Staff Report

Land Division – Tentative Partition Plat

PA-04-20

June 17, 2020

Application Information

Proposal: Tentative Partition Plat to divide one parcel into two parcels
Review Body: Staff (Type I-L review)
Property Owner/Applicant: Albany Area Habitat for Humanity
PO Box 2400, Albany, Oregon 97321
Representative: Jason Cota, K&D Engineering
PO Box 725, Albany, Oregon 97321
Address/Location: 1600 Marion Street SE
Map/Tax Lot: Linn Tax Assessor's Map No(s): 11S-03W-07CA; Tax Lot 6200
Zoning: Medium Density Residential (RM) District
Existing Land Use: Vacant
Parcel Size: 0.21 acres
Neighborhood: Jackson Hill
Surrounding Zoning: North: Residential Medium Density (RM)
East: RM
South: RM
West: RM
Surrounding Uses: North: Single-Family Residence
East: Single-Family Residence
South: Single-Family Residence
West: Single-Family Residence
Prior History: Prior land use history could not be located.

Summary

A Tentative Partition Plat is proposed for the property addressed 1600 Marion Street SE and identified as Linn County Tax Assessor's Map No. 11S-03W-07CA; Tax Lot 6200. The property is located on the west side of Marion Street between Queen Avenue and 15th Avenue. The proposal will divide a 0.21-acre (9,186 square feet) parcel of land into two parcels. As shown on the applicant’s Tentative Partition Plat (Attachment B.1),

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Parcel One will be 3,864 square feet and Parcel Two will be 5,322 square feet. Each parcel will be developed with a single-family home.

Land Division criteria contained in Albany Development Code (ADC) 11.180 and 11.090 are addressed in this report. The criteria must be met to grant approval of the application.

**Staff Decision**
The tentative partition plat application referenced above is **APPROVED with CONDITIONS** as described in this staff report.

**Notice Information**
A Notice of Filing was mailed to property owners identified within 100 feet of the subject properties on June 1, 2020, in accordance with ADC 1.330. At the time the comment period ended on June 15, 2020, the Albany Planning Division received no written comments.

**Analysis of Development Code Criteria**
The ADC includes the following review criteria for a Tentative Plat (ADC 11.180), which must be met for these applications to be approved. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

**Tentative Plat Review Criteria**

**Criterion 1**
The proposal meets the development standards of the underlying zoning district, and applicable lot and block standards of this section.

**Findings of Fact**

1.1 A Tentative Partition Plat to divide one parcel into two parcels is proposed for the property addressed 1600 Marion Street SE and identified as Linn County Tax Assessor's Map No. 11S-03W-07CA; Tax Lot 6200 (Attachment A).

1.2 The subject lot is located in the Residential Medium Density (RM) zoning district. The RM district is intended primarily for medium- to high-density urban residential development. Development may not exceed 25 units per gross acre.

1.3 The proposal will divide a 0.21-acre (9,186 square feet) parcel into two parcels. As proposed, Parcel One will be 3,864 square feet and Parcel Two will be 5,322 square feet. As proposed, Parcel Two will be a flag lot. Both parcels will utilize a shared access along the south side of the parcels.

1.4 The minimum lot size in the RM zone for a single-family, detached structure is 3,500 square feet. Minimum lot size for a duplex is 4,800 square feet. Therefore, both parcels meet the minimum lot size for a single-family detached structure as proposed.

1.5 The minimum lot width for the RM zone is 30 feet for detached units and 20 feet for attached units. The minimum lot depth is 60 feet. Parcel One has a minimum width of 38 feet and a minimum depth
of 95.4 feet. Parcel Two has a width of 50 feet and a minimum depth of 84 feet. Therefore, as proposed all lots meet the minimum lot width and depth requirements.

1.6 The minimum front setback in the RM zone is 15 feet. Because Parcel Two is a flag lot, future development must only meet the interior setback standard. The RM zone requires a minimum interior setback of three feet for single-story structures and a minimum of five feet for two or more stories. Both parcels are vacant. The applicant submitted a site plan (Attachment B.2) that demonstrates the proposed parcels accommodate future development of a single-family residence and meet all applicable setback standards.

1.7 Maximum lot coverage in the RM zone is 70 percent. Conformance with lot coverage standards will be assessed at time of building permit.

1.8 Lot and block standards of ADC 11.090 are listed below, along with findings related to each standard.

1.9 ADC 11.090(1) states that “lot arrangement must be such that there will be no foreseeable difficulties, for reason of topography or other condition, in securing building permits to build on all lots in compliance with the requirements of this Code with the exception of lots designated Open Space.” The properties are mostly flat and do not contain other environmental impediments that would create difficulties in securing building permits. The Tentative Partition Plat demonstrates the lots can accommodate residential buildings.

1.10 ADC 11.090(2) states that “lot dimensions must comply with the minimum standards of this Code. When lots are more than double the minimum area designated by the zoning district, those lots must be arranged so as to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. An urban conversion plan may be required in conjunction with submittal of tentative subdivision or partition plat.” As discussed above, the proposed lot dimensions comply with the minimum standards of this Code. Likewise, the proposed lots are less than double the minimum lot area of the RM zoning district. Therefore, an urban conversion plan is not required.

1.11 ADC 11.090(3) regards standards related to double frontage lots and access to arterial streets. The proposal does not create double frontage lots and none of the lots are served by an arterial street. This standard is not applicable.

1.12 ADC 11.090(4) states that side yards of a lot shall run at right angles to the street the property faces. The side yards of the proposed lots run at a right angle to Marion Street. This standard is met.

1.13 ADC 11.090(5) relates to block dimensions associated with the construction of new streets. The partition will result in two lots that utilize an existing street. Likewise, the partition will not alter the existing block dimension. Therefore, this standard is not applicable.

1.14 ADC 11.090(6) relates to pedestrian and bicycle access where a public street connection is not feasible. Both parcels will be connected to, and have frontage on, a public street. Therefore, this standard is not applicable.

1.15 ADC 11.090(7) relates to the minimum distance between arterial street intersections. The proposed partition will not result in new streets, including arterial streets. Therefore, this standard is not applicable.
1.16 ADC 11.090(8) relates to street frontage along a cul-de-sac. None of the parcels have frontage along a cul-de-sac. Therefore, this standard is not applicable.

1.17 ADC 11.090(9) states that flag lots are allowed only when absolutely necessary to provide adequate access to buildable sites and only where the dedication and improvement of a public street is determined by the City Engineer to be not feasible or not practical. The parcel has 52 feet and 6 inches of street frontage. Therefore, two parcels with a minimum lot width of 30 feet each cannot be accommodated along the street frontage. Therefore, a flag is necessary to meet minimum lot width requirements and access the back (e.g. west side) of the property. A public street is not feasible in this location and Albany’s Transportation System Plan (TSP) does not identify a future public street in this location. Therefore, this standard is met.

1.18 ADC 11.090(9) requires the access stem of a flag lot to have a minimum width of 22 feet, except when access is shared by an access and maintenance agreement in which case each lot shall have a minimum width of 12 feet and a combined width of 24 feet. The proposed lots utilize a shared access that is 24 feet in width. This standard is met.

1.19 ADC 11.090(10) relates to the construction of street intersections. No new streets are proposed or required. Therefore, this standard is not applicable.

Conclusions
1.1 No new streets are proposed or required.
1.2 A flag lot is absolutely necessary to access a developable lot at the rear of the property. The shared access meets the dimensional requirements.
1.3 The proposal meets the underlying development and lot and block standards of the RM zoning district.
1.4 This criterion is met without conditions.

Criterion 2
Development of any remainder of property under the same ownership can be accomplished in accordance with this Code.

Findings of Fact
2.1 The subject property is owned by Albany Area Habitat for Humanity in its entirety. There is no other remainder of property under the same ownership to consider with this application.

Conclusions
2.1 The site is currently owned by a single property owner. There is no other remainder of property under the same ownership to consider with this application.
2.2 This criterion is met without conditions.

Criterion 3
Adjoining land can be developed or is provided access that will allow its development in accordance with this Code.
Findings of Fact
3.1 This review criterion has been interpreted by the City Council to require only that adjoining land either have access, or be provided access, to public streets.

3.2 ADC 12.060 requires that development must have frontage on, or approved access to, a public street currently open to traffic. As shown on Attachment B.1, both parcels will have access to, and frontage along, a public street currently open to traffic.

3.3 Adjoining properties have access to public streets through the existing transportation system and the proposed partition does not remove that access.

Conclusions
3.1 The subject property has adequate access to and from the existing street system.

3.2 Adjoining lands currently have direct access to public streets and the proposed partition will not impact that access.

3.3 This criterion is met without conditions.

Criterion 4
The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.

Findings of Fact
4.1 The development will divide a 9,186 square-foot parcel of land into two parcels. Both parcels have access to a public street.

4.2 The development is located on the west side of Marion Street between 15th Avenue and Queen Avenue.

4.3 Marion Street is classified as a major collector and is fully constructed to City standards with curb, gutter, and sidewalk across the site’s frontage. The site has an existing driveway approach located on the north side of the site’s frontage on Marion Street.

4.4 The development will create a shared access located on the south side of the development’s frontage on Marion Street. Construction of a new driveway approach will be needed at that location. The existing driveway to the north will not be utilized by the development and will need to be removed and replaced with standard curb, gutter, and sidewalk.

4.5 ADC 12.090 discourages creating access easements between property owners unless it is the only viable way to provide access to a developable lot. Due to the configuration of the lot, a shared access is necessary to provide access. A shared access and maintenance agreement benefitting both parcels shall be recorded over the shared portion of the access.

4.6 ADC 12.100(1) requires driveway approaches to public streets be paved and that shared driveways must be paved for the full length of the shared portion. Therefore, the shared portion of the driveway shall be paved in accordance the City’s Standard Construction Specifications.

4.7 The zoning on the site allows for multifamily residential development. The proposed partition will not result in an increase in the potential intensity of development and associated transportation impact that can occur on the site.
4.8 Albany’s TSP does not identify any level of service or congestion issues adjacent to the proposed development.

Conclusions
4.1 The proposed partition will not result in an increase in the intensity of development that can occur on the site or its resulting impact on the transportation system.
4.2 Albany’s TSP does not identify any level of service or congestion issues adjacent to the proposed development.
4.3 The development has frontage on an existing street constructed to City standards.
4.4 The site will need to construct a new driveway to Marion Street and replace the site’s existing driveway with standard curb, gutter, and sidewalk.
4.5 The development utilizes a shared access.
4.6 The criterion is met with the following conditions.

Conditions
Condition 1 Prior to recordation of the final plat map the applicant shall construct, or financially assure the removal of the site’s existing driveway approach to Marion Street and its replacement with standard curb, gutter, and sidewalk.
Condition 2 Prior to recordation of the final plat map the applicant shall construct, or financially assure the construction of a shared driveway and approach at the location shown on the tentative site plan. The driveway must be paved for the entire length that is shared by Parcels One and Two. The driveway must be at least 20 feet wide.
Condition 3 Prior to recordation of the final plat map, a shared access and maintenance agreement benefitting both parcels shall be recorded over the shared portion of the access. Alternatively, these easements/agreements may be depicted and granted on the final partition plat.
Condition 4 Prior to recordation of the final plat map, the property owner/developer shall record provision of an emergency vehicle access easement over the shared driveway on both parcels. The easement and driveway shall be maintained by the owners and shall be for purposes of ingress and egress to provide, without limitation, fire protection, ambulances and rescue services, and other lawful government or private emergency services to the premises, owners, occupants, and invitees. Alternatively, these easements/agreements may be depicted and granted on the final partition plat.
Condition 5 To ensure fire access is maintained at all times to structures built on Parcel Two, before the City will approve issuance of a building permit for this parcel, the applicant must provide the building official with evidence that the following will occur before construction materials are brought onto the site.
(a) The approved fire apparatus roadway must be paved from the new driveway approach on Marion Street to the total length of the shared portion. Beyond that distance the fire marshal may approve an alternate surface material. The fire apparatus access road must be constructed to be capable of supporting at least 75,000 pounds gross vehicle weight (GVW) as verified by a qualified State of Oregon licensed design professional.
The Designer of Record shall provide written certification to the fire department upon completion of the private access road.

(b) A “no-parking” restriction must be placed over the 20-foot-wide shared driveway and any additional areas on the property the fire marshal determines must be restricted for fire apparatus access. Alternatively, this restriction may be depicted and granted on the final partition plat.

**Criterion 5**
The location and design allow development to be conveniently served by various public utilities.

**Findings of Fact**

*Sanitary Sewer*

5.1 City utility maps show an eight-inch public sanitary sewer main along the rear (west) boundary of the subject property. A previous residence on the site was connected to the public sanitary sewer system. There is one existing sewer service lateral to the subject property.

5.2 Because the existing public sewer main is along the subject property’s west boundary, Parcel One will not have direct access to the sewer main. The applicant’s proposal shows the existing lateral to the property being used to serve Parcel One, and a new sewer lateral being installed to serve Parcel Two.

5.3 Each separate lot must have its own distinct sewer service lateral. If a private-lateral crosses an adjacent property a private utility easement must be granted to allow access for maintenance on the lateral.

5.4 Installation of the new sewer service lateral for Parcel Two may be deferred until development on the parcel occurs.

*Water*

5.5 City utility maps show a 24-inch public water main in Marion Street. A previous residence on the site was connected to the public water system. There is one existing water service to the subject property.

5.6 ADC 12.410 requires all new development to extend and/or connect to the public water system if the property is within 150 feet of an adequate public main.

5.7 Each separate lot must have its own distinct water service. The applicant’s proposal shows Parcel One being served by the existing water service to the site and Parcel Two being served by a new service located along the frontage (“flagpole”) of the parcel.

5.8 Installation of the new water service for Parcel Two may be deferred until development on the parcel occurs.

*Storm Drainage*

5.9 City utility maps show a 12-inch public storm drainage main in Marion Street.

5.10 It is the property owner’s responsibility to ensure that any proposed grading, fill, excavation, or other site work does not negatively impact drainage patterns to, or from, adjacent properties. In some situations, the applicant may propose private drainage systems to address potential negative impacts to surrounding properties. Private drainage systems that include piping will require the applicant to obtain a plumbing permit from the Building Division prior to construction. Private drainage systems crossing multiple lots will require reciprocal use and maintenance easements and must be shown on the final
plat. In addition, any proposed drainage systems must be shown on the construction drawings. The type of private drainage system, as well as the location and method of connection to the public system must be reviewed and approved by the City of Albany's Engineering Division.

5.11 ADC 12.530 states that a development will be approved only where adequate provisions for storm and flood water run-off have been made, as determined by the City Engineer. Roof drains shall be discharged to a collection system approved by the City Engineer and/or the Building Official. Also, no stormwater may be discharged to the public sanitary sewer system.

5.12 Roof drainage from single-family houses on improved streets typically are connected to the adjacent street gutter through the curb. It is unclear whether the grade of the site will allow a house on Parcel Two to drain roof runoff to the curb along Marion Street by gravity. When development occurs on Parcel Two the developer must show how roof drainage will be accommodated without impacting neighboring properties.

5.13 AMC 12.45.030 requires that a post-construction stormwater quality permit shall be obtained for all new development and/or redevelopment projects on a parcel(s) equal to or greater than one acre, including all phases of the development. (Ord. 5841 § 3, 2014).

**Storm Water Quality**

5.14 According to AMC 12.45.030, a post-construction stormwater quality permit shall be obtained for all new development and/or redevelopment projects on a parcel(s) equal to or greater than one acre, including all phases of the development. (Ord. 5841 § 3, 2014).

5.15 The subject property is less than one acre in size. Because the site is smaller than one acre, a stormwater quality permit will not be required for this project.

**Conclusions**

5.1 City utilities (sanitary sewer, water, and storm drainage) are available and adequate to serve the subject property.

5.2 According to the applicant's submittal Parcel One will be served by the existing sewer lateral and water service on the site. Upon development of Parcel Two, the developer must have new and separate utility services installed to serve Parcel Two.

5.3 No post-construction stormwater quality facilities will be required for the proposed development.

5.4 Private utility easements must be provided over any private utility that crosses an adjacent property. Based on the applicant's submittal, a private utility easement will be required over the sewer service that will cross Parcel Two to serve Parcel One.

5.5 This Criterion is met with the following conditions.

**Conditions**

**Condition 6** Before the City will approve the final partition plat, the applicant must provide private utility easements where proposed private utility lines will cross an adjacent property. Alternatively, these easements may be depicted and granted on the final partition plat.

**Criterion 6** Activities and developments within special purpose districts must comply with the regulations described in Articles 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable.
Findings of Fact

6.1  Article 4: Airport Approach. Figure 4-1 of ADC Article 4 shows that the subject property is not located in the Airport Approach District.

6.2  Article 6 Steep Slopes, Comprehensive Plan Plate 7: According to Plate 7 of the Comprehensive Plan, the subject property is not located in the Hillside Development district.

6.3  Article 6 Floodplains, Comprehensive Plan Plate 5: FEMA/FIRM Community Panel No. 41043C0213H dated December 8, 2016, shows that the entirety of the subject property is located outside the 100-year floodplain.

6.4  Article 6 Wetlands, Comprehensive Plan Plate 6: does not show any wetlands on the subject site. The National Wetlands Inventory Map does not show wetlands on the subject site.

6.5  Article 6: The subject property is not located in the Willamette River Greenway, Open Space Zoning, Riparian or Habitat overlay district.

6.6  Article 7 Historic Districts, Comprehensive Plan Plate 9: shows the subject property is not in a historic district. There are no known archaeological sites on the property.

Conclusions

6.1  The site is not located in a special purpose district.

6.2  This criterion is not applicable.

Overall Conclusion

As proposed and conditioned, the application for a Tentative Partition Plat for a two-lot partition satisfies all applicable review criteria as outlined in this report.

Conditions of Approval

Condition 1  Prior to recordation of the final plat map the applicant shall construct, or financially assure the removal of the site’s existing driveway approach to Marion Street and its replacement with standard curb, gutter, and sidewalk.

Condition 2  Prior to recordation of the final plat map the applicant shall construct, or financially assure the construction of a shared driveway and approach at the location shown on the tentative site plan. The driveway must be paved for the entire length that is shared by Parcels One and Two. The driveway must be at least 20 feet wide.

Condition 3  Prior to recordation of the final plat map, a shared access and maintenance agreement benefitting both parcels shall be recorded over the shared portion of the access. Alternatively, these easements/agreements may be depicted and granted on the final partition plat.

Condition 4  Prior to recordation of the final plat map, the property owner/developer shall record provision of an emergency vehicle access easement over the shared driveway on both parcels. The easement and driveway shall be maintained by the owners and shall be for purposes of ingress and egress to provide, without limitation, fire protection, ambulances and rescue services, and other lawful government or private emergency services to the premises, owners, occupants, and invitees. Alternatively, these easements/agreements may be depicted and granted on the final partition plat.
Condition 5  

To ensure fire access is maintained at all times to structures built on Parcel Two, before the City will approve issuance of a building permit for this parcel, the applicant must provide the building official with evidence that the following will occur before construction materials are brought on to the site.

(a) The approved fire apparatus roadway must be paved from the new driveway approach on Marion Street to the total length of the shared portion. Beyond that distance the fire marshal may approve an alternate surface material. The fire apparatus access road must be constructed to be capable of supporting at least 75,000 pounds gross vehicle weight (GVW) as verified by a qualified State of Oregon licensed design professional. The Designer of Record shall provide written certification to the Fire Department upon completion of the private access road.

(b) A “no-parking” restriction must be placed over the 20-foot-wide shared driveway and any additional areas on the property the fire marshal determines must be restricted for fire apparatus access. Alternatively, this restriction may be depicted and granted on the final partition plat.

Condition 6  

Before the City will approve the final partition plat, the applicant must provide private utility easements where proposed private utility lines will cross an adjacent property. Alternatively, these easements may be depicted and granted on the final partition plat.

Attachments

A. Location Map
B. Applicant’s Plan Set
   1. Tentative Partition Plat – Lot Layout
   2. Tentative Partition Plat – Site Plan
   3. Findings

Acronyms

ADC  Albany Development Code
AMC  Albany Municipal Code
FEMA  Federal Emergency Management Agency
FIRM  Flood Insurance Rate map
RM  Residential Medium Density Zoning District
TSP  Albany’s Transportation System Plan
Review Criteria / Written Response
Partition Application
for
Albany Area Habitat for Humanity
located at
1600 Marion Street SE
Tax Lot 6200 (Map 11S-3W-7CA)

Project Overview:

The Applicant proposes to partition an existing legal lot into 2 Parcels. The subject property is not developed. The proposed partition will create 2 residential parcels.

Review Criteria:

1. *The proposal meets the development standards of the underlying zoning district and applicable lot and block standards of this Section.*

   **Response:**
   The proposed partition is an infill development in a RM zone. The Applicant plans on constructing one residential two story unit on each of the new parcels. All proposed parcels exceed the minimum lot size. The one southerly parcel is a flag lot. Each lot having 12 feet of road frontage and a 24 foot wide easement will be created with the final plat.

   **Conclusion:** The proposed partition meets all development standards for a RM zone.

2. *Development of any remainder of property under the same ownership can be accomplished in accordance with the Code.*

   **Response:**
   The applicant proposes a partition to create separate parcels for two residential properties. The Applicant does not plan any additional development on the property.

   **Conclusion:**
   There will not be any remainder property.
3. *Adjoining land can be developed or is provided access that will allow its development in accordance with the Code.*

**Response:**
The adjoining property to the east has access to Marion Street. The adjoining properties to the south have access to Marion Street. The adjoining properties to the north have access to Marion Street. The adjoining properties to the West have access to Howard Drive.

**Conclusion:**
The proposed partition is located in area that is fully developed with existing street and utilities. The proposed partition will not adversely affect development and access of adjoining land.

4. *The proposed street plan affords the best economic, safe, and efficient circulation of traffic possible under the circumstances.*

**Response:**
No public streets are planned or required for this application. All properties have access to public streets. The Applicant plans to construct a reciprocal access driveway over the two parcels as shown on the tentative partition map.

**Conclusion:**
The subject properties and all adjoining lands have access to public streets. No new streets are proposed by this application. The Applicant plans to construct a reciprocal access driveway over the two parcels as shown on the tentative partition map.
5. **The location and design allows for development to be conveniently served by various public utilities.**

**Response:**
The subject property currently has one water and one sewer service. One new water and sewer service will be added for the new parcel.

**Conclusion:**
This partition will create two parcels on the subject property. The existing City sewer lateral and water service will be utilized to serve one Parcel. The new sewer laterals shall be stubbed in and will connect to the lateral as structures are built. One new water meter will be installed along Marion Street and will connect to a lateral as structures are built.

6. **Activities and developments within special purpose districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources) and 7 (Historic), as applicable.**

**Response:**
The subject property not located within the Airport Approach District or the Historic District. There are no City of Albany identified wetlands on the subject properties.

**Conclusion:** Addressing Article 4 and Article 7 is not applicable. There are no identified wetlands on the subject properties.