

CITY OF GEARHART PLANNING COMMISSION

City Staff Report

From: Carole Connell, AICP - City Planner

Re: Request for a Land Partition approval

April 7, 2022

City File: #22-02P

Application Purpose: An application for approval of a Minor Land Partition to divide one parcel into two, on a parcel located on a private street named Gronmark Lane in a Residential R-1 zone.

Public Hearing Date: April 14, 2022

Applicant: Michael Maygar, PLS
Maygar Land Surveying
P.O. Box 1309
Astoria, OR 97103

Property Owner: James Gronmark
4915 Gronmark Lane
Gearhart, OR 97138

Wetland Determination: Robert S. Bogar
Environmental Investigations/Wetland Delineation & Mitigation
WA/OR Licensed Geologist

Location: Tax Lot 02105 Map 7 10 34CA
Lot size: 29,907 square feet (.57) acres)

Procedures: Application received: 02-28-22

Completeness: 03-08-22

Notice Mailed: 03-25-22

Notice Published: 03-25-22

120-day deadline: 07-06-22

Exhibits

- Gearhart Fire Chief, concerns re: road grade/access, email 3-23-22
- Gearhart Building Inspector, no concerns, email 3-22
- Gearhart Police Chief, no concerns, email 3-23-22
- Gearhart Public Works, no concerns, email 3-23-22
- Gearhart City Manager, concerns, see memo email 3-21-22

Gearhart Zoning Code & Subdivision Ordinance Review Criteria:

- GZO Section 3.2 Low Density Residential R-1 Zone
- GZO Section 3.13 Freshwater Lakes and Wetlands Overlay Zone
- GZO Section 3.14 Tsunami Hazard Overlay Zone
- GZO Article 4 Transportation Improvements & Access Management
- GZO Article 13 Administrative Application, Notice & Hearing Procedure
- Gearhart Subdivision Ordinance

I. Background

- A. Site information: The existing parcel at the end of Gronmark Lane has an existing single-family dwelling. The partition segregates the parcel into two, separating the existing structure on Parcel 1 from the new Parcel 2 for a new homesite. There is a designated W2 wetland protruding on the west boundary of both parcels. The grade rises an estimated 10 feet from west to east. The adjoining parcel on the east side of the lot is owned by the North Coast Land Conservancy.

Surrounding uses include a dwelling to the north, south and west of the new Parcel 2. There is water service to adjoining dwellings and a new water service will be installed to Parcel 2. The applicant must obtain Clatsop County Health approval to install a new septic system for a dwelling on Parcel 2 in the rear yard subject to leveling.

- B. Agency Coordination: The proposal was referred to city departments and a few concerns were raised regarding fire apparatus access to Parcel 2 due to the grade increase, and the existing condition of the culvert located over the wetland and its ability to handle additional vehicle loads. If approved, a final partition plan will be prepared for Planning Commission approval, followed by county recording.

II. Gearhart Zoning Code (GZO) Provisions

- A. GZO Article 13 Administrative Provisions: The application for a Land Partition is a quasi-judicial decision of the Planning Commission. The applicant has submitted the required forms and materials. The public hearing was advertised at least 20-days before the hearing and notices were mailed to properties within 200 feet of the subject parcel. This report was made available no less than seven days before the hearing. The public hearing will be conducted in accordance with Section 13.050. A party to the decision by the Planning Commission may appeal the decision to the City Council.

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

The purpose of this section of the code is to increase community resilience from a Cascadia Subduction Zone tsunami by establishing standards, requirements, incentives, and other measures applied in the review and authorization of land use and development activities impacted by the XXL magnitude source tsunami event, which covers all of Gearhart.

The proposed new parcel is for a single-family dwelling with a density of one dwelling on about ¼ acre, far less than the maximum of 10 dwellings per acre restriction of the overlay zone. The proposal for one new single-family dwelling does not conflict with the overlay zone.

- C. Oregon Fire Code (OFC): A new dwelling on Parcel 1 will be required to meet the Oregon Fire Code. The Gearhart Fire Chief found concerns with the proposal because the planned dead-end road improvement is on a grade that exceeds 5% which requires that a driveway to Parcel 2 be fully asphalted per fire code requirements. This is a condition of approval.

III. FINDINGS FOR APPLICABLE ZONE AND SUBDIVISION STANDARDS

A. GZO Section 3.1 Low Density Residential R-1 Zone

Plan & Zone designations: The site is zoned Low Density Residential R1. The minimum lot size is 10,000 square feet (SF). Parcel 1 is 17,785 SF and Parcel 2 is 12,122 SF. The R1 Zone setbacks are 15 feet from the front and rear lines and 5 feet/9 feet from the side lines.

FINDINGS: The partition is configured so that each parcel complies with the R1 zone lot size and setback requirements. The plan illustrates a building envelope so that the new dwelling on Parcel 2 can be designed to meet minimum dwelling setbacks of 5-foot/9-foot side yard setbacks and the required 15' front and rear setbacks. Parcel 1 is occupied by an existing residence that has been reduced to 17,785 SF, but remains in compliance with the R-1 lot size and setback requirements.

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

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

if the wetland boundary cannot be determined.

FINDINGS: The Local Wetland Inventory (LWI) on the city GIS illustrates a wetland W2 on both sides of Gronmark Lane that extends into the proposed two lots. A written wetland determination is provided by Bob Bogar and shown on the west boundary of the two lots. He indicates “the wetland extends to the north beyond the immediate study area and is part of an extensive north-south oriented wetland system commonly seen in the project site area. The wetland appears to be controlled by groundwater elevations with storm water runoff from surrounding areas likely creating temporary ponding above the groundwater level.”

The City finds the partition creates a new homesite building pad on Parcel 2 that is an estimated 70+ feet from the wetland boundary, exceeding the required minimum 25’ setback from the wetland. The partition does not change the proximity of the existing dwelling to the wetland, an estimated 50+ feet. Additional asphaltting of the two driveways to serve the existing and new dwelling will improve access conditions in the event of ponding from storm water runoff.

C. GZO Article 4 Transportation Improvements and Access Requirements

1. Section 4.040 General Requirements.

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

voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional with the impact of development.

FINDINGS: The City finds this section is not applicable because the proposal is to partition the land for a new single-family dwelling on a parcel that is accessed by a 30-foot-wide private easement, not a public right-of-way. In accordance with the city TSP, Gronmark Lane is not a city street segment planned for a sidewalk or trail. A trail is planned on the adjoining parcel to the east, which is 30-wide and owned by the North Coast Land Conservancy.

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

FINDINGS: The City finds a new street is not proposed.

3. Improvements to Existing Streets.

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

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

FINDINGS: The City finds the standard does not require the applicant to make an improvement on only their half of an access easement that is fully developed with homes and is not planned for a road improvement or a sidewalk.

4. Waivers and Deferrals.

The City Manager or designee may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in (A) through (D) is met. Deferrals of sidewalk improvements are not permitted when there is an existing curb along the frontage of the site, or the site is abutting an existing curb or

sidewalk. Where the City Manager or designee agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future.

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

FINDINGS: The City finds public street improvements to Gronmark Lane to meet city street standards is not required and must be waived.

5. Fee-in-Lieu Option.

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

- The amount of monies deposited with the city shall be at least 100 percent of the estimated cost of the required street improvements and may include more than 100 percent of the cost as required for inflation. Cost estimates shall be based on a preliminary design of the reconstructed street provided by the applicant's engineer and shall be approved by the city engineer or designee.
 - b. If the City Manager or designee elects to accept these monies in lieu of the street improvements, the applicant shall also record against all lots or parcels a "construction deferral agreement and waiver of rights to remonstrance for street and storm drainage improvements" approved by the city attorney. The agreement should be worded such that the subject properties are responsible for paying the full cost of required street improvements along their unimproved street frontages. The agreement shall also state that the city has the right to collect money owed for the actual construction costs, if actual costs exceed the amount deposited, and that the city will reimburse the property owner(s) if the actual costs are less than anticipated.

FINDINGS: The City finds a fee-in-lieu of or a Waiver of Remonstrance requiring a half street improvement for the only remaining lot abutting the entirely developed Gronmark Lane private road access easement is not practical or reasonable.

Gearhart Subdivision Ordinance November 2017

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

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

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

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

FINDINGS: The City finds the Gearhart TSP does not identify an improvement plan for Gronmark Lane.

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

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

FINDINGS: The City finds the partition is not subject to public right-of-way improvements.

- 2) Shared-use paths

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

FINDINGS: The City finds the TSP Figure 7 Planned TSP Investments does not identify a planned non-motorized shared use path improvement on Gronmark Lane. The City finds the planned Railroad Avenue/Tressel Drive public pathway affects the adjoining parcel to the east owned by the North Coast Land Conservancy. The applicant indicates that the east end of the parcel will need to be leveled to accommodate a dwelling and a septic drainfield. The City finds this may need to be engineered in advance to assure the NCLC property is not negatively affected.

- 3) Pedestrian Access and Circulation

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

FINDINGS: The City finds this section of the Subdivision Ordinance also implements the pedestrian access and connectivity policies of the TSP at the time of a proposed partition to provide for safe, reasonably direct bike/ped/evacuation access to the planned RR Ave./Tressel Dr. public path. It is suggested the proposed Parcel 2 include a 10'-wide trail access easement for Gronmark Lane property owners to access the future recreation trail.

G. Section 39 - Recreation and Utility Easements:

FINDINGS: The City finds the planned TSP RR Av. Tressel Dr pedestrian trail does not adjoin the parcel. But in the future, access to that trail would provide a safe recreational benefit to the Gronmark Lane residents who could reach the trail as an alternative to the highway that will eventually connect to Pacific Way and other cross streets.

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

FINDINGS: The City finds the proposed Parcels 1 and 2 are appropriately sized and shaped based on the existing lot configuration and wetland constraints. The wetland and existing vegetation will be preserved by the dwelling setbacks shown on the tentative partition plan. The ingress/egress easements on both parcels exceeds the minimum of 25' feet of frontage on Gronmark Lane. Dumping or application of pesticides and herbicides in a designated wetland is prohibited.

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

FINDINGS: The City finds there is an existing culvert under a portion of Gronmark Lane that crosses a wetland adjoining the entry area to the new Parcel 2. At the time of a building permit request the applicant will be required to include an asphalted driveway and possibly improve the culvert to handle the additional traffic load to Parcel 2.

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

FINDINGS: The City finds that the official 2011 Gearhart Local Wetland Inventory LWI map illustrates a wetland on the west side of the two parcels. Although a future structure on Parcel 2 maintains the 25-setback from the wetland, access to that parcel crosses the wetland which may require culvert improvements associated with asphalt improvements.

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

J. Subdivision Ordinance Sections 47 – 50 Improvements

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

Section 47 Improvement Standards and Approval

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

FINDINGS: The City finds that an existing water line is stubbed in the northwest corner of Parcel 2 for extension to a new dwelling on that parcel. Existing water service to Parcel 1 crosses Mr. Gronmark's homesite (tax lot 2102) to the west. It is not known if Parcel 1's waterline is in a private easement. Utility installations, access

and culvert improvements are required to be constructed and approved by the Building Inspector per City specifications of Section 47 (1 – 5) above.

Section 48 Improvement Requirements:

- 1) Public streets shall be improved.
- 2) Structures necessary for drainage, access and public safety shall be installed.
- 3) Storm water facilities or ground water recharge facilities shall be installed per city specifications.
- 4) Water mains and fire hydrants shall be installed per city specifications.
- 5) Underground utilities shall be installed.
- 6) Street lighting per city specifications shall be installed.
- 7) Street signs shall be installed per city specifications.
- 8) If necessary, a drainage easement shall be installed for the safety of the adjoining property.
- 9) Damage to public streets related to the development shall be restored to existing conditions before the damage.

FINDINGS: The City finds the above private utilities shall be installed prior to or in conjunction with any building permits. Culvert improvements over the wetland may be required as determined by the city.

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

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

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

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

IV. CONCLUSION

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

1. Within one year of this tentative approval the Final Partition Plat shall be submitted to the City for Planning Commission approval. If necessary, the applicant may request a one-year extension of the approval
2. The Gearhart Fire Chief found concerns with the proposal because the driveway to Parcel 2 will be on a grade that exceeds 5%. The final partition plat shall be modified to illustrate an asphalted driveway per fire code requirements and Gearhart Fire Chief approval.
3. The applicant indicates that the east end of the parcel will need to be leveled to accommodate a dwelling and a septic drainfield. The City finds this may need to be engineered in advance to assure the NCLC property is not negatively affected, as determined by the City Building Official before final plat submittal.
4. It is suggested the proposed Parcel 2 include a 10'-wide pedestrian access easement for Gronmark Lane property residents to access the future Tressel Drive/Railroad Ave. recreation trail.
5. Utility improvements: The applicant shall determine if water access to Parcel 1 is in a private utility easement across tax lot 2102. Culvert improvements over the wetland may be required as determined by city Public Works before final plat submittal.

No building permit may be issued until all required improvements are in place and approved by the City Manager or designee, or otherwise bonded, in conformance with the provisions of the Subdivision Ordinance.

- a) Improvements shall not be commenced until plans have been approved by the city. Some plans may be required prior to approval by the Planning Commission.
 - b) Improvement work shall not be commenced until the City has been notified.
 - c) All required improvements shall be constructed under the inspection and to the satisfaction of the City.
 - d) All underground utilities shall be constructed prior to surfacing of the streets.
 - e) A map showing all public improvements as built shall be filed with the Building Official upon completion of the improvements.
 - f) Damage to public streets related to the development shall be restored to existing conditions before the damage.
6. If more than 5 trees are planned to be removed, the applicant shall first obtain a tree removal permit from the City. Except for removal of noxious weeds as determined by City staff, removal of more than 1,000 SF of vegetation or excavation of more than 50

cubic yards on Parcel 1 shall first require a tree removal, excavation and fill permit from the City Administrator.

7. The building permit shall restrict the use of herbicides, pesticides and other toxic materials, as well as dumping of debris or other materials in protected wetland areas.
8. Surveyed monuments shall be set according to ORS 92.060 and city specifications outlined in Section 49 – Monuments. The surveyed plat of the partition shall be set according to ORS 92.060 and city specifications outlined in Section 50 – Survey Requirements.
9. As applicable, the following Subdivision Ordinance Section 48 standards shall be met.
 - a. Structures necessary for drainage, access and public safety shall be installed.
 - b. Storm water facilities or ground water recharge facilities shall be installed per city specifications.
 - c. Water mains and fire hydrants shall be installed per city specifications.
 - d. Underground utilities shall be installed.
 - e. Street lighting per city specifications shall be installed.
 - f. Street signs shall be installed per city specifications.
 - g. If necessary, a drainage easement shall be installed for the safety of the adjoining property.
 - h. Damage to Gronmark Lane related to the development should be restored to existing conditions before the damage, which should be denoted on the building permit.

V. DECISION OPTIONS

The Planning Commission has the following motion options:

1. Based on the Findings in the staff report, I move we approve the proposed Tentative Partition Plat (File # 22-02P) subject to the conditions of approval as presented and/or as modified by the Planning Commission; or
2. I move that we continue the public hearing for the Tentative Partition Plat to the next regular meeting; or,
3. Based on the testimony received and revised findings as directed by the Commission, I move that we deny the Tentative Partition Plat.