

LINKING AGRICULTURE
WITH INDUSTRY



4222 N.E. OLD SALEM RD.
ALBANY, OREGON 97321

MILLERSBURG PLANNING COMMISSION
December 19, 2017
6p.m.

AGENDA

- 1 CALL MEETING TO ORDER
- 2 APPROVAL OF OCTOBER 17 2017 MINUTES
- 3 SECOND DRIVEWAY –VARAINCE REQUES (Quasi-judicial)
- 4 TENTATIVE PARTITION PLAN
- 5 DISCUSSION ON CITY OWNED PROPOERTIES
- 6 BRING YOUR LAND USE CODE BOOK
- 7 CLSOING COMMENTS AND ADJOURMENT



Millersburg Planning Commission Meeting October 17, 2017

- MEMBER PRESENT** Jimmie D. Kirkendall, Anne Peltier, Connie Lepin, Steven Vogler, Ed Perlenfein, Scott Stimpson, John Sullivan, Ryan Penning
- MEMBER ABSENT:** Dennis Gunner
- NEW MEMBER:** Mr. Jimmie D. Kirkendall was introduced to the audience as a new member of the Planning Commission. He replaces Mr. Dan Nixon.
- STAFF PRESENT:** Steven Hasson, Samuel Gollah

NOTE: President Ed Perlenfein officially tendered in his resignation as the President of the Planning Commission. The Planning Commission altered the agenda for this meeting due to the joint Planning Commission-City Council meeting. The change enabled the Council members present to partake in the joint meeting and not the Planning Commission meeting. The following represent the altered agenda.

1. Election of New President and Vice President
2. Joint Planning Commission and City Council meeting
3. Approval of July 17, 2017 minutes
4. Variance Request
5. Closing Comments and adjournment

ELECT NEW PRESIDENT AND VICE PRESIDENT

Prior to the opening of the Planning Commission meeting, Mr. Jimmie Kirkendall was introduced to the audience as the new member of the Planning Commission by Mayor Jim Lepin. Outgoing Planning Commission President Ed Prelenfein chaired the election of a new President and President to replace departed Vice President Dan Nixon and outgoing President Ed Perlenfein.

Mr. Perlenfein requested for nominees. Planning Commissioner Steve Vogler nominated Commissioner Anne Peltier and Commissioner Connie Lepin nominated Commissioner Kirkendall. There was no other nominee. The Commissioners elected Mr. Jimmie Kirkendall as the new President and Ms. Peltier as the new Vice President respectively.

Mr. Kirkendall thanked his fellow Planning Commissioners for his election and promised to work hard like his predecessor. Mayor Lepin and City Manager Steven Hasson also thanked the outgoing President and reminded the audience about the importance of Commissioners' work to the public.

JOINT PLANNING COMMISSION-CITY COUNCIL MEETING

Mayor Lepin called on the Planning Commission to be more engaged in collaborating with the City Council on matters pertinent to the City's growth. He urged the Planning Commission to start thinking about meeting on a bi-weekly basis. President Kirkendall recommended the creation of a Liaison between the City Council and the Planning Commission. Mayor Lepin then introduced the theme of the joint meeting and shared handouts with the audience. The handout contained three subtopics:

In our Future:

The mayor pointed out the rapid growth that is impacting the City. He said the City anticipates approximately 800 houses to be built in the next five years. The population increase as result of the growth will have an impact on the development of the City; Therefore, it is imperative for the City to be proactive in thinking about the City's future. The Mayor identified areas for growth strategy; 1) a need for an elementary school, 2) areas for commercial activities 3) the need for city-owned properties management plan, and 4) Areas for parks and a fire station

Areas of Opportunities:

The Mayor said the City of Millersburg Comprehensive Plan needs to be updated and that it is a high priority for the City. The Comprehensive Plan was first written in 1984 and was last updated in 2001. He expressed similar concerns about the Transportation System Plan, Street Capital Improvement Plan as well as the Land Use Code. He perceives the updating of the above mentioned codes as pertinent to the management of the City's rapid growth.

Going Forward:

The Mayor wants the Planning Commission to be more active in developing the planning and development processes for the City of Millersburg. The Mayor is considering the idea of having the Planning Commission President to participate in economic development discussion where appropriate. The City will work hard on improving the City development codes.

APPROVAL OF JULY 17, 2017 MINUTES

Planning Commission President Jimmie Kirkendall requested a motion to approve the July 17, 2017 meeting. But Ms. Lepin petitioned the Commission to hold off the vote because she does not think the minutes were accurate. Specifically, she said the Fence ordinance and the Parker Lane sections were missing stating motions voted on. Ms. Lepin felt the reason this was important was the minutes led you to believe the motion passed with the information as presented. With no further comment, President Kirkendall requested for a motion to approve the July 17, 2017 minutes with conditions; Commissioner Lepin made a motion to approve July 17, 2017 minutes without the section on the fencing code. Ms. Lepin will provide Sam Gollah with the stated motion for the fencing code and the request for the definition to be defined by the planning staff and sent back to the Planning Commission for approval. The motion was seconded by Commissioner Peltier

President Jimmie Kirkendall called for a vote of the July 17, 2017 minutes with the motion as stated. All in favor: Ayes - 8, Opposed -0; Absent – 1 (Dennis Gunner). **APPROVED.**

VARIANCE REQUEST

President Kirkendall introduced the Variance Request. Steven Hasson, the City Manager presented the report prepared by staff. The planning staff recommended a denial of the Variance Request. Mr. Hasson said Variance Requests are essentially for natural hardships. He defended the City's denial of the Variance Request by explaining the fact of findings as presented in the report.

The applicant partially met the code requirement for residential accessory structure with the exception of the size. Mr. Hasson said the City expanded the square footage from 800 square feet to 1200 square feet in order to allow more room for large structures. However, it appears the 1200 square feet is still not enough for some citizens. The City Manager indicated that the City cannot continue the expansion of accessory structures perpetually. Commissioners Peltier and Kirkendall concurred with the City Manager's assessment.

But Commissioner Steve Vogler and Commissioner Scott Stimpson thought the applicant had enough room to place his structure without substantially violating the code. Commissioner Lepin asked the question about what would happen if the building was 5 feet narrower and that would make it 1200 square feet?, The answer would be that there would be no need for a variance. Mr. Stimpson indicated that the proposal will be enclosed and not be intrusive to the neighbors. Steve Vogler agreed with both Commissioners' perspectives.

The City of Millersburg did not find the applicant's circumstantial evidence for the Variance Request convincing. The Variance Request failed to address hardships. The City Manager reminded the audience that the granting of hardships should not be based on the applicant's doings; instead, it should be based on natural causes. The applicant, Mr. Billy Barsukoff responded by citing other oversized residential accessory structures that are prevalent throughout the City. He also indicated that the property containing his proposed residential accessory structure is large enough to accommodate the structure and meet the setback requirements. But the City remained steadfast with the recommendation.

Without any further comment President Kirkendall requested for a motion to vote on the variance request. Commissioner Stimpson moved to approve the Variance Request. Commissioner Sullivan seconded. All in favor; Ayes – 4, Opposed – 4, Absent – 1 (Dennis Gunner). **Disapproved.**

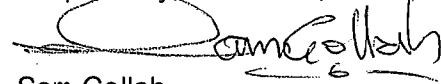
Note: Steven Hasson explained that a deadlock means the planning staff's recommendation of denial will stand fast. Hence, the denial of the Variance Request.

CLOSING COMMENTS AND ADJOURNEMENT

Commissioner Connie Lepin announced the need to fill one vacancy on the Park Committee.

With no further comments, the meeting adjourned at 7.45 pm

Respectfully Submitted,



Sam Gollah
Development Coordinator

CITY OF MILLERSBURG, OREGON

PLANNING’S FINDINGS AND DECISIONS

VARIANCE REQUEST –SECOND DRIVE-WAY

Date: 11/22/17

Applicant: Steven and Shelley Wright
3832 Altamont NE Avenue
Albany, Oregon 97321

Property Owner: Steven and Shelley Wright
3832 Altamont Avenue NE
Albany, Oregon 97321

Subject Property: 4975 Woods Road, NE
Millersburg, Oregon 97321

Staff Contact: Sam Gollah, Development Coordinator
City of Millersburg, Oregon

Nature of the Application: The applicants are requesting for a Variance to construct a second drive way unto their property. The proposed drive way and approach will be situated on 0.67 acre lot located at 4975 Woods Road NE, Millersburg, Oregon 97321. There are existing structures on the proposed site. The proposed drive way and approach when approved, and built, will serve as a second drive way and a direct access to their proposed shop. Please refer to **Exhibit 1** located on page 7 for a Site Plan that shows the location of the proposed driveway.

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PROCEDURE

Application Submitted; November 22, 2017

Application Deemed Complete: November 24, 2017

3200(3); Types of Decisions: Quasi-judicial Decision: A Quasi-judicial Decision involves a discretionary judgement applying the adopted rules, laws or policies to a specific individual land use situation like determining the permissible use of specific piece of property. The action is judicial in nature and the hearing body must conduct a fair and impartial hearing. The decision must be based on demonstrated compliance with the applicable criteria or standards contained in the Comprehensive Plan, Code ordinances or policies, as determined by the factual evidence presented in the public hearing. The application for a change in the use of land specified in the Comprehensive Plan and implementing ordinances bears the burden of proof for the requested change. The Planning Commission or City Council may have decision authority for specified Quasi-judicial Decision. Examples of Quasi-judicial decisions provided for in this Code include, Variance.

The applicants are requesting for a Variance to construct a second drive way on their property located at 4975 Woods Road NE. The application is for a Variance Request and therefore subject to a Quasi-judicial Decision. The City of Millersburg planning staff will apply the land Use code, the Comprehensive Plan and other development elated policies in evaluating the submitted Variance Request application. The Planning Commission is the Hearing body. Staff will review the application packet to insure it fulfills the City's code for residential driveway and recommend Action Taken to the Planning Commission for final decision. The City of Millersburg code sections 2600 and 5122 will be applied in evaluating the Variance Request.

Types of Decision Section; 3300(3): Limited Land Use reviews: or Quasi-Judicial public hearings authorized by the Code require notification to the applicant and to owners of properties within 100 feet of the property which is the subject of notice as identified in the most recent property tax assessment roll where such property is located.

Public Notification: A notice of public review was mailed out on November 27, 2017.

Condition of the Property

The City of Millersburg's record shows that the property containing the proposed project is located at Assessor's Map number 10S—3W- 21; Tax lot 909. The lot size for the proposed drive way and approach is 0.67 acre lot. The address for the proposed site is 4975 Woods Road NE, Millersburg, Oregon. The property is zoned Rural Residential – Urban Conversion (RR-UC-2.5) and fully developed to urban standard. The zoning classification is in conformance with Millersburg Comprehensive Plan. The abutting properties on the east, north and south of the proposed project site are zoned Single Family Residential (RR-UC2.5.) and designated as such in the Comprehensive Plan. There are residential structures currently existing on the properties adjacent to the north, south and eastern part of the proposed site. The property adjacent to the western side of the proposed site is zoned RR 10 and devoid of structures.

There are no wetland, floodplain, and any geo-hazard issues associated with the proposed site or conditions of approval associated with the site.

Project Description:

The property containing the proposed drive way is located at 4975 Woods Road. The proposed residential driveway and approach will take access from Woods Road. The proposed driveway will be located 50 feet away from an existing driveway. Both the existing and proposed driveways will take access from Woods Road. The total square footage for the proposal is approximately 3600 square feet. (24 feet x 150 feet). Please refer to **Exhibit 2** located on page 8 for a site plan that depict the location of the proposed driveway project for the site; including the existing driveway and a future shop

Applicant's Request

The applicants are requesting for a Variance to construct a second driveway and approach. The applicants indicated that the Variance Request, when approved, will enable them to access a proposed shop with less challenges and reduce potential traffic hazards. The applicants stated in their narrative that the width of their property that abuts Woods Road is 150 feet; long enough to accommodate two driveways. Lastly, they indicated in their narrative that prior to designing the project; they approached City officials as part of their due diligence, to insure they are abiding by the City's requisite for a second drive way on a single property. According to them, the City officials told them a second driveway was acceptable. They provided evidence of their communications with the City. Please refer to **Exhibit 3** for copies of the narrative: submitted by the applicants; including email communications with city officials. The subsequent City of Millersburg Code Sections will be applied in reviewing the Variance request.

Administration: Code section 1170(3): The Planning Commission shall have the authority to review and approve all Site Plan, Conditional Uses, Variances, Subdivisions and Partitions under the provisions of this Code

Finding: The proposal is for a Variance Request. The applicants are requesting for Variance to construct a second driveway unto their property. The City of Millersburg Planning staff will review the application and recommend Action Taken to the Planning Commission for final decision.

GENERAL PROVISIONS

General Provision- Rural Residential – Urban Conversion: Code Section 4113 RR-10-UC: The Rural Residential – Urban Residential Zone is applied in rural residential areas with standard for continued rural development until a transition use occurs. Urban Residential standards shall apply to approved Urban Conversion areas where municipal water and sewer facilities are provided.

Finding: The lot containing the proposed residential drive way is fully developed to urban standard (have access to water and sewer). Therefore, the Urban Conversion standards shall be applied in evaluating the proposed second driveway and approach.

Rural Residential – Urban Conversion: Code Section 4113(2) – Permitted Uses

The proposed second drive way and approach project will be located in Rural Residential-Urban Conversion zone (RR-10). Drive way and Approach are permitted in this zone and subject to the code section below.

ACCESS-DRIVEWAY

Access Spacing; Code Section 5122(5) (g)

Access to property at less than designated spacing standards shall be allowed only if that property does not have any other reasonable access and the designed spacing cannot be accomplished. Where possible, a joint access options should be considered. Only one access per property shall be allowed to a street owned by either the City of Millersburg or Linn County, except that more than one access may be considered if the City finds that additional access is necessary to accommodate and serve the traffic associated with the use of the property.

Finding:

The property containing the proposed second driveway and approach abuts Woods Road. The property contains an existing drive way that also abuts Wood Road. Woods Road NE is owned by the City of Millersburg. The City's code allows one driveway per property. The applicants are requesting for Variance to construct a second driveway and approach. The applicants indicated that their property is long enough to handle two access ways with enough spacing and still maintain traffic safety on Woods Road. The Millersburg code section 2600 below addresses Variance Request. Staff will review the submitted application packet and recommend Action Taken to the Planning Commission for final decision.

Clear Vision Areas; Code Section 5122(6) (a): All properties shall maintain a clear triangular area at street intersections, railroad-intersection, alley street intersection and driveway street intersection for safety vision purposes

Finding

The property that contains the proposed second driveway abuts Woods Road. There is an existing driveway that also intersects with Woods Road. The submitted application packet contained a site plan that illustrates the locations of the existing and proposed driveways along with proposed Clear Vision (triangular) areas for this site. Please refer to the submitted site plan located on page 7 for the depiction of the driveways and the clear vision areas

VARAINCE

Code Section 2600- Variance Request: Because of the impossibility of foreseeing and providing for circumstance and conditions which may affect individual properties or uses, the variance provision is created to allow modification of the provision of this Code for certain circumstances without defeating the purposes and intent of the Code.

Finding

The City's records and the Linn County's assessors map and GIS database indicate that there are no wetlands or any form of geo-hazard restraint associated with the property that may affect how this development is built. The applicants' submittal contained a narrative that describes the circumstantial evidence for requesting a Variance for the proposed second driveway and approach

The circumstantial evidence provided in the applicants' narrative failed to address any unforeseen circumstances or conditions that prevent them from designing a driveway that could

serve both the garage and the shop. **Exhibit 3** located on page 9 contains the applicant's narrative.

According to the applicants, the proposal, if allowed, will not affect the uses, traffic issues or properties adjacent to the proposed site. The access to a second shop is not hardship or unforeseen circumstance; the applicant had ample time and enough land space to his drive way to enable access to both the main house and the proposed shop.

Code Section 2600(1)-Variance Application: An application for Variance shall be filed with the City together with a site plan and other supplemental data forms describing in the application. Section 2.130 and the Application Site Plan, Section 2.140. The applicant shall submit evidence that the circumstances for granting a Variance as outlined in item (2) herein apply to the Variance request. In granting the variance, the Planning Commission may attach conditions that it finds necessary to protect the surrounding property, vicinity, or the City and otherwise achieve the objective of this code

Finding: The Variance Request application packet submitted by the applicants included a site plan illustrating the location of the proposed Driveway and Approach and a future shop, existing structures and an existing driveway. The application packet contains a narrative that describes the circumstantial evidence for the Variance Request. The application packet was submitted to the City Hall, 4222 Old Salem Road on November 21, 2017.

The Planning Commission meeting will be held on December 19, 2017. The applicants have fulfilled the 30 day required for submitting application prior to the Planning meeting. The submitted application packet for the proposed second Driveway and Approach fulfills the criterion above.

DECISION

Code Section 2600(2) - Decisions Criteria:

A Variance may be granted if the following circumstances exist:

- a. **That there are circumstances or conditions affecting the property or use that preclude strict adherence to the code standard**

Finding

According to the City of Millersburg and Linn county records, there are no environmental or natural constraints associated with the project site. There are no natural causes that prevent the applicants from strict adherence to the standard of the code. The applicants' explanation for the second Drive way to access a proposed shop would not appear a justifiable "circumstance" affecting his property. Woods Road is one of the most used streets that serve as a neighborhood with rapid growth. Developments are rapidly sprouting along both sides of Woods Road. The growth increases traffic volume which can potentially cause unsafe traffic flow. A healthy traffic flow can be interrupted by too many access ways along Woods Road.

- b. **That the Variance is necessary for the proper design and/or use of the proposed development or land division.**

Finding:

The applicant indicated in his narrative that the request for permission to deviate from the norm is that his property is large enough to accommodate the proposed and existing driveways. The applicants intend to use the proposed drive way to access a proposed shop. The proposed shop is a proper usage within this zoning district. The additional drive way is not permitted under the City's access code.

The site plan show two driveways; proposed and existing. Per the applicants' drive way design, both driveways will have clear triangular visions areas. Both the access ways and their accompanying clear vision areas designs meet the City's requirements, but a second drive way is not allowed.

c. That the granting of the Variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated

Finding

The applicants' site plans show that both the existing and proposed drive ways will abut Woods Road. The drawing also depicts clear vision diagrams associated with the two drive ways. The distance between the two drives ways was not indicated on the site plan. The combination of the unknown distance between the two drive ways and the lack of dimensional measurement for clear vision area made it difficult for staff to determine safety factors if a second drive way is allowed.

That the granting of the Variance will not conflict with the purposes and objectives of the Comprehensive Plan and other related ordinances of the City.

Finding

The submittal fulfills the fundamental purpose and objective of Urban Conversion residential zoning requirement. The applicant impervious coverage, setbacks, and existing driveway and approach all meet the Urban Conversion standard of this City's land use code. The additional driveway will conflict with the Comprehensive Plan's objective. Woods Road neighborhood is developing rapidly growing and growth comes with traffic. Therefore, to have a property abutting Wood Road with two driveways could snarl traffic and potentially cause accidents. In terms of other related ordinances, the proposal goes against the Code section 5122' one driveway per property. Based on the analysis above, it is apparent that the granting of the Variance will conflict with the general purpose and objectives of the code section.

Decision Procedure 3110 (2): Basis for Decisions: Approval or denial of a land use application shall be based upon and accompanied by:

a Brief statement that explains the criteria and standards considered relevant to the decision.

The planning staff recommends the denial of the Variance request based on the fact that: 1) The City of Millersburg land use code allows one driveway per property and a second driveway in a UC zone is not permissible. The proposal does not fulfill the land

use provision for drive way. 2) It is not a natural hardship: The applicant failed to demonstrate how the property is impacted by the natural cause; and 3) it will set a precedent; a second driveway could lead to others emulating such practices and eventually lead to potential traffic hazard on Woods Road. As Woods Road grows, the need to ensure traffic safety is imperative. The narrative addressing code section 2600(2) was not convincing enough.

B A statement of the facts relied upon in rendering the decision

The planning staff relied on the City of Millersburg code sections (5122 and 2600) and the applicant's submittal in evaluating and recommending Actions Taken to the Planning Commission for final decision. Code section 5122 contains the provision for driveways. That provision stipulates one driveway. Code Section 2600 stipulates provisions for Variance Request approval. . The narrative provided for the Variance Request is not convincing.

C An explanation of the justification for the decision based on the different criteria standards and facts set forth.

Aside from the strict interpretation of the access code which allows one access way per property, the planning staff also considered public safety which could be compromised by too many access ways on Woods road.

d That the granting of Variance will not conflict with the purposes and objectives of the Comprehensive Plan and other related ordinances of the City.

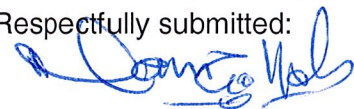
The comprehensive plan section 9.590(8) states: "Residential areas shall be protected from excessive through traffic; conflicting land uses or other encroachment that would impact a safe, quite living environment"

The purpose for allowing one driveway per property is for traffic safety. An additional drive way on the same property along with an existing driveway is not in compliance with the comprehensive plan which encourages" traffic safety" in residential zones. Woods Road corridor is growing rapidly; growth generates traffic. As such, safety was a considerable factor in denying this Variance Request.

Recommendation:

The City of Millersburg planning staff recommends denial. The recommendation was based on strict interpretation of the code section that stipulates one driveway per property. Woods Road is a City owned street that straddles a rapidly growing neighborhood. There are several development projects currently underway in this area and that will impact traffic flow. The creation of a second driveway will set a precedent and potentially snarl traffic on Woods Road. Therefore, it is essential that the City maintain some traffic safety on Woods Road for the public's welfare; hence, the denial The City's planning staff will notify the Planning Commission of the Action Taken for their deliberations.

Respectfully submitted:



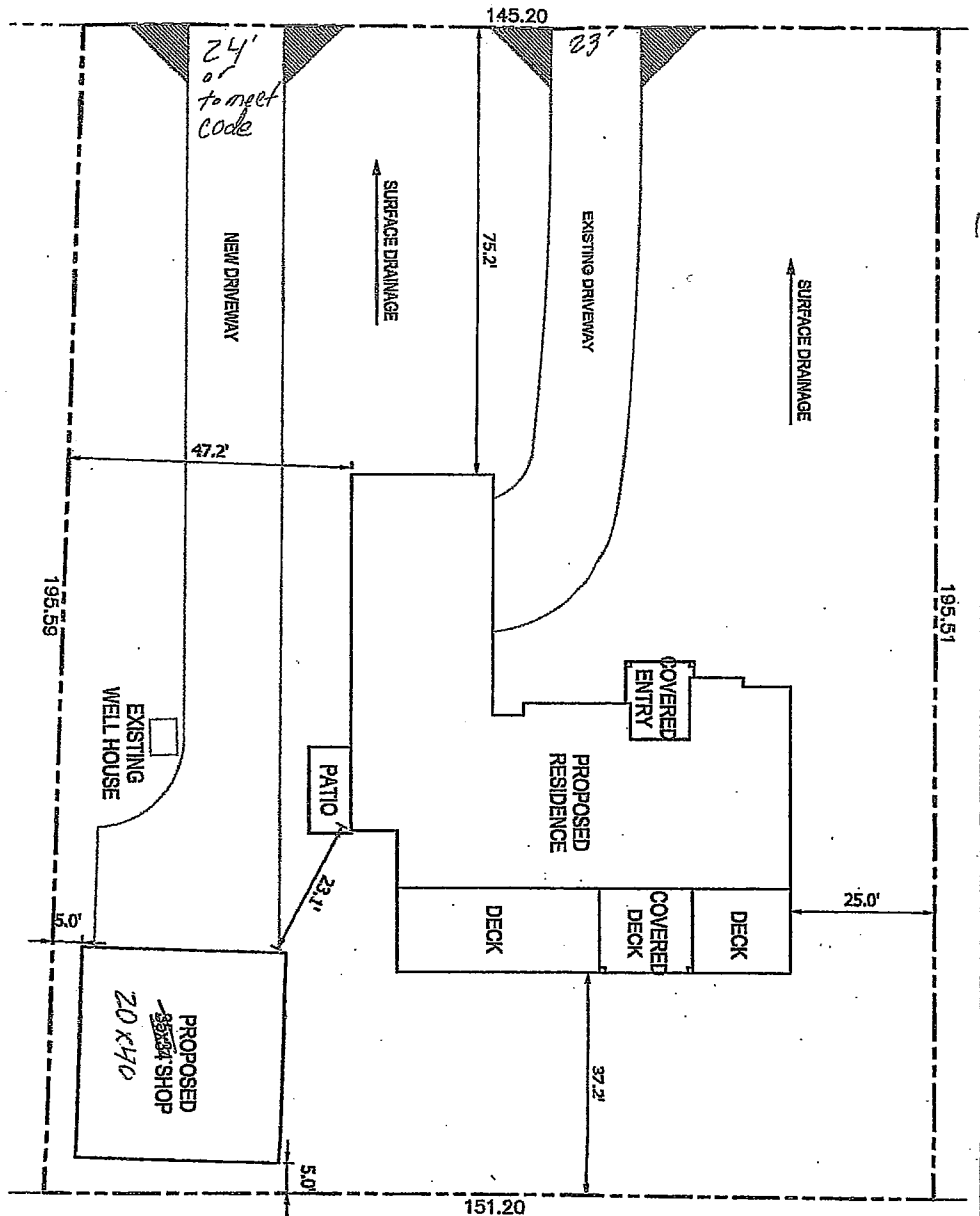
Sam Gollah
Development Coordinator

EXHIBIT 1: SITE PLAN

Site Plan that depicts the location of proposed development



1 SITE PLAN
SCALE: 1" = 20'



EXCAVATORS:

ATTENTION: OREGON LAW REQUIRES YOU TO FOLLOW RULES ADOPTED BY THE OREGON UTILITY NOTIFICATION CENTER. THOSE RULES ARE SET FORTH IN OAR 982-001-0010 THROUGH OAR 982-001-0090. YOU MAY OBTAIN COPIES OF THE RULES BY CALLING THE CENTER. (NOTE: THE TELEPHONE NUMBER (ADMINISTRATIVE) FOR THE OREGON UTILITY NOTIFICATION CENTER IS (503) 232-1997).

SITE NOTES:

- SEWER: CONNECT TO EXISTING (VERIFY) SS LATERAL
- STORM: ROOF AND FOOTING DRAINS TO DITCH
- WATER: CONNECT TO EXISTING (VERIFY) WATER SERVICE
- GAS: CONNECT TO EXISTING (VERIFY) GAS SERVICE

PROPOSED SITE:

Lot	% Lot	Area
Lot Area	100.00%	23975
Coverage Summary		
Residence Footprint	10.9%	3193
Residence Driveway	5.7%	1640
Shop Footprint	4.1%	1190
Shop Driveway	9.8%	2927
Porch(es) / Patios	1.3%	463
Open Space	61.0%	19892
Lot Area	100.00%	23975

DATE: 11/15/12
PROJECT: 12101012
SHEET: 1

Wright Residence
Site Plan

PROJECT LOCATION:
39500 NW 12th Street, Portland, OR 97228
OWNER: Wright Residence
DRAWING DATE: 11/15/12

EXHIBIT 3: NARRATIVE

Narrative that describes the applicant's explanation for the Variance Request

We are petitioning for a second driveway variance on our property at 4975 Woods Rd NE, Albany. Our plan for the property is to build a shop with RV storage in the southeast corner. We've built and positioned our home accordingly to accommodate said shop based on information provided to us last December from Millersburg city officials regarding shop variances and second driveway guidelines. We moved our home 25' closer to Woods Rd from the west property line in order to accommodate a shop in the southeast corner with a dedicated driveway on the southwest frontage of the property at Woods Rd. The width of the property on Woods Rd is roughly 150'. We feel this is more than sufficient width to accommodate a second driveway. Without the second driveway, maneuvering our RV into position on the south side of the garage will be challenging and could potentially tie up traffic flow on Woods Rd. Utilizing the south side of our house as storage for our RV and placement of a shop will become a hardship. In our opinion, a second driveway would add to the value of the property, should it be on the market in the future.

When we acquired the property in December of 2016, we began the process of due diligence in placing a second driveway. Attached are email correspondences between ourselves, Barbara Castillo with City of Millersburg and Janelle Booth with CH2M Hill regarding all necessary preparations and guidelines for placement of the second driveway. According to our correspondence with the above mentioned persons, our impression is that if we follow all necessary guidelines, our second driveway is of no consequence to City of Millersburg.

We appreciate your consideration of a second driveway on our property.

Steven and Shelley Wright

CITY OF MILLERSBURG, OREGON

PLANNING’S FINDINGS AND DECISIONS

TENTATIVE PARTITION PLAT

Date: 11/10/17

Applicant: Kyle Latimer;
P. O. Box 310,
Lebanon, Oregon 97355

Property Owner: Kyle Latimer,
P. O. Box 310
Lebanon, Oregon 97355

Subject Property: 4161 Woods Road
Millersburg, Oregon 97321

Staff Contact: Sam Gollah, Development Coordinator
City of Millersburg, Oregon

Nature of the Application: The applicant is proposing to divide 41,560 square-foot (.95 acre) into three separate parcels. The proposed Tentative Partition Plat will be situated on Tax lot 3908 located at 4161 Woods Road, Millersburg, Oregon, 97321. There are no existing structures on the proposed site. The tentative partition plat, when approved will be divided into three separate parcels. Please refer to **Exhibit 1** located on **page 8** for a map that shows the location of the proposed site.

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Application Submitted; November 10, 2017

Application Deemed Complete: November 13, 2017

Types of Decision Section; 3300(3): Limited Land Use reviews: or Quasi-Judicial public hearings authorized by the Code require notification to the applicant and to owners of properties within 100 feet of the property which is the subject of notice as identified in the most recent property tax assessment roll where such property is located.

Public Notification: The tentative partition plan shall be processed as a Limited Land Use Decision. The Planning Commission is the Hearing body. A notice of public review was mailed out to adjacent properties on November 20, 2017.

Project Description:

The applicant is proposing to subdivide approximately an acre lot into three parcels: Parcel 1 is 16,377 square feet, Parcel 2 is 13,179 square feet and Parcel 3 is 12,000 square feet. The proposed Partition Plat is located at the corner of Woods Road and Conser Road. The existing property abuts Woods Road and Conser Road. Parcel 1 contains residential structures and will continue to use Woods Road as the access way. Parcel 2 contains a shop and two sheds. Parcel 3 is vacant. Both Parcel 1 and Parcel 2 will share a driveway and approach via Conser Road. There is sewer available on the proposed site but no water connection. Please refer to the **Exhibit 2** located on **page 8** for a vicinity map that depicts the location of the proposed tentative partition plan and the surrounding properties.

Applicant's Request

The applicant is requesting an approval to partition approximately one acre lot into three separate parcels. The applicant indicated that the proposed parcel one will continue to use Woods Road as its driveway. Parcel 2 and Parcel 3 will share a driveway that will be accessed via Conser Road. The applicant is proposing a shared driveway between Parcel 1 and Parcel 2. Please refer to **Exhibit 2** for a site plan that illustrates the location of the proposed tentative partition plat. The subsequent City of Millersburg code sections will be applied in reviewing the Partition Tentative Plan

APPLICABLE CRITERIA

ORS 92: No land may be subdivided or partitioned except in accordance with the ORS 197.016

The tentative partition plan shall be reviewed in accordance with ORS 197 and other provisions below.

ORS 197.015 (12) and 197.195: requires Land Divisions within the City of Millersburg to be submitted to the Millersburg Planning Commission for review and approval a "limited land use decisions" Written comments may be submitted to the planning Commission prior to or at the Review. Oral clarifications may be requested of the Applicant or others by the Planning commission

The applicant is requesting approval to partition a 0.95 acre lot into three parcels. An application packet for the proposal was submitted to the City for review. Planning staff reviewed the packet for completeness and notices were mailed out to the public. The Planning Commission will be the Hearing body for this proposal. A no issue written report was received for the Jefferson Fire station.

ORS 197.195: Specifies the procedures for a limited land use review by the Planning Commission

A Notice of Review was mailed out to the properties within 100 feet of the proposed project on November 30, 2017

Administration: Code section 1170(3): The Planning Commission shall have the authority to review and approve all Site Plans, Conditional Uses, Variances, Subdivisions, and Partitions under the provision this code

Finding: The proposal is for a Tentative Partition Plat. The applicant is proposing to partition a 0.95 acre lot into three parcels; The City of Millersburg Planning Commission is the hearing body. The City of Millersburg planning staff will review the Partition Tentative Plan via the code sections above and provide notification of Action Taken to Planning Commission at the regular meeting to be held on December 19, 2017.

General Provision- Rural Residential – Urban Conversion: Code Section 4112(1): The Rural Residential – Urban Residential Zone is applied in rural residential areas with standard for continued rural development until a transition use occurs. Urban Residential standards shall apply to approved Urban Conversion areas where municipal water and sewer facilities are provided.

Finding: The lot containing the proposed tentative partition plat is located in Rural Residential Urban Conversion (RR-UC) district). Currently, the property has no access to city water but sewer is available. The applicant intends to provide both water and sewer as part of the partition process. The applicant intends to transition to Urban Conversion. The proposed site plan and accompanying narrative indicate that water and sewer will be available as part of the partition. Please refer to **Exhibit** that shows the tentative partition plan.

Partition Tentative Plat – Code Section 2320(1): The Planning Commission shall be the deciding authority for all land Partition and subdivision Tentative Plans under the provision of this code unless combined with another request requiring council approval, or if appealed to the City Council

Finding: The City of Millersburg Planning Commission will have the deciding authority for the proposed land division. The City's planning staff will review the Tentative Partition Plan and recommend Action Taken to the Planning Commission for final decision. This proposal is not a combination request.

Code Section - -2320(2) The Planning Commission shall hold a limited land use review for all Partition and Subdivision tentative Plans request in conformance with section 3400 or may hold a Quasi-judicial public hearing in conformance with section 3510 to receive additional public on significant proposals

Finding:

The applicant is requesting to partition a 0.95 acre into three parcels. Planning Commission will hold a quasi-public hearing for the proposed tentative partition plan in conformance with the code section above. This application shall be processed as Quasi-judicial review.

Code Section 2321-3: Submittal Requirements-

The submitted application packet includes a Tentative Partition Plan drawn to scale; vicinity map and a narrative explain the request for approval of the tentative partition plan.

Code section 2324: Existing Condition

The City of Millersburg's record shows that the property containing the proposed Tentative Partition Plan is located at Assessor's Map number 10S-3W- 21; Tax lot 3908. The lot size for the proposed three-parcel partition is 41,560 square feet (0.95 acre). The address for the proposed site is 4161 Woods Road, Millersburg, Oregon. The property is zoned Rural Residential – Urban Conversion (RR-UC2.5) and partially fully developed to urban standard. The zoning classification is in conformance with Millersburg Comprehensive Plan. The abutting properties on the east, west and south of the proposed site are zoned Single Family Residential (RR-UC2.5) and designated as such in the Comprehensive Plan. There are residential structures currently existing on the properties adjacent to the west, south and eastern part of the proposed site. The property is currently accessed via Woods Road. The abutting property on the north is zoned Heavy Industrial (HI) and devoid of structures. There are no wetland, floodplain, or geo-hazard issues associated with the proposed site; no records of building permits or conditions of approval associated with the site.

Code Section 2325 (1-10) Proposed (tentative) Plan:

The applicant's application packet contained a vicinity map that depicts relationship and connection of the proposed land division to the surrounding development. The site plan also shows the layout of streets associated with the tentative plan; to include Conser and Woods Roads respectively. The tentative plan also shows locations of storm water drainage, proposed sewer, water and utility lines. Please refer to the site plan that illustrates the locations of the development associated with tentative partition plan.

Code Section 2326: Accompanying Statements (corrected 12/8/17)

The tentative plan shall be accompanied by written statements from the Applicant giving essential information regarding the following matters

The applicant's submittal packet contained a Narrative that addressed the subsequent issues below.

1a. a certification that water will be available to the property line of each and every property depicted on the Tentative Plan

The applicant's proposal includes plans to obtain water connectivity as part of the partition plat review. The planning staff will look for the verification of certified water resources as part of .the review.

2a. A certification that a sewer disposable system will be available to the property line of each and every property depicted on the Tentative Plan

The applicant's proposal includes plans to install sewer disposable system as part of the partition process. The planning staff will look for the verification of certified sewer disposable sources as part of the review.

(4): Identify all public dedications including streets, pedestrian or bikeways, parks or open space areas in conformance with Article 5

Findings: The applicant's submittal packet includes a site plan that shows that the proposal is abutted on the west by Woods Road and on the south by Conser Road. There are no parks within the vicinity of the proposal and no bike lanes on Woods Road and Conser Road. Currently, the areas of Woods Road and Conser Road that abut the subject property are fully developed; both roadways contain neither pedestrian nor bikeways. Staff will ensure through the development standards enshrined in Article 5 the parcels are developed in accordance with Article 5

Code Section: 2328 – Decision Criteria: A Subdivision or Partition Tentative Plat shall be approved by the Planning Commission. Approval shall be based upon compliance with the submittal requirements specified above and the following findings;

- 1. That the proposed land division, development or use does not conflict with the City's Comprehensive Plan or Statewide Planning Goals**
The planning Commission shall be the Hearing body. The tentative partition plan is to partition 0.95 acre lot into three parcels. The proposal will not be in conflict with the statewide land use goals and the Comprehensive Plan. Lot size in urban Conversion zone is 10,000 square feet. The average size for the proposed tentative partition plat lots is 14, 000 square feet. Urban Conversion also requires accessibility to water and sewer and the applicant will provide both as part of the partition process. The tentative partition plan shall be reviewed by the planning staff and recommend Action Taken to the Planning Commission for the final decision
- 2. That the proposed land division complies with the standards of the land use zone and does not conflict with city codes and ordinance that are applicable to the land division**
The tentative partition plan as proposed will comply with standards of the City's land use code. The proposed site is zoned Rural Residential-Urban Conversion. The applicants intend to transition to Urban Conversion and have indicated in his plan to upgrade water and sewer up to the City's standard. The City's planning staff will review the proposal and recommend action Taken to the Planning Commission for final decision. Please refer to the Site plan that illustrates the applicant's tentative partition plan.
- 3. That the proposed land division complies with the standards and requirements of ORS Chapter 92 and the recording requirements of the Linn County Surveyor**
The submitted application packet as proposed will not be in conflict with the Comprehensive Plan and Statewide goals. The Planning Commission has the approval authority and will ensure that the proposal fulfills Linn County survey requirements.

Code Section 2.329(1) –Decision Process

Upon receipt of an Application and Tentative plan, the City shall furnish one copy of the Tentative Plan and supplementary material to the Fire District and County Road Department and other agencies known to be affected. Agencies notified shall be given 14 days to review and submit written comments.

Finding:

Upon receipt of the applicant's tentative partition plan submittal packet, the City's planning staff will review it for completeness and deemed complete on November 13, 2017. Copies of the

proposed partition were mailed to the Jefferson Fire District and the County Road Department. Based on their written response to the City, the Jefferson Fire District did not have any issue with the proposal. The fire district written report is the only response so far received by the City staff.

Code Section 2329 (2)–Decision Process: A land division requires a “Limited Land Use review” by the Planning Commission in conformance with Section 3400 A Limited Land Use Decision requires notification to owners of properties within 100 feet of the subject property The public may submit written comments prior to the Planning Commission review decision.

Findings:

The proposed tentative partition plan will be heard by the Planning Commission. A notice of public review was mailed out to properties within 100 feet of the subject property on November 13, 2017.

Code Section 2329 (3)–Decision Process: The Planning Commission shall consider the Tentative Plan proposal and written comments at the first Planning Commission meeting following the 14 day review period

The hearing for the tentative partition plan will be held at the Millersburg City Hall on December 19, 2017. Written comments associated with the partition plan will be reviewed at the December 19 meeting; to include the response from the Fire Station

Code Section 2329 (4)–Decision Process: If the Application includes a Variance Request

Finding:

The proposed application for the Tentative Partition Plan does include a Variance Application request. Hence the criterion not applicable

Code Section 2331 PARTITION PLAT (1) - : Within one year after approval of the Tentative Plan, the land divider shall begin construction of the any required public improvement. All required public improvements must be completed and accepted by the City prior to approval of the Final Plat unless a security agreement has been approved by the City.

The City of Millersburg shall review the conditions of approval by the Planning Commission and work with the applicants in ensuring the improvements carried though with a year.

Decision Procedure 3200 (2): Limited Land Use Decision

The 1991 Oregon Legislature added ORS 197.195 to Chapter 197 to provide provision for a final decision or determination made by the City pertaining to a site within the Urban growth boundary.

a. Approval or denial of a subdivision or partition as described in ORS 92

This condition of approval recommended by the City’s planning staff was based on requirements for partition of land as described in ORS 92. The proposal met all the land use requirements associated with the proposed development. The applicant proposal fulfills the RR-UC zone requirements.

- b Approval or denial of an application based on discretionary standards designed to regulate physical characteristics of a use permitted outright, including but not limited to site reviews and design reviews.**

The planning staff recommended approval with conditions based on the fact that the proposal met the requisite for partitioning land within the City. Staff insured that the proposal will not have a negative impact on physical characteristics regulated by this code.

- c A Limited Land Use Decision is a form of discretionary decision that does not require a public hearing and is not subject to the requirements of ORS 197.763 for quasi-judicial public hearings, but is subject to the requirements of ORS 227.173 for a planning Commission limited land use Decision review of an application.**

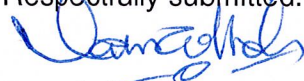
Examples of limited land use decision in this code that require a review by the Planning commission include but not limited to, subdivision and Partition plans specified in section 2320 and the Site Plan Reviews specified in Section 2400

The final decision for the approval of the tentative partition plan shall be heard by the Planning Commission. The planning staff will review the application packet and recommend Action taken to the Planning Commission for final decision.

Recommendation:

The City of Millersburg planning staff recommends approval with conditions. The size of the proposed parcels meets the requirements for land development in the City of Millersburg. The applicant also provided plans for improving the water and other utilities associated with partition plat. Finally, staff recommended conditional approval based on the fact that a final plat will not be issued without the improvements. The City's planning staff will notify the Planning Commission of the Action Taken for their deliberations.

Respectfully submitted:



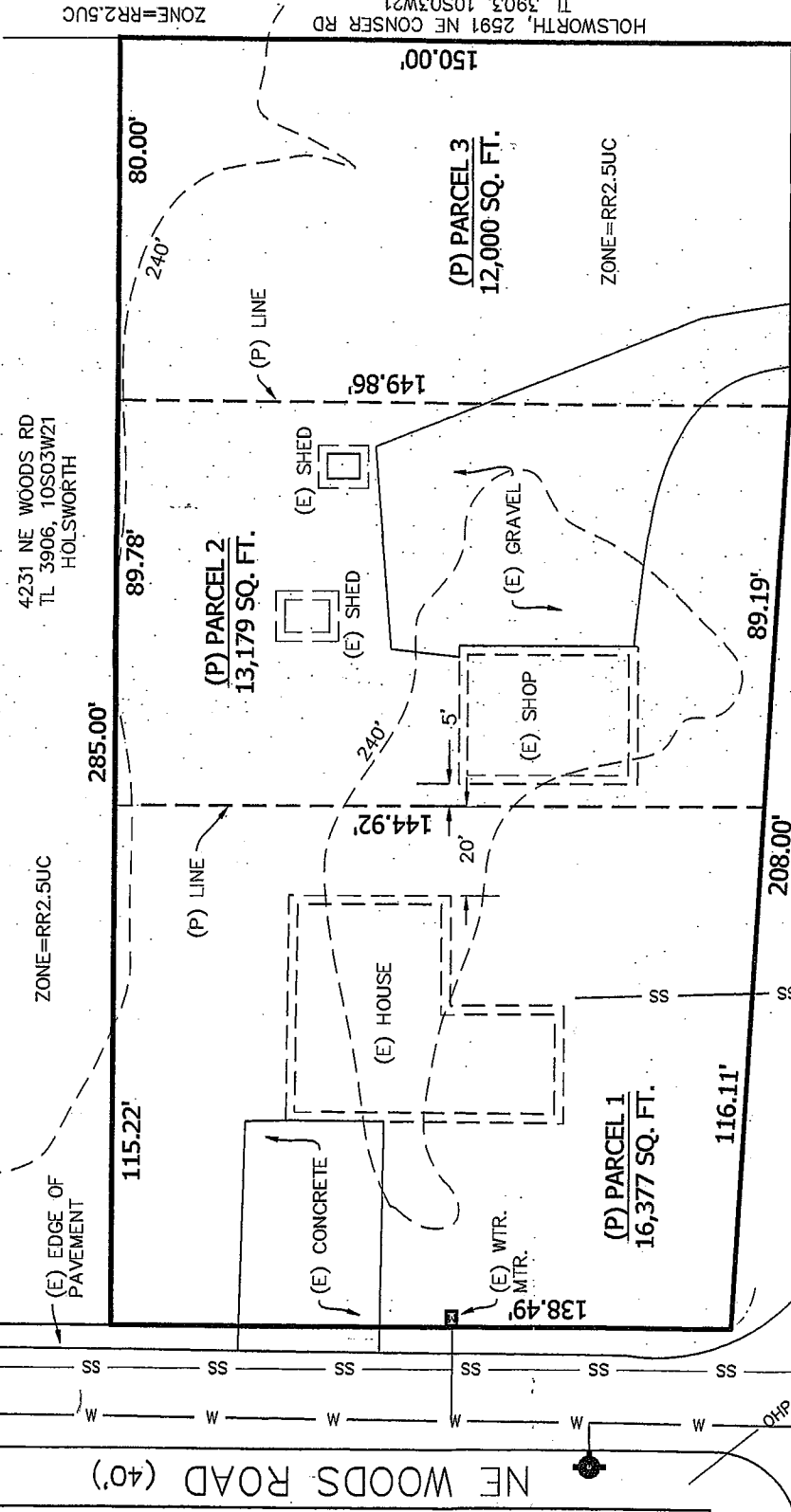
Sam Gollah

Development Coordinator

EXHIBIT 1: SITE PAN

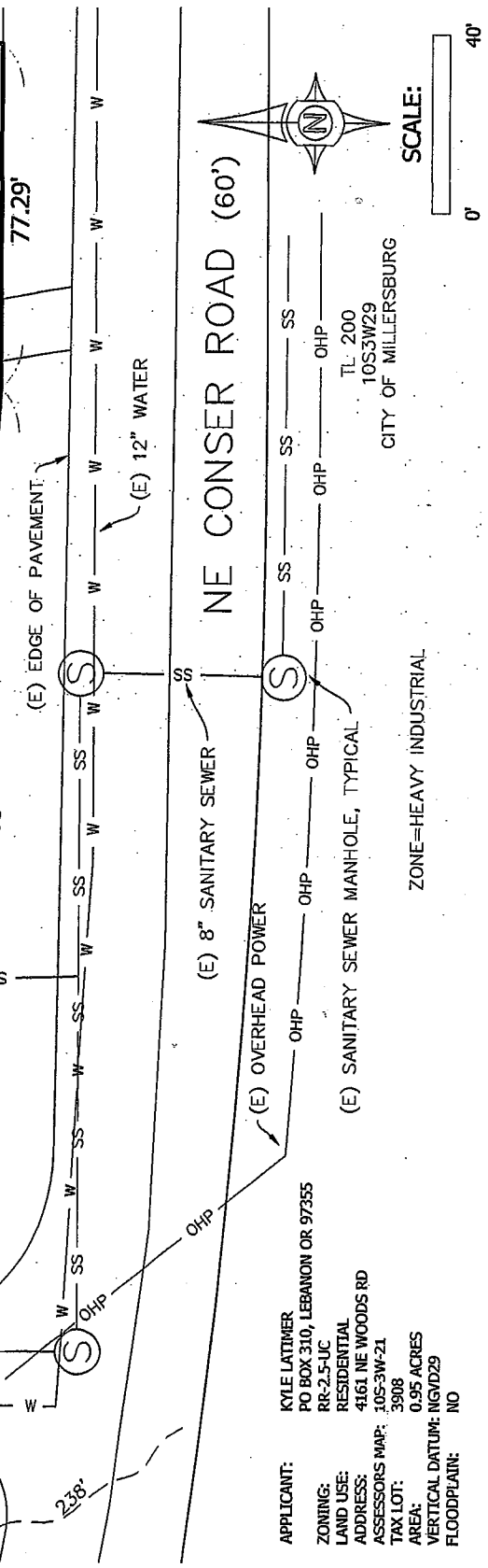
A Site Plan that depicts the locations of proposed development

TL 300
10503W20
JACKASS MTN. HOLDINGS
ZONE=RR2.5UC



4231 NE WOODS RD
TL 3906, 10503W21
HOLSWORTH
ZONE=RR2.5UC

DATE: 11/10/2017
PROJECT: 4161 WOODS
DRAWN BY: KML
SCALE: AS NOTED



DATE: 11/10/2017
PROJECT: 4161 WOODS
DRAWN BY: KML
SCALE: AS NOTED

APPLICANT: KYLE LATIMER
PO BOX 310, LEBANON OR 97355

ZONING: RR-2.5-UC
LAND USE: RESIDENTIAL

ADDRESS: 4161 NE WOODS RD
ASSESSORS MAP: 105-3W-21

TAX LOT: 3908
AREA: 0.95 ACRES

VERTICAL DATUM: NGVD29
FLOODPLAIN: NO

TL: 200
1053W29
CITY OF MILLERSBURG

ZONE=HEAVY INDUSTRIAL

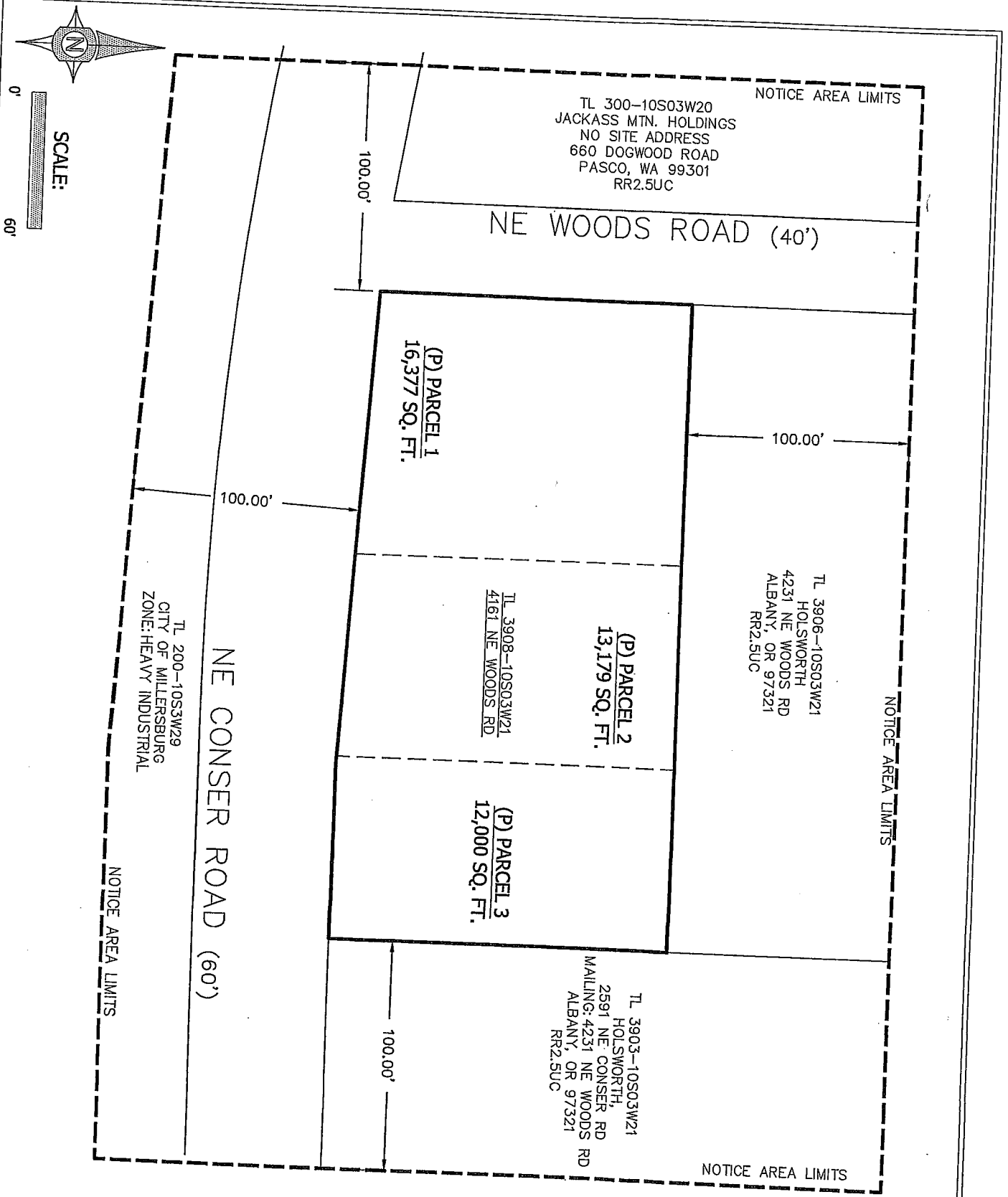
SCALE: 0' 40'

UDEL ENGINEERING AND LAND SURVEYING, LLC
63 EAST ASH ST
LEBANON, OREGON, 97355

TENTATIVE PARTITION MAP
4161 NE WOODS RD
TAX LOT 3908, 1053W21
TL 3903, 10503W21
HOLSWORTH, 2591 NE CONSER RD
TL 3903, 10503W21
ZONE=RR2.5UC

EXHIBIT 2: VICINITY MAP

A vicinity map that illustrates proposed for this site. and surrounding properties



SHEET 1 OF 1
SCALE AS NOTED



Date: 11/10/2017
Project: 4161 WOODS
Drawn by: KWL

TENTATIVE PARTITION - VICINITY MAP
TAX LOT 3908, 10S3W21
4161 NE WOODS RD
MILLERSBURG, OREGON

UDELL ENGINEERING AND LAND SURVEYING, LLC
63 EAST ASH ST.
LEBANON, OREGON, 97355
541-451-5125

EXHIBIT 3: NARRATIVE

Narrative that describes the applicant's explanation for the Variance Request

**CITY OF MILLERSBURG
APPLICATION FORM**

DATE 11/10/2017 FILE NUMBER 171110
APPLICANT NAME KYLE LATIMER
CONTACT ADDRESS PO BOX 310, LEBANON, OR 97355
CONTACT PHONE 541-905-6532

APPLICATION FOR: (Check Appropriate Box)

- | | |
|--|---|
| <input type="checkbox"/> SITE PLAN REVIEW | <input type="checkbox"/> PROPERTY LINE ADJUSTMENT |
| <input type="checkbox"/> CONDITIONAL USE | <input checked="" type="checkbox"/> PARTITION |
| <input type="checkbox"/> VARIANCE PETITION | <input type="checkbox"/> SUBDIVISION |
| <input type="checkbox"/> APPEALS PETITION | <input type="checkbox"/> ANNEXATIONS |
| <input type="checkbox"/> AMENDMENT | <input type="checkbox"/> VACATIONS |
| | <input type="checkbox"/> GRADING PERMIT |

LOCATION:
PROPERTY ADDRESS 4161 WOODS ROAD
ASSESSOR MAP NO. 10S-3W-21 TAX LOT NO. 3908
TOTAL AREA OF PROPERTY 41,560 FT² (0.95 AC.) (Acres or Square Feet)
EXISTING ZONING OF PROPERTY RR2.5 UC
EXISTING COMP PLAN DESIGNATION RR2.5 UC
EXISTING USE OF THE PROPERTY SINGLE FAMILY RESIDENCE

REQUESTED ACTION AND PROPOSED USE OF PROPERTY:

APPLICANT IS PROPOSING A 3 PARCEL PARTITION OF AFOREMENTIONED TRACT. NO IMMEDIATE PROPOSED DEVELOPMENT IS PLANNED. INTENT IS TO DEVELOP AS SINGLE FAMILY RESIDENTIAL, CONSISTENT WITH THE RR-2.5-UC ZONING DESIGNATION.

PROVIDE ADDITIONAL INFORMATION SHEETS AS NEEDED

The applicant shall state specifically what is being requested and the ordinance provisions that apply to the request. Provide all necessary drawings, evidence and statements supporting the requested action.

APPLICANT SIGNATURE KYLE LATIMER *Kyle Latimer*
Print Name & Sign
OWNER SIGNATURES KYLE LATIMER (CONTRACT PURCHASER) *Kyle Latimer* **APPROVED**