



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report

Tentative Partition Plat

PA-06-19

February 17, 2020

Summary

This proposal is for a Tentative Partition Plat to divide Lot 4 of Draper's Subdivision, a single 28,800-square-foot lot into three parcels. Parcel 1 would be 7,681 square feet, parcel 2 would be 9,601 square feet, and parcel 3 would be 11,516 square feet. Parcels 2 and 3 are proposed in a "flag lot" configuration. Access to Charlotte Street for parcels 1, 2, and 3 will be via a shared 24-foot-wide access, as shown on the tentative plat (Attachment B).

The properties on Charlotte Street are not served by public water. Water is needed for both domestic use and fire suppression. The City may restrict development approval when a deficiency exists in the water system which cannot be corrected as a part of the development improvements.

The nearest public water line and fire hydrant is over 1,000 feet to the northwest at the Somerset Drive and Santa Maria Avenue intersection. When public water is not available, the City *may* approve use of a well at the time of a land partition provided the new lots are subject to a Petition for Improvement/Waiver of Remonstrance for a future assessment district for public water.

The City of Albany Fire Department is the established and recognized provider of fire protection service to this property. Due to the lack of public water mains and hydrants, this property is in non-compliance with the firefighting water requirements for Protected Areas as defined by the Oregon Fire Code (OFC). In this situation, Oregon Administrative Rules (OAR) give the building official authority to approve or deny an alternative to an adopted fire apparatus access road, private driveway, or firefighting water supply standards during the land use approval process. This land use decision will not bind the building official to approve such an alternative.

Land Division criteria contained in Albany Development Code (ADC/Development Code/Code) 11.180 is addressed in this report for the proposed development. The criteria must be satisfied to grant approval for this application.

Application Information

Proposal:	Partition existing lot into three lots
Review Body:	Staff (Type I-L review)
Property Owner/ Applicant:	Sharon Banks, Haywood Banks 24919 Gap Road Brownsville, Oregon 97327

Surveyor:	K&D Engineering Inc. Attention Jason; PO Box 725, Albany, Oregon 97321
Address/Location	319 Charlotte Street NE
Map/Tax Lot:	Linn County Assessor's Map No. 11S-03W-03A Tax Lot 3600
Zoning:	RS-6.5 (Residential Single Family)
Total Land Area:	28,800 square feet
Existing Land Use:	Residential- Single Family
Neighborhood:	East Albany
Surrounding Zoning:	North: Single Family Residential (RS-6.5) District East: Single Family Residential (RS-6.5) District South: Single Family Residential (RS-6.5) District West: Single Family Residential (RS-6.5) District (across Charlotte Street)
Surrounding Uses:	North: Single Family Residential East: Single Family Residential South: Single Family Residential West: Single Family Residential
Prior History:	According to the Linn County survey records (09238), a property line adjustment was executed in 1967 between lots three (tax lot 3500) and four (tax lot 3600) of Draper's Subdivision. This adjustment granted 20 additional feet from tax lot 3500 to tax lot 3600. As a result, the subject property expanded from a 100-foot-wide lot to a 120-foot-wide lot.

Notice Information

A Notice of Filing was mailed to property owners identified within 100 feet of the subject properties on December 10, 2019 in accordance with ADC 1.330. At the time the comment period ended on December 24, 2019, the Albany Planning Division received one written comment from a neighboring property owner.

The comment expressed concerns over unpermitted development activity occurring at 319 Charlotte Street prior to the issuance of this land use decision. The review of a Tentative Partition application does not prohibit the property owner from developing the existing parcel. City records indicate that eight separate permits have been issued to 319 Charlotte Street since September 2019 involving tree removal, the placement of a single manufactured home, and the extension of City services.

Appeals

The City's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal within 21 days of the date the decision is reduced to writing and bears the necessary signatures of the decision maker.

This approval expires in three years, unless the final plat has been submitted to the City's Planning Division for review and approval. The final plat must be recorded within 45 days of City approval with the Linn/Benton County Recorder, unless an extension is approved by the City and the county surveyor's office (ADC 11.060).

Analysis of Development Code Criteria

The Development Code includes the following review criteria for a Tentative Plat (ADC 11.180), which must be met for these applications to be approved. Development 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 for Lot 4 of Drapers Subdivision, commonly known as 319 Charlotte Street NE (Attachment A). The property is identified as Linn County Tax Assessor's Map No. 11S-03W-03A; Tax Lot 3600.
- 1.2 The proposal will divide a single 28,800-square-foot lot into three parcels, as shown in Attachment B. Parcel 1 would be 7,681 square feet. Parcel 2 would be 9,601 square feet. Parcel 3 would be 11,518 square feet. Parcel 2 and parcel 3 each meet the definition of a "flag lot".
- 1.3 The subject property is zoned RS-6.5 (Residential Single Family). The RS-6.5 zoning district is intended primarily for low-density urban single-family residential development. The average minimum lot size is 6,500 square feet with a minimum lot width of 50 feet and a minimum lot depth of 80 feet.

As shown on the applicant's tentative subdivision plat and noted above, all three lots meet the average minimum lot size of 6,500 square feet. Likewise, both lots have dimensions that are at least 50 feet in width and 80 feet in depth. Therefore, all proposed lots meet the minimum standards of the underlying RS-6.5 zone. This standard is met.

- 1.4 In any single-family residential land division, lots and blocks shall conform to standards listed in ADC 11.090 and other applicable provisions of the Development Code. Standards relevant to this proposed partition are addressed below.
 - a. ADC 11.090(1) states lots must be arranged such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all proposed lots in compliance with the requirements of the Development Code.

As discussed under finding 1.3, above, the proposed parcels are in compliance with the minimum requirements of the underlying zoning. The parcels' sizes and dimensions will allow for setbacks to be met while providing an adequate building envelope. Therefore, there will be no foreseeable difficulties in obtaining building permits for the parcels within the proposed partition. This criterion is met.
 - b. According to ADC 11.090(2), when lots are more than double the minimum area designated by the zoning district, those lots must be arranged to allow further subdivision and the opening of future streets where it would be necessary to serve potential lots. All proposed parcels are less than double the minimum lot size for the RS-6.5 zoning district. Therefore, this standard is not applicable.
 - c. ADC 11.090(3) states that double frontage lots shall be avoided except when necessary to provide separation of residential developments from streets of collector or arterial street status or to overcome specific disadvantages of topography and/or orientation. None of the proposed parcels are double-frontage lots. This standard is not applicable.

- d. ADC 11.090(4) states that side yards of lots shall run at right angles to the street the property faces. Parcels 2 and 3 are proposed in a “flag lot” configuration, so the side yards do not abut the public street. Parcel 1 will have side yards running at a right angle to Charlotte Street. Therefore, this standard is met.
- e. According to ADC 11.090(5), block dimensions shall be determined by existing street and development patterns, connectivity needs, topography, and adequate lot size. The average block length shall not exceed 600 feet unless adjacent layout or physical conditions justify a greater length. Block length is defined as the distance along a street between the centerline of two intersecting through-streets. Physical conditions may include existing development, steep slopes, wetlands, creeks, and mature tree groves. The proposed partition does not create any new streets and, therefore, does not create any new blocks. This standard is not applicable.
- f. ADC 11.090(6) states that off-street pedestrian pathways shall be connected to the street network and used to provide pedestrian and bicycle access in situations where a public street connection is not feasible. All lots will have direct access to a public street, and no off-street pedestrian pathways are proposed or required with this partition. Therefore, this standard is not applicable.
- g. ADC 11.090 (7) and (8) regards standards for access to arterial streets and standards related to cul-de-sacs. Access to an arterial street is not proposed and the application does not involve a cul-de-sac. Therefore, these standards are not applicable.
- h. ADC 11.090(9) states that flag lots are discouraged and allowed only when absolutely necessary to provide adequate access to buildable sites, and only where the dedication and improvement of a public street cannot be provided. The minimum width for a flag lot is 22 feet, except when the point of 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 minimum of 24 feet.

Parcels 2 and 3 are proposed in a “flag lot” configuration. Access to Charlotte Street will be provided to parcels 1, 2, and 3 via a shared access over the 12-foot-wide flag stem portion of parcel 2 and a 12-foot-wide flag stem portion of parcel 3, as shown on the tentative plat (Attachment B).

The existing lot is 120 feet wide. The minimum lot width in the RS-6.5 zoning district is 50 feet. Because the existing lot is not wide enough to accommodate three lots that meet the minimum required lot width at the point of the public right-of-way, a flag lot is necessary to access the back portion of the lot. Therefore, the proposed flag lot is “absolutely necessary” to provide a buildable site.
- i. ADC 11.090(10) requires street intersections to be constructed so there is not less than a twenty-foot radius along the curb line. This standard ensures all public improvements, including accessibility ramps, can be contained in the public right-of-way at the corresponding street corners. Both parcels will have access to an existing public street and, therefore, no new intersections are proposed. This standard is not applicable.

Conclusions

- 1.1 The proposal meets the standards of the underlying zoning district.
- 1.2 There are no foreseeable difficulties in securing building permits to build on the proposed lots.
- 1.3 The proposed flag lots are absolutely necessary to provide a buildable site.
- 1.4 All three lots will have shared access to a public street
- 1.5 This criterion is satisfied 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 proposal will divide a single 28,800-square-foot lot into three parcels. Parcel 1 would be 7,681 square feet. Parcel 2 would be 9,601 square feet. Parcel 3 would be 11,518 square feet.
- 2.2 The proposed partition would divide the entire parcel owned at this location by Sharon and Haywood Banks.
- 2.3 None of the lots can be further subdivided.

Conclusions

- 2.1 There is no other remainder of land to consider.
- 2.2 This review criterion is not applicable.

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.
- 3.3 ADC 12.110 says that new streets may be required to be located where the city engineer determines that additional access is needed to relieve or avoid access deficiencies on adjacent or nearby properties.
Property to the north: The adjoining property to the north has access to Charlotte Street NE.
Property to the south: The adjoining property to the south has access to Charlotte Street NE.
Property to the east: The adjoining property to the east has access to Marilyn Street NE.
Property to the west: The properties to the west, across Charlotte Street, have access to Charlotte Street NE.

Conclusions

- 3.1 All the adjoining land has, and will continue to have, access to public streets.

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 one parcel of land into three parcels. All three parcels will be vacant and could be developed with single family homes.

- 4.2 The development is located on the east side of the street at 319 Charlotte Street.
- 4.3 Charlotte Street is classified as a local street and is not constructed to City standards. The street is constructed to rural county standards and does not have curbs, gutters, or sidewalks. The right-of-way width is 60 feet. Pavement width is approximately 20 feet and provides for a vehicle travel lane in each direction.
- 4.4 All approaches and driveways to public streets must be paved [ADC 12.100(1)]. So that the entire driveway that will serve parcels 1 and 2 will be available at the time a house is built on either new parcel, the shared length of the driveway must be paved before the City signs the final partition plat. The minimum width of a shared driveway is 20 feet and the length is the distance it is shared between the two parcels. The 20-foot width is needed to provide adequate access for large emergency vehicles and two lanes for passenger vehicles to pass each other.
- 4.5 The proposed partition will allow for construction of two more single-family homes on the site than could be constructed under current conditions. Based upon Institute of Transportation Engineers trip generation rates the construction of two single family homes would result in the addition of 19 new vehicle trips per day on the public street system. Two of those trips would occur during the peak p.m. traffic hour.
- 4.6 Albany's Transportation System Plan does not identify any level of service or congestion issues adjacent to the proposed development.
- 4.7 Section 12.060 of the Development Code requires that public streets within and adjacent to a development be improved to City standards. When the city engineer determines that improvement of the street is not timely, the City may accept a Petition for Improvement/Waiver of Remonstrance for participation in a future assessment district.

Conclusions

- 4.1 The proposed development will ultimately result in the potential for 19 new vehicle trips per day on the public street system, two of which would occur during the peak p.m. traffic hour.
- 4.2 Albany's Transportation System Plan does not identify any level of service or congestion issues adjacent to the proposed development.
- 4.3 The shared driveway must be paved the length of the shared portion.
- 4.4 The development has frontage on existing streets not constructed to City standards. Due to the small nature of the development and the lack of adjoining City standard street improvements, the city engineer has determined that it is not now timely for this development to improve its street frontages to City standards and that an improvement assurance should instead be provided.

Conditions

- Condition 1** Prior to recordation of the partition plat, the applicant shall provide a Petition for Improvement – Waiver of Remonstrance for participation in an assessment district for the improvement on Charlotte Street.
- Condition 2** The driveway must be paved for the entire length that is shared by parcels 1, 2, and 3. The driveway must be at least 20 feet wide. The driveway must be paved before the City signs 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 in Charlotte Street. The previous house on the site was connected to the public sewer system.
- 5.2 AMC 10.01.010 (1) states that the objective of the Albany Municipal Code requirements pertaining to public sanitary sewers is to facilitate the orderly development and extension of the wastewater collection and treatment system, and to allow the use of fees and charges to recover the costs of construction, operation, maintenance, and administration of the wastewater collection and treatment system.
- 5.3 ADC 12.470 requires all new development to extend and/or connect to the public sanitary sewer system if the property is within 300 feet of a public sewer line.
- 5.4 The existing sewer service lateral appears to be along the north portion of the site and will be available to serve Parcel 1. Future development on parcels 2 and 3 will require that the developer install a new sewer service lateral connected to the public main in Charlotte Street for each parcel as they develop.
- 5.5 There will be sanitary sewer system development charge credits available for one single-family home.

Water Supply

- 5.6 City utility maps show no public water facilities in this area. The previous house on the site was served by a private well.
- 5.7 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. The nearest public water main is in excess of 150 feet of the subject property.
- 5.8 ADC 12.420 states that no new development is allowed on private well systems, except for construction of one single-family dwelling on an existing lot of record. Residential lots created by land partition may be served by private wells if approved by the City and provided the new lots are subject to a Petition for Improvements/Waiver of Remonstrance for a future assessment district for public water. If a second partition plat is filed on the same parcel[s], the application will be subject to the subdivision requirement that the development be served by public water.
- 5.9 ADC 12.460 says the City may restrict development approvals when a deficiency exists in the water system or portion thereof which cannot be corrected as a part of the development improvements. City utility maps show no public water facilities in this area. The previous house on the site was served by a private well.

Storm Drainage

- 5.10 City utility maps show no piped public storm drainage facilities in Charlotte Street. Charlotte Street is not improved to City standards with curb and gutter. A shallow ditch exists along the frontage of the subject property.

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 storm water may be discharged to the public sanitary sewer system.

The applicant is responsible for making provisions to control and/or convey storm drainage runoff originating from, and/or draining to, any proposed development in accordance with all City standards and policies as described in the City's Engineering Standards.

- 5.12 ADC 12.580 states that all new development within the City must, where appropriate, provide for the extension of existing storm sewer lines or drainageways serving surrounding areas. Extensions may be required along all frontages and/or through the interior of a property to be developed where the city engineer determines that the extension is needed to provide service to upstream properties. In cases where the city engineer determines that public storm drainage improvements are not timely, the applicant may sign a petition for improvements and waiver of remonstrance in lieu of constructing the required improvements.

Conclusions

- 5.1 Public sanitary sewer is currently available and adequate to serve the proposed parcels.
- 5.2 The developer must install new sanitary sewer service laterals for parcels 2 and 3 at the time of development for each parcel.
- 5.3 No public water facilities are available to serve the subject property. The city engineer has determined that it is not timely to construct the required public water facilities, so the developer will be allowed to serve the parcels with private well(s) if they sign a petition for improvements and waiver of remonstrance for the future construction of public water facility improvements.
- 5.4 The developer must accommodate stormwater runoff from roof drainage at the time of development. The discharge point for the roof drainage must be to a location approved by the city engineer and the building official.
- 5.5 Charlotte Street is not improved to City standards with curb, gutter, and storm drainage facilities. The city engineer has determined that it is not timely to construct the required public storm drainage facilities, so the applicant will be allowed to sign a petition for improvements and waiver of remonstrance in lieu of constructing the required improvements.

Condition 3 Before the City will sign the final partition plat, the applicant must sign a petition for improvements and waiver of remonstrance for the future construction of public water and storm drainage facilities in Charlotte Street.

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 district. According to Figure 4-1 of the Development Code, the subject property is located within the Airport Approach District. The maximum allowable height of buildings in the RS-6.5 zoning district is less than the height restrictions imposed by the Airport Overlay District. Therefore, the height restrictions of the Airport Overlay District are not applicable to this proposal.
- 6.2 Article 6: Steep Slopes. *Comprehensive Plan Plate 7*, does not show any steep slopes on this property. The Tentative Plat shows that the property is relatively flat. The elevation of the property is 226 feet.

- 6.3 Article 6: Floodplains. *Comprehensive Plan Plate 5.* The applicable Flood Insurance Rate Map (FIRM) for the subject site is map no. 41043C0218G, dated September 29, 2010. Based on this FIRM, the subject property is located out of the Special Flood Hazard Area (SFHA), otherwise known as the 100-year floodplain.
- 6.4 Article 6: Wetlands. *Comprehensive Plan Plate 6,* does not show any wetlands on the property. The National Wetlands Inventory (NWI) does not show wetlands on the property. This property is not included in a local wetlands inventory.
- 6.5 Historic and Archaeological Resources. *Comprehensive Plan, Plate 9,* shows the property is not in a historic district. There are no known archaeological sites on the property.

Conclusions

- 6.1 There are no special features of this site to be considered. This review criterion is not applicable.

Overall Conclusion

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

STAFF DECISION

APPROVAL with CONDITIONS of the Tentative Partition Plat application. The approval is subject to the following conditions.

Condition of Approval

TRANSPORTATION

- Condition 1** Prior to recordation of the partition plat, the property owner shall provide a Petition for Improvement – Waiver of Remonstrance for participation in an assessment district for the improvement of Charlotte Street.
- Condition 2** The driveway must be paved for the entire length that is shared by parcels 1, 2, and 3. The driveway must be at least 20 feet wide. The driveway must be paved before the City signs the final partition plat.

PUBLIC UTILITIES

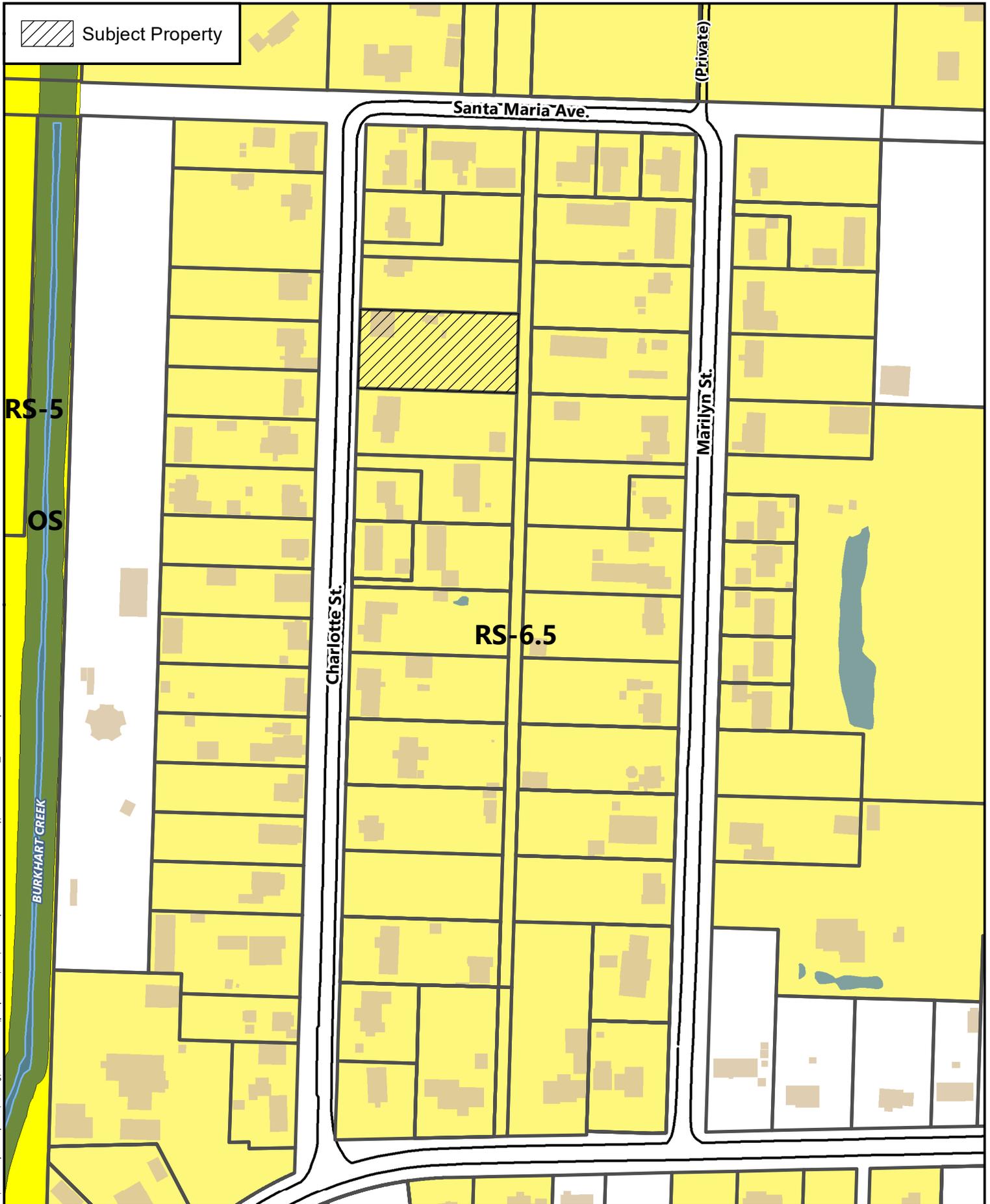
- Condition 3** Before the City will approve the final partition plat, the property owner must sign a Petition for Improvements/Waiver of Remonstrance for the future construction of public water and storm drainage improvements in Charlotte Street.

Attachments

- A. Location Map
- B. Tentative Partition Plat Map

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 Subject Property



G:\Community Development\Planning\Land Use Cases\preapprove\2018 PR-102-18 (140 Charlotte Subdivide Lot) 140 Charlotte St. Location Map.mxd



0 100 200 400 Feet

Date: 8/5/2019 Map Source: City of Albany

319 Charlotte Street NE

Location / Zoning Map

TENTATIVE PARTITION FLAT
FOR
SHARON BANKS

LOCATED AT
319 CHARLOTTE STREET NE IN THE
NE 1/4 SEC. 3, T. 11 S., R. 03 W., W.M.
IN THE
CITY OF ALBANY, LINN COUNTY, OREGON

OCTOBER 3, 2019

OWNER / APPLICANT:
SHARON BANKS
24919 GAP RD.
BROWNSVILLE, OR 97327

ENGINEER:
K+D ENGINEERING INC.
276 HICKORY ST. NW
ALBANY, OR 97321
541-928-2583

SITE DATA:
TAX LOT 3600
MAP 115-3W-3A
TOTAL AREA = 28,800 SF

SITE ADDRESS:
319 CHARLOTTE STREET NE
ALBANY, OR 97322

CURRENT USE:
TAX LOT 3600: EXISTING RESIDENCE

TOTAL NUMBER OF LOTS:
1 TAX LOT WILL BE RECONFIGURED
INTO 3 TAX LOTS

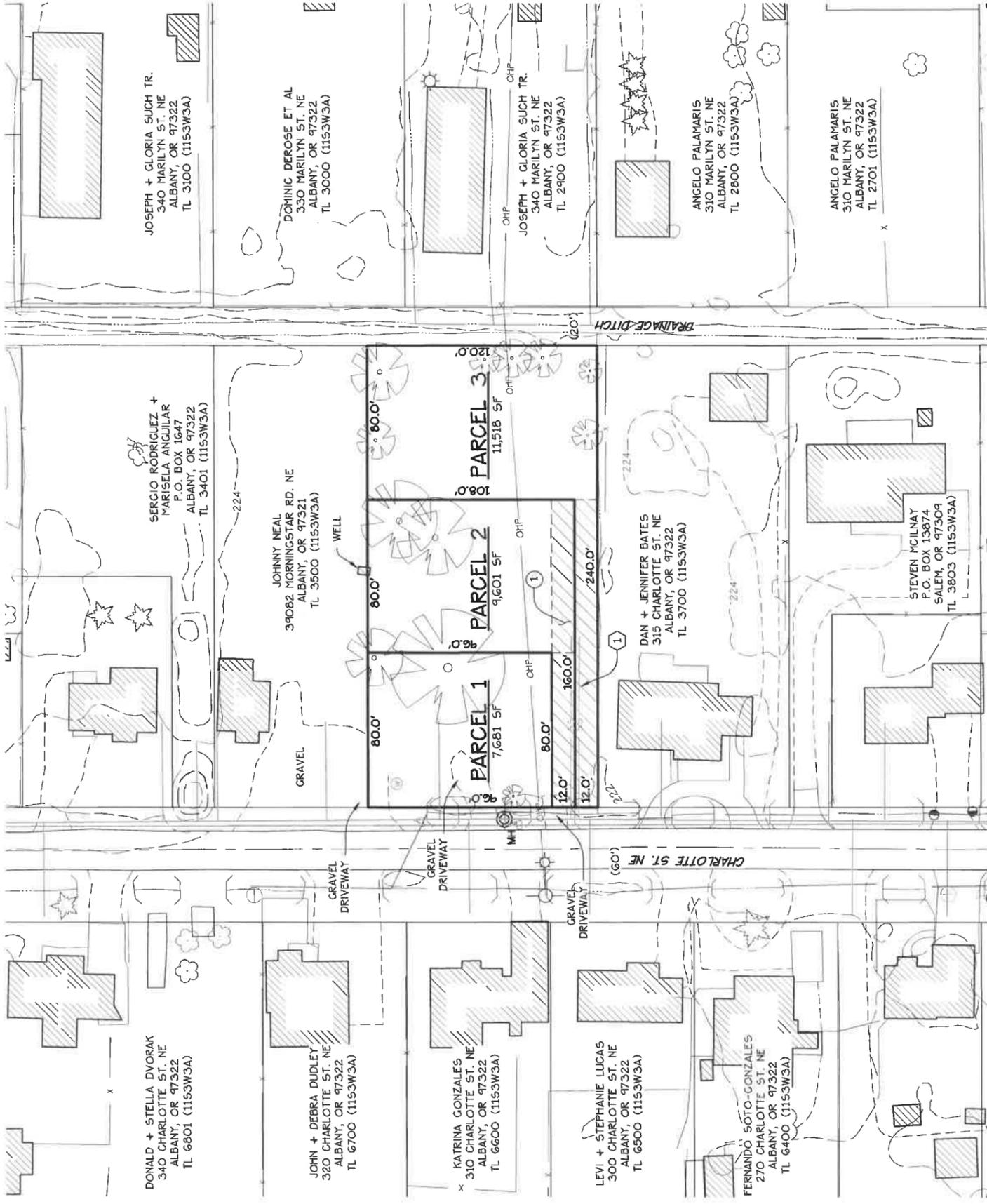
SITE ZONING:
RS-6.5 - RESIDENTIAL SINGLE FAMILY
SURROUNDING PROPERTIES ARE ZONED RS-6.5

COMPREHENSIVE PLAN ZONING:
RESIDENTIAL - LOW DENSITY

FLOOD ZONE:
SUBJECT PROPERTY IS LOCATED OUTSIDE OF
THE 100 YEAR FLOOD ZONES PER FEMA FIRM MAP
41043C0218G DATED SEPTEMBER 29, 2010

TOPOGRAPHY DATA:
THE SUBJECT PROPERTY IS ESSENTIALLY FLAT.
TOPOGRAPHY AND EXISTING UTILITIES ARE BASED ON CITY
OF ALBANY GIS DATA.

- LEGEND:**
- (E) EXISTING
 - ⊙ EXISTING UTILITY POLE
 - ⊕ EXISTING VALVE
 - ⊕ FH EXISTING FIRE HYDRANT
 - ⊕ CB EXISTING CATCH BASIN
 - ⊕ CI EXISTING CURB INLET
 - ⊕ MH EXISTING MAN HOLE
 - ⊕ EXISTING LIGHT POLE
 - X EXISTING FENCE
 - OHP EXISTING OVERHEAD POWER LINES
 - EXISTING SEWER LINES
 - EXISTING STORM DRAIN LINES
 - ⊕ EXISTING DECIDUOUS TREES
 - ⊕ EXISTING EVERGREEN TREES
 - ⊕ EXISTING WATER WELLS
 - PROPOSED SEWER LATERALS



- NOTES:**
- ① PROPOSED NEW 4" SEWER LATERALS
 - ② 24.00' WIDE RECIPROCAL DRIVEWAY AND UTILITY EASEMENT LOCATED OVER PARCELS 2+3 TO BENEFIT PARCELS 1, 2 AND 3
- EASEMENTS:**
- ① 24.00' WIDE RECIPROCAL DRIVEWAY AND UTILITY EASEMENT LOCATED OVER PARCELS 2+3 TO BENEFIT PARCELS 1, 2 AND 3

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