**Findings & Decision – Proposed Subdivision**

***File No.:*** *P45-2016*

***Legal Description:*** *Township 5 South, Range 2 East, Section 09 DA, Tax Lot 0200*

***Address:*** *14999 S Highway 211*

***Applicant:*** *STAFFORD DEVELOPMENT COMPANY LLC*

***Owner:*** *STAFFORD DEVELOPMENT COMPANY LLC*

***Proposal:*** *7-lot Subdivision*

***Current Use:*** *One single-family structure, accessory structures*

**1. Overview, Background & Procedures**

This Findings of Fact and Decision Document is in response to an application for a 7-lot subdivision located in the very northeastern corner of the City. Planning & Land Use Application P45-2016 proposes to construct 7 residential lots on a parcel lying between State Highway 211 and Coho St. in Northeast Molalla. The subject parcel is 1.52 acres in size, and adequate infrastructure exists nearby to facilitate the expansion of the existing subdivision to the west, Molalla River Estates.

This application was reviewed by the Molalla Planning Commission using a type III (quasi-judicial) review process as directed by the Molalla Municipal Code (MMC). The applicant (Stafford Development Company LLC) has proposed a 7-lot Subdivision which requires Planning Commission review in conjunction with a Public Hearing. The Planning Commission held a public hearing for this matter on October 5, 2016.

After reviewing items submitted by the applicant, testimony provided by the applicant as well as testimony from interested individuals, the Planning Commission voted to approve application P45-2016 pursuant to conditions as identified in the decision section of this document. The Planning Commission found that each criterion for approval was or could be met through certain conditions.

**2. Public Notice**

Notice was sent August 4th, 2016 all landowners within 500 feet of the parcel. Notice was placed in the Molalla Pioneer under general public notices as well as the City of Molalla Website. The first evidentiary hearing was scheduled for September 7, 2016 and was postponed to October 5, 2016 for the evidentiary hearing where a decision was rendered.

Planning Commission finds that the notification throughout has been adequate.

**3. Attachments & Exhibits**

The applicant submission in its entirety is inherently referenced throughout this report. This includes all documents, maps, figures, narratives and reports.

**Exhibit 1.** Copy of Notice sent to local landowners, interested parties and posted on the City website.

**Exhibit 2.** Molalla Comprehensive Plan, Volume I; Amended 2014

**Exhibit 3.** Application and Exhibit submittals

**Exhibit 4.** Public Works Conditions of Approval

**Exhibit 5.** Comments from Oregon Department of Transportation (ODOT)

**Exhibit 6**. Public Comments

**4. Party Status & Public Comments:**

The following individuals were granted party status at the first evidentiary hearing:

* Tim and Jody Newland 321 Chinook Street
* Heather and Chris Phillips 1021 Coho Street
* Pam Ward/Mario McCray 311 Chinook Street
* Robin Eastlick 1011 Coho Street
* Patricia Torsen 104 S. Hezzie Lane
* Susan Hansen 33381 S. Sawtell Road
* Joan Zuber 44731 S. Elk Prairie Road
* Marylyn Bloch 206 Berkley Avenue
* Shirley Inman 32745 S. Mathias Road

Media Molalla Pioneer Conner Williams

**5. Procedural Findings:**

This application is reviewed using a type III procedure pursuant to section *19.04.040* of the Molalla Municipal Code. Approval criteria for Preliminary Plat approval (in italics), and Commission findings, are as follows:

***19.12.080 Approval criteria.***

1. ***General Approval Criteria****. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:*
	1. *The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this title, and the applicable chapters of Title 17 (Land Use Districts) and Title 18 (Design Standards) apply. Where a variance, annexation, or zone change is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Title 20;*

**Planning Commission Findings:** Title 17 - The proposal includes 7 lots which all exceed the 7,000 ft2 minimum size (and after excluding the area reserved for flag poles of flag lots), and meet the dimensional requirements for depth and width (80 and 60 ft respectively). Density standards in the R1 zone are between 4 and 8 units per net buildable acre. Net buildable acres were found to be at 1.23 acres (1.52 – gross area for flag poles, public right of ways = 1.23 acres), requiring between 5 and 10 dwellings to be developed on this parcel. Setback standards are not reviewed at this time as only the lots are being created, and do not include on-site development. The remaining standards provided by Title 17 are only enforced at the time these lots are developed.

Title 18 – Chapter 18.04 ACCESS AND CIRCULATION. Each lot has been provided legal access to a public right of way, either thru an adjacent extended right of way or a flag lot driveway extension. These two lots (lots 2 and 3 on the preliminary plat) have a designated shared access way at a width of 20’ (10’ on each side of the access way). A joint maintenance agreement will need to be created for shared ownership of the flag pole access.

At the time of development, the applicant will be required to obtain access permits for each lot development, and construct a driveway apron to City standards. As a result of this development, the existing access point for the subject parcel shall be discontinued (the access off of 211).

Comments from the local Fire authority are forthcoming, however, based on staff’s understanding of Oregon Fire Code standards the proposal meets the minimum requirements. Lots 2 and 3 are the only lots of concern for fire code compliance as they are recessed from the ROW on a flag pole, yet the length of the access way is under the 150’ standard, and provides a hammerhead turnaround easement for firetruck access. Parking will be prohibited along this access way in perpetuity.

Chapter 18.08 LANDSCAPING, STREET TREES, FENCES AND WALLS. A site survey revealed no significant protected water features, such as wetlands or drainage areas. Vegetation removal on-site is mostly non-native blackberry, with several significant trees (as defined by our code) that shall be replaced when development occurs. Street trees, although required by our street section for local streets, were discussed at the pre-application meeting held on March 2, 2016. At the meeting, staff and the applicant discussed the merits of adding street trees, or planter strips, to the extension of Coho. It was decided, however, that it was best to simply match the existing street section from the original Molalla River Estates subdivision which does not have any street trees. However, trees shall be incorporated into the development after the lots are created. City staff shall work with the developer at the time to determine the best position to place the trees, which will be difficult due to the 10’ PUE, but a solution will be found.

Chapter 18.12 PARKING AND LOADING. Adequate access has been provided by the preliminary plat proposal to facilitate parking and loading standards to be met when development occurs on the property.

Chapter 18.16 PUBLIC FACILITIES. All lots have been provided adequate access to a public right of way, either through extension of right of way or through easements that meet dimensional requirements. The indicated extension of Coho street meets dimensional standards for a local street per the Molalla Transportation System Plan (50’ width). The applicant also indicates the dedication of adequate right of way to the Oregon Department of Transportation to meet arterial street section standards along the frontage of Highway 211. No intersection has been proposed with Highway 211 due to intersection spacing standards. No traffic study was required of the proposal as the anticipated low traffic volume doesn’t warrant additional research into potential public improvements. All engineered specifications shall be required to meet the City of Molalla Public Works Design Standards. When development occurs, there is adequate width of parcels 1, 2 and 7 to allow 15’ setbacks (either interior/side or rear depending on home orientation on lot 2) to create a buffer between the residences and Highway 211. A vegetative buffer of some kind will likely be required, along with the standard 15’ setback, at the time of development. An access way for pedestrians and bicycles is proposed to provide and multi-modal connection to 211 that doesn’t violate any intersection spacing standards. This connection includes a 5’ sidewalk that shall be lit and landscaped pursuant to City standards.

The applicant is proposing a fee-in-lieu for improvements to the State Highway 211. This is due to safety concerns of a partially-improved right of way encouraging use of substandard facilities. Planning staff understands this and shall defer authority for determining fee-in-lieu procedures to Public Works staff and ODOT staff.

Parks requirements set the need for 1.25 acres of park land for every 100 estimated residents. It is assumed that each residence contains 2.84 individuals.
(7 dwellings x 2.84) = 19.88 estimated residents

(19.88/100) x 1.25 = .25 acres

Staff recognizes that dedicating park land at this rate with the subject parcel isn’t feasible, and purchasing a small portion of a property elsewhere doesn’t align with our goals for parks development. As such, Parks SDC’s shall be paid at the time of development that will recoup the cost of the City to mitigate impacts of additional residents.

Adequate assurances shall be required for all public improvements.

All other standards in this section are met, or do not apply.

Chapter 18.20 SURFACE WATER MANAGEMENT. Future homeowners within the subdivision will be required to maintain all non-public storm drainage facilities in accordance with this section. Lots 4 and 5 contain detention pipes that shall connect to the existing storm system in Coho St.

Chapter 18.28 SENSITIVE LANDS. No water resources overlay zone has been impacted by this proposal, and no historic sites are within or adjacent to the site.

\* Stormwater and sewer infrastructure improvements shall be reviewed by Public Works and Engineering Staff. Please see *Exhibit A* for a detailed review.

* 1. *The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;*

**Planning Commission Finding:** The name is unique, however, this criterion will be reviewed by the recording body at Clackamas County.

* 1. *The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;*

**Planning Commission Finding:** The proposal meets this criterion. See above, and reference *Exhibit A*, for a more detailed review.

* 1. *All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat;*

**Planning Commission Finding:** There are no proposed private common areas.

* 1. *Evidence that any required state and federal permits have been obtained, or shall be obtained before approval of the final plat;*

**Planning Commission Finding:** This shall be a criterion for approval.

* 1. *Meet the requirements of Section*[*19.04.260*](http://www.qcode.us/codes/molalla/view.php?cite=section_19.04.260&confidence=6)*, Traffic Studies;*

**Planning Commission Finding:** No traffic study was required as a result of this proposal.

* 1. *Evidence that improvements or conditions required by the City, road authority, Clackamas County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and*

**Planning Commission Finding:** It is anticipated that all conditions of approval can be met by the applicant within reason.

* 1. *If any part of the site is located within a Specific Area Plan District, Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.*

**Planning Commission Finding:** No overlay zones exist within or adjacent to the subject site.

1. ***Layout and Design of Streets, Blocks and Lots****. All proposed blocks (i.e., 1 or more lots bound by public streets), lots and parcels conform to the specific requirements below:*
	1. *All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Title 17), and the standards of Section*[*18.04.020*](http://www.qcode.us/codes/molalla/view.php?cite=section_18.04.020&confidence=6)*, Street Connectivity and Formation of Blocks.*

**Planning Commission Finding:** All proposed lots meet City standards as illustrated above.

* 1. *Setbacks shall be as required by the applicable land use district (Title 17).*

**Planning Commission Finding:** Setbacks pursuant to section 17.08.020 shall be administered at the time of development.

* 1. *Each lot shall conform to the standards of Chapter*[*18.04*](http://www.qcode.us/codes/molalla/view.php?cite=chapter_18.04&confidence=6)*, Access and Circulation.*

**Planning Commission Finding:** All lots meet City standards. Please see above for a more detailed review.

* 1. *Landscape or other screening may be required to maintain privacy for abutting uses. See Title 17, Land Use Districts, and Chapter*[*18.08*](http://www.qcode.us/codes/molalla/view.php?cite=chapter_18.08&confidence=6)*, Landscaping.*

**Planning Commission Finding:** At the time of development, houses shall be screened properly in accordance with the code.

* 1. *In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See Chapter*[*18.04*](http://www.qcode.us/codes/molalla/view.php?cite=chapter_18.04&confidence=6)*, Access and Circulation.*

**Planning Commission Finding:** Comments from the local fire authority are forthcoming, however, the proposal includes a 20’ access for the two flag lots that lie recessed from the public right of way. It is anticipated that the proposal will meet uniform fire code standards.

* 1. *Where a common drive is to be provided to serve more than 1 lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.*

**Planning Commission Finding:** This shall be included as a condition of approval.

* 1. *All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.*

**Planning Commission Finding:** Prior to Final Plat approval, all public infrastructure shall be implemented in accordance with City standards and approved by the City.

1. An administrative, quasi-judicial and legislative (Types II-IV) review application was received by the City of Molalla, and a review process pursuant to the following sections were followed:
	1. 19.04.030 Type II procedure (administrative)
		1. 19.12.190 Property line adjustments
	2. 19.04.040 Type III procedure (quasi-judicial); 19.04.050 Type IV procedure (legislative)
		1. 19.20.030 Review and approvals process (MASTER PLANNED DEVELOPMENTS AND PLANNED UNIT DEVELOPMENTS)
2. The Planning Commission found that notice was mailed to all local land owners within 500 feet of the subject parcel on October 26th, 2015. Subsequently, notice was placed on the City website as well as in the local newspaper with multiple run dates (weekly newspaper).
3. The City of Molalla received 2 letters of written testimony or correspondence from local landowners regarding the proposed expansion.
4. This matter came before the Planning Commission for consideration on two occasions:
	1. November 18th, 2015 (Re-zone)
	2. January 20th, 2016 (P.U.D)

**Conclusion:** The procedural findings noted above are adequate to support the Planning Commission’s decision on the proposed development.

**6. Decision**

Based upon the submitted materials and the findings of this report, the City of Molalla Planning Commission **APPROVES** application P45-2016 pursuant to the following conditions:

1. The applicant acquire any necessary permits from Clackamas County. These are including, but not limited to: building, electrical, structural and plumbing permits.
2. The applicant pay the current rate of all applicable system development charges to the City of Molalla prior to the issuance of building permits.
3. The applicant acquire a grading permit from the City of Molalla prior to building permit issuance, and abide by the conditions of the permit.
4. Lots 2 and 3 as shown on the preliminary plat shall be required to record a joint maintenance agreement for the shared ownership of the driveway (flag pole) access. (area of access = 101.82’ x 20’).
5. The applicant shall acquire written approval from the local fire marshal regarding compliance with Oregon Fire Code prior to Final Plat approval.
6. The applicant shall ensure that, recorded with the deeds to all parcels created, is the requirement to match the existing number of trees on the property averaged across all 7 new lots.
7. The applicant shall not connect to Highway 211 from Coho Street with a bicycle or pedestrian walkway.
8. The developer shall pay current-rate SDC’s for parks at the time of development on each individual lot.
9. The applicant shall provide adequate performance guarantees pursuant to *18.16.140 Construction plan approval and assurances.*
10. The applicant shall be required to acquire any State or Federal permits prior to the approval of the Final Plat.
11. A perimeter wall matching the existing perimeter wall for Molalla River Estates shall be provided.
12. The applicant shall install stop signs at the corner of Coho and Chinook if a warrant exists for placement of said sign. Applicant shall provide a warrant analysis from a professional traffic operation engineer licensed in the State of Oregon.
13. Specific Requirements To This Site:
14. Street:
15. The 7 lot subdivision proposal will not require a traffic impact analysis update. The proposed development will add a total of 67 trips and the threshold for a traffic impact analysis is 300 trips.
16. State Hwy 211: State Hwy 211 Street is an arterial street under Oregon Department of Transportation (ODOT) jurisdiction. Current right-of-way width is 60 feet and approximate pavement width is 30 feet. Arterial streets (w/travel lanes, w/median, w/bike lanes, w/sidewalks, w/o parking) require 64 feet of right-of-way and 50 feet of pavement for areas with 6’ wide curb tight sidewalk. Applicant will be required to dedicate 2.5 feet of right-of-way and at a minimum sign a consent and waiver of remonstrance to form a Local Improvement District to construct road improvements to State standards for 25 feet of pavement (CL to face of curb), curb and gutter, and 6 foot curb tight sidewalk. If required during design review by ODOT, additional striping and pavement tapers may be necessary to allow for pavement transitions and striping.
17. Proposed Extension of Coho Street: Applicant proposes to dedicate 50 feet of right-of-way and construct a street improvements in accordance with the TSP. Improvements consist of two 12 foot travel lanes, two 8 foot parking stalls, and 5.5 feet of curb and sidewalk. Roadway ends with a fire department turn around area. Dimensions will be required to meet fire department requirements and parking will be prohibited within the areas designated for fire access and turn around. Street shall be signed no parking in these areas and applicant will be required to post a “No Outlet” sign per City standards at the southeast corner of Coho and Chinook. A landscaped treatment and wall matching the existing wall surrounding Molalla River Estates to prohibit traffic, pedestrians and bicycles from accessing the state highway will be required along Highway 211 frontage.
18. Access to public streets shall be limited to the locations shown on the proposed plan Sheet P-5. The proposed width of accesses shall meet the Public Works Standards.
19. Transportation SDC’s – In accordance with MMC 13.14 this design review does increase the impacts to the public improvement facility and is therefore not exempt from transportation SDC charges. SDC’s shall be calculated based on single family dwelling unit in accordance with the SDC methodology.
20. Storm:
21. Coho Street: A 12-inch storm main exists approximately at the end of Coho Street. The development will be required to connect into the storm system and detain on site utilizing an underground facility within the public right of way or a surface facility on one of the proposed parcels.
22. HWY 211: Storm improvements shall meet ODOT requirements.
23. Stormwater SDC’s – In accordance with MMC 13.14 this design review does increase the impacts to the public improvement facility and is therefore not exempt from stormwater SDC charges. SDC’s shall be calculated based on single family dwelling unit in accordance with the SDC methodology.
24. Sanitary:
25. Coho Street: An 8-inch sanitary main exists on Coho Street. The development will be required to connect into the sanitary sewer system.
26. Sanitary SDC’s – In accordance with MMC 13.14 this design review does increase the impacts to the public improvement facility and is therefore not exempt from sanitary SDC charges. SDC’s shall be calculated based on the water meter size in accordance with the SDC methodology.
27. Water:
28. Coho Street: An 8-inch water main exists on Coho Street. The development will be required to connect into the water system.
29. Should Fire Department regulations require additional fire flow that results in looping the water line through the site, then applicants engineer shall coordinate with Public Works for the extension of a public water line, and dedication of easements. Fire hydrant placement shall be per City Public Works Standards and Fire Department approvals.
30. Water SDC’s – In accordance with MMC 13.14 this design review does increase the impacts to the public improvement facility and is therefore not exempt from water SDC charges. SDC’s shall be calculated based on the water meter size in accordance with the SDC methodology.
31. Parks:
	1. Parks SDC’s – In accordance with SMC 13.14 this residential development is not exempt from parks SDC charges. SDC’s shall be calculated based on single family dwelling unit in accordance with the SDC methodology.
32. Franchise Utility Services:
33. All utilities to the project shall be served underground services. No overhead crossings of public right of way shall be approved by the city.
34. DESIGN REQUIREMENTS & POLICIES
35. From the materials submitted, it appears that the storm drain, domestic water and sanitary sewer facilities will be obtained from main line connections and/or extensions. Separate engineering drawings reflecting the installation of these public utilities will be required.
36. No construction of, or connection to, any existing or proposed public utility/improvements will be permitted until all plans are approved by Staff, all fees have been paid, all necessary permits, bonding, right-of-way and easements have been obtained and approved by staff, and Staff is notified a minimum of 24 hours in advance.
37. Staff reserves the right to require revisions/modifications to the public improvement construction plans and completed street improvements, if additional modifications or expansion of the sight distance onto adjacent streets is required.
38. All public utility/improvement plans submitted for review shall be based upon a 22”x 34” format and shall be prepared in accordance with the City of Molalla Public Work’s Standards.
39. All survey monuments on the subject site or that may be subject to disturbance within the construction area, or the construction of any off-site improvements shall be adequately referenced and protected prior to commencement of any construction activity. If the survey monuments are disturbed, moved, relocated or destroyed as a result of any construction, the project shall, at its cost, retain the services of a registered professional land surveyor in the State of Oregon to restore the monument to its original condition and file the necessary surveys as required by Oregon State law. A copy of any recorded survey shall be submitted to Staff.
40. Plans submitted for review shall meet the requirements described in Section 1 of the Public Works Standards.
41. The applicant shall contact the Oregon Water Resources Department and inform them of any existing wells located on the subject site. All wells shall be properly abandoned in conformance with State standards. A copy of the well abandonment form shall be provided to the City.
42. Waterline designs require review by Oregon Drinking Water Program and sanitary sewer designs require review by Oregon Department of Environmental Quality. Applicant shall be responsible for submission of plans to state agencies and all associated fees.
43. All public improvement designs shall meet the requirements of the Public Works Standards as amended by the Public Works Director.
44. General Easements – A 10-foot wide public utility easement shall be dedicated to the City adjacent to all public right-of-way and no structures are allowed to encroach into the easement. Applicant shall be required to submit subdivision plat or a legal description and exhibit map for review and sign City easements. Once completed, applicant will be required to record easements with the County Recorder’s Office and return a copy to the City of the recorded document prior to final occupancy.
45. General Erosion Control – The applicant shall install, operate and maintain adequate erosion control measures in conformance with the standards adopted by the City of Molalla and DEQ during the construction of any public/private utility and building improvements until such time as approved permanent vegetative materials have been installed.
46. The unobstructed width will still need to remain at 20 feet as per OFC 503.2.1.
47. No parking signs will be required on the flag lot access as per OFC D103.6.

15. If this is to be a private drive and not a public access, a maintenance agreement will need to be signed by the property owners of the flag lots in order to keep the access road clear at all times. When complete, please forward copies to Molalla Fire.

16. Provide documentation that the current hydrant spacing meets the requirements of table C105.1. Please make sure to read footnotes. Provide this documentation on the plans and resubmit. This measurement should be taken center line of the access roads/streets.

17. Coho will be required to meet 20 foot width and turning radius as per OFC D102.

18. Compliance with the attached ODOT conditions.

DATED this \_\_\_\_\_\_\_\_\_\_\_ Day of November, 2016.

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Tom Phay Dan Huff

Chair City Manager