



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

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)



CITY OF GEARHART

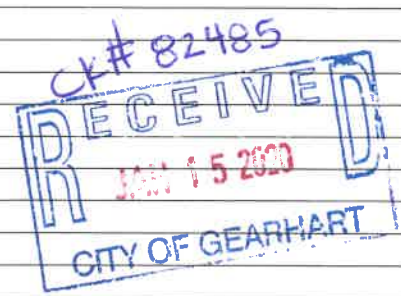
698 PACIFIC WAY • P.O. BOX 2510 • GEARHART, OREGON 97138
(503) 738-5501 • (503) FAX 738-9385

- APPLICATION FOR: 1. SUBDIVISION – FEE \$3,000 PLUS \$100 /LOT
2. LAND PARTITION – FEE \$2,000 PLUS \$100/LOT
3. EXPEDITED REVIEW– FEE \$2,000 PLUS \$100/LOT
(PER ORS 197.360)

APPLICANT John Banta APPLICATION FEE PD \$2300 CL

CURRENT ZONE RA

DETAILS AND REASONS FOR REQUEST: This is for taxlot 61003DB00802 which is parcel 3 of Partition Plat 2020-20 that was created last year to divide the original Banta property in to three parcels. Now the family would like to divide parcel three in to three parcels. Their is currently access to all three proposed parcels using the access easement that was created on Partition Plat 2020-20. The land is currently vacant and no construction is proposed at this time.

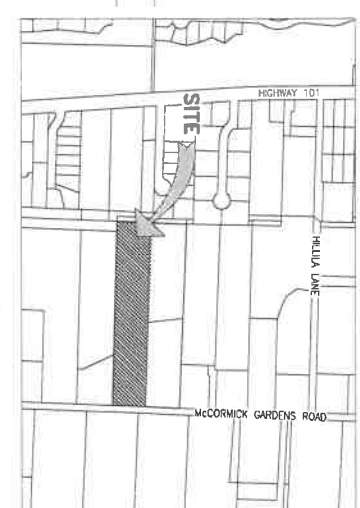
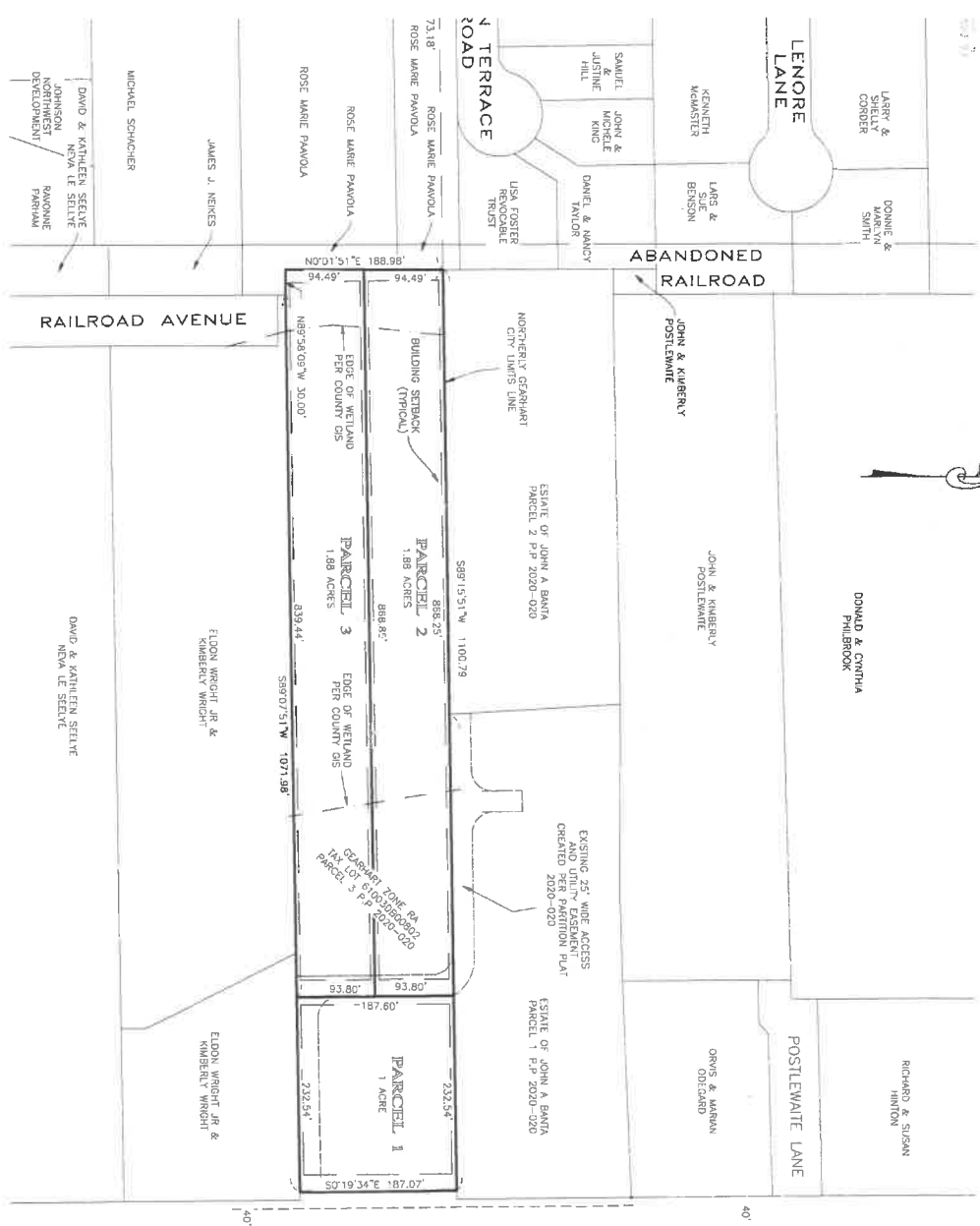


SUBMIT ALL DOCUMENTS AS REQUIRED BY THE SUBMISSION CHECK OFF SHEET.

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

TENTATIVE PARTITION PLAN

TAX LOT 81020080892
 CLATSOP COUNTY, OREGON



OWNER:
 ESTATE OF JOHN A. BANTA, DECEASED
 RUDOLF ANDERSON

PARTITIONER:
 JOHN S. BANTA
 PO BOX 2134
 SEASIDE, OR 97138
 503-719-5144

LEGAL DESCRIPTION:
 PARCEL 3 OF CLATSOP COUNTY PARTITION PLAT
 2020-020 INSTRUMENT NUMBER 202001384

Sgf Land Services
 PORTLAND, VANCOUVER, BEND, SEASIDE
 WWW.SGFANDS.COM
 JOB NO. FIELD OFFICE
 DATE: JUN 13, 2021

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
 OREGON
 SEPTEMBER 10, 2018
 JOHN S. BANTA
 9188P115
 RENEWS 6/20/22

Banta wetlands



Disclaimer: The information contained in this GIS application is NOT AUTHORITY and has NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. GIS applications are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land. They are intended as a location reference for planning, infrastructure management and general information only. The City of Gearhart assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application. The City of Gearhart provides this GIS map on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no liability for any errors, omissions, or inaccuracies in the information provided.

The Plan

Table I: 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

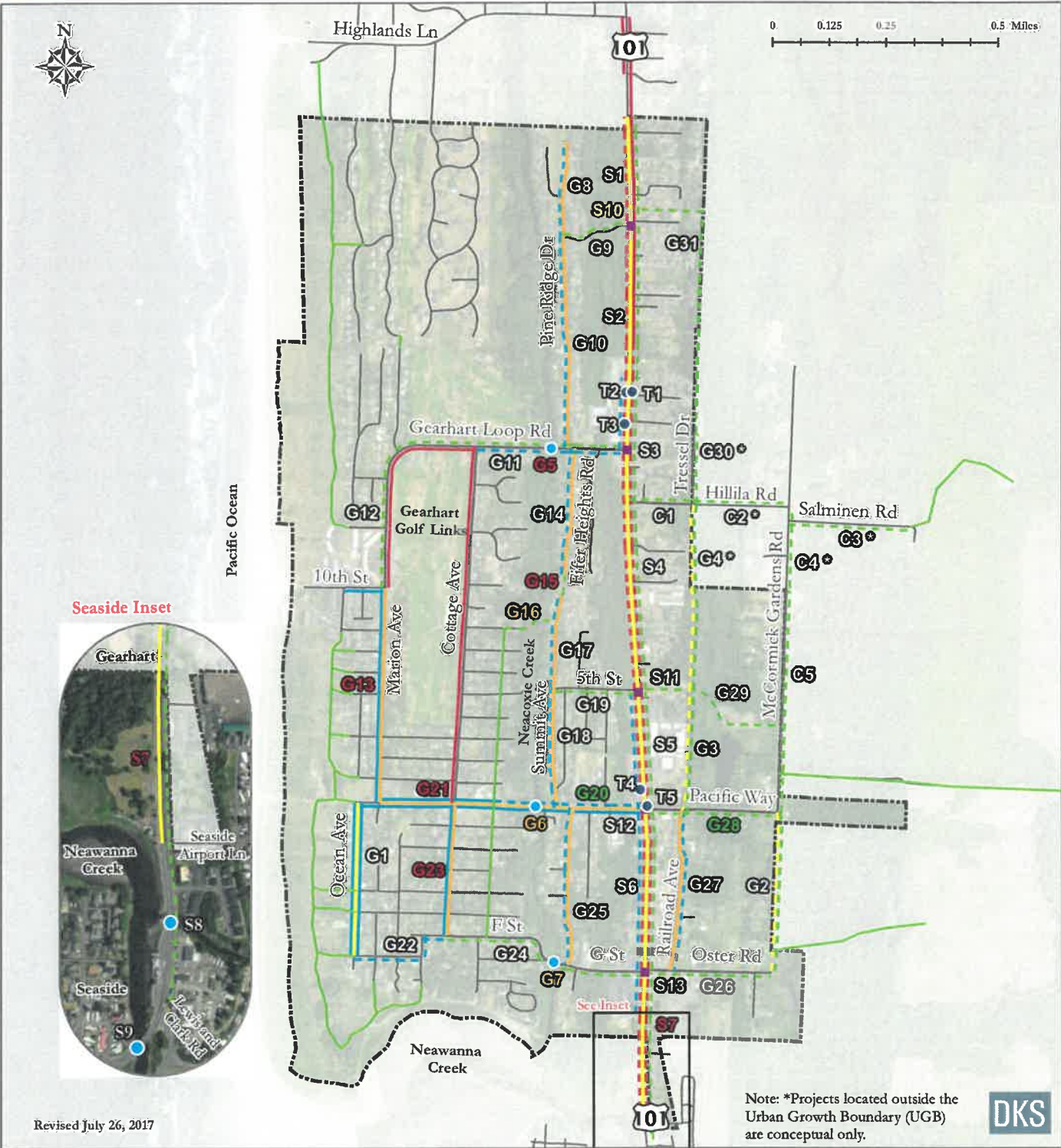
The Plan

Table 1: Financially Constrained and Aspirational Project List

Project ID	Project Description	Project Elements**	Project Purpose	Estimated Cost (2016 Dollars)	Primary Funding Source***	Package****
C4*	McCormick Gardens Road Improvements from Hillila Road to the UGB	Add pedestrian and bicycle improvements to McCormick Gardens Road from Hillila Road to the UGB, 0.15 miles south of Salminen Road (e.g., shared-use path on the east side). This project is located outside of the UGB.	Walking and biking facility gap; tsunami evacuation	\$515,000	County	4
C5	McCormick Gardens Road Improvements from Pacific Way to the UGB	Add pedestrian and bicycle improvements to McCormick Gardens Road from Pacific Way to the UGB, 0.15 miles south of Salminen Road (e.g., shared-use path on the east side).	Walking and biking facility gap; tsunami evacuation	\$1,670,000	County	4
Estimated Cost for all Walking and Biking Projects				\$25,420,000		
Transit Projects						
T1	Bus stop along northbound US 101 near Wild Rose Lane Upgrades	Upgrade amenities at the SETD bus stop along northbound US 101 near Wild Rose Lane, to include sheltered stops with seating, route information, bicycle parking, and improved lighting.	Transit facility improvements	\$50,000	City/SETD	4
T2	Bus stop along southbound US 101 near Wild Rose Lane Upgrades	Upgrade amenities at the SETD bus stop along southbound US 101 near Wild Rose Lane, to include sheltered stops with seating, route information, bicycle parking, and improved lighting. The NorthWest POINT bus stop along southbound US 101 near Cottonwood Lane should be relocated to this location (see project T3).	Transit facility improvements	\$50,000	City/SETD	4
T3	NorthWest POINT bus stop along southbound US 101 near Cottonwood Lane Relocation	Relocate the NorthWest POINT bus stop along southbound US 101 near Cottonwood Lane to share the location with the SETD bus stop along southbound US 101 near Wild Rose Lane.	Transit facility improvements	\$5,000	City/SETD	4

7

Planned TSP Investments



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:

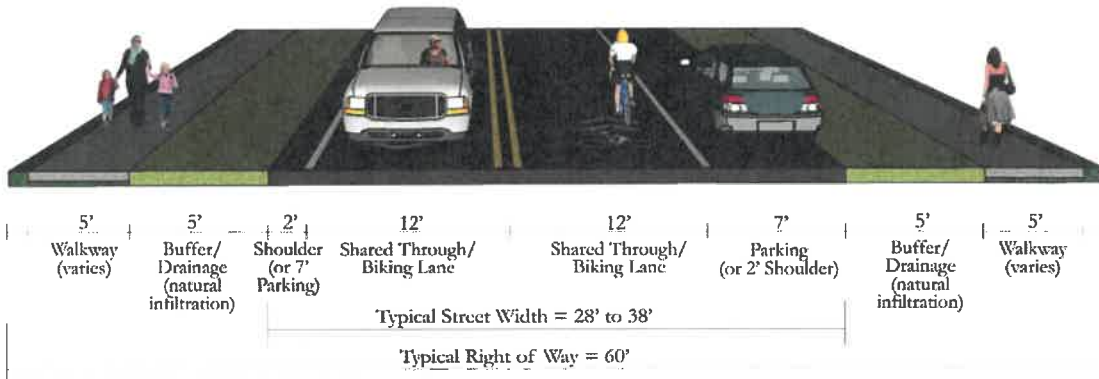
- | Existing | Planned |
|---------------------------------------|---|
| — | — Sidewalk |
| — | — Bike Lane or Shoulder
Bikeway (> 5 feet) |
| — | — Trails |
| — | — Planned Shared Street |

- 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

Figure 10: Collector Street

Designated Shared Street



Non-Designated Shared Street

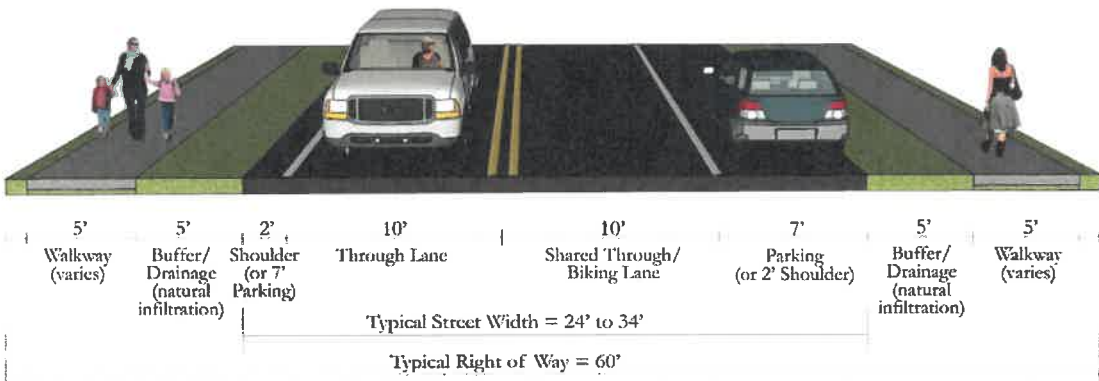
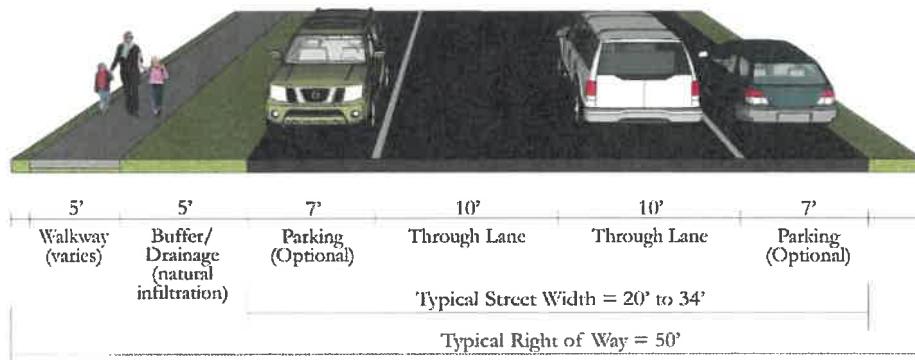


Figure 11: Local Street



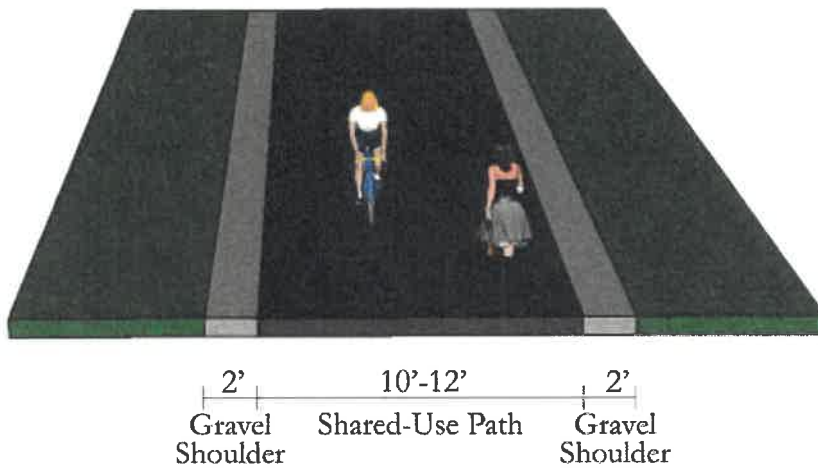
The Standards

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





Volunteer Fire Department

P.O. Box 2530/670 Pacific Way

Gearhart, Oregon 97138

503-738-7838 / 503-738-9385 (fax)

gearhartfd@cityofgearhart.com / gearhartfire.com (web)

February 2, 2021

Gearhart Planning Department
Carole Connell, City Planner
PO Box 2510
Gearhart, OR 97138

RE: Banta Land Partition
1060 McCormick Gardens Road
61003DB Tax Lot 802
Fire Department Access & Water Supply

Fire Department Access

All access roads shall meet OFC requirements (width, grade, surface, turning radii, curves, and turnarounds). Road access (driveways) to individual structures shall have an improved surface of no less than 14 feet; if greater than 150 feet from the main access road an area to safely turnaround a fire department apparatus shall be provided. When a road access services 2 or more structures "No Parking" signs shall be posted unless road width is sufficient width to accommodate parked vehicles (OFC 503.1.1), (OFCD103.6)

An Apparatus Turnaround shall be provided and approved by the Fire Chief. "NO PARKING" signs shall be installed; curbs and/or roadway in the Apparatus Turnaround shall be painted "NO PARKING FIRE LANE" at approved intervals (locations to be approved by the Fire Chief). (OFC 503.2.5), (OFC D103.6), (OFC 503.3)

If the main Access Road services 4 or more dwelling units, the Road Standard shall be A-20.

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

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

NOTICE OF DECISION
MAJOR PARTITION APPLICATION #20-000090

Date: June 30, 2020
Owners/Applicants: John S. Banta & Heirs of John A. Banta
Property Description: T6N, R10W, SEC. 03DB, TAX LOT 00800,
1060 McCormick Gardens Rd.
Request: Major Partition #186-20-000090
Action: **APPROVAL – With Conditions**

Dear Mr. Banta and the Heirs of John A. Banta,

The Community Development Department has completed review of the request cited above. This decision includes findings and conditions of approval, attached.

If you, or a party with standing, wish to appeal this decision, you may do so, up to the date and time appearing at the bottom of this letter. The appeal must comply with Section 2.230 of the Clatsop County Land and Water Development and Use Ordinance #80-14 (procedure for an appeal). This department will not issue development permits for any activities or structures until the 12-day appeal period has expired.

If you have any questions regarding this decision, appeal procedures or any of the conditions of approval, please contact me at (503) 325-8611.

Sincerely,

Gail Henrikson, Director
Community Development Department

Attachments: Conditions of Approval and Exhibits

LAST DAY TO APPEAL: July 13, 2020



Clatsop County

Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

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.

Please consult Clatsop County Public Works at (503) 325-8631, for specific requirements for construction of driveways and road approaches.

Public Works may charge a fee for the required inspection of road improvements.

Additional regulations, including, but not limited to, the following apply:

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.

7.



Clatsop County

Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

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

parcel in the unincorporated area of Clatsop County south of Astoria in the Clatsop Plains planning area (see map below). The proposed partition would divide the property known as T06N R10W, Sec. 03DB, Tax Lot 0800 (TL 0800) into three parcels to be shared amongst the inheritors of the family land. Proposed Parcels 1 and 2 are north of the City of Gearhart boundary line and are under the jurisdiction of Clatsop County. Proposed Parcel 3, which runs the east-west length of the property, is within the City of Gearhart limits and under their jurisdiction. The applicant has submitted a concurrent partition application with the City of Gearhart. The partition application to Clatsop County was deemed complete by Clatsop County Land Use Planning on March 12, 2020.

The portion of the property under the jurisdiction of Clatsop County is split-zoned Lake and Wetlands (LW) and Residential-Agriculture-1 (RA-1). In the RA-1 Zone, newly created parcels shall not exceed a 1:3 width-to-depth ratio. Because of this, the applicant has chosen to partition the 1,084-foot deep by 204-foot wide lot (approximate averages, resulting in a 1:5.3 W:D ratio) into two lots, based on zone lines, to meet the 1:3 ratio requirement.

PROPERTY STATUS

Tax Lot 800 was created by warranty deed recorded on December 20, 1945, when Sulo & Esther Rinne conveyed the parcel to Ernest E. & Edith F. Smith (Clatsop County Book of Deed Records, Book 182, Page 234). The southerly ten feet of the parcel was later conveyed by Melvin & Neva Koon to John M. & Martha S. Lindtner (County Deed Records Book 273, Page 354.)”

The same line which runs the east-west length of the property separating the City of Gearhart from Clatsop County also runs along the parcel as a tax code line. This portion of the boundary line has not changed since 1917 when it was the original boundary for the Town of Clatsop (now Gearhart). The parcel meets the County’s definition of “lot of record” (LWDUO §1.030 and ORS 92.176(1)(B)). According to Assessor records, the property is improved with a 1940-built house that is to be located on proposed Parcel 1.

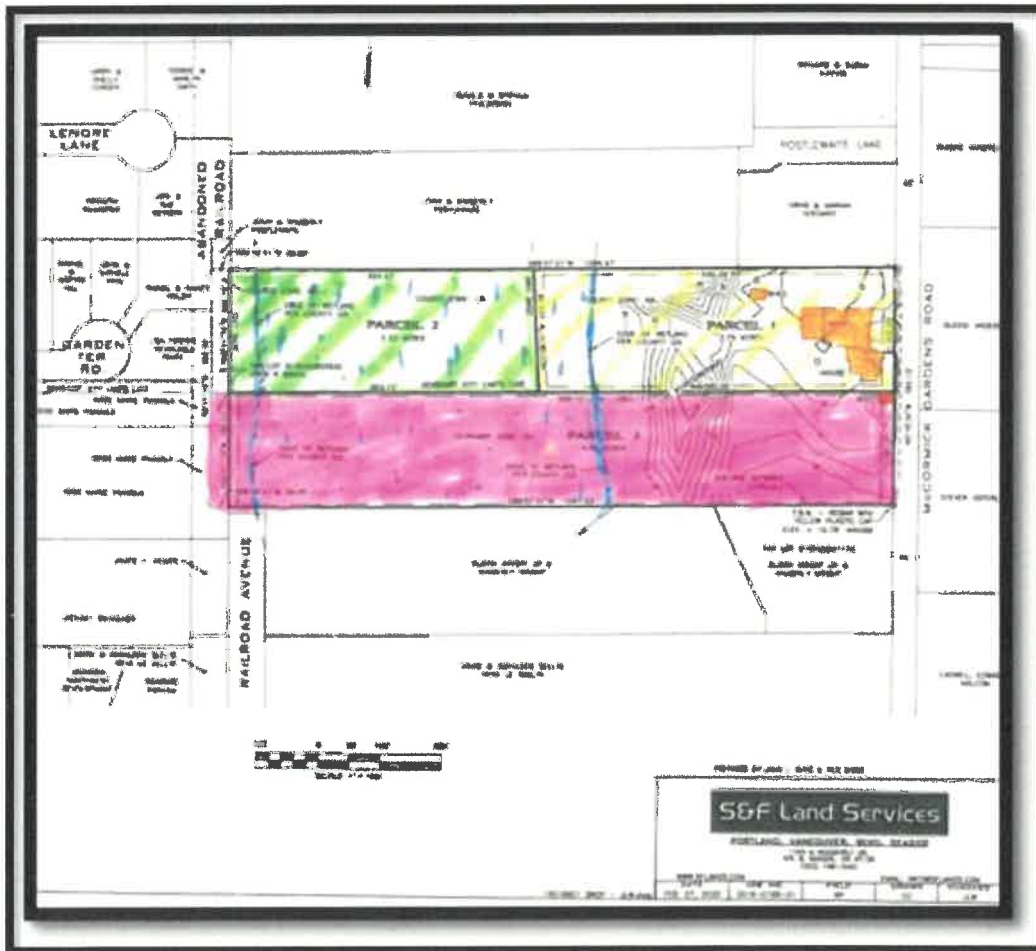
PROPERTY CONDITIONS

The site is occupied on its eastern end by the original 1940 single-family dwelling, and a newer large garage and shop has been placed to the north of the house. The front (eastern) portion of the property is dry, grassy upland, but wetlands are present on much of the west half of the parcel. West of the wetlands is the abandoned rail right-of-way which has a patchwork of either public or private ownerships. The applicant’s tax lot 900 was a segment of the prior railroad. Proposed Parcel 1 has septic, water, and public utilities already available and in use by the occupied residence at the site.

2020 ZONING AND NEIGHBORHOOD AERIAL



PROPOSED PARTITION PLAN



APPLICABLE CRITERIA

The applicable criteria for this land use application are listed below:

Clatsop County Land and Water Development and Use Ordinance 80-14

Section 1.010-1.050 Article 1 Introductory Provisions
Section 2.020 Type II Procedure
Section 2.115 Mailed Notice for a Type II Procedure
Section 2.120 Procedure for Mailed Notice
Section 3.180 Residential-Agriculture-1 Zone (RA-1)
Section 3.610 Lake and Wetlands Zone (LW)
Section 5.200 Subdivisions, Partitions and Property Line Adjustments

Standards Document 80-14:

Chapter 5. Vehicle Access Control and Circulation
Chapter 6. Road Standard Specifications for Design and Construction

Clatsop County Comprehensive Plan:

Clatsop Plains Community Plan
Goal 1: Citizen Involvement
Goal 2: Land Use Planning

APPLICATION EVALUATION

The following section examines the application versus the applicable criteria.

Clatsop County Land and Water Development and Use Ordinance 80-14 (LWDUO)

Section 1.030. Definitions

LOT AREA – The total area of a lot or tract of land exclusive of (1) public and county road rights-of-way, (2) bodies of water normally greater than 20% of the total lot area.

LOT DEPTH – The perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite lot line.

LOT WIDTH – The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines.

ROAD, PRIVATE - An improved travel surface placed within a private road easement that is intended to provide access from a state, county, or public road to one or more lots, parcels, areas or tracts of land and which is maintained by private funds for the exclusive use of private parties.

ARTICLE 2. PROCEDURES FOR LAND USE APPLICATIONS

Section 2.020. Type II Procedure.

SECTION 2.100 PUBLIC DELIBERATIONS AND HEARINGS

Section 2.115 Mailed Notice for a Type II Procedure

Section 2.120 Procedure for Mailed Notice

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.

Proposed Parcel 1 is entirely in the RA-1 Zone, where the minimum lot size is two acres, the minimum lot width is 125 feet, and where the lot width/depth dimension shall not exceed a 1:3 ratio. Proposed Parcel 1 will have an area of 2.75 acres, an average width of 204.5 feet wide, and an average depth of 585 feet, resulting in a width-to-depth ratio of 1:2.86. The RA-1 Zone requirements for minimum lot size, width, and width-to-depth ratio are satisfied. **A condition of approval shall require all proposed parcels to be surveyed and monumented, with documentation that each parcel meets the minimum lot size and width and does not exceed a 1:3 lot width-to-depth ratio.**

Setback standards are provided above for the applicant's reference in developing the lots with allowed uses in each zone. The RA-1 Zone requires a five-foot setback for all accessory structures from the side property line. According to the partition plat submitted for this application; there was an existing shed that has subsequently been removed. It was located on the proposed lot line of Parcel 3 and encroaching on the proposed boundary between Proposed Parcels 1 and 3, which would have created a building setback violation. **On June 9, 2020, the City of Gearhart sent confirmation to Clatsop County Community Development that the applicant removed the encroaching structure.**

The proposed partition satisfies the standards for the RA-1 Zone. Conditions of approval shall ensure the final configuration meets the standards. Refer to Conditions 1 through 4 page 10.

SECTION 5.200. SUBDIVISIONS, PARTITIONS AND PROPERTY LINE ADJUSTMENTS.

Section 5.202. Applicability.

Major Partitions -- occur when a tract of land is divided into no more than three (3) parcels, including the parent parcel, in a calendar year when such tract of land existed at the beginning of the year and any parcel has less than 25 feet of frontage on a state, county or public road. Any partition which requires the creation of a state, county or public or private road or the utilization of a private road is also considered a major partition. Both minor and major partitions shall be processed by the Director under a Type II procedure as outlined in Section 5.205 through 5.213 of this Ordinance.

STAFF FINDINGS and CONCLUSION: The applicant proposes to create three parcels which would take access from McCormick Gardens Road, a county road. Although the applicant has not proposed to establish an ingress, egress, and utility easement through Parcel 1 to provide access to proposed Parcel 2, this application is being processed as a Major Partition because an access easement and A-14-standard private road shall be required, as discussed later in this report. The subject property has not been involved in another partition within the calendar year, and the proposed parcels meet the minimum lot size, lot width, and lot width-to-depth ratio requirements, as documented above.

The application meets the definition of a major partition.

Section 5.207. General Standards for Minor and Major Partitions.

1) Standards for partitions in resource zones (as defined in Section 1.030):

(A) Minor Partitions in Resource Zones shall meet the following standards:

1) Road approach approval from the appropriate agency shall be demonstrated.

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

1) Standards in Section 5.205(1)(A)(1-3) above shall be met.

2)

(c) If a private road or easement is created or utilized, the easement shall meet the standards from the "Basic Major Partition Improvement Standards Table". Easements which bind all involved property owners and which specify the perpetual, non-exclusive nature of the roadway easement shall be signed and recorded with the County Clerk.

(2) Standards for Partitions in Non-Resource Zones (as defined in Section 1.030).

(A) Minor Partitions in All Zones other than Resource Zones shall meet the following standards:

- 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.

Pursuant to Section 5.207(2)(B)(2)(D), the road improvements shall meet the applicable road standards from Section S6.000 of the Standards Document.

The County shall only require access to the other parcel within its jurisdiction, Proposed Parcel 2, but if in the future the applicant proposes to utilize this easement to access additional parcels created in the City boundary, **the road and easement standard must be increased to an appropriate size as required in S6.170.** Under the zoning criteria for the City of Gearhart, Proposed Parcel 3 has the potential to be divided into four one-acre lots.

A development restriction may be recorded on the involved parcels to require 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. The restriction may be removed upon completion of the road improvements prior to the sale of the parcels or prior to the issuance of any development permit involving the partitioned parcel. Public Works may charge a fee to inspect the road. Alternately, road improvements shall be completed prior to approval of the final partition plat

Proposed Parcel 2 is entirely in the Lake and Wetlands Zone and is mostly in the Statewide Wetlands Inventory (SWI), except for a small piece at the western end where it abuts neighboring TL0900. The wetland area is also in the Zone A of the Flood Hazard Overlay. This wetland area continues easterly onto a portion of Proposed Parcel 1 and continues for approximately 120 feet from the proposed property boundary with Parcel 2 (as measured on Clatsop County's WebMaps program). Work in or near the SWI may require additional permits and review from the Department of State Lands, and a Grading, Drainage, and Erosion Control Review will be required from Clatsop County.

Conditions of approval shall require the applicant to complete access and road improvement standards or request a development restriction. (Refer to Conditions 5 and 6, page 10, and Regulation 3, pages 10-11.)

AGENCY COMMENT

City of Gearhart, Carole Connell, Planner:

In regards to the subject land division which straddles the Gearhart City limits, the City provides the following comments for County consideration:

"The Gearhart Planning Commission will tentatively hear this matter on May 14, 2020. The City and County decisions are dependent upon each other. Therefore please include a condition of approval that the County decision is subject to the City's approval.

It is the City's opinion that Parcel 2 should be eliminated and remain part of Parcel 1 due to the natural resource wetland zone designation on the majority of Parcel 2. However, if Parcel 2 is created an access and utility easement shall be provided from McCormick Gardens Road across the south property line of Parcel 1 to Parcel 2.

The City finds the existing shed located on the proposed lot line of Parcel 3 creates a building setback violation, therefore an approval decision should include a condition that the shed be relocated or removed prior to final plat approval.

The Gearhart Transportation System Plan (TSP) identifies future public access improvements on the property. Project #G3 a planned local street and project #G31 is a planned ped/bike path extension of Railroad Avenue from Pacific Way north to Park Lane. Railroad Avenue ROW is currently within 10 feet of the subject Parcel 3's southern property line. TSP improvements on affected land outside the UGB is considered to be conceptual. The City's narrowest local street standard for residential land is 45' of right-of-way. The City requests the County require a street right-of-way dedication to the City of Tax Lot 900, a

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)

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.

Please consult Clatsop County Public Works at (503) 325-8631, for specific requirements for construction of driveways and road approaches.

Public Works may charge a fee for the required inspection of road improvements.

Additional regulations, including, but not limited to, the following apply:

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.



Clatsop County
Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

February 19, 2021

Cheryl Lund
City of Gearhart Planning Department
P. O. Box 2510
Gearhart, OR 97138

RE: BANTA PARTITION / 1060 MCCORMICK GARDENS ROAD

Dear Ms. Lund:

Clatsop County has reviewed the proposed partition and has the following comments:

- (1) The Clatsop County Notice of Decision for partition plat application #20-00090, issued June 30, 2020, required a road designed to meet the County's A-14 Road Standard (25-foot wide easement and 14-foot-wide gravel travel surface). This condition also states that the road must be improved to meet the required County standards if and when any future parcels are developed in the City of Gearhart.

The easement, which will now serve a total of five parcels, will need to be improved to a County A-20 Road Standards (50-foot-wide easement and 18-foot-wide gravel travel surface (Section 3.9850, Table 3.2, *Land and Water Development and Use Code*). [Note: This was formerly Section 6.170, Clatsop County *Standards Document*.]

There is also a recorded development restriction on Parcel 3, which is the subject of this application. The County will not issue any land use or building permits for the parcels until the road, meeting the required standards, is constructed.

- (2) All other conditions of approval noted on the Notice of Decision for partition plat application #20-00090, continue to apply.

Please contact me if you have any questions or if you need any additional information.

Sincerely,

Gail Henrikson, AICP, CFM

Community Development Director



Clatsop County
Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

Cc: Case File #20-000090

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



Clatsop County
Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

NOTICE OF DECISION
MAJOR PARTITION APPLICATION #20-000090

Date: June 30, 2020
Owners/Applicants: John S. Banta & Heirs of John A. Banta
Property Description: T6N, R10W, SEC. 03DB, TAX LOT 00800,
1060 McCormick Gardens Rd.
Request: Major Partition #186-20-000090
Action: **APPROVAL - With Conditions**

Dear Mr. Banta and the Heirs of John A. Banta,

The Community Development Department has completed review of the request cited above. This decision includes findings and conditions of approval, attached.

If you, or a party with standing, wish to appeal this decision, you may do so, up to the date and time appearing at the bottom of this letter. The appeal must comply with Section 2.230 of the Clatsop County Land and Water Development and Use Ordinance #80-14 (procedure for an appeal). This department will not issue development permits for any activities or structures until the 12-day appeal period has expired.

If you have any questions regarding this decision, appeal procedures or any of the conditions of approval, please contact me at (503) 325-8611.

Sincerely,

Gail Henrikson, Director
Community Development Department

Attachments: Conditions of Approval and Exhibits

LAST DAY TO APPEAL: July 13, 2020



Clatsop County

Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

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.

Please consult Clatsop County Public Works at (503) 325-8631, for specific requirements for construction of driveways and road approaches.

Public Works may charge a fee for the required inspection of road improvements.

Additional regulations, including, but not limited to, the following apply:

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.

7.



Clatsop County

Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

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

parcel in the unincorporated area of Clatsop County south of Astoria in the Clatsop Plains planning area (see map below). The proposed partition would divide the property known as T06N R10W, Sec. 03DB, Tax Lot 0800 (TL 0800) into three parcels to be shared amongst the inheritors of the family land. Proposed Parcels 1 and 2 are north of the City of Gearhart boundary line and are under the jurisdiction of Clatsop County. Proposed Parcel 3, which runs the east-west length of the property, is within the City of Gearhart limits and under their jurisdiction. The applicant has submitted a concurrent partition application with the City of Gearhart. The partition application to Clatsop County was deemed complete by Clatsop County Land Use Planning on March 12, 2020.

The portion of the property under the jurisdiction of Clatsop County is split-zoned Lake and Wetlands (LW) and Residential-Agriculture-1 (RA-1). In the RA-1 Zone, newly created parcels shall not exceed a 1:3 width-to-depth ratio. Because of this, the applicant has chosen to partition the 1,084-foot deep by 204-foot wide lot (approximate averages, resulting in a 1:5.3 W:D ratio) into two lots, based on zone lines, to meet the 1:3 ratio requirement.

PROPERTY STATUS

Tax Lot 800 was created by warranty deed recorded on December 20, 1945, when Sulo & Esther Rinne conveyed the parcel to Ernest E. & Edith F. Smith (Clatsop County Book of Deed Records, Book 182, Page 234). The southerly ten feet of the parcel was later conveyed by Melvin & Neva Koon to John M. & Martha S. Lindtner (County Deed Records Book 273, Page 354.)”

The same line which runs the east-west length of the property separating the City of Gearhart from Clatsop County also runs along the parcel as a tax code line. This portion of the boundary line has not changed since 1917 when it was the original boundary for the Town of Clatsop (now Gearhart). The parcel meets the County’s definition of “lot of record” (LWDUO §1.030 and ORS 92.176(1)(B)). According to Assessor records, the property is improved with a 1940-built house that is to be located on proposed Parcel 1.

PROPERTY CONDITIONS

The site is occupied on its eastern end by the original 1940 single-family dwelling, and a newer large garage and shop has been placed to the north of the house. The front (eastern) portion of the property is dry, grassy upland, but wetlands are present on much of the west half of the parcel. West of the wetlands is the abandoned rail right-of-way which has a patchwork of either public or private ownerships. The applicant’s tax lot 900 was a segment of the prior railroad. Proposed Parcel 1 has septic, water, and public utilities already available and in use by the occupied residence at the site.

2020 ZONING AND NEIGHBORHOOD AERIAL



PROPOSED PARTITION PLAN



APPLICABLE CRITERIA

The applicable criteria for this land use application are listed below:

Clatsop County Land and Water Development and Use Ordinance 80-14

- Section 1.010-1.050 Article 1 Introductory Provisions
- Section 2.020 Type II Procedure
- Section 2.115 Mailed Notice for a Type II Procedure
- Section 2.120 Procedure for Mailed Notice
- Section 3.180 Residential-Agriculture-1 Zone (RA-1)
- Section 3.610 Lake and Wetlands Zone (LW)
- Section 5.200 Subdivisions, Partitions and Property Line Adjustments

Standards Document 80-14:

- Chapter 5. Vehicle Access Control and Circulation
- Chapter 6. Road Standard Specifications for Design and Construction

Clatsop County Comprehensive Plan:

- Clatsop Plains Community Plan
- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning

APPLICATION EVALUATION

The following section examines the application versus the applicable criteria.

Clatsop County Land and Water Development and Use Ordinance 80-14 (LWDUO)

Section 1.030. Definitions

LOT AREA – The total area of a lot or tract of land exclusive of (1) public and county road rights-of-way, (2) bodies of water normally greater than 20% of the total lot area.

LOT DEPTH – The perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite lot line.

LOT WIDTH – The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot lines.

ROAD, PRIVATE - An improved travel surface placed within a private road easement that is intended to provide access from a state, county, or public road to one or more lots, parcels, areas or tracts of land and which is maintained by private funds for the exclusive use of private parties.

ARTICLE 2. PROCEDURES FOR LAND USE APPLICATIONS

Section 2.020. Type II Procedure.

SECTION 2.100 PUBLIC DELIBERATIONS AND HEARINGS

Section 2.115 Mailed Notice for a Type II Procedure

Section 2.120 Procedure for Mailed Notice

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.

Proposed Parcel 1 is entirely in the RA-1 Zone, where the minimum lot size is two acres, the minimum lot width is 125 feet, and where the lot width/depth dimension shall not exceed a 1:3 ratio. Proposed Parcel 1 will have an area of 2.75 acres, an average width of 204.5 feet wide, and an average depth of 585 feet, resulting in a width-to-depth ratio of 1:2.86. The RA-1 Zone requirements for minimum lot size, width, and width-to-depth ratio are satisfied. **A condition of approval shall require all proposed parcels to be surveyed and monumented, with documentation that each parcel meets the minimum lot size and width and does not exceed a 1:3 lot width-to-depth ratio.**

Setback standards are provided above for the applicant's reference in developing the lots with allowed uses in each zone. The RA-1 Zone requires a five-foot setback for all accessory structures from the side property line. According to the partition plat submitted for this application, there was an existing shed that has subsequently been removed. It was located on the proposed lot line of Parcel 3 and encroaching on the proposed boundary between Proposed Parcels 1 and 3, which would have created a building setback violation. **On June 9, 2020, the City of Gearhart sent confirmation to Clatsop County Community Development that the applicant removed the encroaching structure.**

The proposed partition satisfies the standards for the RA-1 Zone. Conditions of approval shall ensure the final configuration meets the standards. Refer to Conditions 1 through 4 page 10.

SECTION 5.200. SUBDIVISIONS, PARTITIONS AND PROPERTY LINE ADJUSTMENTS.

Section 5.202. Applicability.

Major Partitions -- occur when a tract of land is divided into no more than three (3) parcels, including the parent parcel, in a calendar year when such tract of land existed at the beginning of the year and any parcel has less than 25 feet of frontage on a state, county or public road. Any partition which requires the creation of a state, county or public or private road or the utilization of a private road is also considered a major partition. Both minor and major partitions shall be processed by the Director under a Type II procedure as outlined in Section 5.205 through 5.213 of this Ordinance.

STAFF FINDINGS and CONCLUSION: The applicant proposes to create three parcels which would take access from McCormick Gardens Road, a county road. Although the applicant has not proposed to establish an ingress, egress, and utility easement through Parcel 1 to provide access to proposed Parcel 2, this application is being processed as a Major Partition because an access easement and A-14-standard private road shall be required, as discussed later in this report. The subject property has not been involved in another partition within the calendar year, and the proposed parcels meet the minimum lot size, lot width, and lot width-to-depth ratio requirements, as documented above.

The application meets the definition of a major partition.

Section 5.207. General Standards for Minor and Major Partitions.

- 1) Standards for partitions in resource zones (as defined in Section 1.030):
 - (A) Minor Partitions in Resource Zones shall meet the following standards:
 - 1) Road approach approval from the appropriate agency shall be demonstrated.
 - (B) Major Partitions in Resource Zones shall meet the following standards:
 - 1) Standards in Section 5.205(1)(A)(1-3) above shall be met.
 - 2)
 - (c) If a private road or easement is created or utilized, the easement shall meet the standards from the "Basic Major Partition Improvement Standards Table". Easements which bind all involved property owners and which specify the perpetual, non-exclusive nature of the roadway easement shall be signed and recorded with the County Clerk.
- (2) Standards for Partitions in Non-Resource Zones (as defined in Section 1.030).
 - (A) Minor Partitions in All Zones other than Resource Zones shall meet the following standards:

- 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.

Pursuant to Section 5.207(2)(B)(2)(D), the road improvements shall meet the applicable road standards from Section S6.000 of the Standards Document.

The County shall only require access to the other parcel within its jurisdiction, Proposed Parcel 2, but if in the future the applicant proposes to utilize this easement to access additional parcels created in the City boundary, **the road and easement standard must be increased to an appropriate size as required in S6.170.** Under the zoning criteria for the City of Gearhart, Proposed Parcel 3 has the potential to be divided into four one-acre lots.

A development restriction may be recorded on the involved parcels to require 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. The restriction may be removed upon completion of the road improvements prior to the sale of the parcels or prior to the issuance of any development permit involving the partitioned parcel. Public Works may charge a fee to inspect the road. Alternately, road improvements shall be completed prior to approval of the final partition plat

Proposed Parcel 2 is entirely in the Lake and Wetlands Zone and is mostly in the Statewide Wetlands Inventory (SWI), except for a small piece at the western end where it abuts neighboring TL0900. The wetland area is also in the Zone A of the Flood Hazard Overlay. This wetland area continues easterly onto a portion of Proposed Parcel 1 and continues for approximately 120 feet from the proposed property boundary with Parcel 2 (as measured on Clatsop County's WebMaps program). Work in or near the SWI may require additional permits and review from the Department of State Lands, and a Grading, Drainage, and Erosion Control Review will be required from Clatsop County.

Conditions of approval shall require the applicant to complete access and road improvement standards or request a development restriction. (Refer to Conditions 5 and 6, page 10, and Regulation 3, pages 10-11.)

AGENCY COMMENT

City of Gearhart, Carole Connell, Planner:

In regards to the subject land division which straddles the Gearhart City limits, the City provides the following comments for County consideration:

"The Gearhart Planning Commission will tentatively hear this matter on May 14, 2020. The City and County decisions are dependent upon each other. Therefore please include a condition of approval that the County decision is subject to the City's approval.

It is the City's opinion that Parcel 2 should be eliminated and remain part of Parcel 1 due to the natural resource wetland zone designation on the majority of Parcel 2. However, if Parcel 2 is created an access and utility easement shall be provided from McCormick Gardens Road across the south property line of Parcel 1 to Parcel 2.

The City finds the existing shed located on the proposed lot line of Parcel 3 creates a building setback violation, therefore an approval decision should include a condition that the shed be relocated or removed prior to final plat approval.

The Gearhart Transportation System Plan (TSP) identifies future public access improvements on the property. Project #G3 a planned local street and project #G31 is a planned ped/bike path extension of Railroad Avenue from Pacific Way north to Park Lane. Railroad Avenue ROW is currently within 10 feet of the subject Parcel 3's southern property line. TSP improvements on affected land outside the UGB is considered to be conceptual. The City's narrowest local street standard for residential land is 45' of right-of-way. The City requests the County require a street right-of-way dedication to the City of Tax Lot 900, a

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)

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.

Please consult Clatsop County Public Works at (503) 325-8631, for specific requirements for construction of driveways and road approaches.

Public Works may charge a fee for the required inspection of road improvements.

Additional regulations, including, but not limited to, the following apply:

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.



Recording Instrument #: 202011386
Recorded By: Clatsop County Clerk
of Pages: 4 Fee: 102.00
Transaction date: 12/21/2020 14:04:54
Deputy: tkrevanka

After Recording Return to:
Campbell & Popkin, LLC
1580 N. Roosevelt Drive
Seaside, OR 97138

ROAD MAINTENANCE AGREEMENT (Partition Plat 2020- 20)

Section 1. Description of Property Containing Road

John S. Banta, in his capacity as personal representative of the Estate of John A. Banta, Clatsop County Circuit Court Case No. 19PB07036 (hereafter "PR"), has partitioned the Estate's property formerly located at 1060 McCormick Gardens Road, Gearhart, OR 97138, and created three parcels therein. The partition is Partition Plat 2020- 20, recorded as Instrument No. 202011384 in the deed records of Clatsop County, Oregon (hereinafter "PP-2020").

This Road Maintenance Agreement (hereinafter "Agreement") shall only affect the parcels/properties created in PP-2020. As a condition of approval of PP-2020, Clatsop County is requiring PR to establish a road maintenance agreement for the road ("Road") being created by plat thereof. A visual depiction of the Road is shown on the attached Exhibit A.

Section 2. Purpose of Agreement and Parties to Agreement.

It is the purpose of this Agreement to provide for the maintenance of the Road and to allocate the costs incurred in maintaining the Road equally among the property owners benefitted by such Road.

Section 3. Requirement to Maintain Road

At such time as individual parcels/properties within PP-2020 are conveyed from the Estate, maintenance obligations will shift to the individual parcel/property owner(s), as set forth herein ("Owners").

Section 4. Improvement of the Road

All improvements or modifications of the Road from the date of this Agreement shall be borne by the Owners, their successors and assigns.

Section 5. Payment of Cost of Maintenance

Each Owner shall be responsible for an equal share of the maintenance and repair costs. (Example: There are 3 parcels, each Owner pays 1/3).

Section 6. Damage to Road

If any or all of the Road is damaged due to unreasonable use or negligence or intentional conduct by an Owner, their successors and assigns, or by someone acting on behalf of or under the direction and control of an Owner, such Owner shall pay all costs necessary to restore the Road to its pre-damaged condition.

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

PR reserves the right to modify this Agreement at any time prior to any parcel/property being conveyed to a third party. After the conveyance of one parcel/property, all Owners may, upon a two-thirds (2/3) vote of all Owners, change or modify the terms of this Agreement.

IN WITNESS WHEREOF, THE UNDERSIGNED, BEING THE Declarant herein, has executed this Agreement this 9th day of December, 2020.



John S. Banta, Personal Representative of
the Estate of John A. Banta

STATE OF OREGON)
) ss.
County of Clatsop)

Personally appeared the above-named John S. Banta, in his capacity as personal representative of the Estate of John A. Banta, Clatsop County Circuit Court Case No. 19PB07036, and acknowledged the foregoing instrument to be his voluntary act on the 9th day of December, 2020. Before me:



Notary Public for Oregon

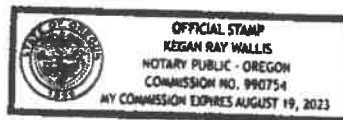
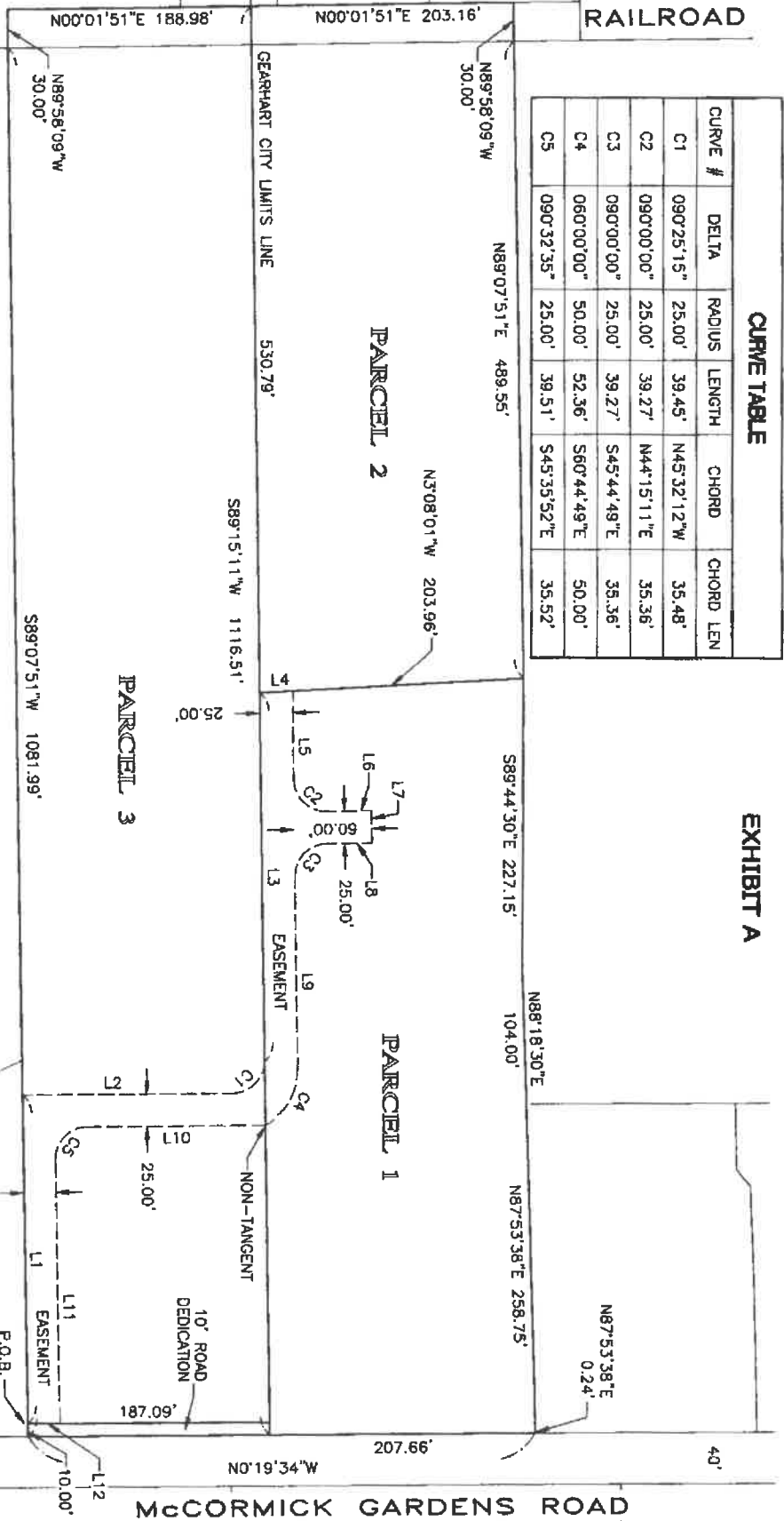


EXHIBIT A

CURVE TABLE					
CURVE #	DELTA	RADIUS	LENGTH	CHORD	CHORD LEN
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	68.29'
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
 1725 N ROOSEVELT DR, STE
 B, SEASIDE, OR 97138
 (503) 738-5425
 www.sgflands.com
 info@sgflands.com

After Recording Return To:
Clatsop County
Community Development
800 Exchange Street, Ste 100
Astoria, OR 97103



Recording Instrument #: 202011385
Recorded By: Clatsop County Clerk
of Pages: 2 Fee: 92.00
Transaction date: 12/21/2020 14:04:19
Deputy: tkrevanko

DEVELOPMENT RESTRICTION

Know all men by these presents that the County of Clatsop, by and through its Community Development Department, has placed the following restriction:

No issuance of Land Use or Building Permits

This restriction applies on the following property:

Parcels #1, #2, and #3 of Partition Plat 2020- 20

This development restriction applies until such time as road improvements meeting the A-14 standard are completed in accordance with permit #186-20-000090. Additionally, the road size and easement standards shall be increased to an appropriate size as outlined in Section 6.170, Clatsop County *Standards Document*, if and when any future parcels developed in the City of Gearhart require the use of the easement for access.

To the County's best knowledge and belief, the fee owner of said property is:

Estate of John A. Banta
P. O. Box 2134
Seaside, OR 97138

This restriction is binding upon the owner of the property, his or her successors and assigns, and shall run with and be an encumbrance against all of the described property until such time as this Development Restriction is released by Clatsop County.

Dated this 17 day of NOV 2020.

John S. Banta, Personal Representative

STATE OF OREGON)

: ss

County of Clatsop)

On the 17 day of November, 2020, personally appeared the within named, John S. Banta and _____ known to me, and acknowledged to me the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon:

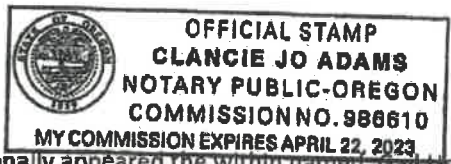
My Commission Expires: August 19th 2023



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

Banta



Disclaimer: The information contained in this GIS application is NOT AUTHORITATIVE and has NO WARRANTY OR GUARANTEE assuring the information presented to you is correct. GIS applications are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land. They are intended as a location reference for planning, infrastructure management and general information only. The City of Gearhart assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application. The City of Gearhart provides this GIS map on an "as is" basis without warranty of merchantability or fitness for a particular purpose, and assumes no liability for any errors, omissions, or inaccuracies in the information provided.