

Partition Staff Report, Decision, and Conditions of Approval Case File PAR 2023-02

Date: April 11, 2023

Case File: PAR 2023-02 Neal

Property Owners: Shelli Renee Neal Revocable Trust

Situs Address: 1540 NW 39th St

Location: Southwest corner of NW 39th St and NW Keel Ave

Tax Map and Lot: 07-11-03-DA-01000-00

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

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

Site Size: 18,422 square feet

Proposal: Request to divide the existing parcel into three parcels

**Surrounding
Land Uses
and Zones:**
North: Single-Unit Dwellings; R-1-5
South: Undeveloped Land, Single-Unit Dwellings; R-1-5
East: Single-Unit Dwellings; R-1-5
West: Undeveloped Land, 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 January 30, 2023. The application was deemed complete on March 21, 2023. On March 23, 2023 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 07-11-03-DA-01000-00 and addressed as 1540 NW 39th St. The site is currently developed with a multi-unit dwelling (Four-plex), duplex, and a single-unit dwelling. The applicant seeks to partition the parcel into three parcels, so that each structure/use is located on its own parcel.

The existing site is approximately 18,422 square feet. Completion of the partition will result in Parcel 1 of approximately 6,128 square feet, Parcel 2 of approximately 5,343 square feet, and Parcel 3 of approximately 6,951 square feet.

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. Single-unit dwellings are to the north of the site, with an undeveloped property to the south, single-unit dwellings to the east, and a mix of undeveloped land and single-unit dwellings to the west.

COMMENTS

The county surveyor for Lincoln County provided comments expressing concern about the approved property line adjustment on the property (PLA 2023-02) and if that adjustment needed to be recorded prior to approval of the partition application. Completing the recording of PLA 2023-02 has been made a condition of approval for the partition.

Lincoln City Public Works noted that infrastructure improvements are required as part of the partition. Comments have been incorporated as conditions of approval as applicable.

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 three 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 59.50 feet of frontage on NW 39th St, Parcel 2 has 70.76 feet of frontage on NW 39th St as well as 75.54 feet of frontage on NW Keel Ave, and Parcel 3 has 77.52 feet of frontage on NW Keel Ave. 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 partitions have been completed within the past year. The requirement has been met.

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 17.16.020. Lot requirements are listed in LCMC 17.16.070, and are as follows:

Standard	Required	Parcel 1 Provided	Parcel 2 Provided	Parcel 3 Provided	Requirement Met
Current Use		Four-plex	Single-Unit Dwelling	Duplex	
Lot Area	5,000 sf	6,128 sf	5,343 sf	6,951 sf	Yes
Lot Width	50'	59.50'	70.76'	77.52'	Yes
Lot Depth	70'	103.01'	75.54'	100.09'	Yes
Front Yard	2 Story = 7 ½'	Not applicable/ existing	Not applicable/ existing	Not applicable/ existing	Yes
Side Yard	2 Story = 7 ½'	7.5'/7.5'	25.25'/ Not applicable/ existing	7.5'/ Not applicable/ existing	Yes
Street Side Yard	2 Story = 7 ½'	Not applicable	Not applicable/ existing	Not applicable	Yes
Clear Vision	Corner Lots	Not applicable	Not applicable/ existing	Not applicable	Yes
Rear Yard	2 Story = 7 ½'	+ 47'	+ 18' 2''	+ 19'	Yes
Building Coverage	35% max (1,750 sf per 5,000 sf)	+ 1,525 sf	+ 1,238 sf	+ 932 sf	Yes
Parking	Four-plex = 4 Duplex = 2 Single-unit < 1000sf= 1	4 behind structure	2 in garage and driveway	2 behind structure	Yes

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.” Although the R-1 zone purpose statement states the zone is primarily for single-dwellings, duplexes are an allowed use in the zone. The existing four-plex is nonconforming under LCMC 17.64. All structures and uses are existing on the property. As shown on in the table above, each structure, use and new parcel meets the lot requirements for the R-1 Zone. The development is currently non-conforming as all three uses/structures are present on a single parcel. By separating each existing residential structure onto its own parcel, the development will be made more conforming with the provisions of LCMC Title 17.

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

Finding: The application and required fees were submitted on January 30, 2023.

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 Shelli Renee Neal Revocable Trust. The owner'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 NW 39th St and NW Keel Ave as boundaries of the site. GIS information indicates sewer is available adjacent to the site. GIS information indicates water is available on or adjacent to the site. Information regarding each structure's current connections to city water and city sewer are not shown and the locations of the private lines and private connections is considered unknown by Lincoln City Public Works. This issue is addressed in the conditions of approval.

The preliminary partition plat shows various electricity infrastructure around the site.

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

Finding: All existing buildings on the site are shown on the tentative partition plat.

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

Finding: The map is identified as a tentative Minor Partition & Property Line Adjustment Map.

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 18,422 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: Lincoln City Public Works provided comments and recommended conditions regarding the extension and/or assurance of public improvements. The recommended conditions are incorporated into this staff report as 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:

Planning:

1. Prior to recording the partition plat map, submit a draft of the plat map to Lincoln City Planning and Community Development for review.
2. Once Lincoln City Planning and Community Development has confirmed consistency of the draft plat map 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 within 30 days of the recording date.
5. The deeds for PLA 2023-02 must be recorded prior to the recording of this partition plat map.

Public Works:

1. The proposed partition will place multiple buildings, currently serviced via a shared water and sewer service, on separate parcels. Prior to final plat approval, the applicant shall be responsible for the separation of water and sewer services for each newly-formed parcel per LCMC 16.16.010.
2. Sidewalk construction shall be completed along all newly-formed lot frontages on NW 39th St and NW Jetty Ave per LCMC 16.16.020 and LCMC 16.16.060.
3. Right-of-way improvements along the current Tax Lot 1001 may be completed under future building permit in accordance with LCMC 17.52.230.
4. Curb and gutter installation shall be completed along NW Keel Ave to ensure roadway drainage to the public storm system at NW 39th and NW Keel per LCMC 16.16.030
5. Applicant shall submit a public works permit for all necessary utility and/or right-of-way work in accordance with LCMC 12.12. The submitted application materials shall demonstrate roadway improvements and connection to public water and sewer mains in accordance with LCMC Title 13 and Lincoln City Public Works standards.

Prepared by: Weston Fritz, Associate Planner

Approved by:



Digitally signed by
Anne Marie Skinner
Date: 2023.04.13
13:32:00-07'00'

Anne Marie Skinner
Director, Planning and Community Development

Date