DATE: July 26, 2021

TO: Boardman Planning Commission and Interested Parties

FROM: Barry C. Beyeler, Community Development Director

SUBJECT: PAR 4-2021 ADS Partition

On March 5, 2021, the City received a partition request and preliminary plat from Amazon Data Services for tax lot #411 of Morrow County Tax Map 4N 25 09, which is owned by Amazon Data Services. This tax lot would be Parcel 1 and is 71.19 acres in size. The purpose of this partition is to create one additional lot, Parcel 2 being a 5.55 acre parcel and a 60-foot Rights-of-Way of which will reduce tax lot #411 too 65.84 acres.

Approval of a Preliminary Plat is processed using a Type II - Administrative decision in accordance with Boardman Development Code (BDC) Chapter 4.1- Types of Applications and Review, and Chapter 4.3 – Land Divisions and Lot line Adjustments. The Type II decision process requires public notice to be sent to all properties within 250’ of the parent property and posting notice on local reader boards and on the property. Public notice was mailed and the proper posting was accomplished on October 1, 2020, meeting the 20-day notification requirements.

In staff review of the preliminary plat all required items appear to be met and the Preliminary Plat is APPROVED as submitted. The City will review the final plat prior to recording the partition with the Morrow County Clerks Office.
CITY of BOARDMAN
Community Development
STAFF REPORT

DATE: April 19, 2021 Amended 7/23/2021

TO: Boardman Planning Commission and Interested Parties

FROM: Barry C. Beyeler, Community Development Director

SUBJECT: Preliminary Plat Request Partition Request – Amazon Data Services

On March 5, 2021, the City received a partition request and preliminary plat from the Amazon Data Services (ADS) for tax lot #411 of Morrow County Tax Map 4N 25E 9, which is owned by ADS and they wish to partition a Parcel #1 of Partition Plat 2020-04, which is 71.19 acres in size. This Partition will create an additional parcel of 5.55 acres and a 60-foot Rights-of-Way, which will reduce Parcel #1 of Tax lot #411 of Morrow County Tax Map 4N 25E 09, to 65.84 acres.

Approval of a Preliminary Plat is processed using a Type II - Administrative decision in accordance with Boardman Development Code (BDC) Chapter 4.1- Types of Applications and Review, and Chapter 4.3 – Land Divisions and Lot line Adjustments. The Type II decision process requires public notice to be sent to all properties within 250’ of the parent property and posting notice on local reader boards and on the property. Public notice was mailed and the proper posting was accomplished on, March 30, 2021, meeting the 20-day notification requirements.

Findings:

1) Application was Received March 5, 2021.
2) Application was deemed complete March 9, 2021.
3) Public Notice was Posted and Published on March 30, 2021.
4) The 5.55-acre parcel is undeveloped.
5) This partition secures Rights-of-Way for Interchange Area Management Plan projected roadway.
6) This application meets all of the criteria Boardman Development Code Chapter 4.1.400.
7) This application meets the provisions of Boardman Development Code Chapter 4.3.
8) On May 24, 2021, Morrow County Planning and Public Works submitted a letter of conditions to meet the IAMP.
9) Teresa Penninger ODOT Region 5 Planning submitted a letter echoing the letter from Morrow County concerning the IAMP.

The City of Boardman adopts the following findings in response to letters dated May 24, 2021 from Morrow County ("County") and the Oregon Department of Transportation ("ODOT"):

1. **Compliance with Interchange Area Management Plan.**
   The City finds that the Property is located within the geographic area subject to the Boardman Main Street Interchange Area Management Plan ("IAMP"). As support for this conclusion, the City relies upon the map located at page 2 of the IAMP, which depicts the Property within the...
IAMP management area. However, for two reasons, the City denies the County and ODOT's contention that the IAMP establishes any mandatory approval criteria that directly apply to the Application. First, the City finds that the IAMP itself does not mandate application of any of its provisions to a land division request, and the County and ODOT have not established otherwise. Second, the City finds that none of the applicable partition approval criteria in BDC 4.3.140 require compliance with the IAMP.

Notwithstanding these points, the City finds that the dedication of right-of-way by Applicant for the extension of SE 1st Street along the frontage of proposed Parcel 2 (which dedication was originally made on Partition Plat 2020-4 and is carried forward on this partition) is located consistent with the segment of the loop road mapped in this area on IAMP Figure 5.6. As a result, the City finds that the dedication of this right-of-way will help facilitate completion of the local connectivity plan discussed in the IAMP.

The City further finds that development of the Property will be consistent with the IAMP because, as noted in the Kittelson & Associates, Inc. transportation memorandum in the record, the Property is subject to a trip cap as set forth in the IAMP. This trip cap will ensure that development of the Property will not generate more trips than were considered in the IAMP analysis.

The City also finds, contrary to the County's contention, that Applicant is not responsible for securing a permit to locate a road extension across the BPA easement because it is outside of the area of frontage of Parcel 2. As a result, the City finds that requiring Applicant to secure this crossing permit is not roughly proportional to the projected impact of the partition.

Finally, the City denies the County and ODOT's contentions that additional street improvements identified in the IAMP may be imposed as conditions of approval on the partition. For the reasons stated in response to Item 3 below, these improvements are both premature and not roughly proportional to the projected impact of the partition, which itself does not propose any actual development of the Property.

The City concludes that these findings address the County and ODOT's contentions regarding compliance with the IAMP.


The City finds that, as explained by Applicant in its letter dated June 11, 2021, access between the parcels and public streets will occur as follows:

- Parcel 1 has a single primary access point on Olson Road, which is shared with an adjacent property owned by Umatilla Electric Cooperative (Parcel 2 on Partition Plat 2020-4). The City finds that the County has already issued an access permit for this access point. The City further finds that Parcel 1 will maintain a secondary (emergency only) access point to/from the new stub road shown on the partition plan.

- Parcel 2 will take access to/from either the stub road or SE 1st Street. The City finds that when an access driveway is proposed in conjunction with a specific development plan for this parcel, it will be subject to review for compliance with applicable standards as explained in Section 3 below, including spacing and sight distance and will be required to obtain an access permit in accordance with BDC 3.1.200.C. Because this access permit is required by the BDC, the requirement applies as a matter of law, and no condition of approval is required.

The City further finds that as explained by Applicant, cross-access between the parcels will not be planned or allowed.

The City concludes that these findings address the County's contention that the City failed to address the location and functionality of access in conjunction with the Application.
3. Adequacy of Public Street Facilities/Dedication or Completion of Additional Improvements.

Although the County challenges the City’s determination that no off-site transportation improvements are required in conjunction with the partition, the City denies this contention for two reasons. First, the County’s contention is not accurate because it fails to recognize Applicant’s extensive actions to mitigate potential impacts to the transportation system resulting from development of the Property, including:

- Dedication of right-of-way for SE 1st Street along the frontage of Parcel 2 (though shown on the proposed partition, this area was actually dedicated as public right-of-way in conjunction with Partition Plat 2020-4);

- Dedication of a new 60-foot-wide stub road and utility corridor easement on the north side of Parcel 2 on the proposed partition;

- Entering a Road Use Agreement with the County and a First Amended Road Use Agreement with the County, which required Applicant to, among other things, pay approximately $2,100,000 to:

  - Reconstruct Olson Road between Wilson Lane and Interstate Highway 84 consistent with the County’s Transportation System Plan;

  - Construct a new intersection at Wilson Lane and Olson Road to include two new turn lanes; and

  - Perform maintenance of Wilson Lane and Laurel Lane.

Second, the City finds that the County’s request for additional mitigation measures is inappropriate at this stage. Partitioning a single parcel into two parcels, without associated development, does not justify imposing a condition of approval requiring off-site transportation improvements or dedications. Schultz v. City of Grants Pass, 131 Or App 220, 884 P2d 569 (1994). Instead, the City finds that any future development application for Parcel 2 will be subject to review for additional mitigation measures necessitated by that particular development proposal. Specifically, in order to develop Parcel 2, the developer must obtain a Site Design Review approval from the City. See BDC 4.2.200.A. The approval criteria for a Site Design Review require compliance with various standards, including BDC Chapter 3.1 governing access and BDC Chapter 3.4 governing provision of public facilities. BDC 4.2.600.4. The Site Design Review permit application may also require a traffic study to evaluate transportation impacts and determine the need for further mitigation measures. BDC 4.2.500.9. The City finds that the future applicability of these standards at a time when a specific development plan/program is proposed will adequately ensure the provision of off-site transportation dedications and/or improvements, will ensure precision in the analysis and conclusions, and will be legally defensible.

The City concludes that these findings address the concerns raised by the County on this issue.

The City will review the final plat prior to recording the partition with the Morrow County Clerks Office.