

# Partition Staff Report, Decision, and Conditions of Approval Case File PAR 2022-04

**Date:** July 19, 2022

**Case File:** PAR 2022-04 Johnston

**Property Owners:** William and Jacqueline Johnston

**Situs Address:** Unaddressed

**Location:** Corner of SW Dune Ct and SW 28<sup>th</sup> St

**Tax Map and Lot:** 07-11-22-DC-02400-00

**Comprehensive  
Plan Designation:** Single-Family Residential District (R-5)

**Zoning District:** Single-Unit Residential (R-1-5) Zone

**Site Size:** 16,500 square feet

**Proposal:** Request to divide the existing parcel into two parcels

**Surrounding  
Land Uses  
and Zones:**  
North: Single-Unit Dwellings; R-1-5  
South: Single-Unit Dwellings; R-1-5  
East: Single-Unit Dwellings; R-1-5  
West: Single-Unit Dwellings; R-1-5

**Authority:** Section 16.08.100 of the Lincoln City Municipal Code (LCMC) gives the Planning and Community Development Director the authority to review the application and determine whether the proposed minor replat or partition appears to comply with the provisions of Title 16 and other applicable city ordinances, and thereupon provide a notice of decision pursuant to LCMC 17.76.040.

**Procedure:** The application was received on June 22, 2022. The application was deemed complete on June 30, 2022. On July 1, 2022, pursuant to LCMC 17.76.040.E, the Planning and Community Development Department mailed a notice of application to property owners within 250 feet of the subject property.

**Applicable  
Substantive  
Criteria:** LCMC Chapter 16.08 Procedure, Article II Partition and Minor Replat  
LCMC Chapter 17.16 Single-Unit Residential (R-1-5) Zone  
LCMC Section 17.76.040 Type II Procedure



**BACKGROUND**

The subject property (site) is identified as Assessor's Map 07-11-22-DC-02400-00 and is unaddressed. The site is undeveloped.

The site does not contain any bluff erosion hazards, aesthetic resource, floodway, flood hazard areas, or natural resource overlays.

The site is surrounded by R-1-5 zoning, consisting of predominately single-unit dwellings. The property owners propose dividing the site into two parcels. The division will result in Parcel 1 of approximately 11,500 square feet and Parcel 2 of approximately 5,000 square feet. The site has frontage on SW Dune Ct as its west boundary and SW 28<sup>th</sup> St as its south boundary.

**COMMENTS**

No comments were received from the public.

Comments were received from Lincoln City Public Works, via email, that stated: "owner's comments regarding water service are inaccurate – 6" water main only present on SW 28th St. No 6" water service present on SW 28th court as reported. Per LCMC 16.08.140, assurance required that public roadway improvements will be completed, on SW Dune Court and SW 28th with future building permit issuance per LCMC 17.52.230, in accordance with LCMC 16.16.010." Conditions of approval will address these comments.

**ANALYSIS***16.08.090 Inspection and processing fee*

**Finding:** The property owners paid the required processing fee at the time of submitting the partition application.

*16.08.100 Review and approval procedure*

- A. *When a proposed partition contains three or fewer parcels, the city staff may approve the partition when all of the following conditions are met:*

**Finding:** The application proposes to divide one parcel into two parcels. This requirement is met.

1. *All parcels front on an existing road or street as required by LCMC 17.52.030.*

**Finding:** The preliminary plat shows Parcel 1 has 230 feet of frontage on Dune Ct and 30 feet of frontage on SW 28<sup>th</sup> Ct. Parcel 2 will have 100 feet of frontage on Dune Ct and 50 feet of frontage on SW 28<sup>th</sup> St. This requirement is met.

2. *No parcels have been previously partitioned from said tract during the last calendar year, calculated from the date of application*

**Finding:** A review of Lincoln County records does not show any partitions within the past year. This criterion is met with approval of this application on July 29, 2022.

3. *All parcels conform to the provisions of the city comprehensive plan and LCMC Title 17.*

**Finding:** The site is located in the R-1-5 Zone. Permitted uses are listed in LCMC 17.20.020. Lot requirements are listed in LCMC 17.20.050, and are as follows:

<b>Standard</b>	<b>Required</b>	<b>Parcel 1 Provided</b>	<b>Parcel 2 Provided</b>	<b>Requirement Met</b>
Lot Area	5,000 sf	11,500 sf	5,000 sf	Yes
Lot Width	50 feet	50 feet	50 feet	Yes
Lot Depth	70	230 feet	100 feet	Yes
Front Yard	Not applicable	Not applicable	Not applicable	Not applicable
Side Yard	Not applicable	Not applicable	Not applicable	Not applicable
Street Side Yard	Not applicable	Not applicable	Not applicable	Not applicable
Clear Vision	Not applicable	Not applicable	Not applicable	Not applicable
Rear Yard	Not applicable	Not applicable	Not applicable	Not applicable
Building Coverage	Not applicable	Not applicable	Not applicable	Not applicable

The purpose of the R-1 zone is to promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the zone. The R-1 zone is intended to provide primarily for single-unit dwellings. The partition will create two parcels. No uses have been proposed. The lot requirements are met as indicated above. This requirement is met.

*B. An application for approval, together with required fees...*

**Finding:** The application and required fees were submitted on June 22, 2022.

*C. Upon receipt of the application for minor replat or partition, the planning and community development director shall review the application and determine whether the proposed...*

**Finding:** This staff report comprises the review of the application and concludes with a determination of whether the proposed partition appears to comply with the provisions of Chapter 16.08 and other applicable city ordinances.

*16.08.110 Required data*

*A. Name and address of the owner or owners of record;*

**Finding:** The owners are identified as William and Jacqueline Johnston.

*B. For land adjacent to and within the parcel to be partitioned, show locations, names and existing widths of all streets and easements of way; location, width and purpose of all other existing or proposed easements; and location and size of sewer and water lines, drainage ways and power poles;*

**Finding:** The partition plat shows SW Dune Ct and SW 28<sup>th</sup> St as the west and south boundaries of the site, respectively.

Lincoln City's GIS information indicates sewer is available adjacent to the site.

Lincoln City's GIS information indicates water is available on or adjacent to the property.

The preliminary partition plat shows no drainage ways or power poles on the site.

C. *Outline and location of existing buildings to remain in place within the proposed partitioning and directly adjacent;*

**Finding:** There are no existing buildings on the site.

D. *Appropriate identification clearly stating the plan as a minor replat or partition.*

**Finding:** The map is identified as a partition plat.

#### *16.08.120 Disposition of approved tentative plans*

*When a tentative plan has been approved, all copies shall be marked with the date and conditions, if any, of approval.*

**Finding:** No comment necessary.

#### *16.08.130 Large parcels may require subdivision procedure*

*If the parcel of land to be partitioned exceeds five acres and is being partitioned into more than two parcels within a year, any one of which is less than one acre, full compliance with all requirements...*

**Finding:** The subject site is 16,500 square feet; therefore, this requirement is not applicable to this application.

#### *16.08.140 Approval conditions*

*Approval may be conditioned upon extension or assurance of public improvements as described in LCMC 16.16.010 through 16.16.100.*

**Finding:** The City Engineer commented, “Assurance required that public roadway improvements will be completed, on SW Dune court and SW 28th with future building permit issuance per LCMC 17.52.230, in accordance with LCMC 16.16.010.”

The comment relates to future development at the time the building permit is issued. This standard is addressed in the conditions of approval.

#### *16.08.150 Final plat – Filing – Time limit*

*Within two years of the tentative plan approval, the applicant shall submit to the city a final plat for the minor replat or partition that is consistent with the tentative plan and state law. A signature block...*

**Finding:** This requirement is a condition of approval.

#### *Chapter 17.76 Procedures*

##### *17.76.040 Type II procedure*

- A. *General Description. Type II procedures apply to administrative permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective approval*

*criteria that require only limited discretion. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing or a public meeting.*

- B. *When Applicable. Table 17.76.020-1 identifies Type II applications. Applications not listed in Table 17.76.020-1 may be identified as Type II by the director based on the general description in this section.*
- C. *Pre-Application Conference. A pre-application conference is not required for Type II procedures.*
- D. *Application Requirements. Type II applications shall:*
  - 1. *Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.*
  - 2. *Be accompanied by the required fee as adopted by city council resolution.*
  - 3. *Be subject to the completeness review procedure set forth in LCMC 17.76.110(D) and (E).*

**Finding:** The required application forms and materials were submitted, along with the required fee. The application was deemed complete in accordance with LCMC 17.76.110.D and E.

- E. *Public Notice of Application and Comment Period. Type II applications require public notice of receipt of a complete application with an opportunity for area property owners and other interested parties to provide written comment prior to issuance of the decision.*
  - 1. *After a Type II application has been accepted as completed under LCMC 17.76.110(E), the department shall mail a written public notice to the following:*
    - a. *The applicant and applicant's representative;*
    - b. *The owners of record of the subject property;*
    - c. *Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most recently provided property tax assessment roll of the Lincoln County assessor's office as provided to the city to determine property owners of record; and*
    - d. *Any neighborhood or community organization or association recognized by the governing body and whose boundaries include the site.*

**Finding:** The Planning and Community Development Department mailed the public notice of a complete application to the parties noted in LCMC 17.76.040.E.1.a through d.

- 2. *The written public notice shall include the following:*
  - a. *A brief description of the request;*
  - b. *The applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;*
  - c. *The street address or other easily understood geographical reference to the subject property;*
  - d. *Statement that failure of an issue to be raised in writing prior to the expiration of the public comment period, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA);*
  - e. *The name of a department staff member to contact and the telephone number where additional information may be obtained; and*
  - f. *Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.*
- 3. *The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.*

4. *Public notices for receipt of complete Type II applications shall include a written comment period of 14 days from the date the notice was mailed for the submission of written comments before the decision is issued.*

**Finding:** The written public notice contained all the information required in LCMC 17.76.040.E.2 through 4.

*F. Review Authority. The review authority for Type II applications shall be the director.*

**Finding:** The Director reviewed the submitted Type II application.

*G. Decision.*

1. *Based on the criteria and facts contained within the record, the director shall approve, approve with conditions, or deny the request. The decision shall address all relevant approval criteria and consider written comments submitted before the close of the comment period.*

**Finding:** The relevant approval criteria are addressed in detail throughout this staff report.

2. *The decision is considered final for purposes of appeal on the date the notice of the decision is mailed. Within seven days after the director has issued the decision, a notice of the decision shall be sent by mail to the following:*
  - a. *The applicant and applicant's representative;*
  - b. *The owners of record of the subject property;*
  - c. *Any person, group, agency, association, or organization who submitted written comments during the comment period; and*
  - d. *Any person, group, agency, association, or organization who submitted a written request to receive notice of the decision.*

**Finding:** Within seven days after the Director has issued the decision, the notice of that decision shall be mailed by the Planning and Community Development Department, pursuant to LCMC 17.76.040.G.2.

3. *The notice of the decision shall include the following:*

**Finding:** The Planning and Community Development Department will issue the notice of decision that shall contain all the information noted in LCMC 17.76.040.G.3.a through g.

## **DECISION**

Based upon an analysis of the submitted application and accompanying materials against applicable criteria, the Director concludes that all criteria have been or will be met, and thus **APPROVES WITH CONDITIONS** the two-parcel partition request, subject to the following conditions:

1. Prior to recording the plat map, submit a draft of the plat map to Lincoln City Planning and Community Development.
2. Once Lincoln City Planning and Community Development has confirmed consistency with the approval and all conditions of approval have been met, submit the plat map to Lincoln City Planning and Community Development for signature.
3. Record the plat map within two years of the date of this decision.
4. A copy of the recorded plat map shall be emailed to [planning@lincolncity.org](mailto:planning@lincolncity.org) within 30 days of the recording date.
5. Per LCMC 16.16.010, streets, including drainage adequate to serve the property and streets, shall be installed at the expense of the partitioner, in accordance with the city requirements. Public roadway

improvements to the site's frontages of both SW Dune Ct and SW 28<sup>th</sup> St shall be completed in concurrence with future building permit applications and the building permit applications shall include the plans for the street frontage improvements.

Prepared by: Weston Fritz, Associate Planner

Approved by:



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Anne Marie Skinner  
Director, Planning and Community Development

July 29, 2022  
Date