



Proposal: The applicant is requesting approval to partition a 1.95-acre parcel into three parcels of approximately 44,720 square feet, 14,936 square feet, and 25,299 square feet with access from NE Canter Avenue. Street improvements for NE Canter Avenue are proposed.

I. BACKGROUND

- A. Applicant: Steven Smith
Progressive Design Builders
PO Box 727
Albany, OR 97321
- B. Project Location: Southerly of Millersburg Drive, westerly of NE Canter Avenue
10S 3W 16CC Tax Lot 00600
- 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 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 and all responsible agencies on March 24, 2021. The notice provided 14 days to respond.
- E. Review Criteria: Chapter 5.07.060 Partitions & 5.08.060 Subdivisions (because some lots could be further divided).
- F. Current Zoning: Residential Low (RL)
- G. Proposed Zoning: N/A
- H. Property Size: 1.95 Gross Acres
- I. Background: The property was partitioned previously. The Code echoes the State requirements that an applicant is allowed to further partition a property as long as there has been at least one year between partitions.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The project was transmitted to the following agencies/departments on March 23, 2021: City of Albany, Albany Fire Department, Linn County Sheriff's Office (LCSO), 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 March 24, 2021. 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

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 Residential Low (RL) Zone. The lot dimensional standards in the RL zone are a 10,000 square foot minimum. The proposed parcels are 44,720 sf., 14,936 sf., and 25,299 sf. 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 three parcels. Parcel 1 features an existing manufactured home. Parcel 2 is currently vacant, and parcel 3 features an accessory building that is proposed to be removed. The existing home on parcel 1 meets all setbacks based on the proposed lot lines.

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: The project site will be extending NE Canter Avenue into the project. All required utilities are available within NE Canter Avenue. As explained below in more detail, the project is required to comply with all requirements of a subdivision (because some of the lots are large enough to be further divided), therefore, the applicant is required to construct a street with half width improvements for the full east-west length of the project site. The plans show the proposed street, though additional details for the street construction are required. These have been added as a condition of approval.

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

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 full comply or code standards that require some analysis to explain how they meet the requirements, are shown below.

Section 3.01.030 Application of Public Facility Standards

This section explains the improvements that are required for partitions. No fire hydrant is required; street improvements consistent with section C-2 are required, water, sewer, storm and bike/pedestrian facilities are required. Street lights are not required (by this section though they are required in other sections). Street dedication is required.

ANALYSIS: The proposed map shows street improvements along Canter Avenue, along the southern edge of the property. No sidewalks are shown, though they are required. The street is shown in diagrammatic form only; no street specifications are provided, nor are public utility connections or locations of the connections. All will need to be provided and constructed prior to the recordation of the final plat.

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 provide details of all street and public utilities for review and approval. The design of NE Canter Avenue shall follow the same width and design as the existing

section of NE Canter Avenue to the east of the project site.

- Prior to City approval of the final plat, the applicant shall construct all streets, sidewalks, and public utilities, or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.
- All right-of-way for NE Canter Avenue shall be dedicated as part of the final plat.

Section 3.02.030 General Street Provisions

All streets must be built to conform with the Transportation System Plan. The 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.

ANALYSIS: The proposed map shows the general location of street improvements, but does not include details of the proposed construction. Connections to the property on the west are provided, and the street will be constructed to the west side of the property. The extension of NE Canter Avenue will follow the same width and construction details as exist currently to the east of the site on the section of NE Canter Avenue that has already been constructed.

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

Section 3.02.070 Sidewalks

All development in the City is required to construct sidewalks. A partition is considered development. While sidewalks can be deferred, the project must meet the requirements of a subdivision which requires full sidewalk construction.

ANALYSIS: Sidewalk plans are required in the previously stated condition of approval, and construction of the sidewalk is also required by condition of approval.

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

Section 3.04 Storm Drainage

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

ANALYSIS: A storm drainage plan was not provided by the applicant but will be required to assure the project meets the standards of this section. A condition of approval has been added to require the submittal and approval of a plan prior to any development of the property.

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

CONDITION OF APPROVAL:

- Prior to City approval of the final plat, the applicant shall submit for approval a drainage plan for the site that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer.

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: A condition of approval has been added to require the submittal and approval of utility connection details prior to any development of the property.

FINDING: Based on the analysis above, with conditions of approval, 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.
- 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 three parcels. Parcel 1 is proposed to be about 230 feet deep and about 100 feet wide; parcel 2 is proposed to be about 112 feet deep and about 128 feet wide; parcel 3 is a flag lot proposed to be about 150 feet deep and about 150 feet wide. All of these meet the lot to width ratio requirements. Parcels 1 and 2 have more than the 40 feet of frontage required, and parcel 3 is a flag lot with a 30 foot wide access strip. The required 14 feet of improved surface is not shown; a condition of approval has been added. None of the parcels are considered through parcels, and all lot lines are some form of a right angle.

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

CONDITION OF APPROVAL:

- Parcel 3 shall include an improved driveway surface of at least 14 feet wide within the 30 foot access strip.

Section 4.02.040 Additional Standards for Subdivisions

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 RL

zone that would mean that any proposed parcel over 20,000 square feet would trigger the need for the entire map to follow 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.

ANALYSIS: The project features 2 parcels that are larger than 20,000 square feet. The 'block' for this project would be considered the entire width of the site, which is about 260 feet. This standard is met. No pedestrian access ways are proposed or required that are not located along a street frontage (sidewalks).

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

Section 4.02.050 Improvement Requirements- Partition

Because the project includes parcels that can be further divided, the subdivision improvements are required. See below.

Section 4.02.060 Improvement Requirements- Subdivision

The project is required to provide construction of all frontage, which for this site would mean half-street improvements, curbs, sidewalks, storm water, and other utilities. Sidewalks and street lights are also required by this section.

ANALYSIS: As discussed in other sections, conditions of approval require full construction of street improvements and sidewalks. This section also specifies that street lights are required. The applicant did not show any proposed street lighting. As such, a condition of approval has been added for the construction of street lights prior to the City approval of the final plat.

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

CONDITIONS OF APPROVAL:

- Prior to City approval of the final plat, the applicant shall provide details of all street lights for review and approval. The design of the street lighting shall follow the pattern already established on NE Canter Avenue east of the project site.
- Prior to City approval of the final plat, the applicant shall construct all street lighting or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.

V. 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 Partition Application No. PA 21-01, Smith-Canter Partition, 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.

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 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. 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. Proposed parcels must connect to City water and sewer.

Prior to Approval of the Final Plat

5. The applicant shall provide evidence to the City that all requirements shown in the Albany Fire letter have been met.
6. 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.
7. 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.
8. The Final Plat shall include any required access or utility easements.
9. Prior to City approval of the final plat, the applicant shall provide details of all street and public utilities for review and approval. The design of Canter Avenue shall follow the same width and design as the existing section of Canter Avenue to the east of the project site.
10. Prior to City approval of the final plat, the applicant shall construct all streets, sidewalks, and public utilities, or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.
11. Prior to City approval of the final plat, the applicant shall submit for approval a 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. Parcel 3 shall include an improved driveway surface of at least 14 feet wide within the 30 foot access strip.
13. Prior to City approval of the final plat, the applicant shall provide details of all street lights for review and approval. The design of the street lighting shall follow the pattern already established on Canter Avenue east of the project site.
14. Prior to City approval of the final plat, the applicant shall construct all street lighting or provide bonding (or similar) for all improvements, to the satisfaction of the City Engineer. The applicant must have all improvements approved by the City.
15. All right of way for NE Canter Avenue shall be dedicated as part of the Final Plat.

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. Connection charges for water, sewer, street, and storm water are due prior to recordation of the Final Plat. Connection charge calculation shall be based on the length of the full property frontage on Alexander Lane, 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. All roof drains and yard drainage must be piped or trenched to an approved discharge point. Improved lots may not drain onto neighboring properties.
3. A Private Construction of Public Infrastructure (PCPI) permit is required for all construction of public infrastructure.
4. A right-of-way permit is required for any work in the public right-of-way, including utility connections, sidewalks, and driveways. 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. Driveways shall conform to Chapter 3.02 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 15%.
6. 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.

7. The Final Plat shall include any required access or utility easements.
8. All agreements required as conditions of this approval must be signed and recorded.
9. 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.
10. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
11. **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.
12. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
13. 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.
14. The submittal by the applicant for Final Plat review and approval shall include, but not be limited to, the following: a Final Plat application; Final Plat review fee; 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.
15. 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.
16. Prior to issuance of building permits, an electronic version of the Final Plat must be submitted to the City Planner.
17. Prior to occupancy of any new home, the facilities approved in the site-specific stormwater quality plan and drainage plan must be constructed.
18. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
19. 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.

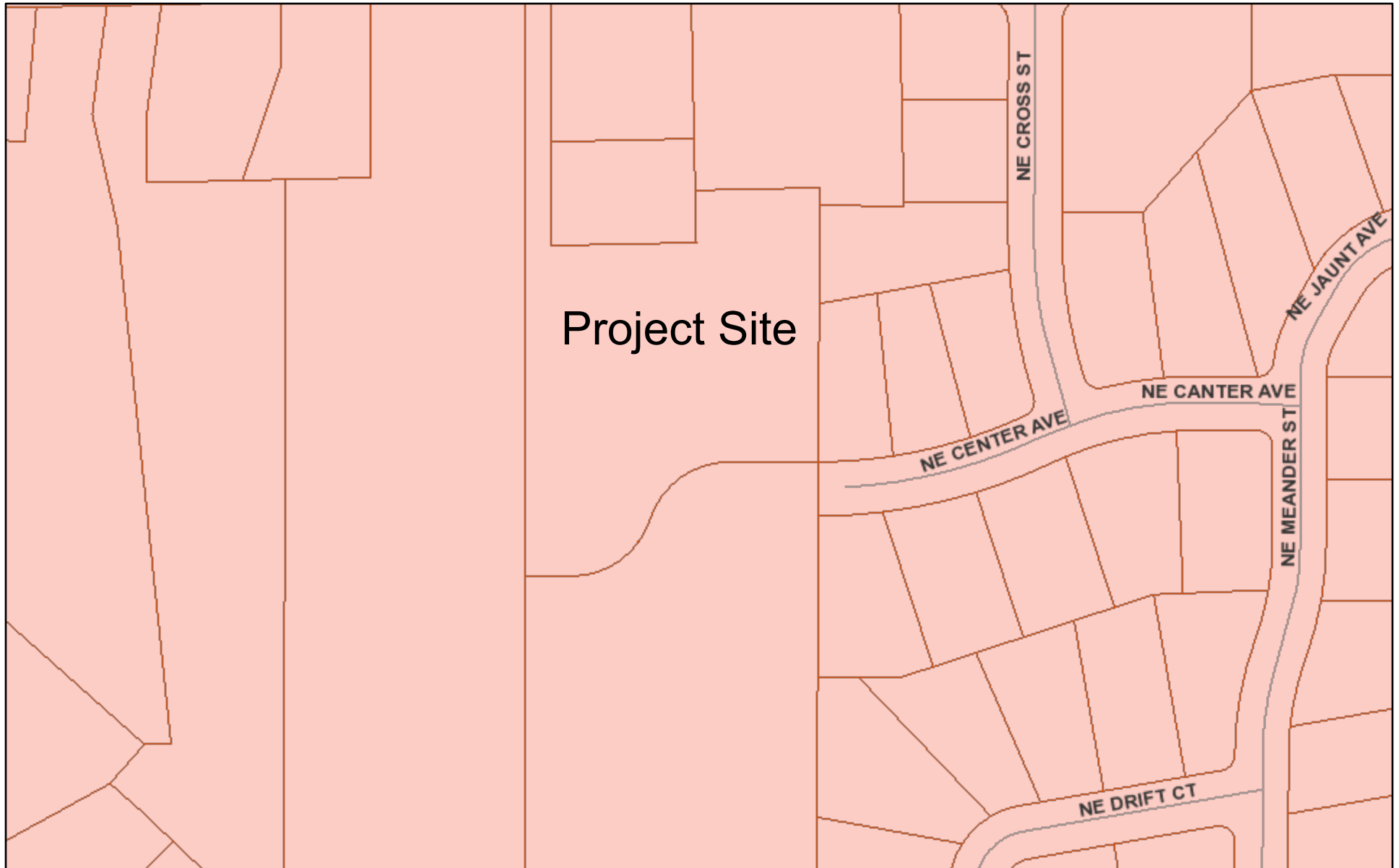
20. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site except through proper disposal containers or construction fencing enclosures. All construction equipment 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.

21. 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

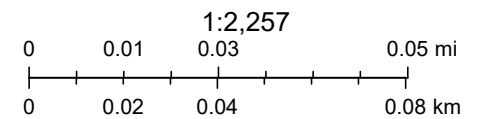
- A. Zoning Map
- B. Vicinity Map
- C. Applicant's Site Plan/Map
- D. Applicant's Narrative

PA 21-01 Zoning



3/23/2021, 3:28:35 PM

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|-------------|-----------------|--------------------|----------------------------|
| Highways | Tax Lots | City Zoning | CB -- CENTRAL BUSINESS |
| Roads | County Boundary | | CC -- COMMUNITY COMMERCIAL |
| City Limits | | C-1, COMMERCIAL | CC-CENTRAL COMMERCIAL |



Linn County GIS

Map created using the Linn County Oregon web mapping application

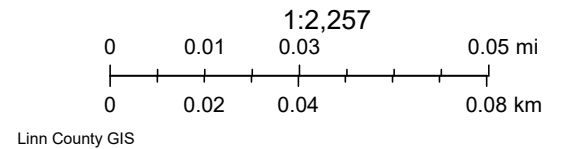
This product is for informational purposes only and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the

PA 21-01 Vicinity Map



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- Highways
- City Limits
- County Boundary
- Roads
- Tax Lots

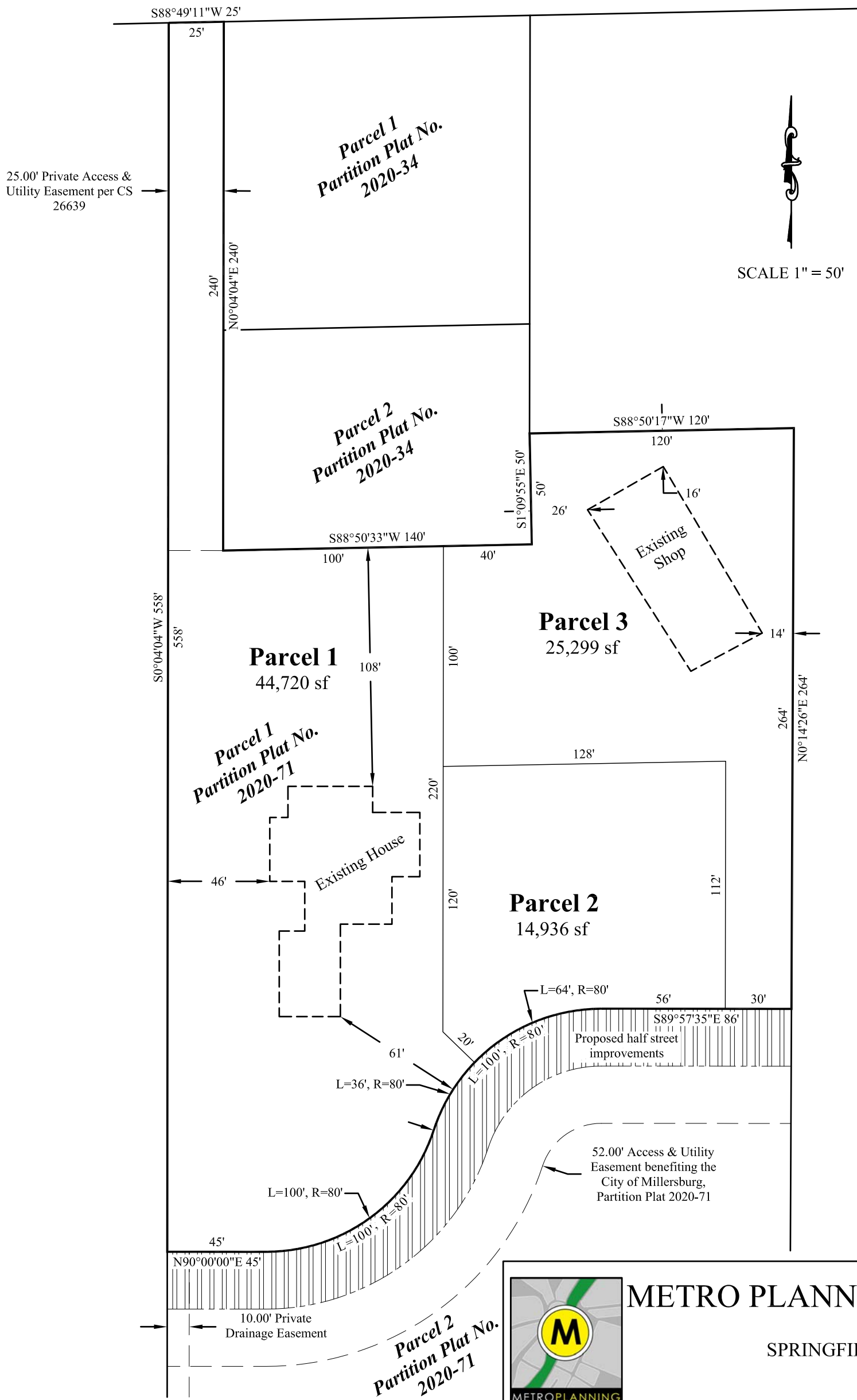


TENTATIVE PARTITION

FOR

Progressive Design Builders, Inc.- Stephen Smith
 SW 1/4, SECTION 16, TOWNSHIP 10 SOUTH, RANGE 3 WEST, W.M.
 ALBANY, LINN COUNTY, OREGON
 DATE PREPARED: March 05, 2021

MILLERSBURG DRIVE NE
 (C.R. NO. 310) (60.00' RIGHT OF WAY)



ASSESSORS MAP/LOT: 10S03W16CC-600



METRO PLANNING, INC

846 A STREET
 SPRINGFIELD, OR. 97477
 541-302-9830
 JOB NO. 21-005

Residential Low-Density Zone (RL) 2.03.030 Special Uses

The following uses, when developed under the special development requirements, are permitted in the RL zone: (1) Partitions, subject to the provisions in Chapter 4.02.050.

Response: See comments that address the provisions in Chapter 4.02.050.

2.03.060 Dimensional Standards Unless otherwise required by this Code, the following minimum dimensional standards shall be required for all development in the RL zone:

Minimum Lot Area

Single-family Dwelling & Duplex 10,000 square feet

Response: The smallest of the three parcels will be 13,825 square feet. The other two proposed parcels will be 26,410 and 44,720 square feet.

Minimum Setbacks

Front Yard 15 feet

Garage 25 feet to entrance

Side Yard – one story (Interior) 5 feet

Side Yard – two or more stories (Interior) 8 feet

Side Yard (Street) 15 feet

Rear Yard 20 feet

Response: At the point of this application, no buildings are proposed.

Maximum Structure Height

Primary Building 35 feet

Accessory Building Height & Setbacks Per Section 3.15

Maximum Lot Coverage 50 %

Response: At the point of this application, no buildings are proposed.

4.02.050 Improvement Requirements - Partition During the review of Partition proposals, the City shall require, as a condition of approval, the following improvements:

(1) Private Access. Where included, private driveways serving flag lots or private streets shall be surfaced per the requirements of this Code.

Response: Prior to the final partition approval, the applicant will ensure all private driveways will be surfaced per the requirements of the Code. At this point, no driveways are proposed.

(2) Street Frontage Improvements. The following improvements shall be required:

a. Consistent with the adopted transportation plans, sufficient land shall be dedicated establishing the appropriate right-of-way width.

Response: Parcel 1 will be reached by a 25-foot wide Private Access & Utility Easement per CS 26639 and Parcels 2 & 3 will be reached the 52-foot wide Access and Utility Easement from Partition Plat 2020-71 (see attached preliminary partition plat drawing). Right-of-way width has already been established with the existing easement.

b. If the street frontage of the subject property is less than or equal to 250 feet and does not connect to existing improvements, the applicant shall pay connection fees in accordance with the City's adopted Connection Charges ordinance in lieu of construction of the required frontage improvements. At City's option, a non-remonstrance agreement acceptable to the City of Millersburg may be allowed. This agreement shall stipulate that the applicant, or future property owner, will agree to participate in right-of-way improvements. The agreement may include provisions for the following: street paving, curbing, sidewalks, water lines, storm sewer facilities, and sanitary sewer facilities. The agreement shall be recorded at the County Clerk's Office at the time of the recording of the final plat.

Response: Parcel 1 will be reached by a 25-foot wide Private Access & Utility Easement per CS 26639 and Parcels 2 & 3 will be reached the 52-foot wide Access and Utility Easement from Partition Plat 2020-71 (see attached preliminary partition plat drawing). The applicant understands that in order to comply, they will extend Canter to provide access to Parcel 2 & 3.

c. If the street frontage of the subject property exceeds 250 feet, or connects to an existing street improvement, the applicant shall improve the following:

i. Public streets upon which the property fronts to public standards including surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines, and other necessary public utilities per approved master plans. In some cases, surfacing additional road width may be required. Where a master plan has not been adopted, or the City deems it to be in the City's best interest, the developer shall pay connection charges consistent with item (2) b, above.

ii. Sidewalks, meeting City standards, along public street frontage: Sidewalk construction may be deferred until such time a building permit is issued.

iii. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve parcels accessing off the new street.

Response: Parcel 1 will be reached by a 25-foot wide Private Access & Utility Easement per CS 26639 and Parcels 2 & 3 will be reached the 52-foot wide Access and Utility Easement from Partition Plat 2020-71 (see attached preliminary partition plat drawing). The applicant understands that in order to comply, they will extend Canter to provide access to Parcel 2 & 3. See the attached engineering drawing that shows the street and sidewalk design.

(3) Public Facilities. Sewer, water, and storm drainage facilities may be required on and adjacent to the project. The developer shall submit engineering plans or facility improvement plans to the City for review. The plans shall address the required improvements contained in this Article, and any

conditions of approval, and shall conform with City Engineering Design Standards. Improvement work shall not commence until plans are approved by the City.

Response: If this tentative partition is approved, the applicant will submit engineering plans to meet the City Engineering Design Standards, as needed. See the public utility plan attached.

(4) Connection Charge. In the circumstance where existing improved streets, sanitary sewer, water, and/or storm lines are adjacent to or within the project, a connection charge is required in accordance with the City's adopted Connection Charges ordinance.

Response: The applicant understands and accepts the terms under this condition.

(5) Completion Requirements. All required improvements shall be completed prior to recording the final partition plat and the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the Partition.

Response: The applicant understands and accepts the terms under this condition.

5.07.060 Decision Criteria

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.

Response: The parcels satisfy the dimensional standards of the zone. See 2.03.060 comments above.

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

Response: See the response to the Development Standards in section 4.02 above.

(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.

Response: See the site plan to see the existing structures.

(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.

Response: Development of newly created parcels will not inhibit adjacent parcels use of public services. All adjacent properties, developed and undeveloped, have access from Millersburg Dr and in the future will have access to NE Canter Avenue.