

AGENDA
PLANNING COMMISSION MEETING
WEDNESDAY, NOVEMBER 6 – 7:00 PM
Maggie Osgood Library
70 N. Pioneer Street, Lowell, Oregon

- 1. CALL TO ORDER/ROLL CALL**
- 2. APPROVAL OF AGENDA**
- 3. APPROVAL OF MINUTES**
 - a. September 4, 2019
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
 - a. Land Use File 2019-07 – Partition of Map and Tax Lot #19011421400 for Mark and Cheryl Kelley
 - Public Hearing
 - Commission Deliberation
 - Commission Decision
- 6. OTHER BUSINESS**
- 7. ADJOURN**

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Clerk, Joyce Donnell, at 541-937-2157.

**City of Lowell, Oregon
Minutes of the Planning Commission Meeting
September 4, 2019**

The meeting was called to order at 7:07 PM by Commissioner Chair Dragt.

Members Present: Lon Dragt, John Myers, Mary Wallace

Approval of Planning Commission Minutes: Commissioner Myers moved to approve minutes from Aug. 26, 2019, second by Commissioner Wallace. PASS 3:0

Old Business: None

New Business:

- a. **Interpretation of Lowell Land Development Code, Section 9.408 Non-Conforming Uses**

Close Public Meeting: 7:09 PM

Open Public Hearing: 7:09 PM

Interpretation of Lowell Land Development Code, Section 9.408 Non-Conforming Uses

- **Staff Report** – Henry Hearley Assistant Planner for Lane Council of Governments, presented report on property located at 205 East Main Street who specifically requested interpretation to the question whether the expansion of the footprint of a residential dwelling in the C-1 zone is considered an “alteration” or “extension,” and thus allowed under Section 9.408(a)(3). Conclusion: Section 9.408(a)(1) sets forth the general rule that nonconforming uses can be continued as-is notwithstanding new zoning regulations that should not be expanded, increased, or changed in such a way that increases the nonconformity. That said the code carves out a very specific exception for nonconforming dwellings in commercial zones. This specific exception overrides that general rule precluding expansion of a nonconforming use. See Section 9.105(a), cited above. For the reasons explained above, the term “extension” in Section 9.408(a)(3) includes the ability to increase the footprint of a conforming dwelling in the C-1 zone, so long as the new footprint does not violate yard, lot coverage, and building height requirements in the nearest adjacent Residential district.
- **Applicant Comments** – None
- **Public Comments** – None

Public Hearing Closed: 7:17 PM

Reconvene Public Meeting: 7:17 PM

- **Commission Deliberation** - None
- **Commission Decision** – Commissioner Meyers moved that the Planning Commission approve the interpretation as stated in the staff report, second by Commissioner Wallace. PASS 3:0

Other Business: None

Adjourn: 7:21 PM

Approved: _____
Lon Dragt - Chair

Date: _____

Attest: _____
Jared Cobb, City Recorder

Date: _____

“SCRIPT FOR THE PLANNING COMMISSIONER CHAIR”

Knowing what to say and when you can make quasi-judicial public hearings run more smoothly. Following is a “script” that you may want to adapt for your use and sample motions for decisions.

1. Public Hearing is now open for the purpose of considering (read from agenda).



2. The procedure I would like follow tonight has is as follows:
 - a. Staff Report
 - b. Questions from the Planning Commission
 - c. Applicant Presentation
 - d. Public Testimony
 - e. General Public Comments
 - f. Applicant Rebuttal

3. Now does any commission member wish to disqualify him or herself for any personal or financial interest in this matter before us tonight, or does any commission member wish to report any significant ex parte or pre-hearing contacts?

Does any member of the audience wish to challenge the right of any commissioner to hear this matter?

Is there any member of the audience who wishes to question the jurisdiction of this body to act on behalf of the City Council in this matter?

4. Oregon Land Use Laws require that all issues be raised if the issues are to be appealed; failure to raise the issues at this hearing may invalidate their further appeal.
5. Will the staff please present their report....Any questions from the commission?
6. Is the applicant, or his representative, present?
 - A. Do you wish to add anything to the staff report?
 - B. Please stand and give your name and address for the record.
 - C. Testimony
 - D. Does the commission have any questions of the applicant?

7. Now is the time for public testimony. Are there any members of the audience who wish to speak in favor of this proposal?...Are there any questions of the applicant? Are there any members of the audience who wish to speak against the proposal? Any questions of the applicant?
8. Does the applicant have any further comments?
9. If there is no further testimony, the Public Hearing is now closed. What's the pleasure of the commission?
10. Discussion. Decision. Next item.

Motions to Approve or Disapprove a Proposal

1. No Changes or Additions. If the commission has no changes or additions to the staff report, the following motion is appropriate:

I move that the Planning Commission (approve/deny) this application for a development permit based on the standards, findings, conclusions and recommendation stated in the staff report.
2. Changes or Additions: If the Commission has changes or additions to the staff report, the following motion is appropriate:

I move that the Planning Commission (approve/deny) this application for a development permit based on the standards, findings, conclusions and recommendation stated in the staff report, except for the following items (or with the addition of the following items):

**Staff Report
Partition
Assessor's Map 19-01-14-21, Tax Lot 400
Mark and Cheryl Kelley
LU 2019-07
Staff Report Date: October 30, 2019**

1. **Proposal.** The Planning Commission is being asked to review and render a decision on a partition for property located at Assessor's Map 19-01-14-21, Tax Lot 400. The subject property is owned by Mark and Cheryl Kelley, the agent listed on the application is Lloyd L. Tolbert, LS of Tolbert Associates, LLC. The subject properties are zoned R-1 Single Family Residential. The subject property currently consists of one parcel that is 2.10 acres in size and contains an existing home. The applicant is proposing to create one additional parcel noted as "Parcel 2" on the tentative map. The newly created parcel will be 0.5 acres in size and be located adjacent to North Hyland Road. An approval of a partition does not approve the construction or placement of a dwelling. Proper building permits will have to be applied for and secured by the applicants and/or respective property owners.
2. **Approval Criteria.** Section 9.223 General Information, Section 9.220 Subdivision or Partition Tentative Plan, Section 9.204 Application Site Plan, Section 9.224 Existing Conditions Information, Section 9.518 and Section 9.228 Decision Criteria. Notice of decision will be sent to the applicant, and parties of record.
3. **Staff review of applicable criteria for partition.**

LDC 9.204 Application Site Plan

Recommended FINDING for approval: The applicant has submitted the necessary information as required for an application site plan, and application narrative in order for Staff to make findings on the proposal. Criterion met.

LDC 9.223. General Information.

Recommended FINDING for approval: The applicant has submitted the necessary information as required for a partition as seen on the surveyor's tentative partition plan. Compliance with ORS 92 for final recording will be a condition of approval. Criterion met.

LDC 9.224 Existing Conditions Information.

- (a) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other rights-of-ways and other important locational information such as section line, corners, city boundary lines and monuments.***

Discussion: The proposed Parcel 2 is adjacent to North Hyland Lane, which contains a 60-foot

right of way. There are no unopened streets. The proposed tentative plan includes the necessary information.

(b) The location of all existing sewers, septic tanks and drain fields, water lines, storm drains, culverts, ditches and utilities, together with elevation data, on the site and on adjoining property or streets, if applicable.

Discussion: Parcel 1 (the existing lot) is served by public wastewater services in North Hyland Lane right-of-way and public water service from the public facility lying easterly from the subject property. Parcel 2 is proposed to be connected to public services located within North Hyland Lane right-of-way. The proposed tentative plan includes the necessary information.

Recommended FINDING for approval: The applicant has submitted the necessary information as required in Section 9.224 for a partition as seen on the surveyor's tentative partition map and application narrative. Criterion met.

LCD 9.225 Proposed Plan Information.

...

(c) The location, width, and purpose of existing and proposed easements.

Discussion: The existing easements are either depicted or referenced on the Tentative Plan. The applicant will need to secure a private utility easement across Parcel 2 to serve Parcel 1 for an existing wastewater service that is located along the north line of Parcel 2. Staff will incorporate condition of approval that requires all easements be recorded and filed in accordance with ORS 92, and Lane County.

(d) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.

Discussion: Parcel 1 is 2.10 acres in size before the proposed partition. Following the partition of Parcel 1 to create Parcel 2, it will be reduced to 1.6 acres. The newly created Parcel 2 will be 0.5 acres in area. The applicant has appropriately represented this information on the Tentative Plan.

(e) The location and approximate location dimensions of lots or parcels and the proposed lot or parcel numbers. Where the property division results in any lots or parcels that are larger than 2 and one-half times the minimum lot size, the applicant shall provide a sketch plan showing how the parcels may be re-divided in the future to provide for at least 80% of maximum density within current minimum lot sizes, existing site constraints and requirements of this Code.

Discussion: The applicant has identified the location and approximate dimensions of Parcel 1 and the proposed creation of Parcel 2. The property division will result in a lot that is larger than 2 and one-half times the minimum lot size. The applicant has not provided a sketch plan showing how the parcels may be re-divided in the future. However, the property owner does not intend to further subdivide Parcel 2, as it's intended creation is for immediate family to reside in a single-family

dwelling home to be constructed at a later date. Staff does not believe the absence of a sketch plan showing further possible division of Parcel 2 is not basis for denial.

...

(g) a general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.

Discussion: The proposed wastewater connection for Parcel 2 is depicted on the Tentative Plan. Stormwater will flow into the exiting facility within the North Hyland Lane right-of-way. Water facilities will connect to the existing system within North Hyland Lane right-of-way. The City Engineer has indicated, the applicant will be required to install a drainage culvert along North Hyland Lane. This will be further addressed in later sections of this staff report.

(h) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (retention ponds, swales.) and contamination protection (settling basins, separators, etc.)

Discussion: The applicant states that no connections to drainage channels outside of the proposed land division are required.

(i) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks or open spaces.

Discussion: The proposed partition does not require the dedication of any streets, pedestrian or bike ways, parks or open space areas.

(j) Identification of any requirements for future streets and easements required for extension of public infrastructure beyond the development together with restrictions on building within those future streets and easements as well as future setback areas required by this Code.

Discussion: No future streets and easements are proposed.

(k) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mailboxes, bus stops, greenways, bike or pedestrian paths.

Discussion: No special improvements are proposed.

Recommended FINDING for approval: The applicant has submitted the necessary information, as seen on the Tentative Plan, and in the application narrative, for staff to determine the necessary criteria contained in LDC 9.225 are met, or can be met conditionally, where applicable. Criterion met.

LDC 9.226 Accompanying Statements. The Tentative Plan shall be accompanied by written statements from the applicant giving essential information regarding the following

matters:

(a) Identify the adequacy and source of water supply including:

- (1) Certification that water will be available to the lot line of each and every lot depicted on The Tentative Plan for a subdivision, or;*
- (2) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan.*

Discussion: The proposed land use is a partition, not a subdivision. However, the applicant intends to connect the newly created Parcel 2 to the existing public water and sewer system within the North Hyland Lane right-of-way. Staff expect the City of Lowell Public Works to issue a statement certifying City water and sewer are available to Parcel 2.

(b) Identify the proposed method of sewage disposal including:

- (1) Certification that a sewage disposal system will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or;*
- (2) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan.*

Discussion: See Staff's discussion above in response to LDC 9.226(a).

(c) Protective covenants, conditions and deed restrictions (CC&R's) to be recorded, if any.

Discussion: No CC&Rs are proposed.

(d) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.

(e) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.

Discussion: No public dedications or public improvements are proposed, with the exception of sidewalks, as discussed in this staff report under Section 9.518 below.

Recommended FINDING for approval (LDC 9.226 ((a)-(e)): The applicant has submitted the necessary information, as seen on the Tentative Plan, and in the application narrative, for staff to determine the necessary criteria contained in LDC 9.226 are met, or can be met conditionally, where applicable. Criterion met.

(f) A statement that the declarations required by ORS 92.075 on the final plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.

Recommended FINDING for approval: Prior to issuance of building permits, the property owner

shall submit the final plat in accordance with ORS 92.075. Criterion met with the following condition:

Condition of Approval #1:

Prior to issuance of building permits, the property owner shall submit the final plat in accordance with ORS 92.075, and all state and county recording requirements.

LDC 9.227 Supplemental Information. Any of the following may be required by the City, in writing to the applicant, to supplement the Tentative Plan.

(d) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.

Discussion: As this land use application is only for a proposed partition of a property, no grading will occur as a result of approval. However, if grading is expected to disturb 1 acre or more of land, a National Pollutant Discharge Elimination System (NPDES) permit will be required of the property owner at the time of building permit review. Approval of a partition does not approve any construction activities. Appropriate building permits will have to be submitted, reviewed, and issued before any construction activities, including disturbance of soil, can occur. This will be made an informational item.

(e) Specifications and details of all proposed improvements.

Discussion: The applicant indicates in their application narrative that no improvements are required. However, the property owner is required to provide a non-remonstrance agreement waiving the right to file a remonstrance when the City undertakes sidewalk paving along North Hyland Lane. Additionally, discussion around the installation of a culvert occurred between the applicant's representative and the City Engineer. It was determined the installation of a culvert is not necessary at this time because the requested land use action is only a partition. A further review of drainage and culverts will be undertaken by the City Engineer at the time of building permit submittal.

(f) Wetland delineation if identified as an existing condition in Section 9.224(f).

Discussion: Staff have reviewed the Local Wetlands Inventory Map (LWI), and based on the map, there exists no mapped waterways, or wetlands.

Recommended FINDING for approval: The applicant has submitted the necessary information, as seen on the Tentative Plan, and in the application narrative, for staff to determine the necessary criteria contained in LDC 9.227 are met, or can be met conditionally, where applicable. Criterion met.

LDC 9.228 Decision Criteria. A Partition Tentative Plan may be approved by the Planning Commission and a Subdivision Tentative Plan may be approved by the City Council. Approval shall be based upon compliance with the submittal requirements specified above and the following findings.

- (a) That the proposed land division complies with applicable provision of City Codes and Ordinances, including zoning district standards.*

Discussion: The applicant is proposing to partition a property to create a new parcel for the eventual placement of a single-family dwelling. A single-family dwelling is a permitted use in the underlying zoning district. During this phase of review for the proposed partition, staff are not able to address specific lot standards of the underlying zone, except that the proposed Parcel 2 will be above the minimum lot size, above the minimum lot width and depth. A determination on development standards relating to setbacks, maximum height and lot coverage will have to be made by the City at the time of building permit submittal.

Recommended FINDING for approval: Given the information contained in the current record, Staff can surmise the proposed land division complies with applicable provisions of City Codes and Ordinances, including zoning district standards, as discussed. Criterion met.

- (b) Where the property division results in any lots or parcels that are larger than 2 and one-half times the minimum lot size, the applicant shall provide a sketch plan showing how the parcels may be re-divided in the future to provide for at least 80% of maximum density within current minimum lot sizes, existing site constraints and requirements of this Code.*

Recommended FINDING for approval: As stated by the applicant, no further land divisions are proposed or anticipated. The proposed land division require no further land division by the proposed partition to create Parcel 2. Criterion met.

- (c) The applicant has demonstrated that the proposed land division does not preclude development on properties in the vicinity to at least 80% of maximum density possible within current minimum lot sizes, existing site conditions and the requirements of this Code.*

Recommended FINDING for approval: The proposed land division requires no further land division and will not preclude development on properties in the vicinity. Criterion met.

- (d) The proposed street plan:*
- (1) Is in conformance with City standards and with the Master Road Plan or other transportation planning document.*
 - (2) Provides for adequate and safe traffic and pedestrian circulation both internally and in relation to the existing City street system.*
 - (3) Will not preclude the orderly extension of streets and utilities on undeveloped and underdeveloped portions of the subject property or on surrounding properties.*

Discussion: The proposed partition will not require any public improvements of streets. However, the partition will require the addition of sidewalks adjacent to public right-of-way, and adjacent to the newly created Parcel 2. The proposed partition is not expected to preclude the orderly extension of streets or utilities on undeveloped portions of the property. Any utility work that is to take place within public right-of-way after the partition is recorded, and before an eventual dwelling is constructed, will first have to secure proper permits with the City to operate in public right-of-way.

Recommended FINDING for approval: The proposed land division will not preclude development of orderly extension of streets and utilities on undeveloped and underdeveloped portions of the subject property. Criterion met.

- (e) Adequate public facilities and services are available to the site, or if public services and facilities are not presently available, the applicant has demonstrated that the services and facilities will be available prior to need, by providing at least one of the following:*
- (1) Prior written commitment of public funds by the appropriate public agency.*
 - (2) Prior acceptance of public funds by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.*
 - (3) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the City.*

Discussion: The applicant proposes to connect to existing city water and sewer service. Additional private services will be installed as part of the building permit process. The applicant will be responsible for costs and fees associated with connection to existing city and water service.

Recommended FINDING for approval: The subject property currently receives city water and sewer, and the proposed Parcel 2 can be added to city water and sewer without detriment to existing services. The applicant/property owner will be responsible for costs and fees associated with connection to existing city services. Criterion met.

- (f) That proposed public utilities can be extended to accommodate future growth beyond the proposed land division.*

Recommended FINDING for approval: No future land division is proposed. The newly created Parcel 2 can adequately connect to city services without detriment to future growth. Criterion met.

- (g) Stormwater runoff from the proposed land division will not create significant and unreasonable negative impacts on natural drainage courses either on-site or downstream, including, but not limited to, erosion, scouring, turbidity, or transport of sediment due to increased peak flows and velocity.*

Discussion: The City Engineer has reviewed the Tentative Plan and application and found, since the application is only requesting a partition, and there are no physical changes to the drainage area, a partition does not require any drainage improvements, however, when the lot becomes developed with an eventual single family dwelling, a drainage plan and improvements to deal with stormwater run-off may be required. Staff will include this as an informational item.

Recommended FINDING for approval: The proposed partition to create Parcel 2 is not expected to create significant and unreasonable negative impacts on natural drainage courses either on-site or downstream. Stormwater drainage will be revisited by the City Engineer during the building permit process for the eventual placement of a single-family dwelling. Criterion met.

- (h) The proposed land division does not pose a significant and unreasonable risk to public health and safety, including but not limited to fire, slope failure, flood hazard, impaired emergency response or other impacts identified in Section 9.204(u).*

Discussion: The proposed partition to create Parcel 2 is not expected to pose any significant or unreasonable risk to public health and safety. The Lowell Fire Department Fire Chief has received referral comment on this application, and to date, has not issued a comment. The subject property is contained within the City Limits of Lowell and is covered in terms of fire protection by the Lowell Rural Fire Protection District. The subject property is not located near any steep slopes, nor flood hazards.

Recommended FINDING for approval: The proposed partition to create Parcel 2 does not pose any significant or unreasonable risk to public health and safety. Criterion met.

LDC 9.518 Sidewalks. Public sidewalk improvements are required for all land divisions and property development in the City of Lowell. Sidewalks may be deferred by the City where future road or utility improvements will occur and on property in the rural fringe of the City where urban construction standards have not yet occurred. The property owner is obligated to provide sidewalk when requested by the City or is obligated to pay their fair share if sidewalks are installed by the City at a later date. An irrevocable Waiver of Remonstrance shall be recorded with the property to guarantee compliance with this requirement.

Discussion: As per LDC all land divisions in Lowell require public sidewalk improvements to be made. As such, as a result of the proposed partition (which is a division of land) the property owner will be required to install public sidewalks in accordance with Section 9.518. The City currently has several waivers of remonstrance along North Hyland Lane from property owners to install public sidewalks at the City's request. Therefore, the City requires a waiver of remonstrance for the property owner of the newly created Parcel 2 to participate monetarily when the City does install sidewalks along North Hyland Lane.

Recommended FINDING for approval: The creation of Parcel 2 is a land division that requires the installation of public sidewalks. Prior to final plat recording, the property owner shall include a recorded irrevocable Waiver of Remonstrance on the final plat guaranteeing compliance with LDC Section 9.518. Criterion met with the following condition:

Criterion met with the following Condition of Approval #2:

Prior to final plat approval, the property owners shall include an irrevocable Waiver of Remonstrance to be recorded on the final plat guaranteeing compliance with LDC Section 9.518 to participate monetarily, at the City's request to install public sidewalks along the frontage of the newly created Parcel 2.

4. Recommendation

Staff recommends the City Administrator **APPROVE** as conditioned, a partition to create Parcel 2 as shown on the tentative plan.

5. Conditions of Approval

Condition of Approval #1: Prior to issuance of building permits, the property owner shall submit the final plat in accordance with ORS 92.075, and all state and county recording requirements.

Condition of Approval #2: Prior to final plat approval, the property owners shall include an irrevocable Waiver of Remonstrance to be recorded on the final plat guaranteeing compliance with LDC Section 9.518 to participate monetarily, at the City's request to install public sidewalks along the frontage of the newly created Parcel 2.

6. Informational items

- When Parcel 2 becomes developed with an eventual single-family dwelling, a drainage plan and improvements to deal with stormwater run-off may be required for review and approval by the City Engineer.
- As this land use application is only for a proposed partition of a property, no grading will occur as a result of approval. However, if grading is expected to disturb 1 acre or more of land, a National Pollutant Discharge Elimination System (NPDES) permit will be required of the property owner at the time of building permit review. Approval of a partition does not approve any construction activities. Appropriate building permits will have to be submitted, reviewed, and issued before any construction activities, including disturbance of soil, can occur. This will be made an informational item.
- Appropriate permits to perform work within City of Lowell rights-of-way will have to be obtained by the property owner/applicant/contractor before any work in public rights-of-way can be undertaken. For questions related to performing work within City rights of way, please contact the Lowell Public Works department at 541-937-2776.

7. Attachments

Attachment A: Applicant's application

Attachment B: Notice

Attachment C: Correspondence

ATTACHMENT A

Land Use Permit Application

☐ Site Plan Review ☐ Lot Line Adjustment ☒ Partition ☐ Subdivision
☐ Conditional Use ☐ Variance ☐ Map Amendment ☐ Text Amendment
☐ Annexation ☐ Vacation ☐ Other, specify _____

Please complete the following application. If any pertinent required information or material is missing or incomplete, the application will not be considered complete for further processing. If you have any questions about filling out this application, please contact staff at Lowell City Hall, phone (541) 937-2157, 107 East Third, Lowell.

List all Assessor's Map and Tax Lot numbers of the property included in the request.

Map# 19-01-14-21 Lot # 400

Map# _____ Lot # _____

Map# _____ Lot # _____

Street Address (if applicable): 300 N. Hyland Ln., Lowell, OR 97452

Area of Request (square feet/acres): 2.12 Acres

Existing Zoning: R1, Single Family Residential

Existing Use of the Property: Single family residential

Proposed Use of the Property To add another single Family residence via the partition process

Pre-application Conference Held: No ☒ Yes _____ If so, Date _____

Submittal Requirements:

- ☒ 1. Copy of deed showing ownership or purchase contract with property legal description.
- ☒ 2. Site Plan/Tentative Plan with, as a minimum, all required information. Submit one copy of all plans 11x17 or smaller; 12 copies of all plans larger than 11x17. (See attached checklist for required information)
- ☒ 3. Applicant's Statement: Explain the request in as much detail as possible. Provide all information that will help the decision makers evaluate the application, including addressing each of the decision criteria for the requested land use action.
- _____ 4. Other submittals required by the City or provided by the applicant. Please List.
 - a. _____ b. _____
 - c. _____ d. _____
 - e. _____ f. _____
- _____ 5. Filing Fee: Amount Due: _____

By signing, the undersigned certifies that he/she has read and understood the submittal requirements outlined, and that he/she understands that incomplete applications may cause delay in processing the application. I (We), the undersigned, acknowledge that the information supplied in this application is complete and accurate to the best of my (our) knowledge. I (We) also acknowledge that if the total cost to the City to process this application exceeds 125% of the application fee, we will be required to reimburse the City for those additional costs in accordance with Ordinance 228.

PROPERTY OWNER

Name (print): ^{mark} Mark S. Kelly & ^{Kelley} Cheryl A. Kelly ^{OK} Phone: 541-937-3119

Address: P.O. Box 338

City/State/Zip: Lowell, OR 97452

Signature: Mark S. Kelly Cheryl A. Kelly

APPLICANT, if Different

Name (print): same as owner Phone: _____

Company/Organization: _____

Address: _____

City/State/Zip: _____

Signature: _____

E-mail (if applicable): _____

APPLICANTS REPRESENTATIVE, if applicable

Name (print): Lloyd L. Tolbert, L.S. Phone: 541-359-8426

Company/Organization: Tolbert Associates, LLC

Address: P.O. Box 22603

City/State/Zip: Eugene, OR 97402

E-mail (if applicable): lloyd@tolbertassociates.com

For City Use.

Application Number 2019 R04

Date Submitted: 8-12-19 Received by: JD Fee Receipt # 2001728

Date Application Complete: _____ Reviewed by: _____

Date of Hearing: _____ Date of Decision _____ Date of Notice of Decision _____

APPLICATION SITE PLAN REQUIREMENTS CHECKLIST
Lowell Land Development Code, Section 2.140

Applications for land divisions or land use requests that require a site plan shall submit the site plan on 8 1/2 x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Larger drawings may be required for presentation and City review. Drawings shall be drawn to scale. The scale to be used shall be in any multiple of 1 inch equals 10 feet (1" = 20', 1" = 30", 1" = 100', etc.) and may be increased or decreased as necessary to fit the sheet size. The Application and site plan shall show clearly and with full dimensioning the following information, as applicable, for all existing and proposed development. It is understood that some of the requested information may not apply to every application.

- ☒ The names of the owner(s) and applicant, if different.
- ☒ The property address or geographic location and the Assessor Map number and Tax Lot number.
- ☒ The date, scale and northpoint.
- ☒ A vicinity map showing properties within the notification area and roads. An Assessor Map, with all adjacent properties, is adequate.
- ☒ Lot dimensions.
- ☒ The location, size, height and uses for all existing and proposed buildings.
- ☐ Yards, open space and landscaping.
- ☐ Walls and fences: location, height and materials.
- ☐ Off-street parking: location, number of spaces, dimensions of parking area and internal circulation patterns.
- ☒ Access: pedestrian, vehicular, service, points of ingress and egress.
- ☐ Signs: location, size, height and means of illumination.
- ☐ Loading: location, dimension, number of spaces, internal circulation.
- ☐ Lighting: location and general nature, hooding devices.
- ☐ Street dedication and improvements.
- ☐ Special site features including existing and proposed grades and trees, and plantings to be preserved and removed.

- X Water systems, drainage systems, sewage disposal systems and utilities.
 - X Drainage ways, water courses, flood plain and wetlands.
 - The number of people that will occupy the site including family members, employees or customers.
 - The number of generated trips per day from each mode of travel by type: employees, customers, shipping, receiving, etc.
 - Time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.
 - Specifications of the type and extent of emissions, potential hazards or nuisance characteristics generated by the proposed use. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use. Misrepresentation or omission of required data shall be grounds for denial or termination of a Certificate of Occupancy.
- Uses which possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community including, but not limited to; noise, water quality, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference, may require additional safeguards or conditions of use as required by the Planning Commission or City Council.
- All uses shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality, and any other public agency having appropriate regulatory jurisdiction. City approval of a land use application shall be conditional upon evidence being submitted to the City indicating that the proposed activity has been approved by all appropriate regulatory agencies.
- Such other data as may be necessary to permit the deciding authority to make the required findings.

NOTE: Additional information may be required after further review in order to adequately address the required criteria of approval.

**TENTATIVE PARTITION PLAN
FOR
MARK AND CHERYL KELLY
ASSESSOR'S MAP 19-01-14-21, TAX LOT 400**

**CRITERIA CONFORMANCE STATEMENT
GENERAL CRITERIA
August 6, 2019**

This criteria conformance statement was written to accompany the Tentative Partition application for Mark and Cheryl Kelly. The subject property contains 2.1 acres and zoned R-1. The applicant is proposing to divide the property into 2 parcels as shown on the attached Tentative Plan. There is an existing single family residence on Parcel 1 which will remain. Proposed Parcel 2 is currently vacant. Vehicular access for Parcel 1 will be onto N. Hyland Lane via the existing driveway. Vehicular access for Parcel 2 will be via an individual access onto N. Hyland Lane. The owner does not own any contiguous properties.

Sec. 9.221. - Submission requirements.

A land divider shall prepare a tentative plan together with improvement plans and other supplementary material as may be required to indicate the general idea and objectives of the project. The applicant shall submit three copies of the tentative plan and supplementary data to the City at the time of submittal of the application. The City may require additional copies to be submitted before review or hearing.

Three copies of the Tentative plan and supplemental materials are included with the application.

Sec. 9.222. - Form and scale.

The tentative plan shall be clearly and legibly presented on 8½ x 11 inch or 11 x 17 inch black/white reproducible sheets for copying and distribution. Larger drawings may be required for presentation and City review. The scale to be used shall be in multiples of one inch equals ten feet (1" = 20', 1" = 30', 1" = 100', etc.) and may be increased or decreased as necessary to fit the sheet size.

Copies of the Tentative Plan are included on both 8 1/2" x 11" sheets and 1" = 40 sets.

Sec. 9.223. - General information.

The following information shall be provided on all tentative plans:

(a) All information required by ORS 92 for a tentative plan including, but not limited to, the following:

(b) No tentative plan shall be approved which bears a name using a word which is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the

subdivision bearing that name. All plats must continue the lot and block numbers of the plat of the same name last filed. Subdivisions submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.

The application is not for a subdivision; therefore this requirement does not apply.

(c) Date, northpoint, scale of drawing.

The date, north arrow and scale are displayed on the Tentative Plan.

(d) Appropriate identification clearly stating the map is a subdivision or partition tentative plan.

The Tentative Partition Plan is clearly stated on the drawing.

(e) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed subdivision.

The location of the land division by section, township and range is stated on the drawing.

(f) Names and addresses of the owner, applicant and surveyor.

The names and addresses of the owner, applicant and surveyor are stated on the drawing.

(g) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

The approximate acreage of the tract being subdivided or partitioned and the size of proposed lots or parcels are depicted on the drawing.

Sec. 9.224. - Existing conditions information.

(a) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other right-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.

The adjacent right-of-way is depicted on the Tentative Plan.

(b) The location of all existing sewers, septic tanks and drainfields, water lines, storm drains, culverts, ditches and utilities, together with elevational data, on the site and on adjoining property or streets, if applicable.

Parcel 1 is served by public wastewater services in the N. Hyland Lane right-of-way and public water service from the public facility lying easterly from the subject property. Parcel 2 will be connected to public services located within the N. Hyland Lane right-of-way. Elevation data is based on Lane County Benchmark, LCCM 1177, elevation 742.20 (NGVD29) - located at the intersection of Pengra road and Jasper-Lowell road.

(c) The base data used to determine contours shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

restrictions relating to such private streets shall be included in the statements specified in Section 9.226.

There are no proposed streets per this application; therefore this requirement does not apply.

(c) The location, width, and purpose of existing and proposed easements.

Existing easements are either depicted or referenced on the Tentative Plan. A proposed private utility easement across Parcel 2 to serve Parcel 1 for an existing wastewater service is located along the north line of Parcel 2.

(d) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.

Overall acreage and average for the individual parcels are shown on the sit plan.

(e) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where the property division results in any lots or parcels that are larger than 2½ times the minimum lot size, the applicant shall provide a sketch plan showing how the parcels may be re-divided in the future to provide for at least 80 percent of maximum density within current minimum lot sizes, existing site constraints and requirements of this Code.

The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers are depicted on the Tentative Plan.

(f) An outline of the areas proposed for partial recording of a final plat and a time schedule for additional Platting if staged recording is proposed.

No further land divisions are proposed or anticipated.

(g) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.

The proposed wastewater connection for parcel 2 is depicted on the tentative plan. Stormwater will flow in to the existing facility within the N. Hyland Lane right-of-way. Water facilities will connect to the existing system within the N. Hyland Lane right-of-way.

(h) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (retention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).

No connections to drainage channels located outside of the land division are proposed

(i) Identification of all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.

No public dedications including streets, pedestrian or bike ways, parks or open space areas are proposed.

(j) Identification of any requirements for future streets and easements required for extension of public infrastructure beyond the development together with restrictions on building within those future streets and easements as well as future setback areas required by this Code.

No future streets and easements are proposed.

(k) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mail boxes, bus stops, greenways, bike or pedestrian paths.

No special improvements are proposed.

Sec. 9.226. - Accompanying statements.

The tentative plan shall be accompanied by written statements from the applicant giving essential information regarding the following matters:

(a) Identify the adequacy and source of water supply including:

(1) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or

Parcel 1 is currently served and Parcel 2 will connect to the existing public water system within the N. Hyland Lane right-of-way.

(2) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Council.

No public improvements are proposed as a part of this partition.

(b) Identify the proposed method of sewage disposal including:

(1) Certification that a sewage disposal system will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or

A private wastewater connection is available at the northwest corner of proposed Parcel 2 which will be constructed as a part of the building permit process.

(2) A bond, contract or other assurance by the applicant that a sewage disposal system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City.

No public improvements are proposed as a part of this partition.

(c) Protective covenants, conditions and deed restrictions (CC&R'S) to be recorded, if any.

No CC&Rs are proposed.

(d) Identify all proposed public dedications including streets, pedestrian or bike ways, parks or open space areas.

No public dedications are proposed as a part of this partition.

(e) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.

No public improvements are proposed as a part of this partition.

(f) A statement that the declarations required by ORS 92.075 on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.

No public dedications are proposed. The declarations will be executed by the fee owner.

(g) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The deciding authority may require a specific time schedule for approval.

No further land divisions are proposed or anticipated.

Sec. 9.227. - Supplemental information.

Any of the following may be required by the City, in writing to the applicant, to supplement the Tentative Plan.

(a) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.

No public improvements are proposed as a part of this partition.

(b) A detailed plan of the domestic water supply lines and related water service facilities.

No public improvements are proposed as a part of this partition.

(c) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.

No public improvements are proposed as a part of this partition.

(d) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.

No grading is proposed as part of this proposal.

(e) Specifications and details of all proposed improvements.

No public improvements are proposed as a part of this partition.

(f) Wetland delineation if identified as an existing condition in section 9.224(f).

There are no wetlands identified on the subject property.

Sec. 9.228. - Decision criteria.

A Partition Tentative Plan may be approved by the Planning Commission and a Subdivision Tentative Plan may be approved by the City Council. Approval shall be based upon compliance with the submittal requirements specified above and the following findings

(a) That the proposed land division complies with applicable provisions of City Codes and Ordinances, including zoning district standards.

The proposed land division is consistent with applicable provisions of City Codes and Ordinances, including zoning district standards.

(b) Where the proposed land division results in any lots or parcels that are at least two and one half times the allowed minimum lot size, the applicant has demonstrated that all such lots or parcels may be re-divided in the future to at least 80 percent of maximum density possible within current minimum lot sizes, existing site constraints, and requirements of this Code.

No further land divisions are proposed or anticipated.

(c) The applicant has demonstrated that the proposed land division does not preclude development on properties in the vicinity to at least 80 percent of maximum density possible within current minimum lot sizes, existing site conditions and the requirements of this Code.

No further land divisions are proposed or anticipated.

(d) The proposed street plan:

No public improvements are proposed as a part of this partition.

(1) Is in conformance with City standards and with the master road plan or other transportation planning document.

No public improvements are proposed as a part of this partition.

(2) Provides for adequate and safe traffic and pedestrian circulation both internally and in relation to the existing City street system.

No public improvements are proposed as a part of this partition.

(3) Will not preclude the orderly extension of streets and utilities on undeveloped and underdeveloped portions of the subject property or on surrounding properties.

The proposed land division will not preclude the orderly extension of streets and utilities on undeveloped and underdeveloped portions of the subject property or on surrounding properties.

(e) Adequate public facilities and services are available to the site, or if public services and facilities are not presently available, the applicant has demonstrated that the services and facilities will be available prior to need, by providing at least one of the following:

(1) Prior written commitment of public funds by the appropriate public agency.

No public improvements are proposed as a part of this partition.

(2) Prior acceptance by the appropriate public agency of a written commitment by the applicant or other party to provide private services and facilities.

Additional private services will be installed as part of the building permit process.

(3) A written commitment by the applicant or other party to provide for offsetting all added public costs or early commitment of public funds made necessary by development, submitted on a form acceptable to the City.

No public improvements are proposed as a part of this partition.

(f) That proposed public utilities can be extended to accommodate future growth beyond the proposed land division.

No future land divisions are proposed.

(g) Stormwater runoff from the proposed land division will not create significant and unreasonable negative impacts on natural drainage courses either on-site or downstream,

including, but not limited to erosion, scouring, turbidity, or transport of sediment due to increased peak flows and velocity.

Stormwater runoff from the proposed land division will not create significant and unreasonable negative impacts on natural drainage courses either on-site or downstream, including, but not limited to erosion, scouring, turbidity, or transport of sediment due to increased peak flows and velocity.

(h) The proposed land division does not pose a significant and unreasonable risk to public health and safety, including but not limited to fire, slope failure, flood hazard, impaired emergency response or other impacts identified in section 9.204(u).

The proposed land division does not pose a significant and unreasonable risk to public health and safety, including but not limited to fire, slope failure, flood hazard, impaired emergency response or other impacts.



**PUBLIC RECORD REPORT
FOR NEW SUBDIVISION
OR LAND PARTITION**

THIS REPORT IS ISSUED BY THE ABOVE-NAMED COMPANY ("THE COMPANY") FOR THE EXCLUSIVE USE OF THE FOLLOWING CUSTOMER:

Corey Kirkpatrick
Phone No.: (541)915-7680

Date Prepared: May 24, 2019
Effective Date: May 20, 2019 / 05:00 PM
Charge: \$300.00
Order No.: WT0172787
Reference:

The information contained in this report is furnished to the Customer by Western Title & Escrow Company (the "Company") as an information service based on the records and indices maintained by the Company for the county identified below. This report is not title insurance, is not a preliminary title report for title insurance, and is not a commitment for title insurance. No examination has been made of the Company's records, other than as specifically set forth in this report ("the Report"). Liability for any loss arising from errors and/or omissions is limited to the lesser of the fee paid or the actual loss to the Customer, and the Company will have no greater liability by reason of this report. This report is subject to the Definitions, Conditions and Stipulations contained in it.

REPORT

- A. The Land referred to in this report is located in the County of Lane, State of Oregon, and is described as follows:
As fully set forth on Exhibit "A" attached hereto and by this reference made a part hereof.
- B. As of the Effective Date, the tax account and map references pertinent to the Land are as follows:
As fully set forth on Exhibit "B" attached hereto and by this reference made a part hereof.
- C. As of the Effective Date and according to the Public Records, we find title to the land apparently vested in:
As fully set forth on Exhibit "C" attached hereto and by this reference made a part hereof.
- D. As of the Effective Date and according to the Public Records, the Land is subject to the following liens and encumbrances, which are not necessarily shown in the order of priority:
As fully set forth on Exhibit "D" attached hereto and by this reference made a part hereof.

Western Title & Escrow Company
Public Record Report for New Subdivision or Land Partition
Order No. WT0172787

EXHIBIT "A"
(Land Description)

Beginning at the northeast corner of Donation Land Claim No. 63, Township 19 South, Range 1 West of the Willamette Meridian, as monumented by Lane County Department of Public Works in 1974; thence South 89° 57' 45" West 229.97 feet to a 5/8 inch iron rod located at the northeast corner of Lot 94, Meadows Addition to Lowell (vacated) and the TRUE POINT OF BEGINNING; thence along the east line of said Lot 94 South 02° 29' 34" West 149.95 feet to a 5/8 inch iron rod; thence leaving said east line North 89° 50' 19" West 273.32 feet to a 5/8 inch iron rod; thence North 45° 46' 34" West 62.09 feet to a 5/8 inch iron rod; thence South 72° 39' 28" West 49.03 feet to a 5/8 inch iron rod; thence South 59° 00' 11" West 55.85 feet to a 5/8 inch iron rod; thence South 89° 47' 56" West 228.62 feet to a 5/8 inch iron rod located on the east line of Hyland Lane; thence along said east line North 02° 31' 53" East 150.00 feet to the northwest corner of said Lot 94; thence along the north line of said Lot 94 North 89° 59' 27" East 641.00 feet to the TRUE POINT OF BEGINNING, all in the City of Lowell, Lane County, Oregon.

Western Title & Escrow Company
Public Record Report for New Subdivision or Land Partition
Order No. WT0172787

EXHIBIT "B"
(Tax Account and Map)

APN/Parcel ID(s) 1354404 and 4264154 as well as Tax/Map ID(s) 19-01-14-21-00400

Western Title & Escrow Company
Public Record Report for New Subdivision or Land Partition
Order No. WT0172787

EXHIBIT "C"
(Vesting)

Mark S. Kelley and Cheryl A. Kelley, as tenants by the entirety

Western Title & Escrow Company
 Public Record Report for New Subdivision or Land Partition
 Order No. WT0172787

EXHIBIT "D"
(Liens and Encumbrances)

1. Rights of the public to any portion of the Land lying within the boundaries of streets, roads and highways.
2. Easement(s) for the purpose(s) shown below and rights incidental thereto as set forth in a document:
 In favor of: United States of America
 Recording Date: February 21, 1948
 Recording No: 60162, Book 367, Page 313
3. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in instrument,
 Recording Date: October 20, 1980
 Recording No.: 80-52789
4. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in instrument
 Recording Date: April 7, 1993
 Recording No.: 93-20631
5. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in instrument
 Recording Date: July 26, 2006
 Recording No.: 2006-053106

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2018-2019
 Amount: \$938.75
 Levy Code: 07107
 Account No.: 1354404
 Map No.: 19-01-14-21-00400

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year: 2018-2019
 Amount: \$1,743.32
 Levy Code: 07107
 Account No.: 4264154
 Map No.: 19-01-14-21-00400
 (Mobile Home)

Western Title & Escrow Company
 Public Record Report for New Subdivision or Land Partition
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DEFINITIONS, CONDITIONS AND STIPULATIONS

1. **Definitions.** The following terms have the stated meaning when used in this report:
 - (a) "Customer": The person or persons named or shown as the addressee of this report.
 - (b) "Effective Date": The effective date stated in this report.
 - (c) "Land": The land specifically described in this report and improvements affixed thereto which by law constitute real property.
 - (d) "Public Records": Those records which by the laws of the state of Oregon impart constructive notice of matters relating to the Land.
2. **Liability of Company.**
 - (a) This is not a commitment to issue title insurance and does not constitute a policy of title insurance.
 - (b) The liability of the Company for errors or omissions in this public record report is limited to the amount of the charge paid by the Customer, provided, however, that the Company has no liability in the event of no actual loss to the Customer.
 - (c) No costs (including without limitation attorney fees and other expenses) of defense, or prosecution of any action, is afforded to the Customer.
 - (d) In any event, the Company assumes no liability for loss or damage by reason of the following:
 - (1) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records.
 - (2) Any facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
 - (3) Easements, liens or encumbrances, or claims thereof, which are not shown by the Public Records.
 - (4) Discrepancies, encroachments, shortage in area, conflicts in boundary lines or any other facts which a survey would disclose.
 - (5) (i) Unpatented mining claims; (ii) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (iii) water rights or claims or title to water.
 - (6) Any right, title, interest, estate or easement in land beyond the lines of the area specifically described or referred to in this report, or in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
 - (7) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (8) Any governmental police power not excluded by 2(d)(7) above, except to the extent that notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the Public Records at the effective date hereof.
 - (9) Defects, liens, encumbrances, adverse claims or other matters created, suffered, assumed, agreed to or actually known by the Customer.
3. **Report Entire Contract.** Any right or action or right of action that the Customer may have or may bring against the Company arising out of the subject matter of this report must be based on the provisions of this report. No provision or condition of this report can be waived or changed except by a writing signed by an authorized officer of the Company. By accepting this form report, the Customer acknowledges and agrees that the Customer has elected to utilize this form of public record report and accepts the limitation of liability of the Company as set forth herein.
4. **Charge.** The charge for this report does not include supplemental reports, updates or other additional services of the Company.

Western Title & Escrow Company
Public Record Report for New Subdivision or Land Partition
Order No. WT0172787

LIMITATIONS OF LIABILITY

"CUSTOMER" REFERS TO THE RECIPIENT OF THIS REPORT.

CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REQUESTED REPORT, HEREIN "THE REPORT." CUSTOMER RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, CUSTOMER UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REPORT UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. CUSTOMER AGREES WITH THE PROPRIETY OF SUCH LIMITATION AND AGREES TO BE BOUND BY ITS TERMS

THE LIMITATIONS ARE AS FOLLOWS AND THE LIMITATIONS WILL SURVIVE THE CONTRACT:

ONLY MATTERS IDENTIFIED IN THIS REPORT AS THE SUBJECT OF THE REPORT ARE WITHIN ITS SCOPE. ALL OTHER MATTERS ARE OUTSIDE THE SCOPE OF THE REPORT.

CUSTOMER AGREES, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING, INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE OR ANY OTHER THEORY OF RECOVERY, OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT OR ANY OF THE MATERIALS CONTAINED THEREIN OR PRODUCED, **SO THAT THE TOTAL AGGREGATE LIABILITY OF THE COMPANY AND ITS AGENTS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS SHALL NOT IN ANY EVENT EXCEED THE COMPANY'S TOTAL FEE FOR THE REPORT.**

CUSTOMER AGREES THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE THE CUSTOMER IS PAYING, WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO THE CUSTOMER WITHOUT SAID TERM. CUSTOMER RECOGNIZES THAT THE COMPANY WOULD NOT ISSUE THE REPORT BUT FOR THIS CUSTOMER AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THE REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THE REPORT.

THE REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. THE REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THE REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTY AS TO THE REPORT, ASSUMES NO DUTIES TO CUSTOMER, DOES NOT INTEND FOR CUSTOMER TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THE REPORT OR OTHERWISE.

Western Title & Escrow Company
Public Record Report for New Subdivision or Land Partition
Order No. WT0172787

IF CUSTOMER (A) HAS OR WILL HAVE AN INSURABLE INTEREST IN THE SUBJECT REAL PROPERTY, (B) DOES NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND (C) DESIRES THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, THEN CUSTOMER MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES IT HAS AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCT OR SERVICE PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THE REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

CUSTOMER AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

END OF THE LIMITATIONS OF LIABILITY

FORM NO. 723-BARGAIN AND SALE DEED (Individual or Corporate)

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BARGAIN AND SALE DEED and

Grant of Easement

KNOW ALL MEN BY THESE PRESENTS, That Brian Kelley

, hereinafter called grantor,
for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto Mark S. Kelley
and Cheryl A. Kelley, husband and wife
hereinafter called grantees, and unto grantees' heirs, successors and assigns all of that certain real property with the
tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County
of Lane, State of Oregon, described as follows, to-wit:

The purpose of this survey is to adjust the line between the two parcels created by the partition approved by the city of Lowell on June 7, 1979, and by two deeds recorded by the Lane County Recorder on Reel 1100, No. 3052789 and Reel 1714, No. 9140466. This survey is based on the aforementioned deeds and surveys of record as referenced hereon. The position for the northwest corner of Crook Addition to Lowell, determined as shown hereon, along with the northeast corner of lot 94, were used to control the location of the easterly line of this survey. The location of the southerly line of parcel 2 was made parallel to First Street and 300 feet northerly, as measured along Highland Lane, from the southwest corner of lot 94. The location of the northerly and westerly lines of this survey was determined by the recovered monuments as shown.

(Over)

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantees' heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 1620.00.
However, the actual consideration consists of or includes other property or value given or promised which is
the whole consideration (indicate which) (The sentence between the symbols @, if not applicable, should be deleted. See ORE-93-930.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 7 day of April, 1993
if a corporate grantor, it has caused its name to be signed and its seal affixed by an officer or other person duly authorized to do so by order of its board of directors.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT. THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Brian Lee Kelley
Mark S. Kelley

STATE OF OREGON, County of LaneThis instrument was acknowledged before me on April 7, 1993.by Brian Lee Kelley and Mark S. KelleyThis instrument was acknowledged before me on April 7, 1993.by Mark S. Kelleyof Mark S. Kelley

Brian Lee Kelley
230 Highland Lane, Lowell, OR
97142

Mark S. Kelley
P.O. Box 338, Lowell, OR
97142

Cheryl A. Kelley
P.O. Box 338, Lowell, OR
97142

Mark and Cheryl Kelley
P.O. Box 338, Lowell, OR
97142

Mark and Cheryl Kelley
P.O. Box 338, Lowell, OR
97142

Mark and Cheryl Kelley
P.O. Box 338, Lowell, OR
97142

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P.O. Box 338, Lowell, OR
97142

Mark and Cheryl Kelley
P.O. Box 338, Lowell, OR
97142

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P.O. Box 338, Lowell, OR
97142

Mark and Cheryl Kelley
P.O. Box 338, Lowell, OR
97142

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON,

County of Lane

I certify that the within instrument was received for record on the
day of April, 1993.

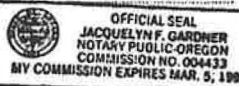
at 10 o'clock AM of the day
in book/reel/volume 10 of 10 on
page 10 fee/tile/instrument/micro reception No. 10

Record' Deeds of said County.

Witness my hand and seal of
my office.

NAME TITLE

By Mark S. Kelley Deputy



9320631

The North 100.0 FEET, as measured along the westerly line, of Lot 94, MEADOWS ADDITION TO LOWELL, as platted and recorded in Book 4, Page 56, Lane County Oregon Plat Records in Lane County, Oregon, Now becomes 150.0 feet.

Together with the following perpetual, appurtenant, non-exclusive easements over real property retained by the grantor:

1) Easement for the purpose of ingress and egress as described in that certain Easement granted the United States of America by instrument recorded February 21, 1948 in Book 367, page 313 and assigned to the City of Lowell by instrument recorded May 20, 1957, Clerk's File No. 13184, Lane County Oregon Deed Records.

2) Easement for domestic and Garden water use over the existing water pipeline running from the existing water tower on property of the Grantor to the property herein conveyed to the Grantee.

... When or if Brian Kelley sells property, the road easement becomes non-existent. ...

9320631

State of Oregon,
County of Lane--ss.
I, the County Clerk, in and for the said
County, do hereby certify that the within
instrument was received for record at

7 APR 93 9:17

1838R

Ret

Lane County OFFICIAL RECORD-
Lane County Clerk

By





ATTACHMENT B
CITY OF LOWELL
NOTICE OF PUBLIC HEARING
Mailing Date OCTOBER 1, 2019

Notice is hereby given for a Public Hearing by the Lowell Planning Commission for a **Partition** of a property located at 19-01-14-21 Tax Lot 400; Address: 300 North Hyland.

The Hearing will occur on November 6, 2019 at 7:00 pm in the Maggie Osgood Library at 70 North Pioneer Street in Lowell, Oregon.

Requested Action: Partition of the subject property at create one additional parcel (creation of Parcel #2)

Owner/Applicant: Mark and Cheryl Kelley
Applicant's Representative: Lloyd Tolbert, L.S.
Property Location: 300 North Hyland, Lowell, Oregon, 97452
Assessor Map: 19-01-14-21
Tax Lot: 400
Existing Area: 2.12 acres
Existing Zone: R-1, Single Family Residential

The Lowell Land Use Development Code specifies the applicable procedures and criteria for evaluation of the requested action. Applicable Code Sections include: **Section 9.223 General Information**, **Section 9.220 Subdivision or Partition Tentative Plan**, and **Section 9.228 Decision Criteria**. The specific criteria will be addressed in the Staff Report. See map on reverse.

A copy of the Application, all documents and evidence relied upon by the Applicant and the Staff Report containing the applicable criteria will be available for inspection at the Lowell City Hall at least seven days prior to the public hearing meeting.

Failure of an issue to be raised in the Hearing or by letter, or failure to provide sufficient detail to afford the decision makers an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) on that issue.

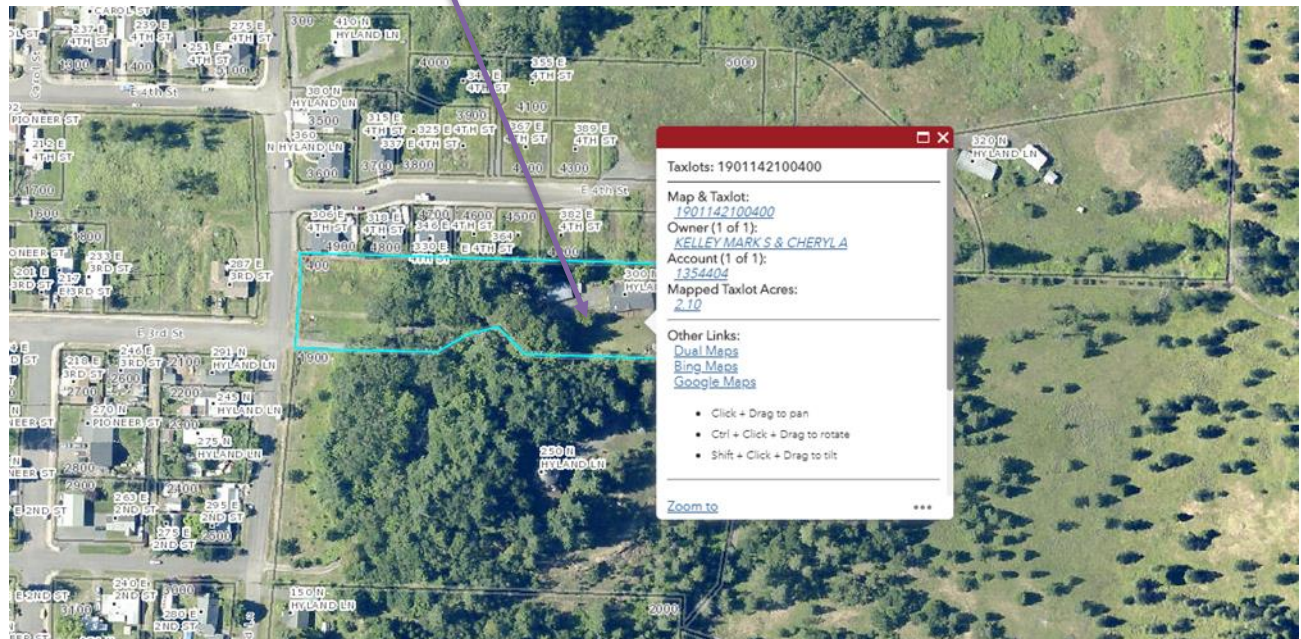
A Partition requires a Public Hearing. Oral testimony may be presented at the Hearing or written testimony may be delivered or mailed to the Lowell City Hall located at 107 East Third Street, Lowell, Oregon 97452 or emailed to Jared Cobb, City Administrator, at jcobb@ci.lowell.or.us. Or to Henry Hearley, Lane Council of Governments, 859 Willamette Street, Suite 500, Eugene, OR, 97401, hhearley@lcog.org 541-682-3089.

Written Testimony shall be received by the City no later than 4:00 pm on November 6, 2019.

For additional information please write to City Hall at the above address or call City Hall at (541) 937-2157 or fax to 541-937-2066, or to Henry Hearley at the address listed in this notice.

**Henry Hearley
LCOG
hhearley@lcog.org
541-682-3089**

Subject Property



ATTACHMENT C

HEARLEY Henry O

From: STANKA Danielle E <Danielle.STANKA@co.lane.or.us>
Sent: October 1, 2019 3:51 PM
To: HEARLEY Henry O
Cc: COBB Jared; VARTANIAN Sasha
Subject: RE: Referral notice for Partition in Lowell Oregon

Henry,

Thank you for the application notice. Lane County Transportation Planning does not have any comments for the record.

Danielle Stanka

From: HEARLEY Henry O [mailto:HHEARLEY@Lcog.org]
Sent: Tuesday, October 1, 2019 3:32 PM
To: ODOTR2PLANMGR@odot.state.or.us; Lon Dragt (dragt2300@gmail.com) <dragt2300@gmail.com>; VARTANIAN Sasha L <Sasha.VARTANIAN@co.lane.or.us>; STANKA Danielle E <Danielle.STANKA@co.lane.or.us>
Cc: COBB Jared <jcobb@ci.lowell.or.us>
Subject: Referral notice for Partition in Lowell Oregon
Importance: High

[EXTERNAL 

Please see attached application and notice for a proposed partition in Lowell, Oregon.
Please let me know if you have any comments for the record.

Respectfully,

Henry
Lane Council of Governments

HEARLEY Henry O

From: Matt Wadlington <mwadlington@civilwest.net>
Sent: October 18, 2019 8:10 AM
To: TOLBERT LLOYD (LCOG List); HEARLEY Henry O
Cc: COBB Jared; 'Max Baker'
Subject: RE: Review of proposed partition

Lloyd,

I'd be even more concerned if there is water running along the back of the curb. That's a good way to undermine the curb and the street.

That being said, since this is just a lot split, and there aren't any associated physical changes to the drainage area, I don't see that the lot split would require any drainage improvements. When the new lot gets developed, we'll re-visit the drainage.

--

Matt Wadlington, PE, Principal
 Willamette Valley Regional Manager
 d 541.982.4373 | c 520.444.4220



Civil West Engineering Services, Inc.
 213 Water Ave. NW, Suite 100, Albany, OR 97322
 p 541.223.5130
www.civilwest.com

From: lloyd@tolbertassociates.com <lloyd@tolbertassociates.com>
Sent: Thursday, October 17, 2019 11:09 AM
To: Matt Wadlington <mwadlington@civilwest.net>; 'HEARLEY Henry O' <HHEARLEY@Lcog.org>
Cc: 'COBB Jared' <jcobb@ci.lowell.or.us>; 'Max Baker' <mbaker@ci.lowell.or.us>
Subject: RE: Review of proposed partition

Matt,

I tried to get a screen shot for you, but That must be the only road on the planet that Google maps didn't drive down 😊 That being said I will shoot from the hip:

I don't believe there is a significant runoff from the hillside on Parcel 2. The ground seems to absorb the water. There is a cutout for a future sidewalk between the toe of the slope and the back of the existing curbline. If any water was to come off the slope it would stop at the back of the curb and run southerly to the existing ditch which begins south of the existing driveway to Parcel 1.

Is that clear as mud or does it help? If you are going to condition any improvements I think a site visit might help.

Sincerely,

Lloyd

Lloyd L. Tolbert, L.S.
Tolbert Associates, LLC
P.O. Box 22603
Eugene, Oregon 97402
541-359-8426
www.tolbertassociates.com

🌐 Think green. Please consider the environment before printing this email.

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From: Matt Wadlington <mwadlington@civilwest.net>
Sent: Thursday, October 17, 2019 10:07 AM
To: lloyd@tolbertassociates.com; 'HEARLEY Henry O' <HHEARLEY@Lcog.org>
Cc: 'COBB Jared' <jcobb@ci.lowell.or.us>; 'Max Baker' <mbaker@ci.lowell.or.us>
Subject: RE: Review of proposed partition

Lloyd,

I admit, I have not walked that site since the application was made. Based on a quick review of the aerial photos, it appeared that there was a swale along the east side of the road, which is why the comment was made. If there's not a swale, how is the runoff from the hillside currently handled? Does it just flow onto, and across the road?

Thanks,

--

Matt Wadlington, PE, Principal
Willamette Valley Regional Manager
d 541.982.4373 | c 520.444.4220



Civil West Engineering Services, Inc.
213 Water Ave. NW, Suite 100, Albany, OR 97322
p 541.223.5130
www.civilwest.com

From: lloyd@tolbertassociates.com <lloyd@tolbertassociates.com>
Sent: Wednesday, October 16, 2019 2:08 PM
To: 'HEARLEY Henry O' <HHEARLEY@Lcog.org>
Cc: Matt Wadlington <mwadlington@civilwest.net>; 'COBB Jared' <jcobb@ci.lowell.or.us>; 'Max Baker' <mbaker@ci.lowell.or.us>
Subject: RE: Review of proposed partition

Henry & Matt,

I am not sure why a culvert would be conditioned for the newly created driveway for Parcel 2. There isn't a ditch easterly from and adjacent to the existing curb line.

Sincerely,

Lloyd

Lloyd L. Tolbert, L.S.
 Tolbert Associates, LLC
 P.O. Box 22603
 Eugene, Oregon 97402
 541-359-8426
www.tolbertassociates.com

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From: HEARLEY Henry O <HHEARLEY@Lcog.org>
Sent: Wednesday, October 16, 2019 10:42 AM
To: TOLBERT LLOYD (LCOG List) <lloyd@tolbertassociates.com>
Cc: Matt Wadlington <mwadlington@civilwest.net>; COBB Jared <jcobb@ci.lowell.or.us>; Max Baker <mbaker@ci.lowell.or.us>
Subject: FW: Review of proposed partition

Dear Lloyd,

Please see Matt's comment below. We'll be adding the drainage culvert as a condition of approval. The requirement of sidewalks is being discussed, but most likely they'll be required or the property owner to sign a waiver of non-remonstrance for future improvements.

Henry

From: Matt Wadlington <mwadlington@civilwest.net>
Sent: September 30, 2019 4:07 PM
To: HEARLEY Henry O <HHEARLEY@Lcog.org>
Cc: CALLISTER Jacob (LCOG) <jcallister@lhog.org>; WALTERS Denise <DWALTERS@lhog.org>; COBB Jared

<jcobb@ci.lowell.or.us>; Max Baker <mbaker@ci.lowell.or.us>

Subject: RE: Review of proposed partition

Hi Henry,

For a single lot split resulting in a 0.5 acre lot, I'm not concerned about additional stormwater runoff.

It looks like access to the new lot will be directly from Hyland Lane. The new driveway will have to provide a drainage culvert along the side of the road.

Will a sidewalk be required on the street frontage of the new lot #2?

--

Matt Wadlington, PE, Principal
Willamette Valley Regional Manager
 d 541.982.4373 | c 520.444.4220



Civil West Engineering Services, Inc.
 213 Water Ave. NW, Suite 100, Albany, OR 97322
 p 541.223.5130
www.civilwest.com

From: HEARLEY Henry O <HHEARLEY@Lcog.org>

Sent: Monday, September 30, 2019 3:42 PM

To: Matt Wadlington <mwadlington@civilwest.net>

Cc: CALLISTER Jacob (LCOG) <jcallister@lcog.org>; WALTERS Denise <DWALTERS@lcog.org>; COBB Jared <jcobb@ci.lowell.or.us>; Max Baker <mbaker@ci.lowell.or.us>

Subject: Review of proposed partition

Importance: High

Hi Matt,

Passing along a copy of a partition request received by the City on August 13 (got lost in the shuffle at the City). Just asking for your quick review to see if you have any questions or concerns before I reach out to the applicant's surveyor. Particularly, do you have any concerns regarding stormwater run-off? The Code states the City will approve a development only where adequate provisions for storm and flood water run-off have been made as determined by the City.

While I plan to look at this more in depth tomorrow, I didn't notice any proposed access to parcel 2, so I will be asking the surveyor for a clarification on that.

Thanks, and let me know if you need anything else. We'll do what we can to request additional information from the applicant's representative given the timeline this application is on.

Henry

**AGREEMENT
WAIVING OF RIGHT OF REMONSTRANCE
FOR PUBLIC IMPROVEMENTS**

THIS AGREEMENT AND WAIVER is between the City of Lowell ("Lowell") and _____ ("Owner") and is entered into this ____ day of _____, 20____.

Owner, _____, being the legal fee simple owner(s) of the Real Property hereinafter described and desiring to construct a building upon, or otherwise improve said property, does (do) hereby agree that said Real Property shall be counted in favor of any public improvements, including streets, sidewalks, and drainage, planned by or on behalf of the City of Lowell and designed to serve this property. Further, Owner agree(s) not to remonstrate against the public improvements and the assessment of Real Property for its proportionate share of the cost thereof.

It is understood that the public improvements may be made using a variety of different financing mechanisms. For instance, Lowell City Council, in its discretion, may initiate, or cause to be initiated, a Local Improvement District (LID) providing for the construction of public improvements at such time as a majority of the owners of property in this area either sign waivers similar to this one, or petition the City for such an improvement, or at such time that it is determined that street improvements are required for the health and safety of the public. Owner hereby waives any remonstrance against an LID formation or other associated assessments of Real Property for public improvements.

It is hereby intended that this Agreement and Waiver shall be binding on Owner and all subsequent owners of the hereinafter described Real Property, as well as any of the aforesaid heirs, successors, assignees, or purchasers of the hereinafter described property, and shall burden and run with the title to said property.

In the event any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its cost and reasonable attorney fees.

The City shall cause this Agreement and Waiver to be recorded in the Deeds Records of LANE COUNTY. Owner shall reimburse City for all recording costs within 10 days of notice of such costs.

The Real Property subject to this Agreement and Waiver of Remonstrance is particularly described as follows, to-wit:

City of Lowell

Owner(s)

Jared Cobb
City Administrator

STATE OF OREGON)
) ss.
COUNTY OF LANE)

This instrument was acknowledged before me on _____ day of _____,
20_____, by _____, Owner.

Notary Public for the State of Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss.
COUNTY OF LANE)

This instrument was acknowledged before me on _____ day of _____,
20_____, by Jared Cobb, as City Administrator of the City of Lowell.

Notary Public for the State of Oregon
My Commission Expires: _____