



City of Durham

17160 SW Upper Boones Ferry Rd.
Durham, Oregon 97224

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PLANNING COMMISSION FINAL FINDINGS AND DECISION ORDER

APPLICATION FILES: #594-24

REQUEST: To partition a parcel of approximately 1 acre into 3 lots of approximately 11,440, 14,006, and 16,101 square feet.

OWNER/APPLICANT: Clint Welsh / Spartan Redevelopment, LLC
21370 SW Langer Farms Parkway, Suite 142, #272
Durham, OR 97224

OWNER: Dutch Ventures, LLC
7870 SW Ellman Lane
Durham, OR 97224

SITE LOCATION: 7870 SW Ellman Lane
Tax Map 2S1 13CD, Tax Lot 700

LOT AREA: 1 acre

ZONE DESIGNATION: Single Dwelling Residential - SDR

AUTHORIZATION:

The review and approval criteria for the proposal are provided in the Durham Development Code (DDC) under Section 2.8 SDR Zone; Section 3.1 Standard Site Design in Residential Zones; Section 3.7 On-site Access and Off-Street Parking; Section 3.8 Required Facilities and Undergrounding; Section 3.9 Street Design; Section 3.10 Protection of Transportation Facilities; Section 3.10 Protection of Transportation Facilities; Section 8. Land Divisions; and Section 9.76 Type 2 Procedures & Criteria.

I. SUBMITTALS & AGENCY CORRESPONDENCE

- Applicant submittal, deemed completed on August 6th, 2024, including a narrative, plan sheets, and reports.
- Correspondence from Curran-McLeod, City Engineer, dated August 21st, 2024.
- Pride Disposal letter dated August 7th, 2024, indicates it can provide service as the minor partition is proposed.

- Tualatin Valley Fire and Rescue (TVFR) submitted a letter dated August 7th, 2024 with the relevant standards enumerated. An email from TVFR indicates that a turnaround may be required because of the overall length of the proposed driveway.
- ODOT indicated the agency has no concerns.
- Clean Water Services (CWS) Service Provider Letters are provided with the application in Exhibits G. 1. And G. 2. On August 29th, 2024, CWS provided a list of recommended conditions of approval.
- A Tigard Water Service Provider Letter is provided with the application in Exhibit G. 3.
- TriMet representative, Rich Vasquez, indicates this development will have no impact on the agency.
- No comments received from Metro, PGE, Tigard-Tualatin School District, Tigard Water, Zply Fiber/Frontier Communications, Comcast, or WCCCA.

II. PUBLIC SERVICES

The necessary public services including water, sanitary sewer, storm drainage, and utilities are available to serve the property and the proposed three lots.

III. SITE INFORMATION AND PROPOSED MINOR PARTITION

The subject property is approximately 1 acre in size with one single family residence located in the northern portion of the property with driveway access to Ellman Lane. There are 36 trees on, or immediately adjacent to the property. Ellman Lane is paved, but the property frontage is not improved to city standards.

The applicant proposes to divide the property into three parcels for future single dwelling residences. The two proposed southern parcels will have adjacent 10-foot wide strips that widen to 20 feet at Ellman Lane. The existing house and garage will be removed (Exhibit E of the application).

Ten trees are also proposed for removal to accommodate the common driveway and Ellman Lane frontage improvements (Exhibit F of the application). The tree removal shall be reviewed under a separate review process.

IV. DURHAM DEVELOPMENT CODE REQUIREMENTS, CRITERIA & FINDINGS

The applicable sections of the Durham Development Code (DDC) include:

- 2.8 SDR Zone.
- 3.1 Standard Site Design in Residential Zones.
- 3.7 On-Site Access and Off-Street Parking.
- 3.8 Required Public Facilities and Undergrounding.
- 3.9 Street Design.
- 5 Tree Protection.

- 8 Land Divisions.
- 9.6 Type 2 Process.

DDC Section 2 - Zoning Districts

2.8 Single Dwelling Residential (SDR) District

The SDR district allocates land both for large lot detached housing and for attached single dwellings in the form of a Planned Residential Development, including individual or common privately owned open space. The SDR district is intended for those areas where large lot residential development has substantially committed the land for that use.

2.8.1 (and Table 2.18) Uses permitted outright in the SDR district include:

2.8.1.5 Single detached residence, including mobile- and manufactured homes.

FINDING: The parcel is zoned Single Dwelling Residential SDR that allocates land for large lot detached single-family dwellings, which are proposed following completion of the minor partition.

DDC Section 3 - Site and Design Standards

3.1 Standard Site Design in Residential Zones

3.1.1 The minimum density for residential development when averaged city-wide shall be maintained at no less than 6 dwelling units per net buildable acre. The minimum base density for the SDR district shall be 10,000 square feet per dwelling. The minimum lot area in the SDR district shall be 10,000 square feet except in a Planned Residential Development.

FINDING: The proposed minor partition with a minimum lot size of over 10,000 square feet complies with the minimum density standard for a land division in the SDR District.

3.1.3 The minimum (front) setback from the edge of the street right of way shall be 20 feet in all residential districts and shall be 10 feet from the side and 20 feet from the corner of a residential structure in the SDR district. The minimum setback from the rear property line shall be 20 feet for detached dwelling units and 15 feet for attached units. Detached residential structures on flag lots shall be set back at least 10 feet from all property lines.

FINDING: Although building setbacks will ultimately be determined during the building permit stage, the proposed preliminary plat demonstrates the ability to easily satisfy these standards with the dimensions and configuration of the proposed lots.

Sections 3.1.4, 3.1.6, and 3.1.7 apply to maximum building height, building projections, temporary structures, accessory uses, and fences.

FINDING: These provisions are not directly related to the minor partition, but they will require compliance related to subsequent home construction.

Section 3.1.5 requires a minimum lot frontage on public or private streets of 20 feet.

FINDING: All lots have the required street frontage. Lots 2 and 3 meet this standard with the access easements, which are 20 feet wide at the street.

3.7 On-Site Access and Off-Street Parking

3.7.1 Access to Public Right of Way. A land use in any zoning district shall provide for vehicle and pedestrian paved access to public right of way constructed and maintained within the boundaries of the property or by use of written and recorded property interest allowing use of property owned by another for such access. The form of any such interest in another's property for use for such access shall be acceptable to the City attorney

FINDING: Site access shall be provided by Ellman Lane and the two proposed private driveways.

3.7.1.1 In a residential zoning district, vehicle access to an occupiable structure shall extend to no less than 50 feet from a ground level access to that structure. Pedestrian access shall extend from each ground level entry to the public right of way.

FINDING: The proposed minor partition, SW Ellman Lane, and driveway will enable compliance with these standards.

3.7.1.3 A vehicle access way to a single, detached residential structure shall be 10 feet to 18 feet wide or as wide as 35 percent of the lot frontage, whichever is greater, up to a maximum of 30 feet wide. Access width shall be measured at the property line.

FINDING: Driveway access shall be reviewed as part of the building permit review for the home. The two private/shared 20-foot wide driveways satisfy these criteria.

3.7.1.4.1 An access with a minimum width of 20 feet is required for 1-2 dwelling units.

FINDING: Individual driveways shall be reviewed as part of the building permit review for the home. The two private/shared, 20-foot wide, driveways satisfy these criteria.

3.7.1.7 In all zoning districts, that portion of a vehicle access way that is within public right of way, e.g., the driveway apron, shall not be wider than 40 feet, shall be set back from adjacent property by at least 5 feet and no portion of same shall be less than 100 feet from any street intersection as measured from the curb return. These dimensions may be adjusted to

accommodate vehicle access ways that provide for joint and reciprocal access to adjoining properties.

FINDING: As noted above, individual driveways will be reviewed with the building permits for homes. The two shared driveways satisfy the maximum driveway apron width at 20 feet. The eastern driveway will be well over 100 feet from the nearest intersection to the east and west.

3.7.1.8 Vehicle Access Requirements in Zoning Districts: Land use in any zoning district shall provide for vehicle and pedestrian access in accordance with Table 3.7.1.8 width minimums. A width between 10 and 30 feet is required in the SDR District.

FINDING: The proposed common driveway is proposed to be 20 feet wide, satisfying this standard.

3.7.2 Reciprocal Access. The City may allow or require an applicant to execute a reciprocal access easement providing for shared access to public right of way via adjacent property owned by another when the City deems necessary or desirable to limit access and thus turning movements to and from the combined properties on to a public street, to preserve a certain distance between access points and nearby street intersections, or to further another public purpose such as structural density, preservation of natural resources, the functional capacity and future operation of roads, transit ways and corridors and so forth. Any such reciprocal access easement shall be effective only when executed by the adjacent property owner(s) and shall be subject to the parties' agreement on the costs of construction and maintenance and other appropriate terms.

FINDING: It is assumed that reciprocal access easements will be executed for Lots 2 and 3.

3.7.2.1 The City may impose other conditions of approval of a land use or a land division as it deems necessary or desirable to protect transportation facilities, corridors and sites for their identified functions, including but not limited to access control measures in addition to or in lieu of reciprocal access easements.

FINDING: No additional conditions are necessary to protect relevant transportation facilities, which is Upper Boones Ferry Road in this case. The Ellman Lane frontage will be improved in conjunction with this minor partition.

3.7.3 Dedication of Public Right of Way. The City may require an applicant for a land use or a land division to dedicate vehicle and pedestrian public right of way across a portion of the applicant's property or across adjacent property when necessary to comply with the requirements of this Code or of the transportation element of the City's comprehensive land use plan when the dedication of the property is roughly proportional to the projected impact on public facilities presented by the tentative plan or the proposed land use.

FINDING: A 15-foot street right-of-way dedication will be required to accommodate the necessary frontage improvements.

3.8 Required Public Facilities and Undergrounding

3.8.1 The City's public water supply shall be extended if necessary and at the property owner's expense so as to be available at the property line of each lot in a pressure and volume sufficient for the intended land use and construction type and use, as determined by the City's water provider; and shall be extended to the boundary/ies of adjacent property/ies unless the water provider deems such extension to be not necessary or desirable.

FINDING: No public water system extensions are necessary. The proposed water system is shown in the preliminary plans to be extended as necessary to provide service to all proposed lots.

3.8.2 The City's sanitary and storm sewerage system shall be extended if necessary and at the property owner's expense to be available at the property line for any proposed land use for which the standards of the Clean Water Services (CWS) district require connection. All such facilities shall be constructed to CWS standards. No land division or land use for which City's approval is required shall use septic tanks or similar facilities for private sanitary sewage disposal. Facilities for storm water detention shall be determined by CWS and the City.

FINDING: The stormwater and sanitary sewer facilities will be required to comply with applicable CWS and City standards.

3.8.3 Electricity, natural gas, and telephone and telecommunications supply lines shall be placed underground within the boundaries of a site and along those portions of public right of way that abut the site and shall otherwise be designed, constructed and placed according to the standards and requirements of the utility provider.

FINDING: All the utilities listed are proposed to be placed underground.

Section 3.9 Street Design

3.9.1 The standard width of right of way of all public streets to be constructed or reconstructed to serve a land division (other than a property line adjustment), applicable unless the City approves an alternate street design, shall be:

3.9.1.5 Local-street and cul-de-sac, 40 feet, 26 feet paved

FINDINGS: Ellman Lane, a Local Street, will be improved along the property frontage consistent with the local street standard and the level of improvement found on the south side of the street.

3.9.2 Street Configuration. All streets, sidewalks, bicycle lanes and gutters, streetlights, street name signs and traffic control devices shall be aligned, contoured, drained, and constructed according to uniform standards that the City shall adopt from time to time on the advice of the City engineer.

Subsections 3.9.2.1 – 3.9.2.12 include specific standards related to street configuration, alignment, and length. The relevant sections are addressed below.

FINDING: This case is relatively simple because the street system is established, and the applicant will only be required to provide frontage improvements that match those on either side of the property.

3.9.2.1 A new street that extends an existing street shall align with an existing centerline to the maximum extent practicable. No two streets shall be offset at a “T” intersection by less than 100 feet.

FINDING: No street extensions are proposed, and no offset “T” intersections are proposed.

3.9.2.6 The street grade shall not exceed 6 percent on an arterial, 10 percent on a collector and 12 percent on any other street. A curve shall have a center line radius not less than 300 feet on a major arterial, 200 feet on a minor arterial and 100 feet on any other street.

FINDING: The grade of Ellman Lane is established, and it is less than 6 percent.

3.9.2.9 A new street shall be oriented generally east west to the maximum extent practicable to provide solar access.

FINDING: The east-west orientation of Ellman Lane is established.

3.9.2.10 The maximum length of a block is 1200 feet unless adjacent to an arterial or unless the existing local street pattern or topography require a different length.

FINDING: Block lengths were previously set, and no new public streets are proposed.

3.9.2.11 The preferred minimum length between intersections along an arterial is 1800 feet.

FINDING: Not applicable.

3.9.2.12 A land division traversed by a water course, drainage way, channel or public or private street shall include an easement to the public for storm water conveyance conforming to CWS’ current design and construction standards.

FINDINGS: The project site is not traversed by any water course, drainage way, or channel. There are two private driveways proposed to serve Lots 2 and 3. Easements as necessary to

provide for the public stormwater conveyance system and a conveyance conforming to CWS current design and construction standards will be recorded with this project.

3.9.3 Bicycle and Pedestrian Access. All streets and access ways provided in any new land division shall provide reasonably direct routes for pedestrian and bicycle travel in areas where such travel is likely if connections are provided and that avoids levels of motorized traffic that might interfere with or discourage pedestrian or bicycle travel.

FINDING: Bicycle and pedestrian access and sidewalks are provided on Ellman Lane. The minor partition will be required to provide frontage improvements consistent with street improvements to the east and west.

3.9.3.1 Bicycle and pedestrian routes shall connect new land divisions, multi dwelling and planned residential developments to adjacent residential areas, transit stops and to schools, shopping and employment areas located up to 1/2 mile away.

FINDING: The street and access network is established, and this minor partition has no potential to supplement this network.

3.9.3.2 Bikeways shall be required along arterials and major collectors. Sidewalks shall be required along all arterials, collectors and local streets.

FINDING: Not applicable.

3.9.4 Alternate Street Design to Protect Natural Resources. May be considered by the City to minimize impervious surface and otherwise manage storm water runoff quality and quantity so as to protect natural resources.

FINDING: The proposed minor partition does not include any identified natural resources, and this section is not relevant.

3.9.5 Private Streets. The City may allow private streets if designed and constructed to standards published by the City Engineer and provide access to no more than 6 dwellings only within a Planned Residential Development and include adequate provisions for maintenance by covenant.

FINDING: The applicant is not proposing private streets – only a private, shared driveway.

DDC Section 5 Tree Protection

5.7 Type “G” Permit. For Previously Undeveloped Property

FINDING: Tree removal is reviewed as part of a separate application (File #756-24).

DDC Section 8 Land Divisions

8.3 Approval Criteria for Tentative Plan

8.3.1 The dimensions of all planned lots meet the dimension, setback, and area requirements of this Code or the City has approved an adjustment or variance as to those requirements.

FINDING: As noted under Section 3, the proposed lots satisfy the applicable dimensional standards for the SDR District.

8.3.2 Oversized lots are of a size and shape that allows future division of those lots, and public and private infrastructure to serve those lots is sufficient to serve any future divisions of those lots.

FINDING: Not applicable because no oversize lots are proposed.

8.3.3 The location, dimension and grade of all existing and planned bicycle, motor vehicle and pedestrian rights of way are consistent with the City's transportation systems plan as to circulation, connectivity, and protection of transportation facilities, and all lots have access to public right of way.

FINDING: All three lots will have access to Ellman Lane.

8.3.4 All proposed dedications of public access and rights of way, public and private easements and tracts for dedicated purposes for private or public ownership are clearly delineated and of sufficient location and dimension for the intended purpose and are conveyed in a writing in a form acceptable to the City Attorney.

8.3.5 All necessary public utilities are available to serve the development and all utility lines serving more than one lot are located in public easements.

8.3.6 All required local, state and federal permits required for the land division have been obtained or the City finds that it is feasible that as a condition of approval the applicant shall obtain those permits prior to final plat approval.

FINDINGS: The City Engineer Curran-McLeod, Inc. provided a report and will be reviewing the final minor partition plat. Their report identifies several conditions to be satisfied in accordance with the tentative minor partition plan being reviewed by the Planning Commission, and the final plat requirements of the city, Washington County, and state statute. The engineer's conditions of approval are included in Section VI.

8.3.7 The plan otherwise complies with provisions of this Code as to access ways, tree protection, flood plain regulation and any special regulations as to the use(s) proposed for the property to be divided.

FINDINGS: As noted herein, the reviewing agencies and the City Engineer have commented that the minor partition will comply with agency and city requirements provided the conditions of approval in Section VI are satisfied. As described above, the tree removal permit is subject to separate review and approval by the city. The property is not within or near a floodplain.

DDC Section 9 Procedures

9.6 Type 2 Process

FINDINGS: The applicant filed a development application in accordance with City application requirements, and it was deemed complete on August 6th, 2024. The City's Type 2 review procedure requires a notice be sent to property owners within 300 feet to provide them an opportunity to comment prior to a public meeting of the Durham Planning Commission. Notice was sent at least 20 days before the public meeting scheduled for September 3rd, 2024. No public comments have been received at the time this report was published on August 27th, 2024. The meeting will be conducted as outlined in DDC Procedures Section 9.6.

9.6.4 Criteria for approval of a Type 2 application are:

9.6.4.1 The proposal is allowed in the underlying land use district and overlay district if applicable, and complies with any supplemental regulations applicable to the proposal; and

9.6.4.2 The proposal complies with applicable provisions of this Code as to tree Preservation, signage, and any relevant land division and site design standards (with or without an adjustment) or the City finds that compliance is feasible if the application is approved with conditions of approval.

FINDING: As indicated by the findings above, the proposed minor partition satisfies all the relevant DDC criteria.

V. DECISION

A public meeting was held after 7:30 p.m. on September 3rd, 2024, and the Durham Planning Commission unanimously APPROVED the 3-lot minor partition subdivision (City File #594-24) based on the finding of fact in the August 30th, 2024, City Staff Report and subject to the following conditions of approval:

VI. CONDITIONS OF APPROVAL

Prior to any work on the site and prior to or coincident with final Subdivision Plat Recording:

1. Conditions 2 through 10 below shall be satisfied prior to recording the minor partition with Washington County.
2. A 15-foot street dedication for the full frontage of SW Ellman Lane shall be provided as shown on the tentative plan.
3. SW Ellman Lane frontage improvements including pavement widening, curb, driveway, and drainage shall be constructed according to relevant city and agency standards. Construction standards for structures within the public right of way may be modified as appropriate by the City Engineer to match existing infrastructure.
4. If there is a well on the site, it shall be abandoned according to OWRD regulations, and the City Engineer shall inspect abandonment.
5. Prior to construction, final construction plans showing frontage improvements shall be submitted to the City for review and acceptance. Plans shall include necessary traffic control on SW Ellman Lane.
6. A Clean Water Services (CWS) Site Development Permit must be obtained prior to plat approval and recordation. Application for CWS Site Development Permit must be in accordance with the 10 requirements of the Design and Construction Standards, Resolution and Order Nos. 19-5 as amended by R&O 19-22 (CWS Standards), or prior standards as meeting the implementation policy of R&O 18-28, and is to include:
 - a. Detailed plans prepared in accordance with Chapter 2, Section 2.04.
 - b. Detailed grading and erosion control plan. An Erosion Control Permit will be required. Area of Disturbance must be clearly identified on submitted construction plans.
 - c. Detailed plans showing each lot within the development having direct access by gravity to public storm and sanitary sewer.
 - d. Provisions for water quality in accordance with the requirements of the above-named design standards. Water Quality is required for all new development and redevelopment areas per R&O 19-5, Section 4.04. Access shall be provided for maintenance of facility per R&O 19-5, Section 4.07.6.
 - e. If use of an existing offsite or regional Water Quality Facility is proposed, it must be clearly identified on plans, showing its location, condition, capacity to treat this site and, any additional improvements and/or upgrades that may be needed to utilize that facility.

f. If private lot LIDA systems proposed, must comply with the current CWS Design and Construction Standards. A private maintenance agreement for the proposed private lot LIDA systems needs to be provided to the City for review and acceptance.

g. Show all existing and proposed easements on plans. Any required storm sewer, sanitary sewer, and water quality related easements must be granted to the City.

h. Any proposed offsite construction activities will require an update or amendment to the current Service Provider Letter for this project.

7. Coordinate with Tigard Water for public utility permitting and construction.
8. Compliance with all applicable TVFR standards shall be verified prior to recording the final minor partition plat.
9. Obtain permits as required for work within the City of Durham. Required permits include Structural Demolition Permit with associated environmental regulation requirements.
10. Tree protection measures for preserved trees on property shall be followed per Pacific Consulting Arborists' report dated August 9th, 2024.
11. The final minor partition plat shall be substantially the same as the proposal approved herein.
12. The minor partition shall be recorded with Washington County within one year of the approval date unless an extension is granted as provided in DDC Section 11.

DATE OF PLANNING COMMISSION DECISION: September 3rd, 2024

SIGNED: _____

Susan Deeming,
Chair of City of Durham Planning Commission

ATTEST: _____

Jordan Parente,
City Administrator

Date mailed: _____