

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION REQUEST
Application Number LP-S-466**

REQUEST: To partition an approximate 952 acre property into three parcels.

APPLICANTS/OWNERS: Frank and Joe Halvorsen
64686 Halvorsen Lane
Ione, OR 97843

PROPERTY DESCRIPTION: Tax Lot 2300 of Assessor's Map 1S 23

PROPERTY LOCATION: Eight miles southwest of Ione on Halvorsen Lane

I FINDINGS OF FACT:

The partition would create two "non-farm dwelling" parcels and is filed concurrently with an administrative Land Use Decision application for two non-farm dwellings. The zoning is Exclusive Farm Use (EFU) and the property is presently developed for agricultural use with two existing dwellings that are proposed to be converted to the non-farm dwellings.

II APPROVAL CRITERIA:

Morrow County Zoning Ordinance Article 3 Exclusive Farm Use Zone (EFU) 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 ZONING ORDINANCE ARTICLE 3 USE ZONES SECTION
3.010(L). LAND DIVISIONS.**

1. **Minimum Parcel Size. The minimum size for creation of a new parcel shall be 160 acres.**
See discussion under Subsection 3 below authorizing the division of a new parcel smaller than the minimum size.
2. **A division of land to accommodate a use permitted by Section C, except a residential use, smaller than the minimum parcel size provided in Subsection 1 may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.**
This criterion is not applicable as the division is not to accommodate a use permitted under Section C, which addresses Conditional Uses. The Non-Farm Dwelling is a Land Use Decision allowed with standards.
3. **A division of land to create up to two new parcels smaller than the minimum size established under Subsection 1, each to contain a dwelling not provided in conjunction with farm use, may be permitted if:**
 - a. **The nonfarm dwellings have been approved under Subsection H;**
 - b. **The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;**
 - c. **The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection 1; and**

- d. **The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection 1.**

The applicant made application for a Land Use Decision to approve two non-farm dwellings which is an administrative decision being approved concurrent to this request. The existing parcel exceeds the minimum parcel size and the proposed new non-farm dwelling parcels will be approximately 5 acres and 45 acres, with the remainder at just over 900 acres. This criterion is met.

- 4. **A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:**

- a. **The nonfarm dwellings have been approved under Subsection H;**
- b. **The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;**
- c. **The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection A but equal to or larger than 40 acres;**
- d. **The parcels for the nonfarm dwellings are:**
 - (1) **Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and**
 - (2) **Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and**
- e. **The parcels for the nonfarm dwellings do not have established water rights for irrigation.**

This criterion is not applicable as the existing parcel is larger than the minimum size.

- 5. **This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.**

This criterion is not applicable as this approval is not for the creation or sale of cemetery lots.

- 6. **This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.**

This criterion is not applicable as the division of land is not resulting from a lien foreclosure or foreclosure of a recorded contract.

7. **This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in B.29, C.3, or C.7 from the lot or parcel on which the primary residential use exists.**

This criterion is not applicable as the division does not contain the uses mentioned, identified as farm worker dwellings, temporary hardship dwellings, or home occupations.

8. **This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section B.17.**

This criterion is not applicable as the division does not separate a processing facility from the farm operation.

9. **A division of land may be permitted to create a parcel with an existing dwelling to be used:**

a. **As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section H; and**

b. **For historic property that meets the requirements of Section B.33.**

The applicant has applied for a Land Use Decision for the existing dwellings as non-farm dwellings which is an administrative decision being approved concurrent to this request.

10. **Notwithstanding the minimum lot or parcel size described in Subsection 1,**

a. **A division of land may be approved provided:**

(1) **The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and**

(2) **A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.**

b. **A parcel created pursuant to this Subsection that does not contain a dwelling:**

(1) **Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;**

(2) **May not be considered in approving or denying an application for siting any other dwelling;**

(3) **May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and**

(4) **May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has**

cumulative ownership of at least 2,000 acres of open space or park property.

This criterion is not applicable as this is not an application for a public park, open space, or a land conservation organization.

- 11. A division of land smaller than the minimum lot or parcel size in Subsection 1 may be approved provided:**
- a. The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;**
 - b. The church has been approved under Subsection B.26;**
 - c. The newly created lot or parcel is not larger than five acres; and**
 - d. The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection 1 either by itself or after it is consolidated with another lot or parcel.**

This criterion is not applicable as the division is not for the purpose of establishing a church or cemetery.

- 12. Notwithstanding the minimum lot or parcel size described Subsection 1, a division for the nonfarm uses set out in Subsection B.12 if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.**
- This criterion is not applicable as the division is not for a fire service facility as indicated in Subsection B.12.

- 13. The governing body of a county may not approve a division of land for nonfarm use under Subsection 2, 3, 4, 9, 10, 11, or 12 unless any additional tax imposed for the change in use has been paid.**

The applicant will disqualify the "non-farm" dwelling parcel from farm deferral taxation program and pay the taxes from the previous ten years. This is required prior to the Planning Director signing the Final Partition Plat and listed as a condition of approval.

- 14. Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.**

This criterion is not applicable as the parcel is not used for training or stabling facilities.

- 15. A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:**

- a. If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.**
- b. If the parcel does not contain a dwelling, it:**
 - (1) Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;**
 - (2) May not be considered in approving or denying an application for any other dwelling; and**
 - (3) May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.**

This criterion is not applicable as the land is not along an urban growth boundary.

**MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS
SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:**

1. **Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.**
The proposed land partition, if approved in conjunction with the non-farm dwelling, does meet the requirements of the Zoning Ordinance and Comprehensive Plan relative to minimum parcel size. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.
2. **Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.**
The applicant has requested two parcels for the existing dwellings, one at 5 acres and the other at 45 acres. The surrounding farm land is large enough to exceed the minimum parcel size in the EFU zone.

Access to the new non-farm dwelling parcels will be directly off Halvorsen Lane where the current accesses are. An onsite septic system is existing for the non-farm dwellings and water is supplied by domestic wells.
3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**
Service utilities are available and adequate for the existing dwellings. This criterion is met.
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 current parcel and surrounding uses are farm land and will be continued to be used as such. The proposal will not have any identifiable adverse impacts on area land uses. The applicant will be required to sign a Right to Farm Disclaimer Statement for the non-farm dwelling parcel; this is required and listed as a condition of approval.
5. **An approved water rights diversion plan as applicable.**
The preliminary Findings of Fact were referred to the Watermaster to determine water rights and for any necessary approvals.
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 as 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.

- 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.

This property is not within the boundaries of an irrigation or water control 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.

- 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 recommend any additional requirements based on the factors above.

III LEGAL NOTICE PUBLISHED: April 4, 2018
Heppner Gazette-Times and East-Oregonian

IV AGENCIES NOTIFIED: Linda Hayes-Gorman, Department of Environmental Quality; Ken Thiemann, Watermaster; Lone Rural Fire Protection District; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor.

V PROPERTY OWNERS NOTIFIED: April 4, 2018

VI HEARING DATE: April 24, 2018
Bartholomew Building
Heppner, Oregon

VII PLANNING COMMISSION ACTION: Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.

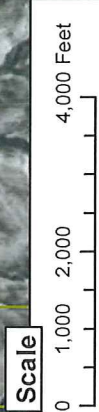
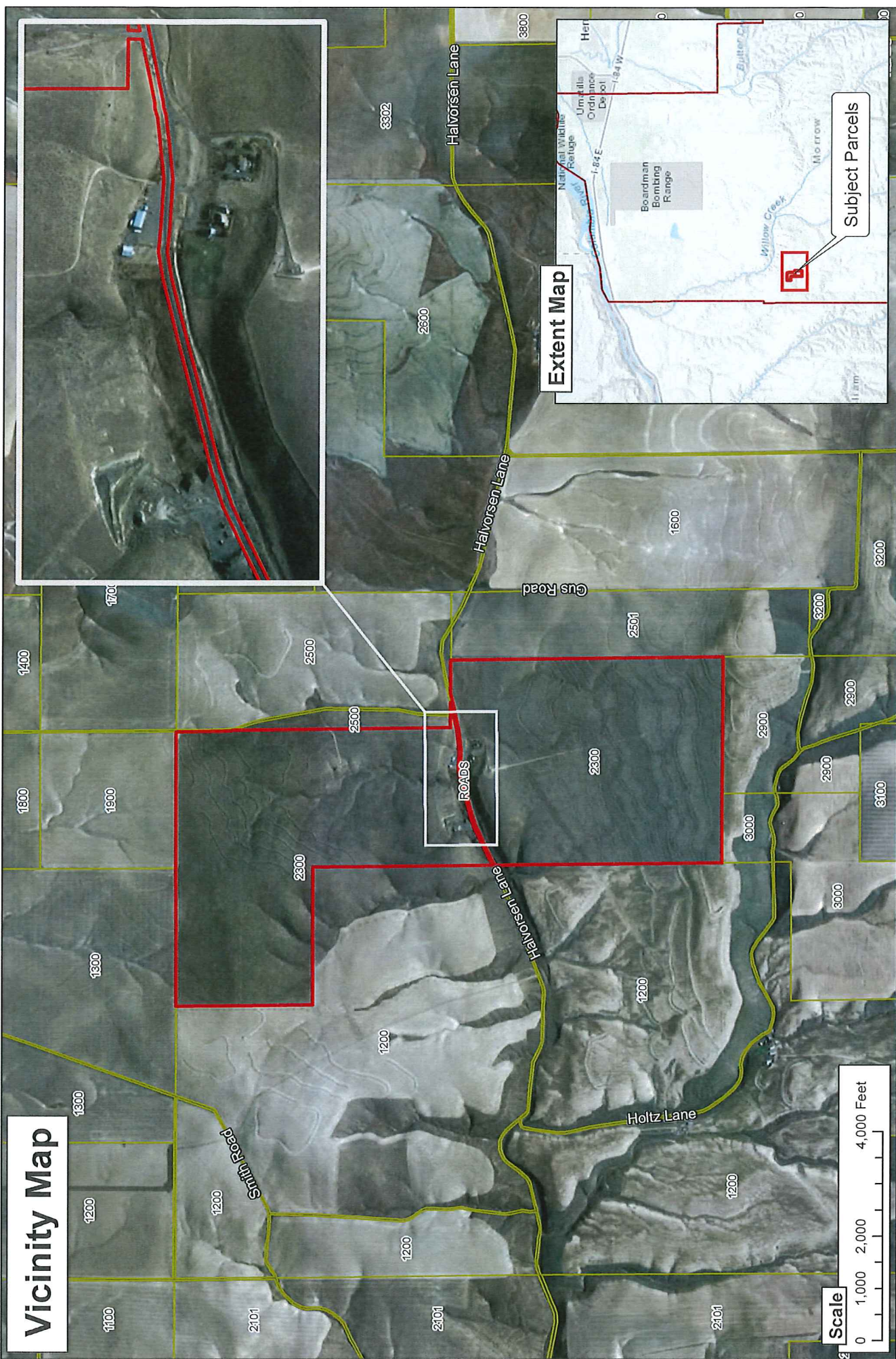
1. Sign and record a Right-to-Farm Disclaimer Statement.
2. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
3. Disqualify the “non-farm” dwelling parcels from farm deferral taxation program and pay the taxes from the previous ten years (ORS 215.236).

Jeff Wenholz, Chair

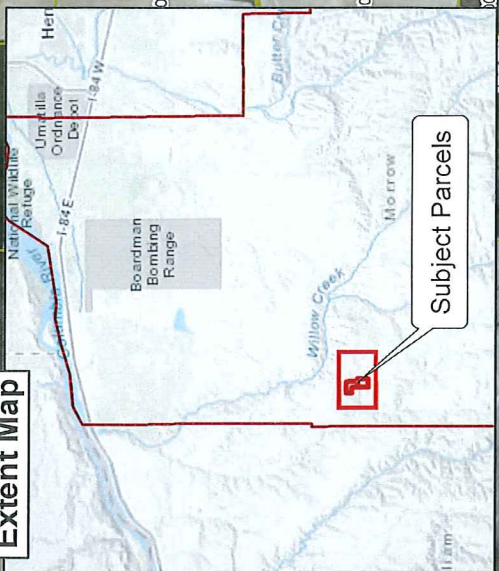
Date

ATTACHMENTS:
Vicinity Map
Plot Plan

Vicinity Map



Extent Map



Legend

- 103 Taxlots
- Subject Parcels

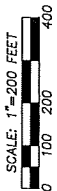
LP-S-466-18
LUD-S-06-18
 1S 23E TL 2300



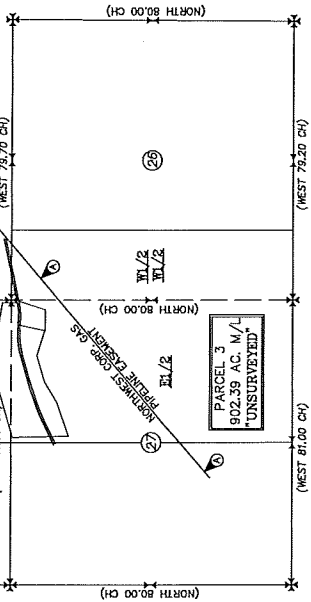
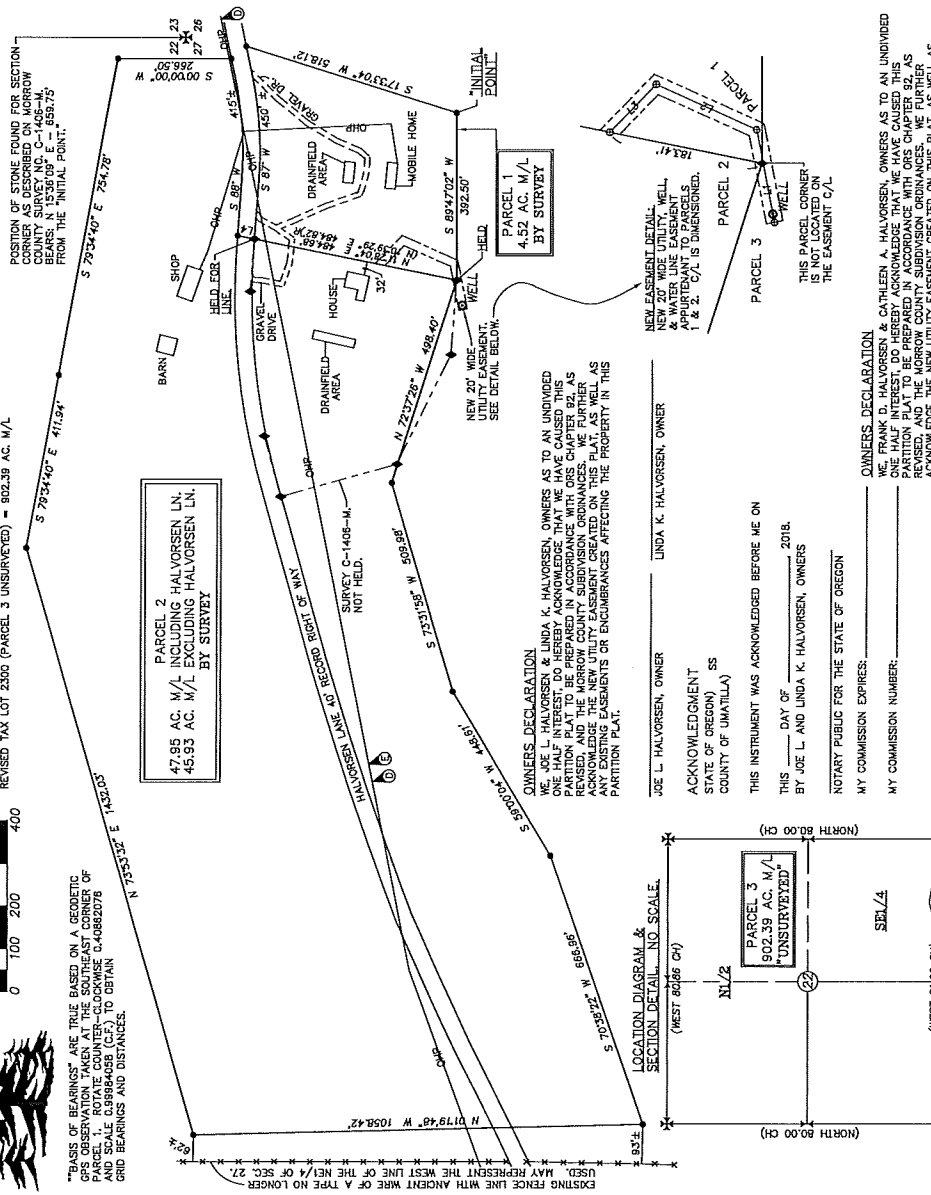
Cartography By: Stephen Wreccis
 Morrow County Planning Department
 Date Saved: 3/23/2018 4:57:27 PM
 Coordinate System: NAD 1983 HARN StatePlane Oregon North FIPS 3601
 Projection: Lambert Conformal Conic
 Datum: North American 1983 HARN



"BASIS OF BEARINGS" ARE TRUE BASED ON A GEODETIC SURVEY BY SURVEYOR JAMES W. WELLS FOR PARCEL 1. ROTATE COUNTER-CLOCKWISE 0.4682078' AND SCALE 0.98984658 (C.F.) TO OBTAIN GRID BEARINGS AND DISTANCES.



ACREAGE CALCULATIONS
 TAX LOT 2300 BEFORE SURVEY = 802.84 AC. PER ASSESSOR MAP.
 MINUS PARCEL 1 = 4.52 AC. BY SURVEY
 MINUS PARCEL 2 EXCLUDING HALVORSEN LN. = 45.93 AC. M/L
 REVISED TAX LOT 2300 (PARCEL 3 UNSURVEYED) = 802.39 AC. M/L



"TENTATIVE FOR REVIEW"
 PARCEL DIMENSIONS AND BEARINGS MAY CHANGE SLIGHTLY FOR THE FINAL PLAT PENDING FURTHER INFORMATION AND SURVEYING OF HALVORSEN LANE.

LEGEND

- ①-④ QUARTER OR SECTION CORNER SHOWN FOR LOCATION PURPOSES ONLY. NOTHING FOUND, SET, OR SURVEYED ON THE ORIGINAL OLD BEARINGS OR DISTANCES.
- ⑤ SET 5/8"X30" IRON REBAR WITH 1.1/4" BLUE PLASTIC CAP MARKED "WELLS SURVEYING PL-546457."
- ⑥ FOUND MONUMENT PER MORROW COUNTY SURVEY NO. C-1406-M. THIS SURVEY WAS FOR A FINANCIAL PARTITION BUT WAS NEVER ACTED UPON BY THE MORROW COUNTY DEED RECORDS. MONUMENTS FOR THE PARCEL DIVIDING LINE AS SHOWN. THE OTHER MONUMENTS ARE SHOWN FOR REFERENCE ONLY AND ARE MEANINGLESS.
- ⑦ CALCULATED POINT ONLY. NOTHING FOUND OR SET.
- ⑧ OVERHEAD POWER LINE.
- ⑨ EXCEPTIONS FROM SURVEYOR PROPERTY REPORT DATED MARCH 7, 2018, FILE NUMBER 10371, WHICH MAY OR MAY NOT AFFECT THE PROPERTY INVOLVED IN THIS PARTITION PLAT. NOT ALL ARE SHOWN.
- ⑩ EASEMENT FOR NATURAL GAS PIPELINE, PACIFIC GAS TRANSDUCERS, 8" DIA. PIPE 550, MORROW COUNTY DEED RECORDS.
- ⑪ EASEMENT FOR TELEPHONE LINE, BOOK 68, PAGE 77, MORROW COUNTY DEED RECORDS. BLANKET TYPE M-18867, MORROW COUNTY DEED RECORDS.
- ⑫ 1/2 INTEREST IN MINERAL RIGHTS, MICROFILM NO. M-18867, MORROW COUNTY DEED RECORDS. BLANKET TYPE EASEMENT. NOT SHOWN.
- ⑬ RIGHT OF WAY FOR ELECTRIC TRANSMISSION LINES, MICROFILM NO. M-18923, MORROW COUNTY DEED RECORDS.
- ⑭ RIGHT OF WAY FOR ELECTRIC TRANSMISSION LINES, MICROFILM NO. M-18923, MORROW COUNTY DEED RECORDS.
- ⑮ RIGHT OF WAY FOR ELECTRIC TRANSMISSION LINES, MICROFILM NO. M-9888A, MORROW COUNTY DEED RECORDS.

SURVEYORS CERTIFICATE & NARRATIVE

THIS SURVEY WAS MADE AT THE REQUEST OF FRANK HALVORSEN TO PARTITION TWO HOUSE PARCELS OFF OF A LARGE FARM TRACT AS SHOWN. I HELD TWO FOUND MONUMENTS FROM MORROW COUNTY SURVEY NO. C-1406-M. SAID SURVEY WAS MADE AS A FINANCIAL PARTITION SURVEY WHICH WAS NOT ACTED UPON BY THE LAND OWNERS THEREFORE THE SAID SURVEY IS NULL AND VOID. THE PARTITION PLAT SURVEY IS NULL AND VOID. THE STONE MARKING THE NORTH-EAST CORNER OF SECTION 27, AND OF THE EXISTING FENCE NEAR THE WESTERLY PARCEL BOUNDARY, WAS NOT FOUND. I DID NOT FIND THE OCCUPATION LINES EXISTING IN PARCELS 1 & 2. THE POSITION OF THE FOUND STONE PER SURVEY NO. C-1406-M FOR THE NORTH-EAST CORNER OF SECTION 27 AS STATED ON SAID SURVEY.

I HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MONUMENTED PARCELS 1 AND 2 OF THIS PARTITION PLAT, AND THAT I HAVE CORRECTLY REPRESENTED THE BOUNDARY OF UNSURVEYED PARCEL 3. I HAVE CORRECTLY REPRESENTED THE BOUNDARY OF PARCEL 3 AS SHOWN. THE MONUMENTS AND EXCEPTIONS SHOWN ON THE FACE OF THIS PLAT WERE TAKEN FROM A PROPERTY REPORT PREPARED BY MID-COLUMBIA TITLE CO. AS NOTED. NOT ALL EXCEPTIONS ARE NOTED.

REAL PROPERTY DESCRIPTION
 TOWNSHIP 22 SOUTH, RANGE 23 EAST, W.M., MORROW COUNTY, OREGON.
 SECTION 26; N1/2 AND THE SE1/4.
 SECTION 27; W1/2 OF THE W1/2.

OWNERS DECLARATION
 WE, FRANK D. HALVORSEN & CATHEEN A. HALVORSEN, OWNERS AS TO AN UNDIVIDED ONE HALF INTEREST, DO HEREBY ACKNOWLEDGE THAT WE HAVE CAUSED THIS PARTITION PLAT TO BE PREPARED IN ACCORDANCE WITH ORS CHAPTER 92, AS APPLICABLE TO MORROW COUNTY. WE HEREBY ACKNOWLEDGE THAT WE FURTHER ACKNOWLEDGE THE NECESSITY OF EASEMENTS, ENCUMBRANCES, AND AS ANY EXISTING EASEMENTS OR ENCUMBRANCES AFFECTING THE PROPERTY IN THIS PARTITION PLAT.

ACKNOWLEDGMENT
 STATE OF OREGON) SS
 COUNTY OF UMATILLA)

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON
 THIS _____ DAY OF _____ 2018.
 BY JOE L. AND LINDA K. HALVORSEN, OWNERS

NOTARY PUBLIC FOR THE STATE OF OREGON
 MY COMMISSION EXPIRES: _____

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 WE, FRANK D. HALVORSEN & CATHEEN A. HALVORSEN, OWNERS AS TO AN UNDIVIDED ONE HALF INTEREST, DO HEREBY ACKNOWLEDGE THAT WE HAVE CAUSED THIS PARTITION PLAT TO BE PREPARED IN ACCORDANCE WITH ORS CHAPTER 92, AS APPLICABLE TO MORROW COUNTY. WE HEREBY ACKNOWLEDGE THAT WE FURTHER ACKNOWLEDGE THE NECESSITY OF EASEMENTS, ENCUMBRANCES, AND AS ANY EXISTING EASEMENTS OR ENCUMBRANCES AFFECTING THE PROPERTY IN THIS PARTITION PLAT.

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 COUNTY OF UMATILLA)

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NOTARY PUBLIC FOR THE STATE OF OREGON
 MY COMMISSION EXPIRES: _____

MORROW COUNTY PARTITION PLAT NO. 2018-_____
 A PARTITION OF LANDS LOCATED IN SECTIONS 22, 26, AND 27, TOWNSHIP 22 SOUTH, RANGE 23 EAST, WILLAMETTE MERIDIAN, MORROW COUNTY, OREGON, MARCH, 2018.

APPROVALS

EXAMINED AND APPROVED THIS _____ DAY OF _____ 2018.
 MORROW COUNTY PLANNING DIRECTOR

EXAMINED AND APPROVED THIS _____ DAY OF _____ 2018.
 MORROW COUNTY SURVEYOR

EXAMINED AND APPROVED THIS _____ DAY OF _____ 2018.
 MORROW COUNTY TAX COLLECTOR/
 MORROW COUNTY ASSESSOR

RECORDING INFORMATION
 MORROW COUNTY CLERK

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 NOVEMBER 2010
 JASON W. WELLS
 54657945
 REVIEWS 6/30/18

"TENTATIVE FOR REVIEW"

PROJECT: \HALVORSEN\2018\011
 WELLS SURVEYING
 200 SE HALLEY SUITE 108
 P.O. BOX 1696
 PENDLETON, OR 97801
 PHONE: (541) 278-6362

DATE: 03/18 DR. BY: JMW
 CK. BY: DMT NO: 18-XXXX

PARTITION PLAT FOR:
 HALVORSEN

LOCATED IN THE SECTIONS 22, 26, AND 27,
 T1S, R23E, W4A, MORROW COUNTY, OREGON.

LINE	BEARINGS	DISTANCE
1	N 28°49'09" E	110.80'
2	N 45°49'41" W	78.29'
3	S 11°28'04" W	40.06'