

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

November 2, 2023

Measure 49 Subdivision

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

FILE NUMBER: S 23-01

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

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

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

ZONING: Forestry Agriculture (FA-80)

SIZE: ~ 44.96 acres

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

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APPLICATION COMPLETE: 6/29/2023

150 DAY DEADLINE: 11/26/2023

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

SUMMARY:

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

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

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

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

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

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

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

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

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

Section 1450 TRANSPORTATION IMPACT ANALYSIS

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

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

C. Potential impacts to intersection operations

[...]

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

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

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

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

D. Proposed public improvements are designed and will be constructed

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

.4 Conditions of Approval.

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

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

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

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

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

Natural Features

Landslide Susceptibility

- Low
- Medium
- High
- Very High



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

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

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

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

“4. The trip generation calculations show that the proposed project is projected to generate 6 morning peak hour trips, 8 evening peak hour trips, and 76 average weekday trips.

5. No significant trends or crash patterns were identified at any of the study intersections. Accordingly, no specific safety mitigation is recommended.

6. Sight distance requirements per Columbia County standards can be met at all of the site accesses.

7. The projected traffic demand at the shared site access does not meet the left-turn lane warrant thresholds under buildout conditions.

8. Traffic signal warrants are not met at the intersection of Tide Creek Road and US 30.

9. The new accesses and added traffic from the proposed development will not create significant conflicts with existing driveways.

10. All study intersections are projected to meet ODOT and the Columbia County standards under all analysis scenarios.

11. With a peak hour increase of only 1 vehicle every 7 to 10 minutes, residents along Tide Creek Road will perceive no change in average delay; driveways will continue to operate at LOS A”.

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

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

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

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

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

Tide Creek Road Safety

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

Tide Creek Road @ Highway 30

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

result of the proposal.

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

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

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

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

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

ARTICLE IV - PRELIMINARY PLAT FOR SUBDIVISION

[...]

SECTION 404. STATEMENT TO ACCOMPANY PRELIMINARY PLAT.

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

[...]

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

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

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

ARTICLE V – FINAL SUBDIVISION PLAT PROCEDURE

[...]

SECTION 511. EVIDENCE OF WATER SUPPLY.

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

[...]

ARTICLE X – SUBDIVISION AND PARTITION REQUIREMENTS

[...]

SECTION 1013. UTILITIES.

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

[...]

SECTION 1015. OTHER REQUIREMENTS.

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

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

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

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

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

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

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

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

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

ARTICLE X – SUBDIVISION AND PARTITION REQUIREMENTS

SECTION 1005. STREETS.

- A. General Requirements. Except for private streets within Planned Unit Developments approved pursuant to Section 1200 of the Columbia County Zoning Ordinance, no subdivision or partition shall be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of development or with a more restrictive provision of an applicable Urban Growth Area Management Agreement.
- B. Existing Streets. Additional street right-of-way shall be dedicated as per the County Road Standards at the time of subdivision or partition when the following conditions exist:
- (1) The subject property is located within an urban growth boundary and fronts on a County road; or
 - (2) The subject property is subdivided or partitioned to lots or parcels containing 2 acres or less.
- C. Street Widths and Roadways. Unless otherwise indicated on the official map, or the roadway meets the criteria in 1005.C(5), the width of rights-of-way and roadway improvements shall be in compliance with the following:
- (1) Minor Arterial. Right-of-way width 80 feet.
 - (2) Collector. Right-of-way width 60 feet.
 - (3) Local. Right-of-way width 50 feet.
 - (4) The Board may, upon a recommendation by the County Roadmaster, require additional right-of-way width to protect the public health, safety, and welfare.
 - (5) For roadways within a UGB but outside city limits, the County will apply the adopted roadway and access spacing standards of the applicable jurisdiction, where these standards are equal to, or more restrictive than, adopted County standards.

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

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

subsection 1005(A) which states "...no subdivision or partition shall be approved unless the development has at least 50 feet of frontage on an existing public street and otherwise complies with County Road Standards and Specifications in effect at the time of development..." Staff recommends the dedication of 10' should be included as a condition of approval.

CONCLUSION, RECOMMENDATION & CONDITIONS

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

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

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

Attachments:

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

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