



City of Sweet Home
Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Staff Report Presented to the Planning Commission

REQUEST: The applicants are seeking a variance to allow for a depth ratio that exceeds 2.5 times the width of the Proposed Partition P22-05 (Attachment C), a frontage of less than 25 feet and setback requirements less than R-1 standards. The variance is necessary because the subject code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance [SHMC 17.88.040.A]. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicant is proposing property line adjustments to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700. The property is in the Residential Low Density (R-1) Zone.

Application P22-05 is pending the approval of Application VR22-02. Application VR22-02 is being filed simultaneously with applications P22-05, PLA22-05, PLA22-06, and SD22-02.

APPLICANT:	Scott C. Miles, Alissa R. Miles-Russell, Cordle Construction LLC
PROPERTY OWNER:	Scott C. Miles, Alissa R. Miles-Russell, Cordle Construction LLC
FILE NUMBER:	VR22-02
PROPERTY LOCATION:	Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700.
REVIEW AND DESIGN CRITERIA:	Sweet Home Municipal Code Section(s) 17.88.040, 16.12.030, 17.24.020
HEARING DATE & TIME:	May 19, 2022
HEARING LOCATION:	City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386
STAFF CONTACT:	Angela Clegg, Associate Planner Phone: (541) 367-8113; Email: aclegg@sweethomeor.gov
REPORT DATE:	May 12, 2022

I. PROJECT AND PROPERTY DESCRIPTION

ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Low Density Residential
Property North	Residential Low Density (R-1)	Low Density Residential
Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

Floodplain: Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject properties are not in the Special Flood Hazard Area.

Wetlands: The subject property does not show wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

Access: Proposed Parcel A and Parcel B have access from the 45th Avenue.

Water and Sewer Services: The proposed parcels have access to City water and sewer services.

TIMELINES AND HEARING NOTICE:

Application Received: April 8, 2022

Application Deemed Complete: April 11, 2022

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: April 11, 2022

Notice Published in New Era Newspaper: April 13, 2022

Date of Planning Commission Hearing: May 19, 2022

120-Day Processing Deadlines: August 9, 2022

II. COMMENTS

CEDD Engineering: Regarding the Partition and Variance on the property west of 45th Ave and Kalmia St intersection, the only city utilities are the sanitary sewer system that is in an easement as noted. With the vague ownership records noted in the Linn County files, this process will help both adjoining properties. CEDD-ES has no concerns.

Public Works Division: Public Works has no concerns with the request at this time.

Building Division: The Building Program has no issues with this request for Variance.

**Sweet Home
Fire District:**

No comments as of the mailing of this notice.

Public Comments:

No comments as of the mailing of this notice.

III. REVIEW AND DESIGN CRITERIA

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

- A. A determination that the criteria have been met involves the balancing of competing and conflicting interests. The following considerations may be used as guidelines in the granting authority's deliberations.**
- a. **Whether the situation that created a need for a variance was created by the person requesting the variance;**
 - b. **The economic impact upon the person requesting the variance if the request is denied;**
 - c. **An analysis of the physical impacts the development could have, such as visual, noise, traffic, and increased potential for drainage, erosion or landslide hazards;**
 - d. **Preservation of native tree species such as Oregon White Oak and Pacific Madrone over eight inches in caliper or Douglas Fir, Willamette Valley Ponderosa Pine, Big Leaf Maple, Incense and Western Red Cedar over 12 inches in caliper, measured at four and one-half feet above grade on the uphill side;**
 - e. **Whether the proposal impacts the aesthetics of the property.** [SHMC 17.88.050(A through E)]

Applicant's Comments: Tax Lot 3700, the lot proposed to be partitioned, was created by legal description sometime prior to 1959 and documented by recorded boundary surveys since that time. This lot was created giving an undivided one-half ownership interest to each of the adjacent property owners to the north and south, now the owners of Tax Lots 2600 and 3800. There is no explanation in the Deed Record as to why it may have been created, and this occurred prior to the current ownership of Tax Lots 2600 and 3800.

Tax Lot 3700 is relatively flat and contains no significant topography and does not contain any natural features or natural hazards.

The current owners had no control over the original creation of this lot.

The partitioning of Tax Lot 3700 combined with the granting of this variance request is the first step in a process which will create lots with a single and the same ownership as the properties to which these new lots share a common boundary line. The next step in this process is the property line adjustment of the lots with common boundary lines and ownership into single lots. The property line adjustment applications have been submitted simultaneously with the partition application so each may be approved in successive step. The result of approving these successive applications will be to create lots, under individual ownership and of a size typical of other lots in the vicinity, all of which have significant development potential under the R-1 zone standards.

Staff Findings: The applicants are seeking a variance to allow for a depth ratio that exceeds 2.5 times the width of the Proposed Partition P22-05 (Attachment C), a frontage of less than 25 feet and

setback requirements less than R-1 standards. The subject property is co-owned (an undivided, one-half interest) by each of the applicants. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicants are proposing to submit property line adjustment applications to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700.

The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance [SHMC 17.88.040.A].

B. The criteria that shall be used in approving, approving with conditions, or denying a requested variance will be based on findings with respect to compliance with each of the following criteria, if applicable.

a. The development resulting from an approved variance will not be detrimental to public health or safety; [SHMC 17.88.040(A)]

Applicant's Comments: the granting of this variance is the first step to ultimately combine Tax Lot 3700 with adjacent properties which presently meet the purposes of Titles 16 and 17, and as such become properties with greater development potential to meet R-1 zone standards. By removing the divided ownership of TL 3700 and combining the respective partitioned lots with the adjacent properties the future development potential of the resulting lots is improved.

Staff Findings: Staff has not identified any reasons why the applicant's proposed variance would be detrimental to public health or safety.

With the above findings, the application complies with these criteria.

b. The request is not in conflict with the Comprehensive Plan; [SHMC 17.88.040(B)]

Staff Findings: Staff has not identified any goals or policies of the Comprehensive Plan that would preclude the proposed variance.

With the above findings, the application complies with these criteria.

c. The request is the minimum variance necessary to make reasonable use of the property; [SHMC 17.88.040(C)]

Applicant's Comments: partitioning is the only code adopted land division process that will separate the ownership interests in the property and provide the opportunity for the new non-conforming parcels to be combined with the adjacent properties and create larger code conforming properties.

Staff Findings: Staff finds that the proposed variance is the minimum request necessary to make reasonable use of the property.

With the above findings, the application complies with these criteria.

d. The requested variance is consistent with the purposes of the zone; [SHMC 17.88.040(D)]

i. The purpose of the R-1 zone is to provide areas suitable and desirable for single-family homes, associated public service uses and duplexes on corner lots. The R-1 zone is most appropriate in areas which have developed or will develop with

single-family homes at a density which warrants provision of public water and sewer facilities.

Staff Findings: The applicants are seeking a variance to allow for a depth ratio that exceeds 2.5 times the width of the Proposed Partition plat P22-05 (Attachment C), a frontage of less than 25 feet and setback requirements less than R-1 standards. The subject property is co-owned (an undivided, one-half interest) by each of the applicants. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicants are proposing property line adjustments to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700.

Staff finds that with the approval of the partition and property line adjustments, the application complies with this criteria.

- e. **If more than one variance is requested or needed, the cumulative effect of the variances will result in a project that remains consistent with the purposes of the zone; [SHMC 17.88.040(E)]**

Staff Findings: The applicants are not requesting more than one variance.

- f. **Identified negative impacts resulting from the variance can be mitigated to the extent practical; [SHMC 17.88.040(F)]**

Staff Findings: Staff has not identified any negative impacts resulting from the proposed variance.

With the above findings, the application complies with these criteria.

- g. **The location, size, design characteristics and other features of the proposal shall have minimal adverse impacts on property values, livability of the development in the surrounding area, and the natural environment; [SHMC 17.88.040(G)]**

Staff Findings: Staff has not identified any characteristics or features of the variance proposal that would have an adverse impact on property values, livability of the development in the surrounding area or the natural environment.

With the above findings, the application complies with these criteria.

- h. **The property has a physical circumstance or condition that makes it difficult to develop. The request complies with the requirements of the underlying zone or overlay zone, city codes, state and federal laws. [SHMC 17.88.040(H)]**

Staff Findings: The subject property is co-owned (an undivided, one-half interest) by each of the applicants. The applicants are proposing to partition Tax Lot 3700. Once partitioned, the applicants are proposing to submit property line adjustment applications to combine the northern portion of the proposed partition with Tax Lot 2600, and the southern portion of the proposed partition with Tax Lot 3800, eliminating Tax Lot 3700. The length, width and joint ownership of the subject property make it difficult to develop. Staff finds that the variance will allow the owners of the subject property to partition the property and then complete property line adjustments to eliminate Tax Lot 3700.

With the above conditions, the application complies with criteria.

- C. **A variance shall be void one year, or other time specifically set by the Planning Commission, after the date of the Planning Commission approval if the development has not been substantially established within that time period. [SHMC 17.88.060]**

Staff Findings: As required under this section, if this application is approved, the variance shall be void one (1) year after the date of the Planning Commission approval if the use has not been substantially established, as defined under SHMC 17.88.060, within that time period.

IV. STAFF RECOMMENDATION

Staff finds the applicant has met the criteria listed above in Section III. As a result, staff recommends approval of VR22-02. Staff has not recommended any Conditions of Approval.

V. PLANNING COMMISSION ACTION

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

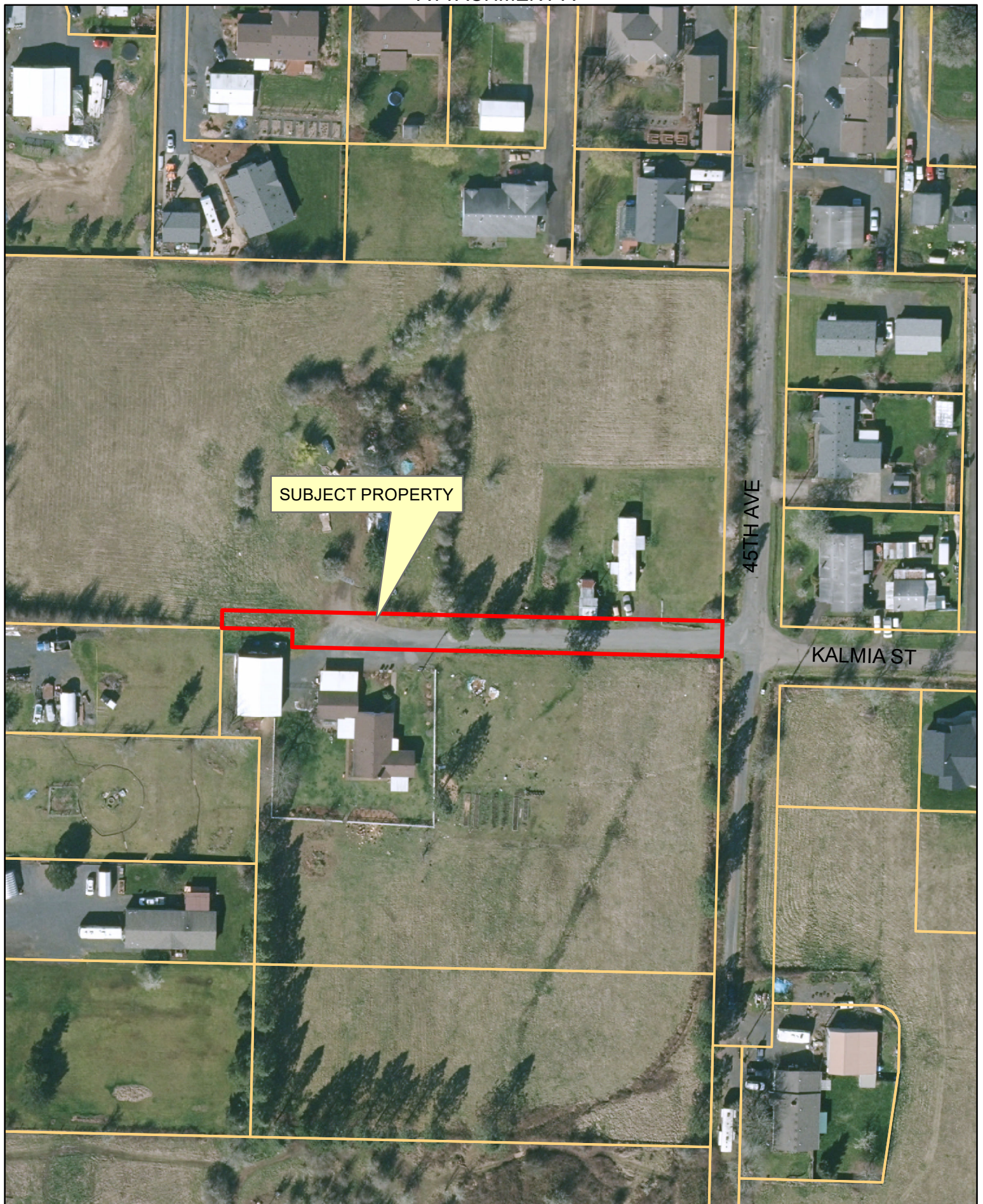
1. Move to approve application VR22-02 and thereby permit the variance for Tax Lot 3700, located in Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR22-02 and thereby deny the request for a variance for Tax Lot 3700, located in Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

VI. ATTACHMENTS

- A. Subject Property Map
- B. Proposed Site Plan
- C. Application P22-06
- D. Application VR22-02 submitted April 8, 2022

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:00 PM, Monday through Friday, excluding holidays.

ATTACHMENT A



SUBJECT PROPERTY

45TH AVE

KALMIA ST

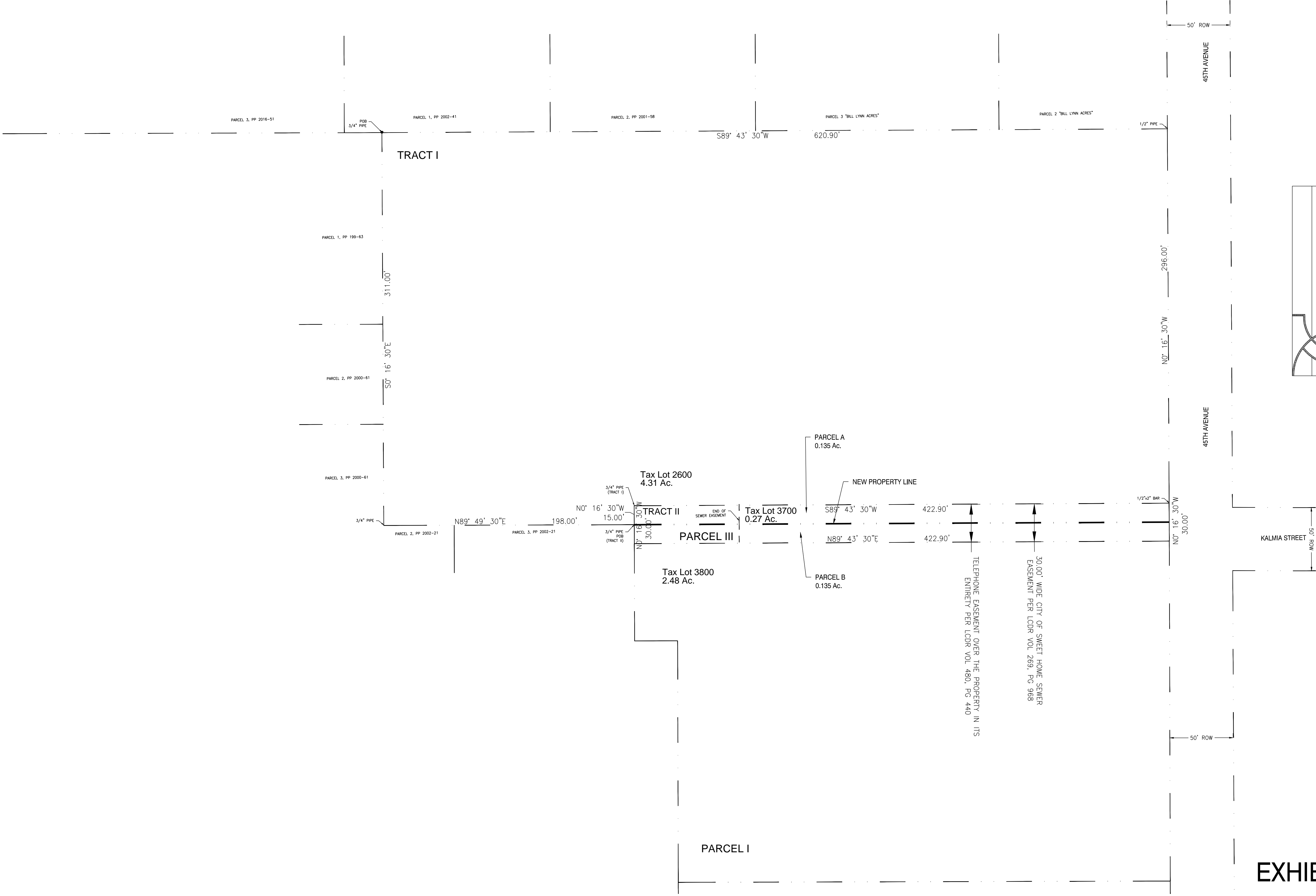
Subject Property Map
P22-05

Date: 4/8/22



1 inch = 103 feet

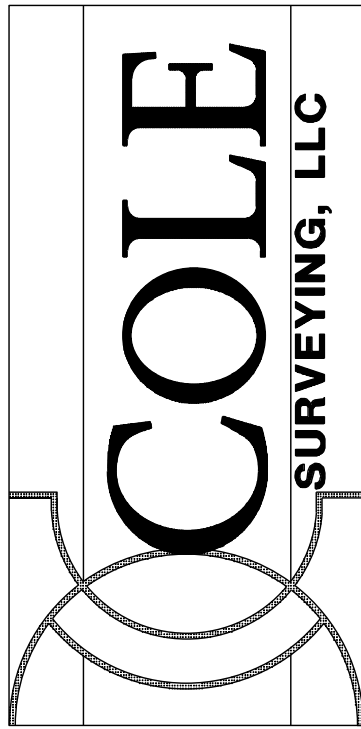
ATTACHMENT B



SCALE: 1" = 40'

0 10 20 40 80

SCALE IN FEET





Corvallis
Oregon
devco
engineering inc.
(541) 757-8891

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CORVALLIS, OR 97339
WWW.DEVCOENGINEERING.COM

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PROJECT:
CORDLE / MILES PARTITION

PROJECT LOCATION:
1068 45TH AVENUE
SWEET HOME, OREGON
CLIENT:
CORDLE CONSTRUCTION LLC

SHEET TITLE:

TENTATIVE
PARTITION PLAT
TL 3700

JOB NO. 21427

DRAWN BY: DEVCO

DRAWING:

DRAWING STATUS	DATE	No.	REVISION	DATE
<input type="checkbox"/> PRELIMINARY		△		
<input checked="" type="checkbox"/> SUBMITTED	04/08/22	△		
<input type="checkbox"/> BID SET		△		
<input type="checkbox"/> PERMIT SET		△		
<input type="checkbox"/> CONST. SET		△		
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		△		
		△		

FOR LAND
USE
PURPOSES
ONLY

**City of Sweet Home**

Community and Economic Development Department- Planning Program
 3225 Main Street, Sweet Home, OR 97386 541-367-8113

NOTICE OF ADMINISTRATIVE DECISION ON A LAND PARTITION APPLICATION

REQUEST: The applicant is requesting to partition an approximately 11,761 square feet lot into two parcels. The subject property is co-owed (an undivided, one-half interest) by each of the applicants. After the partition, existing tax lot 3700 will be split into two parcels. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet. The subject properties are in the Residential Low Density (R-1) Zone.

Application P22-05 is pending the approval of Application VR22-02. Application VR22-02 was approved during a Public Hearing on May 19, 2022. Application P22-05 is being filed simultaneously with applications VR22-02, PLA22-05, PLA22-06, and SD 22-02.

APPLICANT	Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC
OWNER:	Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC
FILE NUMBER:	P22-05
PROPERTY LOCATION:	Sweet Home, Oregon; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700
REVIEW AND DECISION CRITERIA:	SHMC Sweet Home Municipal Code (SHMC) Sections: 16.16.025 and 17.24.020
STAFF CONTACT:	Angela Clegg. Phone: (541) 367-8113 Email: aclegg@sweethomeor.gov

DECISION

Based on the Review Criteria listed in the Staff Report, the application for a land partition is **approved with conditions**. The application shall be subject to the compliance with the conditions listed below, as required by the findings in the Review Criteria (Section III of the Staff Report). Any modifications to conditions shall be approved in accordance with provisions of law. (e.g., variance, subsequent land use application, etc.).

Conditions of Approval:

1. The final configuration of proposed Parcels A and B shall substantially conform to the plot plan reviewed in this application. See Attachment B. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet.
2. Variance Application VR22-02 shall be approved by the Planning Commission.
3. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of the Sweet Home Municipal Code (SHMC) 16.20 and the provisions of O.R.S. Chapter 92. The applicant shall submit the final plat for City review as required by SHMC 16.20. The final partition plat shall include the information listed in SHMC 16.20.030.

4. Development of the subject parcels shall comply with all applicable local, state, and federal requirements.

DECISION DATE:

MAILING DATE:

APPEAL DEADLINE:

Blair Larsen, CEDD Director

Date

The decision made by the Planner is final unless written appeal from an aggrieved party is received by the City of Sweet Home no later than the appeal deadline (12 days from the date of this decision). All appeals must be filed with the appropriate fee and documentation and submitted to: City of Sweet Home Community and Economic Development Department, 3225 Main Street, Sweet Home, OR 97386. The Planning Commission will hold a public hearing on the request upon appeal. If you would like any information concerning filing of an appeal, please contact the Planning Office at (541) 367-8113).

The failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report is available for inspection at no cost and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 3225 Main Street, Sweet Home, OR 97386; Phone: (541) 367-8113

SWEET HOME COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT STAFF REPORT

REQUEST: The applicant is requesting to partition an approximately 11,761 square feet lot into two parcels. The subject property is co-owned (an undivided, one-half interest) by each of the applicants. After the partition, existing tax lot 3700 will be split into two parcels. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet. The subject properties are in the Residential Low Density (R-1) Zone.

Application P22-05 is pending the approval of Application VR22-02. Application VR22-02 was approved during a Public Hearing on May 19, 2022. Application P22-05 is being filed simultaneously with applications VR22-02, PLA22-05, PLA22-06, and SD 22-02.

APPLICANT: Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC
OWNER: Scott C. Miles, Alissa R Miles-Russell, Cordle Construction LLC
FILE NUMBER: P22-05
PROPERTY LOCATION: Sweet Home, Oregon; Identified on the Linn County Assessor's Map as 13S01E33AC Tax Lot 3700
REVIEW AND DECISION CRITERIA: SHMC Sweet Home Municipal Code (SHMC) Sections: 16.16.025 and 17.24.020
STAFF CONTACT: Angela Clegg. Phone: (541) 367-8113
Email: aclegg@sweethomeor.gov

I. PROJECT AND PROPERTY DESCRIPTION

Zoning and Comprehensive Plan Designations:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential Low Density (R-1)	Low Density Residential
Property North	Residential Low Density (R-1)	Low Density Residential
Property East	Residential Low Density (R-1)	Low Density Residential
Property South	Residential Low Density (R-1)	Low Density Residential
Property West	Residential Low Density (R-1)	Low Density Residential

Property Information:

Floodplain: Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject properties are not in the Special Flood Hazard Area.

Wetlands: The subject property does not show wetlands/waterways on the properties that are depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

Access: Proposed Parcel A and Parcel B have access from the 45th Avenue

Sidewalks: There are no existing sidewalks along 45th Avenue and no development is planned with this Partition.

Services: Proposed Parcels A and B have sewer services along Parcel B and water services in 45th Avenue.

Street: Proposed Parcels A abuts approximately 15 feet of 45th Avenue. Proposed Parcel B abuts approximately 15 feet of 45th Avenue. Proposed Parcels A and B shall be accessed via 45th Avenue.

Notice and Timelines

Application Received:	April 8, 2022
Application Deemed Complete:	April 11, 2022
Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies:	April 11, 2022
Notice Published in New Era Newspaper:	April 13, 2022
120-Day Processing Deadlines:	August 9, 2022

II. COMMENTS RECEIVED

Joe Graybill

CEDD Engineering: Regarding the Partition and Variance on the property west of 45th Ave and Kalmia St intersection, the only city utilities are the sanitary sewer system that is in an easement as noted. With the vague ownership records noted in the Linn County files, this process will help both adjoining properties.

Trish Rice

Public Works Division: Public Works has no issues with this request.

Adam Leisinger

Building Division: The Building Program has no issues with this request.

Dave Barringer

Sweet Home Fire District: The Fire District has no issues with this request.

Public Comments: No Comments as of the issuance of this staff report.

III. REVIEW CRITERIA AND FINDINGS OF FACT

An application for a land partition is subject to the review criteria listed in Sweet Home Municipal Code Section (SHMC) 16.16.040. SHMC Section 16.16.030(B)(2) authorizes the City Manager, or designee to conduct such review and render a decision on this matter. Staff Findings of Fact and analysis are as follows.

A. Approval of tentative plans will be granted if the City finds that the proposal substantially conforms to the applicable provisions of Sweet Home Municipal Code Titles 16 and 17 and the Comprehensive Plan. The following criteria apply:

1. The information required by this chapter has been provided. [SHMC 16.16.040(A)]

Applicant's Comments: The applicable standards of SHMC Titles 16 and 17 are addressed in Parts II and III of the narrative.

Staff Findings: SHMC 16.16.025 provides a specific list of requirements for the application. The applicant submitted the plot plan on April 8, 2022, with the requirements to comply with SHMC Chapter 16.

Based on the above findings, the application complies with these criteria.

2. The design and development standards of Sweet Home Municipal Code, Titles 16 and 17 and the Comprehensive Plan, have been met where applicable. [SHMC 16.16.40(B)]

a) Except as provided in § 17.08.060, in a R-1 zone, yard setbacks shall be as follows: [SHMC 17.24.050]

- 1) The front yard shall be a minimum of 20 feet.**
- 2) Each side yard shall be a minimum of five feet, and the total of both side yard setbacks shall be a minimum of 13 feet.**
- 3) The street side yard shall be a minimum of 15 feet.**
- 4) The rear yard shall be a minimum of 15 feet.**
- 5) On a flag lot, or similarly configured lot, the inset front yard setback shall be a minimum of 15 feet.**
- 6) Regardless of the side and rear yard requirements of the zone, an accessory structure, excluding detached accessory dwellings, may be built to within five feet of side or rear lot line; provided, the structure is more than 70 feet from the street abutting the front yard and 20 feet from the street abutting the street side yard.**

Applicant's Comments: The parcel to be partitioned, and the proposed resultant parcels do not and will not meet R-1 zone standards thus no physical development is proposed. A land division variance is required to partition the parcel due to its size and dimensions and due to the size and dimensions of the resultant parcels after partitioning. The land division variance is addressed in Part IV of this narrative.

The lot size and width dimensions cannot be met, thus requiring a variance application to certain standards.

Staff Findings: No development is planned with this application. The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with SHMC 17.24.050 criteria.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

b) No lot or parcel shall be dimensioned to contain a part of an existing or proposed street. [SHMC 16.12.030(B)]

Applicant's Comments: There is no master planned street extension through the property to be partitioned thus no variance to this standard is required.

Staff Findings: The subject property is an existing, co-owned, unbuildable parcel with an access easement. With the approval of this partition, Proposed Parcel A will be given to the owner of abutting Tax Lot 2600. The owner of Proposed Parcel A will simultaneously combine Proposed Parcel A with Tax Lot 2600 through a property line adjustment. Proposed Parcel B will be given to the owner of Tax

Lot 3800. The owner of Proposed Parcel B will simultaneously combine Proposed Parcel B with Tax Lot 3800 through a property line adjustment. Proposed Parcel B, the half interest being combined with Tax Lot 3800, will continue to be used as an access easement to the dwelling on Tax Lot 3800. Tax Lot 3700 will be eliminated with the approval of the property line adjustment applications being filed simultaneously.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

c) Residential lots and parcels shall be consistent with the residential lot size and width standards of Sweet Home Municipal Code Title 17. [SHMC 16.12.030(C)]

Applicant's Comments: The R-1 zone standards of 17.24.040.A. and B. require a variance as noted in Part III of the narrative.

Staff Findings: No development is planned with this application. The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with SHMC Title 17.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

d) Lot depth shall not exceed two and one-half times the average width. [SHMC 16.12.030(D)]

Applicant's Comments: This standard cannot be met under the proposed partition; thus a variance request is required.

Staff Findings: The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with the average depth to width ratio. The lot width for Proposed Parcel A and Proposed Parcel B is approximately 15 feet. The depth of Proposed Parcel A and Parcel B is approximately 423 feet.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

e) Frontage. Each lot or parcel, except those abutting private streets, shall abut upon a publicly owned street, other than an alley, for a width of at least 25 feet. [16.12.030(E)]

Applicant's Comments: The 25' width standard cannot be met under the proposed partition; thus a variance request is required.

Staff Findings: The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700. The proposed partition will not comply with the lot frontage requirements of SHMC 16.12.030(E). Proposed Parcel A and Parcel B have a lot frontage width of approximately 15 feet.

Approval of Variance application VR22-02 will be required to approve the proposed partition.

f) Access easements. Where no other practical access to lots or parcels exists, the City may allow access easements for actual access to lots or parcels. [SHMC 16.12.030(F)]

1) Joint use driveways. [SHMC 17.08.100(C)(6)]

a. Joint use driveways are permitted.

b. A joint use driveway shall comply with International Fire Codes

- c. **A joint use driveway that serves four or more lots or parcels shall be developed to the standards of a local street.**
- d. **Where the city approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the city for its records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.**

Staff Findings: The applicant is not proposing an access easement or joint use driveway. There is an existing access and utility easement that will remain a part of Proposed Parcel B.

Based on the above findings, the application complies with these criteria.

- g) **Through lots should be avoided except where they are essential to provide separation of residential development from non-residential activities, arterial streets, or to overcome specific disadvantages of topography and orientation. [SHMC 16.12.030(G)]**
 - 1) **A planting screen easement of at least ten feet in width and across which there shall be no right of access may be required along the lines of lots or parcels abutting a collector or arterial street or other incompatible uses. [SHMC 16.12.030(G)(1)]**
 - 2) **Lots shall be served from only one side via a local street. [SHMC 16.12.030(G)(2)]**
 - 3) **A through lot shall have the yard abutting a street that has no access to the back yard and shall utilize setbacks for a back yard as per the underlying zone standards. [SHMC 16.12.030(G)(3)]**

Staff Findings: The applicant is not proposing a through lot.

- h) **Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. [SHMC 16.12.030(H)]**
 - 1) **Topographical conditions or street configurations may warrant an angle. [SHMC 16.12.030(H)(1)]**
 - 2) **Generally, any angle should not exceed 30° from right angle to the street. [SHMC 16.12.030(H)(2)]**

Staff Findings: As depicted on Attachment B, Proposed Parcel A would have side lines that are at, or very close, to right angles to 45th Avenue. Proposed Parcel B would have side lines that are at, or very close to, right angles to 45th Avenue.

Based on the above findings, the application complies with these criteria.

- i) **Flag lots. Flag lots should be avoided if local street connection can reasonable be included in lieu of the flag lot configuration. The thin strip of land, known as the flagpole, which provides access to the lot(s) furthest from the street shall not be used in determining lot size, lot width or yard setback requirements. [SHMC 16.12.030(I)]**

Staff Findings: The applicant is not proposing a flag lot.

- j) **If special setbacks are to be established in a subdivision or partition through the variance process, they shall be shown on the tentative plan and final plat and included in the deed restrictions.** [SHMC 16.12.030(J)]

Staff Findings: The applicant has not proposed any special setbacks.

3. **Development of any remainder of the property under the same ownership can be accomplished in accordance with this code.** [SHMC 16.16.040(C)]

Applicant's Comments: There is no remainder property owned by the applicant.

Staff Findings: Staff finds that based on the evidence in the record, if these parcels remain under the same ownership, they would be able to be developed in accordance with the SHMC.

The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700.

With the above conditions, the application complies with these criteria.

4. **Adjoining land can be developed or is provided access that will allow its development in accordance with all applicable city codes.** [SHMC 16.16.040(D)]

Applicant's Comments: The land division proposed herein does not preclude the future development of adjacent or abutting properties. All such properties have frontage on existing city right of way.

Staff Findings: Staff has not identified any features of this proposed partition that would inhibit development on adjoining property.

The applicants have proposed to partition the subject property to complete simultaneous property line adjustments with abutting tax lots 2600 and 3800, thus eliminating Tax Lot 3700.

Based on the above findings, the application complies with these criteria.

5. **The proposed street plan provides for the circulation of traffic and meets the street design standards of this title.** [SHMC 16.16.040(E)]

Staff Findings: There is no development planned with this partition application. There is a pre-existing access and utility easement that will remain on Proposed Parcel B.

6. **The location and design allows development to be conveniently served by public utilities.** [SHMC 16.16.040(F)]

Staff Findings: Staff finds that the location and design of the partition allows for development to be conveniently served by public utilities. Utility connections can be found along the private access and utility easement and in 45th Avenue.

Based on the above findings, the application complies with these criteria.

7. **Any special features of the site, including topography, floodplains, wetlands, vegetation, or historic sites, have been adequately considered, and protected if required by city, state or federal law.** [SHMC 16.16.040(G)]

Applicant's Comments: There are no mapped natural features or natural hazards on the property. There are no historic sites on the property.

Staff Findings: Staff has not identified any features of the site that require protection by the city, state or federal law.

The application complies with these criteria.

8. **If the tentative plan provides for development in more than one phase, the Planning Commission must make findings and conclusions that such phasing is necessary due to the nature of the development.** [SHMC 16.16.040(H)]

Staff Findings: The applicant has not proposed any development with this application.

9. **An application for residential development can be denied based on a lack of school capacity if:** [SHMC 16.16.040(I)]
 - a) **The City has been informed by the Sweet Home School District that there adopted school facility plan has identified the lack of school capacity; and** [SHMC 16.16.040(I)(1)]
 - b) **The City has considered option to address school capacity; and** [SHMC 16.16.040(I)(2)]
 - c) **The capacity of a school facility is not the basis for a development moratorium under O.R.S. 197.505 to 197.540.** [SHMC 16.16.040(I)(3)]
 - d) **This section does not confer any power to the school district to declare a building moratorium.** [SHMC 16.16.040(I)(4)]

Staff Findings: The subject property is in the Residential Low Density (R-1) Zone. The applicant has not proposed residential development with this application.

The application complies with these criteria.

B. Conditions of Approval.

1. **The approving authority may attach conditions of approval of a tentative subdivision of partition plan to ensure that the proposal will conform to the applicable review criteria.** [SHMC 16.16.050(A)]
2. **Conditions of approval may include, but are not limited to, the following:** [SHMC 16.16.050(B)]
 - a) **Street improvements as required to assure that transportation facilities are adequate for the proposed development, both on and off of the subject property.**
 - b) **Storm water drainage plans.**
 - c) **Fencing.**
 - d) **Landscaping.**
 - e) **Public land dedication.** [SHMC 16.16.050(B)(1 through 5)]

Staff Findings: The applicant is seeking to divide a property within the R-1 Zone that fronts 45th Avenue. To ensure compliance, staff recommends a condition of approval that upon development of the proposed parcels, the property owner shall construct all applicable street, sidewalk and storm drain improvements that are required by, and according to the provisions of the Sweet Home Municipal Code at the time of development. All public improvements must comply with the standards listed in the SHMC at the time of development.

Staff has recommended conditions of approval, listed in Section IV below, that act to ensure that the final partition plat comply with the application that has been proposed. Additional conditions of

approval may be required if any of the subject parcels are further divided under a future application or if they are physically developed with a residence.

With the above conditions, the application complies with these criteria.

C. Duration of Tentative Plan Approval. [SHMC 16.16.070]

1. **Approval of a tentative plan shall be valid for 12 months from the date of approval of the tentative plan, provided that if the approved tentative plan provides for phased development, the approval shall be valid for the time specified for each phase, subject to limitations of SHMC 16.16.060 of this chapter.** [SHMC 16.16.070(A)]
2. **If any time limitations exceeded, approval of the tentative subdivision plan, or of any un-platted phase of the tentative subdivision plan shall be void. Any subsequent proposal by the applicant for division of the property shall require a new application.** [SHMC 16.16.070(B)]

Staff Findings: This approval shall be valid for 12 months. The applicant is not proposing any development with this application. Extensions shall be permitted as allowed under SHMC 16.16.080.

D. Final Partition Plat. **Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of this title and the provisions of O.R.S. Chapter 92.** [SHMC 16.20.010(B)(1)]

Staff Findings: To complete the partition once land use authorization is obtained, the applicant will need to submit a final partition plat as outlined in SHMC 16.20.010(B). The plat shall comply with the Final Plan Review Criteria listed in SHMC 16.20.020 and shall contain all the elements described in the SHMC 16.20.030; Final Plat Submittal.

IV. CONCLUSIONS

The application shall be subject to compliance with the conditions listed below, as required by the findings of fact presented in the Review Criteria (Section III), above. Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

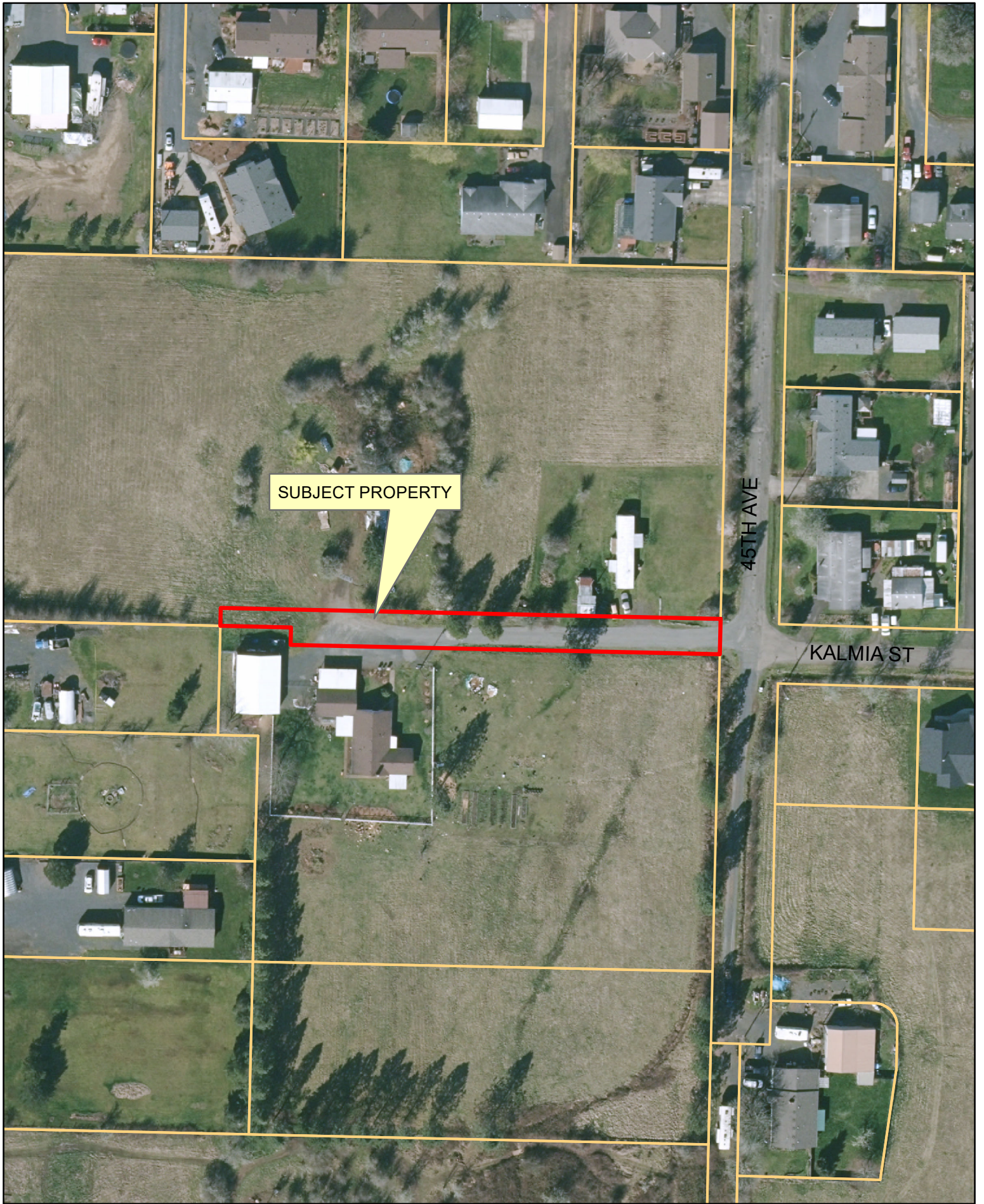
Conditions of Approval:

1. The final configuration of proposed Parcels A and B shall substantially conform to the plot plan reviewed in this application. See Attachment B. Proposed Parcel A shall be approximately 5,881 square feet. Proposed Parcel B shall be approximately 5,881 square feet.
2. Variance Application VR22-02 shall be approved by the Planning Commission.
3. Within one year from date of the approval of the tentative plan, the applicant shall prepare a final plat in conformance with the approved tentative plan, the provisions of the Sweet Home Municipal Code (SHMC) 16.20 and the provisions of O.R.S. Chapter 92. The applicant shall submit the final plat for City review as required by SHMC 16.20. The final partition plat shall include the information listed in SHMC 16.20.030.
4. Development of the subject parcels shall comply with all applicable local, state, and federal requirements.

V. ATTACHMENTS

- A. Subject Property Map
- B. Proposed Site Map
- C. Application

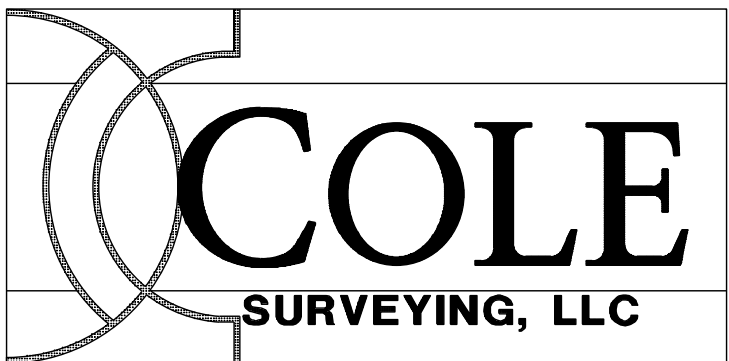
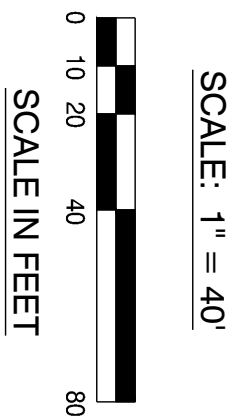
The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street through Friday, excluding holidays.



1 inch = 103 feet

Subject Property Map
P22-05

Date: 4/8/22





Devco
engineering inc.
245 NE CONIFER, P.O. BOX 1211
CORVALLIS, OR 97339
WWW.DEVCOENGINEERING.COM

Corvallis
Oregon
(541) 757-8991

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ALL RIGHTS RESERVED.

DRAWING STATUS:	DATE:	No.	REVISION:	DATE:
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FOR LAND
USE
PURPOSES
ONLY

SHEET TITLE:

TENTATIVE
PARTITION PLAT
TL 3700

PROJECT:
CORDLE / MILES PARTITION

PROJECT LOCATION:
1068 45TH AVENUE
SWEET HOME, OREGON

CLIENT:
CORDLE CONSTRUCTION LLC

EXHIBIT 'D'

JOB NO. 21427

DRAWN BY: DEVCO

DRAWING:

**City of Sweet Home**

Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Application for a Land Division Variance

Date Received: _____
Date Complete: _____
File Number: _____
Application Fee \$: **\$590.00**
Receipt #: _____
Hearing Date: _____

Applicant's Name:

Scott C. Miles / Alisa R. Miles-Russell

Applicant's Address:

1068 NW 45th Avenue

Applicant's Phone and e-mail:**Property Owner:**

Scott C. Miles / Alisa R. Miles-Russell

Owner's Address:

1068 NW 45th Avenue

Owner's Phone and email:**Subject Property Address:**

1068 45th Avenue

Subject Property Assessor's Map and Tax Lot:

13S01E33AC Tax Lot 3700

Subject Property Size:

(per tax map) TL 3700 0.27 acre

Subject Property: Zoning Classification

R-1 (Low-Density Residential)

Comprehensive Plan Classification:

Low-density Residential

Nature of Applicants Request**Variance Request from Sweet Home Municipal Code Sections:**

16.12.030.B. and D.

Narrative describing the proposed variations from the stated code sections. Brief Description on this form and attach extra sheets if needed.

See attached Narrative.

Description of the alternatives considered and the reason for the choices made.

See attached Narrative.

A brief review of how the application meets the review criteria. Attach sheets if needed.

See attached Narrative.

Submittal Requirements

The checklist on the other side of this application lists the required items must be submitted with this application and the Criteria the request must meet. Please address all items that apply to this request.

I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

Applicant's Signature:

Scott C. Miles Date:

Alisa R. Miles-Russell

4-5-22

Property Owner's Signature:

Scott C. Miles Date:

Alisa R. Miles-Russell

4-5-22

Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.



City of Sweet Home

Community and Economic Development Department- Planning Program
3225 Main Street, Sweet Home, OR 97386 541-367-8113

Application for a Land Division Variance

Date Received: _____
Date Complete: _____
File Number: _____
Application Fee \$: **\$590.00**
Receipt #: _____
Hearing Date: _____

Applicant's Name:

Cordle Construction LLC

Applicant's Address:

38747 Scavel Hill Road, Albany, Oregon 97322

Applicant's Phone and e-mail:

541-409-4290 mindycordle@gmail.com

Subject Property Address:

1068 45th Avenue

Subject Property Assessor's Map and Tax Lot:

13901E33AC Tax Lot 3700

Subject Property Size:

(per tax map) TL 3700 0.27 acre

Subject Property: Zoning Classification

R-1 (Low-Density Residential)

Property Owner:

Cordle Construction LLC

Owner's Address:

38747 Scavel Hill Road, Albany, Oregon 97322

Owner's Phone and email:

541-409-4290 mindycordle@gmail.com

Nature of Applicants Request**Variance Request from Sweet Home Municipal Code Sections:**

16.12.030.B. and D.

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I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

Applicant's Signature:

Melinda Cordle Melinda Cordle

Date: 3.31.22

Property Owner's Signature:

Melinda Cordle Melinda Cordle

Date: 3.31.22

Within 30 days following the filing of this application, the City Planner will make a determination of completeness regarding the application. If deemed complete, the application will be processed.

PART IV - VARIANCES (PARTITION)

CHAPTER 16.28: EXCEPTIONS AND VARIANCES

§ 16.28.030 CRITERIA USE IN GRANTING A VARIANCE

Before a variance may be granted, the Planning Commission shall determine that all of the following criteria can be satisfied.

- A. Special circumstances apply to the property which do not apply generally to other properties in the same vicinity, including, but not limited to the following:
 - 1. Lot size or shape,

Tax Lot 3700, the lot proposed to be partitioned, was created by legal description sometime prior to 1959 and documented by recorded boundary surveys since that time. This lot was created giving an undivided one-half ownership interest to each of the adjacent property owners to the north and south, now the owners of Tax Lots 2600 and 3800. There is no explanation in the Deed Record as to why it may have been created, and this occurred prior to the current ownership of Tax Lots 2600 and 3800.

As discussed further in this narrative TL 3700's size and shape does meet current R-1 zone standards.

- 2. Topography, or

Tax Lot 3700 is relatively flat and contains no significant topography, and does not contain any natural features or natural hazards.

- 3. Other circumstances over which the owners of property have had no control.

As explained in 1. above the current owners had no control over the original creation of this lot.

- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners for other property in the same vicinity possess.

The partitioning of Tax Lot 3700 combined with the granting of this variance request is the first step in a process which will create lots with a single and the same ownership as the properties to which these new lots share a common boundary line.

The next step in this process is the property line adjustment of the lots with common boundary lines and ownership into single lots. The property line adjustment applications have been submitted simultaneously with the partition application so each may be approved in successive step.

The result of approving these successive applications will be to create lots, under individual ownership and of a size typical of other lots in the vicinity, all of which have significant development potential under the R-1 zone standards.

- C. The variance would not be detrimental to the purposes of this title, or to property in the same vicinity in which the property is located, or otherwise conflict with the objectives of any city plan or policy.

As explained in B. above the granting of this variance is the first step to ultimately combine Tax Lot 3700 with adjacent properties which presently meet the purposes of Titles 16 and 17, and as such become properties with greater development potential to meet R-1 zone standards.

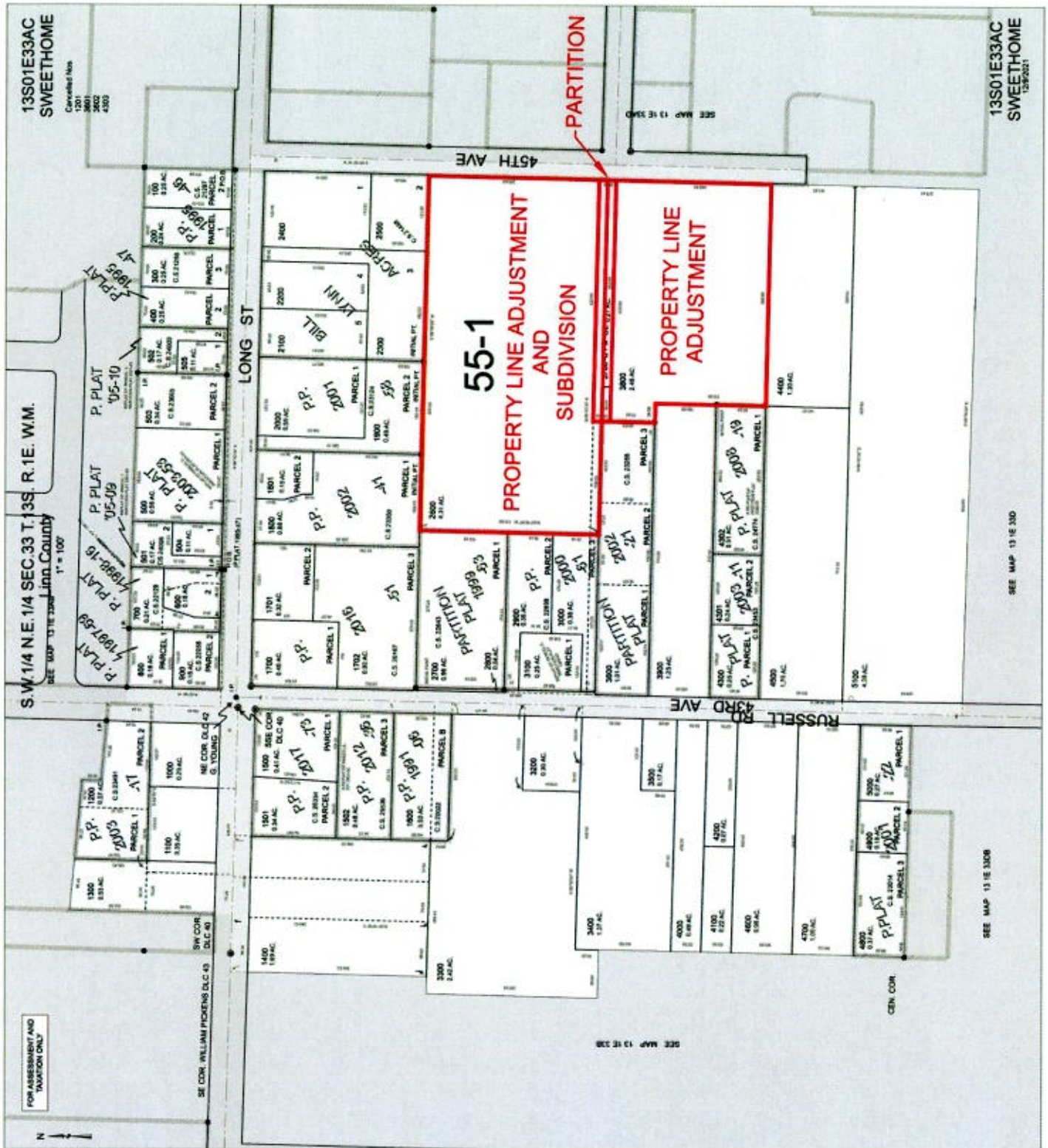
By removing the divided ownership of TL 3700 and combining the respective partitioned lots with the adjacent properties the future development potential of the resulting lots is improved.

- D. The variance requested is the minimum variance which would alleviate the identified special circumstances.

Partitioning is the only code adopted land division process that will separate the ownership interests in the property, and provide the opportunity for the new non-conforming parcels to be combined with the adjacent properties and create larger code conforming properties.

END OF PART IV

EXHIBIT 'A'



CLEAR WATER SUBDIVISION
SWEET HOME, OREGON

EXHIBIT A-1

511352AM TAX LOT 2600 AND TAX LOT 3700

TRACT I:

Part of the Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows, to-wit: Beginning at a 3/4 inch pipe which is South 0°16'30" East 306.00 feet and North 89°43'30" East 300.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East, parallel to the West line of said Russell Donation Land Claim, 311 feet to a 3/4 inch pipe; thence North 89°49'30" East, 198.00 feet to a 3/4 inch pipe; thence North 0°16'30" West 15 feet to a 3/4 inch pipe; thence North 89°43'30" East 422.90 feet to a 1/2 x 2 inch bar; thence North 0°16'30" West along said East line 296.00 feet to a 1/2 inch pipe; thence South 89°43'30" West 620.90 feet to the place of beginning.

TRACT II:

An undivided one-half interest in the following described tract, to wit: Part of the Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows: to-wit: Beginning at a 3/4 inch pipe which is South 0°16'30" East 602.00 feet and North 89°43'30" East 498.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East, parallel to the West line of said Russell Donation Land Claim 30.00 feet; thence North 89°43'30" East 422.90 feet to a 1/2 inch pipe; thence North 0°16'30" West 30.00 feet to a 1/2 x 2 inch bar; thence South 89°43'30" West 422.90 feet to the place of beginning.

EXHIBIT A-2

Scott C Miles, Grantor, conveys to **Scott C Miles and Alissa R Miles-Russell, husband and wife**, Grantee, the following described real property, situated in the County of Linn, State of Oregon,

PARCEL I: TAX LOT 3800

Part of the Newton Russell Donation Land Claim No. 41, in Township 13 South, Range 1 East of the Willamette Meridian, described as follows: Beginning South 0°16'30" East 900.8 feet and North 89°43'30" East 532.0 feet from the Northeast corner of the George Young Donation Land Claim No. 42, in said Township and Range; thence North 89°43'30" East 388.9 feet; thence North 0°16'30" West 268.8 feet; thence South 89°43'30" West 422.9 feet; thence South 0°16'30" East 77.8 feet; thence North 89°43'30" East 34.0 feet; thence South 0°16'30" East 191.0 feet to the point of beginning, all in Linn County, Oregon.

PARCEL II: TAX LOT 3800 AND TAX LOT 4400

Being a part of the Newton Russell and Susan L. Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon, and being more particularly described as follows, to-wit: Beginning at a point on the East line of a County Road, which point is South 0°16'30" East 900.8 feet, and North 89°43'30" East 20.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42, in said Township and Range; thence South 0°16'30" East, parallel to the West line of said Russell Claim, 145.05 feet; thence North 89°43'30" East 512.0 feet to the true point of beginning; thence North 89°43'30" East 388.9 feet to the East line of lands of the grantor herein named; thence North 0°16'30" West 145.05 feet; thence South 89°43'30" West 388.9 feet; thence South 0°16'30" East 145.5 feet to the true point of beginning, all in Linn County, Oregon.

ALSO part of the Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows, to wit: Beginning at a point which is South 0°16'30" East 602.00 feet and North 89°43'30" East 498.00 feet and South 0°16'30" East 15.00 from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East 15.00 feet; thence North 89°43'30" East 60.00 feet; thence North 0°16'30" West 15.00 feet; thence South 89°43'30" West 60.00 feet to the place of beginning.

PARCEL III: TAX LOT 3700

An undivided one-half interest in the following described tract, to wit: Part of Newton Russell Donation Land Claim No. 41, Township 13 South, Range 1 East of the Willamette Meridian, Linn County, Oregon and being more particularly described as follows to wit: Beginning at a ¾ inch pipe which is South 0°16'30" East 602.00 feet and North 89°43'30" East 498.00 feet from the Northeast corner of the George Young Donation Land Claim No. 42 in said Township and Range; thence South 0°16'30" East parallel to the West line of said Russell Donation Land Claim 30.00 feet; thence North 89°43'30" East 422.90 feet to a ½ inch pipe; thence North 0°16'30" West 30.00 feet to a ½ x2 inch bar; thence South 89°43'30" West 422.90 feet to the place of beginning.

FOR LAND
USE
PURPOSES
ONLY

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