

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION/REPLAT REQUEST
LP-N-481-20
R-N-056-20**

REQUEST: To create two parcels for residential development.

APPLICANT/OWNER: Daniel and Sarah Kerns
78599 Miller Rd.
Boardman, OR 97818

PROPERTY DESCRIPTION: Tax lot 201 of Assessor's Map 4N 25E 22AB

PROPERTY LOCATION: Located near the intersection of Kunze Lane and Miller Road adjacent to the canal.

I. GENERAL INFORMATION:

Subject parcel is zoned Farm Residential (FR) with a two-acre minimum parcel size. Subject parcel is located outside of the Boardman Urban Growth Boundary (UGB). The applicant proposes to divide the subject property into two parcels for purposes of creating a parcel suitable for residential development. Subject parcel as currently configured is 5.21-acres in size, with Proposed Parcels 1 and 2 at approximately 2 ½ -acres in size. (see tentative plan).

II. APPROVAL CRITERIA:

Morrow County Zoning Ordinance Article 3 Farm Residential Zone (FR) and Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

MORROW COUNTY SUBDIVISION ORDINANCE SECTION 5.030 REQUIREMENTS FOR APPROVAL:

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

Planning staff find that the proposed parcel sizes will meet the requirements of the Zoning Ordinance and Comprehensive Plan relative to parcel size. Subject property is located outside of the City of Boardman's UGB therefore city plans do not apply. To comply with Oregon Revised Statutes (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 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.

Proposed Parcel 1 will incorporate the current residential development located on the parent parcel and will retain the approved access point along Miller Road. At approximately 2 ½ -acres in size, Proposed Parcel 2 meets the minimum parcel size for the FR zone and is of a size and shape to facilitate future residential

development. Access and utilities for proposed Parcel 2 will be via an easement across Parcel 1. It is recommended and listed as a Condition of Approval that the access and utilities easement be shown on the Final Partition Plat. If approved, this action will preclude both proposed parcels from further division in the future under current development standards. Proposed Parcel 2 will need to obtain site suitability from Umatilla County Public Health (UCo Health). This is recommended and listed as a Condition of Approval.

3. **All required public service and facilities are available and adequate.**
Electric and telecom utilities are currently available in the area and will be available to proposed Parcel 2 via the access and utilities easement across Parcel 1. The property is located within the Boardman Rural Fire Protection District who was provided a copy of these findings.
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 adjoining properties are primarily rural residential in nature and the existing dwelling has utility services including electricity and telephone.

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 (LUBGWMA). The Department of Environmental Quality designated the LUBGWMA 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. More information about the LUBGWMA can be found at <http://www.oregon.gov/deq/wq/programs/Pages/GWP-Management-Areas.aspx>

5. **An approved water rights diversion plan as applicable.**
Preliminary Findings of Fact were referred to the County Watermaster and it is recommended that the applicant comply with any recommendations of the County Watermaster based on this review. The subject property is also located within the West Extension Irrigation District (WEID). The applicant must comply with recommendations of, and obtain approval from WEID. This is recommended and listed as a Condition of Approval.
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.**

This provision does not apply because no flag lots are proposed.

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

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.**
Preliminary Findings of Fact were sent to WEID. Please see the above discussion.
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 having the effect of creating more than three (3) parcels without subdividing.**
This criterion is not applicable as the applicant is not proposing more than three parcels in this action, nor are the proposed parcels eligible for further division under current Morrow County development standards.
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 if 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 place any additional requirements on this application based on the above 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 reconfigure a partition affecting Partition Plat 2005-9.

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 the Morrow County Subdivision Ordinance.
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 land owner.
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.**
This requirement is met as the parcels were subject to provisions of this Article with both the previous partition and this proposal.

III. PERMIT COMPLETION REQUIREMENTS:

The Final Partition Plat will be completed within two years from the date of the Commission action or the approval of the partitioning will expire and said approval will be declared null and void. A one-year extension may be granted when a written request is made prior to the expiration of the permit with stated reasons for the request for which the applicant was not responsible.

IV. LEGAL NOTICE PUBLISHED: Heppner Gazette-Times and East Oregonian
March 11, 2020

V. AGENCIES NOTIFIED: Greg Silbernagel, Watermaster; Joseph Fiumara, Umatilla County Public Health; Matt Scrivner, Public Works Director; Mike Gorman, Morrow County Assessor; Stephen Haddock, Morrow County Surveyor; Michael Hughes and Marty Broadbent, Boardman Rural Fire Protection District; Bev Bridgewater, West Extension Irrigation District.

VI. PROPERTY OWNERS NOTIFIED: March 11, 2020

VII. HEARING DATES: March 31, 2020
Bartholomew Building
Heppner, Oregon

VIII. MORROW COUNTY ACTION: The Morrow County Planning Commission makes, as allowed in our Subdivision Ordinance, a final decision that can be appealed to the Morrow County Board of Commissioners. Staff recommend approval subject to the following Conditions of Approval.

MORROW COUNTY CONDITIONS OF APPROVAL: These conditions must be completed before the County Planning Director may sign the final partition plat or before the land may be deeded to a third party.

1. Submit both a preliminary and final Partition Plat in conformance with Oregon Revised Statute Chapter 92 and the Morrow County Subdivision Ordinance.
2. The applicant shall obtain an easement for access and utilities to Parcel 2 and show the easement on the final partition plat.
3. Obtain site suitability from Umatilla County Public Health (UCo Health) for Proposed Parcel 2.
4. Obtain approval from the West Extension Irrigation District (WEID).

Jeff Wenzholz, Chair

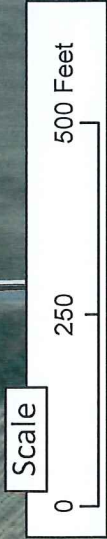
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ATTACHMENTS:

Vicinity Map
Tentative Plan



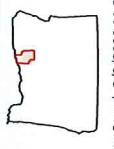
Vicinity Map



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 Daniel and Sarah Kerns
4N-25-22AB TL201

Legend

- Tax Lots
- Subject Property

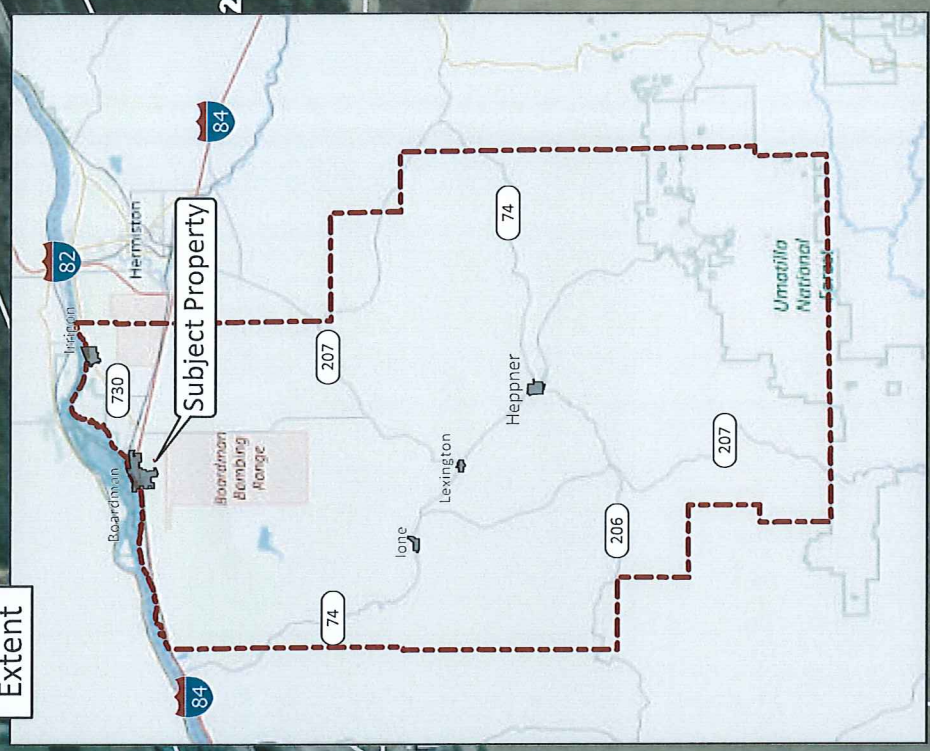


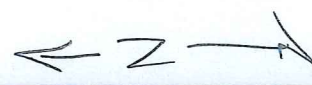
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 Morrow County Planning Department
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Extent





total 5.21