

**PRELIMINARY FINDINGS OF FACT  
LAND PARTITION/REPLAT REQUEST  
LP-N-458  
R-N-046-17**

**REQUEST:** Partition an approximate 37.97-acre parcel into 2 parcels also a replat of Parcel 1 of Partition Plat 2016-06.

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**APPLICANT/OWNER:** Port of Morrow  
P.O. Box 200  
Boardman, OR 97818

**PROPERTY DESCRIPTION:** Tax Lot 100 of Assessor's Map 4N 26 07 also known as parcel 1 of Partition Plat 2016-06.

**PROPERTY LOCATION:** North of Interstate 84 and the Union Pacific Rail Road, west of Highway 730 in the East Beach Industrial Park near the intersection of Lewis & Clark Dr. and Highway 730.

**FINDINGS OF FACT:**

**I. BACKGROUND INFORMATION:**

The subject parcel is zoned Port Industrial (PI) and is outside the Boardman Urban Growth Boundary. This proposed replat is to partition Parcel 1 of Partition Plat (PP) 2016-06 into two parcels to facilitate industrial development.

**II. APPROVAL CRITERIA:** The applicant has filed under the Morrow County Subdivision Ordinance, ARTICLE 5, LAND PARTITIONS. Section 5.030 REQUIREMENTS FOR APPROVAL and Section 5.075 REPLATTING both apply. The criteria are listed below in **bold type**, followed by a response in standard type:

**SECTION 5.030 REQUIREMENTS FOR APPROVAL. No application for partitioning will be approved unless the following requirements are met:**

**1. Proposal is in compliance with ORS 92 and the County and affected City Comprehensive Plan and applicable Zoning.**

The PI use zone does not have defined minimum parcel size. The City of Boardman is to the west of the subject property and the subject property is outside of the Urban Growth Boundary therefore no city plans apply. To comply with ORS 92, which governs partitioning, it is recommended and listed as a Condition of Approval, that the applicant submit a *preliminary* and final Partition Plat.

**2. Each parcel is suited for the use intended or offered; including but not limited to, size of the parcels, topography, sewage disposal approval and guaranteed access. Proof of access must show that each parcel has an easement sufficient for continued ingress and egress to a public, county or state highway or has a deeded access way.**

The subject parcels are of a size and shape to facilitate development consistent

with the PI use zone and the proposed use. The topography of the land is flat, sloping downward to the north and towards the Columbia River. Proposed Parcel 1 will be 29.53 acres more or less. Parcel 2 will be 8.44 acres more or less. Water, waste water and any process water services are provided by the Port of Morrow.

Access to Parcel 1 would be from Lewis & Clark Drive, a Port road. Access to Parcel 2 would be via an easement from Lewis & Clark Drive. County site distance requirements would be applied.

3. **All required public service and facilities are available and adequate.**  
Utilities are available along Lewis & Clark Drive and the application states that the Port of Morrow will expand their systems to serve the property. The subject property is within the Boardman Rural Fire Protection District. A copy of the Preliminary Findings of Fact will be provided to appropriate agencies for review.
4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**

The Port of Morrow and specifically the East Beach Industrial Area saw increased development after the installation of the rail loop in about 2005. Other uses in the vicinity are of a similar nature and have similar impacts. Most of the East Beach area has been zoned for industrial development since the adoption of the Morrow County Comprehensive Plan in 1980 and this portion was part of a land swap and rezone in 2010.

The applicant should be aware that this property is located in an area designated for water quality concerns by the Oregon Department of Environmental Quality. The subject property is in the Lower Umatilla Basin Groundwater Management Area (LUB GWMA). The Department of Environmental Quality designated the LUB GWMA in 1990 due to elevated nitrate concentrations in groundwater. It is recommended that wells used for drinking water be tested at least annually to determine nitrate concentrations. The goal of the LUB GWMA Action Plan (which was developed by state agencies and local stakeholders) is to reduce nitrate concentrations throughout the region. The Umatilla and Morrow County Soil and Water Conservation District's are the lead agencies implementing the Action Plan. DEQ and the Oregon Department of Agriculture have oversight responsibility. More information about the LUB GWMA can be found at <http://www.deq.state.or.us/wq/groundwa/LUBGWMgmtArea.htm>.

The LUBGWMA designation is for water quality concerns, not concerns with water quantity. If a deeper basalt groundwater source is identified for the proposed development this concern should be limited, if not eliminated. It would be in the applicant's best interest to ensure that the quality of the water obtained is sufficient for the intended use. Morrow County recommends that all users of well water in the LUBGWMA test their wells at least annually to determine levels of nitrite and nitrate.

5. **An approved water rights diversion plan as applicable.**  
The Preliminary Findings of Fact were provided to the County Watermaster and the West Extension Irrigation District, however the subject property will be served

by the Port Municipal System.

6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**
  - a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
  - b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
  - c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
  - d. **Only one flag lot shall be permitted per private right-of-way or access easement.**

While proposed parcel one is oddly configured, planning staff would find that it does not meet the definition of a flag lot and the width of the parcel still allows development. Therefore this criteria is not applicable.

7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**

The subject parcel sizes are sufficient for development of industrial uses and buildable parcels are proposed. The application meets this requirement.

8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**

The subject property is within the West Extension Irrigation District, however the subject property is not served by the District.

9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.**

This provision does not apply to this application. Since the subject properties are zoned for industrial uses, ORS 92.325(3)(e) exempts Subdivision and Series Partition Control Law from these lands.

10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**

- a. **Placement and availability of utilities.**
- b. **Safety from fire, flood and other natural hazards.**

- c. **The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.**
- d. **Possible effects on natural, scenic and historical resources.**
- e. **Need for onsite or offsite improvements.**
- f. **Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.**
- g. **In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision. Planning staff would not add any additional Conditions of Approval based upon these criteria.**

**SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:**

1. **A replat will apply only to a recorded plat.**  
A replat is required as the applicant is proposing to partition Parcel 1 of Partition Plat 2016-06.
2. **Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.**  
This provision does not apply as this is not a replat of an undeveloped subdivision. However, notice was provided under the requirements of a Land Partition.
3. **Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.**  
Notice has been provided.
4. **When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.**  
No changes to utility easements are proposed. This replat is at the request of the applicant.
5. **A replat will not serve to vacate any public street or road.**  
No streets or roads are proposed to be vacated.
6. **A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.**

See Land Partition requirements above.

**III. LEGAL NOTICE PUBLISHED:** March 8 2017  
Heppner Gazette-Times and East-Oregonian

**IV. AGENCIES NOTIFIED:** Linda Hayes-Gorman, Don Butcher, and Phil Richerson, Oregon Department of Environmental Quality; Teresa Penninger and Marilyn Holt, Oregon Department of Transportation; Burke O'Brien, Public Works Director; Mike Gorman, Morrow County Assessor; Steve Haddock, Morrow County Surveyor; Greg Silbernagle, Watermaster; Bev Bridgewater, West Extension Irrigation District; Marc Rogelstad, Boardman Rural Fire Protection District; Gary Neal, Port of Morrow.

**V. PROPERTY OWNERS NOTIFIED:** March 8, 2017

**VI. HEARING DATE:** March 28, 2017  
Bartholomew Building  
Heppner, Oregon

**VII. ACTION OF THE PLANNING COMMISSION:** Planning Department staff recommend approval of the land partition subject to the following Condition of Approval. This precedent condition must be met before the Planning Director may sign the final Partition Plat.

1. Submit both a **preliminary** and final Partition Plat in conformance with Oregon Revised Statute Chapter 92 and the Morrow County Subdivision Ordinance.

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Jeff Wenholz, Chair

Date

Attachments:  
Vicinity Map  
Tentative Plan