



#### Rules of Conduct for Public Hearings

1. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
2. Persons shall not testify without first receiving recognition from the presiding officer and stating their full name and residence address.
3. No person shall present irrelevant, immaterial, or repetitious testimony or evidence.
4. There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the hearing.

## NOTICE OF PUBLIC MEETING CITY OF MILLERSBURG PLANNING COMMISSION

Wednesday, December 18, 2018  
6:00 p.m.

### Agenda

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL

D. MEETING MINUTE APPROVAL

- 1) Planning Commission Meeting & Public Hearing held on November 28, 2018 and Planning Commission Work Session held on December 6, 2018.

E. QUASI-JUDICIAL PUBLIC HEARINGS

- 1) File No: PA 18-07 Taylor Land Partition: *The applicant is requesting approval to partition 0.51 acres (22,215.6 square feet) into 2 residential lots of 0.25 acres each (10,890 square feet).*

F. CITY PLANNER UPDATE

G. ADJOURNMENT

#### Upcoming Meetings:

January 15, 2019 @ 6:00 p.m. – Planning Commission Meeting

The location of the meeting/hearing is accessible to the disabled. If you need special accommodations to attend or participate, please notify the City Recorder in advance by calling (541) 928-4523.

[www.cityofmillersburg.org](http://www.cityofmillersburg.org)





**CITY OF MILLERSBURG  
PLANNING COMMISSION MEETING**

4222 NE Old Salem Road  
Wednesday, November 28, 2018  
6:00 p.m.

**Minutes**

A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 6:00 pm.

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL:

Members Present: Jimmy Kirkendall, Anne Peltier, John Sullivan, Ryan Penning, Steve Vogler, Connie Lepin, Scott Stimpson, and Dennis Gunner

Members Absent: Ed Perlenfein

Staff Present: Jake Gabell, Deputy City Recorder; Janelle Booth, City Engineer/Assistant City Manager; and Matt Straite, City Planner

D. MEETING MINUTE APPROVAL

- 1) Planning Commission Meeting & Public Hearing held on October 16, 2018 and Planning Commission Work Session held on November 1, 2018.

Action: **Motion to accept minutes as presented made by Commissioner Peltier; seconded by Commissioner Gunner.**

**Commissioner Kirkendall: Aye**

**Commissioner Lepin: Aye**

**Commissioner Peltier: Aye**

**Commissioner Penning: Aye**

**Commissioner Gunner: Aye**

**Commissioner Sullivan: Aye**

**Commissioner Vogler: Aye**

**Commissioner Stimpson: No vote, arrived late**

E. PUBLIC LAND USE REVIEW

- 1) Public hearing on Land Use File PA 18-05 opened by President Kirkendall at 6:03 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing; Commissioner Gunner noted that he drove by the property. No conflicts of interest noted by Commissioners.

File No: PA 18-05 Hagner Land Partition: *The applicant is requesting approval to partition 0.84 acres (36,590.4 square feet) into 2 residential lots, 0.55 acres (23,958 square feet) and 0.29 acres (12,632.4 square feet).*

- i. Staff report was presented by Matt Straite, City Planner.
- ii. Deliberation by the planning commission. The planning commission clarified what city utilities are available at the property.

- iii. Questions for the applicant. Mrs. Hagner, who lives on the property, and her son Joel Hagner of 1525 Tutor Way SW, Albany OR 9732, made a statement about the reasoning behind the application. No questions for the applicant or her son.
- iv. Public hearing closed at 6:16 pm by President Kirkendall.
- v. Deliberation by the planning commission.
  - 1. Commissioner Lepin had a question for the City Engineer, Janelle Booth, about the condition of approval regarding the right of way. Janelle Booth gave further explanation why the city is requesting the additional 10 feet of right of way.
  - 2. Page 8 of the staff report had a statement about Sedona road improvements. A correction will be made to change the staff report to read Bain road.

Action: **Motion to Approve PA 18-05 made by Commissioner Sullivan; seconded by Commissioner Stimpson.**

**Commissioner Kirkendall: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Peltier: Aye**  
**Commissioner Penning: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Stimpson: Aye**

- 2) Public hearing on Land Use File CUP 18-02 and SP 18-05 opened by President Kirkendall at 6:22 p.m. Deputy City Recorder, Jake Gabell, read disclosures. President Kirkendall finished opening the hearing. Commissioners Lepin, Vogler, and Penning noted site visits. Commissioner Penning noted that he personally knows the applicant. No objections were made

*File No: CUP 18-02 and SP 18-05 Headrick Food Truck Court: The applicant is proposing a Conditional Use Permit (CUP 18-02) and Site Plan Review (SP 18-05) for a food truck court for up to six mobile food vendors. The site features portable restrooms, a shipping container turned into an eating area, 24 shared parking spaces, circulation, landscaping, and several onsite and off-site signs.*

- vi. Staff report was presented by Matt Straite, City Planner.
- vii. No questions for staff.
- viii. Discussion with the applicants, Lorri and Don Headrick of 6404 NE Old Salem Road, Albany Oregon 97321.
  - 1. The applicants had a clarifying question about the height limits for signs. She also had questions about the storm water runoff analysis; clarification was given by City Engineer, Janelle Booth.
  - 2. Additional questions about signage. Matt Straite gave clarification on the interpretation of the sign code.
  - 3. The applicants gave a background on why they are requesting the 16 signs in the application.
  - 4. More deliberation about the number, location, and size of the signs.
  - 5. Noreen Collins, 820 Columbus St. Albany OR, owns one of the food trucks on the site. She gave input on the signage proposed in the application.

6. Commissioner Peltier had a clarification about the rotation of the food vendors. The applicant stated that the vendors generally intend to stay for a significant period of time and not to rotate out.
  7. The applicants requested that the landscaping requirements be adjusted. She requested that the planters prevision be adjusted.
  8. The applicants had questions about the paving requirements; City Engineer, Janelle Booth, clarified where paving would be required, per the County road department.
  9. Additional questions about street trees, with deliberation between the Planning Commission, applicants, and Matt Straite.
  10. Additional comments about signs between the planning commission and the applicant. Commissioner Stimpson proposed the large 200 square foot signs be reduced to be within 100 square feet, the multi-tenant sign to be allowed to have 7 total signs with a height limit of 20 feet, and the flags on the property are also permitted.
- ix. Public hearing closed at 7:45 pm by President Kirkendall.
  - x. No further deliberation by the planning commission.

Action: **Motion to Approve CUP 18-02 and SP 18-05 made by Commissioner Peltier; seconded by Commissioner Sullivan.**

**Commissioner Kirkendall: Aye**  
**Commissioner Lepin: Aye**  
**Commissioner Peltier: Aye**  
**Commissioner Penning: Aye**  
**Commissioner Gunner: Aye**  
**Commissioner Sullivan: Aye**  
**Commissioner Vogler: Aye**  
**Commissioner Stimpson: Aye**

- F. City Planner Update  
Clarification on who will be available for a December Planning Commission meeting.
- G. ADJOURNMENT: meeting adjourned at 7:48 p.m.

Respectfully submitted:

Reviewed by:

Jake Gabell  
Deputy City Recorder

Matt Straite  
City Planner

Upcoming Meetings:

December 6, 2018 @ 6:00 p.m. – Planning Commission Workshop  
 December 18, 2018 @ 6:00 p.m. – Planning Commission Meeting

*These notes are not final until approved by the Planning Commission.*





**CITY OF MILLERSBURG  
PLANNING COMMISSION WORK SESSION**

4222 NE Old Salem Road  
Thursday, December 06, 2018  
6:00 p.m.

**Minutes**

- A. CALL TO ORDER: Commission President Jimmie Kirkendall called the meeting to order at 6:12 pm.
- B. PLEDGE OF ALLEGIANCE
- C. ROLL CALL:  
Members Present: Jimmy Kirkendall, Anne Peltier, Ryan Penning, Steve Vogler, Connie Lepin, Dennis Gunner, and Scott Stimpson.  
Members Absent: Ed Perlenfein and John Sullivan  
Staff Present: Kevin Kreitman, City Manager; Forrest Reid, City Attorney; Kimberly Wollenburg, City Recorder; Jake Gabell, Deputy City Recorder; John Morgan, City Planning Manager; and Matt Straite, City Planner
- D. Presentation and discussion with John Morgan, the Planning Commission, and staff. The proposed code, chapter 3 is presented for discussion.
- 1) The presentation began with a review of chapter three, article 3 – development requirements.
  - 2) There was a discussion about full street improvements. Improvement agreements will be included in the public works design standards.
  - 3) Section 3.102, street standards, was discussed. Half streets were discussed in length. It was decided to remove the provision for "skinny" streets. The Planning Commission decided that sidewalks will always be required in residential areas.
  - 4) Private streets, and on street parking, was conversed, and decided that the requirement for on street parking would be removed. Other provisions were discussed and the private street code was modified.
  - 5) Five minute recess at 7:22 pm.
  - 6) Storm drainage and grading standards were discussed; further detail will be included in the design standards. It was discussed that the city

engineer would review and attempt to remove what isn't necessary to include in the code and better to include in the design standards. More discussion on when the storm water requirements began in other municipalities.

- 7) Sign code was discussed.
    - i. Discussion on political signs. It was decided temporary signs, of no more than three square feet, will be allowed in residential lots six weeks prior to elections, with removal required within five days of election days. Clarification was added to the sign height limits. Offsite signs were discussed.
    - ii. Prohibited signs, balloons and similar signs were discussed and decided to be prohibited.
    - iii. John Morgan and Forrest Reid will review the current laws in regards to billboards and revise the proposed new code.
    - iv. Freestanding signs adjacent to interstate 5 were discussed. The 50 foot was discussed at length and no decision was made. It was decided that the discussion would continue during the next work session.
  - 8) Fencing and screening will be discussed during the next meeting
- E. It was decided that an additional three work sessions will be needed to continue reviewing the draft code.
- F. ADJOURNMENT: meeting adjourned at 8:54 p.m.

Respectfully submitted:

Reviewed by:

Jake Gabell  
Deputy City Recorder

Matt Straite  
City Planner

Upcoming Meetings:

Devenber 11, 2018 @ 6:00 p.m. – City Council Meeting  
December 18, 2018 @ 6:00 p.m. – Planning Commission Meeting

*These notes are not final until approved by the Planning Commission.*





**Proposal:** The applicant is requesting approval to partition 0.51 acres (22,215.6 square feet) into 2 residential lots of 0.25 acres each (10,890 square feet).

## I. BACKGROUND

- A. Applicant: Seth Taylor  
1712 NW Bryans Place  
Albany, OR 97321
- B. Project Location: No assigned address  
10S 3W 20DD Tax Lot 0500
- C. Review Type: Pursuant to the Millersburg Land Use Development Code (Code Section 2.320), the proposed partition requires a public hearing before the Planning Commission. The Planning Commission is scheduled to hear the application on December 18, 2018. Any appeal of the Planning Commission decision will be considered by the City Council. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA).
- D. Public Notice and Hearing: Notice of the December 18, 2018 Planning Commission hearing was mailed to all property owners within 100 feet of the proposed location, and posted in City Hall on November 28, 2018.
- E. Review Criteria: Article 2 §2.328 Subdivisions
- F. Current Zoning: Rural Residential 2.5 Acre Minimum- Urban Conversion (RR-2.5-UC)
- G. Proposed Zoning: N/A
- H. Property Size: 0.51 Gross Acres
- I. Background: Based on aerial images, since at least 1994, the property has featured a shed for a neighboring home. It is not known if the shed was permitted- our files show no permits. There is no home on the property, nor does the property have a street address (which could be further evidence of the lack of permits for the existing shed). Because the application is requesting a partition, the shed is not of concern for the purposes of this application. The shed is a non-conforming structure, because it is an accessory use without a primary use. The proposed land split will not alter the non-conforming state of the shed. Staff is not aware of any other applications on the site.

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

Agencies:

The project was transmitted to the following agencies/departments on October 15, 2018: City of Albany, Albany Fire Department, Linn County Sheriff Office, City of Millersburg Engineer, State Department of State Lands, Pacific Power, Linn County Planning and Building Department, Northwest Natural Gas, and Republic Services. To date, the following comments have been received:

- Albany Fire provided comments, all of which were inserted as conditions of approval.
- The City of Millersburg Engineer provided conditions of approval.

Public:

Notice of the December 18, 2018 hearing was mailed to all property owners within 100 feet of the property. To date, no written comments or phone calls have been received by staff.

### III. CRITERION

#### CITY OF MILLERSBURG DEVELOPMENT CODE

##### Article 2

##### **SECTION 2.328 TENTATIVE SUBDIVISION OR PARTITION DECISION CRITERIA**

**A Subdivision or Partition Tentative Plan shall be approved by the Planning Commission. Approval shall be based upon compliance with the submittal requirements specified above and the following findings:**

- (1) That the proposed land division, development or use does not conflict with the City's Comprehensive Plan or Statewide Planning Goals.**

**ANALYSIS:** The proposed partition creates housing which is called for in both the Comprehensive Plan and the State Goals. A more detailed review of the Comprehensive plan is located later in this report. In summary, the project is compatible with the Comprehensive Plan and State Planning Goals.

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

- (2) That the proposed land division complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the land division.**

**ANALYSIS:** Parcel 1 and 2 are proposed as .25 acre lots (10,890 sq. ft.) each. Because the zoning has a minimum lot size of 2.5 acres, both parcel 1 and parcel 2 will be considered "urban" lots, and thus would be required to comply with the urban standards which features a 10,000 sq. ft. minimum lot size. Both lots will be

required to connect to water and sewer when they are built out.

It should be noted that the land division will be leaving one structure on the proposed new parcel no. 2. This structure is a shed; it is not a single family home. As such, it would be considered an accessory structure with no primary use because there would be no single family home on that proposed parcel. The existing structure is already a non-conforming use. The proposed partition will not alter the offending non-conformity. Other standards of the land use zone, and those found in Article 5 of the Code are reviewed in detail below.

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

**(3) That the proposed land division complies with the standards and requirements of ORS Chapter 92 and the recording requirements of the Linn County Surveyor.**

**ANALYSIS:** ORS Chapter 92 regulates subdivisions and partitions in the State of Oregon. The regulations require a city or county to draft its own regulations in order to have local authority to approve or act on subdivision applications. The City of Millersburg has adopted local policies and procedures to regulate subdivisions to comply with Chapter 92. Other aspects of State Chapter 92 still apply; however, they generally pertain to circumstances that do not relate to the approvals of subdivisions by cities. Chapter 92 does not include any criteria specific to the approval of a subdivision. The proposed application is consistent with all provisions of Chapter 92.

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

**(4) That any undeveloped portion of the proposed land division can be developed in accordance with City ordinances.**

**ANALYSIS:** The application is proposing to split the lot, with both lots being just over the minimum lot size for the zone. As such, neither lot could be divided any further. This criterion does not apply.

**FINDING:** Based on the analysis above, this criterion does not apply.

**(5) That the proposed land division does not preclude development on adjoining properties.**

**ANALYSIS:** The proposed partition is creating two parcels. Both parcels are fronting public streets. Additionally, all lots surrounding the property have adequate access. The proposed partition or any possible future partition of the property would not preclude a neighbor from maintaining access to their property.

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

**(6) That the proposed street plan is in conformance with City standards and provides the most economic, safe and efficient circulation of traffic in relation to the existing City street system and does not have an adverse impact on pedestrian,**

**bicycle and vehicular safety.**

**ANALYSIS:** The streets for the development are regulated by Section 5.123. The applicant is not proposing a street for access, nor is one required as both proposed parcels front public streets.

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

- (7) **That water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use in compliance with the Albany Construction Standards adopted the City of Millersburg.**

**ANALYSIS:** Proposed Parcels 1 and 2 must connect to City water and sewer when homes are constructed. City water is available in Conser Road and sewer is available on the west side of Waverly Drive. Applicant shall be responsible for all costs associated with making utility connections.

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

- (8) **That the proposed utilities do not preclude extension beyond the proposed land division to accommodate future growth.**

**ANALYSIS:** All existing utilities are sized to be able to accommodate the additional two connections. The utilities will be located in a public street, except the water line which is permitted to be within an easement through lot 2 to connect to Millersurg Drive. As such, the proposed partition will not limit future development.

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

- (9) **That the land division will not cause adverse impacts to existing or proposed drainageways including flow disruptions, flooding, contamination or erosion and that required drainage facilities are provided that have the capacity to support the proposed development or use.**

**ANALYSIS:** The project site is not located along the banks of drainage ways, nor do any cross the property.

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

- (10) **That the land division will not cause adverse impacts, potential hazards or nuisance characteristics as identified in Section 2.140, Item 21 of the Application Site Plan and complies with the applicable standards of all regulatory agencies having jurisdiction.**

**ANALYSIS:** The characteristics identified in Section 2.140 include hazards and nuisances produced by the project specifically identifying noise, water quality,

vibration, smoke, odor, fumes, dust, heat, glare, and electromagnetic interference. Because this is a residential partition, none of these hazards are anticipated. Isolated incidents involving individual homes may occur in the future, but will be subject to appropriate enforcement of applicable rules and law.

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

**(11) That the land division will not cause adverse impacts to special site features identified in Section 2.140, Item 15 of the Application Site Plan.**

**ANALYSIS:** The site is generally flat and devoid of any topographic, rock outcropping, or other significant features. The site does not feature any wetlands or drainage.

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

#### **IV. STANDARDS**

The proposed partition design complies with all the specifications and design requirements of Chapter 4, specifically the RR 2.5-UC zone, and Chapter 5, Development Standards, with the following exceptions:

##### **SECTION 5.124 SIDEWALKS**

**Public sidewalk improvements are required for all land divisions and property development in the City Millersburg and along Arterial and Collector streets. Sidewalks may be deferred by the City where future road or utility improvements will occur and on property in the rural fringe of the City where urban construction standards have not yet occurred. The property owner is obligated to provide the sidewalk when requested by the City or is obligated to pay their fair share if sidewalks are installed by the City at a later date. The cost of deferred improvements will be paid by the owner and shall be placed into the City's Street Fund to pay for future improvements.**

**ANALYSIS:** The project is located along an arterial. No sidewalk exists today on the property, therefore the project is required to provide the sidewalk. To prevent an isolated section of sidewalk from being constructed, the City prefers to build sidewalks when they can connect or be constructed for an entire stretch of road. The property may be subject to road frontage fees in the future. At that time everyone, including the applicant, would be assessed. Additionally, the conditions of approval will require the applicant to agree to any future assessment of street improvements.

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

**PROPOSED CONDITION OF APPROVAL:** Applicant shall pay road frontage fees for future improvements to NE Waverly Dr. and NE Conser Road, in accordance with the City's current adopted road frontage fees. Alternatively, the applicant may sign a non-

remonstrance agreement for future assessment of street frontage fees on Conser Road and NE Waverly Dr.

## V. CITY OF MILLERSBURG COMPREHENSIVE PLAN

The City of Millersburg Comprehensive Plan implements the 19 State Goals. Based on staff review, the project is consistent with all goals and policies of the Comprehensive Plan. The following are *relevant and pertinent* criteria from the Comprehensive Plan.

### Section 9.100 Planning

**Overall Policy 2. All development proposals shall be within the safe carrying capacity of the air, water and land resources of the development site, the City of Millersburg, and the Albany-Millersburg Growth Area.**

**ANALYSIS:** The use of the land at the Comprehensive Plan level was designated in part based on the ability of the land to function for that particular use. PA 18-07 is consistent with the Comprehensive Plan/Zoning designation. In addition, the project was transmitted to several State, regional, County and City organizations for review, which includes the ability for all departments to communicate on environmental concerns.

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

### Section 9.400 Housing

**Housing Need Policy 1. The City recognizes the need for an adequate supply of sound, decent and attractive housing which includes a variety of types and designs which are responsive to community needs.**

**ANALYSIS:** The proposed project will provide additional housing for the City.

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

### Section 9.500 Land Use

**Residential Land Use Policy 2. When urban development occurs, the City shall encourage compact residential development within the existing Residential District to provide more efficient land utilization and to reduce the cost of housing, public facilities and services.**

**ANALYSIS:** In the City of Millersburg, the smallest permitted lot size is 10,000 sq. ft. The proposed project will be converting rural area into urban area, which means that they will be connecting the proposed units to City water and sewer. The project is required to connect both parcels to City water and sewer.

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

**Residential Land Use Policy 9. New residential subdivisions shall pay the costs of capital improvements needed to support the development.**

**ANALYSIS:** The project has been conditioned to provide all needed utilities to support the development.

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

**VI. RECOMMENDATION**

Based on the above findings of fact, and the conditions of approval, the proposed project satisfies the applicable criteria and staff recommends the Planning Commission approve Partition Application No. PA 18-07, Taylor Partition, pursuant to the conditions of approval listed below.

**VII. ALTERNATIVE RECOMMENDATION**

Should the Planning Commission elect not to approve the proposed development, they could continue the item for further discussion or deny the application citing the specific criteria not satisfied by the application.

**VIII. 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, 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 required 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.
4. The applicant shall comply with all requirements shown in the Albany Fire letter (Exhibit E) dated December 3, 2018.
5. Current or future property owner may be assessed street improvement fees for frontage along Conser Road and/or Wavery Drive. if/when those streets are improved.

## Prior to Approval of the Final Plat

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. Proposed parcels 1 and 2 must connect to City water and sewer. City water is available in Conser Road, and sewer is available in Waverly Drive. Applicant shall be responsible for all costs associated with making utility connections. Easement across parcel 2 will be required for water to serve parcel 1.
8. 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.
9. Applicant shall pay road frontage fees for future improvements to NE Waverly Dr. and NE Conser Road, in accordance with the City's current adopted road frontage fees. Alternatively, the applicant may sign a non-remonstrance agreement for future assessment of street frontage fees on Conser Road and NE Waverly Dr.
10. Approved fire apparatus roadways must extend to within 150 feet of all exterior portions of any structure that will be built on the new created lot as measured by an approved route of travel around the exterior of the structure with dead-end lengths not exceeding 150 feet long unless an approved turnaround is provided. (OFC 503.1.1, OFC 503.2.5 and OFC, Appendix D 103.4).
11. This proposed project is located within a "Protected Area" as defined by Oregon Fire Code (OFC) Appendix B, Section B102 and this area will be required to be served by a public water system. The fire flow required for shall be as specified in Appendix B of the Fire Code. (OFC 507.3)
12. Fire hydrant location: All portions of buildings constructed or moved into the City shall be located within 400 feet (600 feet for residential and fire sprinkler-protected buildings) of a fire hydrant located on a fire apparatus access road using an approved route of travel. (OFC 508.5.1)
13. Inadequate fire approach & access to water supply:

If the Fire Official determines that there is an inadequate fire apparatus access condition or an inadequate fire water supply for one or more parcels of the proposed division, in lieu of providing adequate fire apparatus access or supply and acting in conformance to the standards set forth in OAR 918-480-0125, the Uniform Alternate Construction Standard for One and Two Family Dwellings, the Building Official will select one or more of the following standard(s) to address the inadequacies pertaining to structures built on the affected parcels. The first choice is to have the buildings on the lots affected protected by a NFPA 13D fire suppression system.

- Installation of an NFPA Standard 13D fire suppression system;



- Installation of a partial NFPA Standard 13D fire suppression system;
- Installation of additional layers of 5/8 inch, Type-X gypsum wallboard;
- Installation of fire-resistive compartmentalization of dwellings to limit the spread of fire by use of fire-resistant building elements, components or assemblies. Fire resistance ratings shall be determined in accordance with the Oregon Structural Specialty Code;
- Installation of fire-resistive exterior wall covering and roofing components; or
- Provide fire separation containment in accordance with the default standards as set forth in the Wildland-Urban Interface rules adopted by the Oregon Department of Forestry (See OAR 629-044-1060).

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## **IX. NOTICES TO THE APPLICANT**

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

1. A 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.
2. Driveways shall conform to Section 5.120 of the Millersburg Development Code, with individual driveway slopes not exceeding a grade of 14%.
3. A demolition permit shall be obtained from the City prior to demolishing or moving any structures.
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. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and

adjacent to the tentative map as required by these conditions of approval, to the plans, standards, and specifications of the City of Millersburg.

10. **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.
11. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
12. Retaining walls within public easements or the public right-of-way shall require engineering approval. Retaining walls with a height of 4 feet or higher located on private property will require a permit from the building department.
13. If required, any existing wells, septic systems, and underground storage tanks shall be abandoned in accordance with Oregon state law, inspected by the 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. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
18. 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.

19. 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.
20. Pursuant to Resolution 2008-10, park land dedication is required. The City has determined that for this project in-lieu fees are more appropriate. All in-lieu fees will be collected with the system development charges.
21. If required, any existing wells, septic systems, and underground storage tanks shall be abandoned in accordance with Oregon state law, inspected by the Linn County, and provide verification of such to the City Engineer.
22. 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).

**X. EXHIBITS**

- A. Zoning Map
- B. Vicinity Map
- C. Applicant's Site Plan/Map
- D. Applicant's Narrative
- E. Albany Fire Letter dated 12/3/18
- F. City Engineering comments dated 12/2/18
- G. Notice of Public Hearing

# Zoning PA 18-07



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 usability of the information.

# Vicinity Map PA18-07



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 usability of the information.



# Land Use Application Form

Case No. PA 18-07  
Date 4/26/18  
Type Partition

Check the Type of Land Use Requested:

- |   |  |
|---|--|
| <input type="checkbox"/> (PA) Pre Application                       | <input type="checkbox"/> (VR) Variance (list standards can be varied in description) |
| <input type="checkbox"/> (SP) Site Plan Review                      | <input type="checkbox"/> (CP) Comprehensive Plan Amendment                           |
| <input type="checkbox"/> (CUP) Conditional Uses                     | <input type="checkbox"/> (ZC) Zone Change  |
| <input type="checkbox"/> (PL) Property Line Adjustment              | <input type="checkbox"/> (AN) Annexations  |
| <input type="checkbox"/> (SD) Subdivisions (4 or more lots)         | <input type="checkbox"/> (VA) Vacations  |
| <input checked="" type="checkbox"/> (PA) Partition (3 or less lots) |  |

THIS FORM MUST BE FILLED OUT COMPLETELY

## I. Property Owner/Applicant Information

- A. Applicant(s) Seth Taylor  
Email Address re.broker@hotmail.com  
Mailing Address 1712 NW BRYANS PL ALBANY, OR 97321  
Phone number 541-936-0736
- B. Owner(s) \_\_\_\_\_  
Email Address \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
Phone number \_\_\_\_\_

## II. Property Information

- A. Legal description of property: Township 10S Range 3W Section 20DD  
Tax Lot 500
- B. Additional Properties:  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Tax Lot \_\_\_\_\_  
Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_ Tax Lot \_\_\_\_\_
- C. Site Address (if any) N/A
- D. Zoning/Comp Plan Designation RR-2.5-UC

**III. Authorizing Owner/Applicant Certifications**

I hereby certify that the statements, attachments, exhibits, plot plan and other information submitted as a part of this application are true and any approval granted based on this information may be revoked if it is found that such statements are false. By submitting this form the Owner, or Owner's authorized agent/ representative, acknowledges and agrees that City of Millersburg employees, and appointed or elected City Officials, have authority to enter the project site at all reasonable times for the purpose of inspecting project site conditions and gathering information related specifically to the project site. I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request.

Owner/applicant signature  Date 11/1/18  
Owner/applicant signature \_\_\_\_\_ Date \_\_\_\_\_

**IV. The following materials must be submitted with your application or it will not be accepted at the counter.** Once taken at the counter, the City has up to 30 days to review the materials submitted to determine if we have everything we need to complete the review.

A **narrative** explaining how the application meets all required criteria shown in City land use Development Code, Article 2 (<http://cityofmillersburg.org/millersburg-land-use-development-code/>)

At least 3 folded sets of the project **Site plan**. The site plan must be drawn to scale and show existing and proposed locations of buildings, access, parking, loading, landscaping, screening, fencing, drainage, water supply, sewage disposal, public utilities, unique site features (creeks and wetlands) and exterior lighting.<sup>1</sup>

A copy of the **deed** for the subject property.

A copy of any **easement** granting access to the subject property, if the property does not have frontage on a public road.

If the applicant for this request is not the property owner, then **authorization** from the owner must be submitted with the application.

A copy of all permits, licenses, and **authorizations** from other government agencies pertaining to the proposed use, including highway access, water and sewer connections, state or federal discharge permits.

Land Use Application **Checklist** (separate form)

**Digital versions** of all Site Plans, other plans and/or studies.

Application **Fee**. The total fee shall be the sum of all individual procedural fees unless adjusted by the City Manager.

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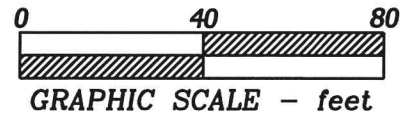
<sup>1</sup> Additional copies of all exhibits may be required if the application is deemed complete.  
City of Millersburg Land Use Application  
Revised, September 2018

**EXHIBIT**

for  
**SETH TAYLOR**

in the  
**SE 1/4 OF SECTION 20**  
**T 10 S, R 3 W, W.M.**  
**BENTON COUNTY, OREGON**

**OCTOBER 10, 2018**



REGISTERED  
**PROFESSIONAL  
LAND SURVEYOR**

**OREGON**  
JUNE 10, 2014  
DAVID LEE SCHLOSSER JR.  
72617

RENEWS: 06/30/2018



720 NW 4TH STREET CORVALLIS, OR 97330  
(541) 757-9050 bcook@northstarsurveying.com  
PROJECT No.

**WAVERLY DRIVE**

(50' Right of Way)

S 00°12'00" W 21.00'

N 89°49'30" W 104.68'

N 00°12'00" E  
21.00'

S 89°49'30" E 82.68'

S 89°49'30" E  
22.00'

*Proposed Parcel 1*  
*+/- 0.26 Acres*

*Taxlot 500*  
*0.51 Acres*

*Proposed New Line*

S 00°12'00" W 272.00'

N 00°12'00" E 272.00'

*Proposed Parcel 2*  
*+/- 0.25 Acres*

S 89°49'30" E 82.68'

**CONSER ROAD C.R. 34**  
(60' Right of Way)



October 15, 2018

**SETH TAYLOR  
LAND PARTITION NARRATIVE**

**General Statement of Intent**

Seth Taylor owns Tax Lot 500 of Map 10S03W20DD. This property is on the North side of Conser Road, and the East side of Waverly Drive NE, and is zoned as RR-2.5-UC.

Altogether, Tax Lot 500 contains 21,780 square feet (0.50 acre), more or less, and does not have any residences on the property. Mr. Taylor desires to Partition this property to create 2 separate lots of equal size (0.25 acres).

There does not appear to be any previous use of the site, or remnants of buildings.

**Article 2**

An application site plan will be provided by the surveyor.

A more detailed plan will be submitted as part of the Construction Plans further along in the process.

However, at this point in time there are no definitive plans to build, thus no building permits will be required.

**Article 4  
Section 4.112**

The minimum "Lot" area in the "RR-2.5-UC" zone is 10,000 square feet, and will be met by the design of two 0.25-acre (10,890 square feet) lots. Likewise, the minimum lot width is 80 ft. and will be over 100ft. for both new properties (still meeting the maximum 3:1 width ratio).

"RR-2.5-UC" allows 6-12 dwelling units per acre and allows 50 % of the street right-of-way that is fronted by the Parcel to be included in that area density calculation. The density requirement will be met by the current and future phase.

**Article 5**

There are not any fish bearing streams, wetlands, or drainageways that abut the property, thus there are not any fluvial setbacks to comply with.

The current property has frontage on both Waverly Road and Conser Road.

At this time, there is not a need for a Traffic Study, as none of the requirements (1-8) of Millersburg Land Use Development code 5.122(7) are applicable to this partition.

## **Traffic Impact**

Waverly Drive NE is a dead-end street with a cul-de-sac. The final result of this development will be 2 single family dwelling units, an increase of 2 dwelling units over the existing situation. Per City Code Section 5.121, a minimum of 2 spaces per dwelling unit will be required for each of the future lots.

## **Infrastructure**

Each Lot will have frontage on Waverly Drive NE. This street is designated as having a 50-foot right-of-way.

The existing houses are served by City water and sewer and above-ground franchise utilities.

Improvements on each Lot will be designed to accommodate off-street parking for each dwelling unit.

According to the Federal Emergency Management Association's Flood Insurance Rate Map 410284, these properties are outside all Special Flood Hazard Areas. There are no other Natural Hazards identified on these properties.

According to the City of Millersburgs' Land Development Code Maps these properties do not contain Wetlands, Significant Vegetation or Riparian Corridors.

## **GRADING AND DRAINAGE**

None of the proposed Lots have areas with slopes 10 percent or greater. Grading and Drainage plans will be submitted as part of the Construction Plans.

## **Supplemental Information**

- There are not any proposed business plans to store/use/generate any hazardous waste/materials.
- There are not any existing business currently reporting hazardous substances to the State Fire Marshal's Office.



After recording return to:  
Seth Taylor  
235 Churchill Downs Street SE  
Albany, OR 97322

Until a change is requested all tax  
statements shall be sent to the  
following address:  
Seth Taylor  
235 Churchill Downs Street SE  
Albany, OR 97322

File No.: 7091-2915497 (SC)  
Date: August 09, 2017

THIS SPACE RESERVED FOR RECORDER'S USE

LINN COUNTY, OREGON **2017-14855**  
D-WD  
Stn=0 S. WILSON **08/16/2017 11:17:00 AM**  
\$15.00 \$11.00 \$10.00 \$20.00 \$19.00 **\$75.00**

I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify  
that the instrument identified herein was recorded in the Clerk  
records.

Steve Druckenmiller - County Clerk

### STATUTORY WARRANTY DEED

**Steven L. McKibbin**, Grantor, conveys and warrants to **Seth Taylor**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

**Subject to:**

1. The **2017-2018** Taxes, a lien not yet payable.
2. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$99,900.00**. (Here comply with requirements of ORS 93.030)

FIRST AMERICAN 2915497



APN: 44293

Statutory Warranty Deed  
- continued

File No.: 7091-2915497 (SC)

**EXHIBIT A**

**LEGAL DESCRIPTION:** Real property in the County of Linn, State of Oregon, described as follows:

**Beginning at a point on the North boundary of Market Road #34, 30 feet North and 30.19 feet West of the Southeast corner of Tract 23, MILLERSBURG TEN ACRE TRACTS; thence West along North boundary of said Market Road 160 feet, more or less, to the Southeast corner of a tract of land conveyed to Richard Draper and Betty Draper by Deed recorded June 22, 1964, in Book 303, at Page 128, Records of Linn County, Oregon; thence North along Drapers' East boundary line 272 feet; thence East and parallel with North boundary of said Market Road 160 feet more or less to West boundary line of a tract conveyed to Mabel Bowman by Deed recorded in Book 323, at Page 179, Records of Linn County, Oregon; thence South along Bowman's West line 272 feet to the point of beginning. EXCEPT the West 10 feet of the South 20 feet thereof. ALSO EXCEPTING the East EIGHTY (80) FEET of the above described property.**

**NOTE:** This Legal Description was created prior to January 01, 2008.



TO: Matt Straite, City Planner  
FROM: Lora Ratcliff, Senior Deputy Fire Marshal  
DATE: December 3, 2018  
SUBJECT: PA-18-07 – Conser & Waverly Residential Land Partition - Fire Department Comments

The fire department has reviewed the above project for conformance to the 2014 Oregon Fire Code (OFC) per your request and has the following comments:

1. Approved fire apparatus roadways must extend to within 150 feet of all exterior portions of any structure that will be built on the new created lot as measured by an approved route of travel around the exterior of the structure with dead-end lengths not exceeding 150 feet long unless an approved turnaround is provided. (OFC 503.1.1, OFC 503.2.5 and OFC, Appendix D 103.4).

**Access does not appear to be an issue.**

2. This proposed project is located within a "Protected Area" as defined by Oregon Fire Code (OFC) Appendix B, Section B102 and this area will be required to be served by a public water system. The Fire Flow required for shall be as specified in Appendix B of the fire code. (OFC 507.3)

**The existing hydrant system appears to be adequate.**

### 3. INADEQUATE FIRE APPROACH & ACCESS TO WATER SUPPLY

If the Fire Official determines that there is an inadequate fire apparatus access condition or an inadequate fire water supply for one or more parcels of the proposed division, in Lieu of providing adequate fire apparatus access or supply and acting in conformance to the standards set forth in **OAR 918-480-0125**, the Uniform Alternate Construction Standard for One and Two Family Dwellings, the Building Official, will select one or more of the following standard(s) to address the inadequacies pertaining to structures built on the affected parcels. The first choice is to have the buildings on the lots affected, protected by a NFPA 13D fire suppression system.

- a. Installation of an NFPA Standard 13D fire suppression system;
- b. Installation of a partial NFPA Standard 13D fire suppression system;
- c. Installation of additional layers of 5/8 inch, Type-X gypsum wallboard;
- d. Installation of fire-resistive compartmentalization of dwellings to limit the spread of fire by use of fire-resistant building elements, components or assemblies. Fire resistance ratings shall be determined in accordance with the Oregon Structural Specialty Code;
- e. Installation of fire-resistive exterior wall covering and roofing components; or
- f. Provide fire separation containment in accordance with the default standards as set forth in the Wildland-Urban Interface rules adopted by the Oregon Department of Forestry (See OAR 629-044-1060).

Lora Ratcliff  
541-917-7728  
[Lora.ratcliff@cityofalbany.net](mailto:Lora.ratcliff@cityofalbany.net)

LAR/lar

TO: Matt Straite, City Planner

FROM: Janelle Booth, Millersburg City Engineer

DATE: December 2, 2018

SUBJECT: PA 18-07 - Engineering Comments

Engineering has reviewed the above project and has the following comments:

1. Proposed Parcels 1 and 2 must connect to city water and sewer when homes are constructed. City water is available in Conser Road and sewer is available on the west side of Waverly Dr. Applicant shall be responsible for all costs associated with making utility connections. An easement across Parcel 2 will be required for water to serve Parcel 1.
2. 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.
3. 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.
4. Driveways and access shall conform to Section 5.122 of the Millersburg Land Use Development Code.
5. If required, any existing wells, septic systems and underground storage tanks shall be abandoned in accordance with Oregon state law, inspected by the Linn County and provide verification of such to the City Engineer.
6. Applicant shall pay road frontage fees for future improvements to NE Waverly Dr. and NE Conser Road, in accordance with the City's current adopted road frontage fees. Alternatively, the applicant may sign a non-remonstrance agreement for future assessment of street frontage fees on Conser Road and NE Waverly Dr.
7. The Final Plat shall include any required access or utility easements and right-of-way dedications.

8. All agreements required as conditions of this approval must be signed and recorded.
9. 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).
10. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.





**NOTICE OF PUBLIC HEARING**  
**December 18, 2018, 6:00 p.m.**  
**City Council Chambers**  
**4222 Old Salem Road NE,**  
**Millersburg, Oregon, 97321**

The **MILLERSBURG PLANNING COMMISSION** will hold a public hearing at the above time and place to consider the request described below. The request may be heard later than the time indicated, depending on the agenda schedule. Interested parties are invited to send written comment or may appear and testify at the hearing. Failure of an issue to be raised in the hearing, in person or by letter, or failure to provide sufficient specific information to allow the Commission an opportunity to respond to the issue will preclude your ability to appeal the decision to the Land Use Board of Appeals based on that issue.

The application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost or copies are available for a minimal cost. A staff report relating to the proposal will be available seven days prior to the public hearing. For further information, contact Millersburg City Hall at (541) 928-4523.

**APPLICANTS:** Seth Taylor  
**LOCATION:** The site has no address (see map opposite page)  
**TAX LOT:** Township 10 South; Range 3 West; Section 20DD; Tax Lot 500  
**PARCEL SIZE:** 0.51 Acres  
**ZONING:** Rural Residential 2.5 Acre Minimum- Urban Conversion  
**REQUEST:** The application proposes to divide one lot of 0.51 acres into two 0.25 acres (10,890 sq ft lots)  
**CRITERIA:** Millersburg Development Code; Article 2 § 2.328  
**FILE No.:** PA 18-07

The location of the hearing is accessible to people with disabilities. If you need any special accommodations to attend or participate in the hearing, please notify City Hall twenty-four hours before the meeting. For further information, please contact City Hall at (541) 928-4523.

# Vicinity Map PA18-07



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 usability of the information.