



Proposal: The applicant is requesting approval to partition a 2.6-acre parcel into three parcels of approximately 19,893 square feet net, 19,545 square feet net, and 72,974 square feet with access from Aztec Loop and Conser Road.

I. BACKGROUND

- A. Applicant: Jan Zuhlke
3091 NE Conser Road
Albany, OR 97321
- B. Project Location: 3091 NE Conser Road
10S 3W 21 Tax Lot 04300
- 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 and all responsible agencies on June 17, 2021. The notice provided 14 days to respond.
- E. Review Criteria: Chapter 5.07.060/5.08.060 Partitions/Subdivisions
- F. Current Zoning: Residential Low (RL)
- G. Proposed Zoning: N/A
- H. Property Size: 2.60 Gross Acres
- I. Background: The property currently has access from Aztec Loop and Conser Road. The property to the north and east has been fully developed as part of the Walker Subdivision. The property to the south is undeveloped industrial property and to the east is a large lot residential property.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The project was transmitted to the following agencies/departments on June 17, 2021: City of Albany, Albany Fire Department, City of Millersburg Engineer, Pacific Power, Linn

County Planning and Building Department, Northwest Natural Gas, and PacifiCorp. Any comments received will be addressed in the final decision.

Public:

Notice of this tentative decision was sent out to neighbors of the site on June 17, 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

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

Section 5.08.060 Subdivision Decision Criteria

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

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

ANALYSIS: The proposed partition is in the Residential Low (RL) Zone. The lot dimensional standards in the RL zone are a 10,000 square foot minimum. The proposed parcels approximately 19,893 square feet, 20,140 square feet, and 72,974 square feet which all exceed the minimum.

Additionally, the zone explains that design standards for homes on single family lots must be met. These are listed in section 2.03.070. These include:

- Off-Street Parking - Table 14 requires that residential uses provide 2 spaces per dwelling unit. As this is a partition the actual homes that will eventually be built on the new parcels are not shown. When they are built they will have to comply with the parking requirements at that time.
- Yards and Lots - All yards must conform with setback requirements. The proposed map fully conforms with this as there is plenty of room for a single-family home and all setback requirements on the lots proposed. The proposed parcels show all setbacks.
- The design standards from section 3.12 must be followed as well. These generally apply to a home when it is submitted for a building permit and are not applicable at the time of a partition.
- The structure must connect to public utilities. The proposed partition has the ability to connect to existing utilities in Aztec Loop Road and/or Conser Road. The proposal includes two new vacant parcels and a third new parcel that will include the existing home and barn. The existing home is currently connected to sewer, but not public City water. Code section

2.03.080 requires that the existing home connect to water and sewer as part of the partition. As such, a condition of approval has been added to require the existing home to connect to City water prior to the City signing the final plat. With this condition, the proposal meets this code requirement.

All zone standards are met.

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

CONDITION OF APPROVAL: Prior to City approval of the Final Plat the applicant shall connect the existing home to City water.

(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 home and a barn. The existing home on parcel 1 and the barn meet 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. Adequate means the development will not cause streets (including sidewalks, intersections, and traffic control devices), sewer facilities, water facilities, and storm drainage facilities to exceed the relevant capacity for each type of facility established in the most recently adopted, Sewer Master Plan, Water Master Plan, Storm Water Master Plan, and the Transportation System Plan development in accordance with the State Transportation Planning Rule for which the determination will be made in accordance with Section 3.02.120. Adequacy can be established in three ways:

- a. Professional Engineering analysis determining the subdivision will not exceed the capacity of existing and future public facilities as projected in the most

recently adopted water, sewer, and stormwater master plans and transportation system plan;

- b. Professional Engineering analysis determining what improvements will be required to increase the capacity of public facilities to adequately accommodate the subdivision and how those will be financed; or
- c. A combination of both a and b.

ANALYSIS: The project site is proposing to leave the current access for Parcel 1 as it is today, taking access from Conser Road. The proposal will not leave any neighboring properties landlocked and is therefore not required to provide utility access to any neighboring parcels. Two of the proposed parcels will get access to utilities from Aztec Loop, the larger parcel will get utilities from either Conser Road or Aztec Loop. As discussed previously, the existing home is required to connect to City water prior to the City approval of the Final Plat.

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 analysis to explain how they meet the requirements, are shown below.

Section 3.01.030 Application of Public Facility Standards

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

Land Use Activity	Fire Hydrant	Street Improvements	Water Hookup	Sewer Hookup	Storm Drain	Street Lights	Bike & Ped
Partition (with utilities)	No, unless required, by Fire	C-2*	Yes	Yes	Yes	No	C-2

*C-2 requires full street improvements including sidewalks for lots under 2.5 acres and discusses street frontage fee requirements.

ANALYSIS: The proposed partition is providing water and sewer connections to all three parcels. Streetlights are not required for reasons discussed below.

The project frontage along Conser Road is already fully built out. The project frontage on Aztec Loop is more complicated. The project does not actually front Aztec Loop. The neighbor along Aztec Loop (4330 NE Aztec Loop) is providing an access easement for the two parcels that will access north. Another neighbor at 4298 NE Castillo Drive owns a strip of land that is about eight feet wide and spans along the applicant's parcel to basically block the applicant's property from

touching Aztec Loop. This relationship between 4298 NE Castillo Drive, Aztec Loop, and the applicant's property means that the applicant is not legally responsible for building any required improvements along the northern edge of the property, because the applicant's parcel does not touch the street right-of-way. Therefore, no street or sidewalk improvements are required for the proposed partition.

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

Section 3.02.030 General Street Provisions

All streets must be built to conform with the Transportation System Plan. Any 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 project will create one parcel that cannot be further divided (because it is not a full 20,000 square feet, and the zone has a 10,000 square foot minimum lot size). Two of the parcels can be further divided. This Code section explains that the design of the current partition must plan for, or at least allow for, a future division of all parcels that can be further divided. In other words, the project must be designed in a way that will allow further division in the future. The proposed design does not include any conceptual design to show that these requirements are met. As designed, any future division of the property would only allow additional divisions to take access from the south, from Conser Road, however that's not possible. Conser Road is an arterial.

Staff is therefore adding a condition of approval to require an access and no build easement on both proposed parcels along Aztec Loop for a future right-of-way. This will allow for a future street to connect south between Aztec Loop and the property to the west, providing through access between the applicant's property and the dividable property to the west. Actual dedication would not be required, but creation of an easement would protect future rights-of-way to assure these code requirements can be met. A condition of approval has been added to require the easement on the final plat.

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

CONDITION OF APPROVAL: The final plat shall include a no-build and access easement between parcels (lots) 2 and 3 on the map to reserve a future right-of-way of 50 feet (or as approved by the City Engineer).

Section 3.02.070 Sidewalks

All development in the City is required to construct sidewalks. A partition is considered development.

ANALYSIS: As noted above, no sidewalks are required as part of the proposed partition.

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: The applicant did not provide details regarding drainage. A drainage plan will need to be submitted.

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

CONDITION OF APPROVAL: Prior to City approval of the final plat, the applicant shall submit for approval a storm drainage plan for the site, including public infrastructure, that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. Construction of the approved storm drainage facilities is required prior to approval of the final plat.

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 existing single family home is required to connect to City water, all other connections are provided for.

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 2 and 3 are proposed to be about 150 feet deep and about 128 feet wide; parcel 1 is proposed to be about 262 feet deep and about 260 feet wide. These meet the lot to width ratio requirements.

Parcels 2 and 3 do not have the 40 feet of frontage required by 4.02.030.3; however, the Code does allow for access by private easement if 40 feet of frontage is not possible due to shape of the parcel. The property not having frontage on Aztec Loop means that 40 feet of frontage is not possible.

Regarding flag lot requirements, it is not clear if this is a flag lot subdivision. However, the proposed division meets all the flag lot standards either way.

None of the parcels are considered through parcels, and all lot lines are some form of a right angle. Utility easements are provided for parcels 2 and 3.

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

Section 4.02.040 Standards for Subdivisions

This section includes standards for subdivisions. Any partition that proposes a parcel that could be further divided (in other words, more than 20,000 square feet) is also required to satisfy the requirements of this section (this is required specifically by section 4.02.020(3)). These include:

- Block length and size
- Traffic circulation
- Connectivity
- Collector and arterial connections
- Design standards

ANALYSIS: The project does not feature blocks, and the parcel is of a small size that would not require a detailed analysis of possible future subdivisions regarding block size or shape.

Similarly, the traffic circulation is not a key factor in the design of the parcels in the partition. It should be noted that any future division of the parcels (either for a partition or a subdivision) would need to create a street system through the site. This system would need to connect to Aztec Loop and cannot connect to Conser Road because Conser Road is an arterial. Additionally, any new street connecting to Conser Road would need to be at least 600 feet away from another street, which is not possible. The property's location near Castillo Drive and Katelyn Way would also prevent a new connection point. The street connection in the future would likely need to feature a street that runs from Aztec Loop southward into the site, then at some point the street would turn to the west and provide a future connection to the property located adjacent to the site on the west. In order to satisfy this requirement, the no build/access easements discussed previously on parcels 2 and 3 will conserve a future street right-of-way for the property and satisfies this standard.

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

Section 4.02.050 Improvement Requirements- Partition

Required improvements include:

- Paved access.
- Dedication of any needed street right-of-way.
- Street improvements
- Public facilities

ANALYSIS: Pursuant to section 4.02.020(3) the improvement standards for subdivisions would apply to the project.

FINDING: This section does not apply.

Section 4.02.060 Improvement Requirements- Subdivision

Required improvements include:

- Frontage improvements
- Project streets
- Monuments
- Surface drainage
- Sanitary sewers
- Water systems
- Sidewalks
- Streetlights
- Street signs

ANALYSIS: As noted above, the project is not required to provide any street frontage improvements because the property does not connect to Aztec Loop. Connection charges are not required for the same reason. Monuments are required as part of the typical buildout of the infrastructure. No special conditions of approval are required to assure they are installed.

No master drainage plan was submitted, but one will be required prior to the buildout of the proposed parcels. New sanitary sewer and water laterals are shown on the proposed plat and will be installed as part of the project.

No sidewalks, streetlights, street signs, or street trees are required because the project parcel does not touch Aztec Loop, and because no new streets are proposed in the project.

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

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 21-03, Zuhlke 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 dated 4/29/21 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. Prior to City approval of the Final Plat, the applicant shall submit for approval a storm drainage plan for the site, including public infrastructure, that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer. Construction of the approved storm drainage facilities is required prior to approval of the Final Plat.
6. Prior to City approval of the Final Plat the applicant shall connect the existing home to City water.
7. The Final Plat shall include a no-build and access easement between parcels (lots) 2 and 3 on the map to reserve a future right-of-way of 50 feet (or as approved by the City Engineer).
8. The applicant shall provide evidence to the City that all requirements shown in the Albany Fire letter have been met.
9. 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.
10. 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.
11. The Final Plat shall include any required access or utility easements.
12. 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.

13. Prior to City approval of the Final Plat, the application shall construct all required drainage facilities, or provide bonding (or similar) for all improvements approved by the City.
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VIII. NOTICES TO THE APPLICANT

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

1. Connection Charges for water, sewer, street, and stormwater are not applicable to this project. The applicant may request a Reimbursement Agreement for constructed water and sewer infrastructure, in accordance with the City's adopted connection charges policy.
2. All roof drains and yard drainage must be piped or trenched to an approved discharge point.
3. A Private Construction of Public Infrastructure (PCPI) permit is required for all construction of public infrastructure.
4. Driveways shall conform to Chapter 3.02 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 15%.
5. 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.
6. The Final Plat shall include any required access or utility easements.
7. All agreements required as conditions of this approval must be signed and recorded.
8. 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.
9. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
10. **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.
11. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.

12. 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.
13. 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.
14. 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.
15. An electronic version of the Final Plat must be submitted to the City Planner.
16. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
17. 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.
18. 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.
19. 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).

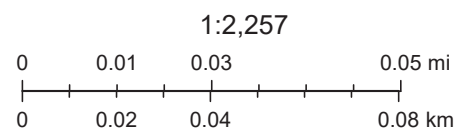
IX. EXHIBITS

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

Vicinity Map PA 21-03



6/16/2021, 8:27:04 AM



Linn County GIS

Zoning Map PA 21-03

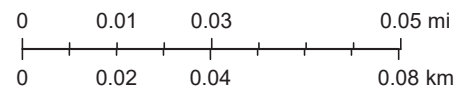


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1:2,257

- Roads
- Tax Lots

- City Zoning
- Residential Low (RL)



Linn County GIS

Tentative Partition Application

This section of the application contains responses that illustrate how this land use partition application conforms to the applicable standards and approval criteria of City of Millersburg for a partition application. Only code sections that contain applicable standards and criteria or otherwise require a response related to the requested partition land use action have been included in this Section. The Parcel is Parcel 1 of Partition Plat No. 2006-44 therefore, it is a legal lot.

2.03.020 Permitted Uses

Response: The proposed improvements have been designed in conformance with applicable RL low-density residential zone standards. The partition is designed to create 2 additional single-family dwellings which is permitted in RL zoning.

2.03.030 Special Uses.

Response: A partition is allowed in the RL zone subject to provisions in Chapter 4.02.050.

2.03.050 Density Regulations.

Response: Single-family in RL zoning may only have one dwelling per lot therefore the partition proposes 2 additional single family lots with 1 existing lot being the remainder.

2.03.060 Dimensional Standards.

Response: The proposed partition complies with RL zoning dimensional, setbacks, maximum coverage, and height standards.

2.03.070 Development Standards.

Response: The proposed partition shall comply with development standards and the applicable sections from Chapter 3. No non-residential development is being proposed.

2.03.080 Public Services.

Response: The proposed partition will connect new construction to public utilities.

3.03 Parking.

Response: The proposed partition plans to create (2) approximately 0.5 acre lots therefore driveways from the public street off Aztec loop will provide newly created parcels with adequate parking on site.

3.06 Signs.

Response: No signs are being proposed with this partition.

3.08 Yards and Lot Standards.

Response: The proposed partition shall comply with yard standards and will be addressed during building permit stage. Vision Clearance is not an issue for proposed shared driveway.

3.12 Design Standards for Homes on Individual Lots.

Response: Design standards for homes will be addressed during building permit stage for this partition.

4.02.050 Improvement Requirements - Partition.

Response:

- (1) The partition proposes private driveways surface pursuant to code.
- (2) The partition proposes no additional right-of-way or public streets. Access does not exceed 250 feet from existing public street. Aztec Loop Ne is improved and therefore no sidewalks are being proposed.
- (3) The partition proposes connection to existing public utilities in Aztec Loop Ne.

5.01 Application Types.

Response: The proposed partition is being submitted as a Type-II Application pursuant to section 5.01.030.

5.07 Processing Partitions.

Response: The proposed partition shall be submitted with all relevant application materials dictated in 5.07.050 Submittal Requirements.

Comprehensive Plan Compliance.

The proposed partition complies with the comprehensive plan for the City of Millersburg because it proposes to create 2 new 0.5 acres, which is pursuant to the goals of the residential zone of the comprehensive plan. The current use of the parcel is a 2.5 ac residential parcel and therefore, does not infringe on agricultural land or natural features but will provide 2 additional dwellings. These 2 additional dwellings will provide additional housing to enhance the need for housing in the City of Millersburg area. The property is zoned residential low volume and therefore a 3-lot partition is allowed under City code but also complies with goals of the comprehensive plan.