

AGENDA

PLANNING COMMISSION

February 17, 2022

5:30 p.m.

VIA ZOOM

<https://us06web.zoom.us/j/82327794645?pwd=c1d2UGhUb1BoVithR0tFUzczcWtXQT09>

Meeting ID: **823 2779 4645** Passcode: **001537**

Dial: 1-669-900-6833 or 1-253-215-8782

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES – January 20, 2022
6. PUBLIC COMMENT – During this portion of the meeting, anyone may speak on any subject that does not later appear on the agenda. Five minutes per person will be allowed.
7. STAFF COMMENTS / PROJECT UPDATES
8. COMMISSIONER COMMENTS / QUESTIONS
9. QUASI-JUDICIAL PUBLIC HEARINGS
 - A. ADJ 055-22, Anne and Ben Wring, 801 E. Second Street, 1N 13E 3 AC tax lot 2200
Request: The applicant is proposing to reduce the required parking from twelve spaces to seven spaces for a mobile food-vending pod, located at 801 E. Second Street.
 - B. APL 032-22, Kenneth Whiteman, 2206 E. 16th Street, 1N 13E 11 BA tax lot 700
Request: Appeal of January 13, 2022 Administrative Decision, denying a request to partition one lot located at 2206 E. 16th Street into three lots (MIP 401-21). The applicant is requesting that the Planning Commission review the appeal and the original three-lot partition request.

CITY OF THE DALLES

"By working together, we will provide services that enhance the vitality of The Dalles."

10. RESOLUTIONS

Resolution PC 600-22: Approval of ADJ 055-22, Ben and Anne Wring

Resolution PC 601A-22: Denial of APL 032-22, Kenneth S. Whiteman

Resolution PC 602B-22: Approval of APL 032-22, Kenneth S. Whiteman

11. ADJOURNMENT

This meeting conducted via Zoom.

Prepared by/
Paula Webb, Secretary
Community Development Department

MINUTES

PLANNING COMMISSION MEETING

January 20, 2022
5:30 p.m.

VIA ZOOM

PRESIDING: Cody Cornett, Chair

COMMISSIONERS PRESENT: Karly Aparicio, Alan Easling, Mark Poppoff

COMMISSIONERS ABSENT: Philip Mascher, Linda Miller, Maria Pena

STAFF PRESENT: Director Alice Cannon, City Engineer Dale McCabe,
Associate Planner Joshua Chandler, Assistant Planner
Kaitlyn Cook, Secretary Paula Webb

CALL TO ORDER

The meeting was called to order by Chair Cornett at 5:38 p.m.

PLEDGE OF ALLEGIANCE

Chair Cornett led the Pledge of Allegiance.

APPROVAL OF AGENDA

It was moved by Aparicio and seconded by Poppoff to approve the agenda as submitted. The motion carried 4/0; Aparicio, Cornett, Easling, and Poppoff voting in favor, none opposed, Mascher, Miller and Pena absent.

ELECTION OF OFFICERS

Chair Cornett opened nominations.

Commissioner Aparicio nominated Cody Cornett for Chair. Commissioner Poppoff seconded the nomination.

The vote for Cody Cornett as Chair carried 4/0; Aparicio, Cornett, Easling, and Poppoff voting in favor, none opposed, Mascher, Miller and Pena absent.

Chair Cornett nominated Alan Easling for Vice Chair. Commissioner Aparicio seconded the nomination.

The vote for Alan Easling as Vice Chair carried 4/0; Aparicio, Cornett, Easling, and Poppoff voting in favor, none opposed, Mascher, Miller and Pena absent.

APPROVAL OF MINUTES

It was moved by Easling and seconded by Poppoff to approve the minutes of December 16, 2021 as submitted. The motion carried 4/0; Aparicio, Cornett, Easling, and Poppoff voting in favor, none opposed, Mascher, Miller and Pena absent.

PUBLIC COMMENT

None.

STAFF COMMENTS / PROJECT UPDATES

Director Cannon stated:

- Her practice is to have one Planning Commission meeting per month unless two are necessary.
- Maria Pena has joined the Planning Commission.
- Downtown ground floor commercial requirements were discussed at the last meeting. Cannon had not had time to work on this; more importantly, she thought it better to have a full Commission present for further discussion.
- Future meetings will include:
 - Code amendments to address the Total Daily Maximum Load (TDML) requirements set forth by the Department of Environmental Quality (DEQ).
 - Discussion of the Employment Buildable Lands Inventory followed by formal adoption.
 - Code language refinements.

COMMISSIONER COMMENTS / QUESTIONS

None.

QUASI-JUDICIAL PUBLIC HEARING

CUP 200-21, Tony Cheng, 2610 W. Second Street

Request: Approval to construct and operate a 10,400 SF indoor recreational marijuana farm.

Chair Cornett read the rules of a public hearing. He then asked if any Commissioner had ex parte contact, conflict of interest, or bias which would prevent an impartial decision. Hearing none, he opened the public hearing at 5:53 p.m.

Assistant Planner Cook presented the staff report.

Tony Cheng, Columbia Gorge Enterprises, 2610 W. Second Street, The Dalles

Mr. Cheng had no comments or questions.

Kim Berry, PO Box 727, White Salmon, Washington, 98672

Ms. Berry stated she is considering purchase of an adjacent property. Berry was concerned with odor and landscaping. She requested the majority of landscaping be located on the east boundary of the property.

Planner Cook replied the plan included shrubbery, annuals, perennials and fencing on the east boundary.

Commissioner Easling asked if there were specifics in the Code to deal with odor if the proposed filtration systems were ineffective. Planner Cook replied it would be a Code compliance issue.

Ms. Berry stated odor from marijuana packaging plants is incredible, and some filtration systems do not work.

Mr. Cheng stated his willingness to work with the OLCC (Oregon Liquor and Cannabis Commission) and the City to control odor. Effort was made to select necessary equipment to control odor.

Director Cannon asked Mr. Cheng if he was willing to share his contact information. Cheng replied Ms. Berry could speak with his employer.

Ms. Berry reiterated her concerns with odor. Director Cannon replied if the applicant does not meet conditions of approval, the City could issue a revocation order. Cannon is an advocate of protecting the City's livability.

Chair Cornett closed the public hearing at 6:26 p.m.

Commissioner Easling is in favor of seeing buildings occupied; he was in favor of approval. Commissioner Aparicio agreed and shared her confidence in Staff.

Commissioner Poppoff asked why sidewalks and curbs were required. He also requested any remaining inventory be donated to Habitat Re-Store. Director Cannon clarified this is not required nor a criteria for approval. Chair Cornett requested the applicant not answer.

City Engineer McCabe stated a new storm system was installed on W. Second Street along with sanitary sewer improvements. In the past, the City was unable to require improvements without an existing storm system. The storm system is now in place with stubs to individual properties. As property develops, curb, gutter, sidewalk and frontage improvements will be required.

It was moved by Cornett and seconded by Easling to approve CUP 200-21 to construct and operate a 10,400 SF recreational marijuana farm in accordance with staff recommendations and conditions of approval. The motion carried 4/0; Aparicio, Cornett, Easling, and Poppoff voting in favor, none opposed, Mascher, Miller and Pena absent.

RESOLUTION

Resolution PC 599-22: Approval of CUP 200-21, Tony Cheng

It was moved by Easling and seconded by Aparicio to approve Resolution PC 599-22. The motion carried 4/0; Aparicio, Cornett, Easling, and Poppoff voting in favor, none opposed, Mascher, Miller and Pena absent.

Director Cannon stated the February 3, 2022 meeting will be cancelled. The next regularly scheduled meeting will be held February 17, 2022.

ADJOURNMENT

Chair Cornett adjourned the meeting at 6:36 p.m.

Submitted by/
Paula Webb, Secretary
Community Development Department

SIGNED:

Cody Cornett, Chair

ATTEST:

Paula Webb, Secretary
Community Development Department



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT Adjustment No. 055-22

Applicant: Ben and Anne Wring

Procedure Type: Quasi-Judicial

Public Hearing Date: February 17, 2022

Assessor's Map: Township 1 North, 13 East, Section 3 AC

Tax Lot: 2200

Address: 801 E. 2nd Street

Zoning District: "CBC" Central Business Commercial

Prepared by: Joshua Chandler, Associate Planner

REQUEST: The Applicants are requesting approval to reduce minimum off-street parking requirements of a proposed mobile food vendor (MFV) or food cart pod at 801 E. Second Street from 12 spaces to seven (7) spaces, a 42% reduction (rounded up from 41.7%). When calculating minimum off-street parking requirements, the total number of spaces are rounded up pursuant to Section 10.6.070.020 of The Dalles Municipal Code (TDMC). Staff determined the total minimum parking requirement for the proposed use is 11.053 parking spaces rounded up to 12. Therefore, the reduction request is for 36.7% of 11.053, but 41.7% of the rounded total (12).

BACKGROUND: On July 22, 2021, the Applicants submitted a Site Plan Review (SPR) application to the Community Development Department (CDD) for consideration of a four- (4) unit MFV pod at 801 E. Second Street. Currently, the Applicants own and operate one (1) cart at the subject property and have been operating under Transient Merchant and MFV Licenses since beginning their operation in 2019. This operation began while the City was transitioning into the current tiered MFV License process, with Type III Licenses regulating permanent facilities such as MFV pods. Although the requirements of MFVs are included in Chapter 8, *Business*, all Type III MFV Licenses are also reviewed through the SPR process administered within Title 10 Land Use and Development of TDMC.

MFV pods are not a listed use within TDMC 10.7.060.010 *Minimum and Maximum Off-Street Parking Requirements*; therefore, Staff uses the "Restaurant (without drive-thru)" parking ratio of seven (7) spaces per 1,000 SF floor area, when determining minimum off-street parking

requirements. For this use type parking ratio, the floor area of each MFV and all outdoor seating areas are used in the *total* floor area calculation. Subsequent to the Applicants' first SPR application submittal in July 2021, multiple modifications were made to the overall site plan resulting in a variation of minimum off-street parking calculations. As described in the Applicants' narrative, Staff determined a minimum of ten (10) off-street parking spaces required; however, these figures were determined from a previously submitted site plan with map scaling issues. Ultimately, Staff determined from the most recent version of the site plan (submitted December 2021) a minimum off-street parking requirement of 12 (rounded up from 11.053).

Upon an approved reduction in off-street parking requirements, Staff will proceed in the review of the SPR application for the subject property.

NOTIFICATION: Property owners within 300 feet, City Departments and Franchise Utilities.

COMMENTS RECEIVED: No comments were received during the comment period.

REVIEW CRITERIA:

I. City of The Dalles Municipal Code, Title 10 Land Use and Development

Section 10.3.010.040 Applications

A. Acceptance

FINDING #1: The application was received on January 19, 2022. **Criterion met.**

B. Completeness

FINDING #2: The application was deemed complete on January 24, 2022. **Criterion met.**

Section 10.3.020.050 Quasi-Judicial Actions

A. Decision Types.

FINDING #3: This application is for a Quasi-Judicial Adjustment per Section 10.3.080.020 (D, 6). The specific request is for a 42% reduction (or 7 parking spaces) of the 12 required off-street parking spaces. As stated in Section 10.3.080.020 (D, 6), off-street parking reductions up to 50% may be processed as a Quasi-Judicial Adjustment. **Criterion met.**

B. Staff Report.

FINDING #4: This document serves as the staff report. **Criterion met.**

C. Public Hearings.

FINDING #5: The public hearing is scheduled for February 17, 2022, which is within 45 days from the date the application was deemed complete. **Criterion met.**

D. Notice of Hearing.

FINDING #6: Appropriate mailings to property owners within 300 feet and notice to affected departments and agencies were made on February 3, 2022. **Criterion met.**

Section 10.3.080.040 Applications

A. *An adjustment will be approved if the review body finds that the applicant has shown that either approval criteria 6 through 8 (Quasi-Judicial Adjustment) below, has been met.*

6. *Application of the regulation in questions would preclude all reasonable economic use of the site.*

FINDING #7: It is the Applicants' opinion that providing all 12 required off-street parking spaces would have a significant negative economic impact on the use of their site. The space needed to incorporate these additional parking spaces would result in decreased revenue resulting from less rental space for additional vendors. TDMC 10.7.030.130 provides standards for parking lot dimensions stating that 350 SF is the estimated amount of space needed per vehicle, which includes area for the stall, aisle, and access areas. By this metric, the five (5) additional parking spaces would require an estimated 1,750 SF of site area. As demonstrated on the site plan, this additional parking area may result in the relocation, if not removal, of two MFV spaces (Lots #2 and #3), as well as a reduction of overall landscaping and open space. Additional area unaccounted for within a MFV pod, are those areas used by customers waiting for "to-go" orders or queueing. The current MFV began shortly before the onset of the COVID-19 pandemic and has operated on a model that provides and requires ample open space for the customer experience. Staff has determined the request for the reduction of five (5) parking spaces is beneficial for the economic viability of the Applicants continued operations and growth of their overall vision for the site.

Criterion met.

7. *Granting the adjustment is the minimum necessary to allow the use of the site.*

FINDING #8: The Applicants overall vision for this MFV pod is to provide an open air downtown space with the ambience of a "backyard" retreat. It is the Applicants' opinion that removing the existing green spaces to provide more parking would deteriorate the overall use and vision of the property. Since the Applicants' first submitted their SPR application in July 2021, they have modified the overall layout of the site to meet the parking standards of TDMC. In doing so, they have managed to keep the overall street-faced, pedestrian oriented design, but it resulted in the reconfiguration of approximately one-third in the rear of the property from their original proposal (per site plan submitted July 2021), including the loss of overall open space. Staff has determined that granting the adjustment is necessary to allow the Applicants to achieve their overall vision of the site and continue to provide an open air meeting place downtown. **Criterion met.**

8. *Any impacts resulting from the adjustment are mitigated to the extent practical.*

FINDING #9: Since the current MFV began operations in 2019, the Applicants have observed a transient nature to their business with many customers typically on-site for minimal periods. Some of these customers order their food ahead of time and/or visit to merely pick up “to-go” orders. As a result, they have experienced a negligible impact to on-street parking spaces. Not only does the practice of social distancing in response to COVID-19 play a role in maintaining this transient nature, but the seasonality of outdoor seating may also be a contributing factor. Although outdoor seating is included in the overall floor area when calculating off-street parking requirements for restaurants without a drive-thru, year around use of this seating may not always be practical. For an additional perspective, Staff calculated the floor area of MFV spaces alone (789 SF), totaling a minimum off-street parking requirement of six (6) spaces, (rounded up 5.5). By excluding outdoor seating areas from the overall calculation, the Applicants’ proposal of seven (7) off-street parking spaces would comply with off-street parking requirements. Staff determined a parking space reduction for this site will be mitigated due the practical parking demands associated with the transient and seasonal use of the subject property. **Criterion met.**

- B. *Additional Criteria. If the applicant meets the approval criteria of subsection A above, then the following criteria must also be met*

1. *Provide adequate provisions of light, air, and privacy to adjoining property.*

FINDING #10: The subject property is located on the corner of E. Second and Monroe Streets, bordered on the north side by railroad right-of-way and the rear concrete wall of the neighboring building to the east running the length of the entire property. Staff has determined the reduction request will not impact the light, air, and privacy of the adjoining property to the east. **Criterion met.**

2. *Provide for accessibility, including emergency vehicles, per City standards.*

FINDING #11: The subject property is located on the corner of E. Second and Monroe Streets. With the proposed parking spaces in the rear of the property, additional access to the property will be provided. The Applicants are not requesting any adjustments in accessible parking requirements and are proposing one (1) van accessible parking space. Staff has determined that this request will not impact accessibility or emergency access to the site. **Criterion met.**

3. *Result in a development that conforms to the general character of the neighborhood or zone district.*

FINDING #12: As stated in TDMC 10.5.050.010, the intent of the CBC – Central Business Commercial zoning district is to provide an area for commercial uses, along with civic and certain residential uses, and to provide all basic services and amenities required to keep the downtown area the vital pedestrian-oriented center of the community. The proposed parking lot will be in the rear of the subject property resulting in a pedestrian fronted orientation. Reducing the total number of off-street parking spaces will further encourage a development that focuses on pedestrians first and automobiles second. Staff has determined a

reduction in total parking spaces and siting the parking lot in the rear of the parcel promotes a pedestrian oriented development thus conforming to the general character of the underlying zoning district. **Criterion met.**

4. *If a reduced number of parking is requested, provide adequate parking based on a parking demand analysis, or supplement on-site parking with joint use agreements.*

FINDING #13: Since the existing MFV has been in operation, the Applicants have witnessed firsthand parking needs for the subject property. In this time, it is their opinion that the no additional off-street parking is necessary. During a normal day, most customers are on-site for less than 15 minutes, less than one quarter of customers are on-site for 30 to 45 minutes, while only two percent of weekly customers stay longer than 45 minutes. Additionally, the Applicants have coordinated multiple special events, including live music, with neighboring business to avoid impacts on the neighborhood. Furthermore, since the operation began, the City has received no complaints regarding excessive parking generated from this use. From the information provided by the Applicant, Staff has determined the seven (7) proposed off-street parking spaces are adequate to accommodate the proposed MFV pod.

As discussed in the Background, following an approved Adjustment for the reduction of off-street parking spaces, Staff will proceed in review of the SPR application. When drafting the staff report for the SPR application, Staff will address TDMC 10.3.030.090 which outlines standards concerning invalidations of approved site plans. With this Adjustment requesting a reduction in off-street parking spaces, it is imperative that the Applicants continue to be mindful of overall parking demands for the site. Any substantial changes in size of the project, which affects the requirements for parking, landscaping, or public improvements, would require review of a new SPR application. **Criterion met.**

RECOMMENDATION: Based on the application materials and findings demonstrating compliance with the applicable criteria, **Staff recommends approval of Adjustment No. 055-22, subject to the following conditions of approval.** This approval is based on the Applicant's submitted plans, written narrative, and supplemental application materials received by February 10, 2022. Any modifications to the approved plans other than those required by this decision will require a new land use application and approval.

1. Conditions of Approval:

- a. The Applicant is required to obtain Site Plan Review approval and all applicable building permits prior to beginning site construction. All dimensions and specifications must be consistent with this staff report.
- b. Except as modified by this decision, all development must be completed in accordance with The Dalles Municipal Code, Title 10 Land Use and Development.



City of The Dalles
Community Development Dept
313 Court Street
The Dalles, OR 97058
(541) 296-5481, ext. 1125
www.thedalles.org

Application #: ADJ 055-22

Filing Fee: \$310.00

Receipt #: 245386

Deemed Complete: 1/24/22

Ready to Issue: _____

Date Issued: _____

Received: 01-19-2022

Land Use Application

- | | | | |
|--|---|---|-------------------------------------|
| <input type="radio"/> Building Permit | <input type="radio"/> Demolition | <input type="radio"/> Physical Constraints | <input type="radio"/> Change of Use |
| <input type="radio"/> Property Line Adjustment | <input type="radio"/> Minor Partition / Tract Map | <input checked="" type="radio"/> Adjustment | <input type="radio"/> Fence |

Applicant

Name: Ben/Anne Wring
Address: 3443 Columbia View Dr
The Dalles, OR 97058
Phone #: (805)610-3167
Email: benjamin.wring@gmail.com

Legal Owner (if different than Applicant)

Name: _____
Address: _____
Phone #: _____
Email: anne.wring@gmail.com

Property Information

Address: 801 E 2nd Street

Map and Tax Lot: 1N 13E 3AC 2200

Project Description:

Final change of use approval and parking adjustment.

Reduction of 5 parking spaces; 12 total spaces required - 42% reduction

Department Use Only

City Limits: ☒ Yes ☐ No Zone: CBC Overlay: CBC-3 Airport Zone: ☒ Yes ☐ No

Geohazard Zone: _____ Flood Designation: _____

Historic Structure: ☐ Yes ☒ No Current Use: vacant

Previous Planning Actions:

Erosion Control Issues? Access Issues? Utilities and Public Improvements? Items Needing Attention?

☐ Ministerial ☐ Administrative ☒ Quasi-Judicial

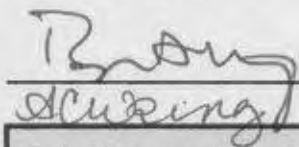
Application Policy

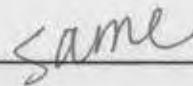
I certify that I am the applicant or owner identified below. I acknowledge that the final approval by the City of The Dalles, if any, may result in restrictions, limitations, and construction obligations being imposed on this real property. I understand that if the property is owned in part or totality by a trust, partnership, corporation or LLC, I will be required to present legal documentation listing all persons that make-up the entity, as well as proof of my authorization to act on the entity's behalf. I consent and hereby authorize City representative(s) to enter upon my property for any purpose of examination or inspection related to this application. I certify that all information provided is true and correct, and consent to the filing of the application, authorized by my original signature below.

If the undersigned is different from the legal property owner, a notarized letter of authorization signed by the legal property owner must accompany this form.

Signature of Applicant

Signature of Property Owner





Additional Information

Department Comments

Conditions of Approval

Decision

☐ Approved

☐ Denied

Community Development Department

Public Works

Date

Date

Adjustment Application

#: _____

☒ New Construction ☐ Expansion/Alteration ☒ Change of Use ☐ Amend Approved Plan

Brief Explanation:

Please see proposed drawings from our architect as well as our narrative for parking adjustment.

JUSTIFICATION OF REQUEST

Review Criteria for Adjustments are found in The Dalles Municipal Code Section 3.080.040

On a separate piece of paper provide sufficient information for the review body to determine each of the issues listed in the section chosen. The information may be written, photographic, or any other method which will provide useful information to the review body.

For the approval of an Administrative Adjustment, the Applicant must satisfy the following criteria (#1-5):

1. If in a residential zone, show that the proposal will not significantly detract from the livability or appearance of the residential area.
2. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone.
3. City-designated scenic resources and historic resources are preserved.
4. Any impacts resulting from the adjustment are mitigated to the extent practical.
5. If in an environmental sensitive area, the proposal has as few detrimental environmental impacts on the resource and resource values as is practicable.

For the approval of a Quasi-Judicial Adjustment, the Applicant must satisfy the following criteria (#6-8):

6. Application of the regulation in question would preclude all reasonable economic use of the site.
7. Granting the adjustment is the minimum necessary to allow the use of the site.
8. Any impacts resulting from the adjustment are mitigated to the extent practical.

If the Applicant meets the approval criteria listed above, then the following criteria must also be met:

1. Provide adequate provisions of light, air, and privacy to adjoining property.
2. Provide for accessibility, including emergency vehicles, per City standards.
3. Result in a development that conforms to the general character of the neighborhood or zone district.
4. If a reduced number of parking is requested, provide adequate parking based on a parking demand analysis, or supplement on-site parking with joint use agreements.

There are no mandatory plans or other types of information required with this application. It is the applicant's responsibility to provide sufficient information and documentation on each of the issues for the review body to make a decision. Insufficient justification will result in a denial.

Signature of Applicant

Signature of Property Owner

B. D. [Signature]
ACW [Signature]

17 JAN 2022

17 Jan 2022

Date

3 of 3

same

Date

For the approval of a Quasi-Judicial Adjustment, the Applicant must satisfy the following criteria (#6-8):

6. Application of the regulation in question would preclude all reasonable economic use of the site.

Currently there is not a definition specific to a food pod use case that we can find. However, City Planning has indicated we are to include 10 parking spaces on this lot. While there is currently only one truck positioned on the lot, when the proposed remaining trucks move in, the 10 parking spaces were calculated using the floor area of all proposed carts and the seating area, multiplied by the Restaurants (without drive-thru) use type with a minimum parking requirement of 7 spaces/1,000 sq. ft. floor area.

This will impose a **significant** negative economic impact to the use of the site. We anticipate a decrease in revenue resulting from reduced rental space in which to position additional vendors.

7. Granting the adjustment is the minimum necessary to allow the use of the site.

Allowing an adjustment to reduce the required parking spaces from ten to seven is the minimum adjustment necessary for the planned use of the site. Please note, that there will still be the one required handicap space per six parking spaces (TDMC-10.7.030.050). The site as is has been set up for easy flow of foot and bicycle traffic. We have reused/upcycled every piece of property left behind by the previous property owners to restore the lot into a “backyard” venue rather than the eyesore it once was. The current garden space, seating and waiting areas have been made from the concrete pads Tum-A-Lum previously poured and the original parklets TD Main Street handed down to us. The vision (with the help of the original Planning Dept. and neighboring businesses) was to restore, reuse and recycle the lot into a downtown retreat for locals to be able to access during their lunch hours and as a place to be able to bring their families for a quick bite on their way back home between school and work activities. To take away from the original idea of more green space to add parking would deteriorate from the overall use and vision of the property.

8. Any impacts resulting from the adjustment are mitigated to the extent practical.

a. Impacts to parking in the area resulting from the adjustment are mitigated by the transient nature of the services that the business(es) will be providing onsite. A majority of customers for mobile food vendors are there to receive goods and move along to another location to consume their orders (i.e. they return home or to their employment location).

b. In the two years we have been open, there has not been an issue with parking locally during our normal business hours. Most of our customers have become accustomed to calling ahead for orders, especially larger ones. This has resulted in customers typically being on site for a minimal amount of time with a negligible impact to on street parking.

c. This shows the transient nature for most customers during a normal business day. A portion of our customers have been known to begin their evenings at the site and meet others as the day progresses. This has essentially created a starting meeting point for people to start their evenings and days.

If the Applicant meets the approval criteria listed above, then the following criteria must also be met:

1. Provide adequate provisions of light, air, and privacy to adjoining property. There is no impact to the light, air, and privacy of the adjoining properties, as the parking area is limited to the open lot area bordered by the fencing to the west, by the train tracks to the north, and by the existing concrete wall to the east. There are no employees or customers of the adjoining properties impacted in terms of light, air or privacy, as the projected parking area affects none of the three current property line borders and poses no vertical obstruction.
2. Provide for accessibility, including emergency vehicles, per City standards. There is no request to remove the requirement for a handicap parking space in the area. Emergency vehicles will be able to access the property through the driveway entering the parking area. Since this is a corner lot, not only can emergency services access said driveway, but the entire 2nd Street (front area) and the 2nd/Monroe (side area) as well.
3. Result in a development that conforms to the general character of the neighborhood or zone district. This request allows for parking at the north end of the property away from the traffic on E. 2nd Street. It is similar in the use of the adjoining properties in the area of East 2nd Street. By doing this, we continue to keep the property pedestrian oriented ~ which allows for the historical development of downtown to progress in a modern way without taking away from the original intent of pedestrian first and automobile second. We have tried very hard to incorporate and align our vision with the Purpose Statement of the CBC zone (downtown), this zone is “intended to provide an area for commercial uses, along with civic and certain residential uses, and to provide all basic services and amenities required to keep the downtown area the vital pedestrian-oriented center of the community.”
4. If a reduced number of parking is requested, provide adequate parking based on a parking demand analysis, or supplement on-site parking with joint use agreements.

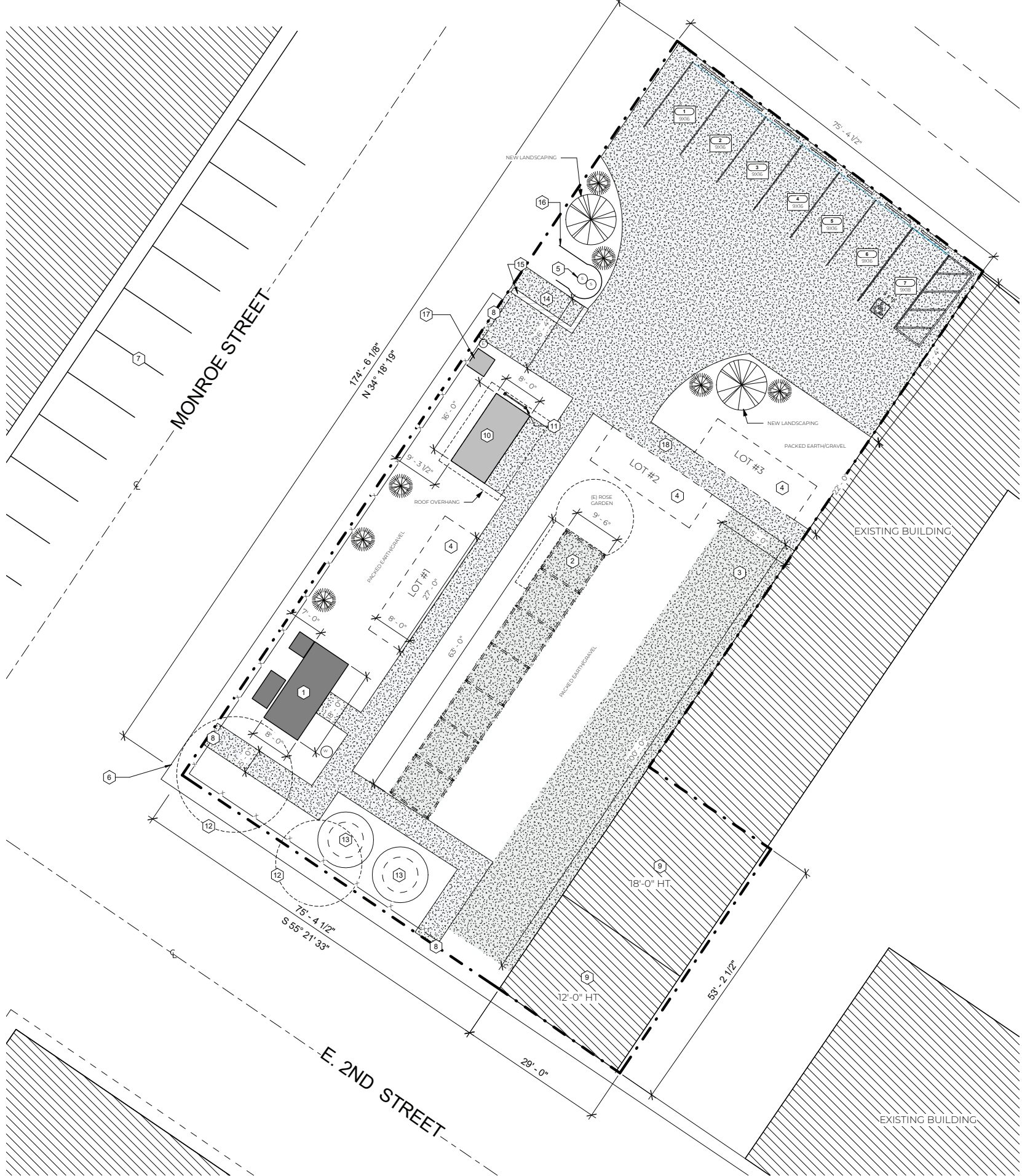
Parking demand:

- a. In the two years we have been open, we yet to see a need for additional off-street parking. Our hours of operation coordinate with our neighbor’s hours,

both during the week and weekend. Special events (i.e. live music) have been timed and coordinated with the same neighboring businesses, as they have also been participating in the event in some capacity. Our neighbors continue to support the project and are excited about having such a business nearby. We are providing our downtown community with the additional outdoor, covid-friendly space needed to continue to socialize with their family and friends. We've also created a haven for our local teens to come for a quick lunch during the week, when options for them are limited; whereas they too carpool, call ahead and take food back to the campus.

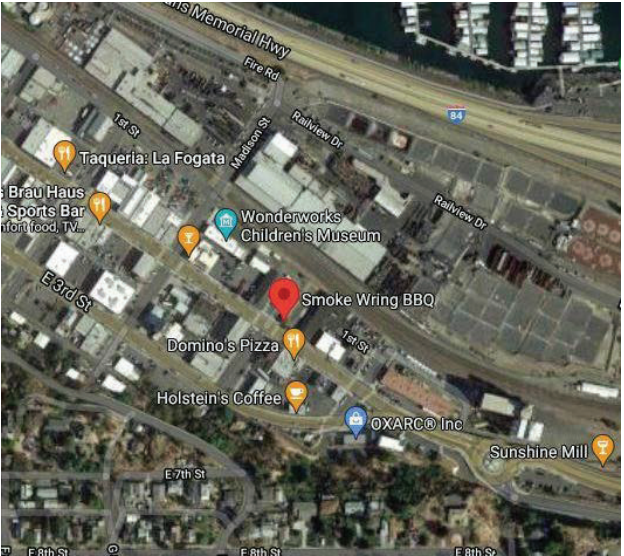
- b. To date, most customers are at the site for less than 15 minutes at a time during a normal day. Less than a quarter of customers are there for approximately 30-45 minutes during a normal day. There are occasional times that customers have stayed for longer than 45 mins however, we notice that those are less than approximately 2% of our traffic throughout the entire week, not just in a single day.

We feel this shows the transient nature for most customers during a normal business day. A portion of our customers have been known to begin their evenings at the site and meet others as the day progresses. This has essentially created a starting/meeting point for people during the day/evenings.



1 ARCHITECTURAL SITE PLAN
3/32" = 1'-0"

VICINITY MAP n.t.s.



SITE INFORMATION

SITE ADDRESS: 802 E. 2ND ST THE DALLES, OR 97058	PROPERTY OWNER: BEN & ANNE WRING 805-610-3167 benjamin.wring@gmail.com anne.wring@gmail.com	ZONING: CENTRAL BUSINESS COMMERCIAL 0.33 ACRES
		LEGAL DESCRIPTION: TAX LOT: 1N 13E 3AC 2200

PROJECT NARRATIVE

THIS SITE PLAN IS FOR A FOOD TRUCK POD LOCATED IN DOWNTOWN THE DALLES, OREGON. CURRENTLY THE "SMOKE WRING" FOOD TRUCK IS LOCATED ON THE SOUTHWEST CORNER OF THE LOT, AND THERE ARE THREE MORE FOOD TRUCK LOCATIONS PROPOSED ON SITE. TEN (10) PERPENDICULAR STREET PARKING STALLS ARE LOCATED ON MONROE STREET TO THE NORTH AND PARALLEL PARKING IS AVAILABLE ALONG THE SOUTH SIDE OF THE SITE. WE HAVE DESIGNED A PARKING AREA ON SITE WITH SIX STALLS AND ONE ADA ACCESSIBLE STALL. PEDESTRIANS ACCESS THE SITE FROM THE SOUTHEAST CORNER, SOUTHWEST CORNER, OR NORTHWEST GATED OPENING. SITE IS PACKED DIRT AND GRAVEL WHERE NOTED AND CONCRETE PER THE HATCHED AREAS.

KEY NOTES

- 144 SF
- 600 SF
- 645 SF
- 190 SF
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- (E) SMOKE WRING FOOD TRUCK
- (E) COVERED PATIO SEATING AREA
- (E) CONCRETE PAD, TEMP SEATING TO BE REMOVED
- PROPOSED FOOD TRUCK RENTAL LOCATIONS
- (E) SEWER MANHOLE
- (E) SIDEWALK
- (E) PERPENDICULAR PARKING STALLS ON MONROE STREET
- (E) PEDESTRIAN ACCESS THROUGH GATED OPENINGS
- (E) STORAGE AREAS IN ADJACENT BUILDING
- (N) PROPOSED ADA RESTROOM BUILDING, ROOF LINE DASHED
- (N) PROPOSED BICYCLE PARKING
- (E) MATURE STREET TREE
- (E) OUTDOOR FIRE PIT SURROUNDED BY CHAIRS
- (E) DUMPSTER AND RECYCLING BINS
- (N) PROPOSED GARBAGE SCREENING WALL
- (E) STACKED ROCK SCREENING WALL (APPX. 2' HIGH)
- (E) PORTA POTTY (TO BE REMOVED AFTER #10 CONSTRUCTION)
- (N) PROPOSED ADA COMPLIANT SIDEWALK 5'-0" MIN WIDE

LEGEND

-
-
-
- x—x—
- · — · —
-
- (W)
- (E)
- CONCRETE
- (E) BUILDING
- (E) FOOD CART
- (E) FENCE
- (E) PROPERTY LINE
- (E) LANDSCAPING
- WATER
- ELECTRIC

1,579 TOTAL SF



MICHELLE@MILLER-DESIGNSTUDIO.COM

(971) 226-3495
PO Box 11
North Bonneville, WA 98639

SMOKE WRING SITE PLAN
802 E 2ND ST
THE DALLES, OR 97058

SITE PLAN

PHASE

PERMITTING

DATE

10/21/21

SHEET NUMBER

A1.0



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT Appeal No. 032-22 of MIP 401-21 – Kenneth S. Whiteman

Applicant: Kenneth Whiteman
Procedure Type: Quasi-Judicial
Public Hearing Date: February 17, 2022
Assessor's Map: Township 1 North, 13 East, Section 11 BA
Tax Lot: 700
Address: 2206 E 16th Street
Zoning District: "RL" Low Density Residential
Prepared by: Joshua Chandler, Associate Planner
Jonathan Kara, City Attorney

BACKGROUND: On January 13, 2022, the Community Development Department (CDD) administratively denied Application for Minor Partition No. 401-21 (Application) submitted by Mr. Kenneth S. Whiteman (Appellant). The Application proposes to divide a 0.43 net acre (0.48 gross acre) parcel addressed 2206 E. 16th Street into three (3) parcels of varying sizes. Staff's administrative basis for denial was the proposal exceeds the maximum density permitted in the RL Low Density Residential District zone pursuant to The Dalles Municipal Code (TDMC) 10.5.010.010.

During the 14-day comment period for MIP 401-21, CDD received four (4) comments opposing the Application, comprising density, fire access, substandard roadway conditions, and parking concerns.

On January 24, 2022, Appellant submitted and CDD received a Notice of Appeal for Land Use Decision of MIP 401-21 (Notice of Appeal). Pursuant to TDMC 10.3.020.080(A), appeals are reviewed by this Commission as a *de novo* evidentiary hearing, meaning a public hearing allowing for the introduction of additional evidence on issues administratively raised and included in the Notice of Appeal, and for arguments or testimony based on those issues; however, it neither allows new issues be raised nor

permit evidence, arguments, or testimony to be presented on issues not raised in the Notice of Appeal.

REQUEST: Appellant is requesting approval to partition an 18,656 SF parcel into three (3) parcels occupying 7,900 SF, 5,378 SF, and 5,378 SF respectively. The property is addressed 2206 East 16th Street and is depicted in Assessor's Map No. 1N 13E 11 BA as Tax Lot 700.

NOTIFICATION: Property owners within 300 feet, City Departments, and Franchise Utilities.

COMMENTS RECEIVED: No comments received as of the date of this staff report.

REVIEW CRITERIA:

I. City of The Dalles Municipal Code, Title 10 Land Use and Development

Section 10.3.010.040 Applications

A. Acceptance

FINDING #1: Appellant submitted a pre-application, Site Team, request for the original MIP 401-21 application on October 26, 2021, and submitted the first-half of the application fee on November 2, 2021. The Site Team meeting was held on November 18, 2021. On November 29, 2021, Appellant submitted all required information and the remainder of the application fee.

Appellant submitted its Notice of Appeal on January 24, 2022. Pursuant to TDMC 10.3.020.040(I), administrative actions may be appealed to the Commission per the provisions of TDMC 10.3.020.080 within ten (10) days of the effective date of the Notice of Decision (NOD). CDD issued the NOD for MIP 401-21 on January 13, 2022, effectively establishing a ten-day appeal deadline of January 24, 2022, in observance of the weekend. **Criterion met.**

B. Completeness

FINDING #2: CDD deemed the Application complete on November 29, 2021. **Criterion met.**

Section 10.3.020.080 Appeal Procedures

A. De Novo

FINDING #3: This Staff Report serves as a *de novo* report for APL 032-22. **Criterion met.**

B. Right to Appeal Decisions.

FINDING #4: Appellant, Kenneth S. Whiteman, is a party of record to the particular action, was the original applicant for MIP 401-21, and is therefore eligible to appeal CDD’s administrative denial of MIP 401-21. **Criterion met.**

C. Filing Appeal.

FINDING #5: See Finding #1. **Criterion met.**

D. Notice of Appeal.

FINDING #6: TDMC 10.3.020.080(D)(3) provides every notice of appeal shall include the “specific grounds why the decision should be reversed or modified, based on the applicable criteria or procedural error.” Staff determined Appellant submitted supporting documentation within the Notice of Appeal addressing multiple concerns with past CDD decisions on land divisions, perceived flaws of TDMC, timeline of correspondences between Appellant and Staff, as well as potential options in which the Application could be approved. Staff will address only those concerns regarding applicable criteria of TDMC and/or procedural errors. All other perceived and/or assumed arguments not specifically addressing TDMC are not addressed by this Staff Report. **Criterion met.**

E. Jurisdictional Defects.

FINDING #7: Staff determined no jurisdictional defects exist with the Notice of Appeal request. **Criterion met.**

G. Notification of Appeal Hearing.

FINDING #8: Appropriate mailings to property owners within 300 feet and notice to affected departments and agencies were made on February 3, 2022. **Criterion met.**

Section 10.5.010.010 Purpose

FINDING #9: TDMC 10.5.010.010 provides the RL Low Density Residential District implements the RL – Low Density Residential Comprehensive Plan designation, which allows for a range of 3 to 6 single-family dwellings (SFDs) per gross acre. The proposed partition plat attached to and made part of the Application lists the subject property’s area as 0.43 acres (a figure commonly referred to as *net acreage*). When determining *gross acreage*, the net acreage is added to half the width of the right-of-way (ROW) abutting the subject parcel, in this case totaling 0.485 ac¹. Accordingly, gross and net density are defined in TDMC 10.2.030:

Gross Density. The total number of dwelling units per total area of a lot, parcel, or tract.

Net Density. The total number of dwelling units per developable area of a lot, parcel, or tract (i.e., total area minus roads, easements, etc.).

To avoid any confusion regarding Staff’s density calculations for the proposed partition, Staff included a calculation of both gross and net density below; however, TDMC 10.5.010.010 specifically addresses a density range per *gross acreage*.

¹ 0.43 ac + 0.055 ac | 2,390.1 SF [79.67’ x 30’(1/2 of E. 16th St. ROW)] = **0.485 ac**

- **Gross Density.** 0.485 ac x 6 units (maximum density) = **2** (rounded down from 2.91)
- **Net Density.** 0.43 ac x 6 units = **2** (rounded down from 2.58)

TDMC 10.6.070.020(B) provides, when a regulation is expressed in terms of maximum limits, any fractional result shall be rounded down to the next lower whole number. Here, both calculations above demonstrate the maximum density for the subject property as two (2) units. The proposed partition exceeds the maximum density for the RL Low Density Residential District.

Appellant raises concerns regarding Staff's interpretation on the method for calculating density with land division proposals (i.e. the denominator). Appellant questions whether the calculation is an average across the entire zoning district, the neighborhood or block, or whether the calculation is based on each lot or division. Additionally, Appellant questions if this calculation includes public ROW. For practical purposes, Staff determines gross acreage density ranges on an individual development proposal basis, including portions of all abutting public ROW. For one (1) parcel/lot proposals (similar to the Appellant's request) or for larger developments involving multiple lots or parcels, the overall density of the entire proposed development site is calculated.

Although reference to a specific denominator is not included within each residential density range statement, both TDMC and the Comprehensive Plan reference applying these density ranges at the time of each development proposal. Goal 10, Policy #5 of the Comprehensive Plan details an adoption of "standards to ensure that residential development occurs within planned density ranges within each residential district." Whereas, TDMC 10.9.020.020 (D,8,b) provides standards for redevelopment plans to accompany all land division applications. Each plan shall "indicate how the property(ies) may be further developed to 70% of the maximum Comprehensive Plan density for the particular zone district." Both of these sections speak to a specific development, with no additional land area under consideration.

Staff determined over 1,800 properties (parcels/lots) currently exist within the RL Low Density Residential District, with some created prior to current Comprehensive Plan density ranges. It is Staff's duty to ensure all development proposals comply with specified density ranges, not to compensate for past land divisions that may or may not meet these density ranges. Although not specifically defined in TDMC 10.2.030, "neighborhood" is used throughout TDMC, however, lacks any level of spatial context. Oregon Revised Statute 197.307(4) requires that a local government may adopt and apply only clear and objective standards, conditions and procedures when regulating the development of housing. These standards, conditions, and procedures may include provisions which regulate density, but it is the jurisdiction's discretion to establish a denominator of these calculations. With no clear and objective unit of measure for a "neighborhood" within TDMC, Staff is unable to imply area boundaries for measurement purposes.

Staff consulted the City Attorney for a legal interpretation of TDMC 10.5.010.010, who found an application appears to require at least 0.50 gross acres to site three (3) SFDs for the RL Low Density Residential District. The City Attorney's memorandum of law is attached to and made part of this Staff Report as Attachment "A".

Appellant raises additional concerns regarding TDMC language referencing duplex exemptions from density calculations. Pursuant to OAR 660-046-0120(2), “if a Medium City² applies density maximums in a zone, it may not apply those maximums to the development of duplexes.” The City’s recent Housing Code Amendments, which implemented HB 2001 (ZOA 104-21 and CPA 49-21), amended TDMC 10.5.010.010 to add: “This density does not apply to duplexes.” The Legislative Assembly drafted HB 2001 to allow “middle housing” in all residential areas with the intent of increasing housing supply and affordability throughout Oregon. For those cities classified as “Medium Cities”, duplexes are permissible on any lot or parcel that allows SFDs in residential areas. Ultimately, HB 2001 requires duplexes be treated as SFDs, including with respect to lot dimensions, setbacks, height, parking, and density.

TDMC 10.5.010.010 provides:

This district implements the RL - Low Density Residential Comprehensive Plan designation, which allows for a range of 3 to 6 single-family dwelling units per gross acre. This density does not apply to duplexes. The RL district is intended to provide low density family residential areas for present and future needs, together with a full range of urban services.

The second sentence begins with, “[t]his density does not apply to duplexes” and “**this density**” references the density range in the preceding sentence: namely, three (3) to six (6) SFD units per gross acre. Since OAR 660-046-0120(2) mandates duplexes be considered equivalent to SFD units under Oregon law, Staff’s interpretation of the meaning of the second sentence is duplexes are to be considered the same as one (1) SFD unit when calculating density.

Appellant states:

An additional option that would meet the requirements of Section 10.5.010.010 is to build a Duplex on one lot and a Single Family Dwelling on another. As the Duplex is excluded from the calculation, the combination of the larger lot and one of the smaller lots would meet the density requirement of Section 10.5.010.010.

Staff assumes Appellant refers to a development of the three (3) proposed parcels to include: one (1) duplex on one (1) parcel and two (2) SFDs on each of the remaining two (2) parcels (see below and Exhibit 1).

- Parcel A: Duplex 0 units
- Parcel B: SFD (existing) 1 unit
- Parcel C: SFD (future) 1 unit
- *Total:* 2 units

Presumably by this metric, the duplex would be considered as zero (0) units, while the two (2) SFDs would be two (2) units; totaling only two (2) units on three (3) parcels, thus meeting the density requirements of the subject property. However, Staff determined this approach to be an incorrect interpretation of both TDMC and Oregon law, and would result in a total density of three (3) dwellings units per gross acre, with the duplex being

² Cities with populations between 10,000 – 24,999 (including the City of The Dalles)

counted as only one (1) dwelling and the two (2) SFDs would be two (2) units for maximum density purposes.

Since three (3) parcels could develop at least one (1) SFD (or duplex), the creation of three (3) parcels would result in the potential to develop the subject property and exceed the maximum density (see below and Exhibit 2).

- Parcel A: SFD or Duplex 1 unit
- Parcel B: SFD or Duplex 1 unit
- Parcel C: SFD or Duplex 1 unit
 - *Total:* 3 units

Alternatively, TDMC and State law would allow the Appellant to partition the subject property into two (2) parcels with the ability to develop one (1) duplex on each parcel, resulting in a total of four (4) new units.

- Parcel A: SFD or Duplex 1 unit
- Parcel B: SFD or Duplex 1 unit
 - *Total:* 2 units (per HB 2001), however, 4 *physical* units

Criterion not met.

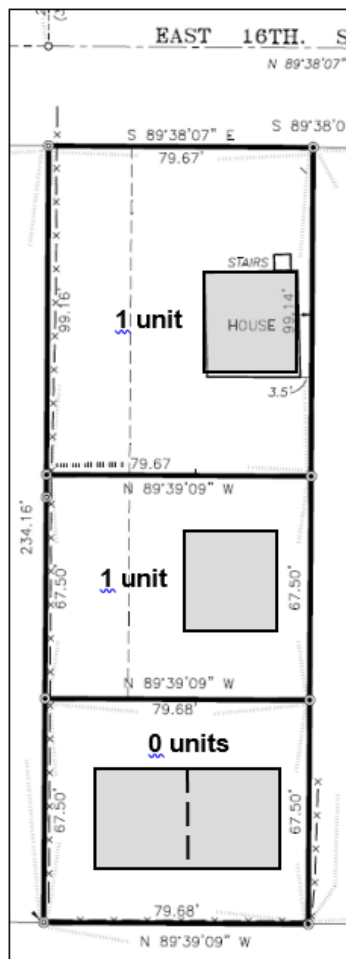


Exhibit 1

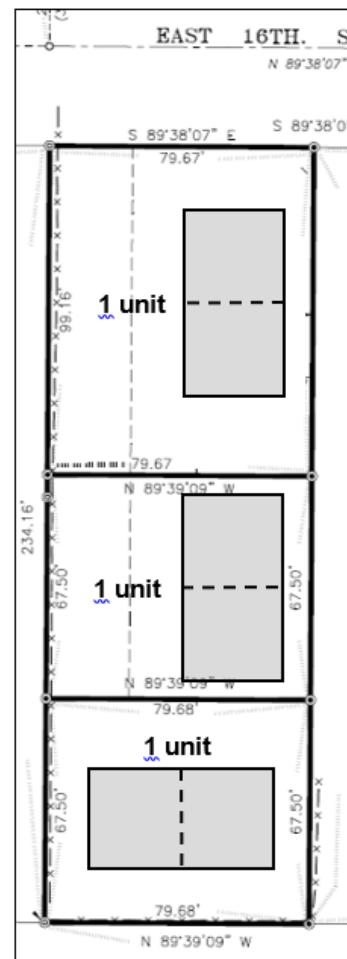


Exhibit 2

Section 10.5.010.080 Exceptions to Standards

FINDING #10: As mentioned in Finding #6, Appellant included a potential option for approving the Application and cites TDMC 10.5.010.080(A)(2), providing:

Where open space is reserved on a separate tract of land, permitted density from that open space tract may be transferred to buildable portions of the site to allow for small lot single-family and town house lots through the subdivision process, provided that the overall project density does not exceed 6 dwelling units per gross acre. The proposed development must conform to this and other City ordinances.

Although TDMC 10.5.010.080(A)(2) refers to density, the reference pertains to a transfer of density amongst multiple parcels to adjust lot sizes during the subdivision process. TDMC 10.5.010.080(A)(2) was not included in Staff's decision to deny MIP 401-21 because:

- 1) The Application's proposed parcel sizes comply with the minimum lot size requirements of the RL Low Density Residential District, so lot size adjustments were neither necessary nor requested by Appellant;
- 2) Appellant proposes a land division on only one (1) parcel of land; no additional tracts of land were referenced with the application or discussed with Staff prior to the submission of the Notice of Appeal; and
- 3) TDMC 10.5.010.080(A)(2)'s standard pertains specifically to the subdivision (the creation of four or more lots) process and Appellant requested approval of a minor partition (the creation of three or fewer parcels).

Criterion not applicable.

Section 10.9.020.020 General Provisions

A. Applicability.

FINDING #11: The submitted partition does not meet the residential density range required in the RL Low Density Residential District, as outlined in TDMC 10.5.010.010.

Criterion not met.

B. Annexation.

FINDING #12: The subject property is located within The Dalles City Limits. **Criterion not applicable.**

C. Blocks

2. Size.

FINDING #13: The subject property has street frontage on E. 16th Street. Pursuant to The Dalles Transportation System Plan, E. 16th Street is classified as a Local Street. TDMC 10.9.020.020 (C, 2, a) states Local Street block minimum widths and lengths shall be 200' and 300', respectively, and a maximum of 600'. This proposal will not alter the size of the existing block, and will maintain the E. 16th Street frontage dimension of 79.67'. **Criterion met**

D. General Lot Requirements

1. Size and Shape.

FINDING #14: The RL Low Density Residential District requires a minimum lot size of 5,000 SF, with a minimum lot width of 50' and minimum depth average of 65'. From the preliminary partition plat, Staff determined the following dimensions for each parcel:

- Parcel 1 – Area: 7,900 SF | Width: 79.67' | Depth: 99.61'
- Parcel 2 – Area: 5,378 SF | Width: 79.67' | Depth: 67.5'
- Parcel 3 – Area: 5,378 SF | Width: 79.68' | Depth: 67.5'

The proposed parcels meet the size requirements of the RL Low Density Residential District. **Criterion met.**

2. Access.

FINDING #15: The subject property has street frontage on E. 16th Street. Appellant's proposal aims to effectively create two (2) landlocked parcels (Parcels 2 and 3) with no public ROW frontage. If the Application is approved, Staff will require Appellant to establish and record an access easement through Parcels 1 and 2 to ensure access rights to Parcels 2 and 3. TDMC 10.9.020.030 provides such an easement shall be at least 25' wide and must comply with fire access requirements. **Criterion could be met with conditions.**

3. Access Points.

FINDING #16: See Finding #15. **Criterion met.**

4. Through Lots.

FINDING #17: No through-lots are proposed with the Application. **Criterion not applicable.**

5. Lot Side Lines.

FINDING #18: From the preliminary partition plat, Staff determined all proposed lot lines are at right angles to E. 16th Street. Staff finds Appellant's proposal complies with TDMC 10.9.020.020 (D)(5). **Criterion met.**

6. Lot Grading.

FINDING #19: No grading is proposed with this request. **Criterion met.**

7. Building Lines.

FINDING #20: Staff determined from the preliminary partition plat multiple structures exist on the subject property. Two (2) of these structures, labeled "garage" and "shed", are to be removed. The garage is currently located within the required 25' easement and the shed straddles the proposed property line between Parcels 2 and 3. If the Application is approved, Staff will require both structures be removed prior to the final plat being signed as a Condition of Approval. An additional structure, labeled as "house", does not meet minimum side yard setbacks of the RL Low Density Residential District. The proposed partition will not increase the non-conformity of the structure, so no mitigation is required for the "house". **Criterion could be met with conditions.**

8. *Redevelopment Plans.*

FINDING #21: Pursuant to 10.9.020.020 (D,8,b),

“A redevelopment plan shall be required when dividing residential land into large lots that have the potential for further subdivision or partition at some future date. The redevelopment plan shall show street extensions, utility extensions, and lot patterns to:

- a. Indicate how the property(ies) may be further developed to 70% of maximum Comprehensive Plan density for the particular zone district.
- b. Demonstrate that the proposal will not inhibit development of adjacent lands.”

In the RL zoning district, Comprehensive Plan calls for a range of 3 to 6 single-family dwellings per gross acre. Parcel 1 is 7,900 SF (0.181 ac), Parcel 2 is 5,378 SF (0.123 ac), and Parcel 3 is 5,378 SF (0.123 ac). As discussed in Finding #9, the partition request exceeds the maximum density per the Comprehensive Plan; therefore, shall not be approved. **Criterion not met.**

Section 10.9.020.030 Residential Rear Lot Development

A. Lot Access Requirements

FINDING #22: See Finding #15. **Criterion met.**

B. Improvement Requirements

FINDING #23: Separate water and sewer laterals will need to be installed for each proposed parcel prior to the final plat being signed. All utilities must be installed to City standards. If the Application is approved, Staff will include this utility requirement as a Condition of Approval. **Criterion could be met with conditions.**

D. Required Connection to Right-of-Way

FINDING #24: See Finding #15. As stated in TDMC 10.9.020.030, “private access drives and access ways must connect to a dedicated right-of-way at least 40 feet in width that has a street improved to City standards”; however, an exception to the improvement standard may be allowed if the accessway connects to a “substandard street.” Staff determined E. 16th Street is not improved to City standards, so the partition request is exempt from improvement requirements. Furthermore, as stated in TDMC 10.9.030.050(B)(2), “for a partition of a vacant parcel of property which is zoned for residential development, or a partition of a parcel upon which an existing residential structure is located, prior to the approval of the final plat, the applicant shall not be required to install required street improvements.” **Criterion not applicable.**

E. Lot Area

FINDING #25: See Finding #14. **Criterion met.**

F. Fire Protection

FINDING #26: During the November 18, 2021, Site Team meeting, Mid-Columbia Fire and Rescue’s Fire Marshal reviewed the proposed partition and provided Appellant with requirements of the proposed development included within the Site Team notes. If the Application is approved, Staff will require all proposed developments comply with all

fire, life, and safety standards as a Condition of Approval. **Criterion could be met with conditions.**

G. Existing Vegetation

FINDING #27: From the preliminary partition plat, Staff determined Appellant did not provide any detail regarding significant vegetation. If the Application is approved, Staff will require all significant beneficial vegetation be preserved wherever possible as a Condition of Approval. **Criterion could be met with conditions.**

H. Reciprocal Easements

FINDING #28: See Finding #15. In addition, if the Application is approved, Staff will require Appellant obtain and establish a utility easement through Parcels 1 and 2 to ensure utility access to Parcels 2 and 3 as a Condition of Approval. All utility easements and/or dedications shall be deed recorded and included on the final plat. **Criterion could be met with conditions.**

Section 10.9.030.040 Partition Application Review.

C. Period of Approval.

FINDING #29: TDMC 10.9.030.040 provides approval of a partition application shall be valid for a period of one (1) year from the date of the NOD. If no final partition plat is submitted within one (1) year, or within any timely extension, the partition application shall become void and a new application required. If the Application is approved, Staff will include these submission timelines and requirements as a Condition of Approval. **Criterion met could be met with conditions.**

Section 10.9.030.050 Final Partition Plat Review

FINDING #30: The final plat must conform to the approved tentative partition plat, the provisions of Article 9.020: Land Division Standards and any conditions of approval, as well as comply with Wasco County recording requirements. Once all required signatures have been obtained on the final plat, the Applicant shall record the plat and any required covenants with the Wasco County Clerk. A copy of the recorded plat and any covenants must be submitted to the CDD upon recording. If the Application is approved, Staff will require the final plat meet all requirements of Section 10.9.030.050. **Criterion could be met with conditions.**

COMMISSION ALTERNATIVES:

1. **Staff recommendation:** The Planning Commission move to adopt Resolution 601A-22 denying the appeal and affirming Staff's denial of Minor Partition No. 401-21, based upon the findings of fact and conclusions of law set forth in the Agenda Staff Report.
2. If the Planning Commission desires to grant the appeal, move to direct staff to adopt Resolution 601B-22 granting the appeal and overturning Staff's decision. The Planning Commission would need to identify the specific criteria concerning this decision. In the event Resolution 601B-22 is adopted, all Conditions of Approval included within must be met.

ATTACHMENTS:

A comprehensive list of all attachments pertaining to Minor Partition No. 401-21 have been provided below.

- Attachment A – Memorandum of Law: Jonathan Kara, City Attorney, City of The Dalles, dated February 17, 2022
- Attachment B – Notice of Appeal for Land Use Decision of MIP 401-21
- Attachment C – Notice of Decision: MIP 401-21
- Attachment D – Staff Report: MIP 401-21
- Attachment E – Comments received (MIP 401-21)
- Attachment F – Preliminary Partition Plat (MIP 401-21)
- Attachment G – Application Material (MIP 401-21)
- Attachment H – Supplemental Information submitted by the Applicant, dated February 10, 2022. Received at 4:03 p.m.

MEMORANDUM OF LAW**TO:** Planning Commission**FROM:** Jonathan Kara, City Attorney**DATE:** February 17, 2022**RE:** **APL 032-22 – Land Use and Development Ordinance Interpretation**

Kenneth S. Whiteman (**Appellant**) appealed denial of MIP 401-21 as provided in Notice of Appeal for Land Use Decision APL 032-22 (**Notice of Appeal**). MIP 401-21 proposes to partition a **0.48 gross acre** parcel located in the *RL Low Density Residential District zone* addressed 2206 E. 16th Street into three (3) parcels of varying sizes. Community Development Department (**CDD**) Staff administratively denied MIP 401-21 pursuant to The Dalles Municipal Code (**TDMC** or **Code**) 10.5.010.010 and The Dalles Comprehensive Land Use Plan (**TDCP** or **Plan**) Goal 10 Policy 22(a).

TDMC 10.5.010.010 provides:

This district implements the RL - Low Density Residential Comprehensive Plan designation, which allows for a range of 3 to 6 single-family dwelling units per gross acre. This density does not apply to duplexes. The RL district is intended to provide low density family residential areas for present and future needs, together with a full range of urban services.

TDCP Goal 10 Policy 22(a) provides:

To provide variety and flexibility in site design and densities, residential lands shall be divided into land use planning districts with the following prescribed density ranges for each district:

a. Low Density Residential 3-6 units/gross acre

Staff consulted me for a legal determination on TDMC 10.5.010.010 and TDCP Goal 10 Policy 22(a) before denying the application for MIP 401-21. I reviewed the relevant laws and facts connected with MIP 401-21 and found all partition applications in the RL Low Density Residential District zone must maintain a density range of 3 to 6 single-family dwelling (**SFD**) units/gross acre and, therefore, I advised CDD Staff to deny Appellant's proposed 0.48 gross acre partition into 3 parcels because both the Code and Plan provide the RL Low Density Residential District zone requires (at least) 0.50 gross acres to site 3 SFD units. Appellant disagrees and this APL 032-22 appeal followed.

APL 032-22's Raised Issues

Appellant's Notice of Appeal raises two issues and the City's position on those two issues is articulated and substantively reasoned in APL 032-22's Staff Report (**Staff Report**, incorporated herein by reference) Finding #9. **Appellant's two raised issues** and *my legal determination* for each are as follows:

I. Whether TDMC 10.5.010.010's density requirements only apply to Single Family Dwelling (SFD) units and specifically exclude duplexes from density calculations.

My understanding of the Code, Plan, House Bill 2001 (Oregon Laws 2019, chapter 639), and Oregon Administrative Rules (Chapter 660, Division 46) supports CDD Staff's position as detailed in Staff Report Finding #9—Oregon law mandates a duplex within city limits of the City of The Dalles be treated as a SFD-unit equivalent with respect to density (i.e., 1 SFD unit per duplex).

Accordingly, the City's position is TDMC 10.5.010.010's implementation of TDCP Goal 10 Policy 22(a)'s density range applies to both SFDs and duplexes alike and thus does not specifically exclude duplexes from density calculations.

II. Whether the Plan or TDMC 10.5.010.010 specify the measurement level (i.e., denominator) to be used in density calculations.

Neither the Plan nor Code specify the measurement level (i.e., denominator) to be used in density calculations. CDD Staff interprets the City's Plan and Code as requiring the density range be calculated using the gross acreage of the property proposed for partitioning, as substantively reasoned in Staff Report Finding #9. Under Oregon law, the City's interpretation of its own Plan and Code is valid and dispositive if the City's interpretation is plausible and not inconsistent with the express language, purpose, or policy of the Plan or Code.

Accordingly, the City's position (elaborated below) is its interpretation of the Plan and Code plausibly finds gross acreage of the subject property to be the appropriate measurement level (i.e., denominator) to be used in density calculations here and its interpretation is not inconsistent with the express language, purpose, or policy of the Plan or Code, and is thus entitled to significant and compulsory deference by any reviewing adjudicative authority.

Standard of Review
Siporen v. City of Medford, 349 Or 247 (2010)

Since approval or denial of a land use application is, generally, a land use decision appealable to the Oregon Land Use Board of Appeals (LUBA), Planning Commission's understanding of the legal standard to which the LUBA reviews City decision-making is imperative: of critical relevance is ORS 197.829(1) and its precedential judicial opinions (the so-called *Siporen* standard), providing, generally:

The LUBA must affirm the City's plausible interpretation of its own Plan and Code unless the LUBA determines it is inconsistent with the:

- (a) express language of the Plan or Code;**
- (b) purpose for the Plan or Code; or**
- (c) underlying policy providing the basis for the Plan or Code.**

Plausibility Determination
Hunt v. City of The Dalles, 78 Or LUBA 509 (2018)

Relevant and precedential cases are always instructive when conducting a legal analysis on a unique question of law—especially when the same Code provision has already been analyzed by a controlling adjudicative body. In 2018, the LUBA issued its opinion in *Hunt v. City of The Dalles*: while some factual differences and legal arguments vary from MIP 401-21 and APL 032-22, the LUBA’s legal conclusions with respect to the Code (TDMC Title 10) and Plan (TDCP Goal 10) are still binding on the City, including its CDD Staff, Planning Commission, and City Council.

Background

The *Hunt* petitioner appealed City Council’s decision approving a minor partition and adjustment. There, the subject property was vacant land located in the Oak Grove Subdivision designated Low Density Residential in the Plan and zoned RL Low Density Residential in the Code. The *Hunt* applicant applied for a minor partition to divide the property into two 4,389 SF lots with an adjustment of the minimum lot size of 5,000 to 4,389 SF and adjustment of minimum lot width from 50 to 46 feet. Petitioner proposed a new construction of SFDs and Planning Commission conducted a hearing then approved the application. Other parties appealed Planning Commission’s decision to City Council, which, after a *de novo* public hearing, denied the appeal and affirmed Planning Commission’s approval. Petitioner appealed City Council’s denial to the LUBA, and the LUBA affirmed City Council’s (and thus, the Planning Commission’s) approval.

At issue in *Hunt* was whether the City properly construed TDMC 10.3.080.020 (*Adjustments – Applicability*), 10.2.030 (*Definitions – Meaning of Specific Words and Terms*), and 10.5.010.060 (*RL Low Density Residential – Development Standards*). Specifically, the LUBA considered whether approval of the adjustment would “allow an increase in density in the RL zone” as prohibited by TDMC 10.3.080.020. The density at the time of the original subdivision was 3.97 SFD units/gross acre, and City Council found the requested partition and adjustment would result in a density of 4.19 to 4.53 SFD units/gross acre for the subdivision. Despite increasing subdivision density, City Council determined approval would not violate TDMC 10.3.080.020(B)(6) because the Plan establishes a density of 3 to 6 SFD units/gross acre in the RL zone and reasoned, since the proposal would create a density within the established range, the adjustment is not prohibited because it does not allow an increase above the density range allowed in the RL zone.

Argument

Here, the City’s position is denial of MIP 401-21 is required since its approval would violate TDMC 10.5.010.010’s prescribed density range for the subject property because partitioning 0.48 gross acres into 3 parcels would exceed maximum density in the RL Low Density Residential District zone, which prescribes a 3 to 6 SFD units/gross acre density.

The *Hunt* petitioner argued the City misconstrued its Code and Plan when approving the application because the approval allows an increase in density in the RL zone: specifically, petitioner argued, because the Code defines density as dwelling units/gross acre and requires a 5,000 SF minimum lot size for a single-family detached dwelling in the RL zone, the City’s interpretation is expressly inconsistent with the text, context, and purpose of the Code. Petitioner argued density must be calculated based on the acreage of the subject property and **not**, as the City then argued, the acreage of the subdivision.

Here, the City takes a relatively opposing view from its *Hunt* position: the City interprets its Code and Plan as requiring the gross acreage of a subject property be the denominator for density calculations, **not** the acreage of the RL zone, neighborhood, block, subdivision, or any other scalable metric. As detailed in Staff Report Finding #9, since both TDMC 10.5.010.010 and TDCP Goal 10 Policy 22(a) express density with a gross acre denominator, the City finds it to be the most appropriate measurement level.

Further, TDMC 10.9.020.020(D)(8)(a) (*Land Division Standards – General Provisions*) also supports the City’s interpretation here since it requires an applicant for a land division demonstrate “how the property(ies) may be further developed to 70% of maximum Comprehensive Plan density for the particular zone district” (emphasis added to stress a zone district’s designated density applies to the subject property). In the instant case, the property occupies 0.48 gross acres and its density is thus capped at 2 SFD units/gross acre—the plain text of TDMC 10.9.020.020(D)(8)(a) appears to require Appellant demonstrate how the property itself may be further developed to 4.2 SFD units/gross acre (comprising 70% of the maximum density for the RL Low Density Residential District zone).

Legal Conclusions

In 2017, the Oregon Court of Appeals interpreted the *Siporen* review standard and held:

[T]he plausibility determination under ORS 197.829(1) is not whether a local government’s code interpretation best comports with principles of statutory construction. Rather, the issue is whether the local government’s interpretation is plausible because it is not expressly *inconsistent* with the text of the code provision or with related policies that ‘provide the basis for’ or that are ‘implemented’ by the code provision, include any ordained statement of the specific purpose of the code provision at issue. *Kaplowitz v. Lane County*, 285 Or App 764, 775 (2017), emphasis in original.

The LUBA cited the Oregon Court of Appeals when it found the Code’s prohibition on adjustments allowing an increase in density in the RL zone does not specify what denominator should be used to determine whether a proposed adjustment increases the density in the RL zone, or even explain how “density in the RL zone” is measured; however, the LUBA **affirmed** the City’s interpretations of “increase in density in the RL zone” as not inconsistent with the purpose of the Code’s residential density regulations or the purpose of the RL zone because the resulting density is within the density range for the RL zone provided in the Plan and the “ordained statement of the specific purpose” (i.e., TDMC 10.5.010.010) of the RL zone. *Kaplowitz*, 285 Or App at 775. The LUBA relied on the Plan when it agreed with the City’s interpretation of “density” and “acre”.

Here, Appellant’s Notice of Appeal argues the City’s plausible interpretation of its Code when it denied MIP 401-21 does not comport with its previous decision-making, but Appellant’s argument seems to fail under both legal and policy analyses: Oregon law provides the dispositive issue is not whether the City so comports but, instead, whether the City’s interpretation is nevertheless plausible and not expressly inconsistent with the text, purpose, or policy underlying the Code or Plan. As detailed in the Staff Report, it appears the City’s interpretation of TDMC 10.5.010.010 and TDCP Goal 10 Policy 22(a) is plausible, otherwise meets the *Siporen* standard’s requirements for deference, and is thus legally valid.

With respect to the City’s previous interpretations—the LUBA has consistently, and on several occasions, held cities and counties are not bound by earlier interpretations of their own codes and plans. Eloquently:

The issue [before the LUBA] is whether [the appealed decision] meets all the applicable criteria based upon the facts in the record. There is no requirement local government actions must be consistent with past decisions, but only that a decision must be correct when made. Indeed, to require consistency for that sake alone would run the risk of perpetuating error.

Marquam Farms Corp. v. Multnomah County, 32 Or LUBA 240 (1996) (quoting *Reeder v. Clackamas County*, 20 Or LUBA 238, 244 (1990), citing *Okeson v. Union County*, 10 Or LUBA 1, 5 (1983)). *See, also, Holland v. City of Cannon Beach*, 34 Or LUBA 1 (1998) (finding ORS 227.178(3) does not prevent a city from adopting an interpretation of its plan different than its interpretation effective on the date an application was submitted and applying its new interpretation to the application); and *see, generally, BenjFran Development v. Metro Service Dist.*, 17 Or LUBA 30, 46-47; *S&J Builders v. City of Tigard*, 14 Or LUBA 708, 711-712 (1986).

With respect to policy—the CDD Director and the City Attorney are each vested with tremendous discretion by and authority under the Code; however, since defending *Hunt*, the City has retained a new CDD Director and a new City Attorney who each agree with the City’s interpretation as presented in the Staff Report and herein and who each disagree with the City’s interpretation as presented in *Hunt*. Consistent with the LUBA’s numerous holdings on the issue of the City potentially being bound to its previous interpretations, it seems contrary to the fundamental principles of public policy to penalize the City, let alone all cities, for historical and incorrect or short-sighted interpretations by previous public officials when the City, or any city, endeavors to correct such oversights for the future.

Going forward, and in the spirit of transparency and correction, the City appreciates Appellant’s expressed frustration (as illustrated in Appellant’s Notice of Appeal) with the lack of specificity in the Code with respect to the measurement level to be used in density calculations and intends on revising the Code to reflect a more particularly described density calculation formula to avoid any further uncertainties in future applications. However, despite the apparent incongruity between the City’s position in 2018 and today, it appears the City is still afforded significant deference under Oregon law when plausibly interpreting its own Code and Plan, and it seems the City’s interpretation is unequivocally plausible here.

Appellant’s Suggested Avenues to Approval

Appellant’s Notice of Appeal purports to present “three available avenues specifically addressed in the [Code]” to meet the City’s land use and density requirements and compelling the City to categorize those criteria as eligible for “**Criterion can be met with conditions**” Findings:

1. *Since the application for MIP 401-21 did not specify a dwelling type, it cannot be denied based on a hypothetical property type (i.e., SFDs) imposed by the CDD Director;*

2. *Hypothetically, if, prior to developing the lots, Appellant designates open space on a separate tract of land and transfers the open space to the lots in question to achieve the required density, MIP 401-21 could proceed with building SFD units instead of duplexes; and*
3. *Hypothetically, building a duplex on one lot and a SFD on another could satisfy the Code's density requirement because duplexes are excluded from density calculations.*

To the extent relevant to its own interpretation, CDD Staff addresses these points as detailed in and reasoned through the Staff Report.

It does not appear examining Appellant's avenues to approving MIP 401-21 requires a substantive legal analysis under Oregon law. Just as the *Hunt* petitioner advanced several arguments, interpretations, and reasonings supporting the notion the proper denominator should be the acreage of the subject property there, it seems the LUBA would not afford any deference whatsoever to Appellant's "avenues" here—the LUBA relied on a binding Oregon Court of Appeals holding when it affirmed City Council's decision in *Hunt* "under th[e] highly deferential standard of review" and found it "is required to affirm the [C]ity's plausible interpretation, even if petitioner presents or [LUBA itself] conceive[s] a stronger interpretation." *Hunt*, citing *Mark Latham Excavation, Inc. v. Deschutes County*, 250 Or App 543, 555 (2012).

Here, even if (1) Appellant's avenues are assumed valid for the limited purpose of this point, (2) Appellant's avenues are deemed more logical, and (3) the LUBA conceives an even stronger interpretation of the Code, Oregon law still compels the LUBA or any Oregon court to defer to the City's plausible determination (as outlined in the Staff Report and herein) since "[t]he existence of a stronger or more logical interpretation does not render a weaker or less logical interpretation [by the City] 'implausible' under the *Siporen* standard." *Mark Latham Excavation, Inc.*, 250 Or App at 555; *Estroff v. City of Dundee*, 79 Or LUBA 189 (2019).



City of The Dalles
Community Development Dept
 313 Court Street
 The Dalles, OR 97058
 (541) 296-5481, ext. 1125
 www.thedalles.org

Application #: APL 032-22
 Filing Fee: \$500.00
 Receipt #: XBP 113829523
 Received: 01/24/2022

Notice of Appeal for Land Use Decision

Appellant's Name: Kenneth Whiteman
 Address: 2 Montello Ave
Hood River, OR 97031
 Phone: 503-730-5154
 Email: whitemank@gmail.com

Please state the reasons why the appellant qualifies as a party entitled to file a notice of appeal:
 The appellant qualifies as the original party who submitted the applicaiton.

Please provide the date and a brief description of the decision being appealed:

The Notice of Administrative Decision for MIP 401-21 was issued on January 13th, 2021. MIP 401-21 involved the partitioning of a lot into three parcels. The decision denied the request based on purported non-conformance with TDMC Section 10.5.010.010 and related non-conformance to Section 10.9.020.020

Please cite the specific grounds why the decision should be reversed or modified, and cite the applicable criteria or procedural error which supports the grounds for appeal:*

See attached grounds:

Appellant Signature

1/23/2022

Date

*Attach additional sheets as necessary.

The Director erred in denying the application based on TDMC Sections 10.5.010.010 and 10.9.020.020.

The applicant requested specific clarification on Section 10.5.010.010 from The Director regarding how and when it is applied, as that is not specified in the municipal code. He also asked for clarification about the exclusions of Duplexes from the measurement requirements of that section. The applicant and Ben Beseda from Tenneson Engineering identified numerous property partitions in the RL zone that have been approved without meeting the requirements of Section 10.5.010.010. Those partition examples were provided to The Director at her request. After not receiving a response for five days and consulting with Tenneson Engineering and other city planning experts who were also confused by the code, the applicant made the following email request to The Director:

After digging in a little further and being confused by the process, how/when it is applied, the inconsistencies with how the zoning and permitting process is structured, and lack of consistent enforcement, I'd like to request the opportunity to present the application to the planning commission. Considering that even the planning staff was unfamiliar with it and its application, I feel like it would be prudent to raise the issue to the planning commission so that they are aware, can help guide the process and hopefully address the confusion so that other applicants are not surprised at the last minute like I was. One would hope that it would eventually make its way into the zoning so that it can be more easily found, understood, applied, and enforced.

The Director emailed the applicant the following:

We are still working on our research in response to your questions from last week. We will be back with you by the end of the week.

However, the next communication from The Director was a Notification of Administrative Decision denying the application. There were never any responses to the questions that were posed, nor the request to present the issue to the Planning Commission. The record does not show any consideration of the questions that were posed that are very relevant to the application and decision. Ben Beseda even provided calculations for how he believed the partition application actually met the needs of the code, but nobody responded to him, either.

TDMC Section 10.5.010.010 specifically states (Underline added for emphasis)

10.5.010.010 Purpose

This district implements the RL - Low Density Residential Comprehensive Plan designation, which allows for a range of 3 to 6 single-family dwelling units per gross acre. This density does not apply to duplexes. The RL district is intended to provide low density family residential areas for present and future needs, together with a full range of urban services. (Ord. 21-1384)

The density requirements of this Section only apply to Single Family Dwelling Units and specifically excludes Duplexes from those density calculations. As the Low Density Residential code does not contain any maximum density specifications for Duplexes, Duplexes are bound by the standard 5,000 sf lot size required by the zoning for that area, not by Section 10.5.010.010.

As the type of home to be built on a lot in this zone is, by legal requirement, undetermined at the point of partitioning, it is unclear how this Section can even be applied to the lot partitioning process when that information is not available until after the partitions are complete. No home type, whether Single Family or Duplex can be submitted for permit by the City until after a lot is divided.

This application did not specify a dwelling type at all as there is nowhere on the form that asks for such information. The Director appears to have mistakenly assumed that Single Family Dwellings are the only option to be built on those lots, despite specific questions having been posed about the Duplex exclusion prior to her decision. As the requirements of 10.5.010.010 do not apply to Duplexes, the application cannot be denied based on a hypothetical property type imposed by The Director. As with other Findings in the Staff Report, Finding # 8 and Finding #18 must, at a minimum, be categorized as “Criterion can be met with Conditions”, not “Criterion Not Met” as it was incorrectly categorized.

Additionally, TDMC Section 10.5.10.080 titled “Exceptions to Standards” addresses another mechanism by which the criterion can be met. Section A.2. states:

Where open space is reserved on a separate tract of land, permitted density from that open space tract may be transferred to buildable portions of the site to allow for small lot single-family and town house lots through the subdivision process, provided that the overall project density does not exceed 6 dwelling units per gross acre. The proposed development must conform to this and other City ordinances.

If, prior to developing the lots, the applicant designates open space on a separate tract of land and transfers that open space to the lots in question to achieve the required density of 10.5.010.010, the application could proceed with building Single Family Dwelling Units instead of Duplexes that are already allowed without such a transfer. That would also qualify for a “Criterion can be met with Conditions” decision on those Findings.

An additional option that would meet the requirements of Section 10.5.010.010 is to build a Duplex on one lot and a Single Family Dwelling on another. As the Duplex is excluded from the calculation, the combination of the larger lot and one of the smaller lots would meet the density requirement of Section 10.5.010.010.

These are three available avenues specifically addressed in the TDMC that meet the requirements that The Director has labeled as “Criterion Not Met”, independent of the property type ultimately selected for those lots.

Section 10.5.010.010 states “This district implements the RL - Low Density Residential Comprehensive Plan designation, which allows for a range of 3 to 6 single-family dwelling units per gross acre.” However, it does not specify at what level that measurement is to be applied. Is it an average across the zone, the neighborhood, per block? Does it include public right-of-way easements in the calculation? Is it to be calculated on each lot, or each partition? As it is unspecified at what point that is to be measured, or how it is to be measured, it is understandable that the code has not been applied to previous partition applications such as those that Ben Beseda provided to the Director. The code as it currently is written is confusing, hard to locate, unknown by the planning department staff or local surveyors, and is generally unenforced based on a review of recent applications.

Partitioning the property per the application will achieve the best outcome for the neighborhood and for the community. The property is already naturally formed into three tiers with old growth trees. Dividing the lot into two would require significant restructuring of the lot and tree removal which would damage the neighborhood aesthetic.

Whatever the outcome of this appeal process, it is our sincere hope that these points of confusion are addressed by the City to prevent other applicants from encountering these issues. In this case, the applicant reached out to the Community Development Department prior to purchasing the property to ask for a preliminary assessment of the partition plan. The applicant was told that he only needed to meet the 5,000 sf requirement in the zoning along with access requirements set by the Fire Chief. This feedback led the applicant to purchase the property. The application even made it through the preliminary staff review without any mention of density issues. Until this is addressed, these issues will continue to happen.



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

CORRECTED*
NOTICE OF ADMINSTRATIVE DECISION
MIP 401-21
Kenneth Whiteman

DECISION DATE: January 13, 2022

APPLICANT: Kenneth Whiteman

REQUEST: The Applicant is requesting approval to partition an 18,656 sq. ft. parcel into three parcels of 7,900 sq. ft., 5,378 sq. ft., and 5,378 sq. ft. respectively.

LOCATION: The property is located at 2206 E. 16th Street and further described as 1N 13E 11 BA tax lot 700.

PROPERTY OWNER: Kenneth S. Whiteman

AUTHORITY: City of The Dalles Municipal Code, Title 10 Land Use and Development

DECISION: Based on the findings of fact and conclusions in the staff report of MIP 401-21, the request by **Kenneth Whiteman** is hereby **denied**.

Signed this 13th day of January, 2022, by

Alice Cannon, Director
Community Development Department

TIME LIMITS: The period of approval is valid for the time period specified for the particular application type in The Dalles Municipal Code, Title 10 Land Use and Development. All conditions of approval shall be fulfilled within the time limit set forth in the approval thereof, or,

if no specific time has been set forth, within a reasonable time. Failure to fulfill any of the conditions of approval within the time limits imposed can be considered grounds for revocation of approval by the Director.

Please Note! No guarantee of extension or subsequent approval either expressed or implied can be made by the City of The Dalles Community Development Department. Please take care in implementing your approved proposal in a timely manner.

***APPEAL PROCESS:** The Director's approval, approval with conditions, or denial is the City's final decision, and may be appealed to the Planning Commission if a completed Notice of Appeal is received by the Director no later than 5:00 p.m. on ~~January 23, 2022~~ **January 24, 2022**. The following may file an appeal of administrative decisions:

1. Any party of record to the particular administrative action.
2. A person entitled to notice and to whom no notice was mailed. (A person to whom notice is mailed is deemed notified even if notice is not received.)
3. The Historic Landmarks Commission, the Planning Commission, or the City Council by majority vote.

A complete record of application for public hearing action is available for review upon request during regular business hours, or copies can be ordered at a reasonable price, at the City of The Dalles Community Development Department. Notice of Appeal forms is also available at The Dalles Community Development Office. The fee to file a Notice of Appeal is \$500.00. **The appeal process is regulated by Section 10.3.020.080: Appeal Procedures of The Dalles Municipal Code, Title 10 Land Use and Development.**



CERTIFICATE OF MAILING

I hereby certify that I served the attached

Notice of Administrative Decision

regarding:

MIP 401-21 – Kenneth Whiteman

On January 20, 2022, by mailing a correct copy thereof, certified by me as such, contained in a sealed envelope, with postage paid and deposited in the post office at The Dalles Oregon on said day. Between the said Post Office and the address to which said copy was mailed, there is a regular communication by US Mail.

DATED: January 20, 2022

Secretary
Community Development Department

Name	NOD
Name	E-mail
Alice Cannon	acannon@ci.the-dalles.or.us
Arthur Smith	arthurs@co.wasco.or.us
Ben Beseda	BBeseda@tennesoneng.com
Bradley Cross	bradleyc@co.wasco.or.us
Bradley DeHart	bradley.k.dehart@odot.state.or.us
'Brumley, Tonya'	tlb@nwnatural.com
Building Codes	buildingcodes@co.wasco.or.us
Comm Dev Dept	
Cynthia Keever	ckeever@ci.the-dalles.or.us
Dale McCabe	dmccabe@ci.the-dalles.or.us
Dan Bubb	exec@gorge.net
'dan@gorge.net'	'dan@gorge.net'
Darcy Long-Curtiss	DLong-Curtiss@ci.the-dalles.or.us
Dave Anderson	danderson@ci.the-dalles.or.us
Don Morehouse	Donald.MOREHOUSE@odot.state.or.us
Ernie Garcia	ernie.garcia@charter.com
Gwen Koski	Gwen.M.Koski@usps.gov
Izetta F. Grossman	igrossman@ci.the-dalles.or.us
Jamie Carrico	jcarrico@ci.the-dalles.or.us
Jasmine Holliday	jasmine.a.holliday@usps.gov
Jay Wood	jwood@mcf.org
Jeff Teel	Jeff-Teel@nwascopud.org
Jonathan Kara	jkara@campbellphillipslaw.com
Julie Krueger	jkrueger@ci.the-dalles.or.us
Kara Flath	flathk@nwasco.k12.or.us
Keith Meisner	keith.meisner@centurylink.com
Kelly Howsley-Glover	kellyg@co.wasco.or.us
MEDIA	
Nicole Bailey	nicoleba@ncphd.org
ODOT Region 4 Plan Manager	ODOTR4PLANMGR@odot.state.or.us
Pat Cimmiyotti	Patrick.M.Cimmiyotti@odot.state.or.us
PC Commissioners	
'rowapplications@bpa.gov'	'rowapplications@bpa.gov'
Sean Bailey	seanb@co.wasco.or.us
Shane Johnson	Shane.R.Johnson@odot.state.or.us
TD Disposal Service	anne.loop@wasteconnections.com
Tom Peterson	tomvpeter@com
Tom Worthly	tworthy@ci.the-dalles.or.us
Travis Adams	travis.w.adams@usps.gov
Wasco County Assessor	assessor@co.wasco.or.us
Wasco County Planning	wcplanning@co.wasco.or.us

MARK POPPOFF
213 E 9TH ST
THE DALLES OR 97058

CENTURY LINK
902 WASCO ST
HOOD RIVER OR 97031

KENNETH WHITEMAN
#2 MONTELLO AVE
HOOD RIVER OR 97031

DEAN MAUSOLF
2201 E 16TH ST
THE DALLES OR 97058

ERIC GORE
2126 E 16TH ST
THE DALLES OR 97058

JENNIFER WHITFIELD AND
BRYON PARKE
2120 E 16TH ST
THE DALLES OR 97058

SALLY TORGERSON
2124 E 16TH ST
THE DALLES OR 97058



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT Minor Partition No. 401-21 Kenneth S. Whiteman

Procedure Type: Administrative

Assessor's Map: Township 1 North, 13 East, Section 11 BA

Tax Lot: 700

Address: 2206 E 16th St, The Dalles, Oregon

Zoning District: "RL" Low Density Residential

Prepared by: Kaitlyn Cook, Assistant Planner

Date Prepared: January 13, 2022

REQUEST: The Applicant is requesting approval to partition an 18,656 sq. ft. parcel into three parcels of 7,900 sq. ft., 5,378 sq. ft., and 5,378 sq. ft. respectively. The property is located at 2206 East 16th Street and further described as 1N 13E 11 BA tax lot 700.

NOTIFICATION: Property owners within 100 feet, City Departments and Franchise Utilities.

COMMENTS RECEIVED: Four comments were received during the 14-day comment period. Staff provided brief descriptions of the comments below:

- *December 7, 2021: Dean Mausolf, 2201 E 16th Street.* This individual opposes the proposed minor partition. Their comments are summarized below:
 - While this is zoned "low density", an approval of this application on this size of lot says "High Density".
 - How will a fire truck be able to access the rear lot and turn around?
 - East 16th Street is of substandard condition for the increased traffic flow,
 - How will the parking be accommodated on the street?

RESPONSE #1: Parking is addressed at the time of a building permit for land divisions. The Applicant will be required to provide off-street parking per the standards outlined in The Dalles Municipal Code (TDMC) Article 7.060 *Minimum and Maximum Off-Street Parking Requirements*.

Residential Minor Partitions, such as this, do not require city streets to be improved to city standard. The Fire Marshal has reviewed the subject application and would require that at

the time of development, the accessway to the subject parcel will need to be designed and maintained to withstand imposed loads of 85,000 pounds for fire apparatus and shall be an all-weather material. Additionally, the Fire Marshal provided notes that this development would require no parking signs along the private accessway.

Staff is recommending that this application be denied due to this development exceeding the maximum density requirements as outlined The Dalles Residential Comprehensive Plan. Density will be addressed in the subsequent findings.

- *December 9, 2021: Eric Gore 2126 E 16th Street.* This applicant is opposed to this application. They are under the assumption that that rental units such as duplexes or triplexes will be developed. This individual suggests that there are “off the books” transient rentals at the existing property. This individual has concerns about safety and criminal activity concerns due to rental development. Gore questions where the renters would park since there would be increased traffic to this small dead end street. Noise from construction and renters is of concern for this individual as it may disturb the neighborhood.

RESPONSE #2: The purpose of this application is to divide one property into three. The applicant has not indicated that they will construct new duplexes or triplexes on the subject parcels. Duplexes are permitted outright in the Low Density Residential zone. Staff has not received formal complaints regarding of “off the books” rentals. This application does not indicate that nuisances regarding noise will occur; however, general City ordinances control these nuisances and are handled on a complaint basis. See RESPONSE #1 regarding parking concerns.

- *December 13 2021: Jennifer Whitfield & Bryon Parke, 2120 E 16th Street.* Both individuals oppose the application. They have concerns for pedestrian safety on the street as it is narrow and currently not a “through” street. They are concerned if this partition is approved the increased traffic would hinder children from being able to play outside and limit parking. Additionally, they raise the issue that this development could impede access of emergency vehicles. They conclude their letter requesting the City to deny this application due to the lack of infrastructure and lack of parking.

RESPONSE #3: See RESPONSE #1.

- *December 13th 2021: Sally Torgerson, 2124 East 16th Street.* This individual is in strong opposition to this application. They are opposed to this partition because the street is narrow and there is limited on-street parking. They believe that further partitioning of this lot would increase the congestion to the neighborhood. They explain that East 16th Street is not a “through” street and emergency vehicles would not access the neighborhood without taking a route that is significantly out of the way. They are concerned that the narrow street width and steep driveways would also impede emergency vehicles. Additionally, they suspect that the applicant has several “unlisted” that have caused issues with traffic and parking.

RESPONSE #4: See RESPONSE #1 and #2.

REVIEW CRITERIA:***I. City of The Dalles Municipal Code, Title 10 Land Use and Development******Section 10.3.010.040 Applications******A. Acceptance***

FINDING #1: The Applicant submitted a pre-application, Site Team request on October 26, 2021 and submitted the first half of the application fee on November 2. Following the Site Team meeting on November 18, Staff had additional deliberation of the application material. On November 29, the Applicant submitted all required information and the remainder of the application fee. **Criterion met.**

B. Completeness

FINDING #2: The Applicant provided required application materials, survey, and fee to staff; the application was deemed complete on November 29, 2021. **Criterion met.**

Section 10.3.020.040 Administrative Actions***B. Decision Types.***

FINDING #3: Pursuant to TDMC, partitions are processed as Administrative Actions unless elevated to a Quasi-Judicial Action. **Criterion met.**

C. Notice of Application

FINDING #4: A Notice of Administrative Action was mailed on November 29, 2021 to property owners within 100 feet, as well as any affected governmental agency, department, or public district within whose boundaries the subject property lies. **Criterion met.**

D. Time Limits

FINDING #5: The 45-day deadline from the date the application was deemed complete is January 13, 2021. This decision will be made on January 13, 2022, which is within the 45-day deadline. **Criterion met.**

E. Staff Report

FINDING #6: This document serves as the staff report. **Criterion met.**

Section 10.5.010.010 Purpose

FINDING #7: The Dalles Comprehensive Plan (TDCP) allows for a range of 3 to 6 single-family dwellings per gross acre in the Low Density Zone. The subject application is requesting to create three (3) parcels totaling 0.43 acres. Parcel 1 is 7,900 sq. ft. (0.181 AC), Parcel 2 is 5,378 sq. ft. (0.123 AC), and Parcel 3 is 5,378 sq. ft. (0.123 AC). Total acreage of the parcels as indicated on the proposed plat is 0.43 acres. The maximum density for this parcel is calculated below.

0.43 acers multiplied by 6 units (maximum density) = 2.58 rounded to 2.

Per TDMC Section 10.6.070.020 B., when a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number.

Therefore, the calculation above illustrates that the maximum density permitted by TDCP is two (2) units for the subject partition. The proposed plat exceeds the maximum density for the Low Density Zone by one (1) unit. **Criterion not met.**

Section 10.9.020.020 General Provisions

A. Applicability.

FINDING #8: The submitted partition does not meet the residential density range required in the Low Density Residential zoning district, as outlined in TDMC Section 10.5.010.010. Therefore, this criterion is not met. **Criterion not met.**

B. Annexation.

FINDING #9: The subject property is located within The Dalles City Limits. **Criterion not applicable.**

C. Blocks

2. Size.

FINDING #10: Parcel 1 has 79.67' of street frontage on East 16th Street. Parcel 2 and three are access through a private access easement perpendicular to East 16th Street. Pursuant to The Dalles Transportation System Plan (TSP), East 16th Street is classified as a Local Street. TDMC states that the RL Zone has a minimum lot width of 50 ft. and a minimum lot depth of 65 ft. This proposal will comply with the minimum lot size standards, will not alter the size of the existing block, and will maintain both street frontages of the existing block. **Criterion met**

D. General Lot Requirements

1. Size and Shape.

FINDING #11: The RL zone requires a minimum lot size for a detached single-family home of 5,000 sq. ft. with a minimum lot width of 50 ft. and depth average of 65 ft. From the preliminary partition plat (minor replat), the following square footages were provided for each parcel:

- Parcel 1 – Area: 7,900 sq. ft. Width: 79.67 ft. Depth: 99.61 ft.
- Parcel 2 – Area: 5,378 sq. ft. Width: 79.67 ft. Depth: 67.50 ft.
- Parcel 3 – Area: 5,378 sq. ft. Width: 79.68 ft. Depth: 67.50 ft.

The proposed parcels meet the size requirements for the RL zoning district. **Criterion met.**

2. Access.

FINDING #12: Parcel 1 abuts East 16th Street. Parcel 2 and 3 are accessed by an easement that is 25 feet wide from East 16th Street on the East side of Parcel 1 and 2. This private accessway shall be paved upon development. **Criterion met.**

3. Access Points.

FINDING #13: Parcel 1 has an established access point on East 16th Street. Parcel 2 and 3 shall be accessed by the access easement mentioned in Finding #11. **Criterion met.**

4. *Through Lots.*

FINDING #14: No through lots are proposed with this application. **Criterion not applicable.**

5. *Lot Side Lines.*

FINDING #15: From the preliminary partition plat (minor replat), Parcel 1, 2, and 3 have two proposed side lot lines. All lot lines will be right angles. **Criterion met.**

6. *Lot Grading.*

FINDING #16: No grading is proposed with this request. **Criterion met.**

7. *Building Lines.*

FINDING #17: The existing structures on all parcels are included on the plat. The garage shall be moved out of the proposed access easement. **Criterion met**

8. *Redevelopment Plans.*

FINDING #18: In the RL zone, The Dalles Comprehensive Plan (TDCP) calls for a range of 3 to 6 units per gross acre. Parcel 1 is 7,900 sq. ft. (0.181 AC), Parcel 2 is 5,378 sq. ft. (0.123 AC), and Parcel 3 is 5,378 sq. ft. (0.123 AC). Per Section 10.9.020.020, D, 8, a, a redevelopment plan, or shadow plat, is required to demonstrate how the property may be further developed to 70% of the maximum TDCP density. Per FINDING #7, the subject application exceeds the maximum density per TDCP. **Criterion not met.**

Section 10.9.020.030 Residential Rear Lot Development

A. *Lot Access Requirements*

FINDING #19: The proposed access easement is 25 feet wide along the west side of Parcel 1 and 2. This accesses is intended to be for the benefit of all parcels. **Criterion Met.**

B. *Improvement Requirements*

FINDING #20: Separate water and sewer lines will need to be connected to each parcel prior to development. A minimum of 10 feet of separation between water and sewer lines shall be maintained in the Public Right of Way. **Criterion can be met with Conditions.**

C. *Public Improvements*

FINDING #21: Easement is 25 feet wide which meets the minimum width requirements. **Criterion Met.**

D. *Required Connection to Right-of-Way*

FINDING #22: the subject partition has a 25 foot wide access easement that abuts East 16th Street. East 16th Street is 60 feet wide. The subject street does not meet City Standards as it does not have sidewalks. However, this development is exempt from improvements for East 16th Street as it meets the subject exemption requirements outlined in this section. **Criterion does not apply.**

E. Lot Area

FINDING #23: The minimum lot sizes have been met as described in Finding #10.
Criterion Met.

F. Fire Protection

FINDING #24: Fire Marshall has reviewed the subject application. At the time of development the accessway will need to be designed and maintained to withstand imposed loads of 85,000 pounds for fire apparatus and shall be an all-weather material. The accessway to parcels 2 and 3 cannot be compromised in any way with protrusion or landscaping. “No Parking Fire Lane” signage that meets the requirements of Oregon Fire Code Appendix D, D103.6 Signs, shall be required to be installed on both sides of the access route. **Criterion can be met with Conditions.**

G. Existing Vegetation

FINDING #24: The provided site plan did not detail significant vegetation on the property. The Applicant shall identify significant beneficial vegetation that shall be preserved. **Criterion can be met with Conditions.**

H. Reciprocal Easements

FINDING #25: An easement has been shown on the subject plan. **Criterion met.**

Section 10.9.030.040 Partition Application Review.

FINDING #25: The final plat must comply with Wasco County recording requirements. The requirements can be met with the required survey and confirmed with receipt of two (2) copies of the recorded plat from Wasco County. Staff has included a Condition of Approval requiring the Applicant submit two (2) copies of the recorded plat to The Dalles Community Development Department within one (1) year of the date of the Notice of Decision for this partition to be effective. As demonstrated in the finding above this proposal meets, or will meet with conditions, all applicable policies and standards. This partition will not further impede future development of property under the same ownership or on adjacent lands planned for urban densities, including provisions for City services or access from a public street. Any future development will require an evaluation of improvements based upon the proposed development. **Criterion can be met with conditions.**

RECOMMENDATION: Based on the application materials, Staff recommends denial of Minor Partition No. 401-21, due to Finding #7 and Finding #8 above. The proposed partition requests more residential density than is permitted in the RL zone.

December 7, 2021

City of The Dalles
313 Court Street
The Dalles, OR 97058

Re: Application number MIP 401-21, at 2206 E 16th Street, The Dalles, Oregon

To Whom it May Concern:

This letter is in regard to proposal application number MIP 401-21, at 2206 E 16th Street, The Dalles, OR. For the record, I am totally against approving to partition the lot into three parcels.

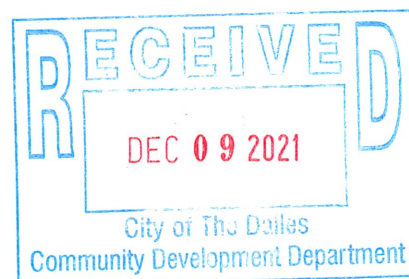
My reasons for not approving this are as follows:

1. City says property is zoned “low density” and approval of this application on this size of lot says “high density” to me.
2. How are you going to get a fire truck up to the top of the lot and be able to get turned around.
3. East 16th Street is of substandard conditions for increased traffic flow.
4. How will parking be accommodated on the street?

Thank you for reviewing my reasons for wanting to contest this application.

Respectfully Submitted,

Dean Mausolf
2201 E. 16th
The Dalles, OR 97058
541-993-0594



Eric Gore
2126 E 16th St
The Dalles, OR 97058

December 9th, 2021
Kaitlyn Cook
Assistant Planner
Community Development Department
City of The Dalles
313 Court Street
The Dalles, OR 97058

Dear Ms. Cook,

I am writing regarding the application for administrative action submitted by Kenneth S. Whiteman (Application # MIP401-21). The applicant is requesting to partition a single 18,656 SF lot into three lots.

I am writing to express my strong opposition to this application. I am a homeowner on E 16th street and already face multiple issues related to this property. It is my understanding that rental units like duplexes or triplexes will be constructed on these lots. I have many significant concerns with this.

My primary concern is there is an address on the block that has several “unlisted” rentals. This property is being rented “off the books” and has already caused issues with traffic and parking as well as concerns regarding transients renting the property.

Which leads me to my next concern of safety for everyone in our neighborhood. It is a known fact that rentals of any kind usually lead to more safety and or criminal activity. More fire hazards, increased risk of break ins, domestic fights, alcohol and drug abuse, etc. Our neighborhood is a quiet and safe neighborhood aside from the issues of the “off the books” rental discussed in the above paragraph. We never have any issues with anyone else and I would hate to see the issues become bigger.

Then there is the issue of parking. Where are all these renters going to park? We have a small dead-end street that cannot fit multiple cars parking on it without create a massive impact and inconvenience on all neighbors, mail carriers, and emergency vehicles. We are already having issues of congestion due to the “off the books” rental mentioned above. Partitioning this lot will only add to the current problem and add more congestion.

Lastly there seems to be no concern for increased noise to all neighbors with not only the construction phase to build on these lots but also from the added people renting on this property. Our small neighborhood is usually quiet and friendly (with the exception to the issues address above).

I strongly urge you to deny this application. Our neighborhood is already suffering from the concerns address in this letter. To approve this application would only cause more harm and add to the problems we already face in this neighborhood as homeowners. The last thing we need is more rentals and safety

concerns. We like living in a small-town neighborhood that is quiet and everyone feels safe. Let us preserve what quality of life we have here in this neighborhood. Please vote against this proposal.

Thank you for your time and consideration.

Sincerely,

Eric Gore

December 11, 2021

Kaitlyn Cook
Assistant Planner
Community Development Department
City of The Dalles
313 Court Street
The Dalles, OR 97058

Dear Ms. Cook:

It is our understanding that Kenneth S. Whiteman has submitted an application for administrative action (Application number MIP 401-21). Mr. Whiteman is requesting to partition a single 18,656 SF lot into three parcels measuring 7,900 SF, 5,378 SF and 5,378 SF, respectively.

We are homeowners on E. 16th Street and strongly oppose to this application. 16th street is narrow and currently not a through street. We have children on this street who enjoy playing basketball, riding their bikes or being with friends on this street. If this partition is approved it would hinder our children from being able to play as this would cause more congestion, limit parking even more and could impede access of emergency vehicles to our area.

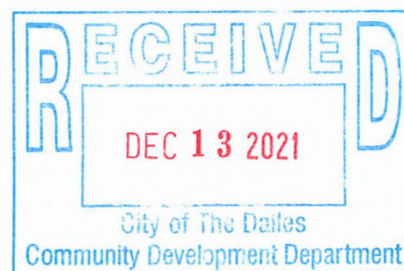
We strongly request you deny this application as there is already a lack of infrastructure with the narrow streets and lack of parking for the current residents and this would catapult more problems for residents.

Thank you for your consideration.

Sincerely,



Jennifer Whitfield & Bryon Parke
2120 E 16th St.
The Dalles, OR 97058



December 8, 2021

Kaitlyn Cook
Assistant Planner
Community Development Department
City of The Dalles
313 Court Street
The Dalles, OR 97058

Dear Ms. Cook:

I am writing regarding the application for administrative action submitted by Kenneth S. Whiteman (Application number MIP 401-21). The applicant is requesting to partition a single 18,656 SF lot into three parcels measuring 7,900 SF, 5,378 SF and 5,378 SF, respectively.

I am writing in strong opposition to this application. I am a homeowner on E. 16th Street and already face significant issues related to infrastructure. Currently there is limited parking and space due to how narrow 16th street is. Partitioning this lot, as the applicant wants to do, would only add more congestion to the neighborhood due to additional housing units on the new lots. Additionally, 16th Street is currently not a through street and dead ends directly adjacent to my property. As a result, emergency vehicles cannot access the neighborhood without taking a route that is significantly out of the way. The narrow street width and steep driveways also impede access of emergency vehicles.

I am also concerned about an address on the block that has several “unlisted” rentals. This property is being rented “off the books” and has already caused issues with traffic and parking as well as concerns regarding transients renting the property.

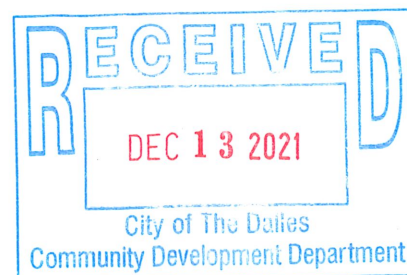
In short, I strongly urge you to deny this application. Adding additional housing units to this portion of 16th Street when the neighborhood already suffers from a distinct lack of infrastructure would only cause more problems for residents.

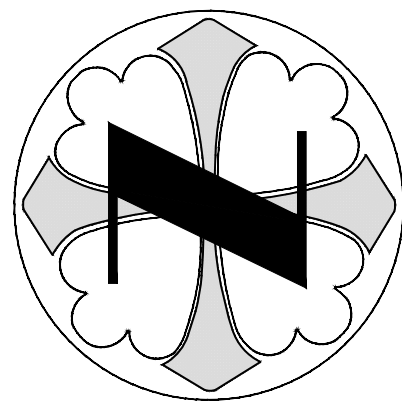
Thank you for your consideration.

Sincerely,
Sally Torgerson



2124 East 16th Street
The Dalles, OR 97058-3933



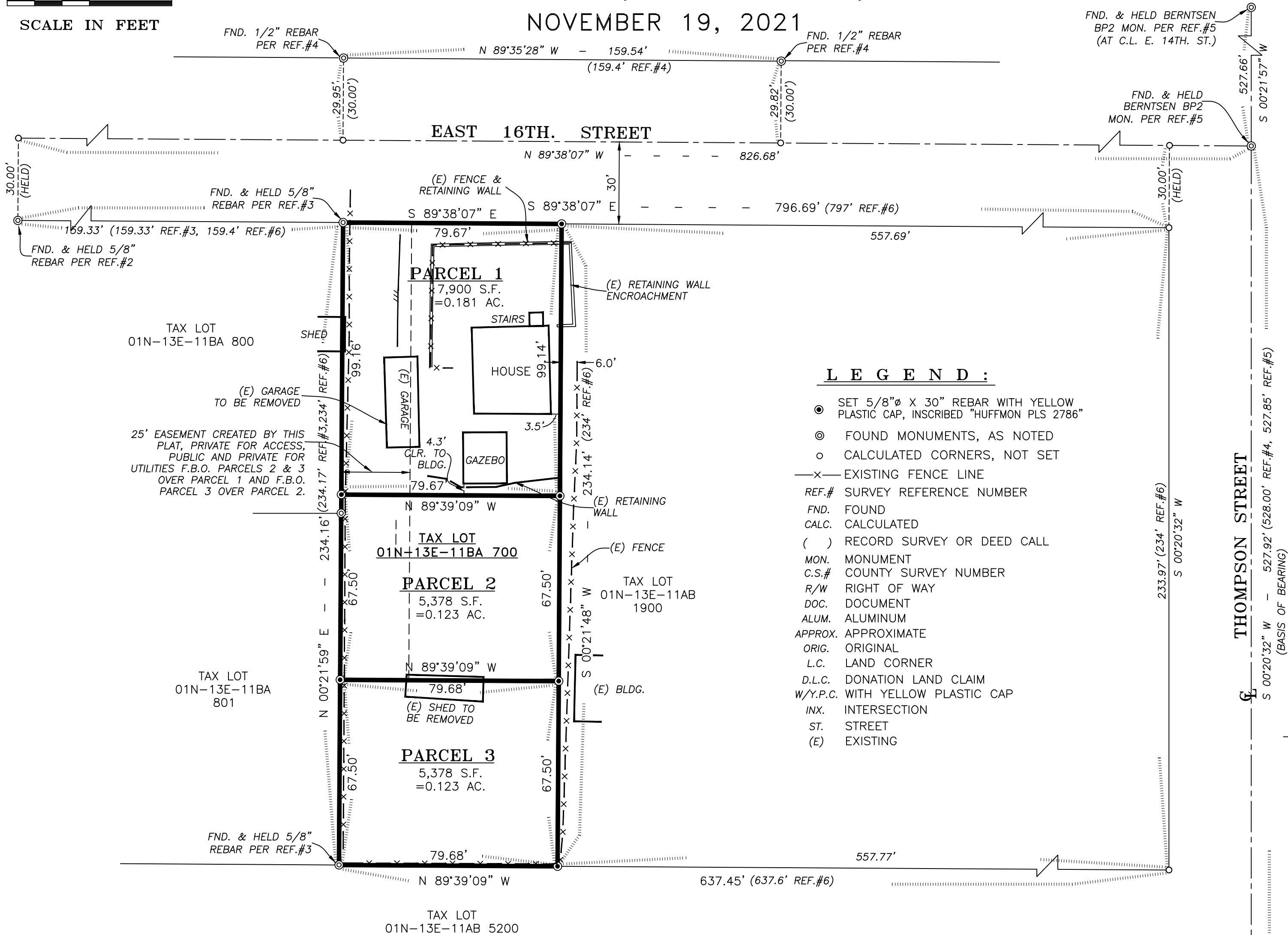


0' 10' 20' 30' 60'
SCALE IN FEET

PRELIMINARY PARTITION PLAT

TAX LOT 01N-13E-11BA 700 (ACCT. #8156)
IN LOT 2, BLOCK 13, THOMPSON'S ADDITION
IN THE NW1/4 NE1/4 AND NE1/4 NW1/4, SECTION 11,
TOWNSHIP 1 N., RANGE 13 E., W.M.
CITY OF THE DALLES, WASCO COUNTY, OREGON

NOVEMBER 19, 2021



**SURVEYOR'S CERTIFICATE AND
NARRATIVE TO BE ON FINAL PLAT.**

PARCEL 1	7,900 S.F. = 0.181 AC.
PARCEL 2	5,378 S.F. = 0.123 AC.
PARCEL 3	5,378 S.F. = 0.123 AC.
TOTAL	18,656 Sq.Ft. = 0.43 ACRES (TAX LOT 01N-13E-11BA 700)

**WASCO COUNTY
SURVEYOR'S OFFICE**

Survey No. _____
Filed _____
By _____

Document Number _____
Plat Number _____
Slide Number _____

OWNER:
KENNETH S. WHITEMAN
#2 MONTELLO AVENUE
HOOD RIVER, OREGON 97031

RECORDING INFORMATION

DECLARATION:
I Kenneth S. Whiteman, the owner of the land shown herein, hereby declare that this division of land is a legal plat Partitioned in accordance with the provisions of ORS Chapter 92 and has been made with my free consent and in accordance with my desire and by this plat create the easement shown hereon for the stated purpose.

Kenneth S. Whiteman Date _____

ACKNOWLEDGEMENT
This Instrument was acknowledged before me on the _____ day of _____, 2021 by Kenneth S. Whiteman

Notary signature _____

NOTARY PUBLIC PRINTED NAME _____

STATE OF _____

COUNTY OF _____

COMMISSION No. _____

MY COMMISSION EXPIRES _____

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

Wasco County Surveyor

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

The Dalles City Engineer

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

The Dalles Planning Director

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

Wasco County Assessor

Wasco County Tax Collector

ENGINEER / SURVEYOR:

TENNESON ENGINEERING CORP.
3775 CRATES WAY
The Dalles, Oregon. 97058
Ph. 541-296-9177
FAX 541-296-6657



REGISTERED
PROFESSIONAL
LAND SURVEYOR

FOR REVIEW ONLY

OREGON
JANUARY 21, 1997
BRADLEY R. HUFFMAN
2786

EXPIRES: 06/30/2023

SHEET 1 OF 2

PRELIMINARY PARTITION PLAT

TAX LOT 01N-13E-11BA 700 (ACCT. #8156)
IN LOT 2, BLOCK 13, THOMPSON'S ADDITION
IN THE NW1/4 NE1/4 AND NE1/4 NW1/4, SECTION 11,
TOWNSHIP 1 N., RANGE 13 E., W.M.
CITY OF THE DALLES, WASCO COUNTY, OREGON
NOVEMBER 19, 2021

WASCO COUNTY SURVEYOR'S OFFICE Survey No. _____ Filed _____ By _____	RECORDING INFORMATION
	Document Number _____
	Plat Number _____
Slide Number _____	

OWNER:
KENNETH S. WHITEMAN
#2 MONTELLO AVENUE
HOOD RIVER, OREGON 97031

PARCEL 1 7,900 S.F. = 0.181 AC.
PARCEL 2 5,378 S.F. = 0.123 AC.
PARCEL 3 5,378 S.F. = 0.123 AC.

TOTAL 18,656 Sq.Ft.= 0.43 ACRES
(TAX LOT 01N-13E-11BA 700)

NOTES:

- 1) BASIS OF BEARING: BEARINGS ARE BASED ON THE OREGON COORDINATE REFERENCE SYSTEM, OREGON NORTH ZONE, N.A.D. 83(2011) 2010.00 ESTABLISHED BY G.P.S. OBSERVATION BETWEEN THE MONUMENTS FOUND AT THE CENTERLINE INTERSECTIONS OF THOMPSON STREET WITH EAST 16TH. AND 18TH. STREET.
- 2) CITY OF THE DALLES GEOLOGIC HAZARD ZONE 3, EAST SIDE CITY INACTIVE LANDSLIDE DEPOSITS.
- 3) THERE ARE NO SIGNIFICANT PHYSICAL OR ENVIRONMENTAL CONSTRAINTS SUCH AS LAND SLOPE, FLOOD WAYS, FLOOD PLAINS, NATURAL DRAINAGE WAYS, OR GEOLOGIC HAZARD AREAS ASSOCIATED WITH SITE.
- 4) THERE ARE NO SIGNIFICANT NATURAL FEATURES SUCH AS ROCK OUTCROPPINGS, CREEKS, STREAMS, PONDS, RIPARIAN AREAS ASSOCIATED WITH THIS SITE. THE SITE DOES HAVE SEVERAL MATURE DECIDUOUS TREES ON IT.
- 5) THIS LAND USE ACTION WAS REVIEWED AND GRANTED CONDITIONAL APPROVAL BY CITY OF THE DALLES AS MIP-----21.
- 6) ZONE: "RL" (LOW DENSITY RESIDENTIAL)
- 7) MONUMENTS SET ON -----, 2021.
- 8) CITY OF THE DALLES POTABLE WATER AND SANITARY SEWER SYSTEMS ARE AVAILABLE TO SERVE THE PROPERTY FROM EAST 16TH. STREET.
- 9) THE SUBJECT PROPERTY IS VESTED IN KENNETH S. WHITEMAN BY STATUTORY WARRANTY DEED RECORDED JUNE 30, 2021 AT DOCUMENT #2021-002975.

REFERENCES:

- 1) PROPERTY LINE ADJUSTMENT PLAT FOR MYRTLE FLAMAN BY TENNESON ENGR. CORP. WO.#9502 RECORDED AUGUST 3, 1999 DOC. #99-4122 (SLIDE C-115B) C.S. #11-078
- 2) PARTITION PLAT 2001-0022 FOR JAMES R. & LUCILE TORGERSON BY TENNESON ENGR. CORP. WO.#10214 RECORDED OCTOBER 18, 2001 DOC. #2001-4405 (SLIDE C-159A) C.S. #12-040
- 3) PARTITION PLAT 2003-0019 FOR JOE AND HELEN GEORGE BY TENNESON ENGR. CORP. WO.#10879 RECORDED DECEMBER 5, 2003 DOC. #2003-6976 (SLIDE C-199A) C.S. #13-011
- 4) SURVEY FOR ARNOLD COLBY BY TENNESON ENGR. CORP. WO.#4240 FILED JANUARY 18, 2012 C.S. #17-071L
- 5) MONUMENT REPLACEMENT SURVEY THOMPSON STREET FOR THE CITY OF THE DALLES BY WASCO COUNTY SURVEYOR'S OFFICE FILED MARCH 13, 2018 C.S. #19-097
- 6) PLAT OF THOMPSON'S ADDITION VOLUME O, PAGE 125 RECORDED APRIL 8, 1889

NARRATIVE:

TO BE ON FINAL PLAT

SURVEYOR'S CERTIFICATE:

TO BE ON FINAL PLAT

ENGINEER / SURVEYOR:

TENNESON ENGINEERING CORP.
3775 CRATES WAY
The Dalles, Oregon. 97058
Ph. 541-296-9177
FAX 541-296-6657



REGISTERED
PROFESSIONAL
LAND SURVEYOR

FOR REVIEW ONLY

OREGON
JANUARY 21, 1997
BRADLEY R. HUFFMON
2786

EXPIRES: 06/30/2023



City of The Dalles
Community Development Dept
 313 Court Street
 The Dalles, OR 97058
 (541) 296-5481, ext. 1125
 www.thedalles.org

Application #: MIP 401-21
 Filing Fee: \$165
 Receipt #: 245339
 Deemed Complete: 11/29/2021
 Ready to Issue: 1/13/2022
 Date Issued: _____

Received: 10-26-2021

Land Use Application

- | | | | |
|--|---|--|-------------------------------------|
| <input type="radio"/> Building Permit | <input type="radio"/> Demolition | <input type="radio"/> Physical Constraints | <input type="radio"/> Change of Use |
| <input type="radio"/> Property Line Adjustment | <input checked="" type="radio"/> Minor Partition / Replat | <input type="radio"/> Adjustment | <input type="radio"/> Fence |

Applicant

Name: Kenneth S. Whiteman
 Address: #2 Montello Avenue
Hood River, Oregon 97031
 Phone #: (503) 730-5154
 Email: whitemank@gmail.com

Legal Owner (if different than Applicant)

Name: Same as applicant
 Address: _____
 Phone #: _____
 Email: _____

Property Information

Address: 2206 E 16th St, The Dalles, OR 97058

Map and Tax Lot: 01N-13E-11BA 700

Project Description:

To partition an 18,656 square foot parcel, creating three parcels: 7,900, 5,378, and 5,378 square feet in size. Proposed Parcels 2 and 3 would access E 16th Street via the proposed 25-foot access easement located on the west side of Parcels 1 and 2.

Department Use Only

City Limits: ☒ Yes ☐ No Zone: RL Overlay: N/A Airport Zone: ☒ Yes ☐ No
 Geohazard Zone: Zone 3 Flood Designation: N/A
 Historic Structure: ☐ Yes ☒ No Current Use: _____
 Previous Planning Actions: _____

Erosion Control Issues? Access Issues? Utilities and Public Improvements? Items Needing Attention?

☐ Ministerial ☒ Administrative ☐ Quasi-Judicial

Application Policy

I certify that I am the applicant or owner identified below. I acknowledge that the final approval by the City of The Dalles, if any, may result in restrictions, limitations, and construction obligations being imposed on this real property. I understand that if the property is owned in part or totality by a trust, partnership, corporation or LLC, I will be required to present legal documentation listing all persons that make-up the entity, as well as proof of my authorization to act on the entity's behalf. I consent and hereby authorize City representative(s) to enter upon my property for any purpose of examination or inspection related to this application. I certify that all information provided is true and correct, and consent to the filing of the application, authorized by my original signature below.

If the undersigned is different from the legal property owner, a notarized letter of authorization signed by the legal property owner must accompany this form.

Signature of Applicant



Signature of Property Owner



Additional Information

Department Comments

Conditions of Approval

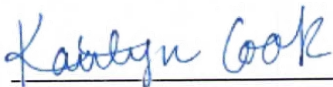
Decision

☐ Approved

☒ Denied

Community Development Department

Public Works



1/13/2022

Date

Date

Minor Partition Application

#: MIP 401-21

Property Information

Existing Square Footage: 18,656Proposed Square Footage: Parcel #1 7,900; Parcel #2 5,378; Parcel #3 5,378

Signature of Applicant

Signature of Property Owner


11/23/21
 Date


11/23/21
 Date

Please provide electronic copies of all application material.

Site Team/Pre-Application Material:

Concept plan

50% of application fee

Official Minor Partition Application Material:

Remainder of application fees

Professional survey

Redevelopment Plan or "Shadow Plat", if applicable

MINOR PARTITION REVIEW

Minor Partition Applications follow The Dalles Development Review Process, and must meet the requirements of The Dalles Municipal Code (TDMC) Section 9.020: Land Division Standards and the partition requirements of TDMC 9.030: Partitions, Minor Re-plats, and Lot Line Adjustments. A pre-application conference is required for all submittals. **Approved Tentative Partition Plats are valid for 1 year only, with NO opportunity for an extension.** Construction drawings and specifications for any public improvements are required prior to final partition plat review and approval. Before the signature of the City Engineer is obtained on a Final Partition Plat, required improvements must be installed to City Standards and Specifications, or the applicant and the City have entered into an agreement to install improvements, or an improvements district is formed to construct improvements (see section of TDMC 9.040.060 (F): Installation of Required Improvements). **Final Plat approval does not constitute City acceptance of public improvements.** Public improvements can only be accepted in writing by the Director of Public Works.

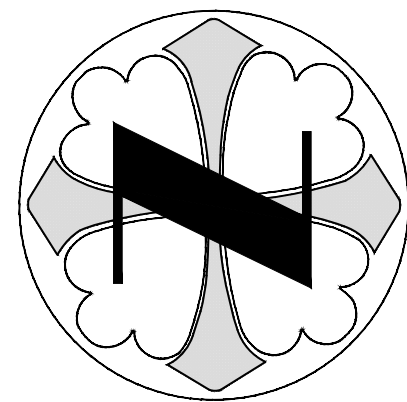
INFORMATION REQUIRED WITH APPLICATION

The tentative plat shall include the following information where applicable:

- ☐ Names of the applicant, owner, engineer, and surveyor as appropriate.
- ☐ Date, North Arrow, and Scale.
- ☐ Property line boundaries of all contiguous land in the same ownership as the area encompassed in the application.
- ☐ Sufficient description to define location and boundaries of the area to be partitioned, re-platted, or adjusted.

- ☐ Location of existing structures.
- ☐ Number and type of dwelling units proposed where known and appropriate.
- ☐ Location and width of all existing or proposed public or private rights-of-way.
- ☐ Location and width of all existing or proposed public or private rights-of-way, including any reserve strips and parking area.
- ☐ Location of all existing and proposed streets, sidewalks, curbs. (New streets or improvements to existing streets shall meet the requirements of *Chapter 10: Improvements Required with Development*. Construction detail drawings are not required for application approval, but will be required prior to issuance of any required permit.)
- ☐ Location of all existing and proposed public and private utilities, including, but not limited to water, sewer, storm drainage, power, gas cable TV, and telephone. (New public utilities shall meet the requirement of *Chapter 10: Improvements Required with Development*. Construction detail drawings are not required for application approval, but will be required prior to issuance of any required permit.)
- ☐ Proposed parcel layout indicating dimensions, parcel lines and lot areas of parcels.
- ☐ Approximate location of any potential physical and environmental constraints for review per the provisions of *Chapter 8: Physical and Environmental Constraints*. Such constraints include, but are not limited to, slopes of the land, erosion, control, flood ways, flood plains, natural drainage ways, and geological hazard areas.
- ☐ All areas proposed for dedication to the public and their proposed uses including, but not limited to street rights-of-way, drainage ways, easements, trails and paths, parks and open spaces, and reserve strips.
- ☐ Location and use of adjacent driveways and structures within the appropriate distance as specified in *TDMC Section 6.050.040: Access Standards*.
- ☐ Identification of significant natural features including, but not limited to rock outcroppings, creeks, streams, ponds, riparian areas, and existing native, ornamental, and orchard trees having a trunk diameter of 14 in. or more at a point 5 feet above the natural grade.
- ☐ Where it is evident that the subject parcel can be further partitioned, the applicant shall show, either on the tentative plat or as an attachment, that the land partition will not preclude efficient division of land in the future, per the requirements of *TDMC Section 9.020.020 (C)(8): Redevelopment Plans*.
- ☐ The Director may waive any of the requirements where determined that the information is unnecessary to properly evaluate the proposed development. The Director may also require any additional information, if determined necessary, to evaluate the proposal.

NOTE: Plan requirements for construction drawings and specifications for public improvements are stated in ***TDMC Section 9.040.050: Construction Drawings and Specifications for Public Improvements***. Final Partition Plat and other final approval requirements are set forth in ***TDMC Section 9.030.050: Final Partition Plat Review***. Information regarding improvements, construction standards, and inspection procedures can be found in ***TDMC Chapter 10 – Improvements Required With Development***.

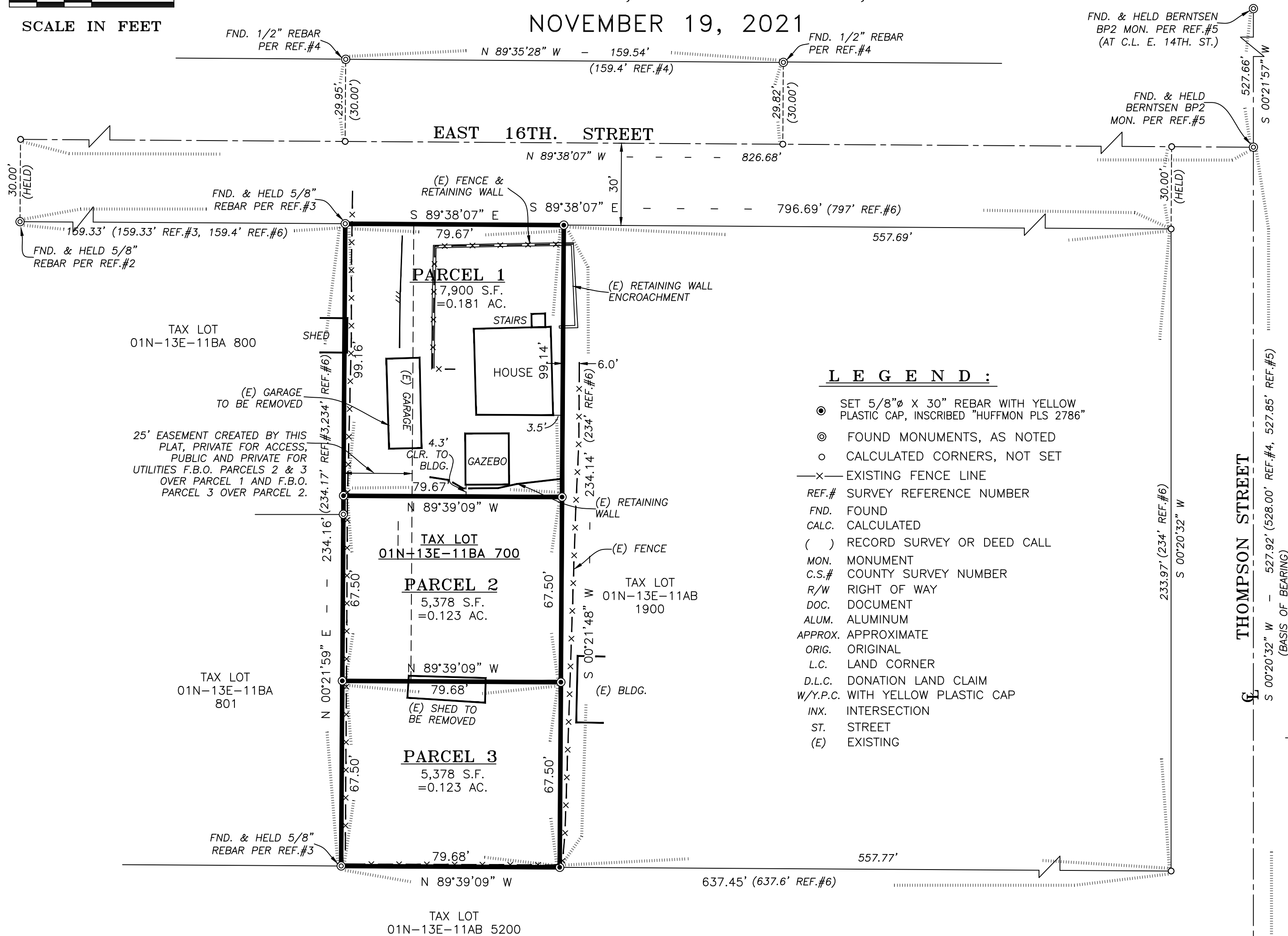


0' 10' 20' 30' 60'
SCALE IN FEET

PRELIMINARY PARTITION PLAT

TAX LOT 01N-13E-11BA 700 (ACCT. #8156)
IN LOT 2, BLOCK 13, THOMPSON'S ADDITION
IN THE NW1/4 NE1/4 AND NE1/4 NW1/4, SECTION 11,
TOWNSHIP 1 N., RANGE 13 E., W.M.
CITY OF THE DALLES, WASCO COUNTY, OREGON

NOVEMBER 19, 2021



**SURVEYOR'S CERTIFICATE AND
NARRATIVE TO BE ON FINAL PLAT.**

PARCEL 1	7,900 S.F. = 0.181 AC.
PARCEL 2	5,378 S.F. = 0.123 AC.
PARCEL 3	5,378 S.F. = 0.123 AC.
TOTAL	18,656 Sq.Ft. = 0.43 ACRES
(TAX LOT 01N-13E-11BA 700)	

**WASCO COUNTY
SURVEYOR'S OFFICE**

Survey No. _____
Filed _____
By _____

Document Number _____
Plat Number _____
Slide Number _____

OWNER:
KENNETH S. WHITEMAN
#2 MONTELLO AVENUE
HOOD RIVER, OREGON 97031

RECORDING INFORMATION

DECLARATION:
I Kenneth S. Whiteman, the owner of the land shown herein, hereby declare that this division of land is a legal plat Partitioned in accordance with the provisions of ORS Chapter 92 and has been made with my free consent and in accordance with my desire and by this plat create the easement shown hereon for the stated purpose.

Kenneth S. Whiteman Date _____

ACKNOWLEDGEMENT
This Instrument was acknowledged before me on the _____ day of _____, 2021 by Kenneth S. Whiteman

Notary signature _____

NOTARY PUBLIC PRINTED NAME _____

STATE OF _____

COUNTY OF _____

COMMISSION No. _____

MY COMMISSION EXPIRES _____

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

Wasco County Surveyor

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

The Dalles City Engineer

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

The Dalles Planning Director

I hereby certify this partition was examined and approved as of this _____ day of _____, 2021

Wasco County Assessor

Wasco County Tax Collector

ENGINEER / SURVEYOR:

TENNESON ENGINEERING CORP.
3775 CRATES WAY
The Dalles, Oregon. 97058
Ph. 541-296-9177
FAX 541-296-6657



REGISTERED
PROFESSIONAL
LAND SURVEYOR

FOR REVIEW ONLY

OREGON
JANUARY 21, 1997
BRADLEY R. HUFFMON
2786

EXPIRES: 06/30/2023

SHEET 1 OF 2

PRELIMINARY PARTITION PLAT

TAX LOT 01N-13E-11BA 700 (ACCT. #8156)
IN LOT 2, BLOCK 13, THOMPSON'S ADDITION
IN THE NW1/4 NE1/4 AND NE1/4 NW1/4, SECTION 11,
TOWNSHIP 1 N., RANGE 13 E., W.M.
CITY OF THE DALLES, WASCO COUNTY, OREGON
NOVEMBER 19, 2021

WASCO COUNTY SURVEYOR'S OFFICE Survey No. _____ Filed _____ By _____	RECORDING INFORMATION
	Document Number _____
	Plat Number _____
Slide Number _____	

OWNER:
KENNETH S. WHITEMAN
#2 MONTELLO AVENUE
HOOD RIVER, OREGON 97031

PARCEL 1 7,900 S.F. = 0.181 AC.
PARCEL 2 5,378 S.F. = 0.123 AC.
PARCEL 3 5,378 S.F. = 0.123 AC.

TOTAL 18,656 Sq.Ft.= 0.43 ACRES
(TAX LOT 01N-13E-11BA 700)

NOTES:

- 1) BASIS OF BEARING: BEARINGS ARE BASED ON THE OREGON COORDINATE REFERENCE SYSTEM, OREGON NORTH ZONE, N.A.D. 83(2011) 2010.00 ESTABLISHED BY G.P.S. OBSERVATION BETWEEN THE MONUMENTS FOUND AT THE CENTERLINE INTERSECTIONS OF THOMPSON STREET WITH EAST 16TH. AND 18TH. STREET.
- 2) CITY OF THE DALLES GEOLOGIC HAZARD ZONE 3, EAST SIDE CITY INACTIVE LANDSLIDE DEPOSITS.
- 3) THERE ARE NO SIGNIFICANT PHYSICAL OR ENVIRONMENTAL CONSTRAINTS SUCH AS LAND SLOPE, FLOOD WAYS, FLOOD PLAINS, NATURAL DRAINAGE WAYS, OR GEOLOGIC HAZARD AREAS ASSOCIATED WITH SITE.
- 4) THERE ARE NO SIGNIFICANT NATURAL FEATURES SUCH AS ROCK OUTCROPPINGS, CREEKS, STREAMS, PONDS, RIPARIAN AREAS ASSOCIATED WITH THIS SITE. THE SITE DOES HAVE SEVERAL MATURE DECIDUOUS TREES ON IT.
- 5) THIS LAND USE ACTION WAS REVIEWED AND GRANTED CONDITIONAL APPROVAL BY CITY OF THE DALLES AS MIP-----21.
- 6) ZONE: "RL" (LOW DENSITY RESIDENTIAL)
- 7) MONUMENTS SET ON -----, 2021.
- 8) CITY OF THE DALLES POTABLE WATER AND SANITARY SEWER SYSTEMS ARE AVAILABLE TO SERVE THE PROPERTY FROM EAST 16TH. STREET.
- 9) THE SUBJECT PROPERTY IS VESTED IN KENNETH S. WHITEMAN BY STATUTORY WARRANTY DEED RECORDED JUNE 30, 2021 AT DOCUMENT #2021-002975.

REFERENCES:

- 1) PROPERTY LINE ADJUSTMENT PLAT FOR MYRTLE FLAMAN BY TENNESON ENGR. CORP. WO.#9502 RECORDED AUGUST 3, 1999 DOC. #99-4122 (SLIDE C-115B) C.S. #11-078
- 2) PARTITION PLAT 2001-0022 FOR JAMES R. & LUCILE TORGERSON BY TENNESON ENGR. CORP. WO.#10214 RECORDED OCTOBER 18, 2001 DOC. #2001-4405 (SLIDE C-159A) C.S. #12-040
- 3) PARTITION PLAT 2003-0019 FOR JOE AND HELEN GEORGE BY TENNESON ENGR. CORP. WO.#10879 RECORDED DECEMBER 5, 2003 DOC. #2003-6976 (SLIDE C-199A) C.S. #13-011
- 4) SURVEY FOR ARNOLD COLBY BY TENNESON ENGR. CORP. WO.#4240 FILED JANUARY 18, 2012 C.S. #17-071L
- 5) MONUMENT REPLACEMENT SURVEY THOMPSON STREET FOR THE CITY OF THE DALLES BY WASCO COUNTY SURVEYOR'S OFFICE FILED MARCH 13, 2018 C.S. #19-097
- 6) PLAT OF THOMPSON'S ADDITION VOLUME O, PAGE 125 RECORDED APRIL 8, 1889

NARRATIVE:

TO BE ON FINAL PLAT

SURVEYOR'S CERTIFICATE:

TO BE ON FINAL PLAT

ENGINEER / SURVEYOR:

TENNESON ENGINEERING CORP.
3775 CRATES WAY
The Dalles, Oregon. 97058
Ph. 541-296-9177
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REGISTERED
PROFESSIONAL
LAND SURVEYOR

FOR REVIEW ONLY

OREGON
JANUARY 21, 1997
BRADLEY R. HUFFMON
2786

EXPIRES: 06/30/2023

Paula Webb

From: Alice Cannon
Sent: Thursday, February 10, 2022 4:21 PM
To: Paula Webb
Subject: FW: Your appeal application is scheduled for hearing
Attachments: RE: Density Calculation and List.eml; BF6980DB-FC5A-4755-8113-2DBE7782749C.pdf

Importance: High

Hi Paula,
Please add this to the packet. Please call it Attachment H (including a pdf of this email) and all attachments to this email.
Please title Attachment H this way:

ATTACHMENT H: Supplemental Information Submitted by the Applicant dated February 10, 2022. Received at 4:03 p.m.

From: Ken Whiteman [mailto:whitemank@gmail.com]
Sent: Thursday, February 10, 2022 4:03 PM
To: Alice Cannon <acannon@ci.the-dalles.or.us>
Cc: Jonathan M Kara <jkara@campbellphillipslaw.com>; Joshua Chandler <jchandler@ci.the-dalles.or.us>
Subject: Re: Your appeal application is scheduled for hearing

Hi Alice,
Can you please add the following email and document to the appeal documentation for my portion appeal?

Thanks,
Ken

On Feb 3, 2022, at 10:07 AM, Alice Cannon <acannon@ci.the-dalles.or.us> wrote:

Good morning again Mr. Whiteman:

Here is a link to the City's public records request form:

http://www.thedalles.org/sites/default/files/imported/public_docs/public_records_request_form_2021.pdf

Please quickly fill this out with this request and return to Izetta Grossman. She is our City Clerk and the point person for Public Records Requests and also copied on this email. Her email address is: igrossman@ci.the-dalles.or.us. Her phone number is (541) 370-1208, ext. 1119.

Alice

Alice Cannon

Community Development Director | City of The Dalles
313 Court Street | The Dalles, Oregon 97058
Office Phone: (541) 296-5481 ext. 1151
www.ci.the-dalles.or.us
acannon@ci.the-dalles.or.us

From: Ken Whiteman [<mailto:whitemank@gmail.com>]
Sent: Thursday, February 03, 2022 9:20 AM
To: Alice Cannon <acannon@ci.the-dalles.or.us>
Cc: Jonathan M Kara <jkara@campbellphillipslaw.com>; Joshua Chandler <jchandler@ci.the-dalles.or.us>
Subject: Re: Your appeal application is scheduled for hearing

I'd also like copies of all applications that have been denied based on DMC 10.5.010.010.

If there is a specific form that you'd like the request to be in, please let me know.

Thanks,
Ken

On Feb 3, 2022, at 9:15 AM, Ken Whiteman <whitemank@gmail.com> wrote:

Thanks Alice.

In preparation for the meeting, we'd like to get copies of the land partition and subdivision applications in the Low Density Residential Zone that have been approved since August 2020. Can you help with that or tell me how to submit that request?

Thanks,
Ken

On Feb 2, 2022, at 2:43 PM, Alice Cannon <acannon@ci.the-dalles.or.us> wrote:

Mr. Whiteman,

I am reaching out now to let you know that your appeal is scheduled for a hearing before the Planning Commission on Thursday, February 17, 2022 at 5:30 p.m. The meeting will be held virtually. A meeting agenda, staff report and meeting packet materials will be available on Thursday, February 10. All will be posted on the City's website. We will send you a link to the agenda and staff report materials on February 10.

Please let me know if you have questions.

Kind regards,

Alice Cannon

Alice Cannon

Community Development Director | City of The Dalles

313 Court Street | The Dalles, Oregon 97058

Office Phone: (541) 296-5481 ext. 1151

www.ci.the-dalles.or.us

acannon@ci.the-dalles.or.us

Paula Webb

From: Ben Beseda <BBeseda@tennesoneng.com>
Sent: Wednesday, January 12, 2022 11:52 AM
To: Kaitlyn Cook
Cc: Ken Whiteman
Subject: RE: Density Calculation and List

Good morning Kaitlyn. I have found the following land use actions that appear to not meet maximum comprehensive plan density.

- 1) Whispering Pines Subdivision, Phase 3 recorded in 2020, SUB 71-18.
- 2) Chamness Subdivision recorded in 2007, SUB 50-05.
- 3) Dennis Wright Partition Plat 2015-0011 recorded in 2015, MIP 315-14.
- 4) Elk Horn Development Partition Plats 2014-0011 and 2015-01, MIP 312-14 and 316-15.
- 5) The Dalles Area Habitat for Humanity Partition Plat Partition Plat 2011-0007 recorded in 2011.
- 6) MAB RMB, LLC Partition Plat 2020-0012 recorded in 2020.
- 7) Bart and Blum, LLC Partition Plat 2019-0005 recorded in 2019.
- 8) Gary Everest Partition Plat 2020-0016 recorded in 2020.
- 9) Roy Nathanson Partition Plat 2020-0002 recorded in 2020.

I included the city planning file number where I could. My formula was to add the area of all the parcels divide by 43,560 and then multiply by 6. The answer is then rounded down.

For example here is my calculation for #9 above. $((5,863+5,282)/43560) \times 6 = 1.54$ rounds which down to 1. I believe this to be consistent with how you calculated for Whiteman. I believe the "6 units per gross acre" implies including street right of way. Including street right of way in the calculation would likely change the outcome of some above examples. I simply wanted to be consistent with your work.

Just food for thought. 43,560 SF divided by 6 is 7,260 SF per lot/parcel. I think that in the RL zone the number should come out close to 5,000 SF. When we look at development we assume 25% land loss for roads. Factoring this into the calculation $(43,560) \times .75$ and dividing by 6 is 5,445 SF, much closer to the 5,000 SF requirement. If you agree I could rework the numbers on the above examples to see where they fall.

Please feel free to call or email if you have any questions.
 Thanks, Ben

Benjamin B. Beseda PE, PLS
 Tenneson Engineering Corporation
 3775 Crates Way
 The Dalles, OR 97058
 (541)296-9177

From: Kaitlyn Cook <kcook@ci.the-dalles.or.us>
Sent: Wednesday, January 12, 2022 10:44 AM
To: Ben Beseda <BBeseda@tennesoneng.com>
Subject: Density Calculation and List

Hello Ben Beseda,

I am working on gathering notes for Staff to make a determination on the Kenneth Whiteman partition. They mentioned that you have a list of comparable partitions that exceed the density requirements in the Low Density Residential zone.

If you do have a list or a couple examples you'd like to share, I can add to the Staff notes.

Best,

Kaitlyn Cook (she/her),
Assistant Planner
City of The Dalles Community Development Department
313 Court Street
The Dalles, OR 97058
(541) 296-5481 ext. 1132
kcook@ci.the-dalles.or.us

Website: www.thedalles.com or www.thedalles.org

PUBLIC RECORDS LAW DISCLOSURE:

This email is a public record of the City of The Dalles and is subject to public inspection unless exempt from disclosure under Oregon Public Records Law. This email is also subject to the City's Public Records Retention Schedule.



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481
FAX (541) 296-6906

February 10, 2022

Ken Whiteman

VIA Email: whitemank@gmail.com

Re: Public Records Request regarding application denials based on 10.5.010.010

Mr. Whiteman,

In accordance with ORS 192.324(2), this email acknowledges the City of The Dalles's ("City's") receipt on February 8, 2022 via email, of your public records request for the following records:

Application denials issued due to 10.5.010.010 for the past 10 years

After performing a good faith search, the City is not the custodian of records responsive to your request.

In accordance with ORS 192.329(2), this email also completes the City's response to your public records request, and your request is now closed.

Regards,


Izetta Grossman, CMC
City Clerk



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
COMMUNITY DEVELOPMENT DEPARTMENT

RESOLUTION NO. PC 600-22

Approval of Adjustment Application 055-22 of Ben and Anne Wring to reduce minimum off-street parking requirements of a proposed mobile food vendor pod from 12 spaces to seven (7) spaces, a 42% reduction.

I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on February 17, 2022 conducted a public hearing to consider the above request. A staff report was presented stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff's report of Adjustment 055-22 and the minutes of the February 17, 2022 Planning Commission meeting, upon approval, provide the basis for this resolution and are incorporated herein by reference.

II. RESOLUTION:

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part "I" of this resolution.
Adjustment 055-22 is hereby approved with the following conditions of approval:
 1. The Applicant is required to obtain Site Plan Review approval and all applicable building permits prior to beginning site construction. All dimensions and specifications must be consistent with this staff report.
 2. Except as modified by this decision, all development must be completed in accordance with The Dalles Municipal Code, Title 10 Land Use and Development.

III. APPEALS, COMPLIANCE, AND PENALTIES:

- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to The Dalles Municipal Code, Title 10 Land Use and Development, Section 3.020.080 and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.
- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation, 2) fines of up to \$500.00 per day for the violation period, 3) a civil proceeding seeking injunctive relief.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 17TH DAY OF FEBRUARY, 2022.

Cody Cornett, Chair
Planning Commission

I, Alice Cannon, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 17th day of February, 2022.

AYES: _____
NAYS: _____
ABSENT: _____
ABSTAIN: _____

ATTEST: _____
Alice Cannon
Community Development Director
City of The Dalles



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
PLANNING DEPARTMENT

RESOLUTION NO. PC 601A-22

Denial of **Appeal Application 032-22, Kenneth Whiteman** to affirm Administrative denial of Minor Partition 401-21 for Kenneth S. Whiteman, to divide one (1) parcel into three (3) parcels of varying sizes. Property is located at 2206 E 16th Street and is further described as 1N 13E 11 BA tax lot 700. Property is zoned “RL” – Low Density Residential.

I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on February 17, 2022, conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. Staff’s report, and its attachments, of Appeal 032-22 and the minutes of the February 17, 2022, Planning Commission meeting, upon approval, provide the basis for this resolution and are incorporated herein by reference.

II. RESOLUTION:

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part “I” of this resolution.
Appeal 032-22 is hereby **denied**.

III. APPEALS, COMPLIANCE, AND PENALTIES:

- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 3.020.080 of the Land Use and Development Ordinance, and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.
- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$500.00 per day for the violation period; 3) a civil proceeding seeking injunctive relief.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 17th DAY OF FEBRUARY, 2022.

Cody Cornett, Chair
Planning Commission

I, Alice Cannon, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 17th day of February, 2022.

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

ATTEST: _____
Alice Cannon
Community Development Director, City of The Dalles



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
PLANNING DEPARTMENT

RESOLUTION NO. PC 601B-22

Approval of **Appeal Application 032-22, Kenneth Whiteman** to overturn Administrative approval of Minor Partition 401-21 for Kenneth S. Whiteman, to divide one (1) parcel into three (3) parcels of varying sizes. Property is located at 2206 E 16th Street and is further described as 1N 13E 11 BA tax lot 700. Property is zoned “RL” – Low Density Residential.

I. RECITALS:

- A. The Planning Commission of the City of The Dalles has on February 17, 2022, conducted a public hearing to consider the above request. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.
- B. During the February 17, 2022 public hearing, the Planning Commission challenged Staff’s recommendation of Appeal 032-22, citing inconsistencies with Staff’s findings of unmet criterion. The Planning Commission identified the following criteria to validate their determination:
 1. **Section 10.5.010.010:** *Text to be inserted following Planning Commission deliberation.*
 2. **Section 10.9.020.020(A):** *Text to be inserted following Planning Commission deliberation.*
 3. **Section 10.9.020.020(D)(8):** *Text to be inserted following Planning Commission deliberation.*

II. RESOLUTION:

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part “I” of this resolution.
Appeal 032-22 is hereby approved.

III. CONDITIONS OF APPROVAL

- A. Conditions requiring Resolution Prior to Final Plat Approval:
 1. Final plat submission must meet all the requirements of The Dalles Municipal Code, Title 10 Land Use and Development, and all other applicable provisions of The Dalles Municipal Code.

2. To ensure access rights to Parcels 2 and 3, the Applicant will be required to establish and record an access easement at least 25 ft. wide through Parcels 1 and 2 and must comply with fire access requirements.
3. The Applicant will be required to remove both accessory structures, labeled “garage” and “shed.”
4. Separate water and sewer laterals will need to be installed for each proposed parcel. All utilities must be installed to City standards.
5. All proposed development must comply with all fire, life, and safety standards as determined by the Mid-Columbia Fire and Rescue Fire Marshal.
6. The Applicant shall identify significant beneficial vegetation must be preserved on the site plan.
7. To ensure utility access to Parcels 2 and 3, the Applicant will be required to establish and record a utility easement through Parcels 1 and 2.

B. Ongoing Conditions

1. The Applicant shall record the plat and any required covenants with the Wasco County Clerk. A copy of the recorded plat and any covenants must be submitted to the CDD upon recording.
2. Partition application approval is valid for a period of one (1) year from the date of the Notice of Decision.
3. All development shall be in accordance with The Dalles Municipal Code, Title 10 Land Use and Development.

IV. APPEALS, COMPLIANCE, AND PENALTIES:

- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 3.020.080 of the Land Use and Development Ordinance, and must be filed with the City Clerk within ten (10) days of the date of mailing of this resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by ordinance will invalidate this permit.
- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$500.00 per day for the violation period; 3) a civil proceeding seeking injunctive relief.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 17th DAY OF FEBRUARY, 2022.

Cody Cornett, Chair
Planning Commission

I, Alice Cannon, Community Development Director for the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 17th day of February, 2022.

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAIN: _____

ATTEST: _____
Alice Cannon
Community Development Director, City of The Dalles