

# Partition Staff Report, Decision, and Conditions of Approval Case File PAR 2023-03

**Date:** August 30, 2023

**Case File:** PAR 2023-03

**Property Owners:** Daniel Kauffman and Sherry Riedesel, Trustees

**Situs Address:** 4225 N Hwy 101

**Location:** Approximately 750 ft west of the intersection of N Hwy 101 and NE West Devils Lake Rd/NE Devils Lake Blvd

**Tax Map and Lot:** 07-11-02-B0-01000-00

**Comprehensive  
Plan Designation:** General-Commercial District (G-C)

**Zoning District:** General Commercial (GC) Zone

**Site Size:** 114,662 Square Feet

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

**Surrounding  
Land Uses  
and Zones:** North: single-unit dwellings; R1-7.5  
South: commercial establishments; GC  
East: undeveloped; GC  
West: commercial establishments; GC

**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 August 5, 2023. The application was deemed complete on August 7, 2023. On August 8, 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 17.32 General Commercial (GC) Zone  
LCMC Section 17.76.040 Type II Procedure



**BACKGROUND**

The subject property (site) is identified as Assessor's Map 07-11-02-B0-01000-00 and is addressed as 4225 N Hwy 101. The site is currently developed with one 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 GC and R1-7.5 zoning. Houses are to the north of the site, and a mix of developed and undeveloped GC zoned lots comprise the areas to the east, south, and west of the site.

This proposal is to divide the site into three parcels. The division will result in Parcel 1 of approximately 24,203 square feet, Parcel 2 of approximately 26,983 square feet, and Parcel 3 of 63,476. The resulting parcels will front on N Hwy 101. No uses are proposed at the time of the partition application.

**COMMENTS**

The Oregon Department of Transportation provided commented as follows:

*"It is recommended that the City require a single approach to serve all three proposed lots. (If this is already the proposal – great. The Tentative Partition Plat shows and calls out a 25' wide Shared Access Proposed Easement but I could not tell if that was for all lots or just for two lots.) The current approach to the property (driveway to the existing residence) does not meet current sight distance standards. If the existing location remains as the proposed approach location then the applicant can expect with any development that the hillside/bank to the east will have to be cut back to achieve the sight distance standard. The other option would be to move the approach to the west to a location that the sight distance standard can be achieved. In either case, the applicant will need to submit an Application Form for State Highway Approach with any proposed development of this property."*

Staff Response: This comment has been added as a condition of approval at the bottom of the staff report.

North Lincoln Fire and Rescue District #1 provided comments as follows:

*"To me, it appears that these lots would be in the G-C Zone. So as fire considerations go, depending on the building, location on the property, and access, it is highly probable that they will need a fire hydrant installed. Access should be okay for all lots, but again depending on the location on the property, Lot 2 could need a turnaround, which may not be feasible based on lot size and building size. Lot 3 may also need a turnaround, but this is probably more feasible just based on lot size."*

*I don't see anything else that jumps out as being a big concern."*

Staff response: This comment has been added as a condition of approval to future building permits at the end of the staff report.

The Lincoln City Public Works Department provided comments as follows:

*"1) The proposed partition creates new parcels without frontage for sanitary sewer service. Prior to final plat approval the applicant shall be responsible for the extension of public sanitary sewer mains & services to the frontage of each newly formed parcel per LCMC 16.16.010 or bond the extension."*

- 2) *Any easements necessary for the required public sanitary sewer extension shall be shown and recorded on the final plat. Easement rights shall include access to the sanitary sewer facilities via the proposed shared access easement.*
- 3) *Installed sanitary facilities for development shall be extended the full length of the property and be of adequate depth to continue service to the adjacent, uphill lot to the east, in accordance with LCMC 16.16.040[B]*
- 4) *Required water service lines, water mains, and/or fire hydrants serving the partition shall be installed, or bond the improvements, prior to final plat approval in accordance with LCMC 16.16.050. Required water service lines and the installation of associated domestic assemblies may be deferred until lot development, in accordance with LCMC 17.52.230, if desired but installation shall still be the responsibility of the applicant.*
- 5) *Drainage facilities shall be provided to lots within the partition in accordance with 16.16.030. Connection to existing drainage facilities may be deferred to a requirement of site development approval, in accordance with LCMC 17.52.230, if desired by the applicant.*
- 6) *Roadway improvements shall be completed along each lot's right-of-way frontage in accordance with LCMC 16.16.020, LCMC 16.16.060, LCMC 17.52.230, and ODOT recommendations. Improvements may be completed under each lot's respective development permit. Full improvement of any proposed or required shared-access shall be completed as a requirement of the first development.*
- 7) *Applicant shall submit a public works permit for all necessary utility and/or right-of-way work in accordance with LCMC 12.12. Public improvements shall be stamped by a registered professional engineer. The submitted application material shall demonstrate roadway improvements & connection to public water & sewer mains in accordance with LCMC title 13 and LCPW standards."*

Staff Response: These conditions have been incorporated into the conditions of approval.

### **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 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 268 linear feet of frontage on Hwy 101. Parcel 2 has 25.12 linear feet of street frontage. Parcel 3 has 261.91 feet of linear street frontage on Hwy 101. This standard has been 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 properties were partitioned from this property within the last year.

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

**Finding:** The site is located in the GC zone. Permitted uses are listed in LCMC 17.32.020. Lot requirements are listed in LCMC 17.32.050 and 17.32.060, and are as follows:

Standard	Required	Parcel 1 Provided	Parcel 2 Provided	Parcel 3	Requirement Met
Lot Area	Not applicable	22,604	30, 217	61,841	Not applicable
Lot Width	No Uses Proposed	Not applicable	Not applicable	Not applicable	Not applicable
Lot Depth	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Front Yard	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Side Yard	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Street Side Yard	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Clear Vision	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Rear Yard	10 ft + .5 ft over 15 ft	Not applicable	Not applicable	Not applicable	Not applicable
Building Coverage	No Limit	Not applicable	Not applicable	Not applicable	Not applicable
Access Requirement Per LCMC 17.52.030	25 ft	268 ft	25.12 ft	261.91 ft	Yes

The General Commercial (GC) Zone is provided to accommodate a wide range of retail commercial uses including those which attract shoppers from a community or larger market area, as well as convenience service/retail uses and single-family residential dwelling units. Retail commercial uses are those that sell services and/or products to the ultimate consumer. Also permitted as conditional uses are low intensity fabrication uses and other limited service facilities as listed. The partition will create three parcels. No uses have been proposed, so many of the zoning requirements are not applicable. There are no minimum or maximum lot size requirements in the GC zone. The lot requirements are met as indicated above. Any additional criteria will be assessed upon submittal of building permits for the property. This requirement is met.

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

**Finding:** The application and required fees were submitted on August 2, 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 LCMC 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 Daniel Kauffman and Sherry Riedesel, Trustees. Their 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 the N Hwy 101 boundary of the site.

GIS information indicates sewer is available adjacent to the site.

GIS information indicates water is available at the site.

The preliminary partition plat shows other utility information regarding the site. The Lincoln City Public Works Department has provided comments regarding utility infrastructure.

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

**Finding:** There is one existing single-unit dwelling on the site, which is proposed to be removed. In its present location the dwelling crosses new parcel lines, which is not allowed. Accordingly, the removal of the existing dwelling must be completed prior to recording the final partition plat and this is stated as a condition of approval.

*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 less than 5 acres; 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 from the Lincoln City Public Works Department have been incorporated as conditions of approval for this application.

*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 three-parcel partition request, subject to the following conditions:

#### Planning

1. Prior to recording the plat map, email a draft of the plat map to Lincoln City Planning and Community Development.
2. The existing dwelling must be completely removed prior to Lincoln City Planning and Community Development's signature on the final plat
3. 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.
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](mailto:planning@lincolncity.org) within 30 days of the recording date.

#### Public Works

1. The proposed partition creates new parcels without frontage for sanitary sewer service. Prior to any signatures on the final plat and prior to final plat approval, the applicant shall be responsible for the extension of public sanitary sewer mains and services to the frontage of each newly formed parcel per LCMC 16.16.010 or bond the extension.
2. Any easements necessary for the required public sanitary sewer extension shall be shown and recorded on the final plat. Easement rights shall include access to the sanitary sewer facilities via the proposed shared access easement.
3. Installed sanitary facilities for development shall be extended the full length of the property and be of adequate depth to continue service to the adjacent, uphill lot to the east, in accordance with LCMC 16.16.040.B.
4. Required water service lines, water mains, and/or fire hydrants serving the partition shall be installed, or bond the improvements, prior to any signatures on the final plat and prior to final plat approval in accordance with LCMC 16.16.050. Required water service lines and the installation of associated domestic assemblies may be deferred until lot development, in accordance with LCMC 17.52.230, if desired but installation shall still be the responsibility of the applicant.
5. Drainage facilities shall be provided to lots within the partition in accordance with 16.16.030. Connection to existing drainage facilities may be deferred to a requirement of site development approval, in accordance with LCMC 17.52.230, if desired by the applicant.
6. Roadway improvements shall be completed along each lot's right-of-way frontage in accordance with LCMC 16.16.020, LCMC 16.16.060, LCMC 17.52.230, and Oregon Department of Transportation's recommendations. Improvements may be completed under each lot's respective site development permit. Full improvement of any proposed or required shared access shall be completed as a requirement of the first site development/building permit.
7. Applicant shall obtain a public works permit for all necessary utility and/or right-of-way work in accordance with LCMC 12.12. Public improvements shall be stamped by a registered professional engineer. The submitted application material for the public works permit shall demonstrate roadway improvements and connection to public water and sewer mains in accordance with LCMC Title 13 and Lincoln City Public Works standards.

#### Oregon Department of Transportation

1. If the existing location remains as the proposed approach location, then the applicant can expect with any development that the hillside/bank to the east will have to be cut back to achieve the sight distance standard. The other option would be to move the approach to the west to a location that the sight distance standard can be achieved. In either case, the applicant will need to submit an Application Form for State Highway Approach with any proposed development of this property.

North Lincoln Fire and Rescue District #1

1. Depending on the type of building(s), location of the building (s) on the property, and access, it is highly probable that a fire hydrant will need to be installed. Access should be okay for all parcels, but depending on the location of new buildings on the property, Parcel 2 could need a turnaround. Parcel 3 may also need a turnaround. Note that these items do not need to be accomplished prior to final plat approval; rather, they will be assessed and addressed as part of the building permit process for each new building permit.

Prepared by: Weston Fritz, Associate Planner

Approved by:



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Anne Marie Skinner  
Director, Planning and Community Development

Date