

## City of Millersburg Tentative Decision File No: SD 23-01 Transition Subdivision

**Proposal:** The project is proposing to subdivide 6 existing lots, all under City ownership, into 7 lots with right-of-way dedication and 1 tract that will be used for a park. The 6 existing lots total 156.04 acres. Lot 1 is proposed to be 44.28 acres, lot 2 is proposed to be 24.69 acres, lot 3 is proposed to be 11.5 acres, and lot 4 is proposed to be 48.33 acres, lot 5 is proposed to be 1.8 acres, lot 6 is proposed to be 7.22 acres, and lot 7 is proposed to be .26 acres, or 11,325.6 square feet. Tract A, the future public park, is proposed to be 6.65 acres, and the right of way dedication for NE Transition Parkway and NE Castillio Drive is proposed to be 9.26 acres. Access be will from NE Transition Parkway, NE Old Salem Road, NE Castillo Drive and NE Conser Road.

### I. BACKGROUND

A. <u>Applicant</u>: City of Millersburg

4222 NE Old Salem Road Millersburg, OR 97321

B. <u>Project Location:</u> The property is located southerly of NE Conser Road, westerly of

NE Old Salem Road. The property includes 6 existing lots:

Tax ID	Acres
10S03W28 00101	86.96
10S03W29 00205	2.36
10S03W28 00100	59.34
10S03W28 00110	1.84
10S03W28 00102	2.24
10S03W28 00106	3.42
Total	156.16

C. <u>Review Type</u> Section 5.08.020 of the Millersburg Development Code explains

that a subdivision requires a Type II review, which is a staff level

review with a 14 day notice provided to the neighbors.

D. <u>Public Notice</u> Notice has been provided pursuant to Chapter 5.18 of the

Millersburg Development Code. Notice was provided to all neighbors within 300 feet (200 is required) and all responsible agencies on August 4, 2023. The notice provided 14 days to

respond.

E. <u>Review Criteria:</u> Chapter 5.08.060 Subdivisions

F. <u>Current Zoning</u> General Industrial (GI), Public Facilities (PF), and General

### Commercial (GC)

G. <u>Proposed Zoning</u> No change proposed.

H. Property Size 156.04 Gross Acres

I. <u>Background</u>: The property has been owned by the City for a number of years and is being marketed for sale and future redevelopment. The property collectively is comprised of 6 distinct legal lots of record. The lots feature a host of current uses, about 90% of the property is farmed, there is a new fire station on part of a parcel, some open space, and one lot that features a single family home that is vacant and planned for demolition.

The City is proposing the subdivision and reconfiguration of the lots for the purposes of selling the property and creating more cohesive lots for the development that is planned. Specifically, the industrial property will essentially be split in half for the sale to two buyers. One has been established and is currently in a purchase agreement with the City, the second is being marketed. The new fire station is proposed to have its own lot. A portion of the currently vacant part of the property is proposed to be a new lot for a proposed future YMCA, near City Hall. Lastly, the remainder of the property is intended to be a commercial mixed-use center with lofts above retail, near the north-east corner of the property.

The reconfiguration of the property will largely be consistent with the current zoning. However, the resultant parcels will include one split zoned parcel. Lot 6 is intended to be a mixed use center. Part of the proposed lot 6 is currently zoned Public Facilities (PF). The code does not prohibit a single lot with two different zones. A zone change is anticipated in the future to change the entire lot to General Commercial.

<u>No development is proposed with this division</u>, any required streets and other infrastructure will be required at the time of property development and subject to additional review and approval by the City.

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

### Agencies:

The project was transmitted to the following agencies/departments on August 4, 2023: City of Albany, Albany Fire Department, City of Millersburg Engineer, Pacific Power, Linn County Planning and Building Department, Northwest Natural Gas, PacifiCorp, and the Oregon Department of State Lands (DSL). 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 August 4, 2023. The notice was mailed to all property owners within 300 feet of the property. Any comments received will be addressed in the final decision.

### III. CRITERION

In order for the project to be approved, it must conform to the required criteria and development standards. These are addressed below. It should be noted that where street construction would typically be a condition of approval for a subdivision, and construction required prior to recordation, this proposed subdivision is a project of the City. Implementing street planning and design is already underway, consistent with the Transportation System Plan and the Transportation Planning Rule. The standards that require street construction are intended to provide assurance that the applicant builds the streets that their project requires, more specifically, to address the increase in traffic or to provide the access that their project triggers. However, because this map is a City project, there is no need to require full construction of the streets (Transition Parkway and Castillo Dr.) prior to the recordation of the map because the street planning and construction are already underway.

### CITY OF MILLERSBURG DEVELOPMENT CODE

### Chapter 5

### Section 5.08.060 Subdivision Decision Criteria

Approval of a subdivision 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 large and contains three different zones, General Industrial (GI), Public Facilities (PF), and General Commercial (GC).

- General Industrial (GI) has no specific lot size standards.
- Public Facilities (PF) also has no minimum lot size.
- General Commercial (GC) has a 5,000 square foot minimum lot size. The project proposes 2 lots in the GC zone, both are above the required lot size. Lot 6 is 7.22 acres and lot 7 is 0.26 acres or 10,018 square feet.

There are no specific dimensions required in any zone. Setbacks are addressed with implementing Site Development Review applications, which will be subject to review once proposed. All lots are large enough to accommodate uses typical with those anticipated in their respective zones. All zone standards are met.

**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 Chapter 4; these are covered below in more detail in section IV of this staff report. All Article 4 standards are met.

**FINDING**: Based on the analysis above, 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:** Proposed lot 5 is the only proposed lot with existing structures that are intended to remain. As drawn, all property lines would meet the required structure setbacks for the fire station on lot 5. Proposed lot 7 currently features a manufactured home, owned by the City, that is for sale and should be removed soon. It would meet setbacks even if were not removed. Proposed lot 6 includes an existing single-family home that would meet setbacks. It is planned for demolition.

**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:**

Water and Sewer- Adequate water and sewer capacity are available. Some of these lots are proposed for large scale industrial facilities. Facilities like this can vary on their water and sewer needs. Without specific information on the implementing user, it cannot be determined at this stage if the water or sewer system has adequate capacity for the implementing use because they vary so much. That said, there are 21" sewer lines already installed on site with adequate capacity for most industrial users that could build on lots 1-4. There are 12" water lines along Conser Road that can service the site. These also have capacity for some types of industrial users. Additional water line capacity is planned within NE Transition Parkway.

Lots 5-7 front NE Conser Road and NE Old Salem Road, each has an 8" sewer line fronting the site and a 12" or 20" water line. Additionally, water and sewer have recently been added to what will eventually be within NE Castillo Drive and NE Transition Parkway, which will also front lots 5 and 6. Adequate capacity exists fronting the site for uses that are typical on the sites based on the zoning.

No construction is required because all required utilities are present on or fronting the site, and, based on a review by the City Engineer, all water and sewer lines have adequate capacity.

Access- Proposed lots 1-3 front NE Transition Parkway, an unbuilt street listed in the TSP. This street is currently being planned and is scheduled for construction. The proposed map will eliminate access to NE Conser Road for lots 1-3. NE Conser Road is planned to be downgraded from an arterial to a local, pursuant to the adopted TSP once NE Transition Parkway is constructed. Tract A, a planned park, will front NE Conser Road. No access is required for Tract A.

Proposed lots 4 and 6 have possible access from NE Old Salem Road and NE Transition Parkway. Lot 7 is planned to be part of a shopping center that will have access to NE Transition Parkway, NE Castillo Drive, NE Conser Road, and NE Old Salem Road, though even if that did not happen, the lot would still have direct frontage access to NE Conser Road. Part of NE Transition Parkway is already built, the existing fire station on proposed lot 5 takes access from Transition Parkway today.

All proposed lots have adequate access. There is also adequate room for driveway spacing requirements consistent with the code requirements. Construction of NE Transition Parkway and the extension of NE Castillo Drive are not required as part of this project, see the background section in Section I of this report.

Adjacent property- The only adjacent properties that may be impacted are:

- Tax Lot 10S.03W.28.00108- this lot is located to the west of the property being divided, and features a power substation. This facility has all utility access needs met already. The vehicle access is planned to be from NE Transition Parkway. The design of the lots accommodates the access needs of this property.
- Tax Lots 10S.03W.29.00204, 104 and 105 are located to the south of the subdivision, they are largely vacant and have access on NE Arnold Road to the south of the lots.
- Tax Lot 10S.03W.29.00109 is located to the south of the proposed subdivision, more specifically it is south of proposed lots 2 and 3. This parcel is currently landlocked and owned by the City of Millersburg. This lot is only 25 feet deep and about 1,000 feet wide. The property is not developable in its current form based on the dimensions. Because the property is not developable, access is not required to be provided through the proposed subdivision.

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

### IV. STANDARDS

The proposed subdivision design complies with all the specifications and design requirements of Article 3 and 4 of the Millersburg Development Code with conditions of approval. Areas that require additional conditions of approval to fully comply, 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 subdivisions. More specifically the Code requires the following, as shown in Table 11:

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

**ANALYSIS:** There is one existing fire hydrant on NE Old Salem, on proposed lot 5. There are several on the north side of NE Conser Road fronting the subdivision. These should be adequate to serve proposed parcels 5-7. Transition Parkway is planned with several new fire hydrants for use by proposed lots 1-4. This was transmitted to Fire for review.

NE Conser Road and NE Old Salem Road are fully constructed, no improvements or additional dedication is required. NE Transition Parkway is being fully constructed by the City. Full water and sewer laterals will be included in NE Transition Parkway construction. Lot 7 does not require any infrastructure improvements. Utilities will likely be shared with the larger commercial center planned on lot 6.

The storm drain system will be constructed as part of NE Transition Parkway. Lots 1-4 will be large enough that storm water systems are not needed until development occurs. There are no improvements planned with this subdivision and the land will continue to be farmed, thus maintaining the exiting water patterns on the property. Lot 5 is existing and has full water quality facilities constructed and operational with the new fire station. Lots 6 & 7 will require a master drainage plan. Conditions of approval have been added.

Connection charges are not applicable because the applicant, the City, is building NE Transition Parkway and NE Castillo Drive.

This section also specifies that streetlights are required at locations required by City standards. Again, these will be constructed with NE Transition Parkway and NE Castillo Drive. Conditions of approval have been added for street lights on NE Old Salem Road.

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

### **CONDITIONS OF APPROVAL:**

- Prior to any final building permit inspection, 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.
- Prior to any final building permit inspection all required street lights on Old Salem Road shall be constructed, to the satisfaction of the City Engineer.

### **Section 3.04 Storm Drainage**

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

**ANALYSIS:** As noted above, a drainage plan has been conditioned for all lots that require one.

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

### Section 4.02.030 and 040 Standards for Lots or Parcels

This section includes many standards for subdivisions. These include:

- Lot width to depth requirements the depth shall not be more than three times the width.
- o 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.
- o Through lots shall be avoided.
- o Lot lines shall run at right angles when possible.
- o Utility easements may need to be provided.

**ANALYSIS:** The project proposes 7 lots. All meet the zoning code minimum lot size requirements. The width to depth ratio does not apply to industrial or commercial lots. All lots provide the minimum 40 feet of frontage required. No flag lots are proposed. None of the parcels are considered through parcels, and all lot lines are some form of a right angle.

The block length is intended to address residential and commercial needs. The lots with commercial zoning comply with the 1,000 block length. No additional connectivity is required.

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

### Section 4.02.060 Improvement Requirements - Subdivisions

**ANALYSIS:** As explained in the background section, the improvements for this subdivision would be the construction of NE Transition Parkway, which is already planned and underway. No additional improvements are required except those that have already been made a condition of approval.

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

### V. ORS 92

The State statures regarding land division include a section on re-plating, specifically this is ORS Section 92.180 through 190. This section calls for any replats to use the same noticing process as a subdivision. SD 23-01 has been noticed as a subdivision in accordance with the Millersburg Development Code and is therefore consistent with the requirements of ORS 92.180-190.

### VI. TENTATIVE ACTION

Based on the above findings of fact, and the conditions of approval, the proposed project satisfies the applicable criteria and staff tentatively approves the Subdivision Application No. SD 23-01, the Transition Subdivision, pursuant to the conditions of approval listed below. A final determination will be issued after the agency/public comment period and all comments are taken into consideration.

### VII. CONDITIONS OF APPROVAL

### **General Conditions**

- Development and construction on the site shall conform substantially to the tentative subdivision development plans submitted by the applicant dated 7/7/2023 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, including wetland removal-fill permits, shall be filed in the Record File of this application.
- 3. Proposed lots must connect to City water and sewer upon approval of proposed development.
- 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. Issuance of a permit under ORS 196.600 to 196.905 by the State of Oregon Department of State Lands is required for the project before any physical alteration takes place within wetlands.
- 6. 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.

### Prior to Approval of the Final Plat

- 7. Prior to the approval of the final plat all requirements shown in the Albany Fire letter dated August XX, 2023, specifically those that need to be satisfied prior to map approval, have been addressed to the satisfaction of the Fire Department.
- 8. 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.
- 9. The final plat shall include any required access or utility easements.
- 10. All right-of-ways shall be dedicated as part of the Final Plat.

### Prior to Final Building Permit Inspection

- 11. Prior to any final building permit inspection, the applicant shall submit for approval a storm drainage plan for the site that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer.
- 12. Prior to any final building permit inspection all required street lights on Old Salem Road shall be constructed, to the satisfaction of the City Engineer.

### 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. A Private Construction of Public Infrastructure (PCPI) permit is required for all construction of public infrastructure.
- 2. Driveways shall conform to Chapter 3.02 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 15%.
- 3. All agreements required as conditions of this approval must be signed and recorded.
- 4. 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.
- 5. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.

- 6. This approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Millersburg Development Code.
- 7. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
- 8. 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.
- 9. 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.
- 10. 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.
- 11. An electronic version of the final plat must be submitted to the City Planner.
- 12. 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.
- 13. 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.
- 14. Wetlands are present on the site. At the time a building or sitework is proposed a permit is required from the Department of State Lands if more than 50 cubic feet of material is moved.

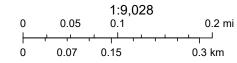
### IX. EXHIBITS

- A. Vicinity MapB. Zoning MapC. Tentative Subdivision Map dated 7/7/23
- D. Notice

### SD 23-01 Vicinity Map







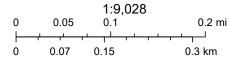
Linn County GIS, City of Albany, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO,

ArcGIS Web AppBuilder

### SD 23-01 Zoning Map







Linn County GIS, City of Albany, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO,

ArcGIS Web AppBuilder

# SCALE: 1" = 200'

### PROJECT AREA STATS:

GROSS AREA: 156.04 ACRES R-O-W DEDICATION: 15.34 ACRES NET AREA: 140.70 ACRES

### MINIMUM LOT SIZES:

GENERAL INDUSTRIAL ZONE: MINIMUM LOT SIZE; NONE SETBACKS; FRONT AND SIDE YARD = O FEET SIDE YARD ADJACENT TO ZONE "R" = 5 FEET + 5 FEET PER STORY

### **SUBJECT PROPERTIES:**

TAX LOTS: 100, 101, 102, 106, 110 ASSESSOR'S MAP: 105-3W-21D TAX LOT: 205

### ZONING:

CURRENT ZONING: GENERAL INDUSTRIAL, GENERAL COMMERCIAL AND PUBLIC FACILITIES

### CURRENT USE:

VACANT LOT, FIELD + TREES

### TREE NOTE:

PROJECT SITE CONTAINS SEVERAL TREES AS SHOWN ON THE MAP

### NOTE:

DATA IS COMPILED FROM THE LINN COUNTY AND CITY OF ALBANY'S GIS DATABASE, CONSER ROAD

### ENGINEER / SURVEYOR:

K+D ENGINEERING, INC. 276 NW HICKORY STREET ALBANY, OR 97321 (541) 928-2583

### OWNER / DEVELOPER:

CITY OF MILLERSBURG 4222 OLD SALEM RD NE MILLERSBURG, OR 97321

### TENTATIVE SUBDIVISION FOR

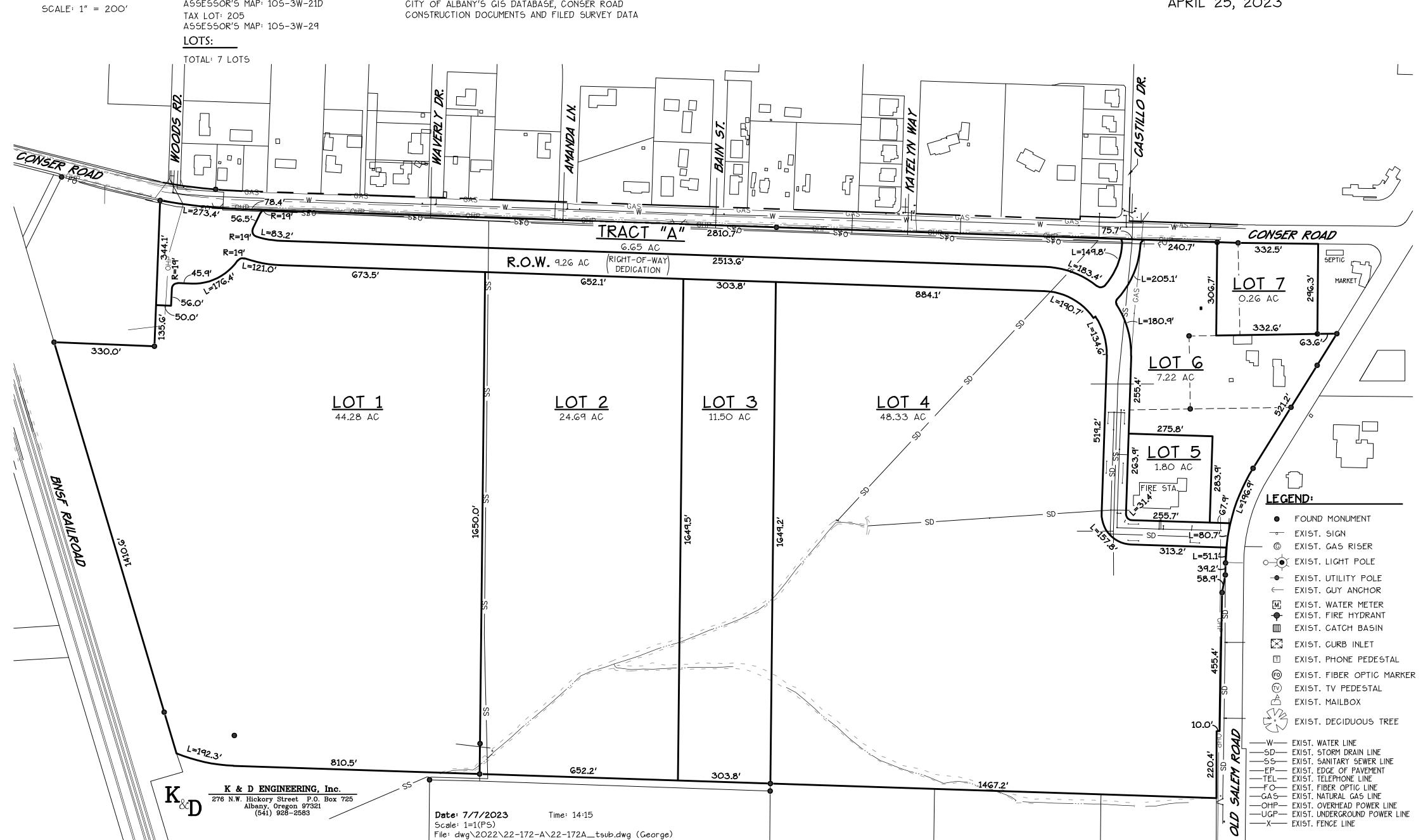
### CITY OF MILLERSBURG

LOCATED IN

ISAAC MILLER D.L.C. No. 46 + JOHN LOUDERBACK D.L.C. No. 47 IN THE SE 1/4 SEC. 20, SW 1/4 SEC. 21, NW 1/4 SEC. 28, NE 1/4 SEC. 29, T. 10 S., R. 3 W., W.M.

IN THE

CITY OF MILLERSBURG, LINN COUNTY, OREGON APRIL 25, 2023





# NOTICE OF TENTATIVE DECISION SD 23-01 Transition Subdivision COMMENTS DUE August 18, 2023

### August 4, 2023

The City of Millersburg has received an application to subdivide 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** <u>tentative</u> **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-<a href="https://www.cityofmillersburg.org/planning/page/sd-23-01-transition-subdivision">https://www.cityofmillersburg.org/planning/page/sd-23-01-transition-subdivision</a>. 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 before August 18, 2023.

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.

**APPLICANTS:** City of Millersburg

**LOCATION:** see map opposite page

**TAX LOT:** 10\$03W2800101, 10\$03W2900205, 10\$03W2800100, 10\$03W2800110.

10S03W2800102, 10S03W2800106 **PROPERTY SIZE:** 156.16 Acres

**ZONING:** General Industrial (GI), Public Facilities (PF), and General Commercial (GC)

**REQUEST:** The project is proposing to subdivide 6 existing lots, all under City

ownership, into 7 lots with right-of-way dedication and 1 tract that will be

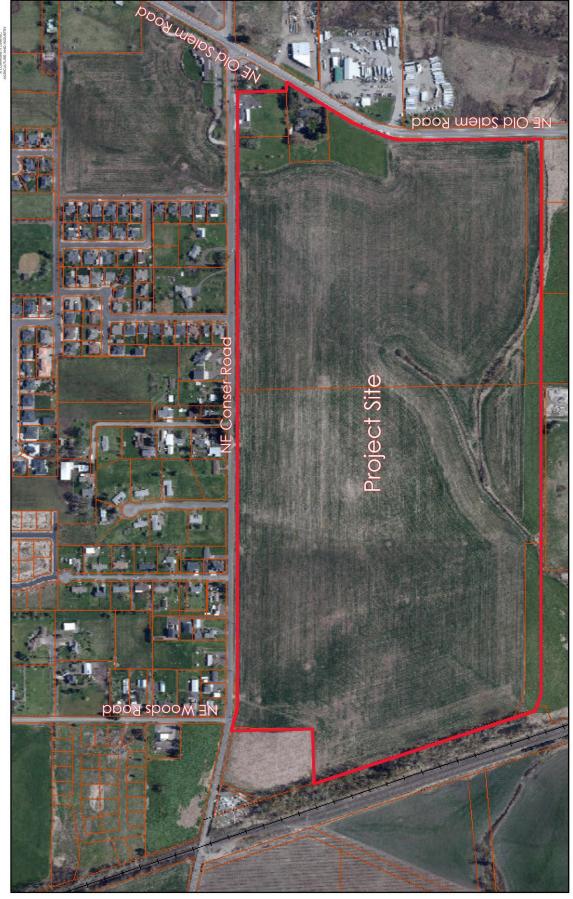
used for a park. .

**CRITERIA:** Millersburg Development Code; Article 5.08.060

**FILE No.:** SD 23-01

# SD 23-01 Vicinity Map





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, 0.3 km 1:9,028 0.1 Railroad [...] City Boundary Tax Lots