



CITY OF GEARHART

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CITY OF GEARHART PLANNING COMMISSION

City Staff Report

From: Carole Connell, AICP - City Planner

Re: Request for a Land Partition approval

January 6, 2022

City File: #21-06P

Application Purpose: An application for approval of a Minor Land Partition to divide one parcel into two, on a parcel located on Fifer Road in a Residential R-2 zone.

Public Hearing Date: January 13, 2022

Applicant: Ben Johnson, Heritage Home Building Inc.
P.O. Box 727
Warrenton, Oregon 97103

Property Owner: Same as above

Location: 1598 Fifer Road; Tax Lot 2500 Map 6 10 03BD
Lot size: 49,267 square feet (.96 acres)

Procedures: Application received: 12-1-21

Completeness: 12-15-21

Notice Mailed: 12-23-21

Notice Published: 12-23-21

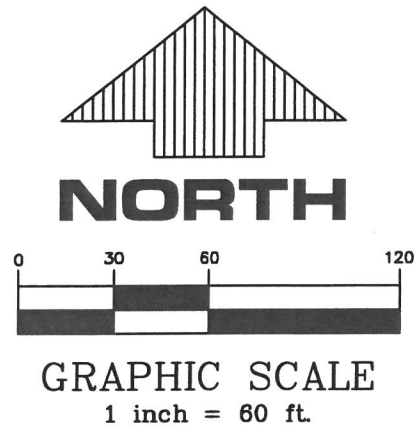
120-day deadline: 04-14-22

Exhibits

- Gearhart Fire Chief, no fire concerns, email 12-21-21
- Gearhart Building Inspector, no concerns, email 12-22-21
- Gearhart Police Chief, no concerns, email 12-17-21
- Gearhart Public Works, no concerns, email 12-20-21
- Gearhart City Manager, no concerns, email 12-30-21

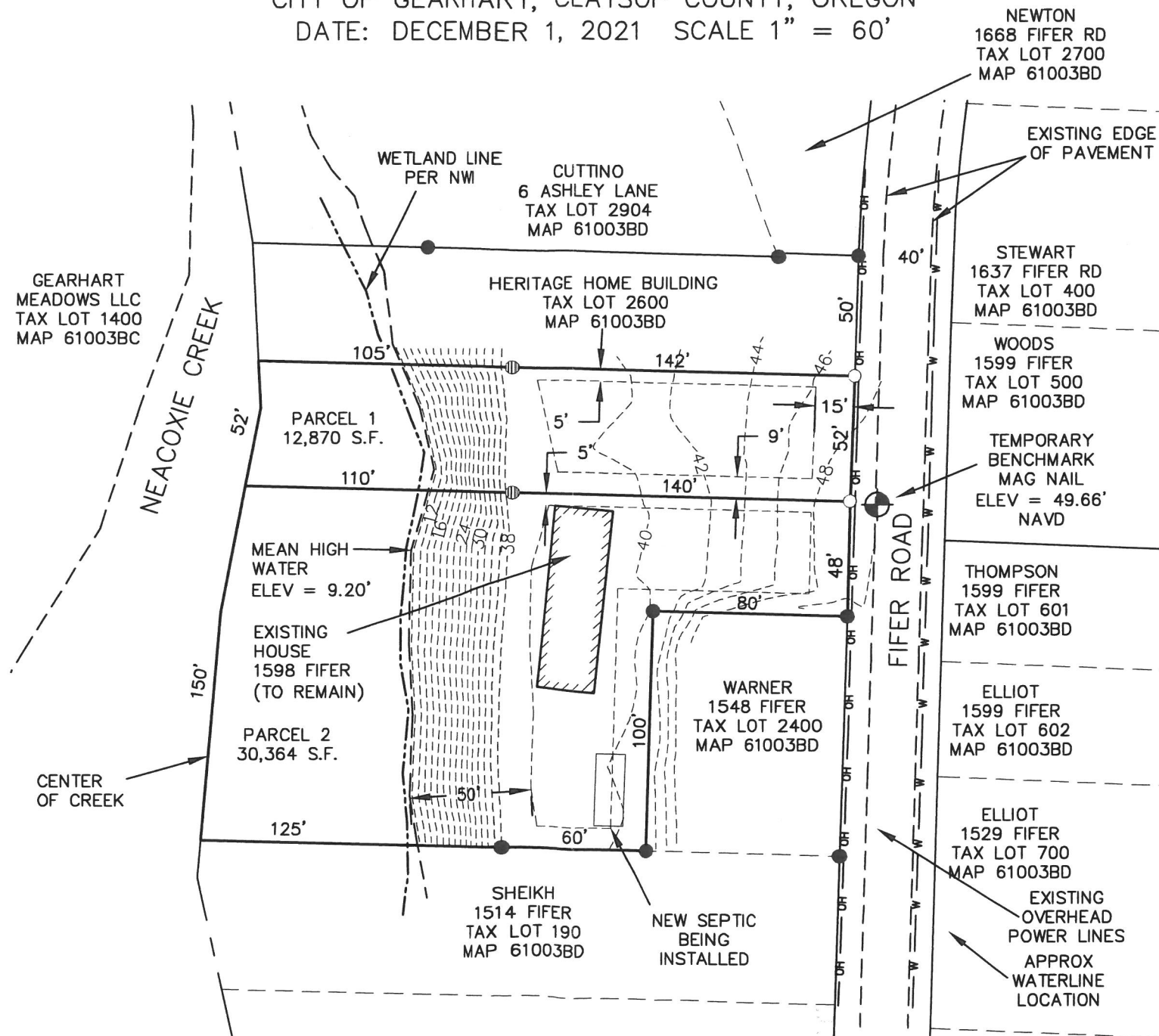
TENTATIVE PARTITION

TL 2500, MAP 6 10 03BD (43,234 SF)
NW 1/4 OF SEC. 3, T6N, R10W, W.M.
CITY OF GEARHART, CLATSOP COUNTY, OREGON
DATE: DECEMBER 1, 2021 SCALE 1" = 60'



LEGEND

- SURVEY MONUMENT
- PROPERTY LINE
- ① NEW PROPERTY CORNER TO BE SET
- - - EXISTING EDGE OF PAVEMENT
- OH - EXISTING OVERHEAD POWER LINE
- - - SETBACK LINES
- - - WETLAND PER NW
- - - 2-FOOT CONTOUR LINE
- W - APPROX LOCATION OF EXIST WATERLINE
- ⊕ TEMPORARY BENCHMARK



SURVEY FOR:
HERITAGE HOME BUILDING
PO BOX 727
WARRENTON, OR 97146

SURVEY BY:
CKI LAND SURVEYING
P.O. BOX 2699
GEARHART, OR 97138
503 738 4320 PHONE
503 738 7854 FAX

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JUNE 30, 1997
SCOTT S. COOTER
2829

RENEWES 12/31/21

UTILITY AND STREET NOTES:

1. EXISTING WATERLINE IN FIFER ROAD IS TO BE UTILIZED TO SERVE THE PROPERTY WITH A NEW WATER SERVICE.
2. THE NEW PARCEL WILL BE SERVED BY A NEW SEPTIC SYSTEM FOR WASTE DISPOSAL.
3. STORM RUNOFF TO BE DIRECTED WESTERLY AS IT CURRENTLY FLOWS.
4. NO SIGNIFICANT LOT GRADING IS PROPOSED.



DRAWING NAME: 21-043

DATE OF PLOT: 12/1/21

Gearhart Zoning Code & Subdivision Ordinance Review Criteria:

- GZO Section 3.3 Medium Density Residential R-2 Zone
- GZO Section 3.13 Freshwater Lakes and Wetlands Overlay Zone
- GZO Section 3.14 Tsunami Hazard Overlay Zone
- GZO Article 4 Transportation Improvements & Access Management
- GZO Section 6.070 (5) A.1.Neacoxie Creek Riparian setback
- GZO Article 13 Administrative Application, Notice & Hearing Procedure
- Gearhart Subdivision Ordinance

I. Background

- A. Site information: The parcel has one existing single-family dwelling addressed as 1598 Fifer Road. The partition segregates the parcel into two, separating the existing structure from the new parcel for a new homesite. The west boundary of the parcel is adjoined by a W2 wetland designation and Neacoxie Creek. Dense trees and shrubbery extend from the edge of the creek about 115 feet east into the lot. The applicant states no trees will be removed for a future dwelling. The parcel is within the “Medium” tsunami scenario and is subject to a density limitation of no more than 10 units per acre.

Surrounding uses include a dwelling to the north, Fifer Road to the east, a dwelling to the south and the Neacoxie Creek to the west. There is one water service to the dwelling on Parcel 2 and a new water service will be installed to Parcel 1. The applicant must obtain Clatsop County Health approval to install a new septic system for a dwelling on Parcel 1.

- B. Summary of Proposal: The applicant proposes to create a new parcel five feet north of the existing dwelling on Parcel 2 and construct utilities to serve the new parcel planned for a single-family dwelling. The applicant also owns the parcel north of Parcel 1.
- C. Agency Coordination: The proposal was referred to city departments and no concerns were raised. If approved, a final partition plan will be prepared for Planning Commission approval, followed by county recording.

II. Gearhart Zoning Code (GZO) Provisions

- A. GZO Article 13 Administrative Provisions: The application for a Land Partition is a quasi-judicial decision of the Planning Commission. The applicant has submitted the required forms and materials. The public hearing was advertised at least 20-days before the hearing and notices were mailed to properties within 200 feet of the subject parcel. This report was made available no less than seven days before the hearing. The public

hearing will be conducted in accordance with Section 13.050. A party to the decision by the Planning Commission may appeal the decision to the City Council.

B. GZO Section 3.14 Tsunami Hazard Overlay Zone (THO)

The purpose of this section of the code is to increase community resilience from a Cascadia Subduction Zone tsunami by establishing standards, requirements, incentives, and other measures applied in the review and authorization of land use and development activities impacted by the XXL magnitude source tsunami event, which covers all of Gearhart. The proposed new parcel is for a single-family dwelling with a density of one dwelling on about ¼ acre, far less than the maximum of 10 dwellings per acre restriction of the overlay zone. The proposal does not conflict with the overlay zone.

- C. Oregon Fire Code (OFC): A new dwelling on Parcel 1 will be required to meet the Oregon Fire Code. The Gearhart Fire Chief found no concerns with the proposal.

III. FINDINGS FOR APPLICABLE ZONE AND SUBDIVISION STANDARDS

A. GZO Section 3.2 Medium Density Residential R-2 Zone

Plan & Zone designations: The site is zoned Medium Density Residential R2. The minimum lot size is 7500 square feet (SF). Parcel 1 is 12,870 SF and Parcel 2 is 30,364 SF. The R2 Zone setbacks are 15 feet from the front and rear lines and 5 feet/9 feet from the side lines.

FINDINGS: The partition is configured so that each parcel complies with the R2 zone requirements of a minimum 7500 minimum lot size. The plan illustrates a building envelope meant to indicate how the existing and new dwellings can be designed to meet minimum dwelling setbacks. Both parcels provide the required 5-foot side yard setbacks and the required 9’ setback on one side of Parcel 1 to assure septic system access from the street.

B. GZO Section 3.1380 Development Standards in the Freshwater Wetlands FW Zone:

1. Development, construction, or alteration within the FW Zone or within 25 feet of the FW zone boundary requires approval of a development permit from the City. The application for development permit shall include a site plan drawn to a measurable scale and a narrative describing the proposed site work. A wetland determination or delineation by a qualified professional wetland scientist shall be required by the City

if the wetland boundary cannot be determined.

FINDINGS: The Local Wetland Inventory (LWI) on the City GIS illustrates the Neacoxie Creek wetland W2 designation on the property's west boundary. From slope information on the Tentative Plan, the creek's mean high-water line at a 9.2' elevation the slope rises an estimated 29 feet to the dwelling sites. The City finds the partition creates a new homesite on Parcel 1 that is 50' from the mean high-water line. Although the site does not have a site-specific wetland determination, the 50' setback from the mean high-water line appears to meet/exceed the minimum 25' setback from the wetland denoted on the City GIS map.

C. GZO Article 4 Transportation Improvements and Access Requirements

1. Section 4.040 General Requirements.

- a. Purpose. The standards of this chapter implement the transportation policies of the City of Gearhart Transportation System Plan and Subdivision Ordinance.
- b. Applicability. The following types of development are required to construct transportation improvements in accordance with the standards and procedures of this chapter.
 - (1) New single-family dwelling or duplex, if the development fronts a street segment that is planned for a sidewalk or trail in the Transportation System Plan.
 - (2) New multi-family dwelling.
 - (3) New commercial development.
 - (4) Major expansion of a commercial development defined by an increase in the gross floor area of the use by at least 25 percent.
 - (5) All developments in the Residential Commercial Planned Development (RCPD) zone, and subdivisions or partitions are required to construct improvements in accordance with the Gearhart Subdivision Ordinance.
- c. Street, Shared-use Path, and Evacuation Route Design Standards. All transportation improvements, whether required as a condition of development or provided voluntarily, shall conform to the standards adopted within the City of Gearhart Transportation System Plan.
- d. Public Improvement Requirement. No building permit may be issued until all required street improvements are in place and approved by the City Manager or designee, or otherwise bonded, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional with the impact of development.

FINDINGS: The City finds this section is applicable because the proposal is to divide the land for a new single-family dwelling on a parcel that abuts an existing substandard

street. The Fifer Road right-of-way is currently forty (40) feet wide. In accordance with the city TSP, the planned ROW for the road is 45 feet and planned to include a shared use path improvement plan, defined in the TSP as Project #G-14 on Fifer Road.

In order to eventually obtain a 45' ROW on the street, half of the needed ROW (2.5 feet) adjoining the parcel on one side of the street is required. The remaining 2.5 feet will be obtained from properties on the east side of the street. The dedication should necessarily occur before the land is divided and before building permits are requested. Staff recommends a condition of approval that the partition include a 2.5-foot right-of-way dedication to provide a additional pavement for a north-south pedestrian/bicycle, evacuation connection on Fifer Road.

2. New Streets. All new streets shall conform to the standards and requirements of the Gearhart Subdivision Ordinance.

FINDINGS: The City finds a new city street is not proposed, but a widening of Fifer Road is planned to eventually include a bike/ped/evacuation path. To meet the standard, the existing 40-foot right-of-way must be widened by five (5) feet. This is accomplished by land dedications of 2.5 feet from the east and west side of the centerline of Fifer Road.

3. Improvements to Existing Streets.

a. Applicability. Except as provided by subsection 4, below, existing substandard streets within or abutting a proposed development shall be improved in accordance with the standards of this chapter as a condition of development approval. The City Manager or designee may waive or modify this requirement where the applicant demonstrates that the condition of existing streets to serve the development meet city standards and are in satisfactory condition to handle projected traffic loads.

- (1) Single-Family Dwellings and Duplexes. All single-family dwellings and duplexes that front an existing street segment that is planned for a sidewalk improvement may include but are not limited to sidewalks, trails, curbs, gutters, and planter strips.
- (2) Multi-Family Dwellings and Commercial Development. All multi-family dwelling and commercial development shall construct a minimum of half-street improvements to all existing streets adjacent to, within, or necessary to serve the development in accordance with the standards of the Gearhart Transportation System Plan. Where a development has frontage on both sides of an existing street, full street improvements shall be required.

FINDINGS: The City finds the above standard requires the applicant to make the improvement on their half of the road. The Commission may determine the impact of the two-lot partition street improvement is not proportional to the required street improvement, or practical for this 100' portion of the street.

4. Waivers and Deferrals.

The City Manager or designee may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in (A) through (D) is met. Deferrals of sidewalk improvements are not permitted when there is an existing curb along the frontage of the site, or the site is abutting an existing curb or sidewalk. Where the City Manager or designee agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future.

- a. The standard improvements conflict with an adopted capital improvement plan.
- b. The standard improvements would create a safety hazard.
- c. The improvement is not likely to be extended during the planning horizon of the adopted TSP due to topography or committed development on adjacent property, and the improvement under consideration does not by itself significantly improve transportation operations or safety.
- d. The improvement can be accomplished as a part of a future, larger project on the subject site.

FINDINGS: The City finds the widening of the road by dedicating 2.5 feet to the west side of Fifer Road is appropriate at the time of a land division. But a requirement to build a ped/bike path improvement is not proportional to the request or practical because no other part of the street is improved as planned and the improvement can be accomplished as a part of a future, larger project on the street when a capital improvement plan with engineering specifications and costs is developed by the city.

5. Fee-in-Lieu Option.

In lieu of the transportation improvement requirements identified in Section 4.040, the City Manager or designee may elect to accept from the applicant monies to be placed in a fund dedicated to the future public construction of the improvements.

- b. The amount of monies deposited with the city shall be at least 100 percent of the estimated cost of the required street improvements and may include more than 100 percent of the cost as required for inflation. Cost estimates shall be based on a preliminary design of the reconstructed street provided by the applicant's engineer and shall be approved by the city engineer or designee.

b. If the City Manager or designee elects to accept these monies in lieu of the street improvements, the applicant shall also record against all lots or parcels a "construction deferral agreement and waiver of rights to remonstrance for street and storm drainage improvements" approved by the city attorney. The agreement should be worded such that the subject properties are responsible for paying the full cost of required street improvements along their unimproved street frontages. The agreement shall also state that the city has the right to collect money owed for the actual construction costs, if actual costs exceed the amount deposited, and that

the city will reimburse the property owner(s) if the actual costs are less than anticipated.

FINDINGS: The City finds that transportation improvements in Article 4 and right-of-way dedications for a land partition in Subdivision Ordinance Section 38 Streets are required when creating a new home site. However, a fee-in-lieu of the Fifer Road improvement may be applicable, as determined by the City Administrator. The design and cost of the project are unknown making it difficult to establish a fee-in-lieu. A last resort is to require the applicant provide a Waiver of Remonstrance in the event a future local improvement district is created on the street to make the improvement.

D. GZO Section 6.070 (5) A.1. Neacoxie Creek Riparian setback

Riparian vegetation adjacent to streams and lakes in Gearhart shall be protected in accordance with the following (relevant) provision:

A.1. Fifty feet on either side of Neacoxie Creek.

FINDINGS: The applicant's tentative partition plan illustrates a 50' setback from the median high-water line of the creek to the proposed building envelope on Parcels 1 and 2. The City requires the surveyor to mark the 50' setback line on the ground when a building permit is filed. Existing vegetation is required to be protected in that area and is a condition of approval. The City would make an exception to removing noxious weeds.

Gearhart Subdivision Ordinance November 2017

E. Subdivision Ordinance Sections 23 – 36 Land Partitioning: Describes technical partition plat requirements, review procedures and final plat filing requirements.

FINDINGS: The City finds that the relevant data has been provided on the tentative plat and final platting requirements are a condition of approval for this request.

F. Subdivision Ordinance Sections 37-46 General Regulation and Design Standards

A land division either by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance.

FINDINGS: The City finds the Gearhart TSP includes an identified improvement plan to Fifer Road that affects the proposal, as discussed above.

Section 38 - Streets: A land partition shall conform to the relevant city street design standards.

- 1) Existing Streets: Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of a land division.

FINDINGS: The City finds the partition should include dedicating 2.5' of additional right-of-way to the existing 40-foot-wide Fifer Road ROW as identified in the TSP Figure 7 Planned Investments Project #G-14 and Figure 9 Evacuation Routes.

- 2) Shared-use paths

The Planning Commission, in approving a land use application with conditions, may require a developer to provide non-motorized access where a public shared-use path is needed to connect the end of the Fifer Road to Summit Drive for bicyclists, pedestrians and emergency evacuation. A shared-use path is required, it shall be not less than 10 feet wide and shall contain a minimum eight-foot-wide paved surface or other all-weather surface approved by the Planning Commission. Shared-use paths shall be contained within a public right-of-way or public access easement, as required by the City.

FINDINGS: The City finds the TSP Figure 7 Planned TSP Investments Project #G-14 identifies a planned non-motorized shared use path improvement on Fifer Road. The Planning Commission may require the applicant to meet the planned path connection requirement when the land is proposed to be divided. The final partition plat should include an estimated 2.5 feet feet dedicated to the city for the future improvement.

- 3) Pedestrian Access and Circulation

In addition to the access and connectivity standards required by subsection (9) Cul-de-sac and (10) Shared-use Paths, any individual site in the subdivision or partition shall meet the pedestrian access and circulation standards of Section 4.080 Transportation Improvements of the Gearhart Zoning Ordinance.

FINDINGS: The City finds this section of the Subdivision Ordinance also implements the pedestrian access and connectivity policies of the TSP at the time of a proposed partition to provide for safe, reasonably direct bike/ped/evacuation access to the Summit Drive/Fifer Road residents.

G. Section 39 - Recreation and Utility Easements:

FINDINGS: The City finds the planned pedestrian trail on the Fifer Road frontage of the parcel defined by the TSP will provide a safe public pathway in the future for families living on the two streets.

G. Section 40 - Building Sites: Each lot shall be appropriate for the location, environmental features and for the type of development proposed. Each lot shall abut a street for a width of at least 25 feet. Through lots shall be avoided. Lot lines shall run at right angles to the street. Land which the Commission finds unsuitable for partitioning for reasons including flooding, improper drainage, wetlands, or other concerns shall be set aside for a use which does not pose a danger or a negative impact.

FINDINGS: The City finds the proposed Parcels 1 and 2 are appropriately sized and shaped based on the existing lot configuration and the Neacoxie Creek constraints. The creek, wetland and existing vegetation will be preserved by the 50' setback from the mean high-water mark shown on the tentative partition plan. Further, the street frontage on Parcel 1 is 52 feet and on Parcel 2 is 48', both exceeding the minimum of 25' feet of frontage on Fifer Road.

As required in this section, parcel lot lines run at right angles to the street. There is a known wetland and Neacoxie Creek on the west side that is unsuitable for any development. The City has determined a future dwelling on Parcel 1 can meet the 25-foot minimum setback from the wetland boundary.

H. Section 43 – Water Courses: The land divider shall dedicate a right-of-way for storm drainage purposes, conforming to the lines of any natural water course or channel, stream or creek that traverses the partition, or find an alternative method to dispose of storm water.

FINDINGS: The City finds additional road right-of-way for natural site drainage is not necessary because the natural drainage flows to the creek not Fifer Road. At the time of a building permit request the applicant will be required to illustrate the location of roof drains and driveway drainage.

I. Section 46 – Wetlands and Areas Subject to Inundation: The Planning Commission may prohibit the partition of any portion of property which lies within the floodplain or wetlands of any stream or drainage course. These areas shall be preserved from damage or destruction resulting from clearing, grading, or dumping of materials.

FINDINGS: The City finds that the official 2011 Gearhart Local Wetland Inventory LWI map illustrates a wetland on the west side of the two parcels. In order to assure that future structure proposed on Parcel 1 maintains a 25-setback from the wetland, the applicant's surveyor shall mark on the ground the location of the 50' setback from the mean high-water line of Neacoxie Creek.

The City recommends pesticides, herbicides and other chemicals, as well as debris dumping or significant native vegetation removal in the wetland be prohibited, as a restriction on the building permit.

J. Subdivision Ordinance Sections 47 – 50 Improvements

The following four subsections apply to land division improvement standards, approval and construction requirements.

Section 47 Improvement Standards and Approval

- 1) Improvements shall not be commenced until plans have been approved by the city. Some plans may be required prior to approval by the Planning Commission.
- 2) Improvement work shall not be commenced until the City has been notified.
- 3) All required improvements shall be constructed under the inspection and to the satisfaction of the City.
- 4) All underground utilities shall be constructed prior to surfacing of the streets.
- 5) A map showing all public improvements as built shall be filed with the Building Official upon completion of the improvements.

FINDINGS: The City finds that road dedication shall be provided on the final plat which requires Planning Commission approval. Utility installations are required to be constructed and approved by the Building Inspector per City specifications of Section 47 (1 – 5) above.

Section 48 Improvement Requirements:

- 1) Public streets shall be improved.
- 2) Structures necessary for drainage, access and public safety shall be installed.
- 3) Storm water facilities or ground water recharge facilities shall be installed per city specifications.
- 4) Water mains and fire hydrants shall be installed per city specifications.
- 5) Underground utilities shall be installed.
- 6) Street lighting per city specifications shall be installed.
- 7) Street signs shall be installed per city specifications.

- 8) If necessary, a drainage easement shall be installed for the safety of the adjoining property.
- 9) Damage to public streets related to the development shall be restored to existing conditions before the damage.

FINDINGS: The City finds the above public and private utilities shall be installed prior to or in conjunction with any building permits. Number 9) above regarding street damage during construction should be a condition of approval.

Section 49 – Monuments: Surveyed monuments shall be set according to ORS 92.060 and city specifications outlined in Section 49 - Monuments

FINDINGS: The monumentation requirement should be a condition of final plat approval.

Section 50 – Survey Requirements: The surveyed plat shall be set according to ORS 92 and city specifications outlined in Section 50 – Survey Requirements.

FINDINGS: The above requirement should be a condition of approval.

IV. CONCLUSION

Based on the findings in this report, subject to additional information provided at the public hearing, Staff recommends approval of the Heritage Homes Tentative Land Partition subject to the following conditions of approval, as may be modified by the Commission:

1. Within one year of this tentative approval the Final Partition Plat shall be submitted to the City for Planning Commission approval. If necessary, the applicant may request a one-year extension of the approval.
2. The property owner shall enter into a legal Waiver of Remonstrance Agreement with the City for future participation in potential improvements to Fifer Road, in lieu of making those improvements now. The agreement shall be executed and recorded with the final plat.
3. The final partition plat shall be modified to incorporate the dedication of 2.5 feet on the Fifer Road frontage of Parcels 1 and 2.

4. Utility improvements: No building permit may be issued until all required improvements are in place and approved by the City Manager or designee, or otherwise bonded, in conformance with the provisions of the Subdivision Ordinance.
 - a) Improvements shall not be commenced until plans have been approved by the city. Some plans may be required prior to approval by the Planning Commission.
 - b) Improvement work shall not be commenced until the City has been notified.
 - c) All required improvements shall be constructed under the inspection and to the satisfaction of the City.
 - d) All underground utilities shall be constructed prior to surfacing of the streets.
 - e) A map showing all public improvements as built shall be filed with the Building Official upon completion of the improvements.
 - f) Damage to public streets related to the development shall be restored to existing conditions before the damage.
5. If more than 5 trees are planned to be removed, the applicant shall first obtain a tree removal permit from the City. With the exception of removal of noxious weeds as determined by City staff, removal of more than 1,000 SF of vegetation or excavation of more than 50 cubic yards on Parcel 1 shall first require a tree removal, excavation and fill permit from the City Administrator.
6. The building permit shall restrict the use of herbicides, pesticides and other toxic materials, as well as dumping of debris or other materials in the Neacoxie Creek side 50' protected area.
7. Surveyed monuments shall be set according to ORS 92.060 and city specifications outlined in Section 49 – Monuments. The surveyed plat of the partition shall be set according to ORS 92.060 and city specifications outlined in Section 50 – Survey Requirements.
8. The applicant's surveyor shall mark on the ground the location of the Neacoxie Creek 50' riparian setback line when a building permit is filed.
9. Damage to public streets related to the development shall be restored to existing conditions before the damage, which should be denoted on the building permit.

V. DECISION OPTIONS

The Planning Commission has the following motion options:

1. Based on the Findings in the staff report, I move we approve the proposed Tentative Partition Plat (File # 21-06P) subject to the conditions of approval as presented and/or as modified by the Planning Commission; or
2. I move that we continue the public hearing for the Tentative Partition Plat to the next regular meeting; or,
3. Based on the testimony received and revised findings as directed by the Commission, I move that we deny the Tentative Partition Plat.