

Burden of Proof Statement
Lincoln City

Partition - Hallie Development / NW Keel and NW 25th

Applicant / Owner: Hallie Development
Paul Burger
PO Box 449
Lincoln City, Oregon 97367

Surveyor: S & F Land Services
901 NW Carlon Avenue, Suite 3
Bend, OR 97703

Planner: Blackmore Planning and Development Services, LLC
Greg Blackmore
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Bend, OR 97702

Location: The development site is located in the northern - central portion of Lincoln City. It is located at the southeast corner of the intersection of NW 25th Street and NW Keel Avenue, approximately 1,100 feet west of US Hwy 101. The development site consists of 1 Tax Lot (07-11-10-AC-08400) and it has not been assigned an address.

Request: The applicant is requesting Tentative Partition Plan Review to divide the property into 2 parcels:

- Parcel 1 = 5,047 sf
- Parcel 2 = 5,048 sf

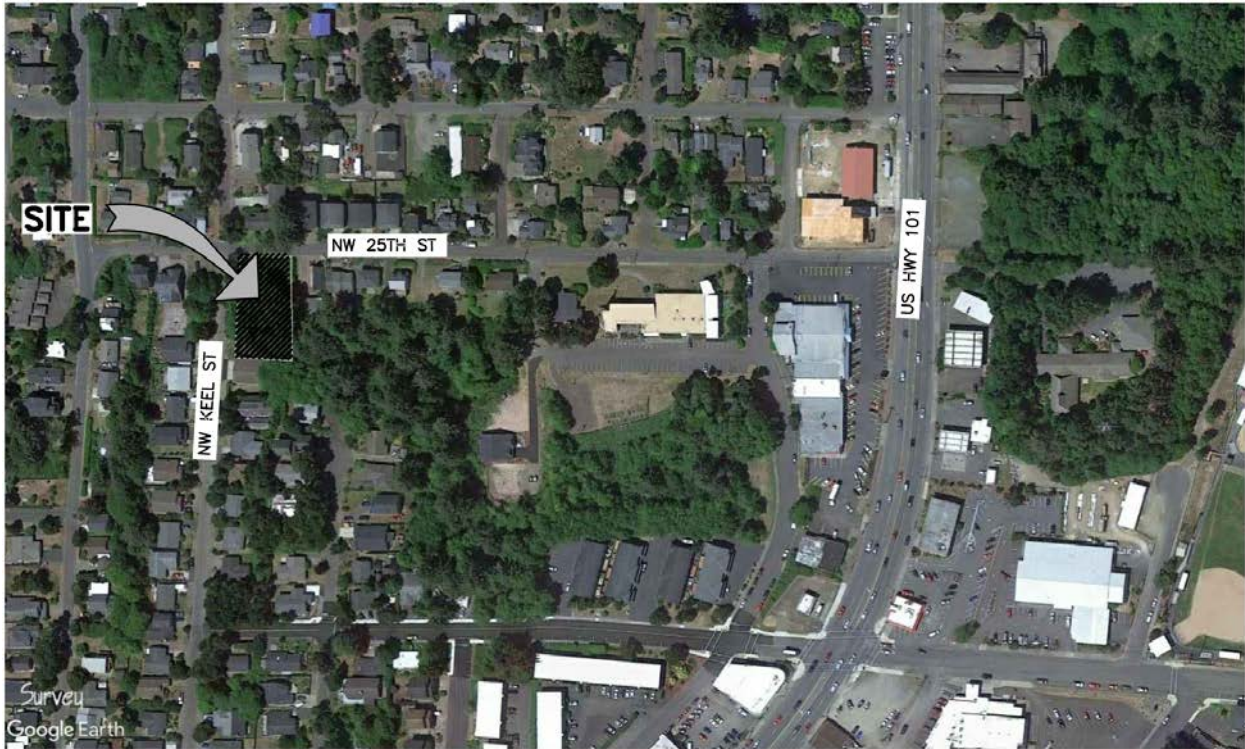
I. Applicable Criteria and Procedures:

1. Lincoln City Municipal Code

- Title 16 Subdivisions
- Title 17 Zoning

II. General Facts:

1. LOCATION: The development site is located in the northern - central portion of Lincoln City. It is located at the southeast corner of the intersection of NW 25th Street and NW Keel Avenue, approximately 1,100 feet west of US Hwy 101. The development site consists of 1 Tax Lot (07-11-10-AC-08400) and it has not been assigned an address.



2. ZONING: The subject is identified as R-1-5 Residential on the Lincoln City Zoning Map.

3. SITE DESCRIPTION AND SURROUNDING DEVELOPMENT: The property is .23 acres in size and rectangular in shape. The topography slopes towards the west. The site is vacant but well treed and vegetated. NW 25th Street (to the north) is improved with a street within 40 feet of right-of-way; it contains no curbs or sidewalks. NW Keel Avenue (to the west) is also improved with a street (within 30 feet of right-of-way); it also contains no curbs and sidewalks. Water and sewer mains are located within the area, which can serve the proposed parcels.

Image from the Northwest Corner



Surrounding properties are developed with detached single-family homes.

4. PROPOSAL: The applicant is requesting Tentative Partition Plan Review to divide the property into 2 parcels:

- Parcel 1 = 5,047 sf
- Parcel 2 = 5,048 sf

5. EXHIBITS: In addition to this burden of proof statement, the applicant submits the following exhibits in support of this proposal:

- Application Form and Fee
- Ownership Deed
- Tentative Plan
- Title Report

III. Compliance with Lincoln City Municipal Code – Title 16:

TITLE 16 - SUBDIVISIONS

Chapter 16.04 GENERAL PROVISIONS

16.04.010 Title.

The regulations set forth in this title shall be referred to as the “city of Lincoln City subdivision ordinance.”

16.04.020 Purpose.

The purpose of this title is to:

- A. Encourage well planned subdivision development so that good, livable neighborhoods with all needed amenities and community facilities may be created;
- B. Encourage development in harmony with the natural environment;
- C. Safeguard both interests of the public and the property owner;
- D. Improve land records and boundary monumentation;
- E. Ensure equitable processing of subdivision plats and secure to the extent possible the goals and objectives of the comprehensive plan for the city.

16.04.030 Authority.

Oregon cities and counties are required by law to control the subdivision of land within their jurisdiction by virtue of ORS [92.010](#) through [93.160](#).

16.04.040 Definitions...

Applicant Response: These elements of the Code are informational and do not establish any measurable development standards or approval criteria.

Chapter 16.08 PROCEDURE

Article I. General Requirements

16.08.010 Purpose.

It is the purpose of this chapter to establish or define the procedural requirements for review of tentative plans for subdivision, partitions, and property line adjustments and the person or agency charged with their administration. Further, it is the purpose of this chapter to define in part the subdivider's responsibility.

16.08.020 Lot sale or transfer – Approval required.

The sale or transfer of lots is prohibited by this title and ORS Chapters [92](#) and [93](#), as amended, until approval is obtained.

16.08.030 Compliance required.

A lot or parcel may be used, subdivided, partitioned or adjusted, and a structure or part of a structure constructed, reconstructed, altered, occupied or used only

in accordance with this title, LCMC Title [17](#), and any other applicable ordinances or standards of the city.

Applicant Response: These elements of the Code are informational and do not establish any measurable development standards or approval criteria.

16.08.040 Permission to enter.

The city may conduct such investigations as it deems necessary to verify information supplied as a requirement of these regulations. The owner of the land being subdivided, partitioned or adjusted shall grant the city permission to enter upon his land for these purposes.

Applicant Response: The applicant grants the City permission to enter the property as required by this section.

16.08.050 Approval authority.

Subdivision plats shall be approved by the planning commission in accordance with these regulations. All partition plats and property line adjustment maps shall be approved by the city staff in accordance with these regulations. The city council delegates its authority to the planning commission, and to the city staff, respectively, to approve or disapprove the subdivision, partition of land and property line adjustments, except for appeals.

Applicant Response: The application is for a partition, creating 2 units of land; the applicant understands that the application will be reviewed by City Staff in accordance with these regulations.

16.08.060 Preapplication meeting.

The applicant should meet with the city staff prior to submitting the required tentative plan for a subdivision, partition or property line adjustment. The purpose of this meeting is to discuss applicable state and local requirements and the criteria herein, to familiarize the applicant with the goals and objectives of the city comprehensive plan, and to discuss the proposal in relation to such concerns. The applicant may provide a sketch plan of the proposal for review and discussion.

Applicant Response: While this section encourages applicants to meet with city staff, it does not require a pre-application meeting.

16.08.070 Processing fees.

A. Processing fees shall be established by city council resolution.

B. All fees paid are nonrefundable.

16.08.080 Engineering plan review and inspection.

Whenever the city determines that engineering plan review and inspection service are necessary, the applicant shall be responsible for paying for the actual cost of such services, and said charges shall be payable prior to final approval of the subdivision plat by the city engineer and surveyor.

Applicant Response: These provisions are informational. The Partition application packet is accompanied by the required fee and the applicant understands that payment for the cost of engineering services may be required, as described in this section.

Article II. Partition and Minor Replat.

16.08.090 Inspection and processing fee.

A filing fee established by city council resolution shall be paid at the time of submitting the tentative plan. All fees paid are nonrefundable. (Ord. 2011-01 § 1; Ord. 78-32 § 2.020(1). Formerly 16.08.100)

Applicant Response: The City Council established filing fee has been submitted with the application packet.

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:

- 1. All parcels front on an existing road or street as required by LCMC [17.52.030](#).**
- 2. No parcels have been previously partitioned from said tract during the last calendar year, calculated from the date of application.**
- 3. All parcels conform to the provisions of the city comprehensive plan and LCMC Title [17](#).**

Applicant Response: As detailed on the Tentative Plan, Parcel 1 is proposed with frontage on NW Keel Avenue and Parcel 2 is proposed with frontage on both NW Keel Avenue and NW 25th Street. Furthermore, the parcels are proposed from the parent property Lot 1 of Block 5 of the Knob Hill Beach subdivision, which was not platted within the last year, and a comprehensive review of LCMC Title 17 is included below (the proposal is shown to conform with all applicable elements of said Title). Regarding the Comprehensive Plan, Title 16 and Title 17 of the Code have been adopted by Lincoln City to implement the Comprehensive Plan, as such, no elements of the

Comprehensive Plan are directly applicable to this proposed land division. In the event that City Staff or an Interested Party identify a portion of the Comprehensive Plan that is directly applicable to this Partition application, the applicant would supplement the record to address any directly applicable section.

B. An application for approval, together with required fees and four copies of the proposed tentative plan of partition, shall be submitted to the department of community development.

Applicant Response: The proposal includes a Partition application, the required fees and all required copies (and formats) that have been requested by the Lincoln City Department of Community Development. Therefore, the proposal complies with this submittal provision.

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 minor replat or partition appears to comply with the provisions of this chapter and other applicable city ordinances, and thereupon shall provide a notice of decision pursuant to LCMC [17.76.020](#).

Applicant Response: This provision establishes requirements for the Lincoln City Community Development Director to carry out. The applicant anticipates that the review will be processed in accordance with the provisions of this section.

16.08.110 Required data.

Minor replats and partitions shall be submitted to the community development department for processing by filing four copies of the boundary survey. The survey shall contain the following additional information:

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

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;

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

D. Appropriate identification clearly stating the plan as a minor replat or partition. (Ord. 2011-01 § 1; Ord. 78-32 § 2.020(3)(a). Formerly 16.08.120)

Applicant Response: A Tentative Partition Plat has been included with the submittal packet, which has been prepared by S & F Land Services, a surveying firm that is

licensed in the State of Oregon. The Tentative Partition Plat, includes the items of this section that are need to assess the projects conformance with all Code requirements.

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. A copy shall be returned to the applicant, one copy shall be filed with the county surveyor by the applicant, one copy shall be retained in the planning and community development department files, and one copy shall be retained in the engineering department files. (Ord. 2011-01 § 1; Ord. 78-32 § 2.020(3)(b). Formerly 16.08.130)

Applicant Response: This section establishes procedures that are to be carried out by the City and the applicant. It is anticipated that City Staff will abide by all required procedures of this section (and other sections) of the Code and, upon approval, the applicant plans to carry out the procedures of this section that are required to be carried out by them.

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 for subdivision may be required if the city staff should determine, in its judgment, that the entire parcel being partitioned is in the process of being divided into small parcels. (Ord. 2011-01 § 1; Ord. 78-32 § 2.020(3)(c). Formerly 16.08.140)

Applicant Response: The subject property does not exceed 5 acres; therefore this section does not apply.

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](#). (Ord. 2011-01 § 1; Ord. 78-32 § 2.020(3)(d). Formerly 16.08.150)

Applicant Response: The applicant understands that the decision may be conditioned, as established in this section.

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 for the community development director, the Lincoln County surveyor and the Lincoln County tax assessor shall be on the final plat. The community development director shall approve the final plat if it is

consistent with the tentative plan and all conditions have been satisfied, including the provision and acceptance of any required public improvements. After the final plat has been approved by all city and county officials and recorded, one reproducible full-size copy shall be returned to the city within 30 days of recording. (Ord. 2011-01 § 1)

Applicant Response: This section establishes a time limit. Upon approval of the Partition – Tentative Plan, the applicant plans to file the final plat as established by this section.

Article III. Property Line Adjustment...

Applicant Response: The proposal is for a 2 parcel Partition; it does not include a Property Line Adjustment or a Subdivision. These sections do not apply.

Chapter 16.12 DESIGN STANDARDS

16.12.010 Design standards and principles of acceptability.

Subdivisions and partitions shall be in conformity with the comprehensive plan, LCMC Title [17](#) and other applicable ordinances of the city. Subdivisions and partitions shall conform with the requirements of state laws and the Land Conservation and Development Commission’s statewide goals, until such time as the city’s comprehensive plan has been approved by the Land Conservation and Development Commission.

Applicant Response: The LCMC has been written to implement the Comprehensive Plan and that document is consistent with Statewide Planning Goals; therefore unless otherwise raised by the City or an interested party, it is understood that the Comprehensive Plan and Statewide Planning Goals are not directly applicable to the 2 parcel Partition application. Instead, it can be determined that a proposal that conforms to the provisions of Title 16 and Title 17 of the LCMC is consistent with the Comprehensive Plan and Statewide Planning Goals, and this this reference provision.

16.12.020 Streets – General requirements.

The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Where location is not shown in a development plan, the arrangement of streets in a subdivision shall either:

A. Provide for continuation of appropriate projection of existing principal streets in surrounding areas; or

B. Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

Applicant Response: The subject property, and thus the 2 proposed parcels of the partition are served by an existing street network. The general vicinity of the site does not have an established neighborhood street plan, thus this standard generally requires that the planned connections be safe, logical and orderly. The surrounding area is generally developed with single family homes, and has been developed as such since original development. The proposal utilizes the existing street grid and no improvements are necessary. The proposed design is safe, logical, efficient and well-connected, thus in conformance with these standards.

16.12.030 Streets – Right-of-way and roadway widths.

Unless otherwise approved by the planning commission, the width of streets and roadways in feet shall be as shown in the cross sections in the city’s 2015 Transportation System Plan, Volume 1, Standards section, starting on page 45, and Public Works/Engineering Standards.

Type of Street	Optimal Driving Zone Width (typically white line to white line, including total of motor vehicle driving lane width – in feet)	Optimum Street Width (typically curb to curb, including motor vehicle driving lanes, parking lanes, bike lanes – in feet)	Optimum Right-of-Way (property line to property line, including space for sidewalks and possibly utilities – in feet)
High Use Minor Arterial	36	52	77
Medium Use Minor Arterial	36	48	69
Low Use Minor Arterial	36	48	61
High Use Collector	22	38 – 54	63 – 79
Medium Use Collector	22	34 – 50	55 – 71
Low Use Collector	22	34 – 50	47 – 63
High Use Local	20	20 – 34	45 – 59
Medium Use Local	20	20 – 34	41 – 55
Low Use Local	20	20 – 34	33 – 47

Applicant Response: No new streets are proposed. The new parcels will be accessed from the existing low use local streets that generally conform to the requirements of this section. The proposal does not necessitate any changes to the existing roadway system.

16.12.040 Streets – Reserve strips.

Reserve strips or street plugs controlling access to streets will not be approved unless such strips are necessary for protection of the public welfare or of substantial property rights or both, and in no case unless the control and disposal of the land composing such strips is placed definitely within the jurisdiction of the city under conditions approved by the planning commission.

Applicant Response: As shown on the Plan Set, no reserve strips are proposed.

16.12.050 Streets – Alignment.

All streets, other than minor streets or culs-de-sac, shall, so far as practical, be in alignment with existing streets by continuations of the centerlines thereof. In no case shall the staggering of streets make “T” intersections so designed that a dangerous jog is produced. Jogs of less than 100 feet on such streets, measured along the centerline of the intersected street, must be adjusted by curves or diagonals so that the alignment across the street is continuous.

Applicant Response: The proposal is able to utilize the existing street network, which is adequately aligned and sufficient to accommodate the 2 new parcels (1 net new). By utilizing the existing street network, the design retains a safe, efficient, logical, and orderly transportation system, consistent with the development pattern in the area.

16.12.060 Streets – Future expansion.

A. Where a subdivision or partition adjoins undeveloped property, streets which, in the findings of the planning commission, should be continued in the event of the subdivision or partitioning of the undeveloped property will be required to be provided through the boundary lines of the tract.

Applicant Response: The property does not adjoin an undeveloped property. This standard does not apply.

B. Reserve strips and street plugs may be required to preserve the objectives of street extensions. Reserve strips and street plugs shall be deeded to the city or county, as directed, prior to final plat or map approval.

Applicant Response: The proposal does not propose or necessitate any reserve strips or street plugs.

C. If, in the opinion of the city engineer, a traffic, pedestrian or safety hazard temporarily exists by the construction of a dead-end street, he may direct that a barricade of adequate design be installed as one of the required improvement items for the subdivision or partition.

Applicant Response: The proposal is for a small self-contained development that is well-connected to the abutting street grid. Given the size of the property, the number of parcels (2), and the existing / historic street design (utilization of the existing street grid), it is not anticipated that any safety hazards will be identified. Nonetheless, the applicant understands the provisions of this section.

16.12.070 Streets – Intersection angles.

Streets shall intersect one another at an angle as near to a right angle as practical, and no intersections of streets at angles of less than 75 degrees will be approved unless necessitated by topographical conditions. When intersections of other than 90 degrees are unavoidable, the right-of-way lines along the acute angle shall have a corner radius of 23 feet. All right-of-way lines at intersections with streets shall have a corner radius of 13 feet, except as otherwise directed. Right-of-way lines at cul-de-sac entrances shall have a minimum radius of 20 feet.

Applicant Response: The proposal does not include any new streets or street intersections; therefore this section does not apply.

16.12.080 Existing streets.

Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision or partitioning.

Applicant Response: The abutting streets have existed and served the built out area since development. The proposed partition is minor and will only result in one new unit of land; therefore the existing right-of-way is adequate to accommodate the proposed land division and future development thereupon (which will be single family homes); additional right-of-way is not needed.

16.12.090 Half-streets...

16.12.100 Culs-de-sac...

Applicant Response: Half-streets and/or cul-de-sacs are neither proposed nor required; therefore these sections do not apply.

16.12.110 Street names...

Applicant Response: The property abuts existing and named streets. No new street names are needed.

16.12.120 Streets – Grades and curves...

Applicant Response: Grades and curves are established in the abutting rights-of-way; no changes are necessary or proposed.

16.12.130 Streets – Planting easements.

Where approval of streets less than 60 feet in width is granted, additional easements for street trees, shrubs, sidewalks and utilities may be required.

Applicant Response: The existing streets are anticipated to be sufficient for the proposed land division. Individual lot landscaping (to be established with development) will provide adequate landscaping to carry out the intent of this section.

16.12.140 Marginal access streets.

Where a subdivision or partition abuts or contains an existing or proposed major street, the planning commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in nonaccess reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

Applicant Response: The site does not contain or abut a major street; therefore the provisions of this section do not apply.

16.12.150 Alleys...

A. Location. Alleys shall be provided in commercial and industrial districts unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the planning commission...

Applicant Response: The property is situated in an area with a well-established street grid, which does not contain alleys. Furthermore, the zoning and future development will not be commercial or industrial; therefore alleys are neither practical nor required.

16.12.160 Blocks – General requirements.

The lengths, widths and shapes of blocks shall be designed with due regard to providing adequate building sites suitable to the special needs of the type of use contemplated, needs for convenient access circulation, control and safety of street traffic, and limitations and opportunities of topography.

Applicant Response: The proposal results the division of a unit of land that is well established within an existing street grid, with lengths, widths and a shape that has sufficiently served the area for its entire history. The addition of one unit of land upon

the established block does not change the character of the block or necessitate any further connections.

16.12.170 Block sizes.

Block sizes shall conform to the access spacing standards in the table below, unless topographical or other existing or planned conditions justify a variation. Where a variation is necessary, the city engineer and the planning director will determine the spacing.

Street and Access Spacing Standards

	Principal Arterial	Minor Arterial	Collector	Local/Shared
Maximum Block Size (public street to public street)	See Oregon Highway Plan	530 feet	530 feet	530 feet
Minimum Block Size (public street to public street)		265 feet	265 feet	265 feet
Minimum Driveway Spacing (Public street to driveway and driveway to driveway)		265 feet	130 feet	None

Applicant Response: The design uses the existing street grid, which is made up of NW Keel Avenue (to the west), NW 25th Street (to the north), NW Mast Avenue (to the east), and NW 22nd Street (to the south). The block length of the abutting NW 25th Street (between NW Keel Avenue and NW Mast Avenue) is approximately 530 feet, while the block length of the abutting NW Keel Avenue is approximately 630 feet. Furthermore, this block includes a street and cul-de-sac, extending from NW 22nd Street to the south. The small partition that is proposed does not change the character of the block or impact the block length or perimeter in this area. The existing street grid and block design accommodates safe, efficient and reasonable access to each the residential lots of the area; therefore additional connections are not needed.

16.12.180 Easements – Utility lines.

Easements for electric lines or other public utilities are required. Easements for utilities shall be a minimum of 12 feet in width and centered on all rear and side lot lines, unless specifically waived by the planning commission. Front lot line

utility easements up to six feet in width behind the property lines may be required if the need can be demonstrated. No permanent structures will be allowed within such easements.

Applicant Response: This standard appears to require much more easement space than utility providers currently need, require, or request. In the event the Planning Commission has not waived this requirement throughout the City and/or if the City otherwise determines that the excessive easement areas are needed, the applicant could establish the easements are required by this section.

16.12.190 Easements – Watercourses.

Where a subdivision or partition is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose. Streets or parkways parallel to major watercourses may be required.

Applicant Response: The property is not traversed by a water course, drainage way, channel or stream; therefore easements for these purposes are not necessary.

16.12.200 Easements – Pedestrian and bicycle access ways.

A. Developers shall make the following pedestrian and bicycle connections (illustrated in Figure 16.12.200A):

- 1. From the head of a cul-de-sac to the nearest street;**
- 2. Between streets on either side of a block more than 750 feet in length, with at least one access way for every 530 feet in block length;**
- 3. From or between existing or approved pedestrian and bicycle access ways; and**
- 4. Other connections as determined necessary by the planning commission.**

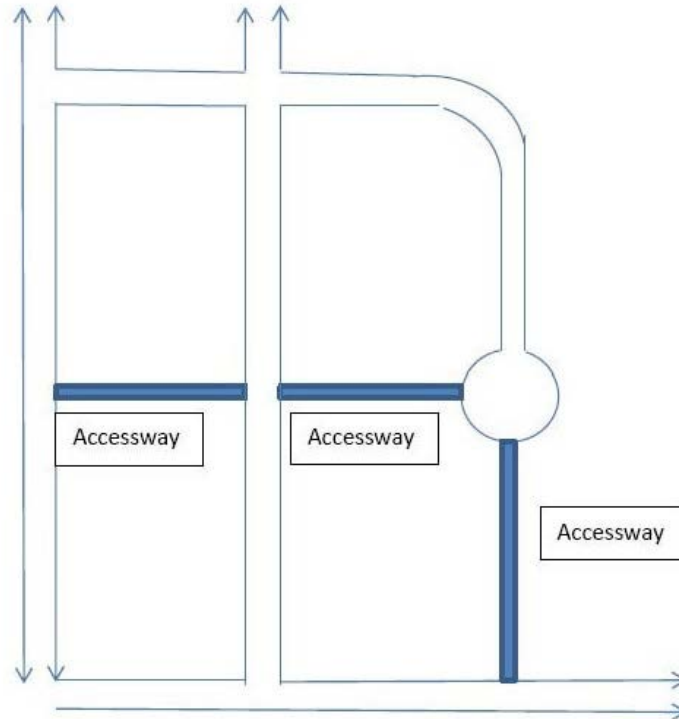


Figure 16.12.200A

B. The access way shall be in a public right-of-way or a public access easement on private property. The access way may be within a utility easement with the written permission of the utility provider.

C. A pedestrian and bicycle access way shall be a minimum of 15 feet in width. The access way shall have an eight-foot-wide path of concrete, asphalt, brick/masonry pavers, or other city-approved durable surfaces meeting ADA requirements. The remaining width shall be of living or nonliving pervious landscape materials that meet the approval of the planning director.

D. Where constrained by steep slopes, environmentally sensitive areas, historic or culturally significant areas, or existing development, the planning commission may modify the requirement for an access way.

Applicant Response: The property is not situated upon a cul-de-sac, a block that exceeds 750 feet, and/or between bicycle or pedestrian ways; therefore bicycle and/or pedestrian improvements are not needed.

16.12.210 Lots – General requirements.

The lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

16.12.220 Minimum lot sizes.

A. The lot sizes, in addition to conformance with LCMC Title [17](#), shall be not less than as given in the following table:

Type of Lot	Minimum Size in Feet	
	Width	Average Depth
Corner lot	60	80
Interior lot	50	70
Through lot with planting screen	50	120

B. In the case of irregular lots, the widths measured at a building line must be not less than 70 feet.

C. Where property is zoned and planned for business or industrial use, other widths and areas may be permitted at the discretion of the planning commission. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street loading and parking facilities required by the type of use and development contemplated.

Applicant Response: LCMC Title 17 establishes minimum lot size, width and depth standards of at least at 5,000 square feet, 50 foot width and an 70 foot depth. The proposed design provides parcels for detached single-unit dwellings, meeting the requirements of LCMC Title 17. As documented on the Plan Set, the proposed parcels conform to the applicable size and dimension requirements.

16.12.230 Through lots...

Applicant Response: No through lots are proposed. This section does not apply.

16.12.240 Lot side lines.

The side lines of lots shall run at right angles to the street upon which the lots face. On curved streets they shall be radial to the curve.

Applicant Response: As documented on the Plan Set, the proposal result in the new east/west property line, which is a “side” property line for Parcel 1, however it is a rear property line for Parcel 2. The design attempts to achieve a rear property line (for Parcel 2) that parallels NW 25th Street and intersects NW Keel Avenue as near to a right angle as possible, recognizing that NW Keel Avenue is not at a right angle to NW 25th Street. The proposed design adequately mitigates the competing intent of the side and

rear property line configurations and conforms to this standard to the greatest extent possible.

16.12.250 Lots – Resubdivision.

A. In subdividing or partitioning tracts into large lots which at some future time are likely to be subdivided or partitioned, that resubdivision or partitioning shall take place without violating the requirements of these regulations and without interfering with the orderly development of streets.

B. Restriction of building locations in relationship to future street right-of-way shall be made a matter of record if the planning commission considers it necessary.

Applicant Response: The proposed parcels are planned to accommodate residential development. Future division of the planned parcels is not expected or likely, given the proposed sizes.

16.12.260 Lots – Residential building setback lines.

If special building setback lines are to be established in the subdivision or partition, they should be shown on the subdivision or partition plan or included in the deed restriction.

Applicant Response: No special setbacks are proposed. The setbacks of the underlying zone will be reviewed and approved with the subsequent development applications (Building Permits).

16.12.270 Public open spaces.

A. Due consideration shall be given by the subdivider or partitioner to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use as per the city comprehensive plan.

B. Where a proposed park, playground, school or other public use shown in a tentative plan is located in whole or in part in a subdivision or partition, the planning commission may request the dedication or reservation of such area within the subdivision or partition in those cases in which the planning commission deems such requirements to be reasonable with the approval of the city council.

Applicant Response: The property is small and does not provide any reasonable opportunities for schools, parks and/or playgrounds. Dedication of space as public open spaces is not applicable.

CHAPTER 16.16 IMPROVEMENTS

16.16.010 Required improvements.

A. The following improvements shall be installed at the expense of the subdivider or partitioner in accordance with the city requirements:

- 1. Streets, including drainage adequate to serve the property and streets;**
- 2. Sanitary sewers and services;**
- 3. Water distribution lines and services;**
- 4. Sidewalks in any pedestrian ways;**
- 5. Street name signs and street light poles;**
- 6. Lot, street and perimeter monumentation;**
- 7. Underground power lines;**
- 8. Underground telephone lines;**
- 9. Bicycle, equestrian or special “ways”;**
- 10. Underground cable TV lines.**

B. All improvements shall be constructed to the subdivision or partition boundary.

C. Where dedicated or undedicated open space is proposed or provided, it shall be the subdivider’s or partitioner’s responsibility to provide, if required, standard public improvements to and through the open space. Other public improvements installed at the option of the subdivider or partitioner shall conform to city requirements.

Applicant Response: The applicant understands their responsibilities under this section.

16.16.020 Streets.

A. The developer shall be responsible for improving all streets, including alleys, within the subdivision or partition, and streets adjacent, but only partially within the subdivision or partition, and streets adjacent to a subdivision or partition, whether included or excluded from the subdivision or partition.

B. Construction of all streets and alleys shall be to city section standards for permanent street and alley construction, pursuant to requirements set forth in the city transportation system plan and public works/engineering standards.

C. In any area, if the city requires a subdivider or partitioner to install a street with pavement width greater than 40 feet to provide a major traffic route, the city will pay that portion of the cost in excess of the cost of a 40-foot street. If the ultimate development exceeds a potential of 100 lots or living units and any one of the streets is a collector or major, the developer shall pay the entire cost of such street width as determined by the department of community development and public works to be necessary to adequately serve anticipated traffic loading.

D. Prior to city approval of the final subdivision plat or partition map, all perimeter and back lot line monumentation shall be installed and the installation of the front line and street centerline monumentation (along and within street right-of-way) guaranteed. Any monuments destroyed during improvement installation shall be replaced after street construction. As an alternate to the above, all monumentation can be installed prior to the approval, with the stipulation that any removed prior to building permit issuance or improvement acceptance by the city shall be replaced at the subdivider's or partitioner's expense.

Applicant Response: The abutting rights-of-way are improved with streets (but no sidewalks). The abutting street improvements are consistent with development in the area and no additional improvements are planned on the abutting streets.

16.16.030 Surface drainage and storm sewer system.

A. Drainage facilities shall be provided within the subdivision or partition and are to connect the subdivision or partition drainage to drainageways or storm sewers outside the subdivision or partition.

B. Capacity, grade and materials shall be by a design approved by the city engineer. Design of drainage within the subdivision or partition shall take into account the location, capacity and grade necessary to maintain unrestricted flow from areas that after development will drain through the subdivision or partition and to allow extension of the system to serve such area. Connection or eventual discharge to a storm drain system or drainageway that is not capable of receiving the applicable design storm discharge shall be prohibited. In addition to normal drainage design and construction, provisions shall be taken to handle any drainage from preexisting subsurface drain tile. It shall be the design engineer's duty to investigate the location of drain tile and its relation to public improvements and building construction. The roof and site drainage from each lot shall be discharged to either curb face outlets (if minor quantity), to a public storm drain or to a natural acceptable drainage way if adjacent to the lot.

Applicant Response: The proposal does not include any new impervious areas (either on-site or in the abutting rights-of-way); therefore surface drainage and/or storm sewer improvements are not needed with this land division. Regarding on-site drainage, it will be reviewed with subsequent development.

16.16.040 Sanitary sewers.

A. Sanitary sewers shall be required to be installed to serve a subdivision or partition and connect the subdivision or partition to existing mains if service is available. In the event that this is not possible, appeal may be made to the city council.

B. Capacity, grade and materials shall be by a design approved by the city engineer. Design shall take into account the location, capacity and grade to allow for desirable extension beyond the subdivision or partition. The city will not expect the subdivider or partitioner to pay the extra cost of required oversize sewer mains necessary to provide for extension beyond the subdivision or partition.

C. If required sewer facilities will, without further sewer construction, directly serve property outside the subdivision or partition, the following arrangements will be made to equitably distribute the cost:

1. If the area outside the subdivision or partition to be directly served by the sewer line has reached a state of development to justify sewer installation at the time, the planning commission may recommend to the city council construction as an assessment project, with such arrangement with the subdivider or partitioner as is desirable to assure financing his share of the construction.

2. If the installation is not made as an assessment project, the city may enter into an agreement with the subdivider or partitioner setting forth methods of reimbursement for the proportionate share of the cost for each connection made to the sewer by property owners outside of the subdivision or partition for a period of 10 years from the time of installation of the sewers.

Applicant Response: The applicant proposes to extend sewer laterals to serve the new parcels in conformance with City Standards. The proposed design conforms to the requirements of this section. Subsequent to Tentative Plan approval, the applicant and their engineer plan to complete the engineered plans to document conformance with this section. Sewer Plans will be reviewed with the subsequent public improvement review process.

16.16.050 Water system.

A. Waterlines and fire hydrants serving the subdivision or partition and connecting the subdivision or partition to city mains shall be installed.

B. Materials, size and location of water mains, valves and hydrants shall be in accordance with the city standards and the design approved by the city engineer. Design shall take into account provisions for extension beyond the subdivision or partition and to adequately grid the city system. The city will not expect the subdivider or partitioner to pay for the extra cost of the oversize mains not necessary to serve the subdivision or partition.

C. If required water mains will directly serve property outside the subdivision or partition, the city may enter into an agreement with the subdivider or partitioner setting forth methods of reimbursement for the proportionate share of the cost for each connection made to the water mains by property owners outside the subdivision or partition for a period of 10 years from the time of installation of the main.

Applicant Response: The applicant proposes to extend water laterals to serve the new parcels in conformance with City Standards. The proposed design conforms to the requirements of this section. Subsequent to Tentative Plan approval, the applicant and their engineer plan to complete the engineered plans to document conformance with this section. Water Plans will be reviewed with the subsequent public improvement review process.

16.16.060 Sidewalks.

A. The developer shall install sidewalks on streets within and adjoining the subdivision or partition, as indicated by the standards section of the city's 2015 Transportation System Plan, Volume 1, and install pedestrian access ways in accordance with LCMC [16.12.200](#).

B. All sidewalks constructed within the subdivision or partition shall be to city standards, as set forth in the standards section of the city's 2015 Transportation System Plan, Volume 1, and Public Works/Engineering Standards, and at grades the city engineer has established or approved. The property owner shall keep a minimum of five feet of the sidewalk width clear of both permanent and temporary obstructions (e.g., utility poles, sandwich signs).

Applicant Response: No sidewalks exist in the general vicinity of the site, thus sidewalk construction is not appropriate at this time; instead would be best provided with an area / regional sidewalk improvement, such that a connected system could be established

16.16.070 Street name signs.

Street name signs shall be installed at all intersections according to city standards or a deposit made with the city in an amount equal to cost of the installation. Installation shall be made by the city.

Applicant Response: Street name signs exist and new streets (thus names and/or signs) are not needed.

16.16.080 Street light poles.

A deposit in the amount of the actual or estimated pole installation cost is required.

Applicant Response: A street light exists at the corner of NW 25th Street and NW Keel Avenue; a new street light is not needed.

16.16.090 Curb cuts and driveways.

Curb cuts and driveway installations are not required of the subdivider or partitioner, but if installed shall be according to city standards. Curb face outlets for rain drains shall also be provided.

Applicant Response: Upon development, curb cuts are planned in accordance with this standard.

16.16.100 Street trees.

Street tree planting is not required by the subdivider, but if planted, shall be according to city requirements and of a species compatible with the width of planting strip and utilities contained therein.

Applicant Response: Street trees are not planned at this time.

16.16.110 Monumentation.

In addition to meeting the requirements as set forth in Oregon Revised Statutes relative to required lot, street and perimeter monumentation, the following shall be required:

A. An accuracy ratio of subdivision plat or partition map boundary line closure of one in 10,000 as found in the field. Lot dimensions as found in the field shall be within 0.10 feet of record distance.

B. Two primary perimeter monuments (one of which can be the initial point) having the same physical characteristics as the initial point are required. The monuments are to be on a common line visible, if possible, one to the other at time of approval and preferably at angle points in the perimeter. They shall be

points as far apart as practicable. The position for the initial point and other primary perimeter monuments shall be selected with due consideration to possible damage during construction.

C. Street centerline monumentation shall consist of a two-inch diameter brass cap set in a concrete base within and separate from a standard monument box with cover (standard city details applicable) at locations specified by the city engineer (generally at intersections with centerline of arterial or collector streets and within streets proposed to be greatly extended into adjacent future subdivisions or partitions). All other street centerline points (intersection, points of tangent intersections, cul-de-sac centerlines, cul-de-sac offset points) shall be monumented with a five-eighths-inch-diameter steel rod 30 inches long and set visible at the finish surface of the street. The above monumentation will be required at point of curvature and point of tangency of the curve. All centerline monuments are to be accurately placed after street construction is complete.

Applicant Response: The applicant plans that monumentation will occur in accordance with all state and local regulations.

16.16.120 Creation of streets and ways...

Applicant Response: The proposal does not include the creation of a street or way. This section does not apply.

IV. Compliance with Lincoln City Municipal Code - Title 17:

17.16.010 Purpose.

To promote and encourage a suitable environment for residential living and to protect and stabilize the residential characteristics of the zone. The R1 zone is intended to provide primarily for single-unit dwellings. (Ord. 2023-26 § 3; Ord. 2011-09 § 1; Ord. 95-15 § 3(1); Ord. 84-2 § 3.010(1))

Applicant Response: This section is a purpose statement and does not establish any measurable development standards or approval criteria.

17.16.020 Permitted uses...

17.16.030 Accessory uses...

17.16.040 Conditional uses...

Applicant Response: The parcels have been designed to accommodate detached single family homes. While use types are not reviewed or established at this time (with the land division), the intended use of the parcels is allowed by this section. Review of uses will occur with subsequent development applications (Building Permits).

17.16.060 Maximum building height.

The maximum building height shall be 35 feet, except as provided in LCMC [17.52.190](#) and [17.52.200](#).

Applicant Response: Structures are not proposed at this time, with this Partition. Building heights for the detached single-unit dwellings will be reviewed with subsequent development reviews (Building Permits).

17.16.070 Lot requirements.

The map designations R-1-5, R-1-7.5 and R-1-10 create separate single-unit residential zoning classifications as though separately listed in LCMC [17.12.010](#). Lot requirements for the zoning classifications designated on the zoning map shall be as follows:

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front Setback ⁽¹⁾	Side Setback	Street Side Setback ⁽³⁾	Rear Setback	Maximum Building Coverage ⁽⁵⁾
R-1-5	5,000 sq. ft.	50' detached; 35' attached	70'	5'	5' or 0' for common wall of attached dwellings	5'	5'	35% ⁽²⁾

(1) The front and street side setbacks shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirements of LCMC [17.52.060](#) shall apply.

(2) For existing lots between 3,000 sq. ft. and 4,000 sq. ft., maximum building coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum building coverage shall be 50 percent.

(3) See definition of "building coverage" in Chapter [17.08](#) LCMC.

Applicant Response: As detailed on the Plans Set, both of the parcels are proposed to exceed 5,000 square feet in size, they have widths in excess of 50 feet, and depths in excess of 70 feet. In regard to structural development, setbacks, and lot coverage, these elements will be reviewed with subsequent development applications (Building Permits).

17.16.075 Landscaping.

Landscaping shall be provided in accordance with Chapter [17.55](#) LCMC.

Applicant Response: Landscaping requirements are reviewed with site development (Building Permits) and not land divisions. No landscaping is planned at this time.

17.16.080 Signs.

Signs shall be allowed subject to the provisions of Chapters [9.34](#) and [17.72](#) LCMC.

Applicant Response: No signs are proposed at this time.

17.16.090 Off-street parking and loading.

Off-street parking and loading shall be provided in accordance with Chapter [17.56](#) LCMC.

Applicant Response: Parking is not proposed at this time, but rather will be reviewed with site development (Building Permits).

17.16.100 Design features.

All single-unit dwellings (site-built, modular and manufactured homes) to be constructed or located in an R1 zone are encouraged to use at least two of the following design features on the front of the dwelling:..

Applicant Response: These standards relate to structural development. In regards to structural development, these elements will be reviewed with subsequent development applications (Building Permits).

Chapter 17.52 SUPPLEMENTARY REGULATIONS AND EXCEPTIONS

17.52.030 Access requirement.

Every lot shall abut a street, other than an alley, for at least 25 feet.

Applicant Response: As shown on the Plan Set, both of the parcels will abut a street for at least 25 feet (Parcel 1 – NW Keel Avenue and Parcel 2 – NW Keel Avenue and NW 25th Street). The proposed design conforms to this standard.

17.52.080 Maintenance of minimum requirements.

No lot area, minimum setback area, open space, or off-street parking or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced below the minimum required for it by this title.

Applicant Response: As documented throughout this narrative, the proposed design conforms to all applicable Code Standards.

17.52.120 Utilities....

A. In all zones, all electrical, telephone and cable television utility service installations or connections made as part of new construction of a building or structure shall be placed underground in accordance with city standards.

Applicant Response: As detailed on the Plan Set, the applicant proposes to extend utilities to both of the new parcels, in accordance with this section.

17.52.220 Tree protection and removal...

Applicant Response: The proposal is for a land division, it does not result in the removal of any development or the removal of trees. The need for tree protection and/or removal will occur with subsequent development.

17.52.230 Public infrastructure improvement requirements.

A. Infrastructure Easement and Improvement Requirements. The issuance of a structural permit for a new building or structure in connection with any permitted or conditional use within any zone as described in this title, or in connection with a development review approval for development for which development review is required under LCMC [17.77.070](#), or the review of any project for which development is required under LCMC 17.77.070 but does not involve the issuance of a structural permit shall be subject to Public Works Design Standards, Lincoln City Transportation System Plan, LCMC Title 12, and LCMC Title 13, incorporated herein by this reference. Preliminary Plans shall be submitted as part of the development review process, with final plans submitted as part of the structural permit process. If development Review is not required, the plans shall be submitted for review as part of the structural permit or site development permit process.

2. Except as otherwise provided in subsections (B) and (C) of this section, the applicant shall agree to:

a. Install curbs and gutters along adjacent streets not having curbs and gutters, and also pave the roadways from the curbs to 12 feet beyond centerline of unpaved or partially unpaved streets contiguous to the property proposed for development, in accordance with applicable standards of this title, street design standards in the city's

transportation system plan, public works/engineering standards, and LCMC Title [16](#) (Subdivisions). If existing rights-of-way for streets contiguous to the property are not adequate in width to meet the standards of this title and LCMC Title [16](#) (Subdivisions), the applicant shall dedicate right-of-way to the city sufficient to allow streets that are adequate in width; and

b. Dedicate to the city utility easements five feet in width along rear lot lines, or along front lot lines, as required by the city; and

c. Dedicate easements for drainage purposes, and provide storm water detention, treatment, and drainage features and facilities, as approved by the city engineer, in order to accommodate expected runoffs as determined by a registered professional engineer licensed in Oregon, according to generally accepted drainage accommodation principles; and

d. Install sidewalks in accordance with street design standards in the city's transportation system plan and public works/engineering standards along boundaries contiguous with streets, within existing right-of-way if adequate in width; and, if existing easements are not adequate in width, to deed easements to the city sufficient to allow sidewalks of required width;

Exceptions: In lieu of the sidewalks required by subsection (A)(2)(d) of this section, the applicant shall agree as follows:

i. For properties in a commercial zone east of Highway 101 that abut the D River, to install sidewalks five feet in width adjacent to the river, and to deed easements to the city sufficient to allow the city to add additional width to the riverfront sidewalks so that they can be a total of 10 feet in width;

ii. [Reserved];

iii. [Reserved]; and

e. Install and connect to the city systems water and sewer lines and appurtenances that conform to adopted city standards; and

f. Place underground all existing electrical, telephone, and cable television utility service installations or connections between any building or structure and the utility distribution system, in accord with city standards, in addition to meeting the requirements of LCMC [17.52.120](#); and

g. Develop the site and construct all buildings and improvements in strict conformity to the tendered site plan; and

h. Provide any of the following transit-related improvements, if development includes or is adjacent to existing or planned transit stops shown in the city transportation system plan or an adopted plan prepared by a transit provider, as determined by the city engineer or community development director:

i. Reasonably direct pedestrian connections between the transit stop and building entrances of the site. For the purpose of this section, “reasonably direct” means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for users;

ii. An easement or dedication for a passenger shelter or bench, if such an improvement is in an adopted plan; and

i. Maintain the sidewalk, landscape strip, and curb adjacent to the property to standards in LCMC Title [12](#), Streets, Sidewalks, and Public Places.

In lieu of a required improvement, the city engineer may accept a deferred improvement agreement, fee-in-lieu agreement, or other cost-allocation agreement, in a form approved by the city engineer, for installation of curbs, gutters, sidewalks, street paving, water and sewer lines and appurtenances, and storm water detention, treatment, and drainage features and facilities, if the city engineer determines that a delay is appropriate. The cost to the developer shall equal the cost of installation, including engineering and design, as determined by the city engineer, based on the applicable city standards in effect at the time of application. The applicant shall pay the fee or sign an alternative agreement prior to approval of the final plat or issuance of a building (structural) or development permit. Applicants who pay a fee in lieu of constructing a required specific improvement shall not be responsible for any future additional costs associated with that same improvement. The city shall use all such fees for construction, repair, or maintenance of the public infrastructure improvements of the type identified above and located within the city which provide a benefit to the subject property; and

4. If no street is contiguous to the property from which safe and convenient access and egress can be obtained for pedestrians and vehicular traffic, the applicant shall agree, if required by the city engineer, to dedicate a street right-of-way and to construct improvements to adopted city standards as provided in subsection (A)(2)(a) of this section.

B. Limitations on Infrastructure Requirements. If the applicant asserts that it cannot legally be required, as a condition of structural permit, site development permit, or development review approval, to provide easements or improvements at the level otherwise required by this section, then:

1. The structural permit, site development permit, or development review application shall include a rough proportionality report, prepared by a qualified civil or traffic engineer, as appropriate, showing:

a. The estimated extent, on a quantitative basis, to which the improvements will be used by persons served by the development, whether the development is for safety or for convenience;

b. The estimated level, on a quantitative basis, of improvements needed to meet the estimated extent of use by persons served by the development;

c. The estimated impact, on a quantitative basis, of the development on the public infrastructure system of which the improvements will be a part;

d. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system; and

2. The applicant shall, instead, be required to provide easements and improvements that are roughly proportional to what is needed for the safety or convenience of persons served by the development, plus those additional easements and improvements that are roughly proportional to what is needed to mitigate the impact of the development on the public infrastructure system of which the improvements will be a part, if the impacts are not fully mitigated by the easements and improvements needed for the safety or convenience of persons served by the development.

C. Easements and Improvements Deferred from Land Divisions. If a prior land division approval under LCMC Title [16](#) affecting the development has deferred, until submission of a structural permit, site development permit, or development review application, the definition of the level of easements or public infrastructure improvements required to be provided in relation to the land division, based on an assertion that the level of easements or improvements required cannot be defined until actual development is proposed for the divided land, then the applicant shall provide with the application a report as described in subsection (B) of this section and, as a condition of application approval, shall be required to dedicate easements and provide public infrastructure improvements required under LCMC Title [16](#), to the extent the easements and improvements meet the standards set out in subsection (B)(2) of this section.

D. Appeals.

1. Any person aggrieved by that person's inability to obtain a structural permit or site development permit pursuant to this section or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this section may appeal as a Type III procedure pursuant to LCMC [17.76.050](#).

2. Notwithstanding subsection (D)(1) of this section, decisions of the city manager, public works director, city engineer, director, or designated representative in the enforcement of deferred improvement agreements entered into under subsection (A)(2) of this section shall not be subject to appeal.

Applicant Response: The applicant understands the public improvement requirements of this section. Detailed public improvement plans will be finalized in association with the public improvement review process.

V. Summary and Conclusion:

Based on the discussion above, as well as the exhibits included with this application, the Applicant has documented that the Partition request meets the applicable approval criteria. Because the proposal conforms to all applicable criteria and standards, the applicant respectfully requests that the City approve the Partition as proposed.