



Warrenton Planning Commission
AGENDA

February 10, 2022 | 6 PM | City Hall – Commission Chambers

*****The meeting will be broadcast via Zoom at the following link*****

<https://us02web.zoom.us/j/89594092173?pwd=VG5sMFFTVEqTWI1dXVXSTBFbWw2UT09>

Meeting ID: 895 9409 2173

Passcode: 612659

Dial in number: 253-215-8782

1. ATTENDANCE

2. FLAG SALUTE

3. ELECTIONS

- *Action Item: Nominate and motion to appoint a Chair for the 2022 calendar year.*
- *Action Item: Nominate and motion to appoint a Vice Chair for the 2022 calendar year.*

4. PUBLIC COMMENT: Non-Agenda Items

5. APPROVAL OF MINUTES

- *Action Item: Motion to Approve the November 4, 2021 Minutes.*
- *Action Item: Motion to Approve December 9, 2021 Minutes.*

6. PUBLIC HEARING: Appeal AP-21-2 of Administrative Decision on LP-21-5

- Applicant: Robert Marshburn
- Proposal: Appeal of Type II Administrative Decision to Approve Land Partition (LP-21-5)
- *Action Item: Motion to approve or deny.*

7. DISCUSSION ITEMS:

- Staff Announcements & Project Updates

Next Meeting: March 10, 2022

2.12.040 General procedures.

A. The Planning Commission shall adopt rules and procedures for the transaction of business and shall keep a record of resolutions, transactions, findings, recommendations and determinations, which record shall be a public record.

B. The Planning Commission shall select a secretary, who need not be a member of the Commission. The secretary shall keep an accurate record of all Commission proceedings.

C. The Planning Commission shall elect from its voting membership a chairperson and a vice-chairperson to serve for one-year terms.

D. Four members of the Commission shall constitute a quorum. The Commission may make and alter rules and regulations for its government and procedure consistent with the laws of this state and the City Charter and ordinances. It shall meet at least once a month.

E. A member of the Planning Commission shall not participate in any Commission proceeding or action in which any of the following as a direct or substantial financial interest: the member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the Planning Commission where the action is being taken. (Ord. 1062-A § 1, 2003; Ord. 975-A § 4, 1997)



AGENDA MEMORANDUM

TO: The Warrenton Planning Commission
FROM: Rebecca Sprengeler, Deputy City Recorder
DATE: January 13, 2022
SUBJ: Amending Motion to Approve the November Minutes

SUMMARY

At the December 9, 2021 meeting, the Planning Commission approved the minutes from their November meeting. The secretary mistakenly wrote the minutes on the consent calendar as November 11th instead of November 4th and they were approved as such. For historical accuracy and recording keeping, staff is requesting that the Planning Commission consider the motion below to approve the minutes for the correct date.

RECOMMENDATION/SUGGESTED MOTION

"I move to approve the Planning Commission minutes from November 4, 2021."

ATTACHMENTS

November 4th, 2021 Planning Commission Minutes

MINUTES
 Warrenton Planning Commission
 November 4, 2021
 6:00 p.m.
 Warrenton City Hall - Commission Chambers
 225 S. Main
 Warrenton, OR 97146

Chair Mitchell called the meeting to order at 6:01 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Chair Paul Mitchell, Mike Moha, Chris Hayward (via Zoom), Ken Yuill (via Zoom), Kevin Swanson (via Zoom, left at 8:01 p.m.), and Lylla Gaebel (via Zoom)

Absent: Commissioner Christine Bridgens

Staff Present: Planning Director Scott Hazelton, City Manager Linda Engbretson (via Zoom), Building Official Van Wilfinger, and Secretary Rebecca Sprengeler

PUBLIC COMMENT ON NON-AGENDA ITEMS - None

APPROVAL OF MINUTES

A. Planning Commission Meeting Minutes – 9.9.21

Commissioner Yuill made the motion to approve the minutes as written. Motion was seconded and passed unanimously.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – aye; Swanson – aye; Gaebel - aye

PUBLIC HEARING

Open Public Hearing: Chair Mitchell opened the public hearing in the matter of a fill violation at 135 SW 1st Street. Formalities followed. Commissioner Yuill noted he visited the site but feels it will not affect his judgement. Chair Mitchell stated the same.

Staff Report: Planning Director Scott Hazelton gave a PowerPoint presentation about the violation. He stated the property owner of record is Kevin Gramson and the permittee is Loren Gramson. The first stop work order was mailed certified on August 18. A second notice was mailed certified on September 2. Loren Gramson was given notice of the meeting by letter on October 28. He stated the first and second notices came from the building official in the absence of a Planning Director. He noted the violation includes lack of requested stormwater plan, lack of erosion control measures and erosion control plans, and work beyond the scope of the submitted application. He outlined options for the planning commission and noted Warrenton Municipal Code (WMC) 15.04.260 regarding violation penalties.

Questions of Staff: None

Applicant Presentation: Mr. Gramson noted he takes issue with the point of work beyond the scope of the permit. He stated he had a permit to fill, remove fill, and grade. He explained that more fill was placed than he thought was needed. He contacted building department for another permit, then received a stop work order. He stated he has not done anything since. He noted during a meeting last week he received notice of this meeting. He was informed the second permit was not approved, but he had already finished the work. He noted the hand drawn map he submitted with the application. He stated the property has become an eyesore that he would like to get rid of. He feels he made the effort to do something positive for the city. He discussed his development work in Warrenton and lack of affordable housing. He stated he did not have the permit he thought he did. He asked the commission to consider his honesty in contacting the city for a second permit. He stated he hired an engineer and they have discussed addressing the issues. He has put in a silt fence, wattles, and bales of hay. He stated no water is impacting anyone. He noted there is a pool in the middle of the property to catch water to drain down. He is hoping to burn the house down with the assistance of the fire department then reduce the height of the fill. He stated all that they need is reasonable time to get the physical work done. He noted a drainage pipe in the city right-of-way and two catch basins that he protected. He stated he wants to get this done right.

Questions of Applicant: Commissioner Yuill asked how much fill the first permit allowed. Mr. Gramson thinks he asked for 250 cubic yards. He noted when he realized there was more, he contacted the building department for an additional permit. He discussed the permit applications. Commissioner Swanson asked for a timeline to comply. Mr. Gramson estimated between 30 and 60 days to get plans from his engineer. He explained he can do work that Public Works Director Collin Stelzig suggested as soon as he can get equipment. Commissioner Yuill noted his research on the area and asked if Mr. Gramson's property is affected by surrounding property's drainage. Mr. Gramson stated yes and discussed drainage from two houses and an apartment building. Commissioner Gaebel asked why the city was not contacted after he received the notices. Mr. Gramson noted he visited the building department while the building official was out of office and a meeting was held last week, but he thought he had the proper permits. Commissioner Gaebel asked why contact was not made in August. Mr. Gramson noted there has been no equipment on the property since receiving the stop work order.

Public Testimony: Van Wilfinger noted the permit was pulled for approximately 250 cubic yards and stated it did not seem like it would be an issue. He drove by the site and witnessed an excessive amount of material. He sent a stop work notice. After discussion with Mr. Wilfinger, Mr. Gramson submitted revised plans to the building department. Mr. Wilfinger then received communication from Mr. Stelzig that the amount of fill would require a stormwater report and civil plan to address stormwater drainage. Mr. Wilfinger instructed Mr. Gramson to hire someone to provide a stormwater report to stabilize the site. He noted a second stop work notice was mailed certified and not signed for. It was returned then resent. He noted a recent meeting with Mr. Gramson to discuss issues and provide notice of the hearing. Commissioner Yuill asked how much fill is on the property. Mr. Wilfinger explained he is new to the city and not as familiar with the residential areas as his work is focused on commercial projects. He relied on other staff for estimated amount of material. Commissioner Yuill made comments about

determining the amount fill material in order to know how much to remove. It was noted the fill material is predominantly sand and other soil. Commissioner Hayward asked if the fill was monitored. Mr. Wilfinger stated there was not somebody monitoring on behalf of Mr. Gramson. Mr. Hazelton clarified that what is being looked at is the erosion and stormwater plans have not been submitted as requested by staff since August. Mr. Hazelton noted there have been negative impacts on adjacent properties reported and further emphasized the need to review a stormwater plan. Chair Mitchell asked what was proposed by Mr. Stelzig. Mr. Hazelton noted Mr. Stelzig has discussed the project with the engineer, but the city still needs the required plans to be submitted. There was brief discussion about removing the excess fill. Brief discussion followed about stormwater plans are required for all fill permits. City Manager Linda Engbretson (via Zoom) clarified an issue in the code between fill and stockpiling. Discussion followed about stockpile versus fill. Commissioner Yuill noted concern that the permits were not in the meeting packet. Ms. Engbretson noted they want people to be in compliance by obtaining erosion control plans; they cannot ignore code requirements. Mr. Hazelton restated the need for erosion control and stormwater plans. Discussion continued. Chair Mitchell would have liked more documentation.

Applicant Rebuttal: Mr. Gramson noted copies of the original permit application for 250 yards. He estimated about 600 yards of actual fill. He stated he contacted staff prior to the first stop work order. He noted the fill material was sand and one load of dirt. He noted discussion with a neighbor about drainage in the area in the past. He discussed the person he believes reported negative drainage impacts and wants to know who reported it. He stated he was told by Mr. Wilfinger to grade as quick as he could. He noted his permit was for grading, removal, and fill; there was nothing about stormwater. He noted the stormwater report will be required before any building, so he might as well do it now. Mr. Gramson is working with his engineer to address the drainage as instructed by Mr. Stelzig. He has talked with a neighbor about draining across his property and he noted a culvert issue he would like the city to address. He explained the extra material could be used for fill once the house is burned. Commissioner Gaebel asked about the delayed response to the first notice requesting erosion and stormwater control. Mr. Gramson explained when he received his permit, nothing was mentioned about it. He briefly discussed his original site map submittal. He stated stormwater was never a part of the permit and he stopped work immediately. He had already notified the city of the excess fill and noted he was unsure of the fill amount. Commissioner Hayward asked how fill was brought to the property. Mr. Gramson stated dump truck. Commissioner Hayward asked about the size. Mr. Gramson stated it varied and they were not worried about how much was on each truck. He explained lack of monitoring at first and noted approximate overage. Brief discussion followed about the excess fill amount. Commissioner Swanson asked what will happen to come into compliance. Mr. Gramson noted hiring an engineer and discussed a swale and water storage. Commissioner Swanson asked about a timeline for the engineer to address the issues and provide a final report. Mr. Gramson estimated 30 to 60 days and noted they will do what the engineer suggested. He also stated when it said stop work, they were already done with the fill, and he was instructed to grade as quickly as possible. He noted they planted grass and the material is pretty packed.

Close Public Hearing: Chair Mitchell closed the public hearing.

Deliberation of Commissioners: Commissioner Yuill noted the ditch has not been cleaned out

and noted concern about impact on surrounding properties. He asked about a timeline for the city to clean the ditch. Mr. Hazelton noted public work's rotating ditch maintenance schedule. Brief discussion followed. There was brief discussion about the property address. Mr. Hazelton clarified the person Mr. Gramson alluded to previously did not make the report about negative impacts. He also noted the engineer was retained early this week. Commissioner Swanson asked why the fill amount was guessed and not measured or adhered to. Mr. Hazelton noted staff does not have the capacity to monitor fill. Discussion continued about stormwater reports being required for fill permits. Ms. Engbretson briefly discussed WMC regarding grading. She noted they are updating the stormwater and drainage plans that may be addressed at a joint meeting with the city commission. She feels it has gotten to the point where submitting a stormwater plan should be required with any fill permit. Commissioner Hayward commented on the issuance of a permit without a stormwater plan. Ms. Engbretson restated the need for the stormwater report that has been requested since August. Discussion followed about the stop work order. Mr. Hazelton stated error on staff's part does not absolve Mr. Gramson from following the WMC. Ms. Engbretson discussed communication issues and a shift to written communication. She noted the issue is not the fill amount, it is the requested plans in order to move forward and mitigate impacts. Discussion followed about the meeting notice. Mr. Hazelton confirmed the first stop work notice was signed for on September 20 and sent by email as well. Commission Gaebel noted Mr. Gramson has had the request for stormwater and erosion control since August. Commissioner Swanson feels the stop work order is not clear. Ms. Engbretson clarified it is to stop work on the property and work on submitting plans to the city. Commissioner Yuill discussed his concerns about what can be done in the short term to address negative impacts on the south neighbor. Brief discussion followed. Commissioner Moha noted to be in compliance, a report must be supplied. He noted removing fill and making suggestions to address the issues are not relevant to this decision. Mr. Hazelton noted a stormwater plan will address the negative impacts. Commissioner Gaebel noted Mr. Gramson is not in compliance but has hired an engineer to bring him into compliance. She suggested finding he is not in compliance and a no-fine 45 to 60-day grace period. Discussion followed.

Commissioner Hayward made the motion for 60 days with no fine and impose a fine of \$1,000 if that is not reached within that 60 days. Motion was seconded and failed.

Commissioner Moha believes there was no intentional ill will on either side. He agrees with 60 days and a \$500 fine.

Mitchell – nay; Moha – nay; Hayward – aye; Yuill – nay; Swanson – aye; Gaebel – aye

Discussion followed about the fine and timeframe.

Chair Mitchell made the motion that they allow Mr. Gramson 60 days. If within 60 days, Mr. Gramson does not reach a conclusion satisfactory to the city, then we impose a \$500 a day fine that is retroactive to today's date. Discussion followed.

Commissioner Hayward made a motion to strike the retro active portion of the chairman's motion and make it \$500 per day after a 60-day period to get this work done. Motion was seconded and passed unanimously.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – aye; Swanson – aye; Gaebel – aye

Open Public Hearing: Chair Mitchell opened the public hearing in the matter of a fill violation at 115 SW 1st Street. Formalities followed. No conflicts of interest were declared. Commissioner Yuill noted he visited site but feels it will not affect his decision. Chair Mitchell stated the same.

Staff Report: Mr. Hazelton presented his staff report for the fill violation at 115 SW 1st Street owned by Rick Newton. He noted the first stop work order was mailed certified and signed for in August. The second was mailed certified and signed for in September. The hearing notice was mailed in October. He outlined the fill violation noting a request for stormwater plans and erosion control plans. He clarified there was no application submitted; there was communication with staff about stockpile of clean gravel. The material was different than and exceeded what was originally discussed. He noted options for the commission as outlined in the presentation.

Questions of Staff: Commissioner Swanson asked about the material. Mr. Hazelton clarified it was mixed material from underneath a road, not clean gravel as originally discussed with staff. Commissioner Yuill asked if there is runoff going onto other properties. Mr. Hazelton stated he has received no complaints regarding this property about additional runoff at this time.

Applicant Presentation: Mr. Newton noted Patricia Caples is co-owner of the property. He noted his long-term friendship with Commissioner Yuill and stated it does not affect them to disagree. Mr. Newton noted past issues of flooding and a roof collapse. He noted his frustration and explained the situation. Ryan Lampi with Big River requested to place material from under a road on Mr. Newton's property. Mr. Newton discussed this with the building department and was told he did not need a permit. Mr. Newton noted he originally estimated 150-250 yards of fill. When this amount was exceeded, he contacted the building department and was told he was fine. Additional material was placed. Mr. Newton visited the building department again to discuss the issue. He met with Mr. Stelzig to discuss plans provided by Mr. Lampi to address the first stop work notice. Mr. Newton estimated there was 590 yards, while Mr. Lampi estimated about 500. Mr. Newton brought the plans to the building department. He was asked for bigger plans and directed to start with public works. Mr. Newton expressed confusion about what the city wanted to address the stop work order. He noted meetings with Mr. Stelzig to clarify what the city and noted engineered plans were requested. He feels this could have been avoided and noted his frustration. He requested Ms. Caples be added as co-owner. He noted observing decreased runoff from his property. He further noted his frustration with the city. He stated Mark Mead cannot do the engineering until January. Geoff Liljenwall cannot do the engineering until November. Mr. Newton noted he and his engineer do not know what the city wants.

Questions of Applicant: Commissioner Moha asked for clarification if there was no permit. Mr. Newton confirmed. Mr. Hazelton read the fill request email from Mr. Newton dated July 19. Mr. Hazelton stated stockpiling of clean material does not require a permit. Commissioner Swanson asked how long the material will be on the property and if there plans for it. Mr. Newton explained it could be used as surcharge as he plans to build eventually. He stated he intends to put a French drain completely around the property. He is unsure of a timeline. He explained his frustration and noted he thought he was doing the right thing. Ms. Caples explained Big River requested to dump material removed from the street project onto their property, saving the city

money on the project. She noted they were told they did not need a fill permit. They contacted the contractor after the stop work order. Mr. Newton stated he was not running the job, Mr. Lampi was. He restated he does not know what the city wants and noted Big River is a licensed and bonded contractor that he believes can provide the plans. Commissioner Swanson asked why Mr. Lampi is not in attendance to testify. Mr. Newton stated he did not know he needed to bring him. Commissioner Gaebel noted the stop work notices that requested erosion and stormwater plans. Ms. Caples stated it was handed over to Big River; it's their job. Mr. Newton noted plans from Mr. Lampi he understands to be stormwater and erosion control plans. Commissioner Gaebel stated it is the applicant's responsibility to see that work is done. Ms. Caples noted the plans from Mr. Lampi. Commissioner Gaebel asked when the plans were submitted to the city. Mr. Newton noted he is not sure. He did not know he needed an engineer. He thought Big River was qualified. He intends to hire Mark Mead. He stated he tried to do the right thing but received bad direction.

Public Testimony: Ms. Engbretson noted she cannot verify if the plans in question have been received by staff. Commissioner Moha asked if Mr. Hazelton has seen the plans and if they would be acceptable. Mr. Hazelton noted he has seen them; they are not acceptable. Mr. Wilfinger noted an email from Mr. Newton addressed to himself and Mr. Stelzig regarding stockpile of gravel. He noted the WMC does not require a permit for stockpile of clean material. He explained the plans in question are not a stormwater report. Mr. Wilfinger stated he had not reviewed the plans yet because they needed to be reviewed by public works. He noted there was no permit because what was proposed did not require a permit. Mr. Newton did respond to the first stop work notice. He was directed to work with Mr. Lampi to develop acceptable plans to submit to Mr. Stelzig for approval. Mr. Wilfinger noted nothing acceptable was provided so a second notice was sent. Commissioner Yuill asked if there is runoff onto other properties. Ms. Engbretson noted there is not much concern about runoff on this property. The concern is treating everyone the same. The report is still required by WMC. Brief discussion followed. Mr. Hazelton added they are not addressing the contents of the reports, they are addressing the fact the reports were never submitted. Commissioner Swanson asked if Mr. Lampi would have the proper paperwork to support the plans in question. Ms. Engbretson noted as of now her communication with staff is that nothing has been received.

Applicant Rebuttal: Mr. Newton stated he does not believe, in his email, he ever said he was going to stockpile clean gravel on the lot. Commissioner Gaebel asked to have the email read again. Mr. Hazelton read the full email from Mr. Newton and the response from Mr. Wilfinger dated August 12, 2021. There was brief discussion about a possible response from Mr. Stelzig. Chair Mitchell asked how long it will take to get a report. Mr. Newton noted Mr. Liljenwall estimated mid to end of November. Brief discussion followed. Commissioner Yuill asked if the plans prepared by Mr. Lampi were submitted to public works. Mr. Newton stated he has no idea, noting several visits to public works.

Close Public Hearing: Chair Mitchell closed the public hearing.

Deliberation of Commissioners: Commissioner Yuill noted a lot of hearsay and would like to hear from Mr. Stelzig. He suggested extending the hearing until next month. Commissioner Swanson agreed and would like to hear from Mr. Lampi. He feels there is not enough

information to make an informed decision. Commissioner Gaebel noted Mr. Wilfinger's email was very specific about what was expected. Commissioner Hayward noted there is no issue getting the engineering and suggested providing reasonable time until January. Commissioner Moha noted they cannot force people to come answer questions. Mr. Hazelton noted additional email communication. Chair Mitchell suggested giving Mr. Newton until January and having the city provide an update at that meeting. Commissioner Gaebel feels they are being inconsistent between the two violations. Mr. Hazelton noted an email from Mr. Stelzig that outlines what is needed.

Commissioner Gaebel moved that we give 60 days grace period from tomorrow's date and on the 61st date, that we levy a fine of \$500 per day if it has not been cured and do it in conjunction with the city's requirements. Motion was seconded and passed with majority in favor.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – nay; Swanson – aye; Gaebel – aye

STAFF ANNOUNCEMENTS & PROJECT UPDATES

Mr. Hazelton noted he is happy to have the first meeting under their belts. He asked for feedback on the presentation. Commissioner Gaebel thought it was helpful. Commissioner Hayward noted there are often documents in the record that are difficult to see. Commissioner Yuill would like a camera to see physical documents while on Zoom. Commissioner Swanson noted he needed to leave the meeting for a work meeting. Mr. Hazelton discussed several recent variance applications to build into the setbacks. He asked for guidance on whether or not to continue allowing variances to extend into the setbacks and if he should research amending the setbacks. He noted this will be discussed further in a joint meeting. He further explained the purpose of a variance is for hardships due to confines of the zoning code and the property, not a desire for a bigger house or garage. Commissioner Yuill asked Mr. Hazelton to send an email with questions that will be discussed at the joint meeting. Mr. Hazelton noted side yard setbacks are for emergency vehicle access. Mr. Hazelton feels variances should be difficult to obtain. He also discussed possible changes to the development review process regarding conditions of approval.

There being no further business, Chair Mitchell adjourned the meeting at 8:07 p.m.

Next Meeting: December 9, 2021

APPROVED:


Paul Mitchell, Chair

ATTEST:


Rebecca Sprengeler, Secretary

MINUTES
 Warrenton Planning Commission
 December 9, 2021
 6:00 p.m.
 Warrenton City Hall - Commission Chambers
 225 S. Main
 Warrenton, OR 97146

Chair Mitchell called the meeting to order at 6:00 p.m. and led the public in the Pledge of Allegiance.

Commissioners Present: Chair Paul Mitchell, Mike Moha, Chris Hayward (via Zoom), Ken Yuill, and Christine Bridgens

Excused: Commissioner Kevin Swanson and Commissioner Lylla Gaebel

Staff Present: Planning Director Scott Hazelton, City Attorney Spencer Parsons (via Zoom), and Deputy City Recorder Rebecca Sprengeler

PUBLIC COMMENT ON NON-AGENDA ITEMS

Eric Williamson of Kodiak Alaska discussed concerns about the cost of pursuing a rezone on his property in Hammond from I-2 to RM. After some discussion, he was directed to work with Planning Director Scott Hazelton. Mr. Williams also noted frustration about wetland fill permits.

APPROVAL OF MINUTES

A. Planning Commission Meeting Minutes – 11.11.21

Commissioner Moha made the motion to approve the minutes from November 11th. Motion was seconded and passed unanimously.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – aye; Bridgens – aye;

PUBLIC HEARINGS

Open Public Hearing: Chair Paul Mitchell opened the public hearing in the matter of Site Design Review (SDR-21-7) and Conditional Use Permit (CUP-21-1) for a Popeye's Louisiana Kitchen restaurant and drive through at 1771 SE Ensign Lane, Warrenton. Formalities followed. There were no conflicts of interest, ex parte contacts, or biases declared.

Staff Report: Mr. Hazelton reviewed a presentation for the proposed Popeye's restaurant and drive through by Walmart and the Fibre Federal Credit Union. He noted the reason this is before the Planning Commission is because drive throughs are conditional uses in the General Commercial zone. Mr. Hazelton explained the site design. He noted one written comment and that others are also concerned about traffic. Staff is recommending approval. He noted additional

comments from the Police and Public Works departments that are being proposed as conditions of approval. Kory Seki (via Zoom) of JM Civil Engineering stated he has no objections to the proposed conditions.

Questions of Staff: There was brief discussion about the additional conditions. Mr. Hazelton explained it will be a requirement to get Public Works' sign-off, but they are added as conditions of approval as well. There was discussion about contacting ODOT for input about traffic and concerns about the additional traffic that will be generated. Mr. Hazelton summarized the new comments to alleviate traffic concerns. He noted #4 provides temporary traffic mitigation for the opening month due to expected trip increases. The expectation by staff is that the effects will be mitigated after the newness wears off. He further discussed suggestions that will be carried over as a condition of approval during civil review. There was brief discussion about the possible issues if conditions were placed on Ensign which is a county-owned road.

Applicant Presentation: Mr. Seki stated he has no presentation and is available for questions.

Questions of Applicant: There was concern about having an open dining room to help alleviate drive through traffic. Discussion followed about drive through stacking and overflow concerns. Mr. Seki said it will be open for indoor dining and drive through. He stated the stacking in the drive through meets City code and the site plan shows 12 vehicles can stack behind the vehicle at the drive through window. Discussion followed about the traffic study in the packet. Craig Gilbert (via Zoom) of PM Design noted the traffic report is from this year.

Public Testimony in Support of the Applicant: None

Public Testimony in Opposition of the Applicant: None

Applicant Rebuttal: None

Close Public Hearing: Chair Mitchell closed the public hearing.

Deliberation of Commissioners: Chair Mitchell stated he is not opposed to having a Popeye's in town; he is concerned about parking, traffic, and lack of presentation by the applicant. Commissioner Hayward noted concern about mitigating the drive through stacking. Commissioner Yuill noted concern about the parking layout because pedestrians must walk through drive through traffic; he would like input from the county and ODOT before deciding. There was brief discussion about the updated traffic study. Commissioner Moha noted they are reviewing the application because of the drive through and noted his thoughts on input from other jurisdictions and poor traffic on Ensign. Chair Mitchell noted frustration about Wendy's and noted concern about Popeye's parking and traffic. There was discussion about continuing the hearing for more information including drive through stacking statistics and input from other jurisdictions. There was brief discussion about the applicant applying for a 120-day extension.

Re-Open Public Hearing: Chair Mitchell reopened the public hearing and asked if the applicant would be willing to extend the hearing. Charlie Patton (via Zoom) of Ambrosia QSR introduced himself. He noted the issues with Wendy's and understands the City's concern. He discussed

available parking and stacking. He agreed with the need for traffic mitigation during the first couple weeks of business. He feels their stacking will preclude overflow to Ensign. He stated if there is overflow, they will have people to mitigate. He noted the dining room will be open and noted available seating. He feels there will be no parking issues. Commissioner Yuill asked if the other jurisdictions have been contacted for traffic input. Mr. Patton discussed his experience on a similar project and believes ODOT does not have a jurisdictional say on this development. He briefly discussed the required traffic study and the update to it. Mr. Gilbert discussed the peak vehicle data from the September 29, 2021 traffic study. Chair Mitchell closed the public hearing.

There was brief discussion about input from ODOT and Clatsop County on the highway. It was noted it could be added as a condition of approval as noted in the Police comments. Discussion followed. It was noted that recommendations from Police, Public Works, and AM Engineering are being proposed by staff as conditions of approval. Commissioner Hayward feels comfortable and commented on the stacking. Discussion followed about the applicant providing traffic mitigation during the first three weeks. Commissioner Hayward noted ODOT would just request a traffic study; the applicant has already done a traffic study.

Commissioner Moha made a motion to approve the Site Design Review SDR-21-7 and CUP-21-1 for the new Popeye's Louisiana Kitchen Facility, located on Tax Lot 81027CB01901, based on the finding in the staff report, Conditions of Approval, and discussions including the new conditions sent out by public works today. Motion was seconded and passed unanimously.

Mitchell – aye; Moha – aye; Hayward – aye; Yuill – aye; Bridgens – aye;

Open Public Hearing: Chair Mitchell opened the public hearing in the matter of Appeal (AP-21-1) of administrative decision to deny Warrenton-Hammond School District Sign Application SIG-21-7. Formalities followed. As the applicant, Commissioner Moha recused himself. There were no conflicts of interest, ex parte contacts, or biases declared.

Staff Report: Mr. Hazelton reviewed a presentation and staff report for the appeal of the type 1 administrative decision to deny a sign application for the Warrenton Middle School. Staff recommended a rezone. The applicant chose to file an appeal on the basis that the PUD and SDR 20-1 had a sign placement included in the application. Mr. Hazelton explained there were no details of a sign application provided at that time and reviewed the March 2020 staff report regarding signage. The basis of staff's denial is that the size and type of sign is not allowed in the RH zone, and it was not a part of the PUD or SDR-20-1 application.

Questions of Staff: There was brief discussion about the type of sign and what is allowed in the RH zone. Commissioner Yuill asked if the school can have the sign if the appeal is approved. Mr. Hazelton noted if the appeal is approved, Public Works requested that the school district file for locates before placing the sign. Commissioner Yuill thought the sign had been approved and asked what would be the cheapest way for the school district to have their sign. Commissioner Bridgens feels it does not meet the code.

Applicant Presentation: Tom Rogozinski, superintendent of the Warrenton-Hammond School

District, noted the sign designation in the site plan that was approved in March of 2020 and a condition of approval. He would like to know the best path to get the sign up. He noted the utilities are in place for the sign lighting. He feels the size allowed by the code would be too small for a school. Commissioner Yuill noted the approval for multiple buildings and asked what the best way would be to address this issue in the future. Mr. Rogozinski noted the approved three-campus project; traditionally each building has a sign. He feels a rezone would not be in best interest of the school district because of the cost and other reasons. He would agree with a way to avoid this in the future. Mr. Parsons explained a consolidated application is the easiest way to do it in the future. Mr. Rogozinski continued.

Scott Rose, project manager, introduced himself. He noted sign locations were identified on the PUD and SDR 20-1 submissions. He explained the sign design was not identified because it was still in progress. He further noted site design was approved with sign locations away from the building. He explained an application was not submitted because it was not required early in the process. He noted WMC 16.122.040 regarding signage for planned unit developments. He feels the Planning Commission should be able to discern what is appropriate. He feels they should be bound by what is appropriate for a school sign. He noted the Industrial zone adjacent to Warrior Way and WMC sign requirements in that zone. He feels their sign will align well with the aesthetics coming from Dolphin. He noted Industrial zone sign requirements in the WMC. He noted there will be backlighting and plastic letters on their sign. He noted the dimensions of the existing Warrenton High School sign and compared it to the proposed middle school sign; it will be smaller. They feel a sign is expected by the community. He noted they will call for locates and noted the power conduit is in place for the sign. He noted they will include sign design in future site design submissions.

Questions of Applicant: Commissioner Bridgens asked about the height of the sign; she would like it to be a lower sign that matches the school. Mr. Rose explained they would like to be able to change the letters from the ground but prevent mischief; the height to the bottom of the sign is about eight feet. Mr. Rose continued. It was noted the colors will be white and purple.

Public Testimony in Support of the Applicant: None

Public Testimony in Opposition of the Applicant: None

Applicant Rebuttal: None

Close Public Hearing: Chair Mitchell closed the public hearing.

Deliberation of Commissioners: Commissioner Yuill appreciates made comments in support of the sign and saving the school district some money, noting voter support. He noted he is in favor if they submit future signs as consolidated applications. Commissioner Bridgens asked for the main reason of non-conformance. Mr. Hazelton noted WMC requirements about size and type of signs in the RH zone. There was brief discussion about Public Works' request for a condition of approval for locates. Chair Mitchell noted the voter support for this project and does not see a reason they should stop the school from having the sign. Commissioner Bridgens noted concern about a sign causing issues with several homes that will be developed near there. Chair Mitchell

noted Cedar is residential with signs for the Warrenton Grade School. Mr. Hazelton noted the sign is there because it is an Open Space Institutional zone and discussed his suggestion for a rezone at the Warrenton Middle School to alleviate issues and not contradict the WMC. Commissioner Yuill asked about the cost of a rezone. Mr. Hazelton noted it is about \$2,000. He requested to meet with the school district to discuss the possibility of lowering the cost.

Chair Mitchell reopened the public hearing. Mr. Rogozinski asked why this was not raised during approval. He noted utilities have been placed for the sign. He also noted the use of taxpayer dollars. He feels the property will be more valuable in the future as residential zoning. Commissioner Bridgens asked if Mr. Rogozinski would have been open to compromising on the size and materials of the sign. Mr. Rogozinski asked why they were approved to run power for a sign that is not allowed and discussed the school district's opposition rezoning. Mr. Rogozinski continued his thoughts on the situation. Mr. Rose noted experience in rezoning and feels rezoning land for a sign is just not done. He outlined the options provided by Mr. Hazelton. They felt an appeal would be the most cost-effective and time-effective path. He noted they have compromised by making the sign smaller than what is at the Warrenton High School. Chair Mitchell closed the hearing.

Mr. Parsons clarified that the statement that this issue was brought up at a late hour is inaccurate. He recalled the original condition of approval for a sign permit application. He noted the sign details were not included during the previous application for the Planning Commission to decide on. Commissioner Hayward asked Mr. Parsons if they can approve the sign even though it is not allowed in the current zone. Mr. Parsons explained the appeal and noted the Planning Commission is determining if the City's decision to deny the sign application because of non-compliance with the code was correct or in error. He briefly discussed rezoning and noted variances. There were comments about need for the sign and discussion about color scheme.

Commissioner Yuill made the motion to approve the Appeal application (AP 21-1) for the Warrenton-Hammond School District sign, located on Tax Lot 810340000105, based on the findings in the staff report and discussion with staff and members of the public. Motion was seconded and passed with majority in favor.

Commissioner Bridgens asked for clarification about the decision and the aesthetics. Chair Mitchell stated they are approving the appeal for them to be able to put the sign in. Mr. Parsons noted a point of order that there is a seconded motion on the table that does not include aesthetics.

Mitchell – aye; Hayward – aye; Yuill – aye; Bridgens – nay;

DISCUSSION ITEMS

Mr. Hazelton noted an upcoming joint meeting on January 18th with the City Commission to discuss variances, setbacks, and fill. Mr. Hazelton would like direction about adherence to setback requirements, granting variances for setbacks, or possibly changing the setbacks. Discussion followed. There was brief discussion about state legislation regarding accessory dwelling units (ADU's) and setbacks. Mr. Parsons confirmed the legislature has allowed ADU's

to be built with zero lot line setbacks. Mr. Hazelton noted the setbacks will need to be updated.

STAFF ANNOUNCEMENTS & PROJECT UPDATES

Mr. Hazelton noted there are currently no applications for the January meeting.

There being no further business, Chair Mitchell adjourned the meeting at 7:44 p.m.

Next Meeting: January 13, 2021

APPROVED:

ATTEST:

Paul Mitchell, Chair

Rebecca Sprengeler, Secretary



P.O. BOX 250 ■ WARRENTON, OR 97146 -0250 ■ OFFICE: 503.861.2233 ■ FAX: 503.861.2351

December 1, 2021

To: Warrenton Planning Commission
 From: Scott Hazelton, Planning Director
 Re: Appeal (AP 21-2) of Administrative Decision on LP 21-5

BACKGROUND & STAFF RECOMMENDATION

On October 25th, 2021, Mike Magyar on behalf of John Wilson and Tracey Bergerson-Wilson submitted the application listed above to partition Tax Lot 810290001100 into three parcels. The property is located, in the Low Density Residential (R-40) Zone.

The application was deemed complete on December 7th, 2021. Notice for a Type II administrative decision was mailed on November 9th, 2021 and was published in the Columbia Press on December 10th, 2021. Multiple public comments have been received in opposition; they are attached to the original staff report.

The department received an appeal of LP 21-5 from Robert Marchburn, Erika Bauer, Kathleen Zunkel, David Zunkel, Rosalie Dimmick Larsen, Mark Gonzalez, Kim Gonzalez, Michelle Murray, Tyler Murray, John L. Bentley, Regina Bentley, and Ben Williams, “the Appellants”, on January 3rd, 2022.

The primary purpose and intent of the staff report is to make findings on whether the appeal raises valid concerns that the original application does not satisfy criteria and standards specified in the Warrenton Municipal Code (WMC). The City maintains consistency with Comprehensive Plan provisions through the enactment and application of land use regulations. Hence, the staff report does not make specific findings on compliance with Comprehensive Plan Policies or provisions implemented via the WMC, but adheres to the applicable WMC standards directly.

The applicant submitted plans that do satisfy WMC Chapter 16.24 Low Density Residential District and WMC Chapter 16.216 Land Divisions and Lot Line Adjustments. Staff recommends that the Commission DENY the applicant’s appeal for the reasons set forth above. The staff report addresses the applicable standards and criteria and how the application accomplished satisfying all of the applicable criteria. Please review the staff report in full before the meeting.

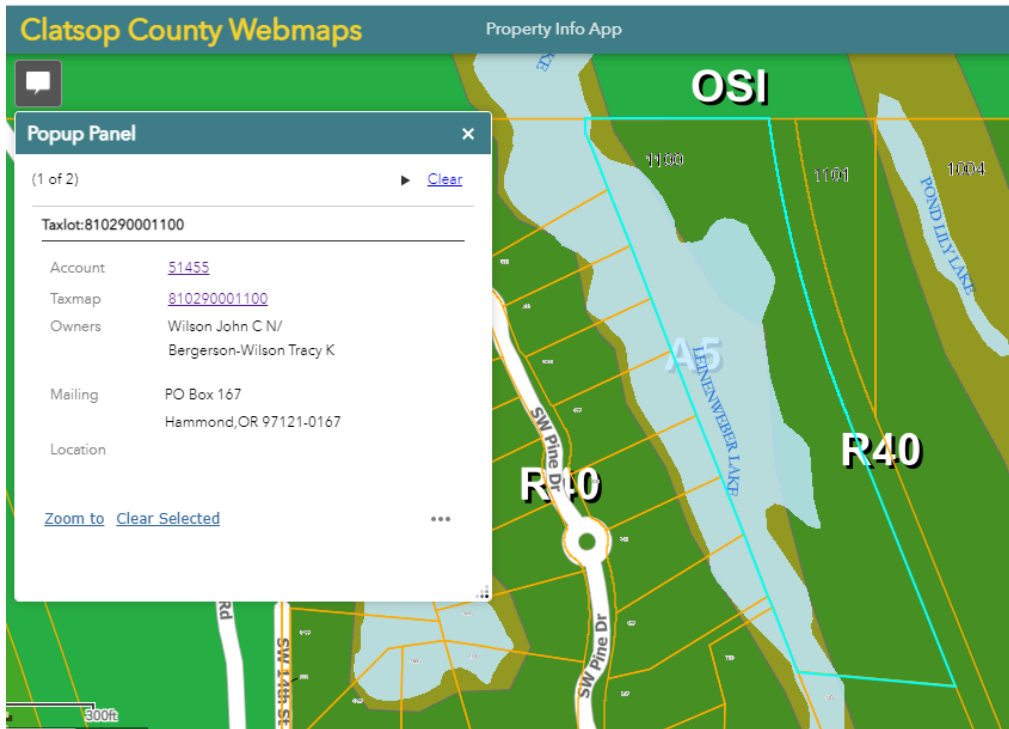


Figure 1: Partition Site in R-40 Zone

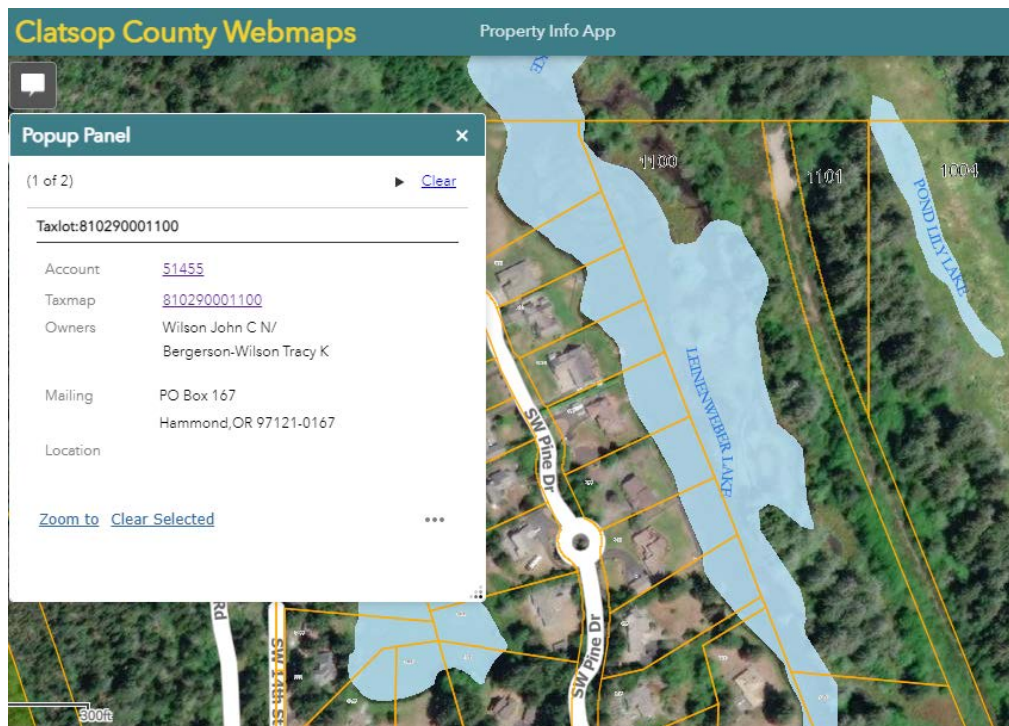


Figure 2: Partition Site, Aerial

APPLICABLE CRITERIA AND STANDARDS

Chapter 16.24 Low Density Residential (R-40) District
Chapter 16.216 Land Divisions and Lot Line Adjustments
Chapter 16.208.040 Type II Procedure (Administrative)

FINDINGS

FINDINGS

Chapter 16.24 Low Density Residential (R-40) District

16.404.040 Development Standards

Staff Finding: This criterion is met.

- The proposed lots provide proper square footage and lot width
-

Staff Conclusion for Chapter 16.40: General Commercial District

Staff finds that the criteria of Chapter 16.24 Low Density Residential (R-40) District has been met by the applicant. At this time there are no concerns regarding this chapter of Warrenton Municipal Code from staff.

Chapter 16.216 Land Divisions and Lot Line Adjustments

16.216.010 Purpose

Staff Finding: This criterion is met.

- Applicant is proposing to create 3 lots making this a land partition application.

16.216.020 General Requirements

Staff Finding: This criterion is met.

- Applicant is proposing lots that are greater than 2 times the underlying land use district. A future re-division plan was not required due to environmental constraints restricting and future divisions. Applicant is proposing lots that minimize flood damage. Utilities will be addressed if development plans are submitted. There are not street names suggested.

16.216.040 Preliminary Plat Submission Requirements

Staff Finding: This criterion is met.

- Applicant has provided all required information to the satisfaction of staff for the partition. Any plans for development will address any wetland or utility concerns.

Staff Conclusion for Chapter 16. 216 Land Divisions and Lot Line Adjustments

Staff finds that the criteria of Chapter 16. 216 Land Divisions and Lot Line Adjustments has been met by the applicant. At this time there are no concerns regarding this chapter of Warrenton Municipal Code from staff. Conditions of approval provided by the Public Works department regarding this chapter will be addressed before submitting for building plans.

Appeal Concerns

The appeal raises no concerns that apply to applicable WMC standards reviewed for this application. The Appellants raise several issues throughout their appeal and staff will address them accordingly.

1. The Appellants states that the applicant ignored city requirements for a clearing permit for their property.
 - a. Staff confirmed that no permit is needed for clearing activity or stockpiling activity.
2. The Appellants states that the owners performed grading and leveling activities that would require a city permit.
 - a. Staff confirmed, with site visit, that activities as observed did not require any permits from the City of Warrenton.
3. The Appellants states that the owners violated state regulations regarding wetlands.
 - a. Staff confirmed with Dan Cary of the Department of State Lands, quoted in the appeal, that the activities in which the owners engaged did not violate nor require a Department of State Lands permit. All activity was outside of the mapped wetland area.
4. The Appellants, specifically Mr. Robert Marshburn, demanded the City of Warrenton do these four things:
 - i. Independent verification of the correct Lake boundaries and their required setback starting points and measurement;
 1. Mr. Magyar is a certified and licensed surveyor with the State of Oregon and therefore his work does not require additional expenditures of the city to verify his work's accuracy.
 - ii. Investigation of enforcement action that may proceed from the State or Federal Authorities for the prior unauthorized and unpermitted grading and clearing work on the property;
 1. Mr. Hazelton contacted the Oregon Department of Forestry and the Oregon Department of State Lands to confirm that no violations had occurred. Each agency confirmed to Mr. Hazelton that at this time there was no concern.
 - iii. The submission of an Impact Study to meet the Warrenton Administrative Procedures Requirement for ALL Land Division Applications.
 1. Mr. Hazelton realized his error and required an impact study of the applicants. The impact study was provided on December 7th, 2021.
 - iv. At the very minimum, the City should delay consideration of any decision on the partition application as well as any further development application or work permits until the items discussed in this matter can be investigated and clarified.
 1. Staff feels there is no reason to delay this application as the applicable portion of the WMC have been met and any further review will come when site design and building permits are applied for.
5. The Appellants states that the public comment period was extended without sending notification to the adjacent landowners.

- a. Staff has no obligation to alert adjacent landowners to any extension of the comment period. The notice was published in the Columbia Press for public viewing.
6. The Appellants raises the Impact Study concern again.
 - a. Staff has addressed and remedied the impact study concerns of the appellants.
7. The Appellants raises the concerns about distribution of the Notice of Decision.
 - a. Staff has remedied this concern by providing the Notice of Decision and extending the appeal period.
8. The Appellants raises the Impact Study concern again.
 - a. Staff has addressed and remedied the impact study concerns of the appellants.
9. The Appellants raises concerns about the Transportation and Engineering Standards of the City of Warrenton.
 - a. These standards are not reviewed for Land Partition applications, however design exceptions may be granted in certain cases where pertinent. These design exceptions are at the discretion of the Public Works Director and not the Planning Department.
10. The Appellants raises the concerns of wetlands and needing to contact the Department of State Lands (DSL).
 - a. Staff will contact DSL once building plans and site plans are submitted for their determination and this is not a requirement of the Land Partition process. Staff has spoken with DSL regarding this project and DSL staff has no concerns about proposed activities.
11. The Appellants states that the impact study does not address the Removal-Fill in Wetlands requirements.
 - a. Staff has confirmed this is not a requirement of the land partition process.
12. The Appellants states that the City should require a delineation.
 - a. Staff has confirmed that DSL does not consider this necessary.
13. The Appellants question Mr. Magyar's certification and registration with the State of Oregon.
 - a. Staff has confirmed that Mr. Magyar is capable of performing the surveys required for this land partition and that he is properly licensed with the State of Oregon.

Staff Conclusion for Appeal Concerns

Staff finds that the concerns raised by the appellants either have been remedied or do not apply to this portion of the development stage.

Conclusion, Recommendation, & Conditions of Approval

Conclusion and Recommendation

The findings above demonstrate that the appeal presented does not constitute substantial information or any violations of the WMC. The appeal does not have grounds nor substance to overturn staff's approval of LP 21-5. Staff recommends that the Planning Commission denies this appeal.

Suggested Motion:

I motion to deny the Appeal application (AP-22-1) for the administrative approval of LP 21-5, located on Tax Lot 810290001100, based on the findings in the staff report and discussion.

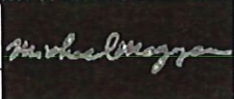
Attachments

- 1 Wilson Application and Impact Study
- 2 Wilson Staff Report for LP 21-5
- 3 Appeal Application
- 4 Notice of Decision

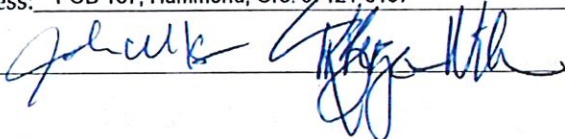
File # LP-21-5
Date Received 10/25/21
Receipt # 8873736
Fee \$600

Note: The applicant must complete all sections and submit the required application fee before staff can accept the application.

I. APPLICANT INFORMATION:

Name: Michael Magyar Contact Phone: 503-338-9958
Mailing Address: POB 1309, Astoria, Ore. 97103
Signature: 

II. PROPERTY OWNER INFORMATION:

Name: John Wilson and Tracy Bergerson-Wilson Contact Phone: 503-503-440-9064
Mailing Address: POB 167, Hammond, Ore. 97121-0167
Signature: 

III. PROPERTY INFORMATION:

Site Address (if any): East side of Lienenweber Lake
Property Location: Township 8, Range 10, Section NE S. 29, SE S. 20, Tax Lot 810290001100
Current Use of Tax Lot : Vacant Land

IV. PARTITION INFORMATION:

Current Tax Lot Size: 453,743 sq. ft. (10.4 ac.)
Number and square footage of parcels (lots) to be created: parcel #1 70,479 sq. ft

parcel #2 54,294 sq. ft., and parcel #3 328,970 sq. ft.

V. CRITERIA

Proposed Use for each parcel (lot): Parcel 1. Residential House
Parcel 2. Residential House
Parcel 3. Residential House

Describe Access for each proposed parcel (lot) County Road, see Clatsop County Survey # B-8753
Book, 357, Page 505

Is city water proposed for each parcel (lot)? ☒ Yes ☐ No

Is city sewer proposed for each parcel (lot)? ☐ Yes ☒ No

Describe the proposed improvements: _____

Develop roadway and utilities to home sites.



December 7, 2021

Scott Hazelton
Planning Director | City of Warrenton
P.O. Box 250 | 225 S Main Ave
Warrenton, OR 97146

Re: Impact Study in support of the Wilson Short Partition Plat Application on Leinenweber Lake.

Transportation System

An unimproved County Road lies adjacent to the subject parcel. Proposed improvements will not have an adverse effect on existing Public Roads.

Drainage System

There is no Public Drainage system servicing this tract. Proposed improvements will take advantage of the existing topography and soil conditions to mitigate any adverse effects.

Park System

There are no Public Parks adjacent to this tract. Proposed improvements will not have an adverse effect on existing Public Parks.

Water System

The existing water system on SW Oak Ave. should be sufficient for proposed units on the subject tract.

Sewer System

There is no Public Sewer servicing the units on SW Oak Ave., therefore proposed units will utilize septic.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

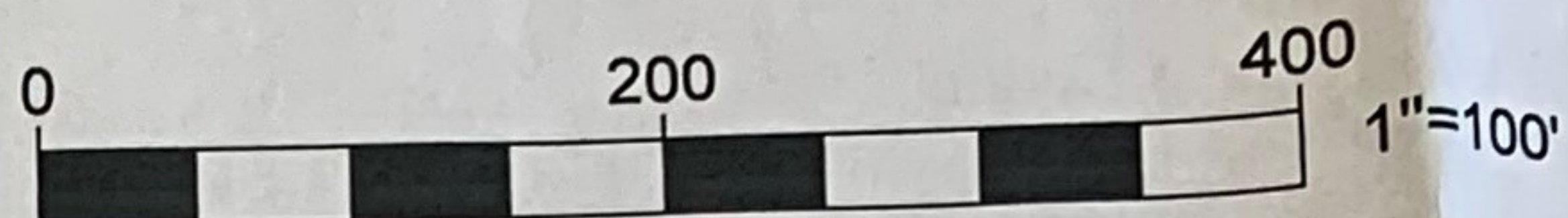
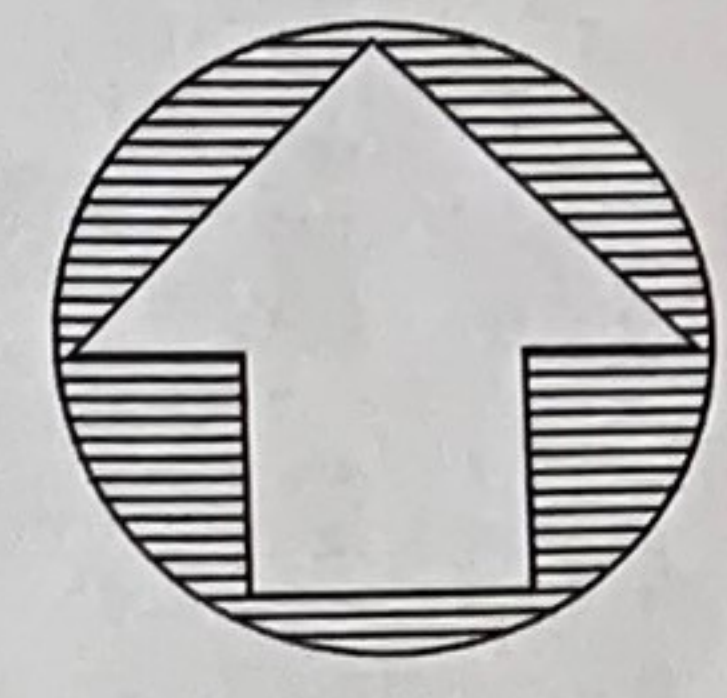
Michael G. Magyar

OREGON
JULY 12, 2016
MICHAEL G. MAGYAR
PLS 90788

EXPIRES: DEC. 31, 2022

MAGYAR LAND SURVEYING LLC
POB 1309 ASTORIA, ORE. 97103
503-338-9958

EXHIBIT FOR JOHN WILSON & TRACY BERGERSON-WILSON
IN SUPPORT OF A PARTITION PLAT APPLICATION AT
LIENENWEBER LAKE, WARRENTON, ORE.
NE 1/4 SEC. 29 & SE 1/4 SEC. 20, T. 8 N., R. 10 W., W.M.
OCTOBER 14, 2021



PLANNING

CITY: WARRENTON

ZONE: R 40

AREA: 453, 743 SQ. FT. (10.4 AC.)

THE PROPERTY IS BOUNDED ON THE WEST BY LIENENWEBER LAKE WITH A RELATIVELY SMALL, BUILDABLE, UPLAND AREA. THE PARCEL IS ACCESSABLE BY A 60' WIDE COUNTY ROAD WHICH IS IMPROVED AS SW OAK STREET TO THE SOUTH BUT CURRENTLY UNIMPROVED ALONG THE EAST BOUNDARY OF THE PARCEL.

THE OWNER INTENDS TO PERFORM A MINOR PARTITION PLAT ON THE PARCEL AND CREATE THREE NEW PARCELS, ALL THREE OF WHICH ARE PLANNED FOR RESIDENTIAL SINGLE FAMILY DWELLINGS. A PROPOSED CUL-DE-SAC WITH A 40' RADIUS IS SHOWN ALONG WITH A 16' WIDE PROPOSED, PAVED ROADWAY.

THERE IS CURRENTLY NO ADDRESS FOR THE PARCEL.





December 21st, 2021

Staff Report: **Land Partition 21-5**

Date of Submittal: **10/25/2021**

120 Day Deadline: **02/22/2022**

Date of Decision: **December 21st, 2021**

Decision: **Approved**

BACKGROUND & STAFF RECOMMENDATION

On October 25th, 2021, Mike Magyar on behalf of John Wilson and Tracey Bergerson-Wilson submitted the application listed above to partition Tax Lot 810290001100 into three parcels. The property is located, in the Low Density Residential (R-40) Zone.

The application was deemed complete on December 7th, 2021. Notice for a Type II administrative decision was mailed on November 9th, 2021 and was published in the Columbia Press on December 10th, 2021. Multiple public comments have been received in opposition; they are attached to this staff report. The primary purpose and intent of the staff report is to make findings on whether the application satisfies criteria and standards specified in the Warrenton Municipal Code (WMC). The City maintains consistency with Comprehensive Plan provisions through the enactment and application of land use regulations. Hence, the staff report does not make specific findings on compliance with Comprehensive Plan Policies or provisions, but adheres to the WMC chapter order listed below.

The applicant has submitted plans that satisfy the WMC and staff at this point of review. Staff finds this application satisfactory and offer an approval of the partition. Conditions of approval will require the applicant to continue to meet WMC and Public Works requirements before submittal for building plans.

The staff report will provide a breakdown of the applicable WMC and if the applicant addressed the criteria to staff's satisfaction. Any items not deemed acceptable have been addressed with new submittals from the applicant or as a condition of approval.



Figure 1: Site outlined in the R40 Zone



Figure 2: Site, Aerial

APPLICABLE CRITERIA AND STANDARDS

Chapter 16.24 Low Density Residential (R-40) District
Chapter 16.216 Land Divisions and Lot Line Adjustments
Chapter 16.208.040 Type II Procedure (Administrative)

FINDINGS

Chapter 16.24 Low Density Residential (R-40) District

16.404.040 Development Standards

Staff Finding: This criterion is met.

- The proposed lots provide proper square footage and lot width
-

Staff Conclusion for Chapter 16.40: General Commercial District

Staff finds that the criteria of Chapter 16.24 Low Density Residential (R-40) District has been met by the applicant. At this time there are no concerns regarding this chapter of Warrenton Municipal Code from staff.

Chapter 16.216 Land Divisions and Lot Line Adjustments

16.216.010 Purpose

Staff Finding: This criterion is met.

- Applicant is proposing to create 3 lots making this a land partition application.

16.216.020 General Requirements

Staff Finding: This criterion is met.

- Applicant is proposing lots that are greater than 2 times the underlying land use district. A future re-division plan was not required due to environmental constraints restricting and future divisions. Applicant is proposing lots that minimize flood damage. Utilities will be addressed if development plans are submitted. There are not street names suggested.

16.216.040 Preliminary Plat Submission Requirements

Staff Finding: This criterion is met.

- Applicant has provided all required information to the satisfaction of staff for the partition. Any plans for development will address any wetland or utility concerns.

Staff Conclusion for Chapter 16. 216 Land Divisions and Lot Line Adjustments

Staff finds that the criteria of Chapter 16. 216 Land Divisions and Lot Line Adjustments has been met by the applicant. At this time there are no concerns regarding this chapter of Warrenton Municipal Code from staff. Conditions of approval provided by the Public Works department regarding this chapter will be addressed before submitting for building plans.

Conclusion, Recommendation, & Conditions of Approval

Conclusion and Recommendation

The findings above demonstrate that the proposed partition is generally consistent with the R-40 zoning district development standards and the design standards of the development code. Staff approves LP-21-5 subject to the following conditions of approval:

Conditions of Approval

1. Submit grading permit prior to any work
2. Submit erosion and sediment control plan prior to any work
3. Submit an engineered stormwater report prior to any work
4. Coordination with the state and the Warrenton Planning department to address any wetland concerns.
5. Submit approved septic plans before installation
6. Abide by all testimony and plans submitted.
7. Pay any remaining fees.

Attachments

- | | |
|---|------------------|
| 1 | Application |
| 2 | Impact Study |
| 3 | Written Comments |

From: [Erika Bauer](#)
To: [Scott Hazelton](#)
Cc: [Linda Engbretson](#); [Henry A. Balensifer III](#)
Subject: Wilson Property Application for Partition Plat Creation of Three New Parcels at Leinenweber Lake for Residential Family Dwellings
Date: Tuesday, November 23, 2021 10:43:10 AM

Scott,

I appreciate the time you spent with my husband and myself yesterday to discuss the Wilson Property Application for partition. We are neighbors on the west side of the lake, directly across from their property. I have some concerns regarding the partition and they are as follows:

My understanding, based on our discussion in your office, is that the two principle criteria for a lot partition are access and the area of the partition (square footage). I am not sure that by area you meant total plat area, or total buildable area. If the criteria is total buildable area, the subject property would not qualify for subdivision into three lots since the County wetland areas would appear to clearly rule out sufficient buildable area when setbacks are factored in.

The survey map which you provided for us yesterday differs widely from the County wetlands map which we have reviewed as well. The surveyor (Magyar) originally advised that the right of way belonged to the County, but yesterday you stated that you have learned that the right of way belongs to the City. You stated that County maps might be inaccurate and therefore you would accept the Survey map as accurate. We feel that there are enough major discrepancies and errors in the Survey map, that warrant the City obtaining an independent survey to address these issues before making the decision on the partition.

Importantly, since the right of way would be the City's (Public Works) responsibility if the Partition were granted, the City would then have to provide a road to the Wilson lots, which we, the taxpayers, would be paying for. We would essentially be paying for a private road to what the Wilsons have said will remain family properties. If the Partition is not granted, it is my understanding that the Wilsons would be responsible for paying for the private road to their property. I object to my tax dollars being spent to fund what will essentially be a private road to their family compound,

It is of great concern to me that after the decision regarding the partition is made, you stated that no additional notice will be given to the neighbors or neighborhood as to further land use and construction. We have observed the Wilsons gross disregard for the environment when earlier this year, without application for the required land use permits, they brought heavy equipment onto the property, cleared land, removed trees and destroyed existing habitat, all apparently within the wetlands setback area, for the purpose of their survey. We have no confidence that they would hesitate to remove large trees, further disrupt the existing wetlands, and destroy habitat for a wide range of wildlife, including bald eagles, elk, and resident as well as migrating waterfowl.

Prior to any approval of this partition, I feel it is incumbent on the City to obtain additional expert opinion reports, including those addressing environmental issues. Additional due diligence is required to clarify discrepancies and errors in the applicant-provided survey, without which I strongly oppose this Partition.

Thank you for your consideration of these matters.

Erika Bauer
1142 SW Pine Drive
Warrenton

MS
DH
SR. 97146

DATED 11/29/2021

RECEIVED
NOV 29 2021

TO: MR. SCOTT HAZEN ^{BY} JW
CITY OF WARRENTON
PLANNING DIRECTOR

GARDING : PARTITION PROPOSAL
SUBMITTED BY MICHAEL MAGYAR
ON BEHALF OF JOHN WILSON &
TRACEY BERBERSON-WILSON OF
PROPERTY ADJACENT TO LIENENUEBER UK.

Scott Hazleton,

I am writing my letter of objection to the partition proposal submitted by Michael Magyar on behalf of John Wilson and Tracey Bergerson-Wilson of property adjacent to Lienenweber Lake. Our community should provide a place where both humans and nature can thrive together. I have been a Warrenton resident for the past 30 years. While I see that Warrenton thrives and grows today, it seems to me Warrenton's decision makers have taken enough of Warrenton's wild parcels for developments. We should be protecting and enhancing our remaining wild areas. The proposed development, adjacent to Leinenweber Lake, would take place on such a parcel. This development will likely impact the wetlands even if it is not within the wetland boundaries. Our wetlands are being fragmented into smaller and smaller pieces that are less connected and more isolated, therefore, less able to perform the ecological functions that they are designed to do. Developers seek more and more greater variances from set back requirements along with, tree removal and road expansion; each of these will play a detrimental role to this special site. This property adjacent to Leinenweber Lake is one of the prettiest views in Warrenton and a sanctuary for a multitude of wildlife. The proposed development would be damaging to both.

I hope you take the time to consider the Leinenweber Lake residents feelings towards this project. My 95 year old father-in-law lives directly on the lake and has asked to be included in this objection- his signature will be placed below to have his right of say acknowledged. I implore you to take the time to carefully listen to the words of the residents. Developing this site will surely result in the loss of yet another wild place that people specifically move here to be a part of. Overall, this project would have an overarching negative impact to this community. Please enter this as my formal letter of objection to the proposal.

Thank you,

John & Regina Bentley
1390 SW Pine Drive
Warrenton OR, 97146



Benjamin Williams
1210 SW Pine Drive
Warrenton OR, 97146



November 27, 2021
1236 SW Pine Drive
Warrenton, Oregon 97146
dzunkel@gmail.com
503 861-8539

Dear Mr. Hazelton:

As property owners of Tax Lot 8102BA00200, my wife and I are in receipt of a letter from the City of Warrenton dated November 9, requesting comments on the proposed partition of Tax Lot 81020001100 into 3 parcels. We received our letter on November 16. Since then we have been researching the request and the process. I have been trying to objectively evaluate this request from all points of view, including the Wilsons. The following opinions are mine alone. My wife will be responding separately.

To put this into context you should be aware that when we purchased our property in 2013, we were unaware that ANY development could occur on the east side of Lake Leinenweber. We understood that the lake would remain in its current natural state. Later, we were informed by a neighbor that one, but only one lot, was potentially developable. So, the request to partition the property into 3 parcels was a very unsettling surprise to us.

After review of as much data as I can access, I am strongly opposed to the partition of the Wilson property into 3 parcels. The following are my 4 major objections to this request:

1. The proposed lot size of the 3 'buildable' lots, especially the middle and south lots, appears to me to be too small to accommodate homes and yards consistent with existing properties on the lake. The only way to increase the size of these lots is to encroach on the 50 foot setback from the top of the bank, thereby impacting the lake, wetlands, and littoral vegetation. I hope that the 'top of the bank' was determined at its highest ground level, not by the lake level which was at its lowest when the survey was done.
2. Development of 3 lots on this property will add additional stress on an already stressed lake and wildlife there via fertilizer runoff, septic issues, and other human impacts ie. light, noise, activity, hunting, etc.
3. The proposed road to the lots, measuring at least 1800+ feet [a third of a mile], is very problematic in my opinion. This long access road will create noise and light pollution along its entire length while accessing at most 3 homes. While I am told that this will be a county-maintained road, I have heard varying opinions about who will pay for it, ranging from the county, city, and developer. While technically a county road, it will practically be a semi-private driveway for the homeowners. As a taxpayer I feel that the financial responsibility for such an access road and the utilities lies entirely with the developer. Had the owner's developable property been on the far south end of the property, not requiring a long access road, I could have been much more amenable to the partitioning request.
4. While the application might be considered as a property partition only, in a larger sense it is really a development, considering property size, number of homes proposed, and overall effects on the area. Therefore I suggest that this property be considered a

development so that the neighbors can be aware of the developers' short and long-term plans and so that they are subject to all the rules and regulations governing developers.

I am very concerned about the intentions and motives of the owners. I am concerned that once the property is partitioned, the owners will request further partitioning of the property into additional tiny lots suitable only for 'tiny houses' and/or small condominiums, especially if the owners later decide not to live there with their family as apparently planned. It is public record that the owners have been delinquent in payment of their property taxes and that only recently did they pay their back taxes. I am not certain if they have paid their most recent tax bill. Nevertheless this does not instill confidence in their motives and eventual goals.

My wife and I, as well as a number of other property owners on the west side of the lake, have significant additional concerns about development of this property, not directly related to the partitioning. I must mention those concerns for the record, as they are very important to me as a property owner, taxpayer, and nature-lover.

I am seriously concerned about the health of the lake and the abundant wildlife around it. This is home to fish, elk, deer, coyote, river otter, beaver, and birds of all types including egrets, eagles, geese, ducks, and heron. ANY development on the east side of the lake will change the nature of the lake in perpetuity and affect this wildlife. And, as mentioned before, this could just be a precursor to more development and worsening negative effects on the entire area.

In addition, this development could have a significant negative effect on property values, as well as owners' peace of mind- REAL effects on REAL people! While I am sensitive to the right of the owners to try to develop the property as they wish, I want any development to be done legally, respectfully, and responsibly in a way consistent with the neighborhood that existed before their purchase of the property.

Finally I have major concerns about the process utilized by the city and planning department to deal with this request. While I appreciate being asked for my opinion here, the process is not clear, straight-forward, or transparent, especially to a neophyte in these issues. It may be time for the city and planning commission to review and improve the process.

All that being said, thank you, Scott, for soliciting our input and for meeting with us. I am hopeful that a decision can be made here that can be a 'win-win' situation for all parties.

Sincerely,
David E. Zunkel MD

CC. Mayor Henry Balensifer hbalsensifer@ci.warrenton.or.us
City Manager Linda Engbretson lengbretson@ci.warrenton.or.us

Date: November 28, 2021

To: Scott Hazelton, Planning Director
Henry Balensifer, Mayor
Gerald Poe, City Commissioner
Mark Baldwin, City Commissioner
Tom Dyer, City Commissioner
Rick Newton, City Commissioner
Linda Engbretson, City Manager

From: Kathleen Zunkel, Property Owner, 1236 SW Pine Dr., Warrenton, OR 97146

Re: Comments and Objections Pursuant to the Notice of Pending Type II Administrative Decision, Tax Lot 810290001100

Enclosed, please find my comments and objections to the Notice of Pending Type II Administrative Decision, dated and mailed to me on November 9th, 2021, which I received in my mail on Tuesday, November 16th, 2021. I have divided my letter into two parts because I want you, Mayor Balensifer, City Commissioners Gerald Poe, Mark Baldwin, Tom Dyer, Rick Newton, City Manager Linda Engbretson, and Planning Director Scott Hazelton, to understand more clearly why I and other affected property members of my community are so disturbed, confused, frustrated, and anxious about this proposed three-lot partition of Tax Lot 810290001100 adjacent to Leinenweber Lake. Therefore, Part I of this letter focuses on the impacts and my objections to this partition process as a whole; Part II contains the remainder of my specific objections to the property partition.

Part I. The Partition Process:

On the afternoon my husband, David Zunkel, and I received notice of this proposed partition, Tuesday, November 16th, we immediately went to the Warrenton City Planning Office seeking clarification as well as an extension on the time allotted for submittal of written commentary since we were, one, in shock, and, two, realized we needed to do a lot of time-consuming homework to get up to speed with only 13 calendar days left to submit our commentary/objections by November 29th, which includes Thanksgiving and the onset of the Holidays.

We did get to meet with Mr. Hazelton that afternoon. He explained he could not give us an extension since he had to adhere to a strict 20-day notice from the date of mailing to conclusion of commentary. Reviewing Warrenton Municipal Code 16.208.040. C(3)(a), I do not see where this is written in stone. It states: "Provide a **minimum** 14-day period for submitting written comments before a decision is made on the permit." Trying to navigate and gather all the information necessary to make relevant, specific commentary that meets possible appeal requirements, if necessary, takes time to locate, review, and understand in the context of this proposal, especially for lay people who are not schooled in reading Warrenton Municipal Code. Furthermore, the timing of this, extending through the entire holiday season if we decide to

appeal, is an unreasonable burden, especially for those of us who could not get together with family last year because of the pandemic. Time spent preparing for this is time lost preparing for Christmas, including gift shopping, holiday decorating, get-togethers with our families and friends in what should be a real celebration of life post pandemic. Mr. Wilson has owned this property since 2006. I don't see why the rush is on right now to push this partition through. It is entirely unfair to everyone in this community who deserves a reasonable timeframe to make educated commentary on this proposal AND enjoy the Holidays. In my experience 30 days is the usual amount of time afforded people who need to make comments.

We did receive a copy of the only exhibit in the file that day, which was the "Exhibit for John Wilson & Tracy Bergerson-Wilson in Support of a Partition Plat Application at Lienenweber (sic) Lake" created and submitted by Surveyor Michael Magyar. It was further explained by Mr. Hazelton that the only consideration for approving the partition was zoning, square footage, and access, and that he believed the proposal met those requirements. We left with the feeling that this partition was already rubber-stamped for approval.

In the days since my husband and I first met with Mr. Hazelton I, along with other neighbors, have tried to navigate the confusing maze of information and some wrong information we have received regarding this proposal. It seems that we affected property owners are allowed to chime in on this limited partition process but we are in the dark about any real concrete details on the actual development. So after reading more on the administrative procedures I came across Section 16.208.040. B(2)(e), citing application requirements for the applicant to "Include an impact statement for all land division applications."

I went back to the Planning Department on the afternoon of November 23rd requesting a copy of that impact statement so I could better understand the proposal. Mr. Hazelton relayed that an impact study for this proposed development was not necessary because the applicant/landowner/developer, Mr. Wilson, told him that he is only planning to build one residence on each proposed parcel, with each residence to be occupied by Mr. Wilson and his two sons. Apparently Mr. Wilson's assertion is the basis upon which Mr. Hazelton has concluded that this partition is not really a development but just a single family affair and therefore does not require any impact study at all. Yet once this property is partitioned and built, Mr. Wilson is free to sell these newly developed properties to anyone for whatever price he deems and he never has to establish residence there at all. Is this all that is required by the City for a partition, a person's word on what they intend to build with no plan, transparency or details available to the surrounding community? If so, this is a developer's dream and the surrounding affected homeowners' worst nightmare. Our decades-long established community is left with no real insight on what will be built along the continuum of this lake that we will share, a source of real anxiety for many of us.

In an effort to find more information about the landowner/developer Mr. Wilson, public records show a concerning pattern of disregard for following the rules and regulations of Clatsop County and the State of Oregon. County records available on this particular property indicate he has been serially and seriously delinquent in making his tax payments since 2008 and that he has

only recently brought them up to date this past July, most likely in anticipation of applying for this partition. Let it also be noted this years' long overdue tax payment was made after he cleared a large swath of his property with heavy equipment and without a permit in the spring of 2021. According to public record the Oregon State Department of Revenue has a \$5340 lien against Mr. Wilson for failure to pay his state taxes. Furthermore, Mr. Wilson has had convictions by the State of Oregon for fish and game violations. If Mr. Wilson cannot pay his taxes, how can he afford to develop three properties if granted this partition? If he cannot afford to build houses that reflect the character of this already established community, how will that affect our own property values? What kind of steward will he be living on a wetland/riparian corridor property teeming with wildlife, especially with regard to the elk we regularly see there? In light of all this information, how will he conduct himself as a neighbor when public records reveal his flagrant disregard for the rules and regulations of the county and state? Can he be trusted?

While the City is asking us to comment only through the narrow prism of this proposed partition, there is much more at stake here than divvying up a 10.4-acre parcel of land that currently, and rightly, I believe, has only one buildable lot. For many of us living on this lake we have sadly learned how fragile this riparian corridor and the wildlife it supports is from firsthand experience. We see how stressed the lake is from all the septic systems surrounding it; the detrimental effects of the bad development decisions of the past, including extensive brush clearing and logging practices along the lake. We see the effects of fertilizers, pesticides, and herbicides that leach into the lake, along with the current devastating effects of climate change and severe drought, creating toxic algal blooms and a dense, slimy green layer atop Leinenweber Lake. Many of us along this lake realize we are part of the problem contributing to its poor health and have stopped fertilizing our lawns, washing our docks or cars in driveways that funnel detergents into the lake. The last thing this wetland lake needs is more septic systems leaching into it.

I hope you will all consider how slipshod, pointless and frustrating this partition process is in this instance. While it supposedly gives us, the affected community, an opportunity to make objections, it is so narrow in scope, so difficult to navigate and understand, so devoid of information, so rushed in our ability to respond that it seems eminently skewed against us from the onset. What is the point of offering commentary when you already know it meets all the City's requirements for zoning, square footage and access, then make us fumble in the dark trying to figure out what the "relevant issues with sufficient specificity" would be with no plan or impact statements available to us, just an exhibit by a surveyor who is paid for and represents the owner/developer, Mr. Wilson, who has apparently given his 24-carat word to the Planning Director that he is just building personal homes for himself and his two sons? And then we, the affected community, are shut out of the rest of the development/building phase of the process, with everything that entails, and left with the consequences of who knows what. To my mind that is beyond problematic and downright unfair and unreasonable, especially to those of us who meet our civic responsibilities every year by paying our taxes in full and on time.

PART II: Further Objections to the Proposed Partition of Tax Lot 810290001100

I am opposed to the proposed partition of the above-mentioned tax lot for the following reasons:

1. The “Exhibit for John Wilson & Tracy Bergerson-Wilson in Support of a Partition Plat Application at Lienenweber (sic) Lake” created and proffered by Mr. Magyar needs to be independently evaluated. The buildable sites, especially Parcel 2 and Parcel 3, are so closely hemmed in between the 50’ wetland offset and the building setbacks that I believe independent scrutiny is warranted. Also, Surveyor Magyar, who is a paid agent in support of Mr. Wilson, is an interested party. Relying on his map and calculations as the gold standard by which this entire issue is decided creates a conflict of interest and cannot be relied upon without independent evaluation/verification.
2. Situating another 3 septic systems along Lake Leinenweber will place undo stress on the lake itself, and I would like to have a study done on the further effects of added septic systems on this already ailing wetland and the effects to the community at large.
3. The proposed County maintained road that will parallel the entire length of the 10.4-acre property needs further scrutiny to determine the noise effects on the surrounding lake community, to include residents and wildlife, and the pollution effects of a blacktop road of that length so close to the wetland boundaries leaching toxins into the wetlands/lake.
4. The added light pollution created by this partition will be harmful to the abundant wildlife in and around the lake. See www.darksky.org/light-pollution/wildlife/
5. The added light pollution, noise pollution and development of the proposed partitions will affect the quality of life of all property owners across the lake and cause a devaluation of all affected owners’ property values.
6. I reassert all my relevant objections already defined in Part I of this letter as well as my concurrence with further relevant objections as outlined by David Zunkel in his submitted letter regarding this partition.

Thank you for your time and attention to this matter,
Kathleen Zunkel

From: [Loren Gramson](#)
To: [Scott Hazelton](#)
Subject: Re: Fill Property
Date: Tuesday, November 23, 2021 10:42:30 AM
Attachments: [image001.png](#)

An issue that would have prevented our development is having a long street that doesn't have another entrance or exit that's over some many feet long.

Not sure that's worded correctly, it apparently wasn't in effect when we did the two lake developments that encompassed 62 acres.

I'm not trying to stop Wilson in any way, these are just areas that will need to be addressed by the planning and development team.

Now, where's my shovel

Loren

On Tue, Nov 23, 2021 at 10:28 AM Scott Hazelton <shazelton@ci.warrenton.or.us> wrote:

Hi Loren,

It is ending in November, on the 29th. However a decision won't be made until the first part of December. What we have currently proposed matches the 40,000 sq ft, the 50 ft setback and has the road access for the partition. I think that development plans will be for the Wilson's residence and the partition is to have build sites for their kids, at least that was what was communicated to me. As far as I know they do not have the septic okay, but it is not required for this partition. I think that there could be some access issues with the city street going over wetlands. I have a meeting with Mr. Wilson the week after Thanksgiving set up and we are going to further discuss his plans.

If you would like to come in and review the plans and discuss it further you are more than welcome.

Thanks,

Scott Hazelton

Planning Director | City of Warrenton

Office : 503-861-0920

Mobile : 503-440-4082

Fax : 503-861-2351

P.O. Box 250 | [225 S Main Ave](#)

Warrenton, OR 97146

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From: Loren Gramson <lbgramson@gmail.com>
Sent: Tuesday, November 23, 2021 10:14 AM
To: Scott Hazelton <shazelton@ci.warrenton.or.us>
Subject: Re: Fill Property

I have the wattles so I'll put it in place so sand doesn't fill the ditch.

I received info on the Wilson project to the east of my residence on SW Pine Drive. Scott, I believe this project will require a great deal of scrutiny and research. That area needs 40,000 square feet (R40) plus the 50 foot riparian setback, and road right of way setbacks. I wasn't aware that a permit wasn't taken out to brush and clear the area. I understood that the Wilsons would build their personal home there, however this minor partition seems a bit of a stretch.

Have they received oks for septic systems, or is that not necessary at this stage? I also know that the roadway is a city street (SW Oak) and there are significant wetlands on that side of the lake.

Is the review period ending in November or December, it was confusing?

Thanks Scott,

Loren

On Tue, Nov 23, 2021 at 9:35 AM Scott Hazelton <shazelton@ci.warrenton.or.us> wrote:

Happy Thanksgiving to you too! I believe so, I think that they are roughly the same thing.

Thanks,

Scott Hazelton

Planning Director | City of Warrenton

Office : 503-861-0920

Mobile : 503-440-4082

Fax : 503-861-2351

P.O. Box 250 | [225 S Main Ave](#)

[Warrenton, OR 97146](#)

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From: Loren Gramson <lbgramson@gmail.com>
Sent: Monday, November 22, 2021 5:47 PM
To: Scott Hazelton <shazelton@ci.warrenton.or.us>
Subject: Re: Fill Property

I'll try for tomorrow on all of that.

Will a wattle work, I have no experience ever using a bio bag. If you'll let me know

where to get one I'll happily put it in.

I'll let Geoff know to call you.

Thanks Scott, enjoy your thanksgiving.

Loren

On Mon, Nov 22, 2021 at 3:25 PM Scott Hazelton <shazelton@ci.warrenton.or.us> wrote:

Hey Loren,

Collin and I swung out there this afternoon to check out the property. We are all good with your fix, we just have a couple of requests to shore it up.

Could you get that silt fence moved to the otherside of the ditch to keep the sand from filling the ditch up?

Could you run a shovel down the ditch to clear some of that sand out again?

Could you add a bio bag at the bottom of the east west ditch to keep sediment out of the culvert?

We think that this will take care of any issues and the January 4th date will remain in place for Geoff to get us something submitted. Could you have Geoff give me a call? I sent him an email but have not heard back from him.

Thanks,

Scott Hazelton

Planning Director | City of Warrenton

Office : 503-861-0920

Mobile : 503-440-4082

Fax : 503-861-2351

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From: [Rosalie Dimmick Larsen](#)
To: [Scott Hazelton](#)
Subject: objection
Date: Monday, November 15, 2021 4:13:18 PM

Dear Scott Hazleton,

I am writing my objection to the partition proposal submitted by Michael Magyar on behalf of owners John Wilson and Tracey Bergerson-

Wilson of property adjacent to Lienenweber Lake. I object to allowing for further housing development in that area over the existing standard and for several reasons. The property borders Lienenweber lake and is in a sensitive wetland area that was delineated years ago. It was determined then that one home only be allowed at the North end of the property on the undeveloped approximately 12 acres. Building in that area would disrupt the elk herd that lives there as well as pairs of eagles, herons, kingfishers, ducks and geese of all kind and other animals and birdlife that make their home and nests in the area. The impact on the lake we now enjoy will be huge as well. I have seen over the years what population density has had on the lake. Septic systems and irrigation of lawns has led to loss of lake animals and fish life. It's becoming more of a mudflat instead of the pristine wetland lake it once was. There is no question that approving this area for further development would have a negative impact on the environment. Further development of the area would adversely impact lake views for neighboring lake owners on the West side of the lake who have paid property taxes for years. Though views are never guaranteed they are given weight in consideration of increased development. The ruining of current property owners lake views of trees and animals translates into a loss of property values for them. That is unfair.

Please enter this communication into record as my official objection to the proposal.

Thank you very much,

Rosalie Dimmick Larsen,
1541 SW 14th Place
Warrenton, OR 97146

From: Bob@certifiedriskmanagers.com on behalf of [Robert Marshburn](#)
To: [Scott Hazelton](#)
Cc: [Linda Engbretson](#); [Henry A. Balensifer III](#); [Gerald Poe](#); [Mark Baldwin](#); [Tom Dyer](#); [Rick Newton](#)
Subject: Registered: RE: Registered: Email Regarding OPPOSITION TO Wilson Property Application for 3 Lot Partitions with Attached County Maps
Date: Monday, November 29, 2021 4:02:20 PM
Attachments: [Wilson Satellite Property Maps.pdf](#)
Importance: High

 REGISTERED EMAIL™ | ENCRYPTED TRANSMISSION

You have received an encrypted email from **Robert Marshburn**. To reply to this message encrypted, please [click here](#).

TO: Scott Hazelton, Planning Director, City of Warrenton;
Linda Engbretson, City Manager;
Henry Balensifer, Mayor
Commission Members:
Gerald Poe
Mark Baldwin
Tom M. Dyer
Rick Newton

Scott,

This is a follow-up email with important additional information for consideration (in addition to my previous email shown below) in opposition to the Wilson Property application for a 3 lot partition adjacent to Leinenweber Lake.

Our understanding of the procedure you described to me and my wife at our discussion in your office on 11.22 was that only 2 criteria had to be considered for approval of the application: 1 – sufficient square footage for the new lot partitions; and 2 – access to the property. You advised us that you had already concluded that both had been met.

You further advised us that nothing else was required for this partition application since this was a family development application rather than a commercial development application for partition.

However, the Warrenton Administrative Procedures Section 16.208.040, B(2)(e) specifically requires the application to “Include an impact statement for all land division applications.” Note that the requirement of an Impact Statement is for “ALL Land Division Applications.” There is no exemption from this requirement whether it is a so-called “family development application” rather than a “commercial development application” as you told us in our meeting with you in your office.

These specific code requirements rely upon Compliance with other requirements before application. The history of the subject property owners before this application shows a flagrant disregard and violation of these requirements. NO permit was sought by the applicants before clearing the property with heavy construction equipment on May 19th in advance of the survey and this partition application.

I have been advised by a long-time local Certified Wetlands Consultant, now retired, that if the property has been graded or leveled the State as well as the Federal Authorities may take enforcement action against the Owners or those responsible for the unauthorized and unpermitted grading or leveling.

I and some of my neighbors personally witnessed the grading, leveling, and removal of trees along the west side of the property, i.e., the east side of Leinenweber Lake, on May 19th of this year in the unpermitted action taken on the subject property before this partition application. Before the clearing and removal of the trees along the Lake, we could not see the property beyond the trees which now is in clear view and laid bare after the removal of the trees and brush previously obstructing the view.

Most egregious yet is the fact that much of this unpermitted work was done in the very wetland setback area shown by the applicants on the land surveying map they commissioned with this application! This is even though the surveyor is an agent advocate for the owner applicants.

As discussed in my previous email, I am concerned about the statement you made to us in your office that where there is a conflict in maps, you accept the Survey map as accurate. From my prior email and the additional information in this follow-up email, it appears critical inaccuracies seem to have been made in the Survey map from the surveyor who, it must be emphasized, is acting as an agent advocate for the owner applicants – especially when it clearly appears at odds with both the County and the newer satellite maps (attached to this email) of the property.

You will note from an examination of the attached satellite pictures (you can zoom in and out for detail and overall views) that the boundaries do not line up with the survey map of the lake and its boundaries. Of particular note is that the Lake has a small island immediately to the west of the eastern boundary of the lake. I took satellite shots with different portions of the subject area showing so you can observe these differences when compared to the surveyed map lake boundaries as purported by the owner's survey agent advocate. Perhaps the claimed "OBSERVED TOP OF BANK" shown on the survey may have been measured from the island much farther to the west, rather than the actual eastern boundary of the Lake? The satellite images of the eastern Lake boundary do not align with the survey map. This might help to explain the multiple surveyor visits to the subject property that we observed if the original survey was from the actual eastern boundary of the Lake and resulted in no room for buildable property, rather than the apparently revised boundary from the island. Of course, as noted in my prior email below with its attachments, when the wetland boundaries are taken into account, there is no buildable land area at all left for development.

It would be appropriate and prudent at this point that there should be independent verification relative to all of these discrepancies by a Certified Expert representing the City, rather than the surveyor the applicants already have representing them as their advocate.

The City should not now in any way reward this serious violation of land clearing and wetland protection protocols and complete disregard of the City land use permit application requirement by proceeding with this partition application on the basis that "it's already done now" or by assuming that it is in any way proper to proceed with the partition application or any other development work – especially when enforcement action may proceed from the State or Federal Authorities for the prior unauthorized grading and clearing work on the

property.

It is no longer possible at this point to do any late visual onsite due diligence, as you mentioned you had done shortly before our meeting, after these facts involving the destruction of the prior condition of the property unless and until a proper evaluation and accountability of the previous unpermitted activity can be determined.

In summary, 3 additional items need to be carefully considered based on the above information:

1. Independent verification of the correct Lake boundaries and their required setback starting points and measurement;
2. Investigation of enforcement action that may proceed from the State or Federal Authorities for the prior unauthorized and unpermitted grading and clearing work on the property;
3. The submission of an Impact Statement to meet the Warrenton Administrative Procedures Requirement for ALL Land Division Applications as noted above.

At the very minimum, the City should delay consideration of any decision on the partition application as well as any further development application or work permits until the above and below items in this matter can be investigated and clarified.

Sincerely yours,

Robert Marshburn
1142 SW Pine Drive
Warrenton

P.S. Please note that the original email shown below contained the attachments referenced in the email. If you do not have the original email with the attachments, please let me know and I will supply a copy with all the referenced attachments.

From: Bob@certifiedriskmanagers.com [mailto:Bob@certifiedriskmanagers.com]

Sent: Monday, November 22, 2021 3:27 PM

To: shazelton@ci.warrenton.or.us

Cc: citymanager@ci.warrenton.or.us; Hbalensifer@ci.warrenton.or.us; Bob@certifiedriskmanagers.com

Subject: Registered: Email Regarding OPPOSITION TO Wilson Property Application for 3 Lot Partitions with Attached County Maps

Importance: High

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You have received an encrypted email from **Robert Marshburn**. To reply to this message encrypted, please [click here](#).

TO: Scott Hazelton, Planning Director, City of Warrenton;
Linda Engbretson, City Manager;
Henry Balensifer, Mayor

RE: Wilson Property Application for Partition Plat Creation of Three New Parcels at Leinenweber Lake for Residential Family Dwellings

Scott,

Thank you for your time and courtesy extended to me and my wife today at your office to discuss the Wilson Property Application and possible future development of the property. Also, thank you for providing us with a copy of the Survey Map. As we mentioned, we are neighbors on the other side of the lake who would be affected by any future construction.

I certainly have no objection to persons enjoying and utilizing the best use of their private property so long as they comply with all City, County, State, and Federal requirements. However, at this time, I must write in opposition to the City granting this proposed property application and possible future construction for the reasons following.

In this matter, the Owner/Applicants already disregarded and ignored the City requirement to obtain a land-use permit before the clearing by heavy construction equipment of brush, trees, and natural vegetation in the subject area. This prior unpermitted activity dramatically altered the original unspoiled property from its natural state, perhaps in anticipation of this application. It was quite shocking to us and our neighbors to suddenly see this very noisy and destructive work being done with no prior notice to the neighbors. This has resulted in heightened concerns that the future would not also see a disregard of proper procedures.

Additionally, our understanding of the procedure you described for possible future construction is that, if this partition is approved, no future notice would be provided to us or the neighborhood of any application relating to necessary construction permits. This struck us as a bit odd since we were noticed regarding the application for partition – but would not be noticed for any actual development use of the land for construction.

At this time the Owners have applied through their agent Land Surveyor the application that purports to represent the boundaries, setbacks, and buildability of the property in hopes of creating the three new parcels for planned residential single-family dwellings according to the application.

The Survey MAP (attached) submitted by the Owner's Land Surveyor Michael Magyar shown in support of the application as "EXHIBIT FOR JOHN WILSON & TRACY BERGERSON-WILSON IN SUPPORT OF A PARTITION PLAT APPLICATION AT LIENENWEBER [sic] LAKE, WARRENTON, ORE" dated October 14, 2021, appears to contain inaccurate and misleading borders when compared to the County Maps of the subject property. In your office, you said the County maps could be inaccurate and mentioned that where there is a conflict you accept the Survey map as accurate. However, it is also possible that the Survey map could be inaccurate and you did not describe any procedure to independently verify its accuracy.

Specifically, the application claims that "THE PROPERTY IS BOUNDED ON THE WEST BY LIENENWEBER [sic] LAKE WITH A RELATIVELY SMALL, BUILDABLE, UPLAND AREA." This representation is at odds with the County map as explained below.

The application further claims "THE OWNER INTENDS TO PERFORM A MINOR PARTITION PLAT ON THE PARCEL AND CREATE THREE NEW PARCELS, ALL THREE OF WHICH ARE PLANNED FOR RESIDENTIAL SINGLE FAMILY DWELLINGS." This is in no way a "MINOR PARTITION PLAT" for the reasons explained below.

On the submitted Exhibit Survey MAP Detail (attached to this email), the “OBSERVED TOP OF BANK” (also called the “SURVEYED TOP OF BANK”) purports to be the actual eastern boundary of Leinenweber Lake adjacent to the west side of the subject property and is the starting point of the 50’ setback required. A simple comparison to the County MAP Wilson Property (attached) showing the actual eastern boundary shows this “OBSERVED” or “SURVEYED TOP OF BANK” is not the same since the actual lake boundary further to the north on the County map protrudes farther to the east and reduces the actual land area available for building construction.

The “OBSERVED” eastern lake boundary shown on the Survey map differs resulting in the lake being shown as smaller than on the County map. This in turn shows the remaining land area as being larger to increase the buildable area. The purported “50’ SETBACK OFFSET TOP OF BANK” showing the “RELATIVELY SMALL, BUILDABLE, UPLAND AREA” measured from the lake boundary is correspondingly smaller according to the County map, leaving a substantially reduced actual land area that would be buildable between the lake and the County right of way “road.”

You mentioned in your office that you have been advised the right of way belongs to the City, not the County, as erroneously described in the Surveyor’s application.

In addition to these inaccuracies on the Survey map (County vs City and the misspelling of the Lake name), our concern is that there may be other inaccuracies in the Survey map as indicated above – especially when it appears at odds with the County map.

At the very least it seems appropriate and prudent at this point that there should be independent verification of any discrepancies as noted above by a Certified Expert representing the City, rather than the applicants who already have their representative advocate.

Due to the point above of our understanding from you that there will be no future noticing to us or our neighbors of any application relating to necessary construction permits, I feel obligated to express the following extremely important concerns:

This Survey map completely ignores and does not show at all the County designated “Wetland” boundaries shown on the County MAP Wilson Property Wetlands (attached). When the boundaries of these designated Wetland areas are taken into account, **the 50’ setback leaves NO remaining buildable land area at all!** This would be true without even addressing the lack of space for the required septic system setbacks (50-feet and 100-feet) that could further harm and endanger this sensitive ecological area.

These Wetland areas are specifically designated as such to protect our fragile, diverse, and ecologically valuable areas as well as their resident wildlife from harm.

For the City to approve an application without expert opinion reports, including serious environmental issues, as well as due diligence relative to these issues and discrepancies as noted above would be contrary to established County, State, and Federal norms designed specifically to protect our natural environment – especially our sensitive wetland areas and the natural wildlife they support. Over the years I have personally observed firsthand from my back yard the wetlands and abundance of birds and animals native to this specific area that is home to these creatures (including several bald eagles) and the subject of this and future

applications relative to this property.

Finally, for the City to take a “hands off” or “rubber stamp” approach or any premature action or inaction on this or future applications without due diligence, careful consideration, and environmental reports relative to the above matters could expose the City to the risk of liability for their action.

Once again, thank you for your time and careful consideration of these matters.

Robert Marshburn
1142 SW Pine Drive
Warrenton



From: Tyler@atmsforprofit.com
To: [Scott Hazelton](#)
Subject: Lot splitting project- Leinenweber Lake
Date: Tuesday, November 30, 2021 10:54:18 AM

Dear Mr. Hazleton,

I received your letter requesting feedback on splitting John Wilson parcel into three lots and adding a road across the lake from our property.

Our home is at 1360 SW Pine Dr. so potential negative impact from this project would likely be issues/problems arising from proposed road required to support three homes.

In my view splitting any parcel from its intended use is a slippery slope.

I am a proponent for an individual homeowner to do what they wish with their property to the extent of what it was zoned for. This development could end up being a hallmark case for the city of Warrenton as it appears there are several concerned taxpayers. From what I gather, the biggest concern from homeowners is lack of information, lack of transparency, or simply open dialogue to even discuss possibilities. It seems like a open/shut door deal.

Much thought and financing was implemented when Leinenweber Lake subdivision was created across the way from proposed lot split project. In my experience a developer usually comes to an area with a plan and creates a forum to get something like this done peacefully with existing taxpayers.

In my view, and if I was the developer, I would be coming to other homeowners and showing a well thought out plan so at least neighbors would have some understanding or general input where negative impacts could arise.

Questions I have as a taxpayer?

Is anybody allowed to split their lot up and lay down a road?

What are the setbacks on the proposed road and does the city of Warrenton decide for all taxpayers on how close is road to shore? Do all the people across the lake now see streetlight/headlights coming through our windows?

I oppose any lot splitting development, especially where the builder/developer does it behind closed doors without open dialogue to work through issues with potentially impacted taxpayers/neighbors.

Thank you,

Tyler Murray / Advanced ATM

208-794-5092

Date: January 3, 2022

Notice Of Appeal: To The Planning Commission, Re: Type II Administrative Decision of Approval dated December 21st, 2021, Land Partition (LP 21-5) for Tax Lot 810290001100 Into Three Parcels (aka “The Wilson Matter & The Applicants”)

Standing to Appeal: All of the following facts in this matter for Appeal have either been experienced by me personally or by my neighbors who have documented them to me. Together we are the affected neighborhood property owners with standing, who responded in a timely fashion to the first Pending Notice of Type II Administrative Decision which was mailed to us, dated November 9, 2021, and submitted letters containing our relevant objections. Our names and signatures are included at the conclusion of this letter. There may be additional similar or different items unknown to me that have also been experienced by others in this matter of which I/we are not personally aware.

It should be noted that this matter has involved so many errors and mistakes in both the process and the substance of the requirements that it is difficult to condense them into a reasonably simplified list for consideration. There have also been consistent attempts to excuse, ignore, or even cover up these mistakes – rather than acknowledging and correcting the serious errors that have been made.

In an effort to streamline this process and letter of Notice of Appeal, rather than including all of the lengthy documentation for the following facts, I, Robert Marshburn, together with my affected neighbors, are combining and including below only an abbreviated summary of the important facts of this matter as follows:

November 9, 2021 Notice of Application For Three-Lot Partition: I received a copy (attached) from Scott Hazelton, Planning Director for the City of Warrenton, of the Notice of Pending Type II Administrative Decision, dated November 9th, 2021, To: Adjacent Property Owners and Interested Parties, describing the Application for a Three Lot Partition, time for public review until November 29th, 2021, applicable procedure Codes, Process, Requirement to mail a copy of the decision to all participating persons, and instructions on how to participate.

Disregard of Requirements Prior to Application or Notice: It is important to note that in this matter, prior to this letter, on or about May 19th 2021, the Owner/Applicants had already disregarded and ignored the City requirement to obtain a land-use permit before clearing the

land, by heavy construction equipment, of brush, trees, and natural vegetation in the subject area, including the area later designated by the submitted survey as within the 50' setback area. This prior unpermitted activity dramatically altered the original unspoiled property from its natural state, no doubt in anticipation of this application. It was quite shocking to us and our neighbors to suddenly see this very noisy and destructive work being done in a sensitive wetlands area with no prior notice to the neighbors or authorization from the various governmental authorities. This resulted in heightened concerns that the future would also see a disregard of proper procedures.

I and some of my neighbors personally witnessed the grading, leveling, and removal of trees along the west side of the property, i.e., the east side of Leinenweber Lake, on May 19th of 2021 in the unpermitted action taken on the subject property before the partition application. Before the clearing and removal of the trees along the Lake, we could not see the property beyond the trees, which now is in clear view and laid bare after the removal of the trees and brush previously obstructing the view.

Most egregious is the fact that much of this unpermitted grading and clearing work was done in the very protected wetlands setback area shown by the applicants on the land surveying map that they commissioned with this application.

Substantial and undeniable evidence from eyewitnesses confirms and contradicts any contention of the applicants that they determined and complied with necessary Wetlands delineation requirements.

Dan Cary, SPWS, Senior Aquatic Resource Coordinator for Columbia, Clatsop and Tillamook Counties for the Oregon Department of State Lands Aquatic Resource Management Program in Salem, stated that he could not find a record of any wetland delineation that has been done on the Wilson property. He added that "There is a possibility of wetlands along the eastern fringe of the lake as indicated by hydric soil mapping and the National Wetland Inventory from 2017 and a local wetland inventory from 1996."

He further added that "having inventoried wetlands on site will likely require the City to require the property owner to get a wetland delineation to develop the site."

In addition he said: "As far as the Department of State Lands is concerned the property owner must abide by the Removal-Fill Law during development. That means at that site, filling more than 50 cubic yards in wetlands or the lake would require a permit from the Department." and "...a wetland delineation done prior to development.... will assist them in knowing where wetland boundaries actually are so they can avoid them."

November 21 & 29, 2021 Email Comments to Mr. Hazelton: Some of the references below are to my emails from 11.21 & 29.2021 to Mr. Hazelton, the City Manager, the Mayor, and Commission Members.

I emailed previously that it would be appropriate and prudent at this point to have independent verification relative to these discrepancies by a disinterested Certified Expert hired by the City rather than the paid agent/surveyor advocating for the partition on behalf of the owner/applicants.

I also noted it is very difficult at this point to do any late visual onsite due diligence inspection after these facts involving the destruction of the prior condition of the property unless and until a proper evaluation and accountability of the previous unpermitted activity can be determined by qualified experts.

I called for the following four action items in my emails:

1. Independent verification of the correct Lake boundaries and their required setback starting points and measurement;
2. Investigation of enforcement action that may proceed from the State or Federal Authorities for the prior unauthorized and unpermitted grading and clearing work on the property;
3. The submission of an Impact Study to meet the Warrenton Administrative Procedures Requirement for ALL Land Division Applications.
4. At the very minimum, the City should delay consideration of any decision on the partition application as well as any further development application or work permits until the items discussed in this matter can be investigated and clarified.

Deadline Extended Without Notice: The Notification and public review/commentary period was later extended by Planning Director Scott Hazelton to Dec. 20th with no attempt to communicate or advise this to those affected property owners who had submitted comments (and corrections to him) and who were specifically informed that the response period only ran until Nov. 29 without exceptions. This was upsetting to many of us affected homeowners since the Thanksgiving holiday placed an added burden on our ability to properly research, respond, and notify other potentially affected individuals of this Pending Notice by the Nov. 29 deadline. We discovered this extension by happenstance on the night of Dec. 18. During this extended time period, despite having had personal phone calls with at least one of the adjacent neighbors on 12/7 and 12/14, Mr. Hazelton never once mentioned this extension, which could and should have been communicated in those conversations, especially since he knew this was an issue for us. Our submitted letters of Nov. 29 document this issue. We can elaborate on further issues that developed as a result of this that further impacted our ability to fulsomely respond before the Decision was rendered.

“Impact Study” Document Added Without Notice: During this extremely brief time period of having only one day, Monday the 20th, before the extended open commentary was closed, of which we were not notified, it was revealed that an “Impact Study,” authored by Mr. Magyar and dated Dec. 7, had been completed and filed, even though Mr. Hazelton had previously stated to many of us, incorrectly, that an impact study was not required because the Wilson property was just “a family development.” Once again, there was no notice of this new required document for public inspection and comments disclosed to the affected neighbors. There were even attempts to dissuade neighbors from obtaining a copy of this document at the Planning Department by Mr. Hazelton on the final day of the extended period on Dec. 20. Remember, this was a document that should have been part of the original documents available for comments and public discussion before the original response period expiration date of November 29, much less before the extended expiration date of December 20th. Affected property owners were entitled to and should have been given notification and opportunity to comment.

December 21st, 2021 NOTICE OF ADMINISTRATIVE DECISION for Land Partition (LP 21-5) dated December 21st, 2021 (attached) was sent and received by some, but not all, who had participated and were entitled to a copy of the Notice per the provisions of the Administrative Code.

No copy of the decision was ever mailed or emailed to and received personally by me. This is interesting since one of the requirements in the Code for “Who May Appeal” to the Planning Commission in a Type II administrative decision is “Any person who was mailed written notice of the Type II administrative decision.” Thankfully this was provided to me by other neighbors who are also appealing the decision in this matter. (Note: Since I personally submitted written comments as noted above, I am still eligible to appeal per the Code provision requirements on the basis of “Any other person who participated in the proceeding by submitting written comments.”

Purported “Impact Study” is Seriously Flawed & Completely Deficient: On December 27th a copy of the purported “Impact Study” document was finally obtained via the Public Records Request process by one of my affected neighbors 7 days after expiration of the extended deadline and 6 days after the Decision in the matter. After obtaining a copy and examining this document it became painfully clear to me why it had been secreted before the deadline: to allow a decision to be made without public comment or discussion of this document since it does not in any way constitute an “Impact Study” as purported on the document and required by the Code. This purported “Impact Study” of Mr. Magyar was only undertaken after some of my Leinenweber Lake Property neighbors and I corrected Mr. Hazelton’s erroneous statement to a number of us that no impact study was required for this partition application since this was a family

development application rather than a commercial development application for partition. However, the Warrenton Administrative Procedures Section 16.208.040, B(2)(c) specifically requires the application to "Include an impact statement for all land division applications." There is no exception or exemption from this requirement whether it is a so-called "family development application" or a "commercial development application" as Mr. Hazelton told us and others during our meetings with him in his office.

The purported "Impact Study" in support of the Wilson Short Partition Plat Application on Leinenweber Lake" dated December 7th (Attached) is no such thing. A simple reading of the filed "Impact Study" shows no study at all, and not even a summary report based on any actual impact study. No notice was given to the required parties after the alleged "Impact Study" was filed by Magyar. Though required by Code for consideration of the initial Partition Application, this "Impact Study" was completed and filed only after public comments revealed its necessity by citing the requirements of the Code provision that Mr. Hazelton had specifically told us and others was not required.

This supposed "Impact Study" does not constitute even a minimal attempt at a serious study regarding drainage issues, noise impacts, impact to wetlands, and other impact issues. Most noteworthy: There is no Delineation of the Wetlands boundaries and Areas.

Application for Partition Violates the Transportation Standards for Access Required Under Warrenton Code: Another point that definitively and directly requires a reversal of the Approval by Mr. Hazelton of the Partition Application is stated in the letter of Notice of Pending Type II Administrative Decision, dated November 9th, 2021 To: Adjacent Property Owners and Interested Parties (attached) which described the criteria for approval of the Partition application as "Warrenton Municipal Code criteria include... Access & Circulation," but did not mention the Transportation Standards. The application in this Wilson matter is in direct violation of the Code required for approval that states as follows:

Section 16.136.020 Transportation Standards:

M. Cul de sacs: A dead-end street shall be no more than 200 feet long...

The cul-de-sac dead-end street as shown in the Wilson application survey submitted with the application is at least 1,356 feet – far in excess of the maximum allowable length of 200 feet of road that is allowed for a dead-end street cul-de-sac according to the Code.

There is no consideration of this matter in the "Impact Study" that would have been discussed with sufficient time and notice provided by Mr. Hazelton.

NO Wetlands Delineation Boundaries or Areas Requiring 50' Setback Are Shown on The Survey or in the Impact Study: The "Impact Study" or Magyar survey in support of partition cites no available current and/or accurate Wetlands Delineation on record with the State DSL or County or City for this property upon which to determine confirmed Wetlands Boundaries for the 50' setback requirement to determine the size of Areas remaining to obtain accurate buildable square footage available.

Impact Study Does Not Address Removal-Fill in Wetlands Area : The "Impact Study" filed does not include any study regarding the ability to fill or unfill in accordance with State regulations. As noted above by Dan Cary, Senior Aquatic Resource Coordinator for Clatsop County for the State of Oregon, "That means at that site, filling more than 50 cubic yards in wetlands or the lake would require a permit from the Department." and "...a wetland delineation done prior to development... will assist them in knowing where wetland boundaries actually are so they can avoid them."

City of Warrenton Should Require a Delineation Survey of the Applicants: As noted above, we have been informed by Mr. Cary that he has already encouraged the property owners to have a Wetlands Delineation Survey done to avoid possible violations of the Oregon Removal-Fill law which could cost them thousands of dollars in State fines. He said that "having inventoried wetlands on site will likely require the City to require the property owner to get a wetland delineation to develop the site." And the City of Warrenton can require this Wetland Delineation on the Wilson property.

Warrenton Code grants specific authority to the City for studies or exhibits prepared by qualified professionals as follows:

Section 16.216.040 Preliminary Plat Submission Requirements,

2. Site Analysis (l). Other information, as deemed appropriate by the Community Development Director. The City may require studies or exhibits prepared by qualified professionals to address specific features and Code requirements.

Also see (g) and (f) of this section 16.216.040 for their relevance to pursuing further qualified professional studies of the Wilson property. This property is teeming with Wildlife of all sorts that can be documented by affected neighbors.

The survey in support of the Wilson partition, conducted by the applicant's paid surveyor-agent Mr. Magyar, does NOT comply with this requirement. Reference to the 50' setback on his land survey is not from any County or State or City approved Delineated Survey lines or Wetlands

boundaries as it attempts to suggest, though it does not specifically state, since the starting point of the 50' setback required for Wetlands setback is instead from an "OBSERVED" or "SURVEYED TOP OF BANK" and has nothing to do with and is not based upon any County-approved Wetlands Delineation Survey. I had addressed this issue in my previous emails of November 22nd and 29th 2021 during the comment period after being informed by Mr. Hazelton that, rather than rely upon an Independent or County verified map boundaries in case of a conflict, he would accept the Survey map from the Applicant's Surveyor who, it must be emphasized again, is acting as an agent-advocate for the Owner-applicants.

Without a wetlands delineation it is impossible to accurately calculate the "top of bank," setbacks, buildable sites or determine where sensitive wetland areas exist for purposes of complying with Oregon's removal-fill law.

Furthermore, in consideration of the need to determine "top of bank" and wetlands boundaries, Mr. Magyar has not provided any documentation of his training, certification or recognition to perform wetlands determinations or wetlands surveys.

It is time for responsible City Leaders and Planners to make clear to the applicants that any approval by the City can only be made after the appropriate process and conditions have been met. This clearly was not and has not yet been done to qualify for approval of the Partition Application.

Having personally served for many years as a professional expert witness and consultant for matters pertaining specifically to Cities, Counties, and other Public Agencies, I strongly suggest that the City grant a Planning Commission Appeal Hearing on the Wilson matter;

Note: Documentation in support of any of the above items in this Appeal can be supplied to the City upon request.

Due to the superb desirability of our City in so many ways, it is no secret that Warrenton is growing at the fastest pace of any City in Clatsop County. It is the responsibility of the City Leaders and Planners to carefully and conscientiously plan and allow growth consistent with established guidelines and regulations designed to benefit and protect our beloved City and serve its residents, rather than excusing or ignoring these regulations. We feel deeply blessed and honored to be residents of the City of Warrenton and we all love and want to protect it. Please help us do so by correcting and reversing the seriously flawed error of approval in this matter.

Sincerely,

Robert Marshburn

RECEIVED
JAN 03 2022

BY J. G. Gause
CITY OF WARRENTON

We, the undersigned affected property owners with standing, are in support Mr. Robert Marshburn's Notice to Appeal and wish to be a part of this Appeal process and future hearing(s):

Erika Bauer 

Kathleen Zunkel 

David Zunkel 

Rosalie Dimmick Larsen 

Mark Gonzales 

Kim Gonzales 

Michelle Murray - 


Tyler Murray 

JOHN L. BENTLEY 

Regina Bentley



BEN WILLIAMS



RECEIVED
JAN 03 2022

BY 
CITY OF WARRENTON



P.O. BOX 250 ■ WARRENTON, OR 97146 -0250 ■ OFFICE: 503.861.2233 ■ FAX: 503.861.2351

NOTICE OF ADMINISTRATIVE DECISION Land Partition (LP 21-5)

DATE OF DECISION: December 21st, 2021

SUBJECT OF REVIEW: Tax Lot 810290001100

APPLICANT & Mike Magyar
PROPERTY OWNER: John Wilson and Tracy Bergerson-Wilson

Michael Magyar on behalf of the property owners – John Wilson and Tracy Bergerson-Wilson - have applied to partition tax lot 810290001100 into three parcels. The subject property is located at Tax Lot 810290001100 in the R-40, Low Density Residential zoning district at the terminus of SW Oak Avenue.

Applicable criteria from the Warrenton Municipal Code for this application are:

| | |
|--------------------|--|
| Chapter 16.24 | Low Density Residential (R-40) District (Division 2) |
| Chapter 16.136 | Design Standards (Division 3) |
| Chapter 16.208.040 | Type II Procedure (Administrative). |
| Chapter 16.216 | Land Divisions and Lot Line Adjustments |

Previous Land Use Actions & Existing Conditions

The subject property is currently vacant land. To the north and east is Camp Kiwanilong property to the south and west is single family residences.

Public Notice Timeline

This department sent out a "Notice of Administrative Review" on November 9th, 2021 to adjacent property owners of record within 100 feet of the subject property regarding the application as required by WMC 16.208.040 C. The City also published public notice in *The Columbia Press* on December 10th, 2021. Multiple comments were submitted from the general public in opposition.

FINDINGS

1. The applicant has proposed lots that meet the minimum lot size, and minimum lot width.
2. All development related criteria will be analyzed upon submittal of development applications. This includes all utilities and environmental factors.
3. There is not a need for a redivision plan due to environmental constraints.

DECISION

This application for partition is **APPROVED** based on the findings above and the contents of the staff report, which address the required criteria for partitioning property, subject to the following conditions:

- A. Submit grading permit prior to any work
- B. Submit erosion and sediment control plan prior to any work
- C. Submit an engineered stormwater report prior to any work
- D. Coordination with the state and the Warrenton Planning department to address any wetland concerns.
- E. Submit approved septic plans before installation
- F. Abide by all testimony and plans submitted.
- G. Pay any remaining fees.

This decision can be reviewed or a copy obtained at the Community & Economic Development Department, Warrenton City Hall, Warrenton. The Community Development Director's **decision is final** unless appealed to the Warrenton Planning Commission pursuant to WMC 16.206.040 G. Individual's who may appeal this decision are the applicant, any person who was mailed written notice of the administrative decision, and any other person who participated in the proceeding by submitting written comments, or who is otherwise adversely affected or aggrieved by the decision.



Scott Hazelton, CFM, Planning Director

12-21-21
Date