



**Summary:** The Tentative Decision was distributed for public review between November 17, 2023 and December 1, 2023. The City received a comment letter from the Albany Fire Department, the Linn County Sheriff Department (sent an email to explain they had no comments), and the City Engineer provided comments as well. These were all provided during the agency review period. No other letters were received. All agency comments were incorporated into the conditions of approval prior to the public review period.

The neighboring property owner to the south visited City Hall in person to explain that they felt the property line on the exhibit was incorrect as shown, they felt it should be further north than it was shown. Staff brought this to the attention of the survey company hired by the applicant. They explained that in their professional opinion, they assured that the exhibit was correct. They explained that they would meet with the neighbor to walk them through where the line was.

No additional conditions of approval were added.

Staff has approved the partition, subject to the 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, and City Codes and Ordinances as 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 proposing a partition to create two parcels from one on an industrial parcel that is generally already built out. More specifically, the applicant proposes to partition 5.54 acres into two parcels of 3.17 acres and 2.21 acres.

## I. BACKGROUND

- A. Applicant: Udell Engineering & Land Surveying, LLC  
Laura LaRoque  
63 E. Ash Street  
Lebanon, OR 97355
- B. Project Location: 1040, 1060, 1042, 1044 and 1050 NE Old Salem Road  
10S 3W 33CD Tax Lot 1200

- 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 100 feet on November 17, 2023. The notice provided 14 days to respond.
- E. Review Criteria: Chapter 5.07.060 Partitions
- F. Current Zoning: General Industrial (GI) and Commercial Office (CO)
- G. Proposed Zoning: N/A
- H. Property Size: 5.54 Acres
- I. Background: There are currently three industrial buildings constructed on the property. This map proposes to locate one structure (with two addresses, 1044 and 1050 NE Old Salem Road) on Parcel 1, and two structures with three addresses (1040, 1060, and 1042 NE Old Salem Road) on Parcel 2.

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

### Agencies:

The project was transmitted to the following agencies/departments on November 2, 2023: Albany Fire Department, City of Millersburg Engineer, Linn County Road Department, ODOT Rail, and the Sheriff's Department. 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 November 17, 2023. 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

#### **Section 5.07.060 Partition Decision Criteria**

The following analysis is in addition to any analysis included in the applicants' narrative, which is included here by reference. Approval of a partition 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.**

**ANALYSIS:** The proposed partition is in the GI and CO Zone. The GI Zone does not require any specific lot area size, except that the proposed lot shall be sufficient to meet setbacks. There are no setbacks for the GI zone unless the property is located adjacent to a residential zone. In this case, there is no neighboring residentially zoned property. The CO zone requires a minimum 5,000 square foot lot size. Both of the proposed parcels include portions of both zones. The CO area on the proposed parcel 1 is more than the 5,000 square foot lot size. The portion of CO zoning on proposed parcel 2 is not larger than 5,000 square feet; however, that area is used exclusively for access purposes. Specifically, that area is currently a driveway with an access easement. This is proposed to remain a driveway, and is now part of the access strip for a new flag lot. Code section 4.0.030(4).b explains that the access strip for a flag lot shall not be included in the area calculation, meaning, the access strip is not required to be at least 5,000 square feet in the CO zone for proposed parcel 2 because it is used exclusively for access and it is part of the access strip. Regarding the lot coverage, the GI zone allows up to 100%, the CO zone allows 90%. There is nothing currently on the CO portion of proposed Parcel 1, but the size and shape of the CO portion is large enough to comply with this for a future user of the site. The applicant's narrative explains that all improvements are located in the GI zone and therefore comply. 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 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 tentative partition is proposing two parcels. Currently there are three structures on the site. All will be primary structures for the use in this zone; there are no accessory structures on the property. The GI zone has no setbacks, so there will be no conflicts.

**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.**

**ANALYSIS:**

- **Access.** Access is provided via NE Old Salem Road. The access points are existing today, and an access easement already exists today. Property to the north of the site has access from NE Old Salem Road. The property to the west features several rail-road lines that do not require access from the applicant's property. A separate parcel to the south takes access through the proposed parcel 2, however, the required easement is already in place and the proposed division will not change this. Therefore, adequate access is provided for the proposed parcels and all neighboring properties.
- **Public Facilities.** Section 3.01.030 addresses the required public facility standards. This section explains the general improvements required for partitions/subdivisions. The project is required to build to the subdivision standards, not the partition standards. This is because there is property within the project that can be further divided in the future. More specifically the Code requires the following, as shown in Table 11:

<i>Land Use Activity</i>	<i>Fire Hydrant</i>	<i>Street Improvements</i>	<i>Water Hookup</i>	<i>Sewer Hookup</i>	<i>Storm Drain</i>	<i>Streetlights</i>	<i>Bike &amp; Ped. Partition</i>
<i>Subdivision</i>	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Fire hydrants- There is an existing fire hydrant fronting the property. This standard is met.

Street improvements- The project is located on NE Old Salem Road, a County maintained street. The street is fully built-out with all improvements. The right-of-way is consistent with the City requirements, no additional ROW is being requested by the City. The County has been contacted for any additional County requirements. The subject property has approximately 243 feet of frontage along the NE Old Salem Road right-of-way, which is classified as an arterial street. NE Old Salem Road has a variable width right-of-way with 42-foot-wide pavement width and improved with a center turn lane, one vehicle travel lane in each direction curb, gutter, and 5-foot-wide sidewalk along the west side of the street. Therefore, no additional right-of-way or street improvements are required from the City in association with this application.

Water – A City water main exists in NE Old Salem Road. Separate water services and water meters are required to serve each parcel. A private utility

easement will be required across Parcel 1 to serve Parcel 2. A condition of approval has been added stating such.

Sewer – An existing gravity sewer main runs through Parcels 1 and 2. Each parcel has access to a sewer main and already has connecting service laterals (the buildings on the site already exist). The existing gravity sewer main and existing City of Albany force main are in easements within both Parcels 1 and 2. If any physical changes are proposed, they must comply with the restrictions in these easements. No new private utilities are allowed to be placed within the existing sewer easement without approval of the City of Millersburg and the City of Albany. A condition of approval has been added stating such.

Stormwater – No physical improvements are proposed as a part of this partition, therefore there are no stormwater requirements at this time. If any changes to impervious areas take place, stormwater facilities may be required.

Street lights- Adequate Street lights exist fronting the project site on NE Old Salem Road. This standard is met. No additional improvements are required.

Bike and pedestrian facilities- Adequate bike lanes and sidewalks exist fronting the site along NE Old Salem Road. This standard is met. No additional improvements are required.

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

**CONDITIONS OF APPROVAL:**

- Prior to the City signing the Final Plat, separate water services and water meters are required to serve each parcel. A private utility easement will be required across Parcel 1 to serve Parcel 2.
- No new private utilities are allowed to be placed within the existing sewer easement without approval of the City of Millersburg and the City of Albany.

**IV. STANDARDS**

The proposed land division 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 3.04 Storm Drainage**

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

**ANALYSIS:** The project site is currently built out with three industrial buildings. All drainage was addressed when the structures were constructed. Any improvements to the drainage that crosses another parcel must be within an easement.

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

### **Section 3.05 Utility Lines and Facilities**

All development in the City is required to provide for connection to utilities. A partition is considered development. All public facility improvements are required to be designed and constructed in compliance with Engineering Standards.

**ANALYSIS:** As noted above, the site is fully built out. All utilities are installed.

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

### **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 on a regular street or 25 feet on a cul-de-sac.
- 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:** Industrial parcel maps are exempt from the lot width and depth standards. The site includes one parcel that fronts NE Old Salem Road, and another that is a flag lot with access to NE Old Salem Road. The proposed parcel fronting the street has more than 40 feet of frontage, and the flag lot access stream is 25 feet wide. Fire turnarounds are required pursuant to the Albany Fire letter dated November 14, 2023. Compliance with the requirements of the letter have been made a condition of approval. Most of the other standards do not apply to this kind of partition.

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

**CONDITION OF APPROVAL:** The applicant shall comply with all requirements listed in the Albany Fire Letter dated November 14, 2023.

### **Section 4.02.050 Improvement standards for partitions & Section 4.02.060 Improvement standards for subdivisions**

Section 4.02.050 includes improvement standards for partitions, and because there are lots large enough to re-divide, Section 4.02.060 improvement standards apply as well. Most of these standards were addressed previously as part of Section 4.02.030. Sections 050 and 060 require connection charges. The concept of the connection charge is land is improved (division) then the developer/owner shall reimburse the City their fair-share of the improvements that were already installed by the City.

**ANALYSIS:** These sections point to the Connection Charge Municipal Code section, section 15.30.010. The division seems to be required to pay the connection charges based on the applicability sections (15.30.010 and 020). However, Section 15.30.025 explains that there are exemptions for divisions with frontage associated with existing 'homes.' City Staff has interpreted this section to not only apply to single-family homes, but to other structures as well. This project has three structures on the property. All are existing. Sub section 15.30.010(1) explains:

*Frontage associated with existing homes, as of the effective date of the ordinance codified in this chapter, shall be exempt from connection charges.*

If the word 'homes' can be interpreted to mean primary building/structure as well, then the entire frontage is associated with the existing primary buildings and the entire project is exempt from connection charges.

**FINDING:** Based on the analysis above, the connection charges from this section do not apply.

## **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 23-03, Sullivan Partition 2023, pursuant to the conditions of approval listed below.

## **VI. CONDITIONS OF APPROVAL**

### **General Conditions**

1. The Final Plat shall conform substantially to the tentative partition plans submitted by the applicant dated 10/27/23 and included in this staff report, except as modified in the conditions below.
2. Copies of any federal or state permits that may be required shall be filed in the Record File of this application.
3. 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.

4. The applicant shall comply with all requirements listed in the Albany Fire Letter dated November 14, 2023. Please contact City Hall to have the address numbers changed as required by the letter.
5. No new private utilities are allowed to be placed within the existing sewer easement without approval of the City of Millersburg and the City of Albany.

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

6. Prior to the City signing the Final Plat, separate water services and water meters are required to serve each parcel. A private utility easement will be required across Parcel 1 to serve Parcel 2 to the satisfaction of the City Engineer.
  7. 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.
  8. The Final Plat shall include any required access or utility easements.
  9. The tax lot number on the final plat must be corrected.
- 

#### **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.



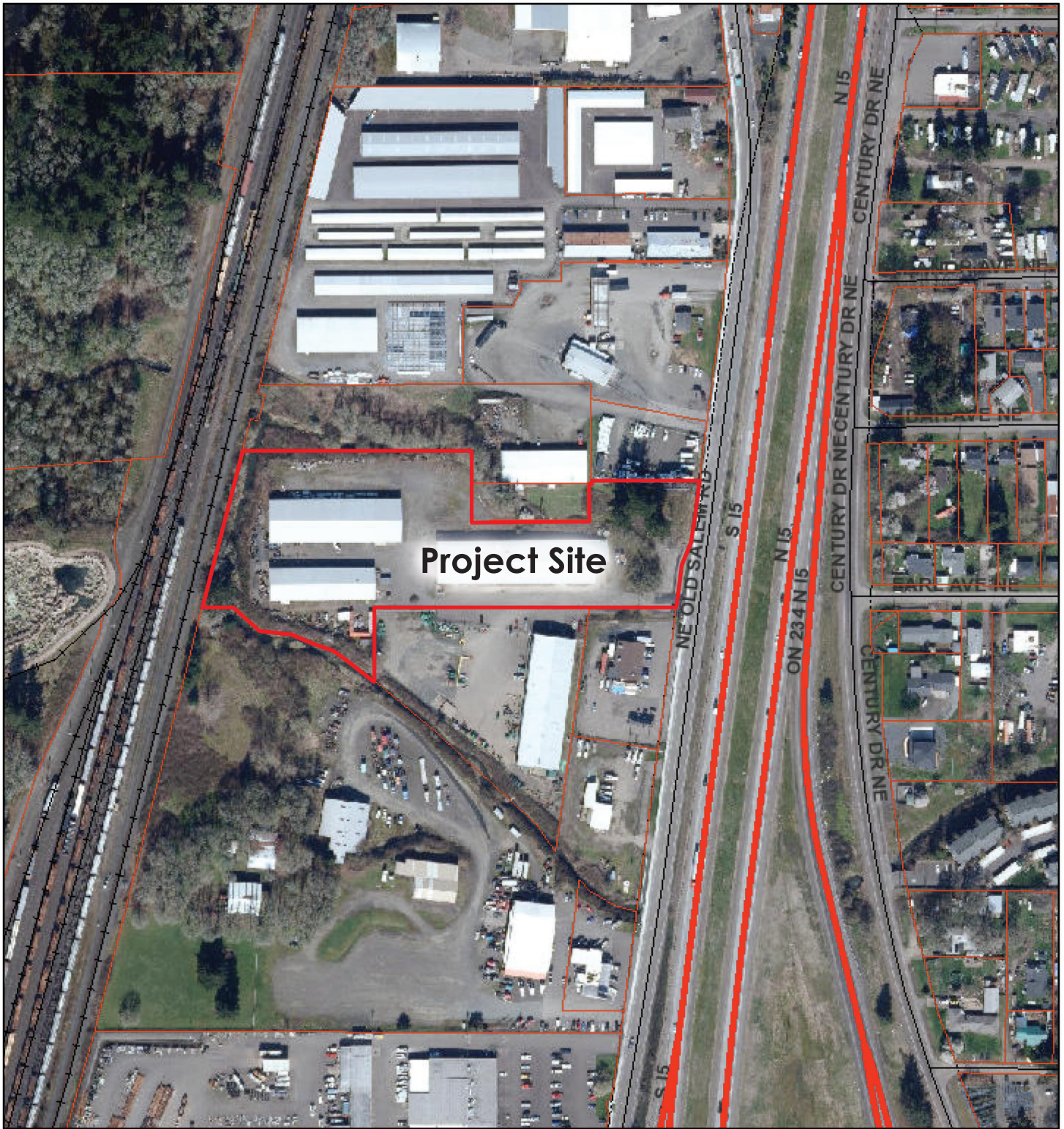
8. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
9. **This approval is valid for a period of one (1) year from the date of the decision notice.** Extensions may be granted by the City as afforded by the Millersburg Development Code.
10. 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 may be present on the site. Work within wetlands and floodplain is subject to the requirements of the Authority Having Jurisdiction (AHJ).






**IX. EXHIBITS**

- A. Vicinity Map
- B. Zoning Map
- C. Applicant's Site Plan/Map
- D. Applicant's Narrative

# Vicinity Map PA 23-03

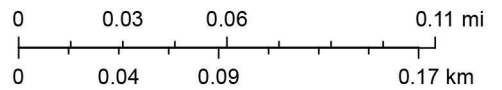


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-  Highways
-  Roads
-  Railroad
-  City Boundary
-  Tax Lots

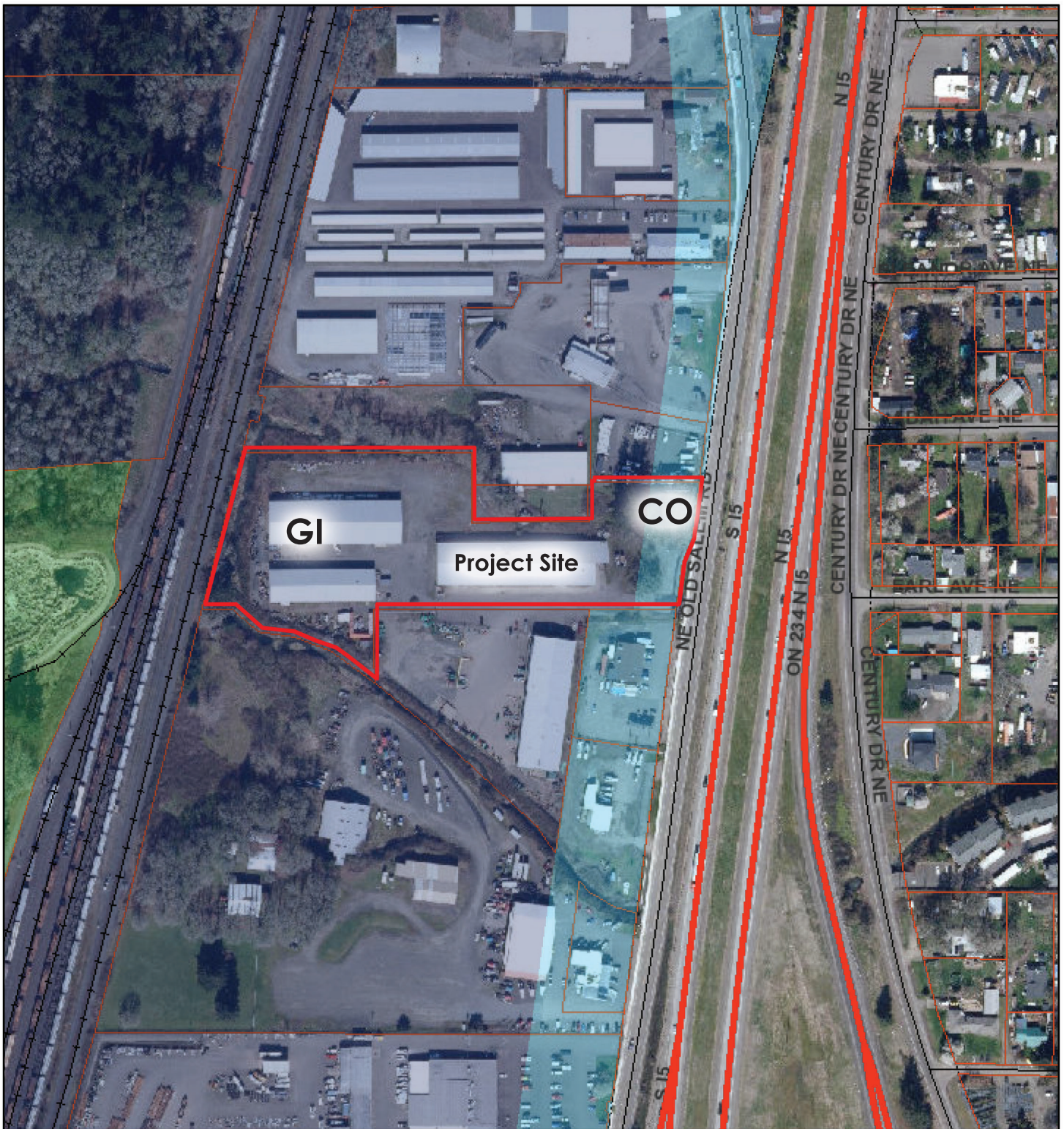


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City of Albany, County of Linn, Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, EPA, USDA, Linn County GIS, GeoTerra, 2021

# Zoning PA 23-03



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Highways

Railroad

Millersburg Zoning

COMMERCIAL OFFICE

GENERAL COMMERCIAL

GENERAL INDUSTRIAL

LIMITED INDUSTRIAL

MIXED USE

PUBLIC FACILITIES

RESIDENTIAL LOW DENSITY

RESIDENTIAL MIXED DENSITY

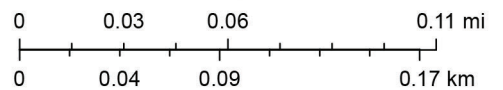
RURAL

Tax Lots

Roads



1:4,514



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

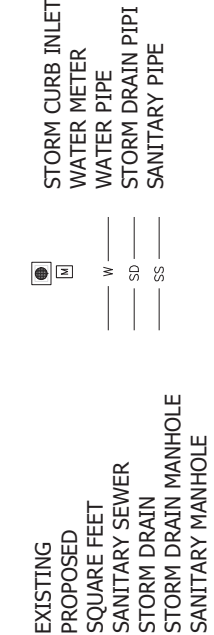
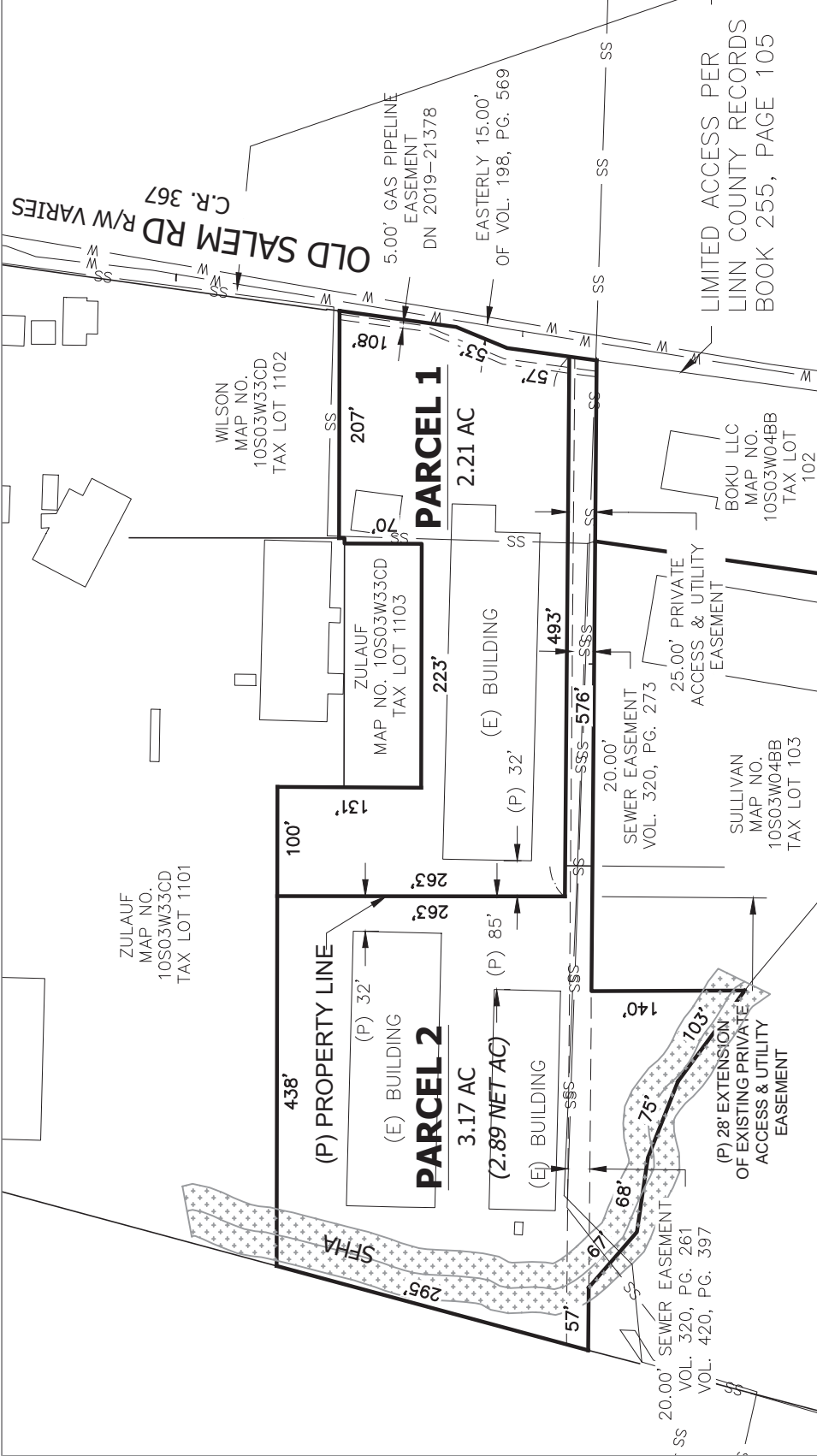
UDELL ENGINEERING  
AND  
LAND SURVEYING, LLC  
63 EAST 45TH ST.  
LEBANON, OREGON, 97355  
541-451-5125

TENTATIVE PARTITION PLAT  
ALTON AND DIXIE SULLIVAN  
115-03W-33CD TAX LOT 1200  
ALBANY, OREGON

Date 10/27/2023  
Project SULLIVAN PP  
23-218  
Drawn by LL  
Checked by BSV



SHEET 1  
of 1  
SCALE: AS NOTED



**PROPERTY INFORMATION**

ZONE DISTRICT: GENERAL INDUSTRIAL (GI)  
COMMERCIAL OFFICE (CO)

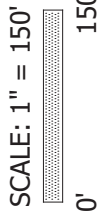
OVERLAY ZONE: FLOODPLAIN (FPO)  
INDUSTRIAL

AREA: 5.38-ACRES

**LEGEND**

(E) EXISTING  
(P) PROPOSED  
S.F. SQUARE FEET  
SS SANITARY SEWER  
SD STORM DRAIN  
⊙ STORM DRAIN MANHOLE  
⊙ SANITARY MANHOLE

◻ STORM CURB INLET  
◻ WATER METER  
— WATER PIPE  
— STORM DRAIN PIPE  
— SANITARY PIPE



NOTE: MAP WAS DRAWN BY SUPERIMPOSING AN AERIAL PHOTO. LOCATIONS ARE APPROXIMATE.

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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

Property Owner/Applicant: Alton and Dixie Sullivan  
P.O. Box 709  
Lebanon, OR 97355

Contact: Alton Sullivan  
Email: [sully@proaxis.com](mailto:sully@proaxis.com)  
Phone: (541) 979-6456

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: 1040 NE Old Salem Road, Albany, OR 97321

Linn County Assessor's Map No.: 10S-03W-33CD Tax Lot 1200 (PP 2021-079, Parcel 1)

Site Size: 5.38-acres

Existing Land Use: Industrial Warehouse with office space

Comprehensive Plan Designation: Industrial

Zone Designation: General Industrial/Commercial Office with Floodplain Overlay (FPO)

Surrounding Zoning: North: General Industrial / Commercial Office  
South: General Industrial / Commercial Office  
East: Albany – Residential Medium Density (across I-5)  
West: General Industrial / Public Facilities

Surrounding Uses: North: Industrial Warehouse  
South: Industrial Warehouse/ Restaurant  
East: Old Salem Road / I-5 Pacific Highway  
West: Portland and Western Railroad



I. **Executive Summary**

A Tentative Partition Plat is proposed for the property address as 1040 NE Old Salem Road and identified by Linn County Tax Assessor’s Map No. 10S03W33CD; Tax Lot 1200. The proposal will divide an existing 5.38-acre parcel into two parcels. As shown on the Tentative Partition Plat (Attachment A), Parcels 1 and 2 would be ±2.21-acres and 3.17-acres, respectively.

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 basis 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 explains that a partition requires a Type II review, which is a staff level review with a 14-day notice provided to the neighbors.
2. 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. **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 subject property is split zoned with most of the site within the General Industrial (GI) zoning district and a small portion (along the property frontage) within the Commercial Office (CO) zoning district.
- 1.2 The GI zone does not have minimum or maximum lot area, width, or depth requirements. The CO zoning district has a minimum lot area of 5,000 square feet, but no minimum or maximum lot width or depth requirements. The subject property is 5.38-acres with approximately 0.50-acres within the CO zoning district and 4.88-acres within the GI zoning district.
- 1.3 Upon approval of the proposed partition, both parcels will continue to be split zoned. Parcel 1 is proposed to be 2.21-acres, of which, approximately 2.16-acres will be zoned GI and approximately 0.45-acres will be CO. Parcel 2 is proposed to be 3.17-acres, of which, approximately 3.12-acres will be zoned GI and approximately 0.05-acres will be zoned CO.
- 1.4 The CO zoned portion of Parcel 2 is entirely encumbered by an existing access easement. Since this portion of the site is unbuildable due to the terms of the access easement the



land division will not result in a substandard CO lot; therefore, a variance is the lot area standard is not applicable.

- 1.5 Setback standards for the GI and CO zoning districts are zero unless the subject property abuts a residential zoning district or Old Salem/Conser Road. The subject property abuts property within the GI and CO zoning districts to the north, west, and south and Old Salem Road to the east. Properties adjacent to Old Salem Road and south of the Murder Creek undercrossing are required to maintain a 10-foot setback from the edge of the Old Salem Road right-of-way. As shown in the tentative partition plat, there is no proposed development associated with this application and all existing development is greater than 10-feet from the western edge of the Old Salem Road right-of-way.
- 1.6 The maximum lot coverage for the GI and CO zoning districts is 100 percent and 90 percent, respectively. All existing on-site development except for access encroachments are located within the GI zoning district. Therefore, the proposed partition will not increase the site's existing lot coverage.

**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 GI zone does not have minimum or maximum lot area, width, or depth requirements. The CO zoning district has a minimum lot area of 5,000 square feet, but no minimum or maximum lot width or depth requirements. Access easement and access strip to a flag lot are excluded for the purposes of calculating minimum lot area. As shown on the Tentative Partition Plat (Attachment A), Parcel 2 is proposed to be a flag lot and maintain a net lot area of 2.89-acres.
- ii. Lot Width and Depth. According to Section 4.02.030(2), the depth of a lot or parcel shall not be more than three times the width. Lot depth is defined by Section 1.02.010 as "the horizontal mean average distance between the front and rear lot lines. Lot width is defined by Section 1.02.010 as "the horizontal distance between the side lot lines measured within the lot boundaries or the mean distance between the side lot lines within the buildable area."

The mean average width and mean average depth of Parcel 1 is 201 feet and 519 feet, respectively. The width and mean average depth of Parcel 2 is 286 feet and 376 feet, respectively. Therefore, both parcels meet the lot width to depth ratio.

- iii. Access. According to Section 4.02.030(3), 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 may be accessed by a public street or private





access easement developed in accordance with the provision of Chapter 3.10 under certain conditions.

The development is located to the west of Old Salem Road. No internal streets will be created with the development.

Parcel 1 will have 188 feet of frontage on Old Salem Road. Parcel 2 is proposed to be a flag lot with a 25-foot-wide frontage on Old Salem Road. Both Parcels will utilize an existing 25-foot-wide access easement and access encroachment to Old Salem Road.

- iv. Flag Lot. According to Section 4.02.030(4), 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.

Parcel 2 is proposed to be a flag lot with a 25-foot-wide frontage on Old Salem Road.

- v. Through Lots. Through lots are to be avoided except where essential to provide separation of residential development.

No through lots are proposed with this partition request.

- 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 Old Salem Road.

- vii. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities easements width shall conform to adopted Engineering Standards.

All existing easements serving existing development are depicted on the tentative partition plat. Any needed modifications to the existing utility easements because of the partition will conform to adopted Engineering standards.

2.3 Section 4.02.040 provides the following additional standards for subdivision:

- i. Section 4.02.020 explains that any partition that includes parcels that could be further divided are required to follow all requirements for a subdivision. In the CO zones that would mean that any proposed parcel over 10,000 square feet would trigger the subdivision requirements. As such, the additional requirements of this section apply. These include:
  - Blocks shall not exceed 1,000 feet.
  - Additional access requirements based on block length.
  - Additional requirements for pedestrian and bikeway connections.

Parcel 1 includes a portion of CO zoned property that is larger than 10,000 square feet. However, the creation of new streets and block are proposed with this development.



Therefore, no pedestrian accessways are proposed or required that are not located along a street frontage (sidewalks).

2.4 Because the partition includes portions of CO zoned property that can be further divided, subdivision improvements are required. 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.

The site is developed and already served by shared private access and improved encroachment. Therefore, this standard is not applicable.

- ii. Street Frontage Improvements.
  - 1. Land dedication may be required to establish the appropriate right-of-way width in accordance with adopted transportation plans.
  - 2. Connection Charges in lieu of construction of the required frontage improvements is required if the street frontage of the subject property is less than or equal to 250 feet. Construction of public improvements is required for properties with street frontage that exceeds 250 feet or connects to an existing street improvement.

Figures 3 and 4 of the Millersburg's Transportation System Plan depict arterial cross sections with a required 80-foot-wide or 60-foot-wide right-of-way depending on whether a center turn lane is provided.

The subject property has approximately 243 feet of frontage along the Old Salem Road right-of-way, which is classified as an arterial street. Old Salem Road has a variable width right-of-way with 42-foot-wide pavement width and improved with a center turn lane, one vehicle travel lane in each direction curb, gutter, and 5-foot-wide sidewalk along the west side of the street. Therefore, no additional right-of-way or street improvements are required in association with this application.

- iii. Public Facilities. Sewer, water, and storm drainage facilities may be required on and adjacent to the property.

Section 3.05 requires all development in the city to provide connection to utilities. All public facility improvements are required to be designed and constructed in compliance with Engineering Standards.

Site development is defined under Chapter 1.02 as follows: *Any human-caused change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials excavating, or drilling operations.*



The subject property is developed with connections to existing public services. Any needed modifications to the existing utility easements because of the partition will conform to adopted Engineering standards.

2.5 Section 4.02.060 includes the following improvement requirements for a subdivision:

- i. Streetlights are also required per City standards. The City’s minimum space for streetlights on residential and local streets is 600 feet. Additionally, streetlights are required at intersections.

The streetlight standards are not applicable to this application as the site has frontage on an aerial street and it is not located at an intersection.

**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 Setbacks are addressed under Criterion 1 above and incorporated herein by reference.

**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 Section 3.02.030, General Provisions, states that all streets must be built to conform with the Transportation System Plan, including that street must follow logical patterns, provide for the continuation of streets within and outside of the proposed project site, provide for future street extensions, and provide improvement of any unimproved street adjacent to the property.

Street frontage improvements are addressed under Criterion 2 above and incorporated herein by reference.

4.2 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	Streetlights	Bike & Ped. Partition
Partition (w/o utilities)	No, unless required by Fire Code	C-2	Yes	Yes	Yes	No	C-2

*C-2: Street Improvements for Single-family Dwellings and Partitions: a) New single-family dwellings on an existing parcel less than 2.5 acres in size and fronting an existing street which does not have a full street improvement including sidewalks, as required in the City's*



*most recently adopted engineering standards and Chapter 3.02, shall dedicate the needed right-of-way, and shall install the full improvement along a parcel's frontage. B) If there is no adjacent improvement, a street frontage fee, in accordance with the City's adopted connection fees, will be required in lieu of constructing the improvement. If a street extension to serve the residence is necessary, the owner must provide the necessary right-of-way dedication and street improvement to City street standards along the full frontage of the parcel. C) A partition creating parcels of 2.5 acres or larger does not require street improvements.*

- 4.3 Section 3.02.070, Sidewalks, states that all development in the city is required to construct sidewalks.

Site development is defined under Chapter 1.02 as follows: *Any human-caused change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials excavating, or drilling operations.*

Street frontage improvements are addressed under Criterion 2 above and incorporated herein by reference.

- 4.4 Chapter 3.04, Storm Drainage and Grading, states that all development in the city is required to provide for storm drainage.

There is no development proposed in association with the partition request; therefore, the storm drainage and grading standards are not applicable.

- 4.5 Chapter 3.05, Utility Lines and Facilities, states that all development in the city is required to provide connection to utilities.

The subject property is developed with connections to existing public services. Any needed modifications to the existing utility easements because of the partition will conform to adopted Engineering standards.

- 4.6 Access to public facilities is addressed under Criterion 2, Finding 2.4 above, and incorporated herein by reference.

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

- 5.1 Section 4.02.030.3 requires all new lots or parcels to have frontage on or approved access to a public street currently open to traffic. This review criterion has been interpreted by the city council to require only that adjoining land either have access, or be provided access, to public streets.

- 5.2 The subject property currently has access to and frontage on Old Salem Road. Upon approval of the partition, oth proposed parcels will have frontage on and access to Old Salem Road.



5.3 All adjoining properties to the subject property have existing access to a public street in accordance with Section 4.02.030.3 and the proposed partition will not remove that access.

**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





**NOTICE OF TENTATIVE DECISION**  
**PA 23-03 Sullivan 2023 Partition**  
**COMMENTS DUE DECEMBER 1, 2023**

November 17, 2023

The City of Millersburg has received an application to partition (divide) a property. The project was reviewed by staff for consistency with the Millersburg Development Code. **Staff is now issuing a tentative decision to approve the project with conditions of approval.** No hearing is required.

The City is asking for your input. Please review the exhibit and the staff report which is available here- <https://www.cityofmillersburg.org/planning/page/pa-23-03-sullivan-2023-partition> 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 subsequently 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 [mstrait@cityofmillersburg.org](mailto:mstrait@cityofmillersburg.org) before December 1, 2023.

The application, all documents, and evidence submitted by or on behalf of the applicant are available for inspection at no cost. Copies are available for a minimal cost. Applicable criteria are from Section 5.07.060 of the Millersburg Development Code which can be found here- [https://library.municode.com/or/millersburg/codes/development\\_code](https://library.municode.com/or/millersburg/codes/development_code). For further information, contact Millersburg City Hall at (458)-233-6300.

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

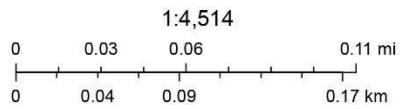
<b>APPLICANTS:</b>	Alton & Dixie Sullivan
<b>LOCATION:</b>	1040, 1060, 1042, 1044 and 1050 NE Old Salem Road (see map opposite page)
<b>TAX LOT:</b>	Township 10 South; Range 3 West; Section 33CD; Tax Lot 1200
<b>PARCEL SIZE:</b>	5.54 Acres
<b>ZONING:</b>	General Industrial (GI) and Commercial Office (CO)
<b>REQUEST:</b>	The application proposes to divide 5.54 acres into 2 parcels
<b>CRITERIA:</b>	Millersburg Development Code; Article 5.07.060
<b>FILE No.:</b>	PA 23-03

# Vicinity Map PA 23-03



11/15/2023, 10:57:37 AM

- Highways
- Roads
- Railroad
- City Boundary
- 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