



**Summary:** The Tentative Decision was distributed for public review between August 19, 2022 and November 7, 2022. The City received a comment letter from the City Engineer. No other letters were received. The City Engineer felt that additional conditions of approval were needed to assure compliance with development code criteria and requirements. All recommended conditions of approval were added. One duplicate condition of approval was deleted. The conditions of approval and analysis below have been revised to reflect the input provided from the comment. All revised conditions and analysis are 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 application proposes to divide 2.48 acres into 2 parcels, parcel 1 is proposed to be 95,983 square feet with an existing single-family residence and parcel 2 is vacant and proposed to be 12,957 square feet on NE Millersburg Drive.

## I. BACKGROUND

- A. Applicant: Travis Townsend  
2047 NE Millersburg Drive  
Millersburg, OR 97321
- B. Project Location: 2047 NE Millersburg Drive  
10S 3W 17 Tax Lot 00352
- 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 at least

100 feet on August 19, 2022, and all responsible agencies on October 22, 2022. The notice provided 14 days to respond.

- E. Review Criteria: Chapter 5.07.060/5.08.060 Partitions/Subdivisions
- F. Current Zoning: Rural (RU)
- G. Proposed Zoning: Pursuant to Millersburg Development Code section 2.04.010, if the partition is approved the zoning will be automatically changed to Residential Low (RL).
- H. Property Size: 2.48 Acres
- I. Background: None

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

### Agencies:

The project was transmitted to the following agencies/departments on October 11, 2022: City of Albany, Albany Fire Department, City of Millersburg Engineer, Pacific Power, Linn County Planning and Building Department, Northwest Natural Gas, and PacifiCorp. Any comments received will be addressed in the final decision.

### Public:

Notice of this tentative decision was sent out to neighbors of the site on October 19, 2022. The notice was mailed to all property owners within 100 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.

#### **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 Rural (RU) Zone. Because the proposed project is proposing parcels under 2.5 acres in size, and because water and sewer are being connected to the lots, the Millersburg Development Code explains that if the tentative partition is approved, the zoning automatically changes to 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. The proposed parcels are approximately 95,983 sq ft and 12,957 square feet, well above the required 10,000 square feet. Even though Parcel 2 is over 12,000 square feet, it should be noted that there is an existing access easement that crosses the property. This easement may ultimately become a street. The proposed parcel is designed so that should the access easement become a street, Parcel 2 would still be over 10,000 square feet. All zone standards are met. Setbacks are not something that is possible to evaluate at the partition stage, 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 features one single-family home. This is located on the proposed Parcel 1. There is also a detached garage on the same proposed Parcel. The applicant has a garage on the property that does not currently meet the setbacks. The garage pre-dates our current code. The new code specifies that setbacks are taken from the access easement, not the property line. However, because this application is not making this non-conforming setback any worse, this is considered a legal-non-conforming setback and therefore is permitted to remain. Should anyone ever wish to change the garage it would have to conform at that time.

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

**(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 property is located along NE Millersburg Drive. There are properties surrounding the site that could all develop further, specifically through additional subdivisions. However, every surrounding property has access to a street and does not require access through the applicant's property. It should be noted that the property to the north of the applicant's site, 2069 NE Millersburg Drive, does currently take access through the applicant's site, using an existing access easement. However, in a future condition, 2069 NE Millersburg Drive has access to NE Barker Street, which dead-ends on 2069. This will likely be the appropriate place for a subdivision to take access to that property. It should also be noted that the applicant's design for the subdivision does not preclude a connecting street running through the applicant's property that could also provide access to the property to the north.

All other public facilities such as water and sewer are available for the applicant on NE Millersburg Drive. The neighboring lots to the east and west of the applicant's property also front on NE Millersburg Drive and have equal access to utilities without the need for the applicant's project to accommodate such needs. The property to the north has no access to utilities, however, they do have NE Barker Court dead end on their property. There are currently no utilities in that section of NE Barker Court. Sewer lines are run for most of the length of NE Barker, but there is currently no water in NE Barker. Because the property owner to the north has a public street connecting directly their property, the applicant need not make any accommodations for utilities to be provided to the northern property. Should the property to the north ever elect to subdivide, they can use NE Baker Court for utilities.

Having all that said, it should also be noted that this proposed partition does not preclude the possibility of allowing the northern neighbor from using the existing access easement on the applicant's property for utilities as well. That would ultimately be between the applicant and his northern neighbor.

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

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

**ANALYSIS:** See analysis above. The applicant has provided a shadow plat showing how the remainder of the property could be divided. This plat is not binding, but it shows that the design of the proposed partition would fit future divisions, and thus provide possible access to neighboring properties. In the shadow plat, an access path to the northern property is shown. Further development of the property would require that a full street be used. The applicant has shown that the proposed design would not preclude a future street.

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

**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 fully comply or Code standards 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/subdivisions. 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 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 85 feet away from the west, or 175 feet away from the east. The fire department has not requested a new hydrant. The proposed partition is providing water and sewer connections to both parcels, the existing house is already connected to both. NE Millersburg Drive, fronting the property, is partially improved. There is an existing 60 foot wide dedication for the street. The street fronting the property is not completed. There are no sidewalks, though sidewalks are required. Because of the property's location, it is not desirable for the City to have the applicant build a sidewalk on just this section of NE Millersburg Drive. However, because the applicant is responsible to construct the street for this proposed land partition, a condition of approval has been added for the applicant to sign a waiver of remonstrance, which means the applicant consents to construction when the City is ready, and agrees to fund

their fair share of construction costs for the sidewalk (fronting the property) at the time it is constructed.<sup>1</sup> This agreement will run with the land, meaning any future property owner will be required to pay for the sidewalk when the City desires to build it. Additional street right-of-way dedication for Millersburg will not be required to be built out at this time. *Connection charges have been added as a condition of approval pursuant to the City Ordinances. Additional conditions of approval have been added to clarify that the new parcel will need to connect to water and sewer.*

This section also specifies that streetlights are required at locations required by City standards. The City's standard minimum spacing for streetlights on residential and local streets is 600 ft. There is an existing streetlight at the applicant's property and NE Millersburg Drive.

Stormwater details are discussed below.

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

**CONDITIONS OF APPROVAL:**

- Prior to City approval of the final partition plat the applicant shall sign and submit a waiver of remonstrance for sidewalks on NE Millersburg Dr.
- *Connection Charges for water and sewer are due prior to City approval of the final plat. Connection Charge calculation shall be based on the length of the Parcel 2 frontage on Millersburg Drive, as determined by surveyor for any property frontage not attributed to an existing home at the time of plat recordation. Connection Charges are in addition to System Development Charges (SDCs).*
- *Proposed Parcel 2 must connect to city water and sewer. City water and sewer are available in Millersburg Drive. Connection is required at the time of building permits. The applicant is responsible for all costs associated with utility connections.*
- *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 (building permits).*
- *A right-of-way permit is required for any work in the public right-of-way, including utility connections. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction*

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<sup>1</sup> As permitted by Section 3.01.030, Table 11, note 2.b

*Specifications, except as modified by the City of Millersburg Pavement Patching Standards.*

- *Development of this property requires construction of half street improvements along the frontage of Millersburg Drive (246.1 ft). At the City's discretion, and at the request of the applicant, a fee may be paid in lieu of construction. This fee is based on the connection charge calculation for street and stormwater improvements for the frontage of Parcel 2 only. If fee is paid, Parcel 2 will be considered to have participated in road construction costs and no additional road construction costs may be charged to this property in the future. Parcel 1 would still be eligible to participate in the cost of road improvements in the future if required.*
- *Sidewalks are required at the time of building construction. If street improvements are not constructed at the time of home construction, the applicant may defer construction of sidewalks by signing a waiver of remonstrance agreeing to construct sidewalks in the future at the request of the City.*
- *All roof drains and yard drainage from Parcel 2 must be piped or trenched to an approved discharge point. Applicant must provide drainage plan for approval. If drainage plan requires easements they must be recorded on the final plat.*

### **Section 3.02.030 General Provisions**

- (3) Alignment. All streets other than local streets or cul-de-sacs, shall be in alignment with existing streets by continuation of the centerlines to the maximum extent feasible. The staggering of street alignments resulting in "T" intersections shall be avoided wherever practical. However, when not practical, the staggering of street alignments resulting in "T" intersections shall meet with the approval of the City Engineer and ensure compliance with accepted traffic safety standards.**

**ANALYSIS:** The project site features an intersection across the street from the property at NE Millersburg Drive and NE Crestmont Drive. The proposed new parcel would be located directly across the street from NE Crestmont Drive, preventing an extension of NE Crestmont Drive. The existing driveway and access easement on the applicant's property does not align with NE Crestmont Drive. The applicant's existing easement may someday become a street, indeed the shadow plat shows such, and the new proposed parcel is designed in such a way that the existing easement could be a street and still have the new parcel conform to the code (in terms of lot size). The City Engineer has reviewed this condition, and based on the fact that more than 1 home uses the existing access on the applicant's property, the design of the partition is acceptable and can meet traffic safety requirements.

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

- (4) Future Street Extensions. When it appears possible to continue a street, bicycle path, and/or pedestrian accessway into a future subdivision, adjacent acreage, or area attractors such as schools and shopping centers, these facilities shall be platted to a boundary of the subdivision or development. Further, the street may be platted without a turnaround unless the Public Works Department or local Fire District finds a turnaround is necessary for reasons of traffic safety.**

**ANALYSIS:** This has been discussed previously. A street extension is not required, though the applicant's design does not preclude a street extension someday along the path of the existing easement. Either way, this standard is met.

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

- (6) Existing Streets. Whenever existing public streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.**

**ANALYSIS:** NE Millersburg Drive does not require an additional right of way dedication at this time.

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

### **Section 3.02.040 Access Standards**

**ANALYSIS:** Table 13 lists the access spacing standards. For an arterial, the distance is 600 feet. The project meets this requirement, because no street is proposed. A future street in the location of the access easement would not meet the standard; however, table 11 allows the City Engineer the ability to permit a smaller spacing if it is safe. This section also explains that additional driveways on an arterial are not permitted. NE Millersburg Drive is an arterial, therefore, the applicant is not permitted an additional driveway. The proposed design shows the new parcel taking access from a shared driveway, which already has an access easement. Conditions have been added to assure this is functional.

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

**CONDITIONS OF APPROVAL:**

- No additional driveways are permitted on NE Millersburg Drive.
- Prior to construction of a new home on proposed parcel 2, the easement shall be modified to allow access rights to parcel 2.

### **Section 3.02.070 Sidewalks**



**ANALYSIS:** This section requires sidewalks, but allows them to be differed at the discretion of the City, and when there are no improvements on either side. In this case there are no sidewalks to the east or west along NE Millersburg Drive. A waiver of remonstrance is required, conditions require such.

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

### **Section 3.02.100 Private Access Easement**

**ANALYSIS:** This section regulates private easements used for access. The applicant's property already has an access easement used by two homes, one on the applicant's property and another to the north on a separate lot. The proposed partition would add a third parcel (home) using the easement. This section allows a maximum of three homes on a private easement. The easement must be 25 feet wide, which it already is, and allow a future street to be constructed on the easement should more development be possible, which it is. The easement can accommodate the design of a full street as shown on the shadow plat (assuming  $\frac{1}{2}$  of the street is on the applicant's property and  $\frac{1}{2}$  is on the neighboring property). Based on subsection (1)b the easement must be paved. Because the easement for the property to the north is an existing condition, and not a specific request or requirement for this application, the paving requirement would not apply to the entire length of the easement, just enough to provide paved access to the proposed lot and the existing home on the applicant's property. The existing conditions already meet this requirement. The access is currently paved.

Subsection (1)c permits a maximum private shared access easement length of 200 feet. The existing conditions feature a length of 448 feet. However, the access easement is an existing condition, and the proposed partition is not making the distance any longer or shorter. Therefore, while the existing easement does not conform with this 200 foot maximum length requirement, it is considered a legal non-conforming condition. The new proposed parcel will be adding more traffic to the easement, but the new parcel is located next to the intersection with NE Millersburg Drive, well under the 200 foot maximum length requirement. For these reasons, staff has determined that the project conforms with the standard.

Lastly, subsection (4) requires a fire turnaround for any access easement longer than 150 feet. The existing access easement is over 448 feet. No turnaround exists or is provided. The applicants existing home on the property has a driveway that could function as a turnaround, but is not currently part of the easement. A condition of approval has been added to have the applicant either add a fire turnaround to existing easement (and construct the turnaround) or expand the easement to include the existing driveway on the existing home. This must include no parking however within the turnaround. Either way, the turnaround must be shown on the final plat and constructed prior to the map recording.

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

**CONDITIONS OF APPROVAL:**

- Prior to the City approval of the Final Plat, a fire turnaround must be shown that meets the standards of Albany Fire and the Millersburg City Development Code.
- Prior to the recording of the final plat, all fire turnarounds must be constructed and meet the specifications of Albany Fire and the Millersburg City Development code. No parking signs shall be placed within the fire turnaround.

**Section 3.02.110 Lots and Parcels Served by Private Streets and Access Easements.**

**ANALYSIS:** This section explains that the minimum lot size must be able to meet the zoning requirements apart from the easement. The project meets this requirement, as the new parcel is over 12,000 square feet and more than 10,000 outside the easement. This section also notes that the house setback must be taken from the easement, not the property line. This has been added as a condition of approval.

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

**CONDITION OF APPROVAL:**

- All applicable setbacks for the eventual home built on Parcel 2 must be taken from the easement, not the property line.

**Section 3.04 Storm Drainage and Grading**

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.

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

**CONDITIONS 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.
- 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.

### 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. Both meet the lot to width ratio requirements. All lots feature at least 40 feet of frontage. The access strip meets the 25 foot width requirement. The flag lot rules do not apply because parcel 1 still has over 100 of frontage on NE Millersburg Drive. None of the parcels are considered through parcels. Utility easements are not required.

Subsection 8 requires that the design of the division be such that future divisions would still be logical and possible. The applicant has provided a shadow plat that clearly shows that the design of the partition will readily accommodate future division of parcel 1. As discussed previously, the shadow plat also shows that the current design does not preclude a street in the future to serve additional lots.

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

### Section 4.02.060 Improvement Requirements for Subdivisions.

**ANALYSIS:** Required improvements include frontage improvements, monuments, drainage, sewer and water, sidewalks, and streetlights. Each is described below.

*Frontage improvements.* NE Millersburg Drive is partially improved fronting the site. There are no subsurface drainage features or sidewalks. As discussed previously sidewalks are not being required at this time. A waiver of remonstrance is required to allow construction of the sidewalks when appropriate. No other street improvements are required at this time.

*Monuments.* Monuments are placed as part of the final plat process.

*Drainage.* The applicant has been conditioned to provide a drainage study prior to the map recording. Full construction of any identified improvements will be required prior to the map recording.

*Sewer and water.* Both are available in NE Millersburg Drive. The exhibit shows how the new parcel will connect. The existing lines are sufficient for the one additional parcel proposed with this partition.

*Sidewalks.* Sidewalks have been discussed previously. Conditions have been added for a waiver of remonstrance.

*Streetlights.* Streetlights are not required because one already exists at the project site.

**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 22-02, Townsend Partition, pursuant to the conditions of approval listed below.

## **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 8/11/22 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.*
5. No additional driveways are permitted on NE Millersburg Drive.
6. All applicable setbacks for the eventual home built on parcel 2 must be taken from the easement, not the property line.
7. *Proposed Parcel 2 must connect to city water and sewer. City water and sewer are available in Millersburg Drive. Connection is required at the time of building permits. The applicant is responsible for all costs associated with utility connections.*
8. *A right-of-way permit is required for any work in the public right-of-way, including utility connections. All pavement patching work shall conform to the City of Millersburg Trench*

*Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.*

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

9. Prior to City approval of the final plat, the applicant shall pay all required connection charges for all property fronting Parcel 2.
10. 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.
11. *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. All roof drains and yard drainage from Parcel 2 must be piped or trenched to an approved discharge point. Applicant must provide drainage plan for approval. If drainage plan requires easements they must be recorded on the final plat.*
12. The applicant shall provide evidence to the City that all requirements shown in the Albany Fire letter dated 10/12/22 have been met.
13. 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.
14. The Final Plat shall include any required access or utility easements.
15. Prior to City approval of the final partition plat the applicant shall sign and submit a waiver of remonstrance for sidewalks on NE Millersburg Dr.
16. Prior to the City approval of the Final Plat, a fire turnaround must be shown that meets the standards of Albany Fire and the Millersburg City Development Code.
17. Prior to the recording of the final plat, all fire turnarounds must be constructed and meet the specifications of Albany Fire and the Millersburg City Development code. No parking signs shall be placed within the fire turnaround.
18. 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.

19. *Connection Charges for water and sewer are due prior to City approval of the final plat. Connection Charge calculation shall be based on the length of the Parcel 2 frontage on Millersburg Drive, as determined by surveyor for any property frontage not attributed to an existing home at the time of plat recordation. Connection Charges are in addition to System Development Charges (SDCs).*
20. *Development of this property requires construction of half street improvements along the frontage of Millersburg Drive (246.1 ft). At the City's discretion, and at the request of the applicant, a fee may be paid in lieu of construction. This fee is based on the connection charge calculation for street and stormwater improvements for the frontage of Parcel 2 only. If fee is paid, Parcel 2 will be considered to have participated in road construction costs and no additional road construction costs may be charged to this property in the future. Parcel 1 would still be eligible to participate in the cost of road improvements in the future if required.*

### **Prior to Construction of Any New Single-Family Homes**

21. Prior to construction of a new home on proposed parcel 2, the easement shall be modified to allow access rights to parcel 2.
22. *Sidewalks are required at the time of building construction. If street improvements are not constructed at the time of home construction, the applicant may defer construction of sidewalks by signing a waiver of remonstrance agreeing to construct sidewalks in the future at the request of the City.*

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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 may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).*

**IX. EXHIBITS**

- A. Vicinity Map
- B. Zoning Map
- C. Applicant's Tentative Map dated August 11, 2022
- D. Applicant's Narrative
- E. Albany Fire comments dated October 12, 2022
- F. City Engineers Comments dated October 25, 2022
- G. Notice

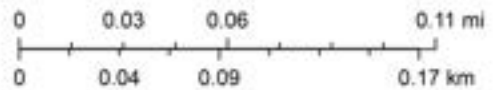


# PA 22-02 Vicinity Map



10/11/2022, 1:20:04 PM

1:4,514



- Highways
- Roads
- Railroad
- City Boundary
- Tax Lots

Linn County GIS, GeoTerra, 2021, City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA

ArcGIS Web AppBuilder

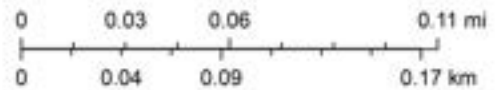
# PA 22-02 Zoning Map



10/11/2022, 1:22:25 PM

1:4,514

- Highways
- LIMITED INDUSTRIAL
- Railroad
- MIXED USE
- Millersburg Zoning**
- COMMERCIAL OFFICE
- PUBLIC FACILITIES
- GENERAL COMMERCIAL
- RESIDENTIAL LOW DENSITY
- GENERAL INDUSTRIAL
- RESIDENTIAL MIXED DENSITY
- RURAL



Linn County GIS, GeoTerra, 2021, City of Albany, County of Benton, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA

ArcGIS Web AppBuilder

TENTATIVE PARTITION PLAT  
 FOR  
**TRAVIS TOWNSEND**  
 LOCATED IN  
 TAX LOT 352, MAP 105-3W-17  
 SW 1/4 SEC. 17, T. 10 S., R. 03 W., W.M.  
 IN THE  
 CITY OF MILLERSBURG, LINN COUNTY, OREGON

AUGUST 11, 2022

**PROPERTY STATISTICS:**

**SITE ADDRESS:**  
 2047 NE MILLERSBURG DR.  
 ALBANY, OR 97321

**SITE ZONING:**  
 RU = RURAL

**TAX LOT:**  
 352 (105-3W-17)  
 AREA = 2.5 ACRES

**PARCEL 1:**  
 AREA = 95,983 SF (2.20 ACRES)

**PARCEL 2:**  
 AREA = 12,958 SF (0.30 ACRES)

**APPLICANT:**

TRAVIS TOWNSEND  
 2047 NE MILLERSBURG DR.  
 ALBANY, OR 97321

**OWNER:**

TRAVIS TOWNSEND  
 2047 NE MILLERSBURG DR.  
 ALBANY, OR 97321

**ENGINEER:**

K+D ENGINEERING INC.  
 276 HICKORY ST. NW  
 ALBANY, OR 97321  
 541-928-2563

**NOTE:**

DATA IS COMPILED FROM THE LINN COUNTY AND CITY OF ALBANY'S GIS DATABASE, DATED 2015.

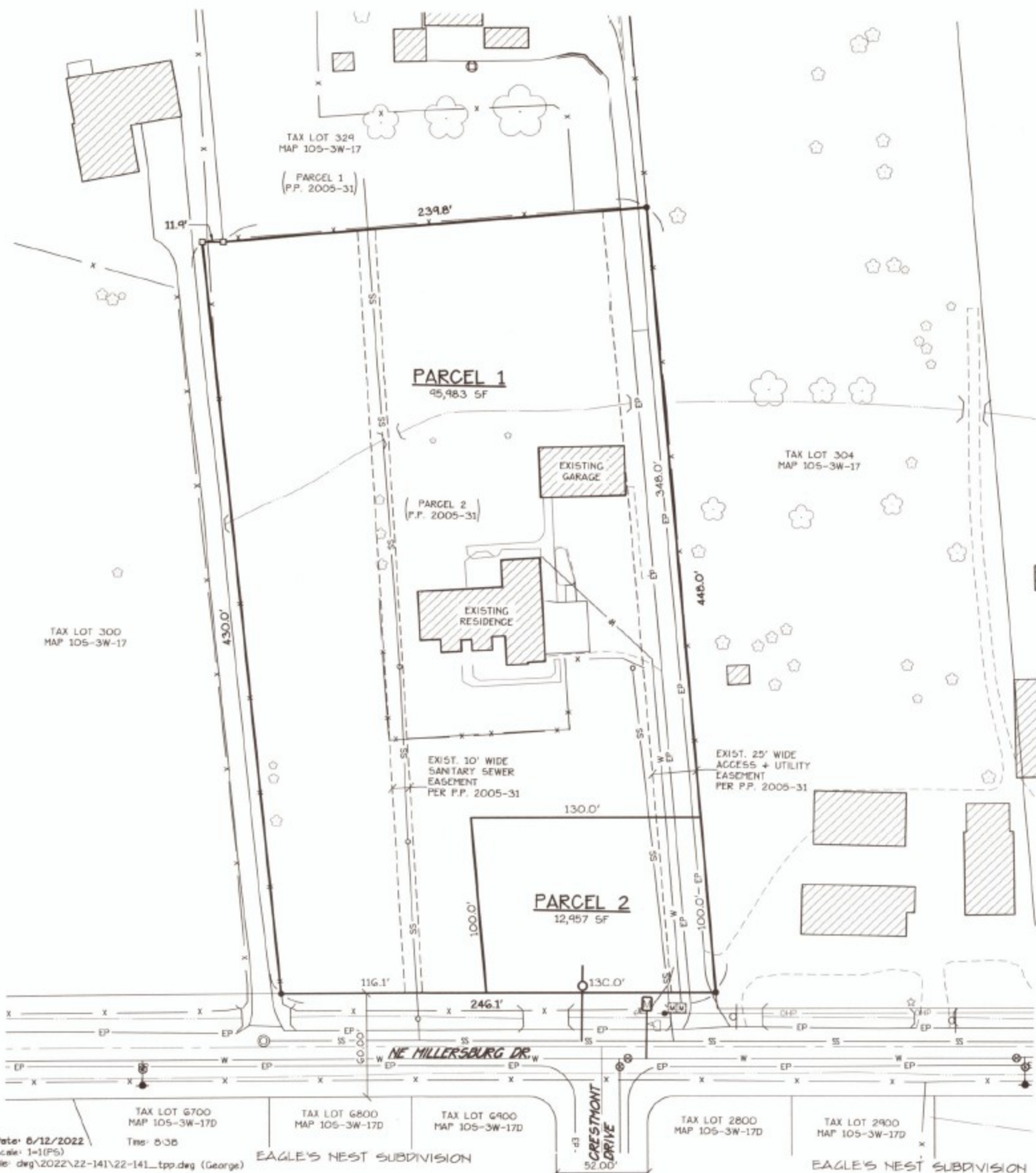
**TOPOGRAPHY:**

TOPOGRAPHIC FEATURES ARE BASED ON CITY OF ALBANY GIS MAPS AND FIELD SURVEYED DATA.



**LEGEND:**

- |      |                                   |      |  |
|------|-----------------------------------|------|--|
| ○    | EXIST. SEWER CLEANOUT             | —W—  | EXIST. WATER LINE                        |
| ◆    | EXIST. FIRE HYDRANT               | —X—  | EXIST. FENCE                             |
| ⊙    | EXIST. UTILITY POLE               | —SS— | EXIST. SEWER LINES                       |
| ⊕    | DECIDUOUS TREE                    | ---  | EXIST. DITCH                             |
| ⊗    | EXIST. MANHOLE SS/SD              | ---  | EXIST. EASEMENT                          |
| ⊕    | EXIST. WATER VALVE                | —EP— | EXIST. EDGE OF PAVEMENT                  |
| ○    | EXIST. SIGN                       | ⊠    | PROPOSED WATER METER                     |
| ⌈    | EXIST. CULVERT WALL               | —    | PROPOSED WATER SERVICE                   |
| ⊠    | EXIST. WATER METER                | —○—  | PROPOSED SEWER CLEAN-OUT + SEWER LATERAL |
| ●    | FOUND MONUMENT                    |      |  |
| □    | CALCULATED POINT FROM RECORD DATA |      |  |
| P.P. | PARTITION PLAT                    |      |  |



Date: 8/12/2022 Time: 8:38  
 Scale: 1"=165'  
 File: c:\2022\22-141\22-141\_tpp.dwg (George)

**K+D ENGINEERING, Inc.**  
 276 N.W. Hickory Street P.O. Box 726  
 Albany, Oregon 97321  
 (541) 928-2563

Written Statement / Review Criteria  
Townsend Partition Plat  
2047 NE Millersburg Dr., Millersburg, OR 97321

**Project Narrative:**

The Applicant proposes a Partition to divide an existing 2.50 acre property into 2 Parcels. The current zone of the subject property is "RU". The completion of the proposed partition and connections to municipal water and sewer will change the zone of the subject property to RL. The subject property has an existing residence and shop as shown on the tentative map. The existing residence is served with City water and sewer. The proposed Partition will create one new parcel for a new single family residence.

**5.08.060 - Decision Criteria.**

Approval of a Subdivision or PUD shall be subject to the following decision criteria:

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

**Response: The subject property is 2.5 acres and is zoned "RU". Proposed Parcel 1 is 95,983 square feet and proposed Parcel 2 is 12,957 square feet. The proposed partition will convert the properties to "RL" zone. The proposed partition is consistent with parcel size requirements and zoning standards.**

**Finding: Condition met.**

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

**Response: The Development Code includes standards for parcel designs from Article 4.**

**Finding: Condition met.**

- (3) Existing buildings shall comply with the setback requirements of the applicable zone, unless a variance from the requirements is approved.

**Response: The exiting structures on proposed Parcel 1 do not encroach into the setbacks. Proposed Parcel 2 is vacant, future improvements on Parcel 2 will adhere to setback standards.**

**Finding: Condition met.**

(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.

**Response:**

**Water and Sewer- Adequate water and sewer are available in NE Millersburg Drive. Proposed Parcel 1 is served with City sewer and water. Proposed sewer and water laterals to serve Parcel 2 are shown on the tentative map. Water and sewer laterals to serve Parcel 2 will be constructed with the future house construction.**

**Access- The subject property fronts NE Millersburg Dr. Parcel 1 accesses the public right-of-way with a private driveway. Proposed Parcel 2 will utilize the existing driveway and access point. There is an existing 25 foot wide easement over the private driveway.**

**Finding: Condition met**

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

**Response: The proposed partition will create one new Parcel. All adjoining lands have access to public roads.**

**Finding: The proposed partition does not block access of any adjoining properties.**

(6) PUD. Approval of a planned unit development shall require compliance with the following in addition to the criteria listed above:

- a. Conformance with provisions of 4.02.010 (Purpose Statement).
- b. The proposal shall comply with the applicable development and layout provisions contained in Section 4.02.030 of this Code.
- c. Infrastructure shall be available and appropriate to serve the proposed development.

**Response: N/A**

**Finding: N/A**

### 3.01.030 - Application of Public Facility Standards.

Standards for the provision and utilization of public facilities or services available within the City of Millersburg shall apply to all land developments in accordance with the following table of reference. No development permit shall be approved unless the following improvements are provided prior to occupancy or operation, or unless future provision is assured through a bond, deposit, agreement, or similar instrument approved by the City.

- **3.04.030 - Plan for Storm Drainage and Erosion Control.**

It is the obligation of the property owner to provide proper drainage and protect all runoff and drainage ways from disruption or contamination. On-site and off-site drainage improvements may be required. Property owners shall provide proper drainage and shall not direct drainage across another property except within a continuous drainage way. Paving and catch basin outflows may require detention cells and/or discharge permits. Maintaining proper drainage is a continuing obligation of the property owner.

No construction of any facilities in a development included in Chapter 3.01.030 shall be permitted until a storm drainage and erosion control plan, designed in accordance with the most recently adopted City Engineering Standards, for the project is prepared by an engineer registered in the State of Oregon and is approved by the City. This plan shall contain at a minimum:

- (1) The methods to be used to minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
- (2) Plans for the construction of storm sewers, open drainage channels, and other facilities which depict line sizes, profiles, construction specifications, and other such information as is necessary for the City to review the adequacy of the storm drainage plans.

- (3) Calculations used by the engineer in sizing storm drainage facilities.

**Response:** Parcel 1 contains an existing residence, shop and other site improvements, no changes to the existing drainage patterns and no improvements are proposed on Parcel 1. Roof drains for the future residence on Parcel 2 will drain to the existing ditch that runs along Millersburg Dr. The Applicant proposes to submit a drainage plan when building permits are pulled

**Finding:** A storm drainage plan will be submitted with building permits for Parcel 2 or prior to final plat if required by the City.

### CHAPTER 3.22. - WETLAND AND RIPARIAN AREAS

**Response:** The National Wetland Inventory does not identify any wetlands on the subject property.

**Finding:** Condition met

- 4.02.030 - Standards for Lots or Parcels.

**Response:**

**Minimum Lot Area-** The minimum Parcel area for this development zone is 10,000 sf. Parcel 1 is 93,983 sf and Parcel 2 is 12,957 sf.

**Parcel Width and Depth –** Parcel 2 is 239 feet wide and 448 feet deep, Parcel 1 is 100 feet wide and 130 feet deep.

**Access-** Parcel 1 has 116 feet of frontage along NE Millersburg Drive, the existing driveway is located in a 25 foot wide easement. Parcel 2 has 130 feet of frontage along NE Millersburg Drive and will use the existing driveway for access to the public road.

**Flag Lots –** No flag lots are proposed with this application.

**Through Lots –** No through lots are proposed with this application.

**Parcel Side Lines –** Parcel side lines run close to right angles as shown on the tentative map.

**Utility Easements – No public utilities are proposed for this application. Any private easements for utilities and driveways needed will be created with the final plat.**

**Re-Division – Parcel 1 is large enough to be further divided. An conceptual Urban Conversion Plan has been provided for this application.**

**Remainder Areas - There are no remainder areas proposed for this application.**

**Lot Averaging – No averaging proposed.**

**Phased Development – This application does not propose any phasing.**

**Finding: The proposed partition meets Parcel standards.**

- 4.02.040 - Additional Standards for Subdivisions.

**Response – This application is for a Partition Additional Standards do not apply.**





TO: Matt Straite, Planner

From: Lora Ratcliff, Fire Marshal

DATE: October 12, 2022

SUBJECT: PA-22-02 –2047 Millersburg Dr NE - Residential Partition – Fire Department Comments

The fire department has reviewed the above project for conformance to the 2022 Oregon Fire Code (OFC) per your request and has the following comments:

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).

**This project utilizes an access easement which will double as an Emergency Vehicle Access. Before the City will approve issuance of a building permit for this parcel, the applicant must provide the Building Official with evidence that the following will occur before construction materials are brought on to the site (OFC 503):**

**An Emergency Vehicle Access Easement recorded on the affected parcels identifying that said easement shall be maintained by the owners and for purposes of ingress and egress to provide, without limitation, fire protection, ambulances and rescue services and other lawful governmental or private emergency services to the premises, owners, occupants and invitees thereof and said easement shall made part of any submittal.**

**A “no-parking” restriction must be placed over the private access road and any additional areas on the property the Fire Marshal determines must be restricted for fire access.**

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, with a 13-foot, 6-inch height clearance. (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

Matt Straite, Planner

PA-22-02 –2047 Millersburg Dr NE - Residential Partition – Fire Department Comments

Page 2

November 9, 2022

Dwellings, the Building Official, will select the following standard 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

TO: Matt Straite, City Planner

FROM: Janelle Booth, Millersburg City Engineer

DATE: October 25, 2022

SUBJECT: PA 22-02 - Engineering Comments

1. Connection Charges for water and sewer are due prior to City approval of the final plat. Connection Charge calculation shall be based on the length of the Parcel 2 frontage on Millersburg Drive, as determined by surveyor for any property frontage not attributed to an existing home at the time of plat recordation. Connection Charges are in addition to System Development Charges (SDCs).
2. Proposed Parcel 2 must connect to city water and sewer. City water and sewer are available in Millersburg Drive. Connection is required at the time of building permits. The applicant is responsible for all costs associated with utility connections.
3. 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 (building permits).
4. A right-of-way permit is required for any work in the public right-of-way, including utility connections. All pavement patching work shall conform to the City of Millersburg Trench Backfill and Pavement Patching Standards. All work within the public right-of-way shall be performed by a licensed contractor and conform to the Albany Standard Construction Specifications, except as modified by the City of Millersburg Pavement Patching Standards.
5. Development of this property requires construction of half street improvements along the frontage of Millersburg Drive (246.1 ft). At the City's discretion, and at the request of the applicant, a fee may be paid in lieu of construction. This fee is based on the connection charge calculation for street and stormwater improvements for the frontage of Parcel 2 only. If fee is paid, Parcel 2 will be considered to have participated in road construction costs and no additional road construction costs may be charged to this property in the future. Parcel 1 would still be eligible to participate in the cost of road improvements in the future if required.
6. Sidewalks are required at the time of building construction. If street improvements are not constructed at the time of home construction, the applicant may defer

construction of sidewalks by signing a waiver of remonstrance agreeing to construct sidewalks in the future at the request of the City.

7. All roof drains and yard drainage from Parcel 2 must be piped or trenched to an approved discharge point. Applicant must provide drainage plan for approval. If drainage plan requires easements they must be recorded on the final plat.
8. 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. This plan shall address stormwater quantity and quality requirements in accordance with the Millersburg Engineering Standards.
9. The Final Plat shall include any required access or utility easements.
10. All agreements required as conditions of this approval must be signed and recorded.
11. Wetlands may be present on the site. Work within wetlands is subject to the requirements of the Authority Having Jurisdiction (AHJ).
12. 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.



**NOTICE OF TENTATIVE DECISION**  
**PA 22-02 Townsend Partition**  
**COMMENTS DUE November 7, 2022**

October 21, 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 exhibit and the staff report which is available here-<http://cityofmillersburg.org/current-planning-applications/>. Look for the link to PA 22-02. 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 November 7, 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>  | Travis Townsend  |
| <b>LOCATION:</b>    | 2047 NE Millersburg Drive (see map opposite page)  |
| <b>TAX LOT:</b>     | Township 10 South; Range 3 West; Section 17; Tax Lot 00352   |
| <b>PARCEL SIZE:</b> | 2.48 Acres   |
| <b>ZONING:</b>      | Rural (RU)   |
| <b>REQUEST:</b>     | The application proposes to divide 2.48 acres into 2 parcels, parcel 1 is proposed to be 95,983 square feet and parcel 2 is proposed to be 12,957 square feet. |
| <b>CRITERIA:</b>    | Millersburg Development Code; Article 5.07.060   |
| <b>FILE No.:</b>    | PA 22-02   |