



STAFF REPORT and TENTATIVE DECISION

Type-2 Land Use Application — Administrative Review

Date: May 29, 2020
Prepared by: Jeff Wilcox

Item: MLP 2020-002
Minor Land Partition

Applicant..... Derek Sherrell
1404 Talent Ave.
Talent, OR 97540

Owner..... Bryce Brooks
1710 Talent Ave.
Talent, OR 97540

Application Received..... March 13, 2020

Application Complete March 31, 2020

Notice Mailed and Posted..... March 31, 2020

Requested Action..... Partition one lot in into two

Assessor's Map Number..... 38-1W-25DC, Tax Lot 5401

Lot Size..... 0.51 Acres

Zoning Residential Zone, Single Family – Low Density
(RS-5)

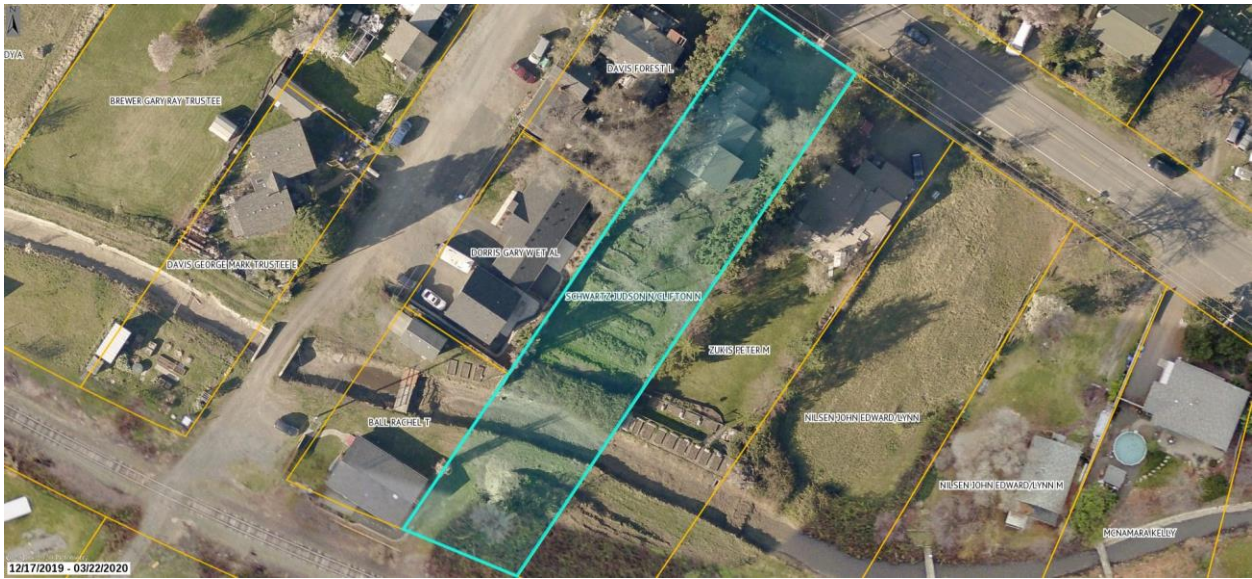
Other applicable code sections Talent Municipal Code (TMC) Title 17, Subdivisions

PROPOSAL

The request is for the approval of a preliminary plat to divide one (1) parcel: 1710 Talent Ave., into two (2) parcels. The parcel currently totals 0.51 Acres (22,506ft²). As proposed, parcel 1 is 8,978ft² and parcel 2, is 13,528ft².

PROPERTY CHARACTERISTICS

Proposed parcel 1 is currently occupied by one (1) site-built single-family residence, and a Talent Irrigation District canal runs through a portion of proposed parcel 2. The topography is relatively flat with a drop in elevation to the north.



Transportation Service

Access is available to proposed parcel 1 from Talent Ave.; parcel 2 shall access Talent Ave. by utilizing a shared driveway easement extending through parcel 1. This section of Talent Ave. features partial improvements, I.e.: paved roads without curbs, gutters or sidewalks. Talent Ave. is identified as a “Collector” Street in the Transportation System Plan (TSP). The TSP identifies this section of Talent Ave. (Creel to Alpine Way) as Project 11, a medium-priority area that will eventually see Standard Collector upgrades. No new public streets, improvements or dedications are being proposed by the applicant.

Wastewater Service

Wastewater service is currently provided to the subject parcel by Rogue Valley Sewer Service (RVSS).

Water Service

Water service currently supplies the existing residence and is adjacent to the proposed new parcel.

APPROVAL CRITERIA

- TMC Title 17, Subdivisions
- TMC Ch 18.25, Residential Zone, Single Family – Low-Density (RS-5)

PUBLIC COMMENTS

Four public comment forms were received, the following is a summary of the concerns with staff responses in **bold**:

- Privacy – **The proposal is for a partition to create a new residential lot from an existing residential lot where all adjacent lots are also zoned residential. Aside from the required setbacks and landscaping requirements, there are no buffering/privacy requirements as the allowed uses in the area (residential) are all consistent.**
- Sale vs. rental. – **There are no code requirements to restrict the renting of properties, except for short-term rentals, which is not being proposed at this time.**
- Height of new structures – **No development has been proposed in conjunction with the partition application. However, setbacks are required to be increased from 5ft to 8ft for structures over 18ft in height as calculated by TMC §18.15.020.**
- Lot line adjustment/Zoning Code requirements – **Staff finds the proposal can be made to meet Zoning and Subdivision Code requirements subject to conditions of approval addressed in the findings below.**

AGENCY COMMENTS

City Engineer response: I do not have any comments or concerns.

Jackson County Fire District #5 response: The Fire District has no comment on the land partition application MLP 2020-002.

Rogue Valley Sewer Services provided detailed comment and development requirements which are addressed in the Findings below.

Talent Irrigation District provided detailed comment and development requirements which are addressed in the Findings below.

ANALYSIS

Preliminary administrative approval is subject to compliance with the criteria found in the Subdivision Code (TMC Title 17), and the underlying zoning district, RS-5 (TMC Ch 18.25). Text from the code appears in italics.

17.10.050 TRANSPORTATION FACILITY STANDARDS

B. Development Standards. No development shall occur unless the development has frontage or approved access to a public street, in conformance with the provisions of TMC 17.10.060, Vehicular access and circulation, as well as Chapter 18.115 TMC, and the following standards are met:

3. The city may accept a future improvement guarantee (e.g., owner agrees not to remonstrate (object) against the formation of a local improvement district in the future) in lieu of street improvements if one or more of the following conditions exists:

d. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets.

FINDING: Access is available to proposed parcel 1 from Talent Ave.; parcel 2 shall access Talent Ave. by utilizing a shared driveway easement extending through parcel 1. This section of Talent Ave. features partial improvements, I.e.: paved roads without curbs, gutters or sidewalks. Talent Ave. is identified as a “Collector” Street in the Transportation System Plan (TSP). The TSP identifies this section of Talent Ave. (Creel to Alpine Way) as Project 11, a medium-priority area that will eventually see Standard Collector upgrades. Considering the lack of current improvements in the area and because the grade is not set on Talent Ave., no infrastructure improvements are required at this time.

As a condition of approval, prior to final plat, the property owner shall sign and record a public improvements non-remonstrance agreement prepared by the City. **The provisions of this section have been met subject to conditions of approval.**

E. Creation of Access Easements. The city may approve an access easement established by deed when the easement is necessary to provide for access and circulation in conformance with TMC 17.10.060, Vehicular access and circulation. Access easements shall be created and maintained in accordance with Uniform Fire Code Section 10.207.

FINDING: A shared driveway easement where the existing driveway entrance is sited has been proposed to serve both parcels. As a condition of approval, prior to final plat, the property owner shall record the shared access and maintenance easement and furnish evidence to the Community Development Department. **The provisions of this section have been met subject to conditions of approval.**

17.10.060 VEHICULAR ACCESS AND CIRCULATION

C. Access Permit Required. A new or modified connection to a public street requires an Access Permit in accordance with the following procedures:

- 1. Permits for access to City streets shall be subject to review and approval by the Public Works Director based on the standards contained in this Section and the provisions of TMC 17.10.050, Transportation Facility Standards. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.*

FINDING: Access is available to proposed parcel 1 from Talent Ave.; parcel 2 shall access Talent Ave. by utilizing a shared driveway easement extending through parcel 1. No new access points are being requested.

As a condition of approval, prior to issuance of building permits, the applicant shall obtain an access (encroachment) permit for each parcel. **The provisions of this section have been met subject to conditions of approval.**

D. Traffic Study Requirements. The City or other agency with access jurisdiction may require a traffic impact study (TIS) prepared in accordance with Chapter 18.185, Traffic Impact Study.

FINDING: The request is for the approval of a preliminary plat to divide one (1) parcel: 1710 Talent Ave., into two (2) parcels. A TIS is not required in accordance with §18.185.020 of the Talent Zoning Code. **The provisions of this section are not applicable.**

E. Conditions of Approval. The city or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public or private street.

- F. *Access Options.* When vehicle access is required for development, access shall be provided by one of the following methods (a minimum of 10 feet per lane is required). These methods are “options” to the developer/ subdivider.
2. *Option 2.* Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., shared driveway). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/ drive.
- G. *Access Spacing.* Driveway access shall be separated from other driveways and public and private street intersections in accordance with the following standards and procedures:
2. *Arterial and Collector Streets.* Access spacing on collector and arterial streets shall be determined by the public works director. Access to State Highway 99 shall be subject to review and approved by the Oregon Department of Transportation (ODOT), based on the applicable standards contained in the city’s transportation system plan and policies contained in the 1999 Oregon Highway Plan.
- H. *Number of Access Points.* For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot. Alley access is strongly encouraged before other access points are considered; except that two access points may be permitted for two-family and three-family housing on corner lots (i.e., no more than one access per street), and subject to the access spacing standards in Section G, above. The number of street access points for multiple family, commercial, industrial, and public/ institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection I, below, in order to maintain the required access spacing, and minimize the number of access points.

FINDING: Access is available to proposed parcel 1 from Talent Ave.; parcel 2 shall access Talent Ave. by utilizing a shared driveway easement extending through parcel 1. No new access points are being requested.

As a condition of approval, prior to issuance of building permits, the applicant shall obtain an access (encroachment) permit for each parcel. **The provisions of this section have been met subject to conditions of approval.**

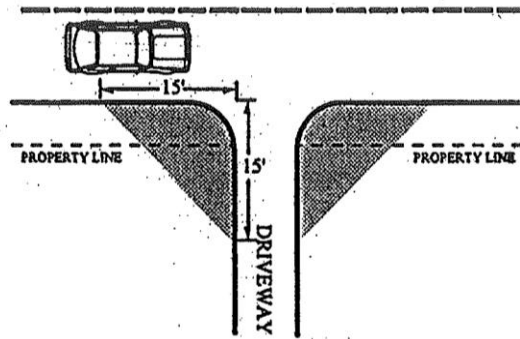
- I. *Shared Driveways.* The number of driveway and private street intersections with public streets may be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:
1. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they may be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. “Developable” means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).*
 2. *Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.*

FINDING: A shared driveway easement where the existing driveway entrance is sited has been proposed to serve both parcels. As a condition of approval, prior to final plat, the property owner shall record the shared access and maintenance easement and furnish evidence to the Community Development Department. **The provisions of this section have been met subject to conditions of approval.**

K. *Fire Access and Parking Area Turnarounds.* A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive. Parking areas shall provide adequate aisles or turnaround areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner. For requirements related to cul-de-sacs, please refer to TMC 17.10.050, Transportation facility standards.

FINDING: Jackson County Fire District 5 staff reviewed the application and have not indicated any insufficiency regarding the proposed access drive/parking area turnaround. **The provisions of this section have been met.**

M. *Vision Clearance.* No signs, structures or vegetation in excess of three feet in height shall be placed in vision clearance areas, as shown in Figure 17.10.060-2. The minimum vision clearance area may be increased by the city engineer upon finding that more sight distance is required (e.g., due to traffic speeds, roadway alignment, etc.).



FINDING: A site visit on 4 May 2020 revealed vegetation with height in excess of 3 feet within the 15-foot vision clearance area. As a general condition of approval, the property owner shall address vegetation and continually maintain driveway minimum clear vision area of 15 feet. **The provisions of this section have been met subject to conditions of approval.**

N. *Construction.* The following construction standards shall apply to all driveways and private streets:

1. *Surface Options.* Driveways, parking areas, aisles, and turnarounds shall be paved with asphalt, concrete or comparable surfacing, or a durable nonpaving material that will support emergency vehicles may be used to reduce surface water runoff and protect water quality.

FINDING: The existing driveway is graveled. As a condition of approval, prior to issuance of certificate of occupancy for parcel 2, the applicant shall design the shared access drive in such a way that stormwater run-off is directed toward Talent Ave. and surface the access drive, all driveways and parking areas and driveway apron with concrete or asphalt to a minimum width of 10ft. **The provisions of this section have been met subject to conditions of approval.**

17.10.070 SANITARY SEWER AND WATER SERVICE IMPROVEMENTS

A. *Sewers and Water Mains Required.* Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications and the applicable Comprehensive Plan policies.

17.10.080 STORM DRAINAGE AND SURFACE WATER MANAGEMENT

A. *General Provisions.* The City shall issue a development permit only where adequate provisions for storm water and surface water runoff have been made pursuant to Resolution 517, Stormwater Design Standards.

FINDING: Sanitary sewer and water service improvements have been installed in conjunction with development of the existing residence located on proposed parcel 1.

According to RVSS comments, the existing residence is currently served by a 4-inch sewer connection to the 8-inch main located along Talent Ave. Parcel 2 will require a new sewer tap connection into the existing 8-inch main.

RVSS indicates that a Stormwater Management Plan is not required. However, parcel 2 will be subject to the provisions of Res 517, Stormwater Design Standards at time of development.

As a condition of approval, prior to issuance of building permits, the applicant shall provide the Community Development Department with proof of a sewer tap and connection permit and all associated payments for parcel 2. **The provisions of this section have been met subject to conditions of approval.**

17.10.090 UTILITIES

C. Exception to Undergrounding Requirement. The standard applies only to proposed subdivisions. An exception to the undergrounding requirement may be granted due to physical constraints, such as steep topography, or existing development conditions, when demonstrated by the applicant. [Ord. 818 § 2 (Exh. A (§ 8-2.290)); Ord. 692 § 10.]

FINDING: The proposed land division does not classify as a subdivision. **The provisions of this section are not applicable.**

17.15.010 REVIEW PROCEDURES AND APPROVAL PROCESS

A. Subdivision and Partition Approval Through Three-step Process. Applications for subdivision or partition approval shall be processed through a three-step process: the pre-application conference, the preliminary plat, and the final plat.

- 1. A pre-application conference is required for all partitions and subdivisions.*
- 2. The preliminary plat for a partition and subdivision shall be approved by the Planning Commission before the final plat can be submitted for approval consideration.*
- 3. The final plat shall include all conditions of approval of the preliminary plat.*

FINDING: The applicant attended the required pre-application conference and submitted the required preliminary plat application to the Community Development Department. **The provisions of this section have been met.**

17.15.030 APPROVAL CRITERIA: PRELIMINARY PLAT

A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

- 1. The proposed preliminary plat complies with all of the applicable code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, the provisions of the underlying zoning district and the provisions of the Planned Unit Development Section, when applicable, shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 18.160 TMC, Variances;*

FINDING: The proposed partition complies with or can comply with the provisions of Talent Subdivision and Zoning Code through the application of conditions of approval. **The provisions of this section have been met subject to conditions of approval.**

- 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS*

Chapter 92;

FINDING: The proposed plat is a partition and does not have any naming requirements. ORS 92.090(6) requires the City to obtain certification from Talent Irrigation District that all conditions of the District have been met. As a condition of approval, prior to final plat, the applicant shall provide the Community Development Department with certification from Talent Irrigation District that all requirements have been met or are bonded for in accordance with ORS 92.090(6). **The provisions of this section have been met subject to conditions of approval.**

3. *The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction, and in all other respects; and are consistent with the City's Transportation System Plan. All proposed public improvements and dedications are identified on the preliminary plat; and*

FINDING: Access is available to proposed parcel 1 from Talent Ave.; parcel 2 shall access Talent Ave. by utilizing a shared driveway easement extending through parcel 1. This section of Talent Ave. features partial improvements, I.e.: paved roads without curbs, gutters or sidewalks. Talent Ave. is identified as a "Collector" Street in the Transportation System Plan (TSP). The TSP identifies this section of Talent Ave. (Creel to Alpine Way) as Project 11, a medium-priority area that will eventually see Standard Collector upgrades. Considering the lack of current improvements in the area and because the grade is not set on Talent Ave., no infrastructure improvements are required at this time.

As a condition of approval, prior to final plat, the property owner shall sign and record a public improvements non-remonstrance agreement prepared by the City. **The provisions of this section have been met subject to conditions of approval.**

4. *All proposed private common areas and improvements (e.g., home owner association property) are identified on the preliminary plat.*

FINDING: There are no common areas required or proposed as part of the partition request. **The provisions of this section are not applicable.**

C. Block and Lot Standards. All proposed blocks (i.e., one or more lots bound by public streets), lots, and parcels conform to the specific requirements below:

1. *All lots shall comply with the lot area, setback, and dimensional requirements of the applicable zoning district, and the standards of TMC 17.10.050(J), Street Alignment and Connections.*
2. *Setbacks shall be as required by the applicable zoning district, unless a PUD is approved with different setbacks.*

FINDING: The subject property is zoned RS-5. The minimum lot area is 8,000ft²; As proposed, Parcel 1 is 8,978ft² and Parcel 2 is 13,528ft².

The minimum lot width is 65ft; as proposed, parcel 1 is 65ft and parcel 2 is 65ft.

The minimum side-yard setback is 5ft, or 8ft if the building height exceeds 18ft as defined in TMC 18.15.020. The minimum rear-yard setback is 10ft. The existing single-story residence meets all setbacks as proposed; the setbacks for proposed parcel 2 can be readily met and will be evaluated at time of development.

The maximum building coverage is 35%; as proposed Parcel 1 would have 21.2% building coverage.

As proposed, both parcels meet all dimensional standards. **The provisions of this section have been met.**

3. *Each lot shall conform to the standards of TMC 17.10.060, Vehicular Access and Circulation.*

FINDING: The proposed partition complies with or can comply with the provisions of TMC §17.10.060 through the application of conditions of approval listed above. **The provisions of this section have been met subject to conditions of approval.**

4. *Landscape or other screening may be required to maintain privacy for abutting uses and buffering for pathways, through lots abutting an arterial or collector Street, grade changes and retaining walls, development on flag lots, and similar situations, consistent with the provisions of TMC Titles 17 and 18 and Chapter 18.105 TMC.*

FINDING: Subject property is zoned RS-5 and is surrounded by other residentially zoned parcels; there are no conflicting uses necessitating screening or buffering. The minimum landscaped area for residential zones is 30%. Applicants are encouraged to select native plants.

Parcel 1 is 8,978ft² as proposed and requires 2,693ft² minimum landscaped area. This necessitates a minimum of three (3) two-inch caliper trees and twelve (12) five-gallon shrubs or accent plants.

Parcel 2 is 13,528ft² as proposed and requires 4,058ft² minimum landscaped area. This necessitates a minimum of five (5) two-inch caliper trees and twenty (20) five-gallon shrubs or accent plants. Landscaping for parcel 2 will be addressed at time of development.

As a condition of approval, prior to final plat, the applicant shall install required landscaping on parcel 1 and request inspection from the Community Development Department. Note: Existing (noninvasive) vegetation may be used in meeting landscape requirements. **The provisions of this section have been met subject to conditions of approval.**

5. *In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. See also TMC 17.10.060, Vehicular Access and Circulation.*

FINDING: Jackson County Fire District 5 staff reviewed the application and have not indicated any insufficiency regarding the proposed access drive/parking area turnaround. **The provisions of this section have been met.**

6. *Where a common drive is to be provided to serve more than one lot, a reciprocal easement, which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.*

FINDING: A shared driveway easement where the existing driveway entrance is sited has been proposed to serve both parcels. As a condition of approval, prior to final plat, the property owner shall record the shared access and maintenance easement and furnish evidence to the Community Development Department. **The provisions of this section have been met subject to conditions of approval.**

- E. *The City may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties.*

FINDING: Adjoining properties are fully developed. **The provisions of this section are not applicable.**

F. Future Re-division Plan...

FINDING: The proposed lots cannot be further divided; no re-division plan is required. **The provisions of this section are not applicable.**

G. Compliance. All submittals shall demonstrate compliance with Chapter 17.10 TMC, Development and Design Standards, and Chapter 18.85 TMC.

FINDING: Staff finds the submittal, with additional conditions attached, complies with the pertinent code requirements. Subject parcel is not located near/within a riparian or wetland setback, therefore Chapter 18.85 does not apply. **The provisions of this section have been met.**

17.20.070 FILING AND RECORDING

A. Filing plat with County. Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Jackson County for signatures of County officials as required by ORS Chapter 92.

B. Proof of recording. Upon final recording with the County, the applicant shall submit to the City a Mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.

C. Prerequisites to recording the plat.

- 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92; Final Plat Procedures page 36 Subdivision Code*
- 2. No plat shall be recorded until it is approved by the County surveyor in the manner provided by ORS Chapter 92.*

FINDING: As a general condition of approval, once the City has approved (signed) the plat, the property owner shall follow the procedures outlined in TMC Section 17.20.070, Filing and Recording, in the Subdivision Code. **The provisions of this section have been met subject to conditions of approval.**

DISCUSSION

The applicant is proposing a two-lot partition. Given the state-wide need for additional housing and opportunity to address compliance with regard to current landscaping and paving requirements, staff is supportive of the proposal.

DECISION

Staff tentatively **APPROVES** the minor land partition with the following conditions:

GENERAL CONDITIONS

1. The property owner shall address vegetation and continually maintain driveway minimum clear vision area of 15ft.
2. Once the City has approved (signed) the plat, the property owner shall follow the procedures outlined in TMC Section 17.20.070, Filing and Recording, in the Subdivision Code.

PRIOR TO FINAL PLAT

3. The property owner shall sign and record a public improvements non-remonstrance agreement prepared by the City.
4. The property owner shall record the shared access and maintenance easement and furnish evidence to the Community Development Department.
5. The applicant shall provide the Community Development Department with certification from Talent Irrigation District that all requirements have been met or are bonded for in accordance with ORS 92.090(6).
6. The applicant shall install required landscaping on parcel 1 and request inspection from the Community Development Department. Note: Existing (noninvasive) vegetation may be used in meeting landscape requirements.

PRIOR TO ISSUANCE OF BUILDING PERMITS

7. The applicant shall obtain an access (encroachment) permit for each parcel.
8. The applicant shall provide the Community Development Department with proof of a sewer tap and connection permit and all associated payments for parcel 2.

PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY FOR PARCEL 2

9. The applicant shall design the shared access drive in such a way that stormwater run-off is directed toward Talent Ave. and surface the access drive, all driveways and parking areas and driveway apron with concrete or asphalt to a minimum width of 10ft.

Approved by:



Jeff Wilcox
Assistant Planner

5/29/2020

Date

This matter has been approved administratively without a public hearing. The Talent Zoning Code allows administrative decisions under specified conditions. If no one requests a hearing on this matter within **14 days** of this tentative decision, it becomes the final decision of the city. To appeal an administrative decision requires written notice and a \$257.00 deposit. Please refer to TMC 18.190.040(E)(5), "Appeal," for specific provisions for appeals on Type-2 decisions. **This decision is being mailed to the applicant and all property owners who responded to the original notice.** For copies of any public documents or more information related to this application, please contact the Community Development Director at 541-535-7401 or via e-mail at zmood@cityoftalent.org.