



**Summary:** The Tentative Decision was distributed for public review between February 8, 2022 and February 22, 2022. The City received comment letters from the Department of State Lands (DSL), City Engineer, Albany Fire, and a phone call from the property owner of 2922 NE Canter Ave. Comments from Albany Fire and the City Engineer were standard partition comments. The DSL explained that there are wetlands on the property and explained the process for fill permits should the applicant elect to impact the wetlands. Avoidance would require no further actions from the DSL. The neighboring property owner indicated concerns that any eventual construction on the applicant's property could possibly impact the wetlands or make the amount of water increase within the existing wetlands. The conditions of approval and analysis below have been revised to reflect the input provided from the comments. All revised analysis is shown in italics.

Staff has approved the partition subject to the revised conditions of approval, finding that all criteria and standards were met with conditions of approval based on the accepted facts shown below. Staff relied on facts from the Staff Report, the applicant's materials, the City's Comprehensive Plan, State Rules and Statutes, City Codes and Ordinances provisions for the basis of the decision. This final decision can be appealed within 15 days to the Planning Commission.

Matt Straite  
City Planner

**Proposal:** The applicant is requesting approval to partition a 4.35-acre parcel into two parcels of approximately 0.50 acres and 3.66 acres (21,780 sq ft and 159,429 square feet respectively) with access from the extension of NE Canter Avenue.

## I. BACKGROUND

- A. Applicant: Steve Helms  
2874 NE Millersburg Drive  
Millersburg, OR 97321
- B. Project Location: No address.  
10S 3W 16CC Tax Lot 0601
- C. Review Type: Table 5.01.030 of the Millersburg Development Code explains that a partition requires a Type II review, which is a staff level review with a 14 day notice provided to the neighbors.

D. Public Notice: Notice has been provided pursuant to Chapter 5.07 and 5.18 of the Millersburg Development Code. Notice was provided to all neighbors within 200 feet on February 8, 2022 and all responsible agencies on January 31, 2022. The notice provided 14 days to respond.

E. Review Criteria: Chapter 5.07.060/5.08.060 Partitions/Subdivisions

F. Current Zoning: Residential Low (RL)

G. Proposed Zoning: N/A

H. Property Size: 3.66 Gross Acres

I. Background: The property surrounding the site has been divided several times through partitions. The last division that created the applicant's current property boundary was PA 20-02 in 2020.

## II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

### Agencies:

The project was transmitted to the following agencies/departments on January 31, 2022: City of Albany, Albany Fire Department, City of Millersburg Engineer, Pacific Power, Linn County Planning and Building Department, Northwest Natural Gas, and PacifiCorp and the Oregon Department of State Lands (DSL) on January 26, 2022. All received comments are reflected in this final decision.

### Public:

Notice of this tentative decision was sent out to neighbors of the site on February 8, 2022. The notice was mailed to all property owners within 200 feet of the property. Any comments received will be addressed in the final decision.

## III. CRITERION

### CITY OF MILLERSBURG DEVELOPMENT CODE

#### Chapter 5

Pursuant to section 4.02.020(3) the applicable criteria for the project would be the subdivision criteria, not the partition criteria. This is because the project includes proposed parcels that are large enough to be re-divided in the future. *The two are very similar.*

#### **Section 5.08.060 Subdivision Decision Criteria**

Approval of a partition shall be subject to the following decision criteria:

- (1) Each lot shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.**



**ANALYSIS:** The proposed partition is in the Residential Low (RL) Zone. The lot dimensional standards in the RL zone are a 10,000 square foot minimum. There are no specific dimensions required in the RL zone, though 2 on-street parking spaces of 20 feet each are required. The proposed parcels are approximately 21,780 sq ft and 159,429 square feet, well above the required 10,000 square feet. The 40 feet of on-street parking will be addressed at the building permit stage, though the design of the parcel can accommodate the 40 feet of required parking because there is 103 feet of width proposed for the smaller lot and far more for the larger lot. All zone standards are met. Setbacks are not used in partitions, but the design of the parcels will be able to accommodate setbacks.

**FINDING:** Based on the analysis above, the project meets the criterion.

**(2) The parcels shall meet the Development Standards for Land Division of Chapter 4.02.**

**ANALYSIS:** The Development Code includes standards for lot/parcel designs from Article 4; these are covered below in more detail in section IV of this staff report. All Article 4 standards are met with conditions of approval.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the criterion.

**(3) Existing dwellings and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.**

**ANALYSIS:** The property is currently vacant.

**FINDING:** This criteria does not apply.

**(4) Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending appropriate access to those properties will be required in accordance with adopted City policy. Adequate means the development will not cause streets (including sidewalks, intersections, and traffic control devices), sewer facilities, water facilities, and storm drainage facilities to exceed the relevant capacity for each type of facility established in the most recently adopted, Sewer Master Plan, Water Master Plan, Storm Water Master Plan, and the Transportation System Plan development in accordance with the State Transportation Planning Rule for which the determination will be made in accordance with Section 3.02.120. Adequacy can be established in three ways:**

- a. Professional Engineering analysis determining the subdivision will not exceed the capacity of existing and future public facilities as projected in the most recently adopted water, sewer, and stormwater master plans and transportation system plan;
- b. Professional Engineering analysis determining what improvements will be

**required to increase the capacity of public facilities to adequately accommodate the subdivision and how those will be financed; or**  
**c. A combination of both a and b.**

**ANALYSIS:** The project site has been divided in the past. As a condition of approval of a past approval, the project site features a planned road through the site which is anticipated to provide access to the neighboring property west of the site. This planned road is extending NE Canter Ave. A recent partition to the north of the applicant's has extended NE Canter Ave. ½ width to the edge of the proposed Parcel 1 on the applicant's map. The applicant will be required to finish the other half of the street fronting his property for proposed Parcel 1. The road will not be required to extend beyond the first Parcel because only 1 parcel would have to take access from the road beyond Parcel 1. An easement for the future road right of way was added to the property with the previous partition, and would remain as marked on the new proposed partition exhibit. Parcel 2 is large enough to divide again. Any future division of Parcel 2 or the neighboring property would require construction of the rest of NE Canter Ave. through the applicant's property.

All other public facilities such as water and sewer are available at the property. *The comments from the City Engineer did not express any concern with the capacity of the water and sewer to accommodate the additional parcel from the two lot split.*

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the criterion.

**CONDITION OF APPROVAL:**

- Prior to the City approval of the final plat NE Canter Ave. shall be constructed up to the end of Parcel 1 to the west.
- Prior to City approval of the final plat, the applicant shall construct all required streets and public utilities, or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.

**IV. STANDARDS**

The proposed land partition design complies with all the specifications and design requirements of Article 3 and 4 of the Millersburg Development Code. Areas that require additional conditions of approval to full comply or Code standards or that require analysis to explain how they meet the requirements, are shown below.

**Section 3.01.030 Application of Public Facility Standards**

This section explains the general improvements required for partitions. More specifically the Code requires the following, as shown in Table 11:

Land Use Activity	Fire Hydrant	Street Improvements	Water Hookup	Sewer Hookup	Storm Drain	Street Lights	Bike & Ped
Subdivision	Yes	Yes	Yes	Yes	Yes	Yes	Yes

**ANALYSIS:** As noted above, because the partition features a parcel over 20,000 square feet (both parcels are larger than 20,000 square feet) pursuant to Code Section 4.02.020(3) the project must meet all requirements for a subdivision, not a partition. The requirements listed above are for a subdivision. The closest fire hydrant is 315 feet away. The fire department *has not required an additional fire hydrant at this time pursuant to the letter received February 1, 2022.* The proposed partition is providing water and sewer connections to both parcels. The project frontage along NE Canter Ave. which has only recently been partially constructed (1/2 width). The applicant for this project will be required to complete the remaining street frontage, but only along the frontage of parcel 1. The additional street right-of-way for Canter through the project site will not be required to be built out at this time because it only provides access to one possible buildable lot at this time. The applicant will have to sign a waiver of remonstrance for the future construction of the remaining street right of way. The owner to the north has signed a similar agreement. A waiver will require that the future property owner (of Parcel 2) would have to pay their fair share (1/2) of the construction costs for the street if and when the City requires the street to be completed. The other half of the cost would be borne by the property owner to the north of the future street extension. This would generally only be required when additional land divisions (or partitions) take place on or near the property.

This section also specifies that street lights are required at locations required by City standards. The City's standard minimum spacing for street lights on residential and local streets is 600 ft. Additionally, street lights are required at intersections. The project does not include any intersections and the end of the extended street is less than 600 feet from the nearest street light, which is located at the intersection of Cross St. and Canter Ave. Therefore, street lights are not required for this project.

Stormwater details are discussed below.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standard.

**CONDITONS OF APPROVAL:**

- Prior to City approval of the final partition plat the applicant shall sign and submit a waiver of remonstrance for all NE Canter Ave. right of way fronting Parcel 2.

**Section 3.04 Storm Drainage**

All development in the City is required to provide for storm drainage. A partition is considered development.

**ANALYSIS:** The applicant did not provide details regarding drainage. A drainage plan will need to be submitted. *A neighbor contacted staff with concerns about the existing wetlands and wanted to be sure that new development would not increase the volume of the existing wetland. The wetland spans through the backyards of several existing homes in the West Valley Estates subdivision. To address this concern a condition of approval been modified below to assure the new home on proposed parcel 1 drains to the street and not the wetland.*

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standard.

**CONDITION OF APPROVAL:**

- Prior to City approval of the final plat, the applicant shall submit for approval a drainage plan that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. *The drainage plan must show the developed portion of parcel drains to the street and not into the wetland area to the south of the parcel.*
- Prior to City approval of the final plat, the applicant shall construct all required drainage facilities, or provide bonding (or similar) for all improvements approved by the City.

**Chapter 3.22 Wetland and Riparian Areas**

The project site features wetlands as outlined in a previous wetland delineation from 2019 (WD2019-0363). As such, the requirements from Chapter 3.22 apply.

**ANALYSIS:** The two proposed parcels contain ample areas outside the wetland areas to permit residential single family development. The project was transmitted to the Department of State Lands for review. The response from them echoes the requirements of Chapter 3.22. Wetland avoidance is required unless mitigated.

**FINDING:** Based on the analysis above, the project meets the standards.

**Section 4.02.030 Standards for Lots or Parcels**

This section includes many standards for partitions. These include:

- Lot to depth requirements - the depth shall not be more than three times the width.
- All new lots shall provide at least 40 feet of frontage.
- Flag lots must have an access strip of at least 25 feet in width with an improved surface, and the access strip cannot exceed 150 feet in length without a turnaround.
- Through lots shall be avoided.
- Lot lines shall run at right angles when possible.
- Utility easements may need to be provided.

**ANALYSIS:** The project proposes two parcels. Parcel 1 is 103 feet wide and 205 feet deep. Parcel 2 is 280 feet wide and about 520 feet long. These meet the lot to width ratio requirements. All lots feature at least 40 feet of frontage.

None of the parcels are considered through parcels, and all lot lines are some form of a right angle.

**FINDING:** Based on the analysis above, the project meets the standards.

## **V. ACTION**

Based on the above findings of fact, and the conditions of approval, the proposed project satisfies the applicable criteria and staff approves the Partition Application No. PA 22-01, Helms-Canter Partition, pursuant to the conditions of approval.

## **VI. CONDITIONS OF APPROVAL**

### **General Conditions**

1. Development and construction on the site shall conform substantially to the tentative partition development plans submitted by the applicant dated 1/14/22 and included in this staff report, except as modified in the conditions below, and shall conform specifically to final construction plans reviewed and approved by the City Engineer and the Building Official (Linn County). All plans shall comply with the applicable building, planning, engineering, and fire protection codes of the City of Millersburg.
2. Copies of any federal or state permits that may be required shall be filed in the Record File of this application.
3. Proposed Parcels must connect to City water and sewer.
4. Water and sewer connection permits are required for connections to public water and sewer. System Development Charges (SDCs) are typically due at the time of connection

### **Prior to Approval of the Final Plat**

5. Prior to City approval of the final plat, the applicant shall pay all required connection charges for water and sewer for all property fronting Parcel 1.
6. Prior to City approval of the final plat, the applicant shall provide details of all street and public utilities for review and approval. The design of Canter Ave shall complete the south half of the Canter extension that is currently under construction.
7. Prior to the City approval of the final plat NE Canter Ave. shall be constructed up to the end of Parcel 1 to the west.
8. Prior to City approval of the final plat, the applicant shall construct all required streets and public utilities, or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.

9. All required public improvement plans shall be approved by the City prior to beginning construction. All utilities shall remain uncovered until inspected and approved by the City. All required public improvements shall be completed and approved by the City prior to approval of the Final Plat.
10. Prior to City approval of the Final Plat, the applicant shall submit for approval a storm drainage plan for the site, including public infrastructure, that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. Construction of the approved storm drainage facilities is required prior to approval of the Final Plat. The drainage plan must show the developed portion of parcel drains to the street and not into the wetland area to the south of the parcel.
11. The applicant shall provide evidence to the City that all requirements shown in the Albany Fire letter dated 2/1/22 have been met.
12. The Final Plat shall be submitted for review by City staff prior to recording said plat with the County. The plat shall be drawn by a licensed land surveyor.
13. The Final Plat shall include any required access or utility easements.
14. Prior to City approval of the Final Plat, the applicant shall construct all required drainage facilities, or provide bonding (or similar) for all improvements approved by the City.
15. All right-of-way for NE Canter Ave. shall be dedicated as part of the Final Plat, if not already completed previously.
16. Prior to City approval of the final partition plat the applicant shall sign and submit a waiver of remonstrance for all NE Canter Ave. right of way fronting Parcel 2.

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## **VIII. NOTICES TO THE APPLICANT**

The applicant should also be aware of the following standards and processes that are required for development. These are not part of the decision on this land use case and are provided as a courtesy to the applicant. Please contact City Hall with any questions.

1. All roof drains and yard drainage must be piped or trenched to an approved discharge point.
2. A Private Construction of Public Infrastructure (PCPI) permit is required for all construction of public infrastructure.
3. Driveways shall conform to Chapter 3.02 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 15%.

4. Decks, fences, sheds, building additions, and other site improvements shall not be located within any easement unless otherwise authorized in writing by the City Engineer.
5. The Final Plat shall include any required access or utility easements.
6. All agreements required as conditions of this approval must be signed and recorded.
7. This approval does not negate the need to obtain permits, as appropriate from other local, state, or federal agencies, even if not specifically required by this decision.
8. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
9. **This approval is valid for a period of one (1) year from the date of the decision notice.** Extensions may be granted by the City as afforded by the Millersburg Development Code.
10. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
11. If required, any existing wells, septic systems, and underground storage tanks shall be abandoned in accordance with Oregon state law, inspected by Linn County, and provide verification of such to the City Engineer.
12. The submittal by the applicant for Final Plat review and approval shall include but not be limited to the following: a Final Plat application; narrative identifying how the required conditions of approval have or will be met; three copies of the Final Plat; and any other materials required to demonstrate compliance with the conditions of approval.
13. The Final Plat shall show the City Manager as the City's approving authority within the signature block of the Final Plat and all private access easements, utility easements, and/or special use easements as required for the development of the site. A plat note shall reference an easement and maintenance agreement or similar document, to be recorded with the plat, for the joint maintenance of any common private utility lines, common driveway improvements, or other common amenity or perimeter fencing. The language of such plat note, and associated document, shall be reviewed and approved by the City Planner.
14. An electronic version of the Final Plat must be submitted to the City Planner.
15. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
16. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working in the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.

17. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through proper disposal containers or construction fencing enclosures. All construction equipment and materials shall not be stored in public right-of-way. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the City.
18. Wetlands and FEMA floodplain are present on the site. Work within wetlands and floodplain is subject to the requirements of the Authority Having Jurisdiction (AHJ). Wetlands are shown on both proposed parcels. At the time a building or sitework is proposed on either lot avoidance is the preferred alternative. If wetland delineated areas are effected (see wetland delineation WD2019-0363) a permit is required from the Department of State Lands if more than 50 cubic feet of material is affected.

**IX. EXHIBITS**

- A. Vicinity Map
- B. Zoning Map
- C. Applicant's Site Plan/Map
- D. Applicant's Narrative
- E. City Engineers comments dated 2.7.22
- F. Albany Fire comments dated 2.1.22
- G. Department of State Land comments dated 2.8.22
- H. Notice







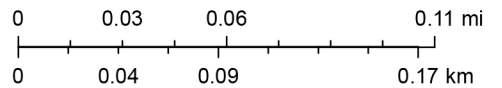
# PA 22-01 Vicinity Map



1/31/2022, 10:25:26 AM

1:4,514

-  Highways
-  Roads
-  Railroad
-  Tax Lots

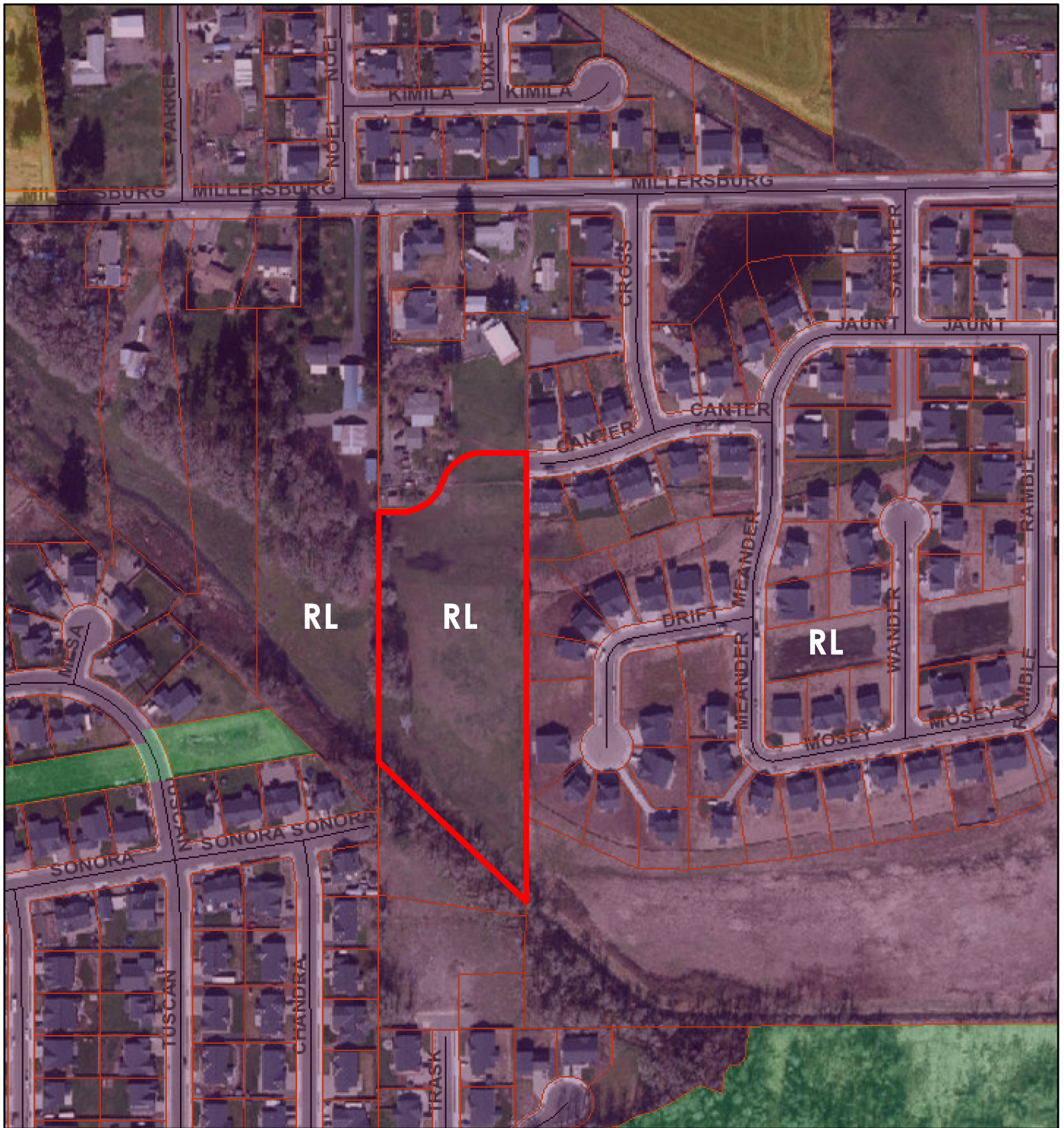


City of Albany, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Linn County GIS, GeoTerra, 2021

ArcGIS Web AppBuilder



# PA 22-01 Zoning Map



1/31/2022, 10:48:42 AM

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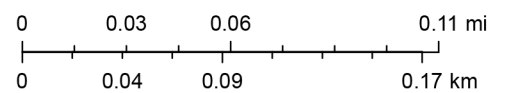
— Highways

— Railroad

Millersburg Zoning

— PUBLIC FACILITIES

— RESIDENTIAL LOW DENSITY



City of Albany, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Linn County GIS, GeoTerra, 2021

ArcGIS Web AppBuilder

City of Albany, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA |

25' PRIVATE ACCESS & UTILITY  
EASEMENT PER C.S. 26639

IRISH HAYDEN  
VOLUME 1193, PAGE 280

MANUEL AND  
GLORIA DURAN  
DEED DOCUMENT  
NO. 2019-16357

LOT 15

LOT 16

LOT 17

(PARCEL 1)  
(PARTITION PLAT NO. 2020-71)

LOT  
20

LOT  
18

CANTER AVE  
(52') R/W

52' ACCESS AND UTILITY  
EASEMENT BENEFITING  
THE CITY OF MILLERSBURG,  
PP 2020-71

10' PRIVATE DRAINAGE  
EASEMENT BENEFITING  
PARCEL 1, PP 2020-71

86'  
197'  
205'  
103'  
PARCEL 1  
0.50 ACRES

LOT  
21

LOT  
22

WEST VALLEY  
ESTATES

LOT 57

WEST VALLEY  
ESTATES PHASE 2

LOT 58

PARCEL 2  
3.66 ACRES

LOT 59

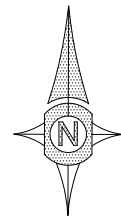
APPROXIMATE LOCATION  
ELECTRIC POWER  
TRANSMISSION EASEMENT  
BOOK 339, PAGE 130

DRIFT CT.

LOT 60

(PARCEL 2)  
(PARTITION PLAT  
NO. 2020-71)

LOT 61



SCALE:

0' 150'

BECKER RIDGE  
PHASE 3  
LOT 73

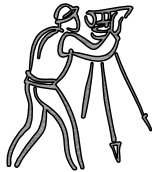
SONORA DR.  
(60.00') R/W

LOT 74

CENTERLINE OF CREEK  
AS SURVEYED IN C.S. 26639

SHEET 1  
of 1

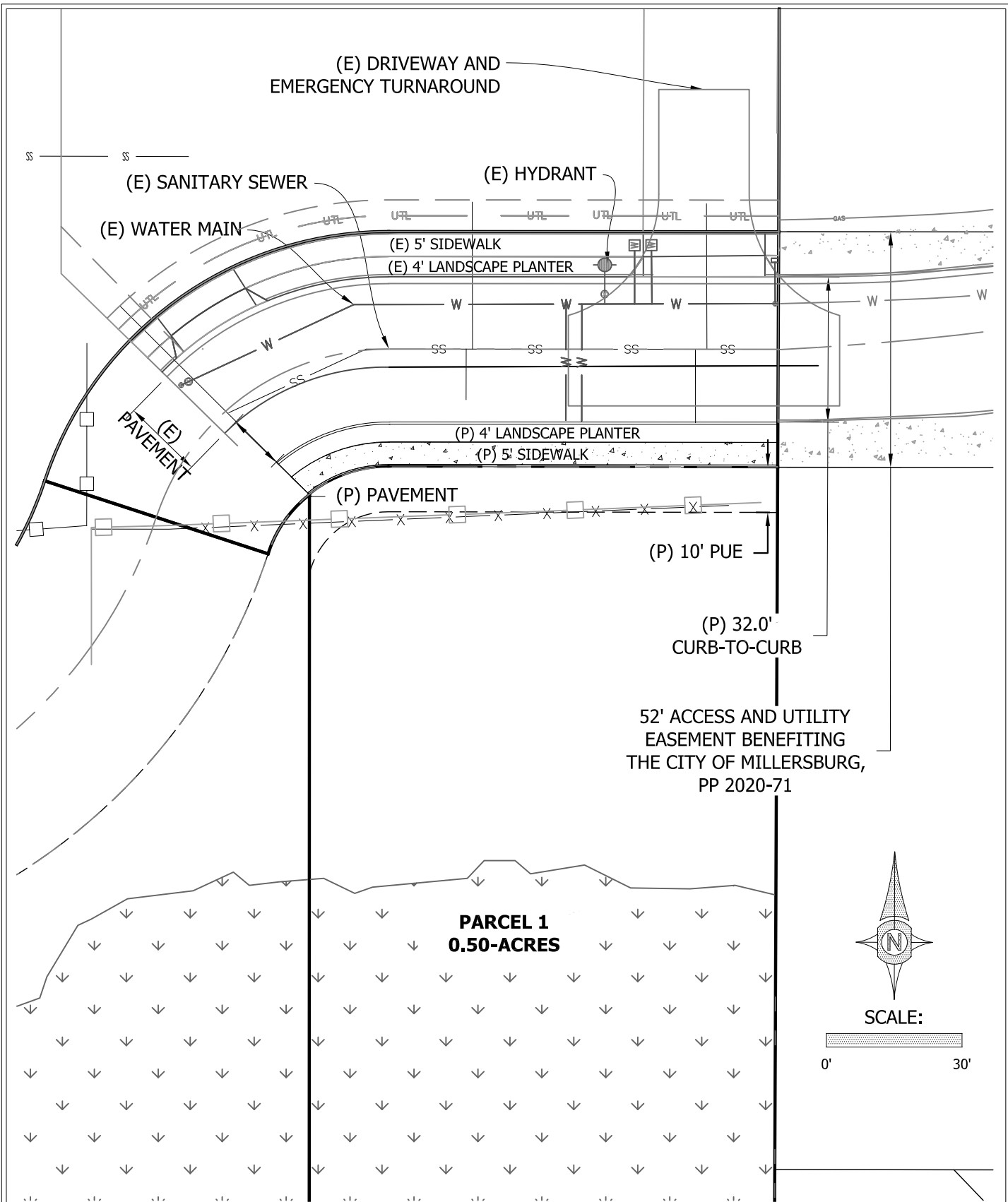
SCALE: AS NOTED



Date 1/14/2022  
Project 20-115  
Drawn by LLL

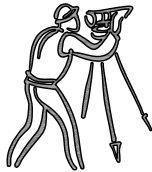
TENTATIVE PARTITION PLAT  
STEVE HELMS  
PARCEL 2, PP 2020-71  
MILLERSBURG, OREGON

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



SHEET 2  
of 2

SCALE: AS NOTED



Date 1/14/2022  
Project 20-115  
Drawn by LLL

TENTATIVE PARTITION PLAT  
STEVE HELMS  
PARCEL 2, PP 2020-71  
MILLERSBURG, OREGON

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

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## PARTITION APPLICATION

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Submitted to: City of Millersburg  
Planning Division  
4222 NE Old Salem Road  
Albany, OR 97321

Applicants/Property Owners: Steven and Elizabeth Helms  
2874 Millersburg Drive. NE  
Albany, OR 97321  
[gunnerh@live.com](mailto:gunnerh@live.com)  
(541) 979-0118

Applicant's Representative: Udell Engineering and Land Surveying, LLC  
63 E. Ash Street  
Lebanon, OR 97355

Contact: Laura LaRoque  
Email: [laura@udelleng.com](mailto:laura@udelleng.com)  
Phone: (541) 990-8661

Site Location: South of NE Canter Avenue

Linn County Assessor's Map No.: 10S-03E-16CC Tax Lot 601

Site Size: ±4.16-acres

Existing Land Use: Unimproved

Comprehensive Plan Designation: Residential

Zone Designation: Residential Low Density (RL)

Surrounding Zoning: North: RL  
South: RL  
East: RL  
West: RL

Surrounding Uses: North: Single-Family Residential (north of Canter Ave. NE)  
South: Single-Family Residential  
East: Single-Family Residential  
West: Single-Family Residential

Previous Land Use Approval(s): PA-20-02 (Linn Co. Survey No. 26933/Partition Plat No. 2020-71)



20-115 Helms  
Canter Avenue  
Partition

January 11, 2022  
Page 1 of 6

## I. Executive Summary

The property owner requests approval to partition a 4.16-acre parcel into two parcels approximately 0.50-acres and 3.66-acres with frontage along and access to NE Canter Avenue. Partial frontage improvements to the south of the NE Canter Avenue right-of-way along the frontage of proposed parcel one is proposed.

This written narrative and associated documentation included in the application materials, establishes that the application complies with all applicable approval criteria. This documentation provides the bases for the city to approve the application.

## II. Analysis of Development Code Criteria

1. Review Type: Table 5.01.030 of the Millersburg Development Code (MDC) states that a partition requires a Type II review, which is a staff review with public notice provided to property owners within 100 feet of the subject site.
2. Millersburg city staff will provide public notice pursuant to Chapter 5.07 and 5.18 of the MDC.
3. **SECTION 5.07.060 PARTITION DECISION CRITERIA**

Section 5.07.060 of the Millersburg Development Code (MDC) includes the following review criteria that must be met for a preliminary plat to be approved. Code criteria are written in **bold** and are followed by findings and conclusions.

1. **Each parcel shall satisfy the dimensional standards of the applicable zone, unless a variance from these standards is approved.**

- 1.1 The underlying zoning district of the subject site is Residential Low-Density (RL). The RL zoning district is intended primarily for low-density residential urban development. The average minimum lot size for single- and two-family dwellings is 10,000 square feet.

As shown on the Tentative Partition Plat, Parcels 1 and 2, will be 0.50-acres and 3.66-acres, respectively (see Attachment A). Conformance with the remaining dimensional standard will be verified upon the receipt of a building permit.

- 1.2 Section 2.03.070 includes development standards regarding off-street parking, signs, yards and lots, residential design standards, and non-residential development for all development in the RL zone. These standards are not applicable to this application as no development is proposed with this application. Compliance with these standards will be verified upon the receipt of a building permit.

- 1.3 Section 2.03.080 states that all development and new construction in the RL zone request connection to all public utilities. Public utilities are available and adequate to serve residential development at a future date. Compliance with these standards will be verified upon the receipt of a building permit.

**2. The parcel shall meet the Development Standards for Land Division of Chapter 4.02.**

2.1 A preliminary partition application for a land division creating three or fewer parcels has been submitted in accordance with Section 4.02.020.

2.2 Section 4.02.030 provides the following standards for all partitions and subdivisions.

- i. Minimum lot area. The minimum lot area of the RL zone is 10,000 and excludes access easements, or the access strip to a flag lot. Access is provided via an existing access easement over abutting property to the north of the subject site.

As shown on the Tentative Partition Plat, Parcels 1 and 2, will be 0.50-acres and 3.66-acres, respectively (see Attachment A).

- ii. Lot Width and Depth. The depth of a lot or parcel must not be more than three times the width. Chapter 1.02 defines Lot depth as the “horizontal mean average distance between the front and rear lots lines,” and Lot width as the “horizontal distance between the side lot lines measured within the lot boundaries or the mean between the side lot lines with in the buildable area.”

Parcel 1 is proposed to have a depth of 187.5 feet and width of 113 feet, which is less than the 339 feet permitted. Parcel 2 is proposed to have a depth of 617 feet and width of 272 feet, which is less than 816 feet permitted.

- iii. Access. All new lots must have a minimum of 40 feet of frontage on an existing or proposed public street, or 25 feet of frontage along a cul-de-sac, except residential lots or parcels which may be accessed by a public street or private access easement developed in accordance with the provision of Chapter 3.10 under certain conditions.

Parcel 1 will have 119 feet of frontage on NE Canter Avenue. Parcel 2 will have access to NE Canter Avenue via an existing 52-foot-wide public access easement that was recorded with Partition Plat No. 2020-71 (CS 26933).

- iv. Flag Lot. Flag lots must have a minimum 25-foot-wide access strip with 14-foot-wide improved surface with a turnaround per Section 3.02 if the length exceeds 150 feet. The site is served via an existing private access easement. Therefore, the flag lot standards are not applicable.

- v. Through Lots. Through lots are to be avoided except where essential to provide separation of residential development. Either parcel is proposed to be a through lot. Therefore, the through lot standards are not applicable.

- vi. Lot side Lines. The side lines of lots, as far as practicable, shall run at right angles to the public street, private street, or private access easement upon which the lot or parcel faces. All proposed property lines are at right angles to the public street and public access easement.

- vii. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utility easement widths, which shall conform to adopted Engineering

Standards. Public utilities are available and adequate to serve the proposed parcels within the public right-of-way or existing utility easements. All existing easements and utilities are shown on the tentative partition plat.

2.3 The standard for subdivision under Section 4.02.040 and 4.02.060 are not applicable as the request is for a 2-parcel partition.

2.4 Section 4.02.050 requires the following improvements:

i. Private Access. Where included, private driveways serving flag lots or private streets shall be surfaced per the requirements of this Code. No flag lots or private streets are proposed with this application therefore, this standard is not applicable.

ii. Street Frontage Improvements.

1. A 52-foot-wide access and utility easement benefiting the City of Millersburg was dedicated and recorded on Linn County Partition Plat No. 2020-71 (CS 26933). NE Canter Avenue is classified as a Local Street. According to Chapter 3.02, Table 12, Local Street must provide a minimum right-of-width of 50 feet. Therefore, the existing right-of-way is sufficient along the property frontage and no additional land dedication is required.

2. According to Chapter 3.01, Table 11 public facility improvements for a single-family dwellings and partition (C-2) are require, including water, sewer, storm, and bike/pedestrian facilities.

The right-of-way along the property frontage is not fully improved. Partial street improvements along the north of Canter Avenue to the south of Parcels 1 and 2 were included as a condition of approval for planning file no. PA-21-01 and were constructed in accordance with Public Improvement Plans provided by A & O Engineering, LLC, dated August 7, 2021.

Partial street improvements along the south of Canter Avenue to the north property frontage of Parcel 1 are proposed with this application, including curbing, a minimum 5-foot-wide sidewalk, four-foot-wide landscaping strip, and curb-to-curb pavement width of 32-feet. Also, proposed are connections to existing public utilities for Parcel 1. A condition of approval is proposed to allow the submittal of street and public utility plans to be provided for review and approval and construction of approved improvements prior to the recordation of the final plat.

C-2 allows parcel of 2.5 acres or larger to

iii. Public Facilities. Sewer, water, and storm drainage facilities may be required on and adjacent to the property. As shown on the tentative partition plat, public facilities are available and adequate to serve the proposed parcels.



- iv. Connection Charge. A connection charge is required in accordance with the City's adopted Connection Charges ordinance where existing improved streets, sanitary sewer, water, and/or storm lines are adjacent to or within the project. Public facilities are available and adequate. Therefore, connection charges are applicable.
- v. Completion Requirements. All required improvements must be completed prior to recording the final partition plat and the issuance of any building permits for the subject property, unless assured through a performance bond or other instrument acceptable to the city prior to approval of the final plat of the Partition.

**3. Existing structures and accessory structures shall comply with the setback requirements of the applicable zone, including accessory structures which have a setback established by the building size, unless a variance from the requirements is approved.**

3.1 The subject property is unimproved. Therefore, this criterion is not applicable.

**4. Adequate public facilities, including access, shall be available to serve the existing and newly created parcels. If adjacent properties are undeveloped or landlocked, extending appropriate access to those properties will be required in accordance with City policy.**

4.1 The project will be extending NE Canter Avenue into the project site. All required utilities are available within NE Canter Avenue. As explained under criterion 2 above and herein by reference, the applicant is proposed to construct a partial street improvement along the frontage of Parcel 1. A condition of approval is proposed to allow the submittal of street and public utility plans to be provided for review and approval and construction of approved improvements prior to the recordation of the final plat.

**5. Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.**

5.1 As shown on the Tentative Plat, the proposed parcels would take access from NE Canter Avenue.

5.2 On the North Boundary: NE Canter Avenue borders the site along the north boundary, and the proposed partition does not prevent development or access to properties north of NE Canter Avenue.

5.3 On the West Boundary: 2870 NE Millersburg Drive is currently developed with an existing dwelling. The property is an interior parcel with frontage on NE Millersburg Drive and the west termination of the NE Canter Avenue right-of-way, with existing access from NE Millersburg. The proposed land division does not affect future development of this lot.

5.4 On the East Boundary: Adjoining properties to east of the site are developed residential lots within the West Valley Estates, Phase 2 subdivision with access from NE Canter Avenue and NE Drift Court with the exception of a Tract A of the West Valley Estates, Phase two subdivision which is not intended to be developed.

5.5 On the South Boundary: 2826 Sonora Drive is currently developed with an existing dwelling. The property is an interior parcel with frontage on and access to NE Sonora Drive. The proposed land division does not affect future development of this lot.

### III. OVERALL CONCLUSION

Based on the analysis in this report, the proposed preliminary partition plat meets all the applicable review criteria as outlined above.

### IV. ATTACHMENTS

- A. Tentative Partition Plat
- B. Linn County Survey No. 26933/Partition Plat No. 2020-71

TO: Matt Straite, City Planner

FROM: Janelle Booth, Millersburg City Engineer

DATE: February 7, 2022

SUBJECT: PA 22-01 - Engineering Comments

1. Water and sewer connection permits are required for connections to public water and sewer. System Development Charges (SDCs) are due at the time of connection.
2. Prior to City approval of the final plat, the applicant shall provide details of all street and public utilities for review and approval. The design of Canter Ave shall complete the south half of the Canter extension that is currently under construction.
3. Prior to City approval of the final plat, the applicant shall construct all required streets and public utilities, or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.
4. Prior to City approval of the final plat, the applicant shall submit for approval a drainage plan that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer.
5. Prior to City approval of the final plat, the applicant shall construct all required drainage facilities, or provide bonding (or similar) for all improvements approved by the City.
6. Prior to City approval of the final plant, the applicant shall pay all required connection charges for water and sewer.
7. All right-of-way for NE Canter Ave. shall be dedicated as part of the Final Plat.



TO: Matt Straite, Planner

From: Lora Ratcliff, Fire Marshal

DATE: February 1, 2022

SUBJECT: PA-22-01 –Canter St NE - Residential Partition – Fire Department Comments

The fire department has reviewed the above project for conformance to the 2019 Oregon Fire Code (OFC) per your request and has the following comments, which are based on limited information provide for the pre-application meeting and are subject to change.

1. Approved fire apparatus roadways must extend to within 150 feet of all exterior portions of any structure that will be built on the new created lot as measured by an approved route of travel around the exterior of the structure with dead-end lengths not exceeding 150 feet long unless an approved turnaround is provided. (OFC 503.1.1, OFC 503.2.5 and OFC, Appendix D 103.4).
2. The fire apparatus roadways for this project accessing the site from the public way and serving two or more residential structures are required to be provided and maintained with a minimum 20 feet wide improved surface. (OFC 503.2.1) The width of the improved surface may be reduced to 16 feet for those portions serving only two residential structures, and 12' if serving one residential structure.
3. The road surface for all private fire apparatus access roads shall be all weather and capable of supporting an imposed load from fire apparatus of at least 75,000 pounds as verified by a qualified State of Oregon licensed design professional. (OFC 503.2.3 & Appendix D, 102.1). The Designer of Record shall provide written certification to the Fire Department upon completion of all private access road construction.
4. This proposed project is located within a "Protected Area" as defined by Oregon Fire Code (OFC) Appendix B, Section B102 and this area will be required to be served by a public water system. The Fire Flow required for shall be as specified in Appendix B of the fire code. (OFC 507.3)
5. INADEQUATE FIRE APPROACH & ACCESS TO WATER SUPPLY

If the Fire Official determines that there is an inadequate fire apparatus access condition or an inadequate fire water supply for one or more parcels of the proposed division, in Lieu of providing adequate fire apparatus access or supply and acting in conformance to the standards set forth in **OAR 918-480-0125**, the Uniform Alternate Construction Standard for One and Two Family Dwellings, the Building Official, will select the following standard(s) to address the inadequacies pertaining to structures built on the affected parcels:

- a. Installation of an NFPA Standard 13D fire suppression system;

LAR/lar

[Lora.ratcliff@cityofalbany.net](mailto:Lora.ratcliff@cityofalbany.net)

541.917.7728



## Response Page

Department of State Lands (DSL) WN# \*

WN2022-0082

### Responsible Jurisdiction

**Staff Contact**

Matt Straite

**Jurisdiction Type**

City

**Municipality**

Millersburg

**Local case file #**

PA 22-01

**County**

Linn

### Activity Location

Township	Range	Section	QQ section	Tax Lot(s)
10S	03W	16	CC	601

Street Address

Canter Ave

Address Line 2

City

Millersburg

Postal / Zip Code

State / Province / Region

OR

Country

Linn

**Latitude**

44.696645

**Longitude**

-123.069497

### Wetland/Waterway/Other Water Features



- There are/may be wetlands, waterways or other water features on the property that are subject to the State Removal-Fill Law based upon a review of wetland maps, the county soil survey and other available information.
- The National Wetlands Inventory shows wetland, waterway or other water features on the property
- The county soil survey shows hydric (wet) soils on the property. Hydric soils indicate that there may be wetlands.

### Your Activity



- It appears that the proposed project **may** impact wetlands and **may** require a State permit.

## Applicable Oregon Removal-Fill Permit Requirement(s)



- A state permit is required for 50 cubic yards or more of fill removal or other ground alteration in wetlands, below ordinary high water of waterways, within other waters of the state, or below highest measured tide.

## Closing Information



### Additional Comments

A wetland delineation has been conducted on the property (WD2019-0363). Impacts to the wetlands identified on this delineation including on the submitted partition documents will require permitting and associated mitigation for removal and/or fill activities that are 50 cubic yards or greater.

Please note that avoidance of impacts to the identified wetlands is the preferred alternative.

**This is a preliminary jurisdictional determination and is advisory only.**

This report is for the State Removal-Fill law only. City or County permits may be required for the proposed activity.

- A Federal permit may be required by The Army Corps of Engineers: (503)808-4373

### Contact Information

- For information on permitting, use of a state-owned water, wetland determination or delineation report requirements please contact the respective DSL Aquatic Resource, Proprietary or Jurisdiction Coordinator for the site county. The current list is found at: <http://www.oregon.gov/dsl/ww/pages/wwstaff.aspx>
- The current Removal-Fill permit and/or Wetland Delineation report fee schedule is found at: <https://www.oregon.gov/dsl/WW/Documents/Removal-FillFees.pdf>

### Response Date

2/8/2022

### Response by:

Chris Stevenson

### Response Phone:

503-986-5246



**NOTICE OF TENTATIVE DECISION**  
**PA 22-01 Helms-Canter Partition**  
**COMMENTS DUE February 22, 2022**

February 8, 2022

The City of Millersburg has received an application to partition a property in the City. The project was reviewed by staff for consistency with the Millersburg Development Code using a ministerial Land Use Review process. **Staff is now issuing a tentative decision to approve the project with conditions of approval.** No hearing will take place.

The City is asking for your input. Please review the attached exhibit and the staff report which is available here-<http://cityofmillersburg.org/current-planning-applications/>. Look for the link to PA 22-01. After the expiration of this 14-day public/agency review period, any input received will be taken into consideration, additional conditions of approval may be added to the decision to mitigate any concerns, and a final decision will be rendered by Staff.

Interested parties are invited to send written comment or email. Failure of an issue to be raised in this notice period or failure to provide sufficient specific information to allow the Staff an opportunity to respond to the issue may preclude your ability to appeal the decision based on that issue. Please send all comments to 4222 NE Old Salem Road, Millersburg OR 97321, or via email to [mstraite@cityofmillersburg.org](mailto:mstraite@cityofmillersburg.org) before February 22, 2022.

The application, all documents, and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost or copies are available for a minimal cost or online at the link shown above. For further information, contact Millersburg City Hall at (458)-233-6300.

The final decision can be appealed within 15 days to the Planning Commission.

<b>APPLICANTS:</b>	Steven Helms
<b>LOCATION:</b>	At the terminus of NE Canter Street (see map opposite page)
<b>TAX LOT:</b>	Township 10 South; Range 3 West; Section 16CC; Tax Lot 601
<b>PARCEL SIZE:</b>	4.35 Acres
<b>ZONING:</b>	Residential Low (RL)
<b>REQUEST:</b>	The application proposes to divide 4.35 acres into 2 parcels, parcel 1 is proposed to be 0.50 acres and parcel 2 is proposed to be 3.66 acres.
<b>CRITERIA:</b>	Millersburg Development Code; Article 5.07.060
<b>FILE No.:</b>	PA 22-01