turnouts every 600 feet starting at the bridge spanning the Nehalem River East of the subject property, and
- (4) Installing a turnout near the end of this public road extension.

In lieu of the 4 requirements related to the Wallace Road extension stated above, the applicants are requesting the Board revise their May 2007 Final Order 119-2007 further and allow them to dedicate the 50 foot right-of-way for Wallace Road extension, and to install one turn out mid-point and another at the end of this public right-of-way extension. The submitted application states that because Wallace Road's existing traveled surface is only 14 feet wide, the County Road Department's requirement for improving this 600-foot extension to a full 20 foot wide graveled surface "seems unnecessary."

Normally, administrative decisions are appealed to the Planning Commission. However, as the Board asserted jurisdiction to the first appeal in May 2007 and because these modifications pertain to roads and the Planning Commission has no authority to modify Road Standards as anticipated by the applicants, this appeal is going directly to the Board of County Commissioners for review and decision.

The conditions of this Staff Report have been changed from the May 30, 2007 Amended Staff Report for the Appealed Staff Decision in two ways. First, the entire report has been modified to reflect a 2 parcel, instead of the original 3 parcel partition. Second, this report reinforces its previous Findings and Discussions of the May 30, 2007 Amended Staff Report that supports the Board's Final Order 119-2207's that required the applicants to satisfy Condition 2(B)(ii) prior to final partition approval.

REVIEW CRITERIA, FACTS, ANALYSIS & FINDINGS:

Columbia County Zoning Ordinance

Section 200 General Provisions

- 221 One Principal Use Per Lot: Only one principal use may be placed on each legal lot or parcel.
- 222 One Septic System Per Lot: Only one residential subsurface sewage disposal system may be installed on each legal lot or parcel.

Discussion: There are two dwellings (principle uses) and accompanying septic systems on the approximate 32-acre subject property. However, the revised 2-parcel partition plat indicates each proposed parcel will have one principal use and one septic system which will rectify these nonconforming circumstances and bring the subject properties into compliance with the Zoning Ordinance.

Finding 1: The proposed Land Partition will not result in more than one dwelling or principle use and septic system per parcel.

Continuing with Columbia County Zoning Ordinance
Section 300 Primary Agriculture - 38

304 Standards:

- .1 The minimum lot or parcel size for all farm and forest activities shall be 38 acres, except as provided in Section 305 below. The minimum lot or parcel size for all other permitted and conditional uses shall be 20,000 square feet. [Note: State law now requires 80 acres minimum parcel size]
- .2 The minimum average lot or parcel width shall be 100 feet for all activities except farming or forestry.
- .3 The minimum average lot or parcel depth shall be 100 feet for all activities except farming or forestry.
- .4 All parcels and lots permitted by Section 302 shall have a minimum of 50 foot frontage on a public or private right-of-way.
- .5 All parcels and lots permitted by Section 303 shall have a minimum of 50 foot frontage on a public right-of-way. This is also the minimum width of any lot or parcel.
- .6 No structure shall be constructed closer than 30 feet to a property line.

Discussion: CCZO Section 304.1 was waived per Measure 37 claim file CL 06-09, albeit all other standards of this Section still apply. The average width and length of the proposed parcels exceeds 100-feet. This Land Partition application does not address uses permitted under Section 302. Given extension of the Wallace Road right-of-way in a westerly direction as proposed, both parcels will have at least 50' of useable frontage on a public right-of-way. This appears to be the case on the preliminary plat, but shall be a condition of approval for the final plat. Neither of these two parcels have a minimum width less than 50-feet. With this 2 parcel reconfiguration, proposed Parcel 2's 25.26 total acreage includes the parcel's portions located East and West of the proposed extension of Wallace Road. Although the revised preliminary plat does not include any information regarding the distance separating all existing structures from all proposed property lines, prior to final plat approval, a separate surveyed map shall be submitted with the final plat verifying no existing primary or accessory structures are closer than 30' to any property line as required by Section 304.6 of the Zoning Ordinance.

Finding 2: Pursuant to CL 06-09, the minimum parcel size is modified to approximately 10 acres. Though, one of the parcels is only 6.07 acres, its size will not result in more intense development than would otherwise be possible given CL 06-09. The applicants configured the proposed partition based on historic use of the property, fence lines and location of the farmstead

dwelling, barns and buildings. The area between the farmstead, barns and outbuildings and the western property line, after survey, resulted in only 6.07 acres not 10 acres; and thus, the 6.07 acres is acceptable for this proposal as being approximately 10 acres.

Finding 3: The standards of CCZO Section 304, not modified by CL 06-09, Board Order 89-2007, are met in the proposal or can be met with a condition that no existing structure shall be closer than 30 feet to a property line required for all structures in the PA-38 Zone pursuant to Section 304.6 of the Zoning Ordinance.

Continuing with Columbia County Zoning Ordinance
Section 300 Primary Agriculture - 38

305 Partitions:

- .1 Any proposed partition of land that would result in the creation of a farm or forest parcel smaller than 38 acres shall be reviewed in accordance with the requirements of ORS 215.263, Section 305.2 below, and the County Subdivision and Partitioning Ordinance. If all parcels proposed to be created exceed 38 acres, the partition shall be reviewed in accordance with the requirements of the County Subdivision and Partitioning Ordinance.
- .2 The proponent of a partition request for the creation of a parcel or parcels smaller than the prescribed minimum must demonstrate that the parcel is for a non-farm use reviewed and approved under Section 303.13, or that all of the following criteria are satisfied:
 - A. Any newly created parcels will support farm practices as defined by ORS 215.203 by showing (1) that the parcel will be used in conjunction with other farmland in the area to contribute to a continuation of the existing commercial agricultural enterprise; or (2) the parcel will be used for an alternative commercial farm use of greater intensity (such as a nursery) and that such a use will be consistent with the continuation of existing commercial agriculture in the area; and the proposed parcels are large enough to enable the proposed agricultural use to be practiced as it is on similar commercial enterprises in the region; and
 - B. The parcelization will not reduce the existing or potential agricultural productivity of the subject property; and
 - C. The addition and location of new structures and improvements, including houses, fences, roads, utilities, wells, etc., will not impose limitations on existing farm practices in the area; and

- D. The parcelization is in conformity with the State Legislature's Agricultural Land Use Policy as set forth in ORS 215.243, which declares that "The preservation of a maximum amount of the limited supply of agricultural land...in large blocks is necessary in maintaining the agricultural economy of the State..."

Finding 4: This proposed partition would create parcels smaller than 38 acres that are not farm parcels in and of themselves. The State waived and will not apply ORS 215.263 for this partition given the Hemeon State Final Order Claim No. 21833. The County waived the minimum lot size of 38 acres in the Primary Agriculture zone to a level of significantly less than the minimum lot size for commercial farm use, which in effect allows only a non-farm use for this property. The proposed partition is for non-farm parcels. Paragraphs 2 A through D above, are not applicable; therefore, the applicant shall demonstrate that a non-farm parcel can be reviewed and approved by meeting the criteria of CCZO Section 303.13.

Continuing with Columbia County Zoning Ordinance
Section 300 Primary Agriculture - 38

- 303.13 Single family dwellings or mobile homes and their accessory uses, not provided in conjunction with farm use, may be granted conditional approval upon a finding that each such proposed use:
- A. Is compatible with farm uses and is consistent with the intent and purpose set forth in this ordinance relating to farm lands; and
 - B. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use; and
 - C. Does not materially alter the stability of the overall land use pattern of the area; and
 - D. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.
 - E. Any application for a non-farm dwelling in an exclusive farm use zone shall be approved only if the parcel on which the dwelling is to be built has been removed from the farm tax deferral in accordance with the provisions of ORS 215.236.

SOILS:

Soil on the 32.1 acre consist of:

	<u>Tree growth Site Index</u>	<u>Est. % of Area</u>	<u>Ag. Cap. Class</u>
20 Eilertson silt loam, slope 0% to 3%	172	90%	II c (prime farmland)
30D Mayger silt loam, slope 3 to 30%	159	5%	VI e
49E Scaponia-Braun, slope 30 to 60 %	172	5%	VI e

Discussion: Although Section 303.13 is one of the criteria for a conditional use non-farm dwelling, Section 305 above requires that a proposed partition for a non-farm parcels under 38 acres also demonstrate review and approval that it meets criteria in Section 303.13. Both the proposed 6.07-acre and the 25.26-acre parcels already have one dwelling each located in the general vicinity of the farmstead. The overall land use pattern of the area consists of flat pasture and hay crop land nearer the Nehalem River with steeper slopes to the south, on the forested areas containing non-farm soils. A couple of neighbor dwellings and associated buildings on separate parcels are located near Wallace Road which goes through this flat farmland. But, generally speaking the good farm land is still in farm use. As one approaches the end of Wallace Road, this marks the beginning of the older Hemeon farm tract. In years past prior to the tightening of land use controls, three 10-acre parcels were divided from the original farm parcel, of which one has been developed by a son and another is in the process of building a home. All of these 10 acre parcels are being developed with a dwelling located at the southern portion of the property, in the foothills, away from and out of the flat farm lands.

Finding 5: As stated by the applicant in their Measure 37 claim, the Hemeon's are trying to maintain their farm as they are getting older by providing dwelling locations for their children. The development pattern for the offsprings have been to build their dwellings at the southern end of their property on slopes containing non-farm soils, thereby leaving the flat prime farm soils for farm uses. Eliminating the original 10-acre vacant parcel in the Eastern portion of the current 25-26-acre proposed Parcel 2 also helps this 2 parcel partition meet the purpose of this agricultural land by preserving these properties' prime farm soils for farm use. Neither of these two proposed parcels are vacant. Prior to the issuance of additional building permits on these properties, Land Development Services will review all proposed development for consistency with the applicable provisions of the Zoning Ordinance as well as of the Oregon Administrative Rules pertaining to the authorized permitted and conditional uses as well as to the minimum standards for development on Agricultural Lands. Staff finds the reconfigured 2 parcel partition meets the criteria of Section 303.13.

Continuing with Columbia County Zoning Ordinance Section 300 Primary Agriculture - 38

309 Land Divisions:

A farm or forest parcel smaller than 38 acres may be created in the PA-38 zone only if the application, investigation, evidence, findings and conclusions show that all of the following conditions exist:

- .1 The proposed parcel is intended for farm use, and is appropriate to the continuation of the existing commercial agricultural economy in the area;
- .2 The proposed parcel will not have a significant adverse impact on identified sensitive fish and wildlife habitats;
- .3 The proposed parcel will be capable of contributing in substantial way to the existing agricultural processors and established farm markets; and
- .4 Such findings shall be based on at least the following factors:
 - A. The proposed division is compatible with the farm use in the area and does not interfere, either in itself or in the location of improvements, with 'current accepted farming practices', as that term is defined in ORS 215.203, which characterizes such use;
 - B. The proposed division is consistent with the agricultural land use policy for the State of Oregon expressed in ORS 215.243;
 - C. The proposed division does not materially alter the stability of the overall land use pattern of the area, nor substantially add to the demand for increased use of roads, ground water during growing seasons, or public facilities and services.
- .5 The proposed division shall create parcels typical of the surrounding agricultural area and be of sufficient size to support production of food or fiber using accepted farm practices as that term is defined in ORS 215.203 after findings have been made with respect to the following:
 - A. Soil types and patterns in the area and typical yields;
 - B. Type of crops grown in the area and typical yields;
 - C. Potential markets;

- D. Other relevant information included in the agricultural element of the Columbia County Comprehensive Plan; and
- E. Average size of parcels on which commercial agricultural farming is practiced in the area.

In no case shall parcels less than 38 acres be allowed except as provided elsewhere in this zoning ordinance.

Finding 6: The standards of CCZO Section 309 were not waived pursuant to CL 06-09, Board Order 89-2007, and Board Order 119-2007. However, the State waived the applicable sections of ORS 215 and OAR to the extent necessary to allow the applicant to create and develop each parcel with a dwelling. The County waived the minimum lot size of a farm parcel (38 acres), Section 304.1, to the extent necessary to divide the property into more or less 10 acre parcels. By doing so the applicants have the right to create farm parcels under 38 acres. The proposed 2 parcel partition would create one 6.07-acre parcel and one 25.26-acre parcel both of which are well below the minimum size for commercial farm use and both of which also already contain a dwelling. Due to the Measure 37 lot size waiver, commercial farm units will not likely be maintained on either of these two properties. Staff finds that the proposed 2 parcel partition will allow for the continuation of the exiting farm uses, will not adversely affect sensitive fish and wildlife habitats (See Findings 8 - 10 below), and will not materially alter the land use pattern of the area.

Continuing with Columbia County Zoning Ordinance

Section 1100 Flood Hazard Overlay

1104 Basis for Special Flood Hazard Areas

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Columbia County, Oregon and Incorporated areas", dated August 16, 1988, with accompanying Flood Insurance maps is hereby adopted by reference and declared to be part of this ordinance. The Flood Insurance Study is on file at the Columbia County Department of Land Development Services office, County Courthouse, St. Helens, Oregon.

Discussion: The northern portion of the site is identified as being within a "ZONE A" area per FEMA FIRM map number 41009C0125 C, effective August 16, 1988. "ZONE A" is a special flood hazard area inundated by 100-year flood, where no base flood elevations have been determined. In addition to the provisions of the Flood Hazard Overlay, the National Flood Insurance Policy (NFIP) applies. NFIP Section 60.3[b][3] requires that all new subdivision proposals (including dividing land into two or more separate parcels) greater than 50 lots or 5 acres, whichever is less, include with such proposals base flood elevation data. BFE data shall be

determined by a licensed professional engineer or surveyor and included on the final plat. In addition, the applicant should be aware that any improvements and structures within the identified flood area, shall be subject to County and NFIP regulations.

Finding 7: The applicable provisions of the Flood Hazard Overlay can be met by imposing a condition that the base flood elevation (BFE) pertaining to this site bordering the Nehalem River shall be included on the final plat.

Continuing with Columbia County Zoning Ordinance

Section 1170 Riparian Corridors, Wetlands, Water Quality, and Fish and Wildlife Habitat Protection Overlay Zone

1172 Riparian Corridor Standards:

- A. The inventory of Columbia County streams contained in the Oregon Department of Forestry Stream Classification Maps specifies which streams and lakes are fish-bearing. Fish-bearing lakes are identified on the map entitled, "Lakes of Columbia County." A copy of the most current Stream Classification Maps is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B) for reference. The map, "Lakes of Columbia County" is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B), and is incorporated therein. Based upon the stream and lake inventories, the following riparian corridor boundaries shall be established:
 2. Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). Along all fish-bearing streams, rivers, and sloughs with an average annual stream flow of less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50-feet from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below. Average annual stream flow information shall be provided by the Oregon Water Resources Department.
 4. Other rivers, lakes, streams, and sloughs. Along all other rivers, streams, and sloughs, the riparian corridor boundary shall be 25 feet upland from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below.
 5. Wetlands. Where the riparian corridor includes all or portions of a significant wetland, as identified in the State Wetlands Inventory and Local Wetlands Inventories, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland. Significant wetlands are also regulated under provisions in the Wetland Overlay Zone,

Columbia County Zoning Ordinance, Section 1180.

Discussion: There are two linear water bodies applicable to this site. The first is the Nehalem River, which abuts the north side of the site. This is a fish-bearing river with less than 1,000 cfs flow. As such, a 50-foot area from the top bank of the Nehalem River shall be delineated as a riparian corridor boundary on the final plat subject to the County's development restrictions. The second is an intermittent stream towards the south side of the site, which is a tributary to the Nehalem River. This small tributary is not fish bearing and will require a 25-foot area from the top bank on both sides of the stream to be delineated as a riparian corridor boundary on the final plat subject to the County's development restrictions. Based on County records, there does not appear to be other wetlands associated with these two linear bodies of water, which would require the riparian areas to be measured from the upland portion of the wetland rather than the top of bank.

Finding 8: The riparian corridor standards can be met, with conditions that a 50 foot area from the top bank of the Nehalem River be delineated on the final plat as a Riparian Corridor, subject to restrictions of this Section. Also, a 25 foot Riparian Corridor shall be delineated from both banks of the unnamed stream with the same restrictions.

Continuing with Columbia County Zoning Ordinance

Section 1170 Riparian Corridors, Wetlands, Water Quality, and Fish and Wildlife Habitat Protection Overlay Zone

1175 Permitted Uses and Activities. Notwithstanding the prohibitions set forth in Subsection 1173 above, the following activities are allowed within the riparian corridor boundary:

B. The following development is allowed within the riparian corridor boundary.

1. Streets, roads, and driveways, if:

- a. If it is not possible to locate the street, road or driveway outside of the riparian corridor boundary; and
- b. The street, road or driveway is designed to minimize intrusion into the riparian corridor boundary.

1177 Requirements for new activities and development identified in Sub-section 1175 and 1176, above, shall be allowed in the riparian corridor boundary subject to the following requirements:

A. All applicable permits from state and federal agencies, such as the Oregon Division of State Lands (DSL) and Oregon Department of Fish

and Wildlife (ODFW) must be obtained by the land owner prior to commencing the use or activity.

- B. For activities and development for which land use permits, building permits, grading permits, variances or stormwater/erosion control permits are required, the County shall provide notification to ODFW of the proposed development activity. The County shall consider the recommendations of ODFW, including any mitigation recommendations, prior to issuance of permits and may condition permit approval on recommended measures to mitigate loss of fish and wildlife habitat pursuant to applicable provisions of OAR Chapter 635, Division 415.

Discussion: This Land Partition and the Measure 37 claim (CL 06-09) will result in two new parcels both of which already contain dwellings and accessory structures. It is possible that the southern portion of the site (i.e. the wooded hill) is a desirable place for homes as it preserves the flat “farmable” area and provides better view. However, notwithstanding access easements as alternatives, driveways from Wallace Road will cross the intermittent stream and it’s associated riparian area. A driveway is allowable in this Riparian Over-lay Zone provided it satisfy the provisions in CCZO Section 1175 (B) (1) (a and b). As with any other development that would effect a riparian/wetland area, the County will provide notice of the proposal to ODFW, DSL and any other applicable agency before any permit for development is issued. In addition, any permits required by these agencies shall be obtained before any building permit for any structure is issued by the County.

Finding 9: Regulations pertaining to development that affects or could potentially affect a riparian area or wetland shall be met with a condition that if the applicants propose to build an access across the intermittent stream they shall first seek review and possible permit from the applicable State agency .

Continuing with Columbia County Zoning Ordinance
Section 1190 Big Game Range Overlay

1193 Development Siting Standards:

All new development located in Major and Peripheral Big Game Habitat shall implement the following siting standards:

- .1 Dwellings and structures shall be located as near each other and existing developed areas as possible considering topography, water features, required setbacks, and firebreaks.
- .2 Dwellings and structures shall be located to avoid habitat conflicts and utilize least valuable habitat areas.

- .3 Road Development shall be minimized to that necessary to support the proposed use and shall utilize existing roads as much as possible.
- .4 The owner/occupant of the resource parcel assumes responsibility for protection from damage by wildlife.

Discussion: Considering the proposed parcel sizes, existing development on surrounding properties, minimum required setbacks, riparian standards and other such development standards on these two parcels of Agriculture Land , a condition of final approval will require all new structures and uses must be in accordance with the permitted and conditional uses and minimum standards of Agricultural Lands pursuant to the applicable provisions of the Zoning Ordinance and the OAR With the exception of any new driveways, that portion of Wallace Road that will be dedicated and improved for this partition follows an existing driveway and consequently, staff does not consider this proposed 2 parcel partition will create any “new” barriers to the big game and wildlife habitat areas on these properties.

Finding 10: Given the existing parcelization of the Hemeon tract near the end of Wallace Road, any additional development on both parcels will be reviewed to determine that they are clustered with other dwellings and will be located on the brink of the hillside away from big game grazing areas. The Wallace Road corridor will be used for access to this development and shared driveways will be utilized as much as possible. This criteria is met. However, a condition should be imposed that the responsibility for protection from wildlife damage on the property shall be assumed by the respective parcel’s owner and/or occupant.

Columbia County Subdivision & Partitioning Ordinance
Section 208 Termination of Tentative Partition or Subdivision Approval

208 Termination of Tentative Partition or Subdivision Approval.

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

Finding 11: This Preliminary Land Partition shall remain valid for one (1) year from the date of the final decision. The approved preliminary plat shall become void unless a surveyed final plat is prepared and submitted to Land Development Services within the one-year validity period. This Final Plat shall conform to 1) the approved preliminary plat as submitted in accordance with the conditions described herein, and 2) the form and content requirements of the Columbia County Subdivision and Partitioning Ordinance and Oregon Revised Statutes. One extension of time of up to six months may be granted by the Planning Director if requested in writing is accompanied with the appropriate fee before the expiration date.

Continuing with Columbia County Subdivision & Partitioning Ordinance
Section 604 Review of Major Partitions

604 Review of Major Partitions

- A. Upon receipt of the application for major partition by the Planning Department, the Director shall determine whether or not the proposed major partition meets the standards of this ordinance. If a variance from the standards of this ordinance is necessary, the provisions as stated in Section 210 of this ordinance shall be followed. The Planning Director shall submit the application for major partition to the Planning Commission for its review and approval, denial or remand.
- B. If the application for major 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.

Discussion: As described herein, the preliminary plat meets the standards of this and other pertinent ordinances or can meet those standards given conditions of approval.

Finding 12: A variance is not warranted for this proposal. The Planning Director reviewed and approved this partition with conditions and the applicant appealed the Director decision to a higher authority.

Continuing with Columbia County Subdivision & Partitioning Ordinance
Section 710 Information on Final Plat

710 Information on Final Plat

- C. The survey and plat of the partition shall be made by a registered professional land surveyor. Unless the Planning Director provides otherwise, created parcels that are 20 acres or greater, but less than 40 acres, need not be surveyed or monumented if zoned Primary Forest, Forest Agriculture or Primary Agriculture. Similarly zoned parcels that are 40 acres or greater need not be surveyed or monumented. *[Amended 1-29-97]*
- F. The location, dimensions and purpose of all recorded and proposed public and private easements shall be shown on the partition plat along with the county clerk's recording reference if the easement has been recorded with the county clerk.

- 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: This Land Partition is not exempt from the survey requirements.

Finding 14: All existing and proposed easements shall be included on the Final Plat.

Continuing with Columbia County Subdivision & Partitioning Ordinance
Section 1005 Streets

1005 Streets

- A. General Requirements. Except for private streets within Planned Unit Developments approved pursuant to Section 1200 of the Columbia County Zoning Ordinance, no subdivision or partition shall be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of development or with a more restrictive provision of an applicable Urban Growth Area Management Agreement. *[Amended 4-9-97]*
- B. Existing Streets. Additional street right-of-way shall be dedicated as per the County Road Standards at the time of subdivision or partition when the following conditions exist:
 - (1) The subject property is located within an urban growth boundary and fronts on a County road; or *[Amended 4-9-97]*
 - (2) The subject property is subdivided or partitioned to lots or parcels containing 2 acres or less. *[Amended 4-9-97]*
- C. Street Widths and Roadways. Unless otherwise indicated on the official map, the width of rights-of-way and roadway improvements shall be in compliance with the following:
 - (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 requirement of individual cities.

Discussion: The applicant is dedicating a 50-foot wide public right-of-way for the approximate 600-foot extension of Wallace Road so both proposed parcels will have at least 50-feet of frontage along a public right-of-way. Through BOC Final Order 119-2007, the Board has

already approved the applicants' May 2007's request to modify Section 1005.A's Road Standards and Specifications. Specifically, the Board has already allowed the applicants to construct the new public right-of-way extension to *private road* (emphasis added) standards including installing turnouts at 600-foot intervals starting at the Nehalem River bridge and installing a turnaround near the end of the new extension.

After receiving notice of the applicant's current modification of BOC Final Order 119-2207, Lonny Welter, Transportation Planner with the County Road Department, stated in his April 8, 2008 electronic message (attached) to Land Development Services the following reasons for the Board not to further modify Final Order 119-2007:

1. The public road extension will serve two occupied residences on the subject property, tax lot 6514-000-00900, and a third residence on the adjacent tax lot 6514-000-0090 and
2. Section IV (B-1) of the County Road Ordinance identifies 20-foot wide improved traveled surface for private roads that serve between 3 to 6 lots; and
3. Final Order 119-2007's requirements have already lessened this public road right-of-way extension to private road standards.

Land Development Services concurs with the County Road Department's previous and current recommendations and underlying rationale. Consequently, Land Development Services recommends the applicants' be required to bring the new dedicated right-of-way to the private road standards identified in BOC Final Order 119-2007's Condition 2(B)(ii). If the Board approves, Land Development Services will require these improvements be approved by the County Road Department prior to final plat approval.

The site is not within an Urban Growth Boundary nor are either of the proposed parcels 2-acres or less, therefore an increase of road right-of-way width is not warranted at this time. The applicants' proposed 600-foot extension of the Wallace Road right-of-way is 50' which meets street standards for local designated streets.

Also regarding access, if any dwelling proposed will not access Wallace Road, but rather an existing, shared private driveway, an access easement will be required prior to issuance of the building permit.

Finding 15: The applicable standards of Section 1005 are shown to be met on the preliminary plat, given a 50 foot dedicated extension with improvements to Wallace Road.

Continuing with Columbia County Subdivision & 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.

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.

Discussion: The existing dwellings on the two proposed parcels are each serviced by their own septic system, though only one well is noted on the preliminary plat. Unless, each parcel will have its own well that services its respective dwelling, an easement or easements will be required to be shown on the final plat. The site is not within a water or sewerage provider service district. It is encouraged that any future utilities' servicing these properties be extended underground

Finding 16: The provisions of CCS&PO Section 1013 can be met with a condition that if both parcels are indeed being served by a single well, the waterline easement(s) shall be shown on the final plat.

Columbia County Stormwater and Erosion Control Ordinance
Chapter 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.
 - b. The preliminary Stormwater Plans shall be prepared by an Engineer. The applicant may prepare Conceptual Stormwater Plans.
 - c. The plan shall describe how the treatment and runoff control measures required for future building permits will be achieved.
 - d. The plan shall be completed in the format specified in Section IV.
 - e. The plan shall be submitted to the County with the partition application.
 - f. The partition will not be approved until the plan is approved by the County.

Discussion: This Land Partition involves property zoned PA-38, which generally allows farming based uses with other uses such as single-family dwellings, given certain restrictions. However, this property has a Measure 37 waiver (CL 06-09), creating smaller parcels. For the purpose of this ordinance, this partition will create “single-family parcels.”

The applicant prepared and submitted a Conceptual Stormwater Plan. It is not required to be completed by an engineer and thus, technical review of the plan by another qualified engineer is not warranted at this time. There are drainage tiles and an intermittent stream on the site. Given manipulation of the land, stormwater management could be a problem, however that is beyond the scope of this Land Partition. There are no impervious surfaces created by this application. If the newly created Wallace Road extension is paved, the applicant shall follow ditching best management techniques and erosion control measures as required by the Road Department. Notwithstanding inappropriate manipulation of the site’s natural drainage, there does not appear to be any stormwater aspect that would be negatively affected by this proposal.

Finding 17: The standards of the Stormwater & Erosion Control Ordinance are met for the purposes of this Land Partition.

Columbia County Road Standards Chapter I Overview of Road Standards

B. Partitions

Prior to final approval of a partition, access improvements will be required as follows:

2. Creation of New Public Roads. New public roads created in conjunction

with a partition shall be improved in accordance with the "Creation of New Public Road" standards (Section VI). The entire length of the new public right-of-way shall be improved according to the standards prior to final approval of the partition.

Discussion: The applicants are currently requesting the Board modify an earlier Board decision it approved on June 27, 2007 through BOC Final Order 119-2207. In lieu of Final Order 119-2007's Condition 2(B)(ii), which required the applicants to bring the Wallace Road Extension to private road standards, the applicants are now requesting to alternatively construct one turn out at mid point and one turn around at the end of the approximate 600-foot extension. In this application, the applicants state that requiring the full 20-foot wide graveled surface, per Condition 2(B)(ii), within the newly dedicated 50-foot Right-of-Way for only the 600-foot extension of Wallace Road appears unnecessary since these 2 parcels already contain their single family dwellings which are occupied by family members and these two properties cannot be further subdivided. However, and previously discussed on Page 17, this public road extension will serve two occupied residences on the subject property, tax lot 6514-000-00900, and a third residence on the adjacent tax lot 6514-000-00900. Land Development Services and the County Road Department both recommend the Board require the applicants to improve the Wallace Road extension to 20-foot wide traveled surface with adequate turnarounds pursuant to the minimum standards for private road identified in Section IV (B-1) of the County Road Ordinance that the Board approved through Final Order 119-2007.

Continuing with Columbia County Road Standards
Chapter V. Existing Platted Roads

B) PARTITIONS

All road platted with partitions and subdivisions which are filed after this ordinance is adopted shall be constructed to new road construction standards as required in Section IV and Section VI of this document.

1) DEVELOPMENT OF EXISTING PLATTED PUBLIC RIGHT-OF-WAY

Partitions will not be allowed to access any public road where it is not feasible (as determined by the Public Works Director) to construct that public road to the new road improvement standards required in Section VI of this document, without further order of the Board of County Commissioners or Planning Commission, after considering the report and recommendation from the Public Works Director. If the road improvements are determined to be feasible within the existing right-of-way, the applicant for a partition shall improve the existing road that is adjacent to the subject property, whether or not a new road is created within the partition, to the applicable standard as if new residences were immediately constructed on the new parcels. (i.e. If a partition creates 3 parcels of property and there are 7 other undeveloped potential parcels along the road, the applicant

for the partition will be required to construct 3/10 of the required road improvements prior to the final approval of the partition.)

Additional right-of-way will be required to be dedicated as required of the developers of single parcels as described above.

Additional road improvements will be required when application is made for an access permit to build on the property.

See also Section I (B) and I © of these standards.

Finding 19: Both proposed parcels will use the proposed 600-foot extension of Wallace Road for access. Wallace Road is a public, county road, maintained by the County Road Department. The Road Department has reviewed this request and submitted comment letters dated April 10, 2007 and April 8, 2008 which were discussed on Pages 16 - 17 during the Discussion and related Finding 15. It has been determined by the Road Department that the criteria of the existing public and private road standards can be met with conditions. See April 10, 2007 and April 8, 2008 Road Department letters.

COMMENTS RECEIVED:

All the comments below, except those from the County Roadmaster, were received in response to the applicants' previous appeal to the Board heard June 13, 2007. The County Roadmaster submitted comments April 8, 2008 however stating they do not support any additional waivers or modifications beyond what the Board already granted the applicants on June 13, 2007 through BOC Final Order 119-2007..

Mist Birkenfeld CPAC: (no comment)

West Oregon Electric: W.O.E. co-op will supply electrical service, only if all permits from State and County (or local) [jurisdictions] have been obtained. And they follow all rules and regulations of W.O.E..

DLCD (post Measure 37 claim development): (no comment).

Mist-Birkenfeld Joint RFPD: As per phone conversation on 2-14-2007: turnouts for emergency vehicles will be required to be included and approved along with road improvements.

County Sanitarian: The "new lots" will require approved Lot Evaluations to confirm that they are "buildable" lots.

County Roadmaster: See attached letters dated April 10, 2007, and April 8, 2008.

County Assessor: (no comment)

County Surveyor: Show on plat easements and r/w.

No further comments from agencies, citizens or otherwise have been received regarding this proposal as of the date of this staff report.

CONCLUSION, DECISION & CONDITIONS:

Based on the facts, findings and comments herein, the Planning Director recommends **approval** of this Land Partition, subject to the following conditions:

1. **This Preliminary Land Partition shall remain valid for one (1) year from the date of the final decision.** The approved preliminary plat shall become void unless a surveyed final plat is prepared and submitted to Land Development Services within the one-year validity period. This Final Plat shall conform to 1) the approved preliminary plat (as submitted on February 12, 2007) in accordance with the conditions described herein, and 2) the form and content requirements of the Columbia County Subdivision and Partitioning Ordinance and Oregon Revised Statutes. One extension of time of up to six months may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date.
2. The following shall be required before the County accepts a final plat for review:
 - a. The following required road improvements shall be completed and approved by the County Road Department and the Mist Birkenfield Fire Department: The Applicant shall dedicate the Wallace Road extension to the public as a public road, and shall construct the Wallace Road extension to private road standards. Turn outs shall be constructed at approximate 600 foot intervals from the bridge to the Wallace Road extension. A turn-around shall be constructed near the end of the Wallace Road extension.
3. In addition to all County and State requirements, the following shall be included on the Final Plat:
 - a. All existing and proposed easements. This includes any access easements as well as any and waterline easements from the well to the property . In addition, unless each developed parcel will have its own well, an easement to access an existing well shall be included on the final plat.
 - b. All existing and proposed rights-of-way.
 - c. Incorporation of Property Line Adjustment PLA 07-16 shall be shown.
 - d. Parcel 1 shall be required to have a minimum of 50 feet of frontage on the Wallace

Road right-of-way extension.

- f. A separate surveyed map shall be submitted with the final plat verifying that no existing structure on both parcels are closer than 30-feet to any property lines..
 - e. Base Flood Elevation (BFE) data shall be determined by a licensed professional engineer or surveyor. BFE data and the 100-year flood hazard area as dictated by the BFE data shall be included on the final plat.
 - f. An area 50-feet from the top bank of the Nehalem River shall be delineated on the final plat as a "Riparian Corridor Boundary," subject to the development restrictions of the Columbia County Zoning Ordinance.
 - g. The following statement shall be in bold caps and shall be clearly visible,
"THIS PARTITION IS SUBJECT TO THE TERMS AND CONDITIONS OF A MEASURE 37 WAIVER, ORDER NO. 40-2006, AS AMENDED, THE WAIVER IS PERSONAL TO FOREST AND GERALDINE HEMEON, DOES NOT RUN WITH THE LAND, AND IS NOT TRANSFERRABLE EXCEPT AS REQUIRED BY LAW. THE COUNTY MAKES NO REPRESENTATIONS ABOUT THE LEGAL EFFECT OF THE WAIVER ON THE SALE OF LOTS RESULTING FROM THE LAND DIVISION, ON THE RIGHTS OF FUTURE LANDOWNERS TO BUILD OR OTHERWISE, OR ON ANY OTHER PERSON OR PROPERTY OF ANY SORT."
4. The following shall be required prior to Building Permit issuance to develop any of the parcels created by this Land Partition:
 - a. The subject property and all new and/or altered property lines shall be surveyed and filed with the County Surveyor and the Final Plat shall be recorded with the County Clerk.
 - b. In addition to any County permits, permits/requirements of other applicable agencies (e.g. ODFW & DSL) shall be obtained/met should access be proposed across the intermittent stream in the southern half of the site.
 5. The responsibility for protection from wildlife damage on the property shall be assumed by the respective parcel's owner and/or occupant.

ATTACHMENTS:

Letter from the County Road Department to LDS dated April 8, 2008
Letter from the County Road Department to LDS dated April 10, 2007
Application requesting Modification of Prior Approval MP 07-20 and to BOC Final Order 119-2007
Preliminary 2 Parcel Partition Plat, Zoning, Address and Vicinity Maps
Final Order 119-2007



Columbia County Road Department

1054 Oregon Street, St. Helens, OR 97051

Lonny Welter, Transportation Planner

Ph: (503) 366-3963 Fax: 397-7215

e-mail: welterl@co.columbia.or.us

to: LDS, Deborah Jacob
from: Lonny Welter
date: April 7, 2008

reference: MP 07-20
tax lot: 6514-000-00900
location: 14090 & 14089 Wallace Road

subject: Modify Condition 2(B)(ii) of Board Order 119-2007

RECEIVED

APR 08 2008

LAND DEVELOPMENT SERVICES

The final approval of MP 07-20 required the Hemeon's to make road improvements which included:

- construction and dedication of an extension to Wallace Road to public road standards 26 ft wide graveled.
- off site improvements to Wallace Road for turnouts every 400 ft from the bridge to the subject property.
- turnaround at the end of the road

The Hemeons appealed final order 07-20 to the Planning Commission, whereas the BOC asserted jurisdiction and arranged a special hearing on June 13, 2007.

The BOC modified the road improvements to:

- construct the new public road extension to private road standards gravel (20 ft wide). Dedication still at 50 ft.
- turnouts at every 600 ft starting at the bridge and a turnaround near the end of the new extension.

There were some other requirements non-road related also.

To date, the Hemeon's have constructed the turnouts.

I understand that the Hemeon's are no longer partitioning one parcel into three, but one parcel into two. However the traffic generated by usage still remains. The road will serve two

occupied residents on the original parcel, T.L. 6514-0-00900 (to be split into two parcels) and a third resident on T.L. 6514-0-00901. The appeal to MP 07-20 in April of 2007 requested a modification from the original construction standards of public road gravel, to private road standards (in a public right-of-way). This was approved under Board Order 119-2007.

Columbia County Road Standards, page 35, B), 1) for private roads states that twelve foot wide improved travel surfaces for one or two lots. Twenty foot wide improved travel surface for three to six lots. Four foot wide clear zones outside of the traveled surface.

If the County Road Standards were to be followed, a 26 foot wide public graveled road along the Wallace Road right-of-way (dedicated to the public) is required with a 20 foot wide private gravel road across the remaining private property to the Hemeon's residence. From that point, driveway standards (12 foot wide road surface) are required to serve the remaining residence (T.L. 6514-0-00901). Under Board Order 119-2007, these requirements have already been lessened to that of private road standards within the public road right-of-way, and driveway standards across all private property.

The applicants now are requesting a modification to the approved 119-2007 appeal which modified the original approved conditions of MP 07-20. This final modification, if approved will result in the whole road being constructed to driveway standards.

The County Road Staff recommends denial of the modification to the approved 119-2007 appeal and recommends that the County Road Standards should be followed.

Lonny Welter
Columbia County
Transportation Planner



Columbia County Road Department

1054 Oregon Street, St. Helens, OR 97051

Lonny Welter, Transportation Planner

Ph: (503) 366-3963 Fax: 397-7215

e-mail: welterl@co.columbia.or.us

to: LDS, Attn: Jacob Graichen
from: Lonny Welter
date: April 10, 2007

reference: MP 07-20, Forest & Geraldine Hemeon
tax lot: 6514-000-00900
location: 14090 & 14089 Wallace Road
subject: Road improvements required for partition

This is in reference to the letter dated January 29, 2007, and specifically addresses the issue of off site improvements as a requirement for the partition. As stated in the original letter:

Wallace Road is not up to current County standards for public / County roads and per the Columbia County Road Standards, page 20 (3) first paragraph, and page 42 (B)(1) first paragraph, will require off site improvements. There are three existing parcels which may apply for dwellings. This partition will create three parcels from one (two parcels already having dwellings) which brings the total potential to four new dwellings. One of four equals .25 or 25%. Wallace Road from the Fiber bridge to the end of Wallace Road ROW where it bends to the south is 4399 feet. The off site improvements will be 25% of the total (4399' x 25%) which equals 1100 feet of improvements need. These improvements will include widening Wallace Road to 20 feet wide, graveled for a distance of 1100 feet starting at the Fiber bridge.

Even though this is the method prescribed by the County Road Standards for determining off site improvements, it does not take into account that Wallace Road is a County maintained road, thus the County has some responsibility for the existing condition of the road. Therefore staff has reconsidered the required offsite improvements and reduced them by half. This will require the first of the four potential developers (the Hemeon's) to construct 40 foot long by 20 wide turnouts every 400 feet (Driveway standards page 26, paragraph 2 of the County Road Standards) of road requiring a total of 11 turnouts for this partition application. The next developer will be required to construct turnouts every 200 feet, up to a total of 11 additional turnouts, and so on. In this manner, considerable road widening and improvements will be gained over time. Eventually, budgets and funding allowing, the County Road Department may connect the turnouts with a full length 20' wide road.

FEE: 806.25

COLUMBIA COUNTY
LAND DEVELOPMENT SERVICES

COURTHOUSE
230 STRAND
ST. HELENS, OREGON 97051
(503) 397-1501

MULTIPLICATION OF FLOOR
Approval MP07-20
Board FINAL ORDER
119-2007

PARTITION
General Information

File No. _____

APPLICANT: Name: Nathan & Leslie Woodward

Mailing address: 14291 Wallace Rd Mist, OR 97016

Phone No.: Office (503) 860-9075 Home (503) 755-2466

Are you the _____ property owner? owner's agent?

PROPERTY OWNER: _____ same as above, OR:

Name: Forest & Geraldine Hemmon

Mailing Address: 14090 Wallace Rd Mist, OR 97016

Phone No.: Office N/A Home (503) 755-2315

PROPERTY ADDRESS (if assigned): 14090 Wallace Rd & tax lot # 901

TAX MAP NO.: 6NSW14-000-00900 Acres: 32.1 Zoning: PA-38

PROPOSED PARCEL SIZES (acres): 3.901 15.5 10

WATER SUPPLY: Private well. Is the well installed? Yes _____ No

_____ Community system. Name: Spring fed cistern

METHOD OF SEWAGE DISPOSAL: _____ Community Sewer. Name _____

_____ Not applicable.
 Septic System. on 2 parcels #3 has been approved

If Septic, does the subject property already have a system? Yes _____ No

If no, is the property approved for a Septic System? Yes _____ No

CERTIFICATION:

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

Signature: Joslin Woodward Date: 2-24-08
W.A. Woodward 2-24-08

Planning Department Use Only

Date Rec'd. 2/25/08 Hearing Date: _____ or Admin. _____

Appt No. 58750 Staff Member: Erika Owen

Previous Land Use Actions: CL 06-09 Stormwater & Erosion Control Fees: _____
CU 30-92

CU 24-96
CU 2-97
DR 3-97 CU 08-06
MP 07-20

Proposal for Modification of Prior Approval (MP 07-20)
Board Final Order 119-2007
February 24, 2008

We, the Woodward, Hemeon and Weller families would like to propose an alternative option to the road development requirements as stated in the Boards final order 119-2007.

We propose a turn around near the end of the extension of Wallace road along with a turn out at the midpoint between the end of Wallace road and the end of the extension of Wallace road, said distance being approx. 600 feet.

Modification of Prior approval MP 07-20
Board Final order 119-2007 Section 2Bii

- on the new extension of Wallace Rd (approx. 600 ft) we would like to put a turnout @ midpoint & at end of extension a turnaround

Reasoning:

- ① Existing road is 14ft wide then there will be a short section that is 20 ft wide, this seems unnecessary.
- ② The existing Wallace Rd and new extension ~~have~~ allow for great visability.
- ③ Only one new dwelling is being built.
- ④ all parcels of a 50 ft county Rd access
- ⑤ Parcels were developed to give to family members and not for commercial ~~dev~~ development, therefore the modifications we are suggesting

are more than adequate for those using
the road.

attached hereto as Attachment 1, and is incorporated herein by this reference.

2. The Application for Preliminary Plat Approval MP 07-20, is APPROVED subject to the following conditions of approval:

A. This Preliminary Land Partition shall remain valid for one (1) year from the date of the final decision. The approved preliminary plat shall become void unless a surveyed final plat is prepared and submitted to Land Development Services within the one-year validity period. This Final Plat shall conform to 1) the approved preliminary plat (as submitted on February 12, 2007) in accordance with the conditions described herein, and 2) the form and content requirements of the Columbia County Subdivision and Partitioning Ordinance and Oregon Revised Statutes. One extension of time of up to six months may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date.

B. The following shall be required before the County accepts a final plat for review:

i. A Septic System Lot Evaluation shall be conducted and approved on the proposed undeveloped parcel.

ii. The following required road improvements shall be completed and approved by the County Road Department and the Mist Birkenfield Fire Department: The Applicant shall dedicate the Wallace Road extension to the public as a public road, and shall construct the Wallace Road extension to private road standards. Turn outs shall be constructed at approximate 600 foot intervals from the bridge to the Wallace Road extension. A turn-around shall be constructed near the end of the Wallace Road extension.

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

i. All existing and proposed easements. This includes any access easements. In addition, unless each developed parcel will have its own well, an easement to access an existing well shall be included for the developed parcel(s) lacking a water supply.

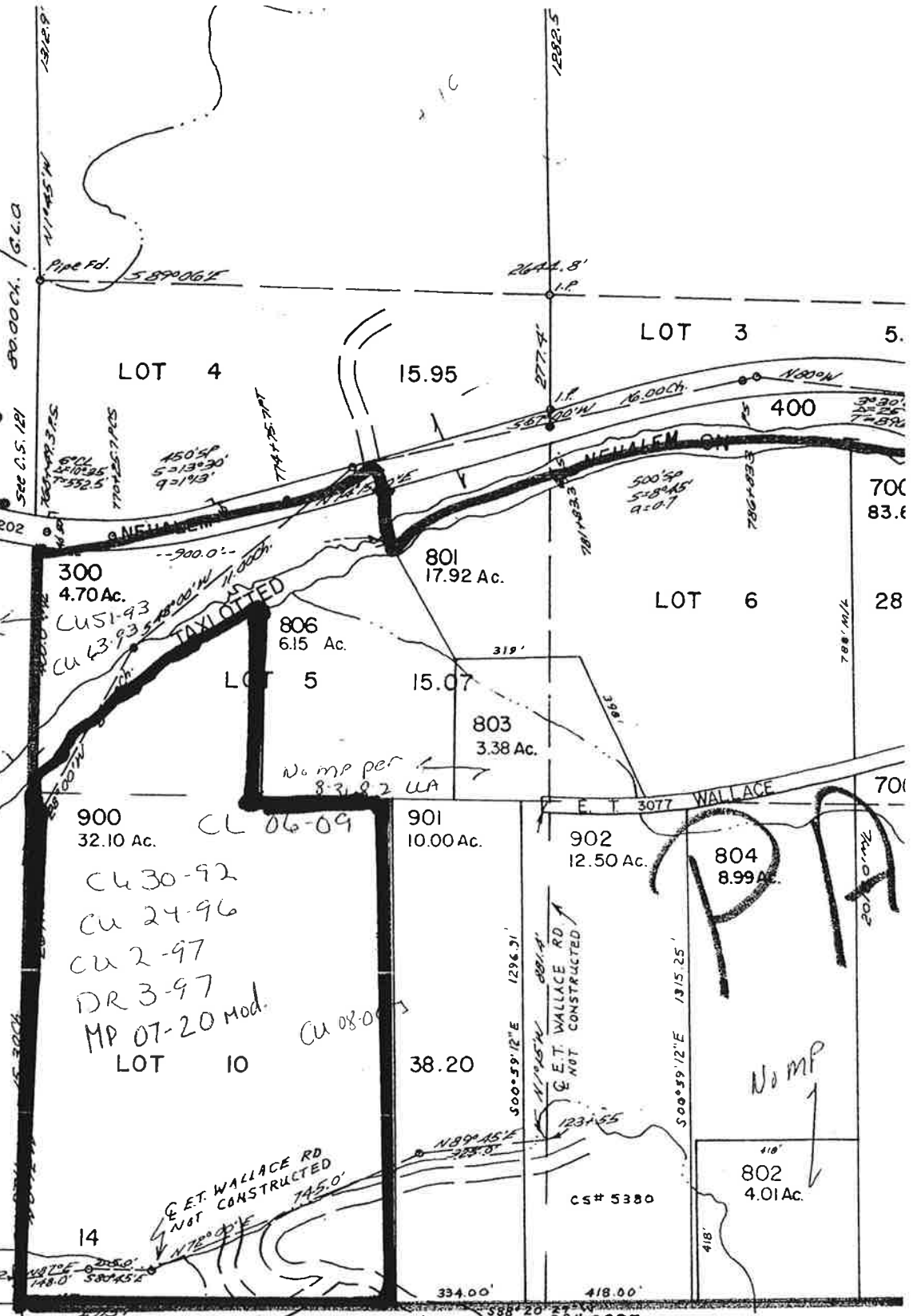
ii. All existing and proposed rights-of-way.

iii. An indication of which parcels are not approved for sewage disposal and which parcels do not have a proven adequate potable water supply.

iv. Incorporation of Property Line Adjustment PLA 07-16.

SEE MAP 6 5 15
PF 76

TP 596
TR 32-97
789-59
TR 0061
01-45
02-56
03-58
04-60
06-55
07-47

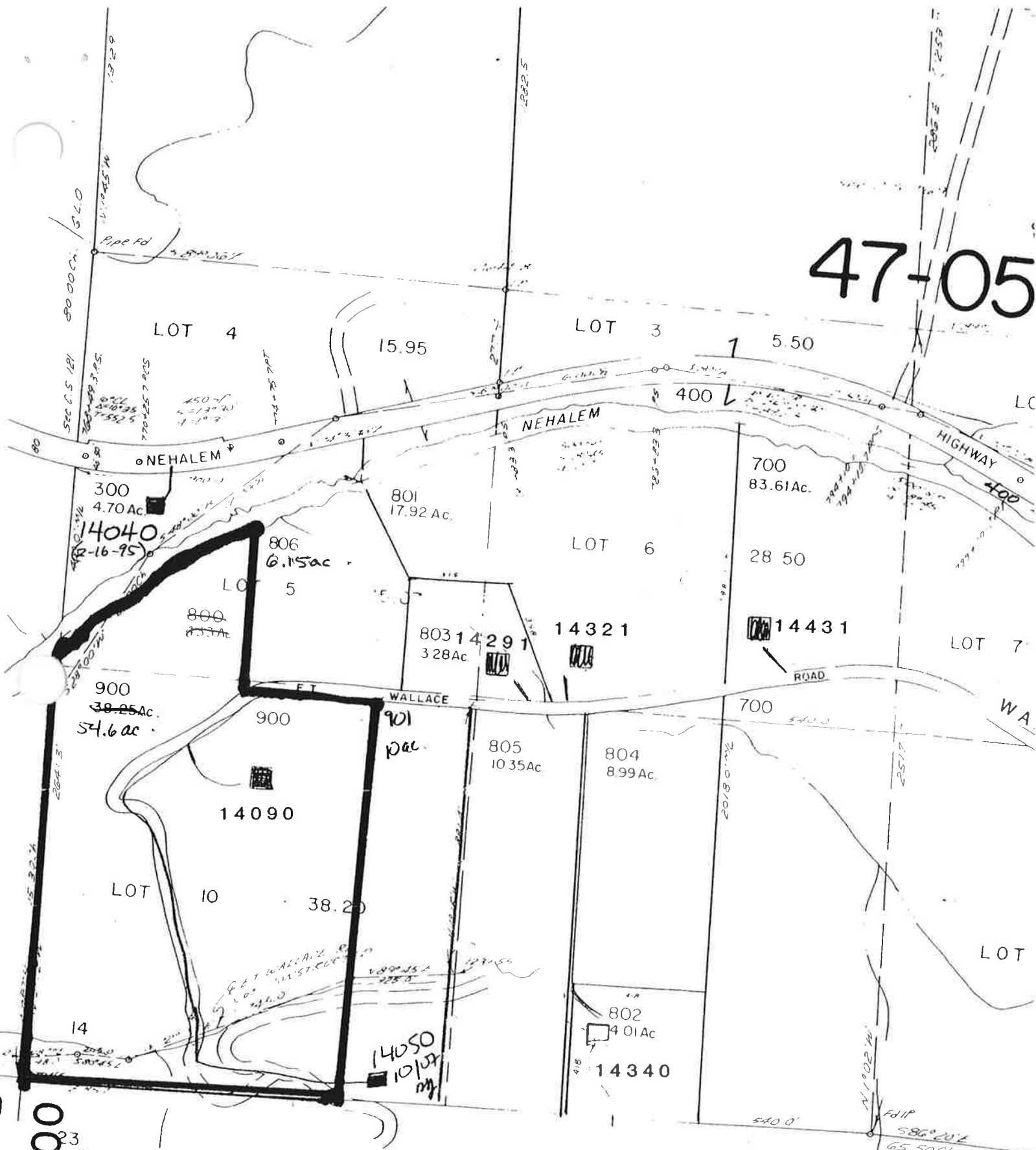


Modification of Prior Approval
MP 07-20

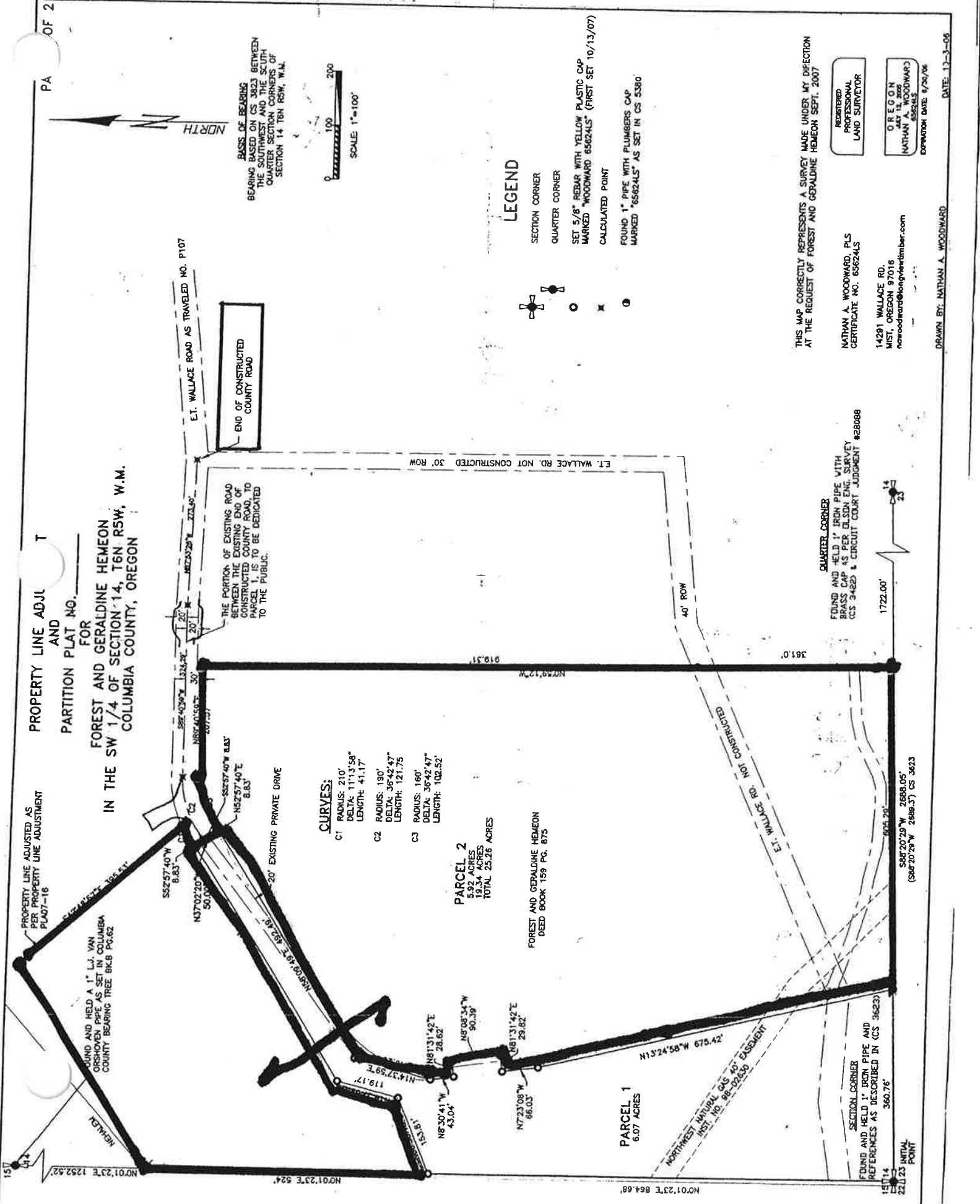
PF. 76

SE

47-05



Modification of Prior Approval
MP 07-20



PROPERTY LINE ADJUSTMENT AND PARTITION PLAT FOR FOREST AND GERALDINE HEMEMON IN THE SW 1/4 OF SECTION 14, T6N R5W, W.M. COLUMBIA COUNTY, OREGON

- CURVES:**
- C1 RADIUS: 210' DELTA: 111°13'58" LENGTH: 41.17'
 - C2 RADIUS: 190' DELTA: 36°42'47" LENGTH: 121.75'
 - C3 RADIUS: 160' DELTA: 36°42'47" LENGTH: 102.52'

PARCEL 2
5.93 ACRES
TOTAL 25.26 ACRES

PARCEL 1
6.07 ACRES

- LEGEND**
- SECTION CORNER
 - QUARTER CORNER
 - SET 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "WOODWARD 65624LS" (FIRST SET 10/13/07)
 - CALCULATED POINT
 - FOUND 1" PIPE WITH PLUMBERS CAP MARKED "65624LS" AS SET IN CS 5380

PROPERTY LINE ADJUSTED AS PER PROPERTY LINE ADJUSTMENT PUA07-16
 FOUND AND HELD A 1" I.D. VAN ORSHOVEN PIPE AS SET IN COLUMBIA COUNTY BEARING TREE BK.B PG.62
 FOUND AND HELD 1" IRON PIPE WITH BRASS CAP AS PER ELSON ENG. SURVEY (CS 3422) & CIRCUIT COURT JUDGMENT #28088
 FOUND AND HELD 1" IRON PIPE AND REFERENCES AS DESCRIBED IN (CS 3623)
 FOUND AND HELD 1" IRON PIPE WITH BRASS CAP AS SET IN CS 5380
 FOUND 1" PIPE WITH PLUMBERS CAP MARKED "65624LS" AS SET IN CS 5380

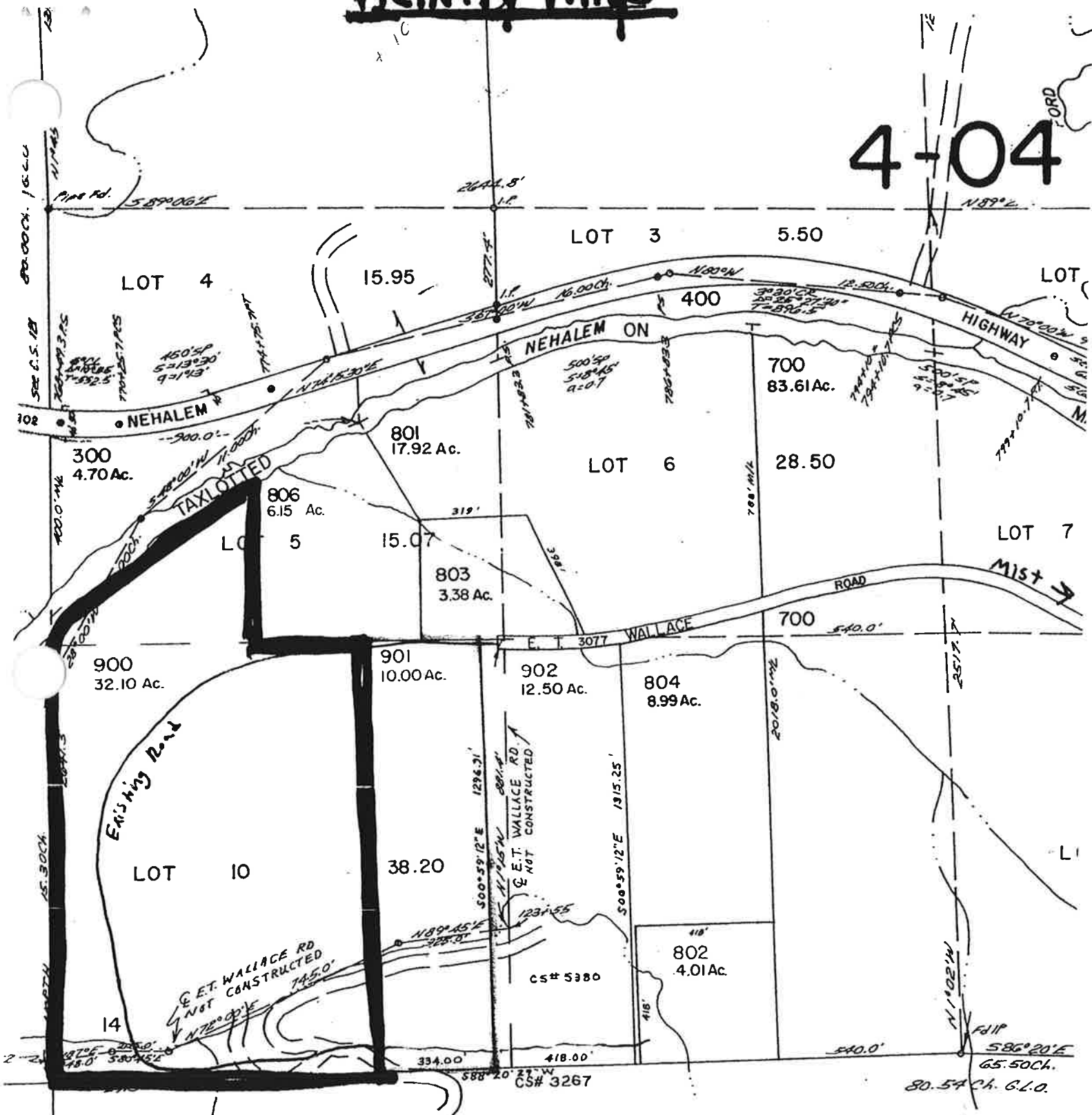
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE UNDER MY DEFECTION AT THE REQUEST OF FOREST AND GERALDINE HEMEMON SEPT. 2007

REGISTERED PROFESSIONAL LAND SURVEYOR
 NATHAN A. WOODWARD, PLS
 CERTIFICATE NO. 65624LS
 14281 WALLACE RD.
 MIST, OREGON 97016
 nwoodward@longviewtimber.com
 EXPIRATION DATE: 6/30/16

DRAWN BY: NATHAN A. WOODWARD
 DATE: 12-3-06

Vicinity Map

4-04



SEE MAP 6 5 23

Jodd D

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

RECEIVED
JUN 28 2007

In the Matter of the Application of) FINAL ORDER NO. 119-2007 DEVELOPMENT SERVICES
Forest and Geraldine Hemeon for a)
Land Partition in the Primary Agriculture) FINDINGS AND CONCLUSIONS
(PA-38) Zone)

WHEREAS, on December 29, 2006, Geraldine and Forest Hemeon applied for a Major Land Partition to create three lots ranging from six acres to 16 acres, from a 32.1 acre parcel off Wallace Road in Mist, Oregon, having tax account number 6514-000-00900; and

WHEREAS, the Application was deemed complete on February 12, 2007; and

WHEREAS, on March 22, 2007, the Hemeons received preliminary plat approval to partition the 32.1 acre parcel into three parcels of 7, 10, and 15.1 acres; and

WHEREAS, Condition No. 2(b) of the approval (MP 07-20) required "All required road improvements shall be completed and approved by the County Road Department. This includes construction of the newly dedicated Wallace Road extension which shall be constructed to Public Road Standards, 26-foot wide graveled. This also includes off-site improvements to Wallace Road (see letter from the County Road Department dated April 10, 2007). In addition, turnouts and a turn-around at the end for emergency vehicles as required by the Mist-Birkenfield RFPD shall be completed and approved"; and

WHEREAS, the Hemeons appeal Final Order MP 07-20 to the Columbia County Planning Commission; and

WHEREAS, the Board of County Commissioners asserted original jurisdiction over the Major Partition and scheduled a hearing on the matter before the Board of County Commissioners during a Special Hearing on June 13, 2007; and

WHEREAS, on June 13, 2007, the Board of County Commissioners held a Special Public Hearing on the application; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing, deliberated on the matter and voted to tentatively approve the application 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 May 30, 2007, which is

attached hereto as Attachment 1, and is incorporated herein by this reference.

2. The Application for Preliminary Plat Approval MP 07-20, is APPROVED subject to the following conditions of approval:
 - A. This Preliminary Land Partition shall remain valid for one (1) year from the date of the final decision. The approved preliminary plat shall become void unless a surveyed final plat is prepared and submitted to Land Development Services within the one-year validity period. This Final Plat shall conform to 1) the approved preliminary plat (as submitted on February 12, 2007) in accordance with the conditions described herein, and 2) the form and content requirements of the Columbia County Subdivision and Partitioning Ordinance and Oregon Revised Statutes. One extension of time of up to six months may be granted by the Planning Director if requested in writing with the appropriate fee before the expiration date.
 - B. The following shall be required before the County accepts a final plat for review:
 - i. A Septic System Lot Evaluation shall be conducted and approved on the proposed undeveloped parcel.
 - ii. The following required road improvements shall be completed and approved by the County Road Department and the Mist Birkenfield Fire Department: The Applicant shall dedicate the Wallace Road extension to the public as a public road, and shall construct the Wallace Road extension to private road standards. Turn outs shall be constructed at approximate 600 foot intervals from the bridge to the Wallace Road extension. A turn-around shall be constructed near the end of the Wallace Road extension.
 - C. In addition to all County and State requirements, the following shall be included on the Final Plat:
 - i. All existing and proposed easements. This includes any access easements. In addition, unless each developed parcel will have its own well, an easement to access an existing well shall be included for the developed parcel(s) lacking a water supply.
 - ii. All existing and proposed rights-of-way.
 - iii. An indication of which parcels are not approved for sewage disposal and which parcels do not have a proven adequate potable water supply.
 - iv. Incorporation of Property Line Adjustment PLA 07-16.

- v. Parcel 3 shall maintain 50 feet of frontage on the north and south sides of Wallace Road right-of-way extension.
- vi. No property line shall be closer than 30 feet to an existing structure.
- vii. Base Flood Elevation (BFE) data shall be determined by a licensed professional engineer or surveyor. BFE data and the 100 year flood hazard area as dictated by the BFE data shall be included on the final plat.
- viii. An area 50 feet from the top of the bank of the Nehalem River shall be delineated on the final plat as a "Riparian Corridor Boundary," subject to the development restrictions of the Columbia County Zoning Ordinance.
- ix. The following statement shall be in bold caps and shall be clearly visible, **"THIS PARTITION IS SUBJECT TO THE TERMS AND CONDITIONS OF A MEASURE 37 WAIVER, ORDER NO. 40-2006, AS AMENDED. THE WAIVER IS PERSONAL TO FOREST AND GERALDINE HEMEON, DOES NOT RUN WITH THE LAND, AND IS NOT TRANSFERABLE EXCEPT AS REQUIRED BY LAW. THE COUNTY MAKES NO REPRESENTATIONS ABOUT THE LEGAL EFFECT OF THE WAIVER ON THE SALE OF LOTS RESULTING FROM THIS LAND DIVISION, ON THE RIGHTS OF FUTURE LAND OWNERS TO BUILD OR OTHERWISE, OR ON ANY OTHER PERSON OR PROPERTY OF ANY SORT."**

D. The following shall be required prior to Building Permit issuance to develop any of the parcels created by this Land Partition:

- i. The subject property and all new and/or altered property lines shall be surveyed and filed with the Columbia County Surveyor and the Final Plat shall be recorded with the County Clerk.
- ii. A Septic System Construction Permit shall be applied for the individual property, if applicable.
- iii. Proof shall be provided demonstrating adequate potable water is available.
- iv. A Road Access Permit shall be obtained from the Road Department.
- v. In addition to any County permits, permits/requirements of other applicable agencies (e.g. ODFW & DSL) shall be obtained/met should access be proposed across the intermittent stream in the southern half of the site.

vi. Any proposed dwelling on the vacant proposed parcel shall be located on the southern portion of the parcel in the foothills and not within the Eilertson prime farmland soils.

vii. Conditional Use Permits shall be obtained, when required by the Columbia County Zoning Ordinance.

E. The responsibility for protection from wildlife damage on the property shall be assumed by the respective parcel's owner and/or occupant.

Dated this 27th day of June, 2007.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Rita M. Bernhard
Rita Bernhard, Chair

By: Anthony Hyde
Anthony Hyde, Commissioner

Approved as to form

By: Sarah Houston
Office of the County Counsel

By: Joe Corsiglia
Joe Corsiglia, Commissioner