



Partition Staff Report, Decision, and Conditions of Approval Case File PAR 2022-05

Date:	January 9, 2022
Case File:	PAR 2022-05 Baker
Property Owners:	Donald Baker
Situs Address:	1720 SE Oar Ave
Location:	East boundary is SE Port Dr, west boundary is SE Oar Dr, approximately 600 feet south of terminus of SE Oar Ave
Tax Map and Lot:	07-11-23-BB-02700-00
Comprehensive Plan Designation:	Medium-Density Residential District (R-7.5)
Zoning District:	Single-Unit Residential (R-1-7.5) Zone
Site Size:	Approximately 20,050 square feet
Proposal:	Request to divide the existing parcel into two parcels
Surrounding Land Uses and Zones:	North: Single-unit dwellings; R-1-7.5 South: Single-unit dwellings; R-1-7.5 East: Single-unit dwellings, undeveloped land; R-1-7.5 West: Single-unit dwellings; R-1-7.5
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 November 14, 2022. The application was deemed complete on December 16, 2022. On December 16, 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) Zone LCMC Section 17.76.040 Type II Procedure

BACKGROUND

The subject property (site) is identified as Assessor’s Map 07-11-23-BB-02700-00 and addressed as 1720 SE Oar Ave. The site is developed with a single-unit dwelling.

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-1-7.5 zoning. The surrounding properties are both developed and undeveloped.

The property owner proposes dividing the site into two parcels. The proposed division will result in Parcel 1 of approximately 11,277 square feet and Parcel 2 of approximately 8,773 square feet. The site has frontage on SE Oar Dr to the west and SE Port Dr to the east.

COMMENTS

One comment was received from the Lincoln City Public Works Department. The comment stated: “Neither the proposed parcel 1 nor the proposed parcel 2 have frontage on public sewer. Proposed parcel 2 additionally does not have frontage on public water. The presence of public water & sewer utilities, along and serving both proposed lot frontages, is required prior to final plat approval in accordance with LCMC 16.08.140 and LCMC 17.16.050.” This comment has been made a condition of approval at the bottom of the report.

No other comments were received.

ANALYSIS

16.08.090 Inspection and processing fee

Finding: The property owner 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 100.11 feet of frontage on SE Oar Dr and Parcel 2 has 99.74 feet of frontage on SE Port Dr. 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 shows that no other partitions were recorded within the last year. This criterion is met.

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

Finding: The site is located in the Single-Unit Residential (R-1-7.5) zone. Permitted uses are listed in LCMC 17.16.020. Lot requirements are listed in LCMC 17.16.070, and are as follows:

Standard	Required	Parcel 1 Provided	Parcel 2 Provided	Requirement Met
Lot Area	Minimum 7,500 square feet	11,227 square feet	8773 square feet	Yes
Lot Width	Minimum 70 feet	100.11 feet	99.74 feet	Yes
Lot Depth	Minimum 80 feet	99.76 feet	100.87 feet	Yes
Front Setback	Minimum 5 feet	30.28 feet	Not applicable	Yes
Side Setback	Minimum 5 feet	House = 12.63 feet/38.24 feet Garage = 4.74 feet (existing)/ 10 feet (new)	Not applicable	Not applicable
Street Side Setback	Minimum 5 feet	Not applicable	Not applicable	Not applicable
Clear Vision	Not applicable	Not applicable	Not applicable	Not applicable
Rear Setback	Minimum 5 feet	House: 22.5 Garage: 9.37	Not applicable	Not applicable
Building Coverage	Maximum 35%	2,282 square feet or 20%	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-family dwellings.” What will be Parcel 1 has an existing dwelling with a detached garage in the rear of the parcel. The detached garage currently does not meet the minimum required side setback of 5 feet on the south side; however, the lack of compliance with the south side setback is and is not affected by this partition. All proposed property lines, including the new rear property line to the east of the garage, do not create any new non-conformities. There is a septic system serving the existing house on what will be Parcel 1. The applicant submitted a map of the septic system prepared by T & L Septic that shows the septic system fully contained on what will be Parcel 1. The partition will create two parcels. No uses are proposed as part of this application. The requirements of LCMC 17.16.070 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 November 14, 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 owner is identified as Donald M Baker. Mr. Baker's address is listed on the application.

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 SE Oar Dr as the west boundary of the site and SE Port Dr as the east boundary.

Neither the proposed Parcel 1 nor the proposed Parcel 2 have frontage on public sewer. Proposed Parcel 2 does not have frontage on public water.

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 totals 20,050 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: Comments were received by the Lincoln City Public Works Department stating: "Neither the proposed parcel 1 nor the proposed parcel 2 have frontage on public sewer. Proposed parcel 2 additionally does not have frontage on public water. The presence of public water & sewer utilities, along and serving both

proposed lot frontages, is required prior to final plat approval in accordance with LCMC 16.08.140 and LCMC 17.16.050.” These requirements can be met with 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. The presence of public water and sewer utilities, along both proposed parcel frontages, and serving both proposed parcels, is required prior to final plat approval by the Lincoln City Public Works Department in accordance with LCMC 16.08.140 and LCMC 17.16.050.
4. Record the plat map within two years of the date of this decision.
5. A copy of the recorded plat map shall be emailed to planning@lincolncity.org within 30 days of the recording date.

Prepared by: Weston Fritz, Associate Planner

Approved by:

Anne Marie Skinner

Digitally signed by Anne Marie Skinner
DN: c=US, E=askinner@lincolncity.org, O=City of Lincoln City, OU=Planning & Community Development, CN=Anne Marie Skinner
Date: 2023.01.10 11:54:34 -0800

Anne Marie Skinner
Director, Planning and Community Development

Date