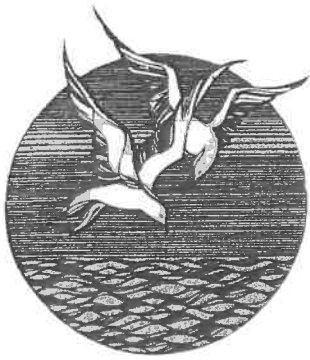


**BANTA
RECORD**



CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

February 1, 2021

John S. Banta
PO Box 2134
Seaside, OR 97138

Re: Three-lot partition on McCormick Garden Road; City File# 21-01PAR

Mr. Banta,

Your application for a land partition is deemed complete. The City will schedule a public hearing before the Gearhart Planning Commission on March 11, 2021 at 6 pm. A City staff report will be available to you 7 days before the meeting. The meeting will be held by virtual teleconferencing, details of which will be provided in advance of the meeting.

Please feel free to contact me for further assistance.

Sincerely,
Carole Connell
Gearhart City Planner
503-297-6660
connellpc@comcast.net

Copy: Jack White, Surveyor



February 1, 2021

CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

TO: Jeff Bowman, Police Chief
Mark Brien, Building Official
Bill Eddy, Fire Chief
Mark McFadden, Public Works
Chad Sweet, City Administrator
~~Victoria Sage, Clatsop County Planner~~ *comdev.com*

FROM: Cheryl Lund, Planning Department

RE: The City of Gearhart Planning Commission has been presented with an application submitted by John S. Banta on behalf of Heirs of John A. Banta to partition one parcel of land into three (3) lots. Said property is described as 1060 McCormick Gardens Road and further described as Assessors Plat 61003DB Tax Lot 802. Attached are documents submitted by the applicant for your review.

Said property is under the jurisdiction of the City of Gearhart and the last property at the northern most boundary of Gearhart and adjacent to Clatsop County.

Your input is being requested by Carole Connell, City Planner for inclusion into her staff report. Please submit any comments to Carole @ connellpc@comcast.net with a copy to me @ planning@cityofgearhart.com for the file by February 25, 2021 to be included in her report.

Thank you
Cheryl

Cheryl Lund

From: Chad Sweet <chadsweet@cityofgearhart.com> on behalf of Chad Sweet
Sent: Monday, February 8, 2021 3:19 PM
To: Cheryl Lund
Subject: 02/2021 Banta Partition 61003DB0802

Cheryl,

At your request, I've reviewed the Banta partition map and documents sent on February 1st, 2021.

At this time, my only comment is that I'm a little concerned about the emergency response to parcels 2 and 3. I'd suggest that the applicant do what they can to make sure the addresses are clearly visible.

All the best,

Chad

--

"Resilient Together!"

Chad Sweet | City Administrator
City of Gearhart
698 Pacific Way | Gearhart, Oregon 97138
Office: (503) 738-5501 | Fax: (503) 738-9385
chadsweet@cityofgearhart.com

CONFIDENTIALITY NOTICE:

Please do not read, copy, or disseminate this communication unless you are the intended addressee. This e-mail may contain confidential and privileged information intended only for the addressee. If you have received this in error, please notify me via return e-mail.

City of Gearhart Building Department

698 Pacific Way, Gearhart, OR 97138

Phone: 503-738-5501 Fax: 503-738-9355

February 8, 2021

To: Cheryl Lund, City of Gearhart Planning Department

From: Mark Brien, Building Department

Re: Proposed land partition application submitted by John S. Banta, on behalf of Heirs of John A. Banta, to partition one parcel of land into three (3) lots. Said property is described as 1060 McCormick Gardens Road and further described as Assessors Plat 61003DB Tax Lot 802.

Provided the three (3) lots being created, comply with the City of Gearhart Fire Protection Standards and the Oregon Fire Code pertaining to Fire Apparatus Access Road, Fire Flow, and Fire Hydrants, the building department has no objections to the land partition.

Please contact me at 503-440-8740, if you have any questions, or would like further clarification.

Thank you,

Mark Brien
City of Gearhart
Building Official
698 Pacific Way
Gearhart, OR 97138
markbrien@cityofgearhart.com

Copy to: City Planner
File

BEFORE THE CITY COUNCIL OF THE CITY OF GEARHART

COUNTY OF CLATSOP, STATE OF OREGON

In Regard to the Matter of:
(fill in application type and name)

Case File No. 21-01P

BANTA LAND PARTITION

AFFIDAVIT OF MAILING

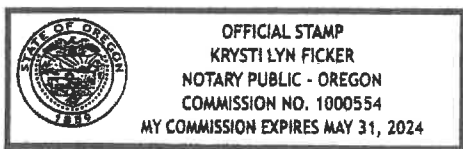
STATE OF OREGON)
) ss.
County of Clatsop)

I, CHERYL A. LUND, being first duly sworn, depose and say that:

1. At all times herein I am, and have been, an employee of the City of Gearhart.
2. On 2.18.2021, and acting for the City of Gearhart, I caused a copy of the notice attached as Exhibit A to be placed in the U.S. Mail, first class postage prepaid, as further described herein.
3. The mailed notice described in Paragraph 2, above, was addressed to each property owner or other interested party that appears in the list attached as Exhibit B.
4. I obtained the contact information for the property owners listed in Exhibit B from the most recent property tax assessment roll of Clatsop County, Oregon.
5. All persons owning property within 250 feet of the property subject to the application are listed in Exhibit B.

Cheryl A Lund
Print name: Cheryl A Lund

SUBSCRIBED AND SWORN to before me this 17th day of FEB. 2020.



Krysti F
NOTARY PUBLIC FOR OREGON
My Commission Expires: 05-31-2024

	A	B	C	D
1	21-01P			
2				
3	61003DB			
4	800	Banta, John A	P O Box 2134	Seaside, OR 97138
5	700	Odegard Orvis D/Marian	1110 McCormick Gardens Rd	Gearhart OR 97138-4429
6	400	Postlewaite John H/Kimberly K	33706 Postlewaite Ln	Gearhart OR 97138-4403
7	1100	Wright Eldon J Jr	910 McCormick Gardens Rd	Gearhart OR 97138-2155
8	1000	Wright Eldon J Jr		
9	1200	Seelye David/Kathleen I	806 McCormick Gardens Rd	Seaside OR 97138-4414
10				
11	61003DA			
12	100	Anderson Buddie Owens	1135 McCormick Gardens	Seaside, OR 97138
13	300	Anderson Buddie Owens		
14	500	Malcom Caswell Edward	2877 Tuberose Dr	San Jacinto CA 92852
15	400	Osterlund Steven C	P.O. Box 2364	Gearhart OR 97138-2364
16				
17	61003CD			
18	1016	Parham Ravonne	P O Box 2548	Gearhart OR 97138
19				
20	61003B			
21	5400	Neikes James J	34755 Hwy 101 Business	Astoria OR 97103-6664
22	5500	Schacher Michael	3855 Highway 101 N	Seaside OR 97138-4325
23	5200	Paavola Rose Marie	990 Astor St	Astoria OR 97103
24	4700	Paavola Rose Marie		
25	5300	Paavola Rose Marie		
26	5303	Paavola Rose Marie		
27				
28	61003BD			
29	4104	Benson Lars	1375 Lenore Ln	Gearhart OR 97138-7364
30	4105	McMaster Kenneth	1365 Lenore Ln	Gearhart OR 97138
31	4603	Hill Samuel R/Justine N	P.O. Box 1102	Seaside OR 97138-1102
32	4606	King John P	P.O. Box 574	Seaside OR 97138



CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

February 18, 2021
PUBLIC NOTICE

Notice is hereby given that in accordance with Section 13.030 Administrative Provision of the City of Gearhart Zoning Ordinance the Gearhart Planning Commission will hold the following public hearing on Thursday, March 11, 2021 at 6:00 p.m. via video and teleconference call. You can get participation information at <https://www.cityofgearhart.com/calendar> closer to the hearing date.

File #21-01P – Land Partition request submitted by John S. Banta on behalf of the Heirs of John A. Banta for property located at 1060 McCormick Gardens Road and further described as Assessors Plat 6.10.3DB, Tax Lot 802. Said property is at the north boundary line for the City of Gearhart. Said request is to partition one parcel of land into 3 lots.

Criteria relevant to the land partitions is Zoning Ordinance Section 3.0 Rural Agricultural RA, Gearhart Subdivision Ordinance Sections 23-36 Land Partitioning, Sections 37-46 General Regulations and Design Standards and Sections 47-50 Improvements.

A copy of the application, all documents and evidence relied upon and applicable criteria pertinent to the requests are available for review on the city website www.cityofgearhart.com and at Gearhart City Hall at the office of Chad Sweet, 503-738-5501 and copies may be obtained at a reasonable cost. Staff reports will be available for inspection at no cost and may be obtained at reasonable cost seven (7) days prior to the hearing. All interested parties are invited to express their opinion for or against the request at the hearing, by letter addressed to the Gearhart Planning Commission, P O Box 2510, Gearhart, Oregon 97138, or by email at planning@cityofgearhart.com received prior to 4:00 o'clock pm the day of the hearing. The public hearing will be conducted in accordance with Section 13.050 of the Gearhart Zoning Ordinance.

Any person testifying may appeal the decision, however, failure to raise an issue, including constitutional or other issues regarding conditions of approval, with sufficient specificity to afford the City and parties to the request an opportunity to respond to the issues precludes appeal on said issue to the State Land Use Board of Appeals (LUBA), or to seek damages in circuit court due to a condition of approval.

Cheryl A. Lund
Gearhart Planning Commission
City of Gearhart

Mail/Publish 2/18/2021

7. Gearhart Public Works: Email 2-18-21 said developer must extend new water lines for each parcel to McCormick Gardens Road.
8. Gearhart Building Inspector: Letter 2-8-21 no objections provided the parcels comply with the City and State Fire codes pertaining to access, fire flow and fire hydrants.
9. Clatsop County Planning Director Gail Hendrickson.: Letter 2-19-21, comments regarding road access requirements attached.
10. Road Maintenance Agreement for County Partition Plat PP2020 recorded 12-20-20 for three parcels including city portion.

PROCEDURES: Application deemed complete: 2-1-21
 Public Notice published: 2-18-21
 Initial Public Hearing: 3-11-21
 120-day decision due: 6-1-21

I. **APPLICABLE REVIEW CRITERIA**

- GZO Section 3.0 Rural Agricultural RA
- GZO Section 3.13 Freshwater Wetland and Lake FW Zone
- GZO Section 4.040 Transportation Improvements
- GZO Section 13.030 Application Information and Procedures

Gearhart Subdivision Ordinance sections relevant to the application are:

- Sections 23 - 26 Land Partitioning
- Sections 37 - 46 General Regulation and Design Standards
- Sections 47 - 50 Improvements

Oregon Fire Code (OFC)

II. **Site Information, Review and Procedures**

1. Plan & Zone designations: The site is zoned Rural Agricultural Residential RA. The minimum lot size is one (1) acre. The City finds Parcel 1 is 1.0 acre; Parcel 2 is 1.88 acres and Parcel 3 is 1.88 acres. The RA Zone minimum lot size is met.
2. Access: Parcel 1 has street access from McCormick Gardens Road. Parcels 2 & 3 are landlocked but have access from a private road by an easement across Parcel 1. The easement will also serve the two adjoining lots to the north within Clatsop County jurisdiction. A fire hydrant is required to be installed because the nearest hydrant is more than 600 feet away.

FINDINGS: The Local Wetland Inventory (LWI) illustrates a general wetland boundary in the middle of Parcels 2 and 3. To the west the land rises above wetlands to the RR ROW, and again at the east end of the parcels where they abut Parcel 1. Specific wetland identification and protection requirements apply when the land is proposed to be subdivided into homesites, or if a new home is proposed. The City finds the proposed partition and future structures may impact the wetland. Therefore, a site-specific wetland determination is required prior to final approval of the partition. If the determination finds home construction on Parcel 2 or 3 will be within 25' of the defined wetland a development permit for proposed construction will be required.

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 to be applicable because the proposal is to divide the land for future dwellings on parcels that abut planned street improvements on both the east and the west sides of the parcel. The McCormick Gardens Road right-of-way was

In addition, the TSP project #G-3 extends Railroad Avenue from Pacific Way to UGB as a collector street and/or a shared use path. The subject parcel can facilitate an important pedestrian connection for the area by extending a portion of the planned improvement from the existing terminus of Railroad Ave. north to the applicant's north property line.

The 2020 partition approval by the Commission determined the impact of the partition did not create new development opportunity without further land division, therefore street improvement costs were not proportional to or required by the request. It was determined the city parcel could later be subdivided into one-acre lots, at which time the city can require applicable street improvements to McCormick Gardens Road and the proposed two new landlocked parcels in the rear. The Planning Commission also found a portion of the high ground at the west end of the parcel is required to be dedicated when the site is divided as proposed by this request in accordance with the Gearhart TSP and Subdivision Ordinance.

In accordance with the City Subdivision ordinance the City finds the creation of three new homesites now requires the McCormick Gardens Road to be partially improved and a portion of the Railroad Ave. path is at least required to be dedicated to the city.

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 improvements are deemed more appropriate as part of a larger project in the future.

FINDINGS: The City finds planned drainage and widening street improvements to the west side of McCormick Gardens Road, and dedication of adequate area to connect Railroad Avenue do not (a.) conflict with an adopted capital improvement plan; (b.) will not create a safety hazard; (c.) McCormick Gardens Road and the Railroad Ave path are likely to be improved in the planning horizon of the TSP and (d.) the road improvements and path dedication cannot be accomplished as a part of a future, larger project on the subject site because of site constraints.

5. Fee-in-Lieu Option.

- A street and shared pathway plan that affects the western boundary of the parcel proposing a trail and street connecting Railroad Ave. at Pacific Way to the north to the UGB.
- The substandard street condition of McCormick Gardens Road, a planned collector street with needed safety and pedestrian improvements.

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 in the 2020 partition approval the applicant dedicated 10' of additional right-of-way to the existing 40-foot-wide McCormick Gardens Road ROW. The dedication completes the west side ROW width for the 60-foot-wide collector street designation identified in the TSP Figure 7 Planned Investments, Figure 8 Functional Street Classification and Figure 9 Evacuation Routes.

With this subsequent requested partitioning of the parcel, improvements to McCormick Gardens Road is required. The finished improvement shall be designed collector street specifications including drainage and pedestrian improvements and a minimum half-street of pavement.

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 the creation of a cul-de-sac or dead-end street is unavoidable, and a shared-use path is needed to connect the end of the street to another street, a park, or a public access way. Where 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 identifies both a street and a planned non-motorized shared use path improvement in the vicinity of the old railroad right-of-way from Oster Road to Park Lane adjoining the applicant's tax lot's west boundary. The purpose is to provide an alternative north/south public access route for homeowners living on the east side of Hwy 101.

adjoining parcels in the county. The access easement shall be 50' wide with 18' of gravel.

Easement Road Name: The City requests determination of a road name that reflects the history, flora, fauna or geography of this area of Gearhart.

As required parcel lot lines run at right angles to the street. There is a known wetland on the west side that is unsuitable for any development. To assure a future dwelling on Parcel 2 & 3 can meet the 25-foot minimum setback from the wetland boundary, a site-specific wetland determination shall be provided with this request, or with a final partition plat submittal.

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 the necessary right-of-way was dedicated by the 2020 recorded partition. 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

FINDINGS: The City finds that the official Gearhart Local Wetland Inventory LWI map illustrates a wetland on the west side of Parcels 2 & 3. A site-specific wetland determination and approval is required prior to submittal of a final partition plat. This will assure that future structures proposed on Parcels 2 and 3 can be maintain a 25-setback from the wetland if necessary.

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

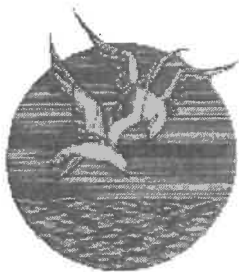
- 1) Improvements shall not be commenced until plans have been approved by the city. Some plans may be required prior to approval by the Planning Commission.
- 2) Improvement work shall not be commenced until the City has been notified.

Based on the findings in this report, subject to additional information provided at the public hearing, Staff recommends approval of the 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.

Provide with the Final Plat application:

2. A site-specific wetland determination or delineation by a qualified professional wetland scientist shall be provided to the City before or with the Final Partition Plat application. 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.
3. The final partition plat shall be modified to incorporate a portion of the Railroad Ave. pathway, an estimated 40 feet wide, either dedicated to the public or defined on the plat as a public access easement.
4. Street improvements: 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 the Subdivision Ordinance.
 - a). Street improvement cross-section plans and cost estimates to McCormick Gardens Road shall be submitted to the City for approval prior to a final partition plat application. 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). Provide evidence from the Clatsop County Planning Department that the private road easement plans comply with County road width and improvement requirements. The County's approval of the 2020 Banta partition required a recorded Road Maintenance Agreement (attached). The agreement includes the subject City parcel and is written to extend to subsequent owners if this partition is approved. The County required the road shall be constructed to county standards before issuance of any land use or building permits on any of the three parcels created in the 2020 decision.



CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

APPLICATION BEFORE THE CITY OF GEARHART PLANNING COMMISSION

PLANNING COMMISSION
2ND THURSDAY, 6:00 PM

DATE RECEIVED 1/15/2021

28

1. APPLICANT: John S. Banta PHONE: _____
MAILING ADDRESS: PO Box 2134, Seaside OR 97138
EMAIL ADDRESS: bantajojb@yahoo.com CELL PHONE: 503-717-2144
2. PROPERTY OWNER: Heirs of John A. Banta PHONE: _____
MAILING ADDRESS: Same as Applicant
EMAIL ADDRESS: _____ CELL PHONE: _____
3. SURVEYOR/ ENGINEER: S&F Land Services, Jack White PHONE: 503-738-3425
MAILING ADDRESS: 1725 N Roosevelt Dr. Ste. B, Seaside, OR 97138
EMAIL ADDRESS: jack.white@sflands.com CELL PHONE: _____
4. LEGAL COUNSEL: Lawrence J. Popkin PHONE: 503-738-8400
MAILING ADDRESS: 1580 N. Roosevelt Drive, Seaside OR 97138
EMAIL ADDRESS: lpopkin@campbellpopkin.com CELL PHONE: _____
5. PROPERTY LOCATION: 1060 McCormick Gardens Road
6. LEGAL DESCRIPTION OF PROPERTY:
(A) ASSESSORS PLAT AND TAX LOT: 61003DB00802
(B) ADDITION, BLOCK, AND LOT: _____

PER SEC 13.080 OF THE GEARHART ZONING CODE ACTUAL EXPENSES INCURRED BY THE CITY DURING THE PROCESS OF TECHNICAL EVALUATION OF AN APPLICATION SHALL BE BORNE BY THE APPLICANT, IN ADDITION TO THE FILING FEES ESTABLISHED BY RESOLUTION. UNPAID PENALTIES, FINES OR INCUMBRANCERS OWED TO THE CITY OF GEARHART ARE GROUNDS FOR WITHHOLDING ISSUANCE OF A PERMIT. DO YOU OWE ANY MONEYS TO THE CITY OF GEARHART? (CIRCLE) YES NO

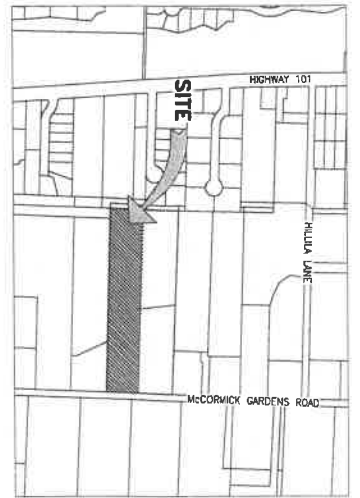
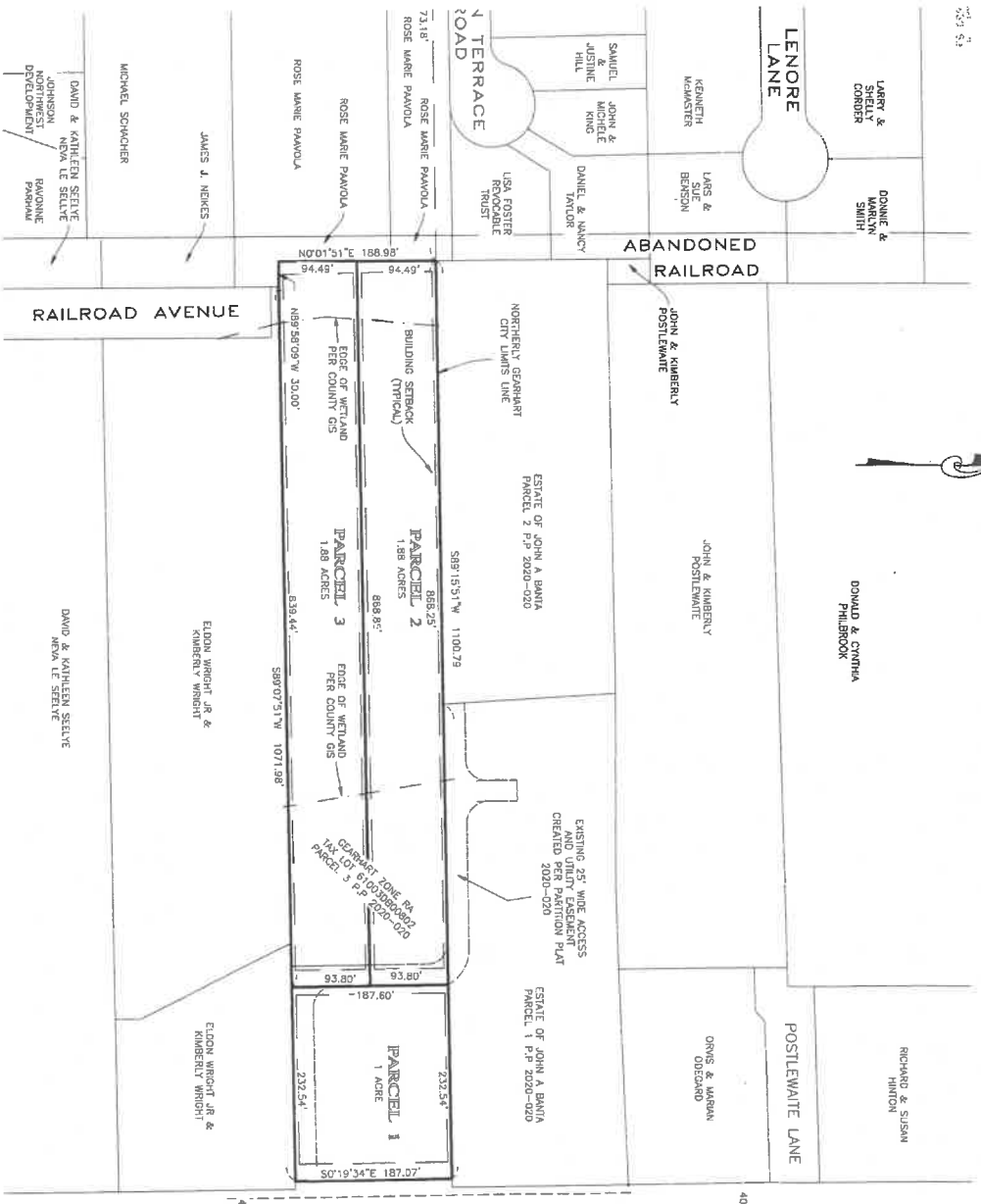
7. SIGNATURE (APPLICANT) [Signature] DATE: 1/15/2021
PRINT John S Banta
8. SIGNATURE (OWNER) [Signature] DATE: 1/15/2021
PRINT John S Banta

NOTICE: ALL ITEMS MUST BE COMPLETED IN ORDER FOR THE APPLICATION TO BE DEEMED COMPLETE AND READY FOR PROCESSING.

TO BE COMPLETED BY STAFF
DOES APPLICANT OWN ANY MONEY TO THE CITY? _____ IF SO, AMOUNT _____
FOR _____ ACCOUNT # _____ DEPARTMENT STAFF _____ (INITIAL)

TENTATIVE PARTITION PLAN

TAJ LOT # 0103000002
 CLATSOP COUNTY, OREGON



OWNER:
 ESTATE OF JOHN A. BANTA, DECEASED

PARTITIONER:
 JOHN S. BANTA
 PO BOX 2134
 SEASIDE, OR 97138
 503-717-2144

LEGAL DESCRIPTION:
 PARCEL 3 OF CLATSOP COUNTY PARTITION PLAT
 2020-020 INSTRUMENT NUMBER 202011384

Ssf Land Services

PORTLAND, VANCOUVER, BEND, SEASIDE
 1725 N. ROOSEVELT DR.
 STE. B, SEASIDE, OR 97138
 (503) 743-9268 FAX (503) 743-9268
 WWW.SSFLANDS.COM
 DATE: JAN 13, 2023

TENTATIVE PARTITION FOR:

JOHN S. BANTA
 1060 MCCORMICK GARDENS ROAD
 GEARHART, OREGON
 SE1/4 SECTION 3, T6N, R10W, W.M.
 CLATSOP COUNTY, OREGON

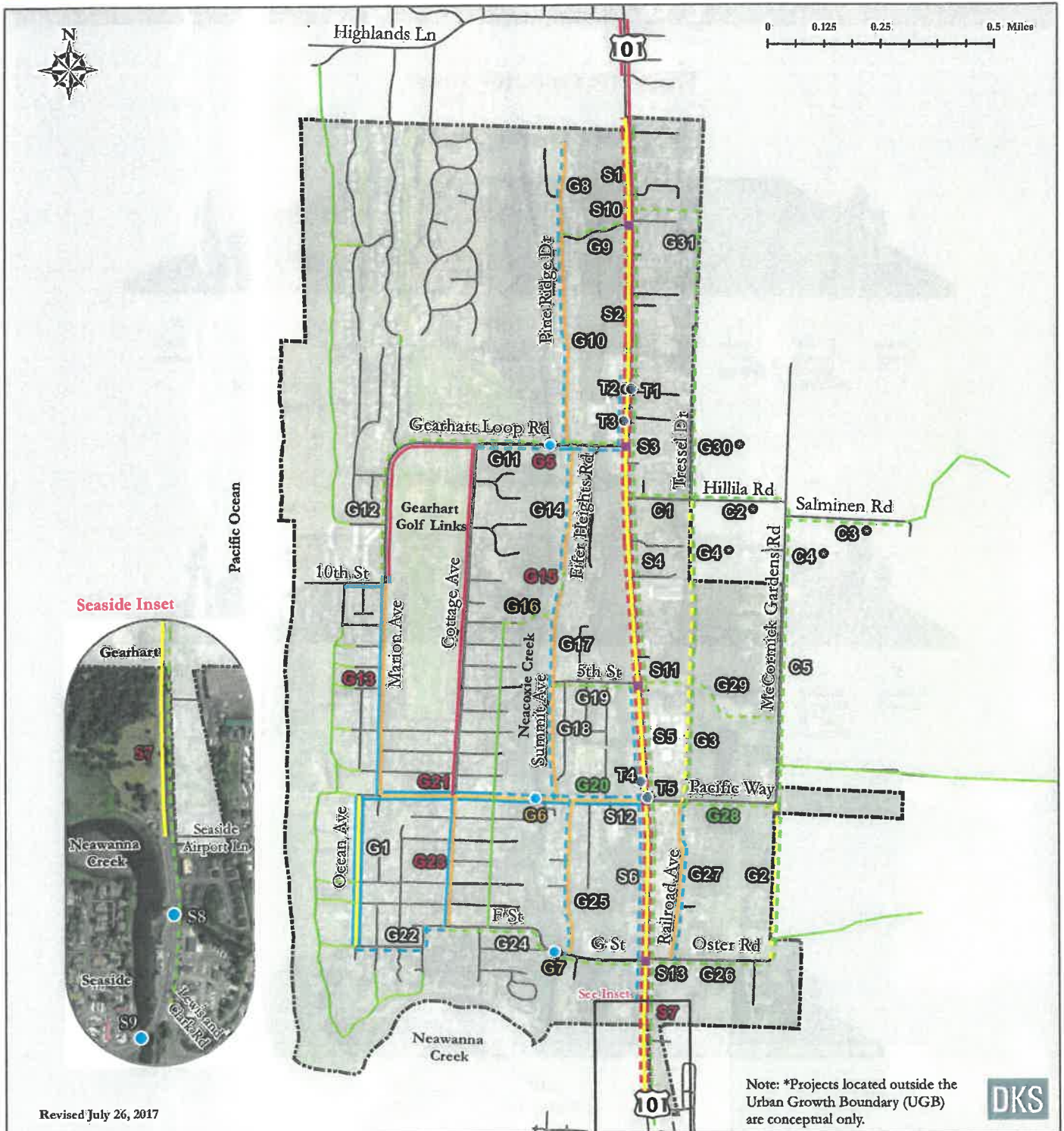
REGISTERED PROFESSIONAL LAND SURVEYOR
 JACK L. WHITE II
 OREGON
 SEPTEMBER 10, 2018
 5187PUS
 RENEWS 6/30/22

19019801 BNDY - J.W. FROM PORTLAND 2021.dwg

The Plan

Table 1: Financially Constrained and Aspirational Project List

Project ID	Project Description	Project Elements**	Project Purpose	Estimated Cost (2016 Dollars)	Primary Funding Source***	Package ****
Demand and System Management Projects						
A	Neighborhood Traffic Calming Program	Implement program to process community requests for neighborhood traffic calming, investigate options, and implement improvements. Key areas for traffic calming investigations include: Cottage Avenue, F Street, G Street, and Pine Ridge Drive.	Reduce motor vehicle travel speeds along residential streets	\$100,000	City	4
B	Tsunami Evacuation Route Identification	Enhance tsunami evacuation route wayfinding throughout the City.	Tsunami evacuation	\$50,000	City	1
C	Bike Parking Program	Install new bike parking at key activity centers around the City.	Increase bike parking	\$30,000	City	1
D	Wayfinding Signage Program	Install wayfinding signage to assist pedestrians and bicyclists in choosing comfortable routes and to help visitors navigate through the City.	Improve wayfinding signage	\$75,000	City	1
E	Ridge Path Enhancements	Implement improvements along the Ridge Path alignment and at Ridge Path street crossings. Key areas for street crossing improvements include at Pacific Way, and F Street.	Ridge Path enhancements	\$425,000	City	2
Estimated Cost for all Demand and System Management Projects				\$680,000		
Motor Vehicle Projects						
G1	Ocean Avenue Improvements from Pacific Way to G Street	Remove the sidewalk along the east-side of the street, and allow intermittent on-street parking.	Emergency vehicle access	\$150,000	City	4
G2	McCormick Gardens Road extension from Pacific Way to Oster Road	Extend McCormick Gardens Road from Pacific Way to Oster Road. This street should be constructed as a Collector, with a shared-use path on the east side.	Street connectivity; walking and biking facility gap	\$3,265,000	City/ County	4
G3	Railroad Avenue extension from Pacific Way to Park Lane	Extend Railroad Avenue from Pacific Way to Park Lane. This street should be constructed as a Local Street, with a shared-use path on the east side.	Street connectivity; walking and biking facility gap	\$3,030,000	City	4



Revised July 26, 2017

Legend:

- Planned Street Improvement
- Planned Street Extension
- Planned Intersection Improvement or Study
- Planned Bus Stop Improvement
- Planned Bridge or Culvert Improvement

Pedestrian, and Bicycle Facilities:

- | Existing | Planned |
|---------------------------------------|---|
| — | — Sidewalk |
| — | — Bike Lane or Shoulder
Bikeway (> 5 feet) |
| — | — Trails |
| — | — Planned Shared Street |

- Project included in the Financially Constrained Plan (Package 1)
- Priority project with additional funding (Package 2)
- Priority project with additional funding (Package 3)
- Project included in the Aspirational Plan (Package 4)

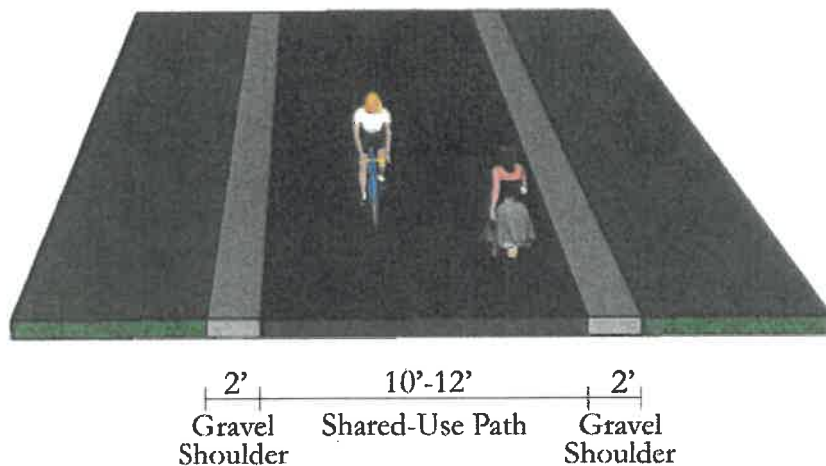
The Standards

Shared-Use Paths

Shared-use paths provide off-roadway facilities for walking and biking travel. Depending on their location, they can serve both recreational and transportation needs. Shared-use path designs vary in surface types and widths. Hard surfaces are generally better for bicycle travel. Widths need to provide ample space for both walking and biking and should be able to accommodate maintenance vehicles.

Gearhart requires that a paved shared-use path be 12 feet wide in areas with significant walking or biking demand; otherwise, it should be at least 10 feet wide (see Figure 13). The city may reduce the width of the typical paved shared-use path to a minimum of eight feet in constrained areas (e.g., steep, environmentally sensitive, historic, or previously developed areas). This design standard applies to newly constructed facilities and does not apply to existing shared-use paths (e.g., Ridge Path).

Figure 13: Design Standards for Shared-Use Paths



Water Supply:

FIRE HYDRANTS – One- and Two- Family Dwelling Structures: Where a structure is more than 600 feet from a hydrant on a fire apparatus access road a fire hydrant shall be provided.

The minimum available fire flow for single family dwellings and duplexes served by a municipal water supply shall be 1,000 gallons per minute. If the structure(s) is (are) 3,600 square feet or larger, the required fire flow shall be determined according to OFC Appendix B. (OFC B105)

Conclusion:

The attached plan provides an apparatus turnaround and access road (no measurements indicated on current tentative partition plan). The Access Road, Apparatus Turnaround and Signage shall be approved prior to any building permit application.

There is no fire hydrant located with the required distance, an approved fire hydrant shall be installed prior to any building permit application.

If you should have any questions please feel free to contact me.

Thank you,



Bill Eddy
Fire Chief
Gearhart Fire

cc: - File, John Banta, Chad Sweet, Victoria Sage, Mark Brien, Mark McFadden



Clatsop County

Community Development – Planning

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MAJOR PARTITION #186-20-000090 **CONDITIONS OF APPROVAL**

Based on the findings presented in this report, staff **APPROVES** the partition request. Approval of the partition is **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Prior to the recording of the final partition plat, the applicant shall provide documentation that all three parcels meet the minimum lot size of two acres and do not exceed the 1:3 lot width-to-depth ratio. This may be accomplished using the survey required in 2, below.
2. A survey shall be made of each parcel less than ten (10) acres in size and the new divisions shall be monumented.
3. Prior to recording the final plat, the property owner shall provide the county with documentation from the City of Gearhart that all conditions have been satisfied. County approval is conditioned upon the property owner and the City of Gearhart agreeing to the resolution of those conditions.
4. An easement and a road maintenance agreement shall be recorded, providing access to proposed Parcel 2. If an easement is required by the City of Gearhart for Parcel 3, that shall be included in the recorded road maintenance agreement. The agreement shall outline the responsibilities of the private parties in maintaining the road improvements, and specifying the perpetual, non-exclusive nature of the roadway easement; and,
 - a. The boundaries of the easement shall be surveyed and monumented;
 - b. The travel surface shall reside within the easement boundary;
 - c. From McCormick Gardens Road to the western boundary of proposed Parcel 1, the private access road shall meet the A-14 design standard found in Table 1 Right-of-Way and Improvements Standards Table;
 - d. The finished grade of the private access road shall not exceed 18%, and any finished grade in excess of 14% shall be paved;
 - e. A suitable turnaround shall be provided at the terminus of the private road;
 - f. All required road improvements shall be completed, and approved by Clatsop County Public Works, prior to recording the final plat;
 - g. The road maintenance agreement shall be signed and recorded with the County Clerk; and
 - h. The easement shall be noted on the face of the plat.
5. The private access road shall be designed and constructed to the A-14 Standard prior to recording the final partition plat. Alternatively, a development restriction may be recorded on the new parcels which requires the completion of the required road improvements prior to the sale of the parcels or prior to the issuance of a development permit to the partitioning party, whichever comes first. Additionally, the development restriction shall indicate that the road and easement standard shall be increased to an appropriate size as required in S6.170, if and when any future parcels development in the City of Gearhart requires use of the easement for access.
6. A copy of the Clatsop County Public Works road approach permit shall be provided to Community Development prior to recording the final partition plat.



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STAFF REPORT

STAFF REPORT DATE: June 30, 2020

REQUEST: Major Partition

APPLICANT/OWNER: John S. Banta
The Heirs of John A. Banta
P.O. Box 2134
Seaside, Oregon 97138

PROPERTY DESCRIPTION: T06 R10W, Sec. 03DB, Tax Lot 0800, totaling 9.76 acres +/-

PROPERTY LOCATION: 1060 McCormick Gardens Road, centered on the north-south boundary of the City of Gearhart and Clatsop County, partially in the City and partially in the County jurisdictions. Tax lot 0900 adjoins it to the west and is under the same ownership

PROPERTY ZONING: RA-1 – Residential-Agriculture-One
Two-acre minimum lot size, 125-foot minimum width, 1:3 maximum width to depth dimension
LW – Lake and Wetland, no minimum lot size
City of Gearhart Zoning (not under the jurisdiction of Clatsop County)

Overlays: Statewide Wetlands Inventory (SWI)
Flood Hazard Overlay (FHO) A Zone

PROPOSED PARCELS SIZES: Parcel 1 – 2.75 acres (County Parcel)
(Approximate) Parcel 2 – 2.33 acres (County Parcel)
Parcel 3 – 4.68 acres (City of Gearhart)

COUNTY STAFF REVIEWER: Victoria Sage, Planner

DEEMED COMPLETE: March 12, 2020 (150 days: July 17, 2020)

STAFF RECOMMENDATION: Approval – Subject to Conditions

EXHIBITS: 1. Partition Plan
2. Public Notice
3. Agency Comments

COMMENTS: Carole Connell, City of Gearhart Planner

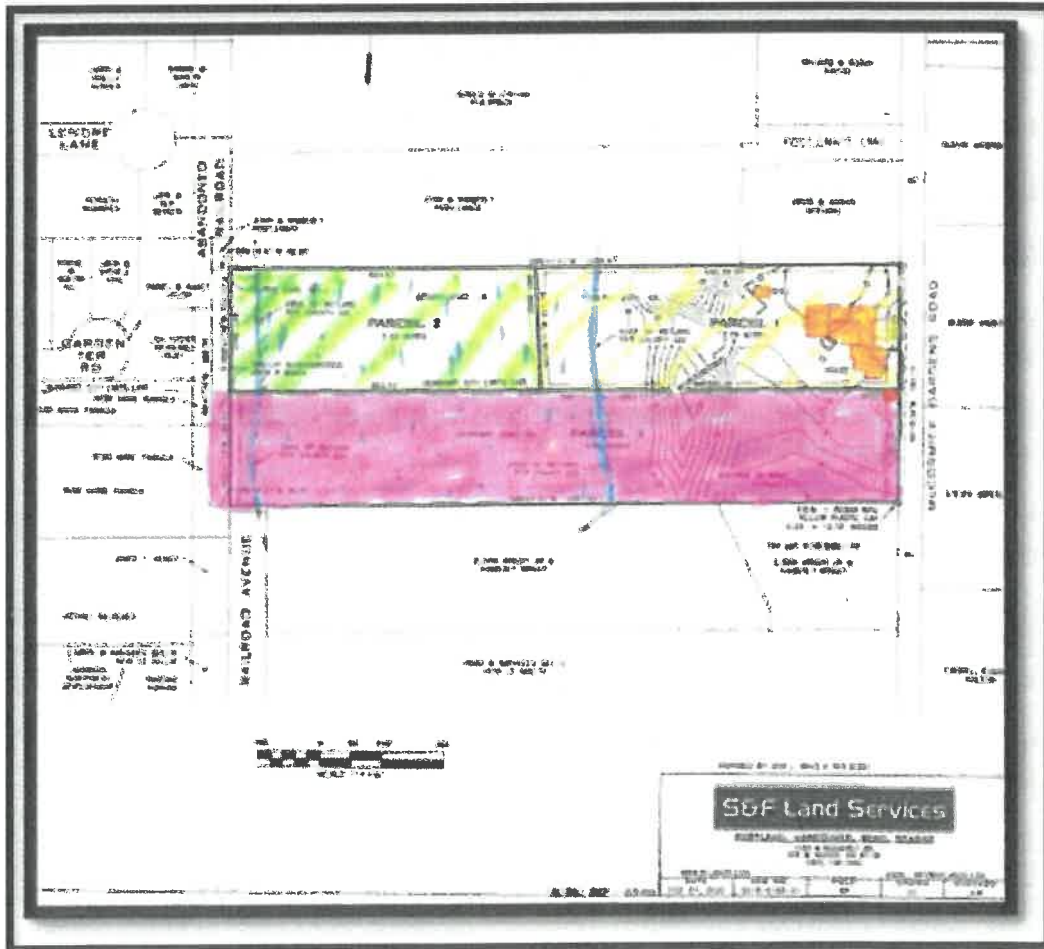
SUMMARY

On February 18, 2020, property owners John S. Banta and the Heirs of John A. Banta submitted a major partition application to Clatsop County Community Development to divide an approximately 9.76-acre

2020 ZONING AND NEIGHBORHOOD AERIAL



PROPOSED PARTITION PLAN



Staff Analysis and Finding: Public Notice was mailed on January 28, 2020, as provided in Exhibit 2. All requirements pertaining to the mailed notice to affected property owners, interested parties, and government agencies have been met.

The criterion has been satisfied.

SECTION 3.180. RESIDENTIAL-AGRICULTURE-ONE ZONE (RA-1).

SECTION 3.194. Development and Conditional Development and Use Standards.

The following standards are applicable to permitted and conditional developments in this zone.

- 1) Lot size:
 - (A) One family dwelling: 2 acres.
 - (C) Other permitted development as required to meet State sanitation requirements and local setback and Ordinance requirements.
- 2) Minimum lot width: 125 feet.
- 3) Lot width/depth dimension shall not exceed a 1:3 ratio.
- 4) Required front yard when front line abuts:
 - (E) Local street: 20 feet.
- 5) Required rear yard: 20 feet.
 - (B) Exception when adjacent to resource zones - all structures: 50 feet.
- 6) Required side yard:
 - (A) Minimum side yard 10 feet, except on a corner lot, the minimum street side yard shall be 20 feet.
 - (C) When the side yard abuts a resource zone, the minimum side yard shall be 50 feet.

SECTION 3.610. LAKE AND WETLANDS ZONE (LW).

Section 3.616. Development and Conditional Development and Use Standards.

- 1) All standards as set forth in the Clatsop County Development Standards Document 80- 14, as amended.
- 2) Uses that are not water-dependent or water-related shall be set back to the extent of riparian vegetation identified in the Comprehensive Plan. Riparian vegetation shall be protected in accordance with Section S4.500. At such time that a development is proposed in the vicinity of the wetlands area, the county may require a site investigation to determine the exact location or the boundary. The site investigation shall be performed by a qualified expert, such as a biologist from the U.S. Army Corps of Engineers, Oregon Division of State Lands, or the Oregon Department of Fish and Wildlife. Nothing in this provision shall allow for a redefinition or major alteration of the wetlands boundary. In order to maintain consistency, the site investigation shall employ the same criteria originally used to identify freshwater wetlands in the County. (The study performed by Dr. Duncan Thomas of CREST, entitled Significant Shoreland and Wetland Habitats in the Clatsop Plains).

STAFF FINDINGS and CONCLUSION: For the purposes of this application, Clatsop County's Development and Use Standards will be applied only to the two parcels under the County's jurisdiction; proposed Parcel 3, which falls under the City of Gearhart's purview, will not be examined against the criteria found in the LWDUO. For reference purposes only, Proposed Parcel 3 will have an area of 4.68 acres, an average depth of 1,082.6 feet, and an average width of 188.2 feet. This section will mostly examine Proposed Parcel 1, which is entirely in the RA-1 Zone which has standards for minimum lot size, width and depth.

Proposed Parcel 2 is entirely in the LW, which has no standards for lot width, depth, or minimum lot size. The applicants are not proposing any development or activities on Proposed Parcel 2 at this time, so the criteria found in Section 3.616 do not apply at this time. For reference, Proposed Parcel 2 will have an approximate area of 2.33 acres, an average depth of 498.8 feet, and an approximate width of 203 feet.

- 1) Road approach approval from the appropriate agency shall be demonstrated.
 - 2) Except as set out in Section 5.207(1) the boundaries of all parcels shall be surveyed and monumented.
- (B) Major Partitions in Non-Resource Zones shall meet the following standards
- 1) Standards in 5.207(2)(A)(1-2) above shall be met.
 - 2)
 - (c) If a private road or easement is created or utilized, the road easement shall meet the standards from the "Basic Major Partition Improvement Standards Table" and the boundaries of the road easement shall be surveyed and monumented. The road shall be improved to the County's A-12 road standard and one vehicle turnout shall be provided for every 250' of road and within 50' of each sight obscuring corner. If the travel surface width of the private road exceeds 18 feet no turnouts will be required. Easements which bind all involved property owners and which specify the perpetual, non-exclusive nature of the road way easement shall be signed and recorded with the County Clerk. An agreement shall also be signed and recorded with the County Clerk outlining the responsibilities of the private parties maintaining the road improvements. These maintenance responsibilities shall be enforced by the individual parties and not the County.
 - (d) Any required road improvements shall meet the applicable road standards from Section S6.000 of the Standards Document. Required road improvements shall be completed or bonded prior to the sale of any of the partitioned parcels. In the event that the partitioning party intends to retain ownership of a partitioned parcel, required road improvements shall be completed prior to the issuance of any development permit involving the partitioned parcel. Road improvements must be completed to the extent necessary to provide legal access frontage to the parcel proposed for sale or for second home placement. If the partitioning party has not completed required road improvements at the time of final partition approval, the Department of Community Development will record a development restriction upon the involved parcels to require the completion of these improvements prior to the sale of the parcels or prior to the issuance of a development permit to the partitioning party; whichever comes first. The restriction will be removed upon completion of the improvements prior to the sale of the parcels or prior to the issuance of any development permit involving the partitioned parcel.

Section 5.208. Extent of Road Improvements.

- (1) Required access road improvements shall be completed to provide access from the partitioned parcels to an existing public, county or state road.

STAFF FINDINGS and CONCLUSION: The applicant proposes to create three parcels via major partition. Although there is no access easement to Parcel 2 proposed, **the applicant shall be required to provide a 25-foot easement to the new Proposed Parcel 2 per L5.207.** Clatsop County cannot create a new parcel that does not have access; Proposed Parcel 2, the Lake and Wetland-zoned parcel, could be sold into a different ownership. That owner must be able to access it, despite it being a resource zone, because there are several uses, including low-intensity recreation and cranberry farming and harvesting, that would require access. Thus, **a private road or easement shall be created in order to utilize Proposed Parcel 2.**

Pursuant to Clatsop County Standards Document S6.170, Minimum Construction Standards for Private Roads, Table 1, a private road serving one to three partition parcels is required to meet the A-14 design standard (25-foot Right-Of-Way, 14-foot travel surface). Based on the applicant's proposed partition plan and future development potential, **the A-14 design standard for the entire access road until the west boundary of proposed Parcel 1 shall be required by a condition of approval.** The boundaries of the road easement shall be surveyed and monumented. The easement shall be noted on the final plat, and a road maintenance agreement shall be signed and recorded with the County Clerk. Additional permits and fees may be required by Clatsop County Public Works Department.

30-wide x 392' parcel paralleling the rail right-of-way. In addition the City requests dedication of 15' x 392 feet on the west property line of Tax Lot 800 to the City for street right-of-way. The combined dedications of Tax Lot 900 and a portion of Tax lot 800 would be total of 45' x 392'. It is planned to connect both north and south to a future street or pedestrian trail. The final design shall be approved by the City prior to final plat approval.

The Gearhart TSP Project #C5 identifies the addition of a shared walking/biking/maintenance and tsunami evacuation path on the east side to McCormick Gardens Road from Pacific Way to near Salminen Road. The pathway specification adds 8-12' of surface, depending on location. Since the subject area adjoining McCormick Gardens Road is swampy lowlands an additional 8 feet would be adequate. Currently the road ROW is 40' wide and the pavement is narrow. The final design shall be approved by the City prior to final plat approval.

Thank you for the opportunity to comment.”

Staff Response:

On May 14, 2020, County staff attended the virtual (GoTo Meeting platform) Gearhart Planning Commission public hearing for the Banta partition. The motion to approve the application with conditions was approved by the City Planning Commission. County approval is conditioned upon the property owner and the City of Gearhart agreeing to the resolution of those conditions. Although neighboring TL0900 falls into the City of Gearhart's Transportation Systems Plan, neither the City nor the County can condition its dedication to the public as a requirement. The applicant has been found to have removed the shed since the City of Gearhart provided this comment, satisfying this condition for both jurisdictions. Staff also concurs that a 25' easement providing access to Parcel 2 shall be required, as described in the staff findings above. This will be found as a condition of approval from the county in this application.

Prior to recording the final plat, the property owner shall provide the county with documentation from the City of Gearhart that all conditions have been satisfied. (See Condition 3, Page 10)

PUBLIC COMMENT

None.

OVERALL CONCLUSION

Based on the findings provided above, the application satisfies the applicable approval criteria. However, suitability of the site for the proposed use is based on the following and has not been considered in the approval of this partition.

- Water availability -
The subject properties are within the Gearhart Water District. Proof of a water source is required by one of the methods specified in S2.400 of the Clatsop County Land and Water Development and Use Ordinance 80-14 BEFORE a building permit for a use requiring water (e.g. single-family dwelling or mobile home, commercial use) will be issued.
- Sewage district: None
- Fire protection district: Gearhart RFPD
- Soil classification (EFU, AF, F80): N/A
- Topography and Hazards:
 - Geologic Hazards N/A
 - Flood Hazards N/A
 - Shorelands Overlay N/A
 - Active Dune Overlay N/A
 - Other: Statewide Wetland Inventory (SWI)

1. The sale of lots described in this tentative approval is prohibited until final partition approval, including the conditions of approval, is met (ORS 92.016) and the final partition plat has been recorded.
2. Conditional approval of a tentative partition plat and property line adjustment shall be valid for two years from the date of recording of the conditional approval. The applicant shall meet the conditions of approval prior to expiration of the conditional approval. If the conditions of approval are not met within the two years the partition expires, a new partition application is required.
3. Consult with the Division of State Lands/Corps of Engineers (503) 986-5246, to determine if you have wetlands on the property. If wetlands are present, it may affect the ability to develop the property.
4. Community Development must authorize any change from the submitted and conditionally approved partition plan. Significant changes may require resubmission of the partition application.

THE FINAL PARTITION PLAT WILL BE SIGNED BY THE DIRECTOR OF COMMUNITY DEVELOPMENT ONLY AFTER ALL OF THE DOCUMENTATION NOTED ABOVE IS RECEIVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT AND PLACED IN THIS PARTITION FILE.



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Cc: Case File #20-000090

Enclosures: Recorded road maintenance agreement
Recorded development restriction
Notice of Decision #20-000090



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MAJOR PARTITION #186-20-000090 **CONDITIONS OF APPROVAL**

Based on the findings presented in this report, staff **APPROVES** the partition request. Approval of the partition is **SUBJECT TO THE FOLLOWING CONDITIONS:**

1. Prior to the recording of the final partition plat, the applicant shall provide documentation that all three parcels meet the minimum lot size of two acres and do not exceed the 1:3 lot width-to-depth ratio. This may be accomplished using the survey required in 2, below.
2. A survey shall be made of each parcel less than ten (10) acres in size and the new divisions shall be monumented.
3. Prior to recording the final plat, the property owner shall provide the county with documentation from the City of Gearhart that all conditions have been satisfied. County approval is conditioned upon the property owner and the City of Gearhart agreeing to the resolution of those conditions.
4. An easement and a road maintenance agreement shall be recorded, providing access to proposed Parcel 2. If an easement is required by the City of Gearhart for Parcel 3, that shall be included in the recorded road maintenance agreement. The agreement shall outline the responsibilities of the private parties in maintaining the road improvements, and specifying the perpetual, non-exclusive nature of the roadway easement; and,
 - a. The boundaries of the easement shall be surveyed and monumented;
 - b. The travel surface shall reside within the easement boundary;
 - c. From McCormick Gardens Road to the western boundary of proposed Parcel 1, the private access road shall meet the A-14 design standard found in Table 1 Right-of-Way and Improvements Standards Table;
 - d. The finished grade of the private access road shall not exceed 18%, and any finished grade in excess of 14% shall be paved;
 - e. A suitable turnaround shall be provided at the terminus of the private road;
 - f. All required road improvements shall be completed, and approved by Clatsop County Public Works, prior to recording the final plat;
 - g. The road maintenance agreement shall be signed and recorded with the County Clerk; and
 - h. The easement shall be noted on the face of the plat.
5. The private access road shall be designed and constructed to the A-14 Standard prior to recording the final partition plat. Alternatively, a development restriction may be recorded on the new parcels which requires the completion of the required road improvements prior to the sale of the parcels or prior to the issuance of a development permit to the partitioning party, whichever comes first. Additionally, the development restriction shall indicate that the road and easement standard shall be increased to an appropriate size as required in S6.170, if and when any future parcels development in the City of Gearhart requires use of the easement for access.
6. A copy of the Clatsop County Public Works road approach permit shall be provided to Community Development prior to recording the final partition plat.



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STAFF REPORT

STAFF REPORT DATE: June 30, 2020

REQUEST: Major Partition

APPLICANT/OWNER: John S. Banta
The Heirs of John A. Banta
P.O. Box 2134
Seaside, Oregon 97138

PROPERTY DESCRIPTION: T06 R10W, Sec. 03DB, Tax Lot 0800, totaling 9.76 acres +/-

PROPERTY LOCATION: 1060 McCormick Gardens Road, centered on the north-south boundary of the City of Gearhart and Clatsop County, partially in the City and partially in the County jurisdictions. Tax lot 0900 adjoins it to the west and is under the same ownership

PROPERTY ZONING: RA-1 – Residential-Agriculture-One
Two-acre minimum lot size, 125-foot minimum width, 1:3 maximum width to depth dimension
LW – Lake and Wetland, no minimum lot size
City of Gearhart Zoning (not under the jurisdiction of Clatsop County)

Overlays: Statewide Wetlands Inventory (SWI)
Flood Hazard Overlay (FHO) A Zone

PROPOSED PARCELS SIZES: Parcel 1 – 2.75 acres (County Parcel)
(Approximate) Parcel 2 – 2.33 acres (County Parcel)
Parcel 3 – 4.68 acres (City of Gearhart)

COUNTY STAFF REVIEWER: Victoria Sage, Planner

DEEMED COMPLETE: March 12, 2020 (150 days: July 17, 2020)

STAFF RECOMMENDATION: Approval – Subject to Conditions

EXHIBITS: 1. Partition Plan
2. Public Notice
3. Agency Comments

COMMENTS: Carole Connell, City of Gearhart Planner

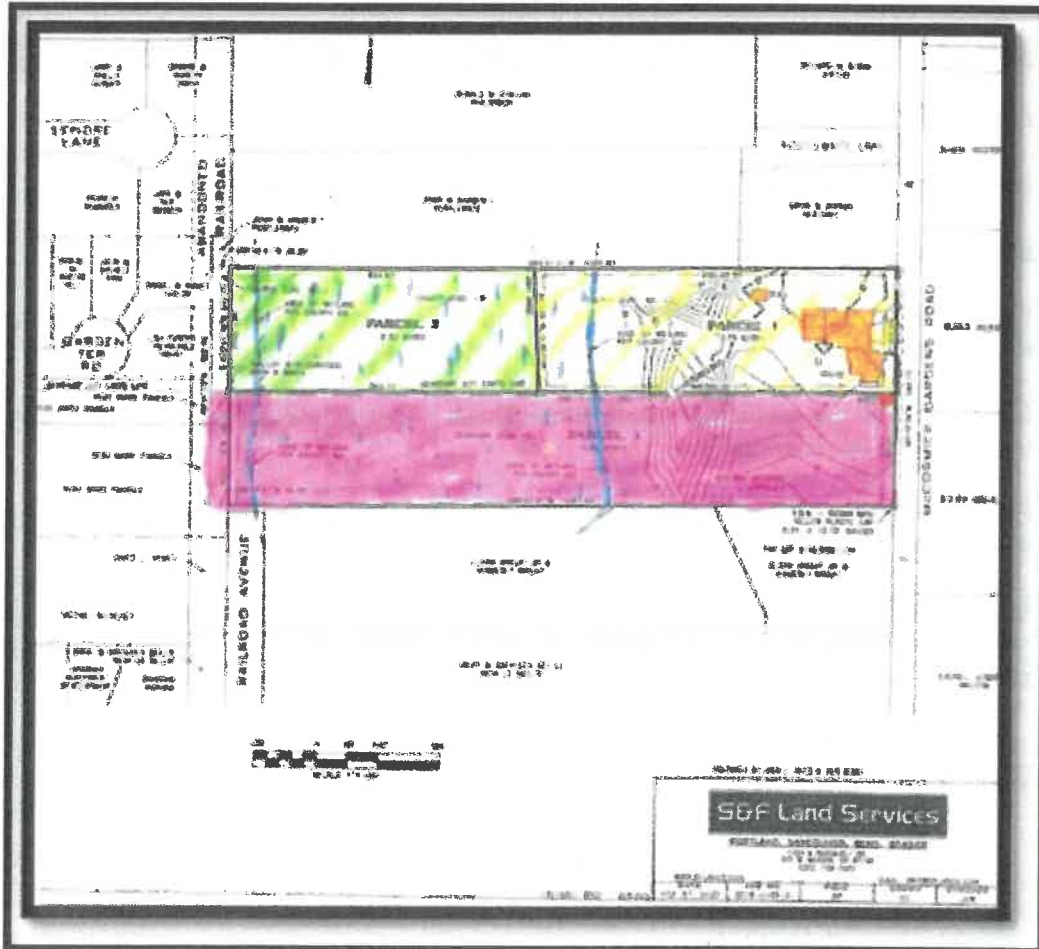
SUMMARY

On February 18, 2020, property owners John S. Banta and the Heirs of John A. Banta submitted a major partition application to Clatsop County Community Development to divide an approximately 9.76-acre

2020 ZONING AND NEIGHBORHOOD AERIAL



PROPOSED PARTITION PLAN



Staff Analysis and Finding: Public Notice was mailed on January 28, 2020, as provided in Exhibit 2. All requirements pertaining to the mailed notice to affected property owners, interested parties, and government agencies have been met.

The criterion has been satisfied.

SECTION 3.180. RESIDENTIAL-AGRICULTURE-ONE ZONE (RA-1).

SECTION 3.194. Development and Conditional Development and Use Standards.

The following standards are applicable to permitted and conditional developments in this zone.

- 1) Lot size:
 - (A) One family dwelling: 2 acres.
 - (C) Other permitted development as required to meet State sanitation requirements and local setback and Ordinance requirements.
- 2) Minimum lot width: 125 feet.
- 3) Lot width/depth dimension shall not exceed a 1:3 ratio.
- 4) Required front yard when front line abuts:
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- 5) Required rear yard: 20 feet.
 - (B) Exception when adjacent to resource zones - all structures: 50 feet.
- 6) Required side yard:
 - (A) Minimum side yard 10 feet, except on a corner lot, the minimum street side yard shall be 20 feet.
 - (C) When the side yard abuts a resource zone, the minimum side yard shall be 50 feet.

SECTION 3.610. LAKE AND WETLANDS ZONE (LW).

Section 3.616. Development and Conditional Development and Use Standards.

- 1) All standards as set forth in the Clatsop County Development Standards Document 80- 14, as amended.
- 2) Uses that are not water-dependent or water-related shall be set back to the extent of riparian vegetation identified in the Comprehensive Plan. Riparian vegetation shall be protected in accordance with Section S4.500. At such time that a development is proposed in the vicinity of the wetlands area, the county may require a site investigation to determine the exact location or the boundary. The site investigation shall be performed by a qualified expert, such as a biologist from the U.S. Army Corps of Engineers, Oregon Division of State Lands, or the Oregon Department of Fish and Wildlife. Nothing in this provision shall allow for a redefinition or major alteration of the wetlands boundary. In order to maintain consistency, the site investigation shall employ the same criteria originally used to identify freshwater wetlands in the County. (The study performed by Dr. Duncan Thomas of CREST, entitled Significant Shoreland and Wetland Habitats in the Clatsop Plains).

STAFF FINDINGS and CONCLUSION: For the purposes of this application, Clatsop County's Development and Use Standards will be applied only to the two parcels under the County's jurisdiction; proposed Parcel 3, which falls under the City of Gearhart's purview, will not be examined against the criteria found in the LWDUO. For reference purposes only, Proposed Parcel 3 will have an area of 4.68 acres, an average depth of 1,082.6 feet, and an average width of 188.2 feet. This section will mostly examine Proposed Parcel 1, which is entirely in the RA-1 Zone which has standards for minimum lot size, width and depth.

Proposed Parcel 2 is entirely in the LW, which has no standards for lot width, depth, or minimum lot size. The applicants are not proposing any development or activities on Proposed Parcel 2 at this time, so the criteria found in Section 3.616 do not apply at this time. For reference, Proposed Parcel 2 will have an approximate area of 2.33 acres, an average depth of 498.8 feet, and an approximate width of 203 feet.

- 1) Road approach approval from the appropriate agency shall be demonstrated.
- 2) Except as set out in Section 5.207(1) the boundaries of all parcels shall be surveyed and monumented.

(B) Major Partitions in Non-Resource Zones shall meet the following standards

- 1) Standards in 5.207(2)(A)(1-2) above shall be met.

2)

(c) If a private road or easement is created or utilized, the road easement shall meet the standards from the "Basic Major Partition Improvement Standards Table" and the boundaries of the road easement shall be surveyed and monumented. The road shall be improved to the County's A-12 road standard and one vehicle turnout shall be provided for every 250' of road and within 50' of each sight obscuring corner. If the travel surface width of the private road exceeds 18 feet no turnouts will be required. Easements which bind all involved property owners and which specify the perpetual, non-exclusive nature of the road way easement shall be signed and recorded with the County Clerk. An agreement shall also be signed and recorded with the County Clerk outlining the responsibilities of the private parties maintaining the road improvements. These maintenance responsibilities shall be enforced by the individual parties and not the County.

(d) Any required road improvements shall meet the applicable road standards from Section S6.000 of the Standards Document. Required road improvements shall be completed or bonded prior to the sale of any of the partitioned parcels. In the event that the partitioning party intends to retain ownership of a partitioned parcel, required road improvements shall be completed prior to the issuance of any development permit involving the partitioned parcel. Road improvements must be completed to the extent necessary to provide legal access frontage to the parcel proposed for sale or for second home placement. If the partitioning party has not completed required road improvements at the time of final partition approval, the Department of Community Development will record a development restriction upon the involved parcels to require the completion of these improvements prior to the sale of the parcels or prior to the issuance of a development permit to the partitioning party; whichever comes first. The restriction will be removed upon completion of the improvements prior to the sale of the parcels or prior to the issuance of any development permit involving the partitioned parcel.

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- (1) Required access road improvements shall be completed to provide access from the partitioned parcels to an existing public, county or state road.

STAFF FINDINGS and CONCLUSION: The applicant proposes to create three parcels via major partition. Although there is no access easement to Parcel 2 proposed, **the applicant shall be required to provide a 25-foot easement to the new Proposed Parcel 2 per L5.207.** Clatsop County cannot create a new parcel that does not have access; Proposed Parcel 2, the Lake and Wetland-zoned parcel, could be sold into a different ownership. That owner must be able to access it, despite it being a resource zone, because there are several uses, including low-intensity recreation and cranberry farming and harvesting, that would require access. Thus, **a private road or easement shall be created in order to utilize Proposed Parcel 2.**

Pursuant to Clatsop County Standards Document S6.170, Minimum Construction Standards for Private Roads, Table 1, a private road serving one to three partition parcels is required to meet the A-14 design standard (25-foot Right-Of-Way, 14-foot travel surface). Based on the applicant's proposed partition plan and future development potential, **the A-14 design standard for the entire access road until the west boundary of proposed Parcel 1 shall be required by a condition of approval.** The boundaries of the road easement shall be surveyed and monumented. The easement shall be noted on the final plat, and a road maintenance agreement shall be signed and recorded with the County Clerk. Additional permits and fees may be required by Clatsop County Public Works Department.

30-wide x 392' parcel paralleling the rail right-of-way. In addition the City requests dedication of 15' x 392 feet on the west property line of Tax Lot 800 to the City for street right-of-way. The combined dedications of Tax Lot 900 and a portion of Tax lot 800 would be total of 45' x 392'. It is planned to connect both north and south to a future street or pedestrian trail. The final design shall be approved by the City prior to final plat approval.

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Thank you for the opportunity to comment.”

Staff Response:

On May 14, 2020, County staff attended the virtual (GoTo Meeting platform) Gearhart Planning Commission public hearing for the Banta partition. The motion to approve the application with conditions was approved by the City Planning Commission. County approval is conditioned upon the property owner and the City of Gearhart agreeing to the resolution of those conditions. Although neighboring TL0900 falls into the City of Gearhart's Transportation Systems Plan, neither the City nor the County can condition its dedication to the public as a requirement. The applicant has been found to have removed the shed since the City of Gearhart provided this comment, satisfying this condition for both jurisdictions. Staff also concurs that a 25' easement providing access to Parcel 2 shall be required, as described in the staff findings above. This will be found as a condition of approval from the county in this application.

Prior to recording the final plat, the property owner shall provide the county with documentation from the City of Gearhart that all conditions have been satisfied. (See Condition 3, Page 10)

PUBLIC COMMENT

None.

OVERALL CONCLUSION

Based on the findings provided above, the application satisfies the applicable approval criteria. However, suitability of the site for the proposed use is based on the following and has not been considered in the approval of this partition.

- Water availability -
The subject properties are within the Gearhart Water District. Proof of a water source is required by one of the methods specified in S2.400 of the Clatsop County Land and Water Development and Use Ordinance 80-14 BEFORE a building permit for a use requiring water (e.g. single-family dwelling or mobile home, commercial use) will be issued.
- Sewage district: None
- Fire protection district: Gearhart RFPD
- Soil classification (EFU, AF, F80): N/A
- Topography and Hazards:
 - Geologic Hazards N/A
 - Flood Hazards N/A
 - Shorelands Overlay N/A
 - Active Dune Overlay N/A
 - Other: Statewide Wetland Inventory (SWI)

1. The sale of lots described in this tentative approval is prohibited until final partition approval, including the conditions of approval, is met (ORS 92.016) and the final partition plat has been recorded.
2. Conditional approval of a tentative partition plat and property line adjustment shall be valid for two years from the date of recording of the conditional approval. The applicant shall meet the conditions of approval prior to expiration of the conditional approval. If the conditions of approval are not met within the two years the partition expires, a new partition application is required.
3. Consult with the Division of State Lands/Corps of Engineers (503) 986-5246, to determine if you have wetlands on the property. If wetlands are present, it may affect the ability to develop the property.
4. Community Development must authorize any change from the submitted and conditionally approved partition plan. Significant changes may require resubmission of the partition application.

THE FINAL PARTITION PLAT WILL BE SIGNED BY THE DIRECTOR OF COMMUNITY DEVELOPMENT ONLY AFTER ALL OF THE DOCUMENTATION NOTED ABOVE IS RECEIVED BY THE COMMUNITY DEVELOPMENT DEPARTMENT AND PLACED IN THIS PARTITION FILE.

Section 7. Determination of Repair

When fifty percent (50%) or more of the Owners subject to this Agreement, in the exercise of their reasonable judgement, determine that the Road is in need of maintenance or repair, firm bids for the cost of the maintenance or repair shall be obtained and sent to each Owner. Within thirty (30) days following the mailing of the costs of repair, each Owner shall pay their proportionate share of the costs, computed in accordance with this Agreement. If the Owners of fifty percent (50%) or more of the parcels/properties object to the costs or to the determination of the need for maintenance or repair, all parties subject to this Agreement agree to arbitrate the issues presented pursuant to the arbitration provisions of Oregon Law, ORS Chapter 33, as may from time to time be modified or changed. The Owners shall appoint a single arbitrator, who shall be an individual who has been involved in real estate matters similar to the subject of this Agreement.

Each Owner shall contribute their proportionate share of the total costs of any repair or maintenance or upkeep of the Road unless otherwise provided.

Section 8. Lien for Cost of Repair

If an Owner fails to pay their share of the maintenance costs, the remaining Owners are granted a lien upon that Owner's property. The amount owed by the non-paying Owner shall bear interest at the rate of nine percent (9%) per annum and the remaining Owners may file suit to recover the amount owed or to foreclose the lien granted by this Agreement by judicial foreclosure.

Section 9. Costs of Suit

If any arbitration or suit of action is initiated to contest the use, maintenance or repair obligations contained herein or to collect amounts owed for the obligations or in a manner relating to this Agreement, the prevailing parties in the litigation or arbitration, including any subsequent proceedings from the arbitration award and including any appeal from the arbitration or court proceeding, shall be entitled to reasonable attorney fees and expert witness fees in addition to other reasonable costs of the suit or arbitration.

Section 10. Binding Effect

This Agreement shall run with the land described herein and shall bind and inure to the benefit of the Owners and their heirs, personal representatives, administrators, successors and assigns, and shall bind and inure to any future increases in parcels/properties by additional partition of the affected parcels/properties.

Section 11. Enforcement

This Agreement and the rights and burdens set forth herein this Agreement may be enforced at law or in equity through any available remedy by the owner of any parcel/property subject to this Agreement.

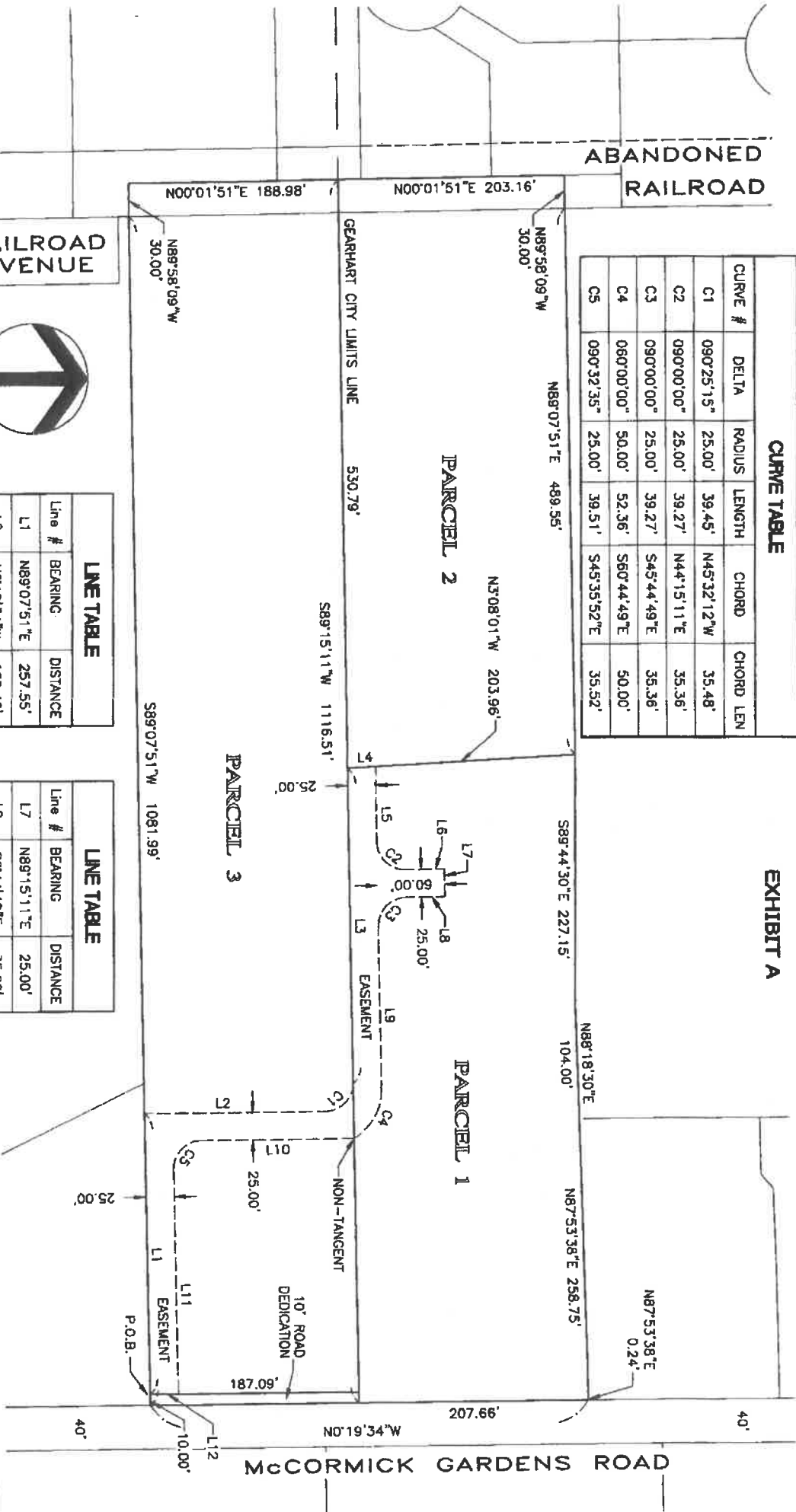
Section 12. Effect of the Sale of Property

Any grantee or contract vendee of any parcel or property subject to this Agreement shall, upon acquiring their interest in such parcel or property, be obligated by, subject to and have the rights detailed in this Agreement.

Section 13. Modification

EXHIBIT A

CURVE TABLE				
CURVE #	DELTA	RADIUS	LENGTH	CHORD
C1	090°25'15"	25.00'	39.45'	N45°32'12"W 35.48'
C2	090°00'00"	25.00'	39.27'	N44°15'11"E 35.36'
C3	090°00'00"	25.00'	39.27'	S45°44'49"E 35.36'
C4	060°00'00"	50.00'	52.36'	S60°44'49"E 50.00'
C5	090°32'35"	25.00'	39.51'	S45°35'52"E 35.52'



RAILROAD AVENUE



LINE TABLE

Line #	BEARING	DISTANCE
L1	N89°07'51"E	257.55'
L2	N0°19'34"W	162.46'
L3	S89°15'11"W	287.27'
L4	N3°08'01"W	25.02'
L5	N89°15'11"E	69.29'
L6	N0°44'49"W	35.00'

LINE TABLE

Line #	BEARING	DISTANCE
L7	N89°15'11"E	25.00'
L8	S0°44'49"E	35.00'
L9	N89°15'11"E	150.91'
L10	S0°19'34"E	137.35'
L11	N89°07'51"E	207.31'
L12	S0°19'34"E	25.00'

SGF Land Services

Date: 11/4/2020
 Proj No: 19-G198-01
 1725 N ROOSEVELT DR, STE B, SEASIDE, OR 97138
 (503) 738-3425
 www.sgflands.com
 info@sgflands.com

Dated this 21st day of December 2020.

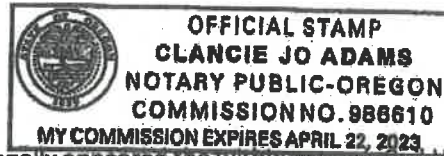
Gail Henrikson

Gail Henrikson, Director
Community Development

STATE OF OREGON)

County of Clatsop)

: ss



On the 21st day of December, 2020, personally appeared the within named, Gail Henrikson known to me to be the Director of Clatsop County Community Development, Clatsop County, Oregon, and acknowledged to me the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon: Clancie Jo Adams

My Commission Expires: 04-22-23

City of Gearhart Planning Commission

City File #20-01P/County File #186-20-000090

Carole Connell, AICP Gearhart City Planner

RE: Request for Continuance

March 9, 2021

The Banta Family is in receipt of the Conditions of Approval by the City of Gearhart Planning Commission in regards to the Banta land partition. We received this information on Friday, March 5, 2021 for the meeting scheduled for March 11, 2021. We appreciate the time and effort to review and develop this plan.

At this time, we need adequate time to review and address the conditions listed and would like to request a continuance on record to the next scheduled meeting of the planning committee. The additional time will give us a chance to review and investigate the conditions proposed. We estimate two to three weeks to evaluate and assess the conditions and then will present a proposal to the committee for review for the next scheduled meeting.

Again, we realize the time invested in this partition and look forward to an agreeable settlement. The family is appreciative of your time.

Thank you,

A handwritten signature in black ink, appearing to read "John Banta", written over a printed name.

John Banta

Executor Banta Estate

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Thursday, March 11, 2021 11:47 AM
To: Carole Connell; Cheryl Lund; Cheryl Lund
Subject: Continuance request

Good morning,

We Are looking for confirmation that you have received our continuance of record regarding the Banta land partition. Can you please send confirmation that it has been accepted , approved and will be on the next month's meeting schedule?

Thank you

Sent from Yahoo Mail on Android

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Tuesday, March 30, 2021 12:50 PM
To: Cheryl Lund; Cheryl Lund; Carole Connell
Subject: Meeting

Good afternoon,

The Banta family would like to request a one month extension for the planned April 8 meeting. We are still in the review process with all siblings and their input. Please confirm and let us know new date for May meeting.

Thank you again for your help and patience.

John & Jo Banta

Sent from Yahoo Mail on Android

Cheryl Lund

From: connellpc@comcast.net
Sent: Tuesday, March 30, 2021 1:42 PM
To: 'JOHN BANTA'; 'Cheryl Lund'; 'Cheryl Lund'
Cc: Chad Sweet
Subject: Banta Partition 2nd continuance request

John & Jo Banta,

Thank you for your correspondence requesting a second continuance of your partition application hearing until May 13, 2021. We understand the complexities of reaching consensus with multiple property owners.

But the City is now facing a legal deadline issue. Under state and city law, your application is required to result in a final city decision within 120 days of its being deemed complete. This includes the possibility of an appeal to the City Council of the pending Planning Commission decision. A final decision of your application is currently due by June 1, 2021. The loss of 60 days due to two continuances now makes it impossible for the City to meet the legal deadline.

Your legal remedy is to “waive” the 120-day decision requirement, which is not uncommon. This can be a simple written statement signed by the owners (or their representative). You can decide to waive the 120-day requirement indefinitely, or to a date certain such as August 1, which is 60 days from the original decision deadline of June 1, 2021, or longer.

Please feel free to contact me with any questions.

We’d appreciate your decision by Thursday of this week so we know how to proceed and can inform the Commissioners.

Sincerely,
Carole Connell, AICP
Gearhart City Planner

From: JOHN BANTA <bantajob@yahoo.com>
Sent: Tuesday, March 30, 2021 12:50 PM
To: Cheryl Lund <planning@ci.gearhart.or.us>; Cheryl Lund <planning@cityofgearhart.com>; Carole Connell <connellpc@comcast.net>
Subject: Meeting

Good afternoon,

The Banta family would like to request a one month extension for the planned April 8 meeting. We are still in the review process with all siblings and their input. Please confirm and let us know new date for May meeting.

Thank you again for your help and patience.

John & Jo Banta

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Tuesday, March 30, 2021 3:49 PM
To: Cheryl Lund; Cheryl Lund; Carole Connell
Subject: Banta property

Good afternoon,

In our request for continuance we ask to waive the running of 120-day clock for both the time spent in the previous requested continuance (28 days) and the current requested continuance (35 days) for a total of 63 days waived.

March 11, 2021 to April 8, 2021: 28 days

April 8, 2021 to May 13, 2021: 35 days

Thank you sincerely

John & Jo Banta

Sent from Yahoo Mail on Android

Cheryl Lund

From: carolina <connellpc@comcast.net> on behalf of carolina
Sent: Thursday, April 1, 2021 1:17 PM
To: Cheryl Lund
Subject: Re: Banta

Yes, both the original request and the specified 63 day extension in his and my follow up emails.
Thanks!

Get [Outlook for Android](#)

From: Cheryl Lund <planning@ci.gearhart.or.us>
Sent: Thursday, April 1, 2021, 12:24 PM
To: Carole Connell
Subject: Banta

Are you OK with the waiver via email?

If so I will forward both the letter requesting a continuance and the waiver

CL

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Thursday, April 8, 2021 1:28 PM
To: planning@ci.gearhart.or.us; Cheryl Lund
Subject: Re: Thursdays PC meeting

Cheryl,
We have not received the link for tonight's meeting yet. Just wanted to make sure we are on the list to be invited.

Thank you
Jo Banta

Sent from Yahoo Mail on Android

On Mon, Apr 5, 2021 at 1:00 PM, Cheryl Lund
<planning@ci.gearhart.or.us> wrote:

Good afternoon John – attached is a copy of the PC agenda for Thursday containing the link to the meeting. The link is also posted on the calendar at the city website [www.cityofgearhart.com /calendar](http://www.cityofgearhart.com/calendar). Your letter requesting a continuance and waiver is also posted and has been forwarded to the commissioners.

Sincerely

Cheryl Lund

planning@cityofgearhart.com

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Thursday, May 6, 2021 3:25 PM
To: Cheryl Lund; Cheryl Lund
Subject: Meeting

The Banta Family would like to request an extension to the June 2021 meeting. We are in the process of reevaluating and resubmitting.

Please confirm and thank you again for your time

Jo Banta

Sent from Yahoo Mail on Android

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Monday, May 10, 2021 10:22 AM
To: Cheryl Lund; Cheryl Lund
Subject: Fw: Meeting

Follow Up Flag: Follow up
Flag Status: Completed

Wanted to confirm you received this and extension to June meeting was granted.

Thank you

Jo Banta

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "JOHN BANTA" <bantajob@yahoo.com>
To: "Cheryl Lund" <planning@ci.gearhart.or.us>, "Cheryl Lund" <planning@cityofgearhart.com>
Sent: Thu, May 6, 2021 at 3:24 PM
Subject: Meeting

The Banta Family would like to request an extension to the June 2021 meeting. We are in the process of reevaluating and resubmitting.

Please confirm and thank you again for your time

Jo Banta

Sent from Yahoo Mail on Android

Cheryl Lund

From: connellpc@comcast.net
Sent: Tuesday, May 11, 2021 10:53 AM
To: 'Gini Dideum'; 'David Smith'; 'Russ Taggard'; 'Stephanie Dudley'; Terry Graff; 'sharon kloepfer'; 'Austin Tomlinson'
Cc: 'Krysti Ficker'; 'Chad Sweet'; Cheryl Lund
Subject: Banta Partition hearing has been postponed again

Commissioners,

I was informed yesterday afternoon by a brief text the applicant wants to postpone the hearing until June, and they may want to resubmit their plan. I replied OK, but they will need to extend or totally waive the 120-day rule and if they want to change the partition plan it will have to start over.

*Carole W. Connell, AICP
Gearhart City Planner
4626 SW Hewett Blvd.
Portland, OR 97221
503-297-6660; 971-227-0634 cell*

Cheryl Lund

From: connellpc@comcast.net
Sent: Sunday, May 23, 2021 4:51 PM
To: 'Cheryl Lund'
Subject: RE: Meeting

Not sure what to do with this!

From: Cheryl Lund <planning@ci.gearhart.or.us>
Sent: Sunday, May 23, 2021 4:16 PM
To: Carole Connell <connellpc@comcast.net>
Subject: FW: Meeting

Banta request for extension 5/6/21
CL

From: JOHN BANTA <bantajoib@yahoo.com>
Sent: Thursday, May 6, 2021 3:25 PM
To: Cheryl Lund <planning@ci.gearhart.or.us>; Cheryl Lund <planning@cityofgearhart.com>
Subject: Meeting

The Banta Family would like to request an extension to the June 2021 meeting. We are in the process of reevaluating and resubmitting.

Please confirm and thank you again for your time

Jo Banta

Sent from Yahoo Mail on Android

Cheryl Lund

From: JOHN BANTA <bantajob@yahoo.com> on behalf of JOHN BANTA
Sent: Wednesday, June 2, 2021 1:24 PM
To: Carole Connell; Cheryl Lund; Cheryl Lund
Subject: Fw: Message from "RNP5838790871CA"
Attachments: 20210601154012092.pdf

Good afternoon,

Please find the attached responses and requests regarding the Banta partition to the Gearhart Planning Commission. This meeting is scheduled for June 10th 2021.

We appreciate your patience and understanding for our delay and look forward to having discussions with you regarding the partition.

Thank you

John Banta

----- Forwarded Message -----

From: John Banta <john.banta@bldr.com>
To: JOHN BANTA <bantajob@yahoo.com>
Sent: Tuesday, June 1, 2021, 03:41:25 PM PDT
Subject: FW: Message from "RNP5838790871CA"

John Banta| Manager
84808 Frontage Rd Seaside, Oregon
Office: 503-738-9548| Mobile: 503-739-0368 | Fax: 503-738-0724
First.Last@BLDR.com | BLDR.com

-----Original Message-----

From: scanner.svc@bldr.com [mailto:scanner.svc@bldr.com]
Sent: Tuesday, June 01, 2021 3:40 PM
To: John Banta <john.banta@bldr.com>
Subject: Message from "RNP5838790871CA"

This E-mail was sent from "RNP5838790871CA" (MP 2555).

Scan Date: 06.01.2021 15:40:12 (-0700)
Queries to: scanner.svc@bldr.com

Page 5. Under findings regarding the improvement being required to McCormick Gardens Road. The Banta Family understood from the May 2020 meeting that Clatsop County had absolutely no intentions of improving McCormick Gardens Road to the standards you are requesting. If there are street improvements that will be done in the future to the entirety of McCormick Gardens Road and each landowner is required to improve their section of street frontage, at that time the owners of the Parcels would then make those improvements.

The discussion of the Railroad Avenue Path as well as McCormick Gardens Road projects continue on page 8 and 9 and we would like to reiterate our stance as above.

Page 11. Under findings regarding utilities as well as a fire hydrant. The Banta Family respectfully requests that a fire hydrant only be required if more than one (1) house be built on the Parcels in question. At this time, only one sibling intends to build a home on a parcel and the other two have no intention at this time of building. If in the future that changes, then the owners of the Parcels will install a fire hydrant to the city specifications.

Page 13. C. The Banta Family has proposed a name of the road off of McCormick Gardens Road serving Parcels 1, 2 and 3 be Banta Lane.

Page 13. 5. The Banta Family agrees that if more than 5 trees are planned to be removed, the applicant will first obtain a tree removal permit from the City.

Page 13. 6. The Banta Family agrees that surveyed monuments will be set according to ORS 92.060 and city specifications.

Cheryl Lund

From: connellpc@comcast.net
Sent: Wednesday, June 9, 2021 5:46 PM
To: 'Cheryl Lund'; 'Austin Tomlinson'; 'Chad Sweet - City Administrator'; 'David Smith'; 'Russ Taggard'; shkloepfer@gmail.com; 'Stephanie Dudley'; 'Terry Graff'; 'Virginia Dideum'
Cc: 'R.J. Marx'; 'JOHN BANTA'; 'Jack White'; connellpc@comcast.net
Subject: RE: Commission meeting link

Commissioners,

Regarding the Banta Partition hearing tomorrow night, we will not be discussing any access easement changes to the plan. The materials you received earlier today are about a possible access modification to the parcels outside the city in the county's jurisdiction. For the hearing, the partition sketch you have had since February illustrates a 25' access easement (not a public road) from McCormick Gardens Rd extending west and then north to serve city Parcels 2 & 3. It also provides access to the two adjoining county parcels to the north. This easement has been recorded. If the property owners decide to request access to the two county parcels be modified to come from the north side instead of from the city side, county approval will be required and will not appreciably affect the city easement, if at all.

I hope this helps settle any confusion you may have. In your preparation for the hearing, the original staff report and drawings remain unchanged.

Please feel free to contact me before the meeting.

Carole

From: Cheryl Lund <planning@ci.gearhart.or.us>
Sent: Wednesday, June 9, 2021 4:45 PM
To: Austin Tomlinson <austintomlinson@gmail.com>; Carole Connell <connellpc@comcast.net>; Chad Sweet - City Administrator <citymgr@ci.gearhart.or.us>; David Smith <rdsmith236@gmail.com>; Russ Taggard <nmt57@msn.com>; shkloepfer@gmail.com; Stephanie Dudley <2andsoshesaid@gmail.com>; Terry Graff <trygraff@aol.com>; Virginia Dideum <gdideum@hotmail.com>
Cc: R.J. Marx <rmarx@dailyastorian.com>; JOHN BANTA <bantajob@yahoo.com>; Jack White <jack.white@sflands.com>
Subject: Commissino meeting link

Attached is the link to connect to the commission meeting tomorrow night. You can also get the link information from the calendar.

<https://zoom.us/j/5037389385>

Only Planning Commission members and staff will be meeting in person in the council chambers.

See you tomorrow

Cheryl

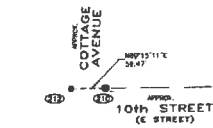
9/6/21

HORIZONTAL DATUM/BASIS OF BEARINGS

THIS SURVEY UTILIZES A LOW DISTORTION PROJECTION (LDP) GRID IS RELATIVE TO THE OREGON COORDINATE REFERENCE SYSTEM (ORCS) OF 1983 (CR11), WITH RESPECT TO THE LOCAL LATENCY AND GRADE DISTORTION. THE LDP COORDINATES DEFINE THESE ORCS OFFSETS.

OREGON COORDINATE REFERENCE SYSTEM
 OREGON COAST ZONE
 NORTH AMERICAN DATUM OF 1983/2011 (EPOCH 2014-2000)
 UNITS IN INTERNATIONAL FEET

THE LINE BETWEEN MONUMENTS 804 AND 804 BEARS NORTH 01°24'34" WEST.

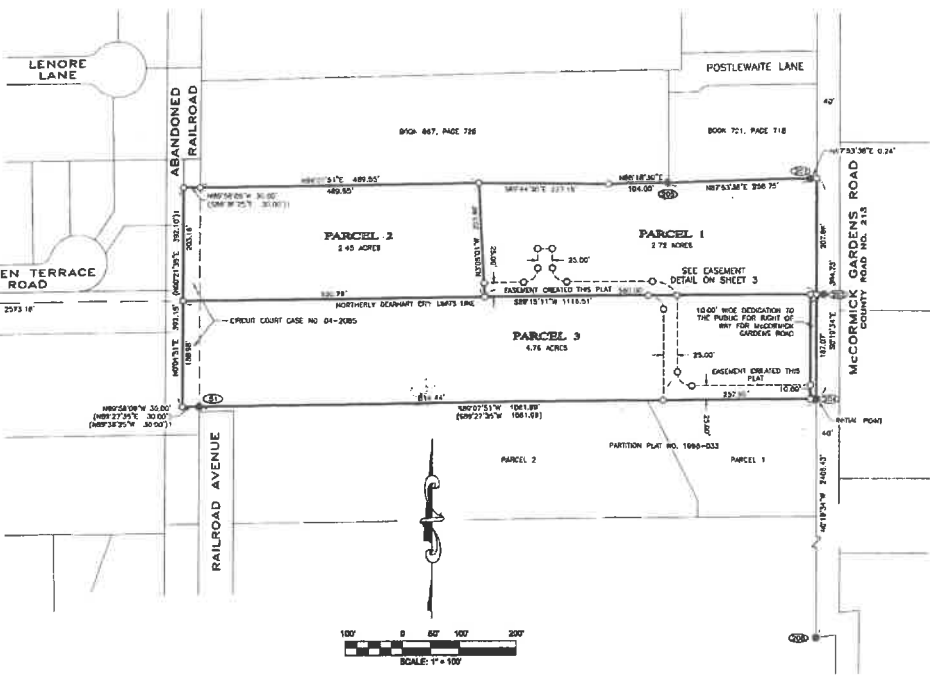


MONUMENT NOTES

- 1) FOUND 3/4" IRON PIPE WITH YELLOW PLASTIC CAP MARKED "1/2 4 ASSOC INC.", DOWN 0.1', SET ON PARTITION PLAT NO. 1988-033 HELD.
- 2) FOUND 8/8" IRON ROD, DOWN 0.1', MAY HAVE BEEN SET ON C.S. 1 AA-4938 RED POINT OF VERTICAL 0.5' DOWN.
- 3) FOUND 1/2" IRON PIPE, DOWN 0.5', OREGON UNIFORM SCAPS 1454037079 2 7/8 FROM MONUMENT 202.
- 4) FOUND 1" IRON PIPE, FLUSH SET ON C.S. 1 B-1235 HELD FOR CLEARHART CITY LIMIT LINE.
- 5) FOUND 3/4" IRON PIPE WITH YELLOW PLASTIC CAP MARKED "1/2 4 ASSOC INC.", DOWN 0.1', SET ON PARTITION PLAT NO. 1988-033 HELD.
- 6) FOUND 1/2" IRON PIPE, UP 0.75', SET ON C.S. 1 AA-1884 HELD FOR CONTROL.
- 7) FOUND 3/4" ALUMINUM CAP MARKED "1/2 1000 COUNTY BUREAU 804 FROM S&F NO. 810 S&F 42 15 2014 2014" SET ON B1 RECORD 1948.
- 8) FOUND 1" IRON PIPE, SET ON C.S. 1 B-1235 HELD FOR CLEARHART CITY LIMIT LINE. A FOUND 1-1/2" IRON PIPE WITH 1-3/4" HEAD, DOWN 0.4', OREGON UNIFORM SCAPS 1454037079 2 7/8.
- 9) FOUND 1" IRON PIPE, DOWN 0.5', SET ON C.S. 1 B-1235.

LEGEND

- FOUND MONUMENT AS DESCRIBED IN MONUMENT NOTES, HELD FOR CONTROL.
- FOUND MONUMENT AS DESCRIBED IN MONUMENT NOTES.
- SET 5/8" x 1/2" BEARING WITH YELLOW PLASTIC CAP MARKED "S&F LAND SERVICES"
- ① MONUMENT NUMBER
- 1) RECORD VALUE PER PARTITION PLAT NO. 1988-033
- 1) RECORD VALUE PER CLATSOP COUNTY CIRCUIT COURT CASE NO. 04-2080



PARTITION PLAT NO. 2020-020

SHEET 2 OF 3

S&F Land Services
 CHARLENE VANDOLIVER BEND BEARDE
 1710 S BROADWAY ST.
 STE. 9 SUITE 201
 TREAT, OR 97136

SURVEY FOR:
THE ESTATE OF JOHN A. BANTA, DECEASED
 THOSE TRACTS OF LAND DESCRIBED IN BOOK 792, PAGE 31 DEED RECORDED IN CLATSOP COUNTY AND IN CIRCUIT COURT CASE NO. 04-2080 SE 1/4 OF SECTION 3, T6N, R10W, W.M. CITY OF SEASIDE, CLATSOP COUNTY, OREGON

REGISTERED PROFESSIONAL LAND SURVEYOR
Jack L. Banta
 SEPTEMBER 24, 2018
 JACK L. BANTA II
 LICENSED
 NUMBER 479672

DATE	JOB NO.	FIELDS	REVISIONS	APPROVED
09/21/21	2020-020	1018-01-00-01	01	CL

Cheryl Lund

From: connellpc@comcast.net
Sent: Wednesday, June 9, 2021 2:48 PM
To: Cheryl Lund
Subject: FW: Banta partition
Attachments: Recorded Plat.pdf

Attached is the recorded plat for the first partition Banta 20-01P that was approved last year, just sent from Gail at the county.

I will be sending this to the PC soon to explain that despite the other emails we forwarded today, the access to the parcels will remain the same as is on the current application and on the attached recorded plat.

From: Gail Henrikson <ghenrikson@co.clatsop.or.us>
Sent: Wednesday, June 9, 2021 2:34 PM
To: 'connellpc@comcast.net' <connellpc@comcast.net>
Subject: RE: Banta partition

No, the entire easement has been recorded.

From: connellpc@comcast.net <connellpc@comcast.net>
Sent: Wednesday, June 9, 2021 9:10 AM
To: Gail Henrikson <ghenrikson@co.clatsop.or.us>
Subject: RE: Banta partition

I'm fine with the 25' easement and 14' surface built to county standards in the original location. I assume you prefer the county road standard for the portion across the City parcels too, right? I don't believe Gearhart has a gravel surface construction standard, except the fire code is 14' and think it makes sense to use the same county standard from McCormick G Rd. to the other parcels. Fire chief wants "no parking" signs on the road, unless there is sufficient width to accommodate vehicles.

Clarification – only the county portion of the easement has been recorded – right?

Thanks.

Carole

From: Gail Henrikson <ghenrikson@co.clatsop.or.us>
Sent: Tuesday, June 8, 2021 3:57 PM
To: 'connellpc@comcast.net' <connellpc@comcast.net>
Subject: FW: Banta partition

OK. Which way do you want to go with this?

From: Dean Keranen
Sent: Tuesday, June 8, 2021 3:20 PM
To: Gail Henrikson <ghenrikson@co.clatsop.or.us>
Cc: connellpc@comcast.net
Subject: Re: Banta partition

Hi Gail,

Thanks,

Dean
Clatsop County

From: JOHN BANTA <bantajob@yahoo.com>
Sent: Monday, June 7, 2021 12:35 PM
To: Gail Henrikson <ghenrikson@co.clatsop.or.us>; Dean Keranen <dkeranen@co.clatsop.or.us>
Subject: Fw: Banta partition

Sent from Yahoo Mail on Android

— Forwarded Message —

From: "Jack White" <jack.white@sflands.com>
To: "JOHN BANTA" <bantajob@yahoo.com>
Cc:
Sent: Mon, Jun 7, 2021 at 12:33 PM
Subject: Re: Banta partition

I don't know this for sure, since I am not a planner; but I think the best solution is to leave the existing easement in place and create a new easement. The goal of the new easement would be to provide access to the wetland property, which would hopefully eliminate the requirement to widen the existing easement. But all of that is up to the city/county planners.

Thanks -

Jack White, PLS



Oregon/Washington Coast

(m) 503-683-7872 (o) 503-738-3425 (f) 503-345-0328

jack.white@sflands.com - [LinkedIN](#)

www.sflands.com - [Youtube](#)

From: JOHN BANTA <bantajob@yahoo.com>
Sent: Monday, June 7, 2021 12:19 PM
To: Jack White <jack.white@sflands.com>
Subject: Fw: Banta partition

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Gail Henrikson" <ghenrikson@co.clatsop.or.us>
To: "JOHN BANTA" <bantajob@yahoo.com>, "Dean Keranen" <dkeranen@co.clatsop.or.us>

From: JOHN BANTA <bantajob@yahoo.com>
Sent: Monday, June 7, 2021 11:43 AM
To: Gail Henrikson <ghenrikson@co.clatsop.or.us>; Dean Keranen <dkeranen@co.clatsop.or.us>
Subject: Fw: Banta partition

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "Jack White" <jack.white@sflands.com>
To: "JOHN BANTA" <bantajob@yahoo.com>, "john.banta@bldr.com" <john.banta@bldr.com>
Cc:
Sent: Mon, Jun 7, 2021 at 11:41 AM
Subject: Re: Banta partition

I think if you send them this, and ask Dean to contact me if he has any questions, it should work. I think you have already done this, but also verify with the county that they won't require you to widen the existing easement if they approve this.

Thanks -

Jack White, PLS

<[image001.jpg](#)>

Oregon/Washington Coast

(m) 503-683-7872 (o) 503-738-3425 (f) 503-345-0328

jack.white@sflands.com - [LinkedIN](#)

Dean Keranen, PE

County Engineer

Clatsop County Public Works

1100 Olney Ave.

Astoria, Oregon 97103

Office: 503-325-8631

dkeranen@co.clatsop.or.us

From: Gail Henrikson
Sent: Monday, June 7, 2021 9:11 AM
To: 'JOHN BANTA' <bantajob@yahoo.com>
Cc: Dean Keranen <dkeranen@co.clatsop.or.us>
Subject: RE: Banta partition

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Subject: RE: Banta partition

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<image004.jpg>

<image006.jpg>

Well I think we just won this big

Sent from Yahoo Mail on Android

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From: "Gail Henrikson" <ghenrikson@co.clatsop.or.us>

To: "'bantajob@yahoo.com'" <bantajob@yahoo.com>

Cc:

Sent: Wed, Jun 2, 2021 at 10:59 AM

Subject: FW: Banta partition

Good morning, Mr. Banta.

See reply below from Public Works. Please let me know if you have any additional questions.

Thanks.

Gail

From: Terry Hendryx

Sent: Tuesday, June 1, 2021 4:25 PM

To: Gail Henrikson <ghenrikson@co.clatsop.or.us>; Dean Keranen <dkeranen@co.clatsop.or.us>

Subject: RE: Banta partition

Hi Gail,

No plans scheduled for widening or anything like that. Future chip seals will happen and maybe at some point we'll pave it, but the road is currently constrained by wetland for most of its' length.

TLH

800 Exchange Street, Suite 100

Astoria, OR 97103

503.325.8611

503.338.3666 Fax

ghenrikson@co.clatsop.or.us

www.co.clatsop.or.us

[Facebook](#)

COVID-19 AND LAND USE PLANNING: In order to protect the health of our employees, clients and the overall public, please be advised that **appointments are strongly encouraged**. Whenever possible **emails and virtual meetings are encouraged**. If you or anyone in your party is ill, coughing, or has a fever, please reschedule your meeting. We understand that this may be an inconvenience and we appreciate your cooperation in working to protect the health of our community.

Take our [customer satisfaction survey](#)

From: JOHN BANTA <bantaiojb@yahoo.com>
Sent: Sunday, May 23, 2021 10:21 AM
To: Clatsop Development <comdev@co.clatsop.or.us>
Subject: Banta partition

Hello,

My name is John Banta and I am the executor of my parents estate. We have been trying to divide out their property in Gearhart located on McCormick Gardens Road. At the May 2020 meeting with the Gearhart planning commission it was indicated by Victoria Sage that no improvements were slated to be

Cheryl Lund

*forwarded
6/7 to PC*

From: Gail Henrikson <ghenrikson@co.clatsop.or.us> on behalf of Gail Henrikson
Sent: Monday, June 7, 2021 11:33 AM
To: 'planning@ci.gearhart.or.us'; 'connellpc@comcast.net'
Subject: FW: Message from "RNP5838790871CA"
Attachments: 20210607102509640.pdf

Good morning.

Mr. Banta, who recently had partitions approved by both the County and City of Gearhart, is now proposing to create two separate entrances to the two partitions (see attached). As originally proposed, there was one road to serve both the city and the county parcels. The county also had that as a condition of approval.

I'm not sure how Gearhart would look at this and wanted to get your feedback. It might be a big enough change that we would re-notice the partition and collect public comment on the proposed revisions. Thoughts?

Thanks.

Gail

From: JOHN BANTA <bantajob@yahoo.com>
Sent: Monday, June 7, 2021 10:30 AM
To: Gail Henrikson <ghenrikson@co.clatsop.or.us>
Cc: Jack White <jack.white@sflands.com>
Subject: FW: Message from "RNP5838790871CA"

Gail,

Please see attached.

Thank you

Sent from Yahoo Mail on Android

----- Forwarded Message -----

From: "John Banta" <john.banta@bldr.com>
To: "JOHN BANTA" <bantajob@yahoo.com>
Cc:
Sent: Mon, Jun 7, 2021 at 10:26 AM
Subject: FW: Message from "RNP5838790871CA"

John Banta | Manager
84808 Frontage Rd Seaside, Oregon
Office: 503-738-9548 | Mobile: 503-739-0368 | Fax: 503-738-0724
First.Last@BLDR.com | BLDR.com

6/07/2021

Gail,

- ① The south easement on the south city property - we are requesting a 25' easement to those 3 city parcels.
- ② Requesting to add a 25' easement on the north side of the county property that would access Parcel 2.

Jack White of S & F Land
can get this plot proposal to you
today if you approve for final
approval.

John J. Barta

Cheryl Lund

Handwritten notes:
b/2012

From: Gail Henrikson <ghenrikson@co.clatsop.or.us> on behalf of Gail Henrikson
Sent: Monday, June 7, 2021 12:06 PM
To: 'JOHN BANTA'; Dean Keranen
Cc: Vance Swenson; 'connellpc@comcast.net'; 'planning@ci.gearhart.or.us'
Subject: RE: Banta partition

Mr. Banta.

Please note that the road changes have not yet been approved by either county planning or the City of Gearhart planning. I am checking with them to verify that they are OK with the proposed changes. Also, the easement is not shown on the approved and recorded plat, but the originally-proposed easement is. Are you now proposing to vacate the previously recorded easement?

Thank you.

Gail Henrikson, AICP, CFM, Director
Clatsop County Community Development
800 Exchange Street, Suite 100
Astoria, OR 97103
503.325.8611
503.338.3666 Fax
ghenrikson@co.clatsop.or.us
www.co.clatsop.or.us
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County Engineer

Clatsop County Public Works

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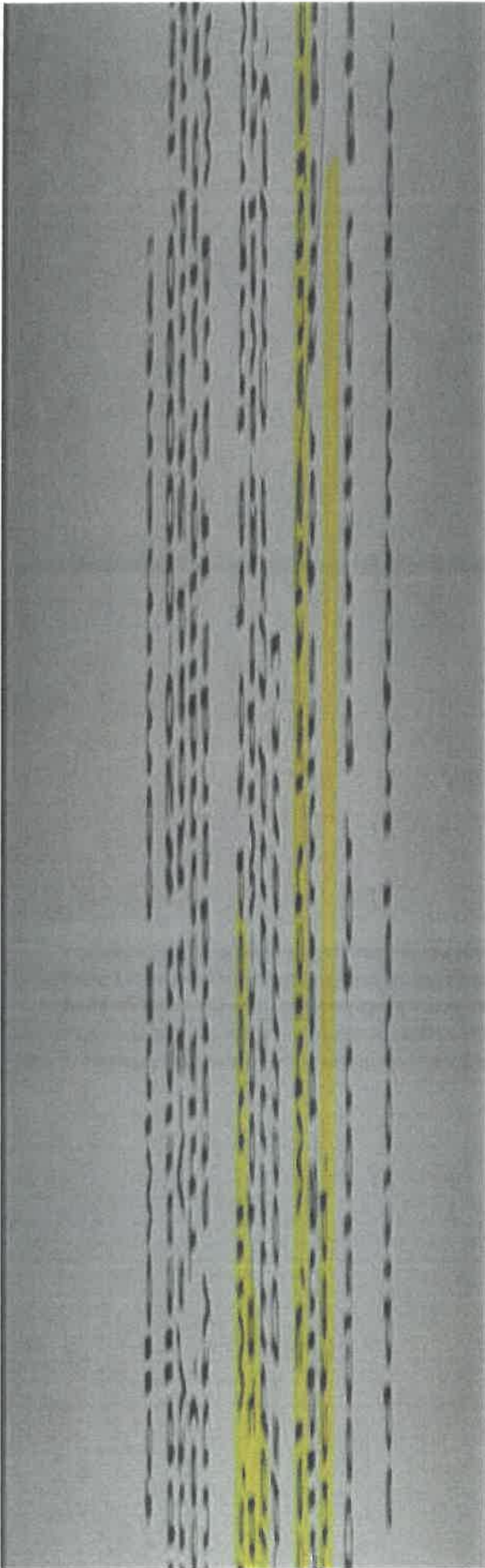
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**BEFORE THE PLANNING COMMISSION
OF THE CITY OF GEARHART**

IN THE MATTER OF A PERMIT FOR A TENTATIVE PARTITION PLAN)))	FINAL FINDINGS AND ORDER
---	-------------	-------------------------------------

APPROVAL of a Tentative Land Partition to divide one parcel into three parcels. The applicant is required to file for City approval of a Final Partition Plan within one year.

FILE NUMBER: File# 21-01P Banta

OWNER: John Banta
P.O. Box 2134
Seaside, Oregon 97138
503-738-3425

APPLICANT: Same as above

SURVEYOR: S&F Land Services
1725 N Roosevelt Drive Suite B
Seaside, OR 97138

LOCATION: 4.76 acres located at 1060 McCormick Gardens Road, map 6-10-03DB Tax Lot 802

- EXHIBITS:**
1. Applicant's land partition application form; Tentative Partition sketch, S&F Land Services 1-13-21
 2. LWI Wetland Inventory identification aerial
 3. Gearhart Transportation System Plan (TSP) street x-sections
 4. Gearhart City Administrator: Email 2-8-21 applicant to provide rear lot addresses visible from McCormick Gardens Road for emergency response.
 5. Gearhart Police Chief: Email no comment 2-22-21
 6. Gearhart Fire Department: Letter with comments and conditions dated 2-2-21 addressed in this report.
 7. Gearhart Public Works: Email 2-18-21 said developer must extend new water lines for each parcel to McCormick Gardens Road.

3. Site Characteristics: The parcel has no structures. Wetlands exist on a large portion of Parcels 2 & 3. West of the wetlands the land rises to the abandoned rail right-of-way.
4. Agency comments: The Clatsop County Planning Dept. provided comments to the City. In summary, the letter indicates the private driveway easement will now serve as the only access to a total of five parcels, versus the three parcels approved in 2020. Therefore, according to their standards, the easement must be widened to a minimum of 50 feet wide with an 18' wide gravel travel surface. The County's approval of the 2020 Banta partition required a recorded Road Maintenance Agreement (attached). The agreement includes the subject City parcel and is written to extend to subsequent owners if this partition is approved. The County required the road shall be constructed to county standards before issuance of any land use or building permits on any of the three parcels created in the 2020 decision. The City has the same requirement described herein.
5. Procedure: Approval of a land partition shall be in accordance with the application and procedural requirements of GZO Article 13 Administrative Provisions, the Gearhart Subdivision Ordinance, and the Gearhart Transportation System Plan (TSP). The City has followed the required application and hearing notice procedures to date. This report addresses the applicable Gearhart Subdivision and TSP provisions.

III. FINDINGS FOR APPLICABLE ZONE AND SUBDIVISION STANDARDS

A. GZO Section 3.0 Rural Agricultural RA

FINDINGS: The subject parcel is planned to be configured so that each parcel complies with the designated zone requirements of the City RA Zone one-acre minimum lot size, described in Section II. 1. above.

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) illustrates a general wetland boundary in the middle of Parcels 2 and 3. To the west the land rises above wetlands

The code requirement for the Shared-use Path denoted in the TSP Figure 7 on the west side of the property is now relevant by this land division because the is being divided for three new homesites. 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 right-of-way dedication to provide a north-south connection of the planned path for public recreation and access in this area.

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 an access easement is proposed to serve Parcel 2 and 3, as well as the two adjoining parcels in county jurisdiction. Therefore, applicable improvements are required.

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 or trail in the Transportation System Plan shall construct sidewalk or trail improvements in accordance with the standards of that plan. The improvements 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 that McCormick Gardens Road is a substandard street based on its TSP classification as a collector street serving the neighborhood on the east side of the highway (TSP project # C5). The McCormick Gardens Road street standards require a 60' ROW with a 24'- 34' of pavement and a shared path improvement on the east side of the street for bikes, peds and tsunami evacuation. The applicant is required to make the improvement on their half of the road.

In addition, the TSP figure 7 project #G-3 extends Railroad Avenue from Pacific Way to UGB as a collector street and/or a shared use path. The subject parcel can facilitate an important pedestrian connection for the area by extending a portion of the planned

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.

a. 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 three new home sites. A fee-in-lieu of the McCormick Gardens Road improvements may be applicable, as determined by the City Administrator.

Gearhart Subdivision Ordinance November 2017

D. Subdivision Ordinance Sections 23 – 36 Land Partitioning: These sections describe technical partition plat submittal 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 shall be made a condition of approval for this request.

E. 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 two identified improvement plans that affect the proposal:

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 40 – 45 feet dedicated to the city, or potentially by a public access easement to align with existing ROW to the south.

The TSP also identifies a shared use path for safe pedestrian and bicycle use on the east side of the planned McCormick Gardens Road collector street. The subject partition is on the west side and therefore not required to be included in their street improvement plan.

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 to provide for safe, reasonably direct and convenient pedestrian access and circulation at the time of a partition of the subject parcel. The City will determine the need for a standard 5' sidewalk improvement on the west side of the street.

F. Section 39 - Recreation and Utility Easements:

FINDINGS: The City finds the pedestrian trail on the west boundary of the parcel defined by the TSP will provide a safe public pathway for families living on the east side of the highway to recreate and walk to nearby services.

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, 2 & 3 are appropriately sized and shaped based on the constraints of lot depth and wetlands. Street frontage is provided by 187 feet of frontage on McCormick Gardens Road, and a private access easement for at least three landlocked parcels that will not have direct road frontage. The county road easement requirement shall be met because the easement also serves

- 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 and County find that road improvements, fire hydrant and utility installations are required to be constructed and approved by the Planning Commission prior to final plat approval per City specifications of Section 47 (1 – 5).

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 any building permits, including a fire hydrant.

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 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.

before issuance of any land use or building permits on any of the three parcels created in the city. The County's approval of the 2020 Banta partition included a Road Maintenance Agreement that has been recorded. The agreement applies to the subject City parcels and is written to extend to subsequent owners with approval of the final partition plan.

- c.) The rear parcels shall obtain a McCormick Gardens Road address. After final plat approval and in conjunction with a building permit request obtain city approval for the house numbers, sign specifications and installation of the sign where the private access road intersects with McCormick Gardens Road.
5. If more than 5 trees are planned to be removed, the applicant shall first obtain a tree removal permit from the City. 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. 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.
 7. The applicant shall install a city fire hydrant to serve the new parcels, in a location and per hydrant specifications approved by the Gearhart Fire Department prior to issuance of any building permits. Unless there is sufficient width to accommodate parking vehicles on the easement, "No Parking" signs shall be installed along the easement per fire code specifications.

This approval is valid for one year from the date this final decision was signed. Within that one year the Final Partition Plat shall be submitted to the City for Planning Commission approval. If necessary, the applicant may request that the City grant an extension to the one-year approval.

Signed: Virginia Dideum
Virginia Dideum, Planning Commission President

Date: 6/18/21

Date Mailed: 06/21/21

APPEAL

In accordance with the Gearhart Zoning Code Section 13.060 Appeals, the decision of the Planning Commission may be appealed to the City Council within 15 days of the date the final order is signed. The notice of appeal filed with the City shall contain the information outlined in Section 13.060(3).



CITY OF GEARHART

698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

June 10, 2021

MEMBERS: Virginia Dideum, Stephanie Dudley, Terry Graff, Sharon Kloepfer, David Smith, Russ Taggard and Austin Tomlinson.

STAFF: Carole Connell (online) Chad Sweet

Minutes

The regular meeting of the Gearhart Planning Commission for June 10, 2021 was called to order at 6:00 pm by President Virginia Dideum.

On **MOTION** by Tomlinson, 2nd by Taggard, the Consent Agenda for June 10, 2021, was unanimously approved. Said agenda approved the Minutes of May 13, 2021, and the financial Report of June 3, 2021.

STAFF REPORT

Sweet reported the 2021-2022 City budget is passed. Planning has been bolstered to help with some planning items for the fire station. City council has granted funds to begin the process for the new fire station like basic design, technical planning and Geotech work. Anticipation is information will be going to the Council during their August meeting.

Sweet thanked Taggard for his work on Duncan's Crossing. Today they finished work on the super structure in preparation for the walkway.

Connell reported the parks committee is moving along. They are preparing to put together policies and park improvement strategies. August 31st there will be a joint work session with planning commission and council to go over a draft plan. Deadline for the grant is October 1st. She anticipates the commission will have a public hearing at the September meeting.

COMMISSIONER REPORTS

Graff asked if there is a permitting process for the Piano in the Dunes concert in the park scheduled for August. Sweet reported there is not much in the way of criteria for approval, so the request was presented to the council and the mayor. Sweet worked with the company on parking and help for the event. Sweet noted for weddings and family reunions the park is open to the public without permitting. Smith asked if the ticket income was going all to the artist.

Sweet said tickets were being donated to the fire department to sell as a fundraiser and a portion of the ticket sales would be donated to the fire department.

John Banta said the property division was never meant to be a subdivision, it was left to the family as an inheritance. One family member wants to build on the front parcel, but he cannot tell if the west portions of the property will ever be built on.

Wetland delineation – he understands a delineation is only good for 5 years. He cannot tell if the property will be built on in five years, for the family to pay for a delineation on property that may not ever be built on. He is requesting the delineation be required at the time a permit is pulled.

McCormick Garden Road improvement – McCormick Garden Road is a lane and half wide with signs and trucks sitting along the side of the road. Making improvements for 180 to 190 feet would be more of a hazard to widen the road and put a sidewalk in, a limited improvement would not benefit anyone on that street and none of the neighbors want it. He asked if the requirement can be waived until there is actual improvement to the road. The family is okay with donating the 10 feet for future improvement.

Fire hydrant and Parking signs – the family agrees with the fire hydrant and installation condition when the first permit is pulled and the installation of parking signs.

Tree removal – family agrees with the tree removal condition.

Shared Use Path – the family is adamant they prefer not to do anything with Railroad Avenue for security reasons and trespassing. There are more and more homeless people in the area that would be very hard to police. It makes no sense for them to be the first to donate 188 feet of land that goes nowhere especially if the county has no interest in continuing the path and the neighbors have no interest in doing anything regarding the path. He is asking for forgiveness he would not want to do that to the neighbors. If it ever becomes something the family would be interested.

Connell reviewed the Banta comments and explained a deferral using a *waiver of re-monstrance* which is a legal document committing property owners to the street improvement and payment at the time a local improvement district is formed.

Banta said the family would be willing to sign the waiver for street improvements. Banta asked if the family signed the easement would the public be allowed on the property.

Connell said yes, it would be a public access way like a sidewalk.

Banta asked if someone were hurt on the property would the property owner be liable.

Connell said no, and it is a legal question that would be part of the resolution of the project when and if it ever gets built.

Banta asked the city to waive the pathway.

There were no proponents, no opponents, and no neutral comments. No applicant rebuttal.

The public hearing was closed at 7:07 pm.