



PLANNING DIVISION

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252

Email: planning@umatillacounty.gov

AGENDA

Umatilla County Planning Commission Public Hearing Thursday, October 26, 2023, 6:30PM Justice Center Media Room, Pendleton, Oregon

To participate in the hearing please submit comments before 4PM, October 26th to planning@umatillacounty.gov or contact the Planning Department at 541-278-6252

Planning Commission

Suni Danforth, Chair	John Standley
Don Wysocki, Vice-Chair	Kim Gillet
Tammie Williams	Emery Gentry
Tami Green	Ann Minton
Sam Tucker	

Planning Staff

Bob Waldher, Community Development Director
Megan Davchevski, Planning Division Manager
Carol Johnson, Senior Planner
Tierney Cimmiyotti, Planner / GIS
Charlet Hotchkiss, Planner
Shawna Van Sickle, Administrative Assistant

1. Call to Order

2. Minutes Approval; July 27, 2023 meeting

3. NEW HEARING: LAND DIVISION & VARIANCE REQUEST, #LD-6N-441-23 & #V-366-23: JOHN & AMY WELLS, APPLICANT/OWNERS.

The applicants are requesting land division approval to divide the property located on Map 6N 35 23A, Tax Lot #502 into two parcels for future residential development. Each parcel would be two acres in size, in conformance with the Rural Residential 2-acre minimum zoning. The applicants are also requesting a variance to the road improvement standards, due to existing right-of-way of Mauer Lane being less than 60-feet wide. The land use standards applicable to the applicants' request are found in Umatilla County Development Code Sections 152.684, Type II Land Divisions and 152.627, Circumstances for Granting a Variance.

4. Other Business

5. Adjournment

DRAFT MINUTES

CONDITIONAL USE REQUEST #C-1357-23

**SOS FAMILY LLC,
APPLICANT/ OWNER**

The applicant is requesting a Conditional Use Permit (CUP) to establish a propane railcar unloading and storage yard.

The proposed project site is addressed as 30833 Feedville Road and is located on Map 4N2822, Tax Lot 900, north of Feedville Road and west of 1st Street.

**UMATILLA COUNTY
PLANNING COMMISSION HEARING**

July 27, 2023

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, July 27, 2023, 6:30pm

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Tammie Williams, Sam Tucker & John Standley

COMMISSIONERS

ABSENT: Tami Green, Emery Gentry & Kim Gillet

PLANNING STAFF: Robert Waldher, Community Development Director, Megan Davchevski, Planning Manager & Tierney Cimmoyotti, Planner

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. RECORDING IS AVAILABLE AT THE PLANNING OFFICE.

CALL TO ORDER

Chair Danforth called the meeting to order at 6:32PM and read the Opening Statement.

NEW HEARING

CONDITIONAL USE REQUEST, PROPANE STORAGE AND TERMINAL, #C-1357-23: SOS FAMILY LLC, APPLICANT/ OWNER. The applicant is requesting a Conditional Use Permit (CUP) to establish a propane railcar unloading and storage yard. The proposed project site is addressed as 30833 Feedville Road, Hermiston and is located on Assessor’s Map 4N2822, Tax Lot 900, north of Feedville Road and west of 1st Street. The applicant proposes the placement of four (4) 80,000-gallon propane tanks for propane storage and distribution. Small empty tanks will be stored on the southern portion of the property in a fenced location adjacent to an existing shop building. The empty tanks will be stored at this location until transported to other locations for placement and installation (e.g. residences). The applicant received tentative approval from the Planning Division and subsequently requested a public hearing. The land use standards applicable to the applicants’ request are found in Umatilla County Development Code (UCDC) Sections 152.322 (A)(6) and 152.616 (FF).

Chair Danforth called for any abstentions, bias, conflicts of interest, declarations of ex parte contact or objections to jurisdiction. There were none. She called for the Staff Report.

STAFF REPORT

Megan Davchevski, Planning Division Manager, stated that the applicant is requesting a CUP to establish a propane railcar unloading and storage yard. The project site is located north of Feedville Road and west of South 1st Street, just outside of Hermiston City Limits. The applicant proposes the placement of four (4) 80,000-gallon propane tanks, to be located on the north side of the property, for propane storage and distribution. She explained that the applicant indicates propane will mainly be shipped from the subject property along the existing Union Pacific Rail Road (UPRR) and utilize a spur for tankers to unload propane into the tanks. Propane will then be loaded

onto trucks and shipped to fueling facilities to various geographical locations. She further explained that, in addition to the 80,000-gallon tanks, the applicant states small empty tanks (size not shared with Planning) will be stored on the southern portion of the property, in a fenced location adjacent to an existing shop building. The empty tanks will be stored at this location until transported to other locations for placement and installation (e.g. residences).

Mrs. Davchevski stated that the proposed use may be established in the Heavy Industrial (HI) Zone with a CUP under § 152.322(A)(6) which states, “any requested use involving the handling or storage of hazardous chemicals or flammable liquids such as fireworks, blasting agents, explosives, corrosive liquids, flammable solids, high toxic materials, oxidizing materials, poisonous gases, unstable chemicals, ammonium nitrate and liquefied petroleum gases as provided in § 152.616 (FF)”.

The Planning Division received a CUP application for the applicant’s request on March 14, 2023 and payment was processed on March 27, 2023. Preliminary staff findings and public notice were mailed on May 1, 2023 and Planning received two informational comments from agencies: Oregon State Fire Marshal and Umatilla County Fire District #1. The comments did not result in additional conditions of approval. Comments and requests for a public hearing were due on May 22, 2023.

On May 23, 2023, Mrs. Davchevski issued tentative approval of the Conditional Use Request with five (5) Precedent Conditions of Approval and nine (9) Subsequent Conditions of Approval. Land use approval is not finalized until a Zoning Permit has been issued, as well as all other State permits, as outlined in Precedent Conditions #4 and #5.

On June 5th, 2023, the applicant’s consultant requested, via email, that the hours of operation limited in Subsequent Condition #2 be modified to allow operation between 5AM and 11PM. Staff responded that the request should have been submitted during the 21-day comment period and clarified that the application did not include proposed hours of operation. The request was made after the 21-day comment period lapsed. Therefore, Planning Division Staff was unable to amend the Findings unless a new application or request for appeal was made.

On June 7th, 2023, the applicant submitted a Notice of Appeal and provided payment for the appeal. Email correspondence and the appeal packet are included in the Planning Commissioner Packets. The scheduling and notice for the July 17, 2023 Planning Commission hearing followed.

The criteria of approval are found in Umatilla County Development Code (UCDC) Sections 152.322, 152.323, 152.325, 152.560-152.562, 152.615 and 152.616 (FF).

Mrs. Davchevski explained that the Planning Commission is tasked with determining if the application satisfies all of the criteria of approval based on the facts in the record. The Planning Commission may affirm the Planning Division Manager’s decision, and agree with the Precedent and Subsequent Conditions of Approval, or the Planning Commission may modify the Conditions of Approval.

Mrs. Davchevski stated that the Planning Commission hearing is a de novo hearing and new issues may be raised. The Planning Commission's decision, including modifications of the Conditions of Approval or a decision of denial, shall be based on findings and facts in the record.

On July 25, 2023 the Planning Division received a letter from the applicant's attorney. The letter was subsequently emailed to the Planning Commissioners the same day. (Mrs. Davchevski distributed paper copies of the email to the Planning Commissioners and asked that it be added to the hearing record as Exhibit A.) Mrs. Davchevski explained that the email claims that the hearing is de novo but does not allow for testimony from anyone other than the applicant. The letter claims Planning Division Staff has created a procedural error by stating that the appeal hearing is de novo. Staff confirmed with County Legal Council that this appeal hearing is de novo. Therefore, the Planning Commission can accept new testimony and evidence as part of the decision record.

Mrs. Davchevski concluded her Staff Report by explaining that the process of approval by the County involves review by the County Planning Commission for a final decision, unless timely appealed to the Board of County Commissioners.

Commissioner Standley, if the applicant had included the request to operate between 5AM and 11PM in their original application, would staff have approved the request and allowed for those operating hours. Mrs. Davchevski replied, yes. She added that she would have likely approved that request, but clarified that the application did not include any specified hours of operation. Commissioner Standley asked if that is the issue and reason they are at the hearing today. Mrs. Davchevski replied, yes that is one issue, but any other issues or questions pertaining to the request may also be raised today.

Commissioner Standley asked for more information about the terminology used for the new hearing. Mrs. Davchevski explained that staff's decision was final, then the applicant appealed the decision. Commissioner Tucker stated that legal arguments are made regarding the meaning of de novo. However, he believes the issue is irrelevant unless somebody decides to bring up new issues at this hearing.

Commissioner Tucker asked staff about the hours of operations they approved in the Preliminary Findings. Mrs. Davchevski stated that she approved operations to occur between 7AM-7PM, seven days a week. Commissioner Tucker asked, if the applicant had requested longer hours of operation, would staff have approved that request? Mrs. Davchevski stated that she would have likely approved more hours, if requested.

Mrs. Davchevski explained that, if the applicant had included hours of operation in their application, those hours would have been included in the the public notice. Because no hours of operations were provided, staff researched similar operations and decided on hours of operation between 7AM-7PM. Commissioner Tucker asked if there would be a risk to the Planning Commission to decide to expand the hours of operation, even though public notice did not include those potential additional hours. Mrs. Davchevski replied, no.

Applicant Testimony (via Zoom): Lani Hickey, Land Use Planner, 24241 Old Malin Highway, Merrill, Oregon. Ms. Hickey stated that she would like to defer her testimony to Christopher Koback because she is travelling and may lose cell coverage.

Applicant Testimony (via Zoom): Christopher Koback, Attorney, 78 NE Kearney Avenue, Bend, Oregon. Mr. Koback stated that he is an attorney representing the applicant. He explained that Ed Staub & Sons has been in operation for more than 60 years, providing propane services to smaller communities in Oregon, Washington and Idaho. They pride themselves in having a history of providing good service and also being good community members.

Mr. Koback stated that in the application there were no hours stated by the applicant, but there was also no place in the application requiring hours of operations be identified as part of the criteria of approval. He does not feel that stating hours of operation is necessary because the way this business works, it can't function fully and serve customers well with hour restrictions in place. There are instances in the winter when customers don't plan ahead and need an emergency propane delivery to keep pipes from freezing in the middle of the night. He explained that that's the kind of service Ed Staub & Sons has provided in the past and wants to continue to provide. They feel this is an essential service to the community; to keep them warm and keep their pipes from freezing. Mr. Koback stated that is the reason no hours of operations were proposed as part of this application, as they didn't want to limit themselves from providing the services customers need in a timely and efficient manner. Mr. Koback stated that he and his client, the applicant, accept all other conditions placed on this request, the only issue is the limited hours of operation.

Mr. Koback stated that he raised a procedural argument questioning the meaning of de novo. He believes in this situation de novo means new testimony can only be presented on the issue raised in the appeal. He pointed out that the UCDC requires persons appealing a decision to identify specifically what they intend to appeal, and testimony can only be received by the applicant or the proponent. He believes since the party appealing the decision is both the applicant and proponent in this case, no one else can raise new issues at the hearing.

Mr. Koback asked the Planning Commission if there is a basis in the decision to add the condition pertaining hours of operation. He states that the condition was imposed under UCDC 152.615 which he interprets to state that additional conditions can be imposed if warranted by the circumstances. He explained that he believes the subsections of the code clarify that those specific circumstances in which additional conditions are warranted are related to issues concerning environmental contamination, noise, odor, pollution, etc. He expressed that, if there were additional impact issues, additional conditions can and should be imposed to protect the neighboring properties from those impacts. However, he believes staff has determined in the Preliminary Findings that those various environmental impacts will not occur as part of this request. Therefore, he does not believe additional conditions should apply. He stated that he believes they do not need restrictions on hours of operations and the business should be allowed

to operate around the clock, as they have for many years, and provide services as needed. He respectfully requested that there be no restrictions on hours of operations.

Mr. Koback stated that there is a mechanism for the Planning Commission to reopen the CUP approval and address any problems, if they present themselves down the line, as part of the operations of the business. Commissioner Tucker asked for more information about the opportunity to reopen the conditions of approval and revise conditions at a later date. Mr. Koback stated that he has experience with other planning agencies and explained that they tend to have this ability, but referred the Planning Commission to County Staff for details about the specific process in Umatilla County. He believes the nature of granting a conditional use allows for review when a problem is identified.

Applicant Testimony: Dustin Oates, Ed Staub & Sons, 3105 Brisbane Street, Walla Walla, WA. Mr. Oates stated that he recently moved to Walla Walla from John Day. His grandfather is Ed Staub. He is hoping to expand propane services in the region and that is one of the reasons they need this additional storage.

Mr. Oates stated that, last year in Central Oregon and Redmond, propane companies in the area did not have any propane to service their customers. Ed Staub & Sons had propane to provide to customers because they had established a relationship with the railroad. Propane was arriving on railcars day and night and they were offloading it as quickly as it arrived. He stated that this is an example of the type of 24/7 service they offer customers in times of need and demonstrates that operating hours are not ideal when they are working to ensure people stay warm in the winter. He added that constraints on hours of operation become particularly problematic when the product is delivered by rail. The railcars arrive whenever they arrive, and Ed Staub & Sons needs to be available to accommodate their unpredictable schedules.

Mr. Oates concluded that he is on the operation side of the business. He reiterated that it is a relatively quiet process because they will just be using a pump to load the propane into a truck for delivery to customers.

Applicant Testimony (via Zoom): Lou Milani, Construction Coordinator, Ed Staub & Sons, 3303 Washburn Way, Klamath Falls, Oregon. Mr. Milani stated that he is in favor of the request. He has nothing to add but is happy to answer any questions. There were none.

Opponents: None

Public Agencies: The Oregon State Fire Marshall provided a comment to reiterate that the applicant will need to have their plan reviewed by the State Fire Marshall. They stated that they were satisfied by the inclusion of Precedent Condition #5.

Applicant Rebuttal: Christopher Koback, Attorney, 78 NE Kearney Avenue, Bend, Oregon and Dustin Oates, Ed Staub & Sons, 3105 Brisbane Street, Walla Walla, Washington. Mr. Koback stated that he does not have anything to add.

Commissioner Wysocki asked if they have set hours of operation, and if they call in additional employees when there is an extra need? He asked for Mr. Oates to describe a standard operating day. Mr. Oates stated that it varies. Right now, they have drivers leaving at 4AM to deliver propane to fuel up farmers for harvest. He added that drivers come in around 8AM during the winter for fuel. During the propane season drivers typically arrive around 6AM. He expressed that he is more concerned with unloading the railcars and transporting the product to various customers in the Enterprise, La Grande, John Day and Burns locations.

Commissioner Wysocki asked if it's accurate to assume that normal operational hours for this type of business is variable. Mr. Oates confirmed, and added that he also takes into consideration his employees schedules and availability.

Chair Danforth called for any requests for the hearing to be continued, or for the record to remain open. There were none.

Chair Danforth closed the hearing and added the letter from Christopher P. Koback, attorney for the applicant, received via email July 25, 2023, to the record as Exhibit A. She called for deliberation and decision.

DELIBERATION & DECISION

Chair Danforth stated that she believes propane businesses should be considered an emergency service. She added that some people rely on propane to heat their homes and recreational vehicles, especially those living remotely. Therefore, she does not think restrictions on hours of operation are needed.

Commissioner Standley stated that he believes staff handled this request appropriately. He added that the applicant responded appropriately as well, by appealing the hours of operation. He supports the request.

Commissioner Tucker stated that this is one of the easier decisions the Planning Commission has been tasked with making. He made a motion to approve Conditional Use Request #C-1357-23 to establish a propane railcar unloading and storage yard, SOS Family LLC, applicant/owners, with the omission of Subsequent Condition #2, which limited the hours of operation. Commissioner Wysocki seconded the motion. Motion carried with a vote of 5:0.

MINUTES

Chair Danforth called for any corrections or additions to the April 27, 2023 & May 18, 2023 meeting minutes. Commissioner Standley stated that he had a correction to the April 27, 2023

minutes. On page 2 of the Draft Minutes, last paragraph, it states that, “Commissioner Standley stated that he is familiar with the family and has known Mr. Pearson’s father-in-law, Monty Hixson, for fifty years.” Commissioner Standley stated that he was not actually referring to Monty Hixson. The sentence should be changed to, “Commissioner Standley stated that he is familiar with the family and has known Mr. Pearson’s father-in-law, Lowell Van Dorn, for fifty years.” Ms. Cimmiyotti agreed to make that change in the final minutes.

Commissioner Standley moved to approve the amended minutes from the April 27, 2023 hearing as well as the May 18, 2023 meetings minutes, as presented. Commissioner Tucker seconded the motion. Motion carried by consensus.

OTHER BUSINESS

Mr. Waldher provided an update on the Boardman to Hemingway (B2H) Transmission Line Project. He stated that the project has received their site certificate and are moving forward with a second amendment of the project. Umatilla County plans to provide a comment as part of the second amendment process. The applicant indicates they plan to have a multiuse area (similar to a laydown yard) on high-value, prime farmland near Hermiston zoned for Exclusive Farm Use. They previously proposed another location in an industrial area for this activity. Although the multiuse laydown yard will be considered temporary, Mr. Waldher explained that Planning Division Staff feels the first proposed site is more appropriate for this activity. Therefore, Umatilla County will provide a comment expressing concern about the proposed location change.

Mr. Waldher stated that the B2H applicant has started submitting mitigation plans to the Department of Energy (DOE) and they are being routed to local planning offices for review and comment. Mr. Waldher explained that the Planning Division received a copy of mitigation plans last week. One of the mitigation plans received pertains to fire prevention and Mr. Waldher stated that Sage DeLong, Umatilla County Emergency Manager, has reviewed the plans and provided additional comments. Mr. DeLong identified areas of concern, specifically regarding fire protection. Comments provided by the County include a recommendation that the applicant should be required to hire their own fire protection personnel to be onsite during construction, for areas in Umatilla County. Mr. Waldher explained that many of our fire districts are comprised of rural volunteer staff and therefore there are limitations on how responsive they are able to be.

Mr. Waldher stated that Umatilla County will also provide comment on the B2H Transmission Line Project requesting that the County receive a more ‘county specific’ plan. As of now, the plans for the project are presented as a whole which includes an approximately 300 mile (275 miles in Oregon) electrical transmission line that crosses five counties in Oregon; Morrow, Umatilla, Union, Baker and Malheur. Construction is scheduled to commence this fall.

Mr. Waldher stated that Umatilla County provided comments on the revised Preliminary Application for a Site Certificate (pASC) for the Nolin Hills Wind Power Project which stated, “The project does not comply with Umatilla County’s standard for two-mile setback from rural

residences outside the project area. The county’s two-mile setback for rural residences was adopted by Umatilla County through Ordinance 2012-13. The original intent of the standard was to mitigate noise and visual impacts to rural residences caused by wind towers. Umatilla County requests that the applicant adjust the location of the turbines in order to meet the required standard.”

Mr. Waldher stated that the Council sided with the Administrative Law Judges decision on the Contested Case Order and denied Umatilla County’s Amended Motion for Summary Determination for the Nolin Hills Wind Power Project. He explained that the next step, if we choose to continue, is for the Board of County Commissioners (BCC) to decide if they want to file an appeal to the Oregon Supreme Court. The BCC plan to meet with legal counsel in the coming weeks to discuss how best to move forward. Discussion continued about the Nolan Hills project and the 2-mile setback issue.

Mrs. Davchevski stated that the County was awarded a \$5.6 million grant for Phase One of the Umatilla River Trail Project. She explained that this first segment will start at Nugent Park in Umatilla and cross the river to Bensel Road in Hermiston. Discussion continued about the Umatilla River Trail Project.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:34PM.

Respectfully submitted,

Tierney Cimmeyotti,

Planner/ GIS

COMMUNITY &
BUSINESS
DEVELOPMENT

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commission
FROM: Megan Davchevski, Planning Division Manager
DATE: October 19, 2023

CODE
ENFORCEMENT

RE: October 26, 2023 Planning Commission Hearing
Land Division Request LD-6N-441-23 and Variance Request V-366-23

SOLID WASTE
COMMITTEE

SMOKE
MANAGEMENT

Request

A “Request for a Public Hearing” was filed on September 7, 2023 in opposition of the proposed Type II Land Division and Variance Request. The applicants are requesting to divide Tax Lot 502 on Map 6N 35 24A into two parcels, each two acres in size. The subject property is located north of Mauer Lane and east of Tum a Lum Road, approximately 2.5 miles north-east of the City of Milton-Freewater. It is zoned Rural Residential – 2-acre minimum (RR-2).

GIS AND MAPPING

RURAL ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

The applicant is also requesting a variance to the County’s P-2 Road Improvement standard due to the location and dedicated width of Mauer Lane, a 25-foot private access easement. The County’s P-2 Road Standard is a 60-foot wide right-of-way with an improved surface width of 22-feet.

PUBLIC TRANSIT

Criteria of Approval

The criteria of approval are found in Umatilla County Development Code (UCDC) Section 152.684, Type II Land Divisions and 152.627, Circumstances for Granting a Variance.

Request for a Public Hearing

Written comments from various notified property owners were provided in the Request for a Public Hearing received on September 7, 2023. Staff have provided a detailed response to each concern in the preliminary findings. Concerns raised are primarily regarding loss of nearby properties’ view, increase of traffic, potential effects of an additional septic system and well, reduction of nearby properties’ value, easement and contamination issues, presence of the Special Flood Hazard Area, and the surveying firm procured by the applicant. Additionally, several nearby property owners requested that the new parcel have restrictions placed regarding the size and height of a new dwelling.

Traffic and floodplain development concerns do correlate to applicable standards for approval, specifically UCDC 152.684(D); Complies with provisions of 152.019, Traffic Impact Analysis, as applicable and UCDC 152.684(K); Adequately addresses any known development limitations within the proposed Type II Land Division, outlining appropriate measures to mitigate the limitation.

Both criteria are addressed in detail in the preliminary findings.

Notice

Notice of the applicant’s request and the public hearing was mailed on October 6, 2023 to the owners of properties located within 250-feet of the perimeter of Tax Lot 502. Notice was also published in the East Oregonian on October 14, 2023 notifying the public of the applicants’ request before the Planning Commission on October 26, 2023.

Several comments were received from agencies and notified property owners and have been included in the hearing packets.

Of note, at the top of the Public Notice Map, the Assessor Map and Tax Lot numbers are incorrectly identified on the map’s header as 5N2835C, Tax Lot 600. The subject property’s correct identifier is on the map itself as 6N3524A, Tax Lot 502.

Conclusion

The proposed Conditions of Approval address road improvement and access standards, including Irrevocable Consent Agreements, site suitability for septic systems, and the survey and recording requirements with final approval accomplished through the recording of the final partition plat.

The Planning Commission is tasked with determining if the application satisfies all of the criteria of approval based on the facts in the record. The Planning Commission may agree with Planning Staff’s findings, and determine that all applicable criteria of approval have been met. Alternatively, the Planning Commission may find that one or more criteria of approval have not been met, thus the request must be denied. Approval or Denial must be based on substantive, factual evidence in the record, not conclusory statements.

The process of approval by the County involves review by the County Planning Commission for a final decision unless timely appealed to the Board of County Commissioners.

PLANNING COMMISSION DECISION OPTIONS

Motion for Approval Based on Evidence in the Record

I, Commissioner _____, make a motion to approve the Wells Land Division and Variance Request, #LD-6N-441-23 and #V-366-23, based on the foregoing Findings of Fact and Conclusions of Law.

Motion for Denial with Additional Findings

I, Commissioner _____, make a motion to deny of the Wells Land Division and Variance Request, #LD-6N-441-23 and #V-366-23, based on the evidence in the record along with the following additional Findings of Fact: _____.

**UMATILLA COUNTY
 PLANNING COMMISSION HEARING – OCTOBER 26, 2023
 LAND DIVISION REQUEST #LD-6N-441-23 AND
 VARIANCE REQUEST #V-366-23
 JOHN & AMY WELLS, APPLICANTS / OWNERS
 PACKET CONTENT LIST**

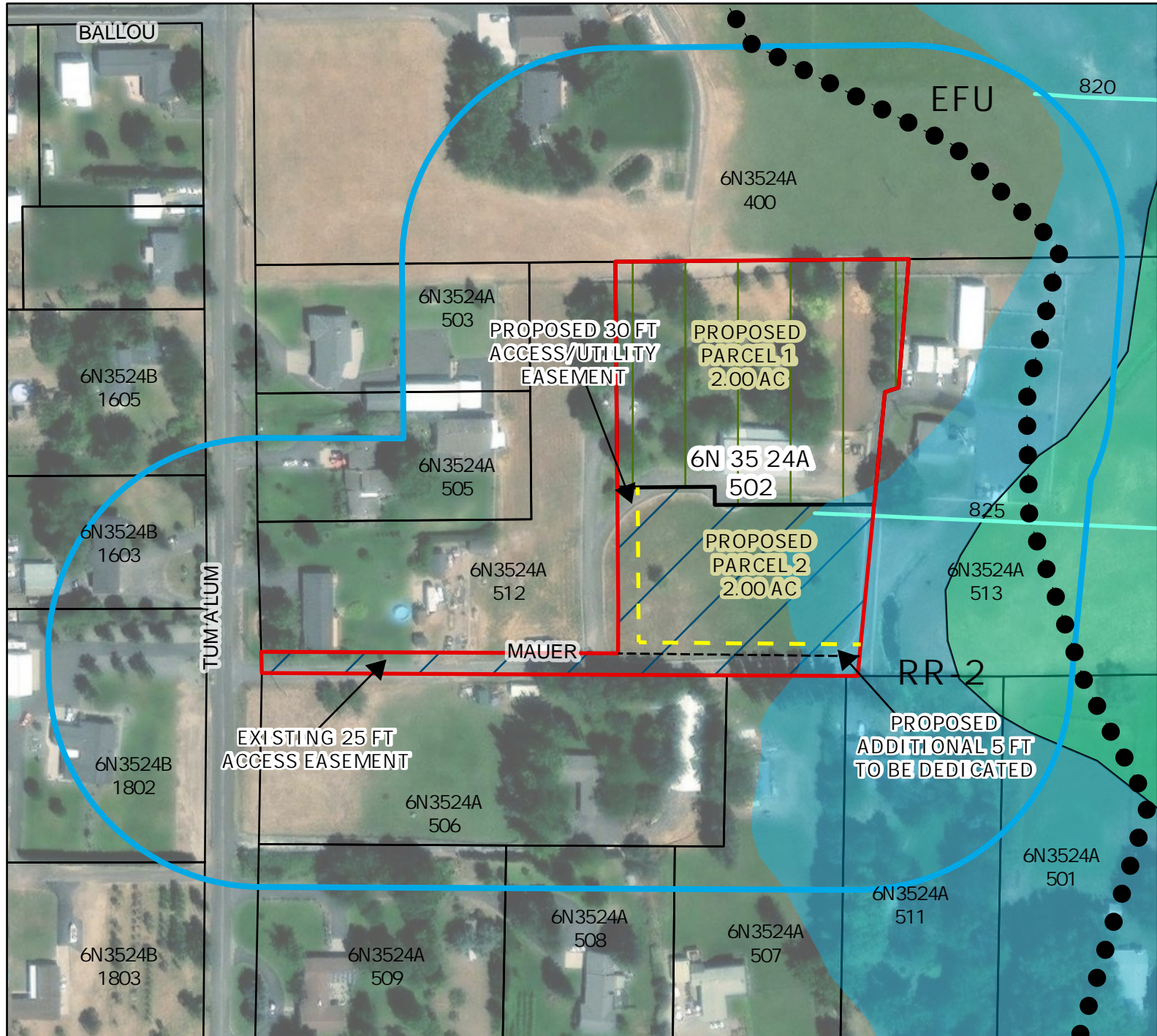
1.	Staff Memo to Planning Commission	Pages 1-2
2.	Vicinity and Notice Map	Page 3
3.	Tentative Preliminary Plat	Pages 5-6
4.	Staff Report & Preliminary Findings	Pages 7-23
5.	County Road “P-1” Standard	Page 24
6.	County Road “P-2” Standard	Page 25
7.	Supplemental Information <i>Provided by Applicant with Land Division Application</i>	
	Access Easements	Pages 27-32
	Well Maintenance Agreement	Pages 33-34
	Water Rights Certificate	Pages 35-36
8.	Request for a Public Hearing <i>Submitted by opponents, received on September 7, 2023</i>	Pages 37-52
9.	Comment from Applicant <i>In response to opposition, dated September 12, 2023</i>	Page 53
10.	Informational Comment from Oregon Water Resources Department (OWRD) <i>Email dated October 12, 2023</i>	Page 54
11.	Informational Comment from Applicant <i>In response to OWRD, dated October 13, 2023</i>	Page 55

APPLICANTS/OWNERS: JOHN & AMY WELLS

MAP: 5N 28 35C TAX LOT: 600

#LD-6N-441-23 & #V-366-23

Notified Property Owners with 250 feet of Subject Parcel



MAP	Taxlot	OWNER
6N3524A0	400	WOOD DEREK R & JENNY K
6N3524A0	501	LOUNSBURY MARK A & VIVIANNE
6N3524AC	502	WELLS JOHN & AMY
6N3524A0	503	SCHUBERT C R (TRS)
6N3524A0	505	EDINGER SALLY J TRS
6N3524A0	506	STOLZ MARCEL
6N3524A0	507	HARWOOD REED E & SHARON A
6N3524A0	508	CASTLEMAN RANDY D & JENNIFER M
6N3524A0	509	MORAN THOMAS P & SHERRY C
6N3524A0	511	REISWIG CRAIG L
6N3524A0	512	LAWRENCE CHARLES L & LINDA J
6N3524A0	513	JOHN D AND JANE A MAUER FAMILY TRUST
6N3524B0	1603	LARA MAURILIO
6N3524B0	1605	HIXSON GLYNNE & PATRICIA D
6N3524B0	1802	KILMER DWAYNE G & TERESA D
6N3524B0	1803	MOORE CYNTHIA L & NOODEL PAUL E (EST)

Legend

- Proposed Easement
- Existing Easements
- Property Boundary
- Zone Boundary
- Subject Property

Parcel 1

Parcel 2

250 ft Notice Boundary

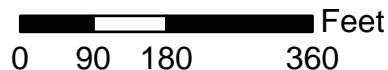
--- Base Flood Elevation (BFE)

Special Flood Hazard Area

AE Zone

A Zone

Floodway



Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data.
 Parcel data should be used for reference purposes only.
 Created by M. Davchevski, Umatilla County Planning Department
 Date: 8/21/2023

TENATIVE PLAN, TYPE II PARTITION PLAT 2023-XX

A PARTITION SURVEY OF OF PARCEL 1 OF COUNTY SURVEY 84-4-A LOCATED IN THE SW1/4NE1/4 OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 35 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON

METHOD OF SURVEY AND EQUIPMENT USED

THIS SURVEY WAS PERFORMED AT THE REQUEST OF JOHN WELLS. IN MAY OF 2023. THIS SURVEY WAS CONDUCTED USING A TRIMBLE GPS SYSTEM CONSISTING OF RIO DUAL FREQUENCY RECEIVERS WITH A STANDARD DEVIATION OF 1CM + 1.0 PPM. AN RTK GPS TRAVERSE WAS PERFORMED WITH MULTIPLE TIES TO COMMON CONTROL POINTS AND MONUMENTS.

SURVEY NARRATIVE

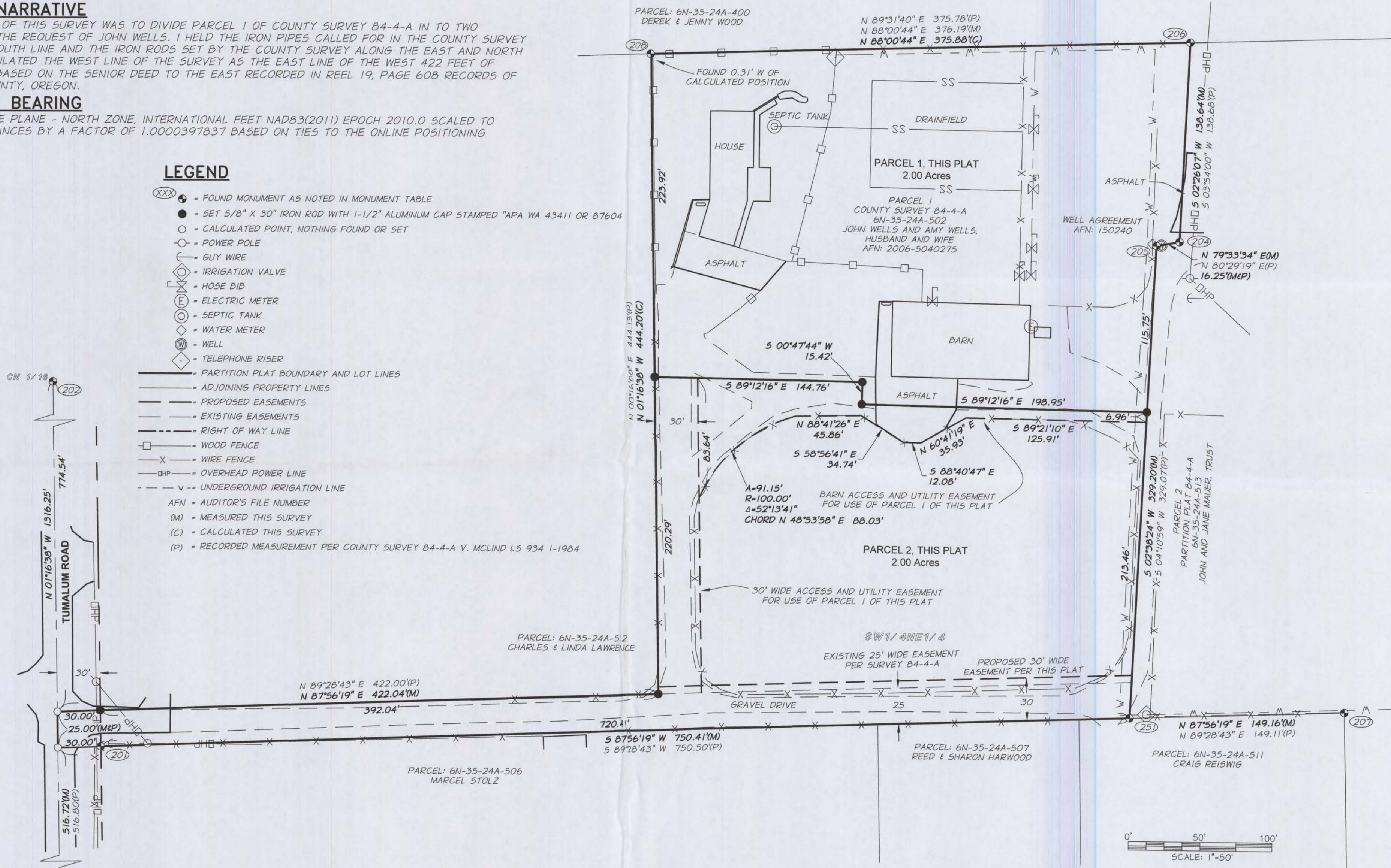
THE PURPOSE OF THIS SURVEY WAS TO DIVIDE PARCEL 1 OF COUNTY SURVEY 84-4-A IN TO TWO PARCELS AT THE REQUEST OF JOHN WELLS. I HED THE IRON PIPES CALLED FOR IN THE COUNTY SURVEY ALONG THE SOUTH LINE AND THE IRON RODS SET BY THE COUNTY SURVEY ALONG THE EAST AND NORTH LINES I CALCULATED THE WEST LINE OF THE SURVEY AS THE EAST LINE OF THE WEST 422 FEET OF SW1/4NE1/4 BASED ON THE SENIOR DEED TO THE EAST RECORDED IN REEL 19, PAGE 608 RECORDS OF UMATILLA COUNTY, OREGON.

BASIS OF BEARING

OREGON STATE PLANE - NORTH ZONE, INTERNATIONAL FEET NAD83(2011) EPOCH 2010.0 SCALED TO GROUND DISTANCES BY A FACTOR OF 1.0000397837 BASED ON TIES TO THE ONLINE POSITIONING USER SYSTEM

LEGEND

- (XXX) ● = FOUND MONUMENT AS NOTED IN MONUMENT TABLE
- = SET 5/8" X 30" IRON ROD WITH 1-1/2" ALUMINUM CAP STAMPED "APA WA 43411 OR 87604
- = CALCULATED POINT, NOTHING FOUND OR SET
- = POWER POLE
- = GUY WIRE
- = IRRIGATION VALVE
- = HOSE BID
- = ELECTRIC METER
- = SEPTIC TANK
- = WATER METER
- = WELL
- = TELEPHONE RISER
- = PARTITION PLAT BOUNDARY AND LOT LINES
- = ADJOINING PROPERTY LINES
- = PROPOSED EASEMENTS
- = EXISTING EASEMENTS
- = RIGHT OF WAY LINE
- = WOOD FENCE
- = WIRE FENCE
- = OVERHEAD POWER LINE
- = UNDERGROUND IRRIGATION LINE
- AFN = AUDITOR'S FILE NUMBER
- (M) = MEASURED THIS SURVEY
- (C) = CALCULATED THIS SURVEY
- (P) = RECORDED MEASUREMENT PER COUNTY SURVEY 84-4-A V. MCLIND L5 934 1-1984



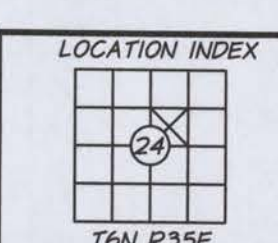
MONUMENT TABLE

- 201 = FOUND 1/2 INCH IRON PIPE (SET BY J. COLE PER SURVEY 84-4-A)
- 202 = FOUND 1/2 INCH BRASS ROD IN 2 INCH IRON PIPE (PER D. KRUMBEIN PE 7728 SURVEY J-61-AX)
- 203 = FOUND 2 INCH BRASS CAP WITH PUNCH (PER G. STREAMER PE 4813 SURVEY I-92-AX)
- 204 = FOUND 1/2 INCH IRON ROD (SET BY V. MCLIND, PLS 934 SER SURVEY 84-4-A)
- 205 = FOUND 1/2 INCH IRON ROD (SET BY V. MCLIND, PLS 934 SER SURVEY 84-4-A)
- 206 = FOUND 1/2 INCH CAPPED IRON ROD STAMPED "LS 934" (SET BY V. MCLIND, PLS 934 SER SURVEY 84-4-A)
- 207 = FOUND 1-1/2 INCH IRON PIPE (SET BY JON COLE PER SURVEY 84-4-A)
- 208 = FOUND 1/2 INCH IRON ROD (SET BY V. MCLIND, PLS 934 SER SURVEY 84-4-A)
- 251 = FOUND 1/2 INCH IRON ROD (SET BY V. MCLIND, PLS 934 SER SURVEY 84-4-A)

PRELIMINARY

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
MAY 14, 2013
ERIK J. GREEN
87604 PLS
RENEWS 06/30/25



PARTITION PLAT 2023-XX JOHN WELLS	
FILE:Z:\Wells-John\7521-531 Wells Partition\DWG\7521-531-100V-SP0001.dwg	
SCALE: 1" = 50'	SHEET 2/2
DATE: JULY 2023	 Anderson Perry & Associates, Inc. engineering • surveying • natural resources LA GRANDE, OR WALLA WALLA, WA REDMOND, OR HERMISTON, OR
JOB NO. 7521-531	
214 EAST BIRCH STREET • WALLA WALLA, WA 99362 • (509) 529-9260	

TENATIVE PLAN TYPE II PARTITION PLAT 2023-XX

A PARTITION SURVEY OF OF PARCEL 1 OF COUNTY SURVEY 84-4-A LOCATED IN THE SW1/4NE1/4 OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 35 EAST, WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON

DEDICATION / ACKNOWLEDGEMENT

KNOW ALL PEOPLE BY THESE PRESENT THAT WE JOHN WELLS AND AMY WELLS, OWNERS OF THE LANDS SHOWN ON THIS PLAT AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION, HAVE CAUSED THE SAME TO BE SURVEYED AND PARTITIONED IN TO PARCELS AS SHOWN ON THIS PLAT, AND DO HEREBY DEDICATE THE ACCESS AND UTILITY EASEMENTS AS SHOWN HEREON.

JOHN WELLS

AMY WELLS

STATE OF WASHINGTON:

COUNTY OF WALLA WALLA:

BEFORE ME THIS ____ DAY OF _____, 2023 APPEARED JOHN WELLS AND AMY WELLS, TO ME PERSONALLY KNOWN WHO ACKNOWLEDGES THEIR FOREGOING SIGNATURES TO BE A FREE AND VOLUNTARY ACT AND DEED.

WITNESS MY HAND AND OFFICIAL SEAL THIS ____ DAY OF _____ 2023.

MY COMMISSION EXPIRES 2026.

NOTARY PUBLIC FOR THE STATE OF WASHINGTON

RESIDING IN WALLA WALLA, WASHINGTON

RECORD DESCRIPTION

PARCEL 1 OF COUNTY SURVEY 84-4-A, RECORDS OF UMATILLA COUNTY, OREGON (PER STATUTORY WARRANTY DEED AFN: 2006-5040275)

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 24, TOWNSHIP 6 NORTH, RANGE 35, EAST OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON, AND BEING A PORTION OF THAT TRACT OF LAND CONVEYED TO EARL J. AYERS, ETAL, BY DEED RECORDED IN BOOK 279, PAGE 563, DEED RECORDS, AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 24: THENCE SOUTH 00° 16'00" WEST ALONG THE WEST LINE OF SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 24, A DISTANCE OF 799.49 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO RODERICK F. BANNISTER, ETAL, BY DEED RECORDED IN BOOK 279, PAGE 564, DEED RECORDS, AND THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION; THENCE NORTH 89° 28'43" EAST ALONG THE NORTH LINE OF SAID BANNISTER TRACT, A DISTANCE OF 750.50 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 04°10'59" EAST, A DISTANCE OF 329.07 FEET; THENCE NORTH 80°29'19" EAST, A DISTANCE OF 16.25 FEET; THENCE NORTH 03°54'00" EAST, A DISTANCE OF 138.68 FEET TO A 1/2 INCH IRON ROD ON THE SOUTH LINE OF THAT TRACT OF LAND CONVEYED TO ROBERT V. WOOD, ETUX, BY DEED RECORDED IN BOOK 278, PAGE 7, DEED RECORDS; THENCE SOUTH 89°31'40" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 376.78 FEET TO THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO GENE A. HUFFMAN, ETUX, BY DEED RECORDED IN MICROFILM REEL 19, PAGE 608, OFFICE OF COUNTY RECORDS; THENCE SOUTH 00 16'00" WEST ALONG THE EAST LINE OF SAID HUFFMAN TRACT, A DISTANCE OF 444.13 FEET TO THE SOUTHEAST CORNER OF SAID HUFFMAN TRACT, SAID POINT ALSO BEING 25 FEET NORTH OF THE NORTH LINE OF SAID BANNISTER TRACT; THENCE SOUTH 89° 28'43" WEST ALONG THE SOUTH LINE OF SAID HUFFMAN TRACT, A DISTANCE OF 422 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 24; THENCE SOUTH 00 16'00" WEST ALONG SAID WEST LINE, A DISTANCE OF 25 FEET TO THE POINT OF BEGINNING;

EXCEPTING THEREFROM ANY PORTION LYING WITHIN THE COUNTY ROAD RIGHT-OF-WAY.

APPROVALS

UMATILLA COUNTY SURVEYOR

I DO HEREBY CERTIFY THAT I HAVE EXAMINED THE ACCOMPANYING PLAT, THAT IT COMPLIES WITH THE LAWS OF THE STATE OF OREGON WITH REFERENCE TO THE FILING AND RECORDING OF SUCH PLATS AND I THEREFOR APPROVE SAID PLAT.

UMATILLA COUNTY SURVEYOR, DATED THIS ____ DAY OF _____

UMATILLA COUNTY PLANNING DEPARTMENT

I HAVE EXAMINED THE ACCOMPANYING LAND PARTITION AND DO HEREBY CERTIFY THIS IT COMPLIES WITH ALL REQUIREMENTS OF THE ORDINANCES AS ESTABLISHED BY UMATILLA COUNTY AND I THEREFORE APPROVE SAID LAND PARTITION.

DIRECTOR, UMATILLA COUNTY PLANNING DEPARTMENT, DATED THIS ____ DAY OF _____

UMATILLA COUNTY TAX COLLECTOR

I DO HEREBY CERTIFY THAT I HAVE EXAMINED THE TAX RECORDS RELATIVE TO THE LAND COVERED BY THE ACCOMPANYING PLAT AND THAT ALL MONIES DUE FOR STATE AND COUNTY TAXES AND ASSESSMENTS THAT COULD CONSTITUTE A LIEN ON SAID LANDS HAVE BEEN PAID, AND I HERE BY APPROVE SAID PLAT.

UMATILLA COUNTY TAX COLLECTOR, DATED THIS ____ DAY OF _____

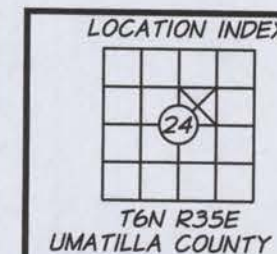
SURVEYOR'S CERTIFICATE

I, ERIK J. GREEN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON HEREBY CERTIFY THAT THIS MAP CORRECTLY REPRESENTS A SURVEY CONDUCTED UNDER MY DIRECT SUPERVISION IN JUNE 2023, IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING LAW, AS ESTABLISHED BY ORS CHAPTER 92, AND HAVE SET THE PROPER MONUMENTS.

I CERTIFY THAT THIS IS A TRUE AND EXACT COPY OF THE ORIGINAL PLAT AS FILED FOR JOHN WELLS IN UMATILLA COUNTY, OREGON

ERIK J. GREEN, P.L.S. 87604

REGISTERED PROFESSIONAL LAND SURVEYOR
PRELIMINARY
ERIK J. GREEN
MAY 14, 2013
87604 PLS
RENEWS 06/30/25



PARTITION PLAT 2023-XX JOHN WELLS		
FILE:Z:\Wells-John\7521-531 Wells Partition\DWG\7521-531-100V-5P0001.dwg		
SCALE:	N/A	SHEET
DATE:	JULY 2023	1/2
JOB NO.	7521-531	
214 EAST BIRCH STREET • WALLA WALLA, WA 99362 • (509) 529-9260		

**UMATILLA COUNTY PLANNING COMMISSION
PRELIMINARY FINDINGS AND CONCLUSIONS
LAND DIVISION REQUEST, #LD-6N-441-23
AND VARIANCE REQUEST, #V-366-23
MAP #6N 35 24A, TAX LOT #502, ACCOUNT #113300**

1. APPLICANT: John and Amy Wells 54015 Mauer Lane, Milton-Freewater OR 97862
2. OWNER: John and Amy Wells 54015 Mauer Lane, Milton-Freewater OR 97862
3. REQUEST: The request is to divide Tax Lot #502 into two (2) parcels for future residential development.
- The proposed partition would result in the following parcel sizes:
Proposed Parcel 1 – 2.00 acres and Proposed Parcel 2 – 2.00 acres (See attached vicinity map for parcel locations).
- The applicant is requesting a variance to the County’s P-2 road improvement requirements due to the location and dedicated width of Mauer Lane, a 25-foot private access easement.
4. LOCATION: The subject property is located north of Mauer Lane and east of Tum a Lum Road, approximately 2.5 miles north-east of the City of Milton-Freewater.
5. SITUS: The property is currently addressed as 54015 Mauer Lane, Milton-Freewater OR 97862. This situs is assigned to an existing dwelling, which pending land division approval, will be sited on Parcel 1. Parcel 2 will be addressed at the time development is proposed.
6. ACREAGE: Tax Lot 502 is 4.0 acres (assessed and surveyed).
7. PERMITS: Several zoning permits have been issued to establish the existing dwelling and accessory structures on the property.
8. COMP PLAN: The Comprehensive Plan designation for the subject property is “Rural Residential”.
9. ZONING: The subject property is zoned Rural Residential – 2-acre minimum parcel size (RR-2).
10. ACCESS: The subject property is served by Mauer Lane, a 25-foot wide private lane.
11. ROAD TYPE: Mauer Lane is an existing 25-foot wide gravel private lane.

12. EASEMENTS: Along the south property line is an existing 25-foot wide access and utility easement for Mauer Lane.
13. LAND USE: The subject property is currently being used as a rural residence.
14. ADJACENT USE: Surrounding land uses largely consist of rural residential uses, which typically include a residence, accessory structures and pasture.
15. BUILDINGS: There is one (1) dwelling on Tax Lot 502 that received planning approval via ZP-81-086. Following the Final Partition Plat, the dwelling will be sited on Parcel 1. Parcel 2 will be vacant.
16. UTILITIES: The property is currently served by Pacific Power and contains one well and septic system.
17. WATER/SEWER: The property is currently developed with one (1) domestic well and one septic system, currently located on future Parcel 1. The domestic well is on the border of Parcel 1 and Tax Lot 513. The applicant has submitted a copy of the shared well agreement, recorded at County Records on Reel 185 Page 1435. Future Parcel 2 is undeveloped. Any future development on Parcel 2 will require rural services, which typically includes a domestic well and an on-site septic system.
18. FIRE SERVICE: The subject property is within the service area of Milton-Freewater Rural Fire District and the applicant has indicated that they subscribe for the services.
19. IRRIGATION: The subject property is not located within an irrigation district. The applicant has provided a copy of the irrigation rights, T-9481 and Certificate 88678 from the Walla Walla River (Tum a Lum Branch). This irrigation right is managed by Oregon Water Resources.
20. FLOODPLAIN: The eastern portion of proposed Parcel 2 is within the Special Flood Hazard Area (SFHA), and is within the AE zone. The approximate base flood elevation is 825 feet. Any future development within the AE zone will require a floodplain development permit. Approximately 1.6 acres of the 2-acre parcel are outside the SFHA.
21. FIRST NOTICES SENT: August 22, 2023
22. FIRST COMMENTS DUE: September 12, 2023
23. HEARING: A request for a public hearing was received by Planning Staff on September 7, 2023. The Planning Commission hearing was subsequently

scheduled for **Thursday, October 26, 2023 at 6:30 PM** in the Justice Center Media Room, 4700 NW Pioneer Place, Pendleton, OR. Virtual hearing options are available.

Notice for the Planning Commission hearing was sent on October 6, 2023 and was published in the East Oregonian on October 14, 2023.

24. AGENCIES: Milton-Freewater Rural Fire Protection, Oregon State Water Resources, Pacific Power & Light, Umatilla County Assessor, Umatilla County Public Works, Umatilla County Environmental Health, Umatilla County GIS and Umatilla County Surveyor

25. COMMENTS: On October 12, 2023 an informational comment was provided by Oregon Water Resources Department (OWRD). OWRD stated that the point of diversion is located on the parcel to the east of Parcels 1 and 2 for the subject property's water rights. OWRD added that if the applicant has an easement for the point of diversion, they should ensure that it remains with the two new parcels.

The applicant submitted a written response to comments received by Oregon Water Resources Department on October 13, 2023. Mr. Wells shared that the water right for his property is a surface water right to the Tum a Lum River, a branch of the Walla Walla River. He clarified that there is no easement across the Mauer's property (6N 35 24A, Tax Lot 513) to the point of diversion.

The Umatilla County Planning Commission finds that Precedent Condition #8 has been subsequently added and is imposed that the applicant work with OWRD for any required point of diversion or water right easements.

Comments in Opposition:

On September 7, 2023, written comments were received from various notified property owners, in the form of the Request for a Public Hearing. The request was submitted by Charles and Linda Lawrence, John and Jane Mauer, and Carol, Mike and Justin Burks. A copy of the request, letters and photos is in the application file. Concerns shared by Mr. and Mrs. Lawrence are primarily due to the loss of nearby properties' views, an increase in traffic on Mauer Lane, and the potential effects of an additional septic system and well. Photos of Mauer Lane's existing conditions were provided.

Concerns shared by the Burks are summarized as follows: loss of view due to a new home site, reduction of their property value, the size of a potential dwelling and accessory structures on the newly created parcel, the presence of new trees, and whether or not a duplex could be permitted. Photos of the 2020 flood event were provided.

Concerns shared by Mr. and Mrs. Mauer relate to a decrease of property values, increased traffic,

and easement and contamination issues. The Mauers state that a 5-year study was conducted on the aquifer which demonstrated that the aquifer has very high water. Also mentioned is the presence of the FEMA mapped floodplain and an underground spring that, according to the Mauers, causes standing water during rain and snow events. The Mauers question the septic system requirements, limitations and location with regard to the floodplain. Additionally, concerns were shared regarding the Mauer Lane road easement; stating that the solid waste disposal company will not travel farther down the driveway, whether or not the acreage for Proposed Parcel 2 includes Mauer Lane, and who will maintain Mauer Lane. The Mauers state that additional gravel and road widening should occur. The Mauers' final concern is regarding the surveying firm hired by the applicant.

On October 11, 2023, Planning Staff received a phone call from the property owner of Tax Lot 400, Derek Wood. Mr. Wood's property is adjacent and to the north of the subject property. Mr. Wood requested that a separate survey be conducted to support the application, as the property owner works for Anderson Perry. He also stated that the fence lines differ from the identified survey boundary, and that the fence lines have been in place for many decades. He believes the subject property is under 4-acres in size, therefore it should not be divided. He also expressed concerns about the presence of the FEMA mapped floodplain, and did not want to see a home built in the floodplain.

Applicant's Comment:

The applicant submitted a written comment via email on September 12, 2023. Mr. Wells shared that he visited with Tom Fellows, Umatilla County Public Works Director, regarding Mauer Lane and his proposed land division request. According to the email, Mr. Fellows stated that in its current form, Mauer Lane is sufficient for heavy equipment and the few extra trips caused by the additional residential parcel.

Staff's Response to Comments: Responses to comments received are below and categorized by concern.

Traffic / road improvements:

Opponents state that one additional parcel and potentially one additional dwelling will result in increased traffic, road erosion and dust along Mauer Lane. As detailed in the findings document, the applicants are requesting a variance to the roadway right of way width and improvement requirements. The applicants' existing unit of land is considered a flag lot, the pole of which comprises Mauer Lane and is 25-feet wide. The applicants do not own adjoining land north or south of Mauer Lane, which is the basis of the variance request.

Improvement requirements are limited to the new access easement appurtenant to Parcel 1. Many property owners utilize Mauer Lane and it is unjust to require that only the applicant participate in road improvements that benefit all property owners along Mauer Lane. *Dolan v. City of Tigard (1994)*¹ requires exactions must be "roughly proportional" to both the benefits to the

¹ *Dolan v. City of Tigard (1994)* is a landmark land use case, often referenced for takings claims. The City of Tigard's decision required Dolan's application for a store expansion to dedicate land for a public greenway along

development and the impacts of the development. Thus, Precedent Condition #7 has been imposed for the applicant to sign and record an Irrevocable Consent Agreement to future road improvements to Mauer Lane. Similarly, Precedent Condition #6 has also been imposed to also require an Irrevocable Consent Agreement for Tum a Lum Road (County Road). The Irrevocable Consent Agreement language has been approved by Umatilla County Counsel and states that, “Owner hereby irrevocably consents to pay to County a fair share of the reasonable and necessary expense of the improvements listed in Condition A...”, where Condition A refers to future improvement of the particular roadway. Therefore, the property owner is only subject to paying their fair share of the reasonable and necessary expense for roadway improvements. Payment for road improvements are only required following the formation of a Local Improvement District or as a result of a petition or resolution. The Irrevocable Consent Agreement requirements are standard for land division requests processed by Umatilla County.

As stated in the response to UCDC 152.684(D), two (2) parcels will be created through this land division and potentially one (1) additional dwelling will be constructed. A single family dwelling generates approximately 9.52 ADTs during the week day (p. 296, *Trip Generation Manual 9th Edition*, ITE). The 9.52 additional daily trips caused by one additional dwelling are unlikely to have a significant impact on Mauer Lane.

The Umatilla County Planning Commission may find that Precedent Conditions #6 and #7 require the property owners of both Parcels 1 and 2 to participate in future road improvements to Mauer Lane (private easement) and Tum a Lum Road (County Road), along with the requirement to dedicate an additional 5-feet to Mauer Lane along Parcel 2, are appropriate and roughly proportional conditions for the proposed development.

Loss of view and/or property values:

Opponents argue that the additional parcel and potentially one dwelling will result in decreased property values for their properties, and in some cases, a loss of their scenic view. Whether or not that be true, Umatilla County cannot restrict permissible development of one parcel for these reasons. When all other development criteria are or can be met by the applicant through conditions of approval, the request must be approved. The Umatilla County Planning Commission may find that the loss of view and/or a negative or positive effect of neighboring properties’ values are not conditions of approval within the Umatilla County Development Code, and therefore cannot be justification for denying this partition request.

Dwelling size restrictions on new parcel:

The Umatilla County Planning Commission finds the Umatilla County Development Code (UCDC) Section 152.134, Dimensional Standards, restricts dwellings in the RR-2 zone to single

Fanno Creek to minimize flooding. Mrs. Dolan appealed the City’s decision to Land Use Board of Appeals (LUBA), alleging that the land dedication requirements were not related to the proposed development and therefore, the condition of approval was an uncompensated taking of the Dolan property under the Fifth Amendment. LUBA found a reasonable relationship between the proposed development and the greenway dedication requirement. Both the Oregon Court of Appeals and the Oregon Supreme Court affirmed LUBA’s decision. The U.S. Supreme Court overturned the Oregon LUBA, Court of Appeals and Supreme Court decisions. *Source: Justia U.S. Supreme Court*

family dwellings, no more than 25-feet in height (except for two-story dwellings, excluding basement) and subject to property line setbacks. The total of all structures on a parcel may not exceed 30% of the total lot area. Other restrictions not currently stated in the UCDC cannot be applied. These criteria apply at the time development is proposed with the review and issuance of a County Zoning Permit.

High-water table / additional well:

The subject property does not contain any mapped wetlands. The study mentioned in the letter submitted by Mr. and Mrs. Mauer was not provided. County Planning does not have jurisdiction over water aquifers or domestic wells, both are under the jurisdiction of Oregon Water Resources Department (OWRD). Domestic wells are exempt wells, limited to 15,000 gallons/day and irrigation of up to ¼ acre. OWRD received notice of the initial request and the Planning Commission hearing and was provided the opportunity to submit comments. OWRD provided written comment on October 12, 2023 regarding the point of diversion and any irrigation easements (see comments above). The applicant responded in writing that the water right for his property is a surface water right to the Tum a Lum River, a branch of the Walla Walla River. He clarified that there is no easement across the Mauer's property (6N 35 24A, Tax Lot 513) to the point of diversion.

The Umatilla County Planning Commission finds that Precedent Condition #8 has been subsequently added and is imposed that the applicant work with OWRD for any required point of diversion or water right easements. Written confirmation from OWRD staff stating that the Department's requirements have been met will satisfy the condition. The Umatilla County Planning Commission finds and concludes that they do not have jurisdiction over wells or the high-water table, the authoritative agency is Oregon Water Resources.

Floodplain / septic system:

A portion of the subject property is within the AE zone and this portion is subject to floodplain development requirements. Areas of the subject property outside the mapped floodplain, or AE zone, are not (emphasis added) subject to floodplain development requirements. The FEMA mapped floodplain is present on less than one-half of an acre, and is located on the east side of Parcel 2. Generally, development within the AE zone is permissible with proper elevation and/or floodproofing of structures. All development in the AE zone requires a floodplain development permit, which is issued by County Planning.

Approximately 0.4 acres of Parcel 2 are encumbered by the AE zone, therefore approximately 1.6 acres (excluding access easements) will be available outside of the FEMA mapped floodplain. As detailed in the preliminary findings, there will be adequate buildable space available on Parcel 2 for a dwelling, well and septic system.

Septic systems are permitted through County Environmental Health. As part of the land use approval for constructing a dwelling (through a zoning permit), County Planning signs a Land Use Compatibility Statement (LUCS) for installation of a septic system. At the time development is proposed, the applicant will be required to demonstrate that both the proposed structures and

septic system will be located outside of the AE zone. If development within the AE zone is proposed, a floodplain development permit will be required before land use approval may be granted for the dwelling.

The Umatilla County Planning Commission finds both Parcel 1 and 2 will have adequate buildable space outside of the Special Flood Hazard Area for both a dwelling and septic system. If development within the Special Flood Hazard Area is proposed, a floodplain development permit is required.

Mauer Lane:

The Mauers ask if an easement will be dedicated to allow for garbage pickup, and state that the solid waste franchise serving Milton-Freewater has refused to drive farther down than “the driveway located between the Wells Family barn and this proposed 2 acre parcel to pick up garbage”. The rural Milton-Freewater area is served by Humbert Refuse and Recycling, Mauer Lane is accessible to Humbert Refuse for providing solid waste services. The dwelling occupant will be responsible for coordinating garbage collection with Humbert Refuse, which includes placing the receptacle where accessible to the collection truck.

Also questioned is if Mauer Lane is included in the two-acreage calculation for Parcel 2. As the current parcel is a flag lot, with Mauer Lane acting as the “pole”, and being a dedicated easement on Tax Lot #502, the acreage for Mauer Lane is included with Parcel 2. Mauer Lane has not been excepted from Tax Lot #502, therefore the property owners of Tax Lot #502 are responsible for property taxes of the Mauer Lane easement.

The Mauers ask who is responsible for winter and weed maintenance of Mauer Lane. Umatilla County does not govern private roads, it is the responsibility of the landowners with access to the private road to provide maintenance. Disagreements regarding road maintenance or access are civil issues handled through circuit court without County involvement.

Surveying firm / fence lines:

The letter submitted by the Mauers questions whether or not a conflict of interest is present, as Mr. Wells works for Anderson Perry & Associates, and Anderson Perry & Associates was the firm hired to conduct the surveying and preliminary partition plat. Erik J. Green is the Registered Professional Land Surveyor (PLS 87604) who’s name is on the preliminary partition plat, along with Anderson Perry. Applicants may utilize any Oregon licensed Professional Land Surveyor to complete their survey work. All partition plat requests are reviewed by both County GIS and the County Surveyor for accuracy prior to recording. The applicant is not the decision maker; thus, Planning Staff do not believe this to be a conflict of interest, nor would it be relevant as the applicant may hire any Oregon Professional Land Surveyor.

Verbal comments by Mr. Wood question whether fence lines or survey lines should be held. Often, fence lines are not representative of true property lines of record. This is why properties must be surveyed by an Oregon Professional Land Surveyor to determine the location of property lines. The survey work is also what determines the surveyed acreage of a property.

Surveyed acreage and assessed acreage can often differ, and the surveyed acreage is what is held for permitting.

The Umatilla County Planning Commission finds that the applicant is entitled to hire any Professional Land Surveyor licensed in the state of Oregon, regardless if said surveyor has the same employer as the applicant. Additionally, Umatilla County requires all partition plats to be reviewed by County GIS and the County Surveyor prior to recording, this ensures accuracy and legitimacy of the partition plat.

To summarize, only a few of the opponents' arguments are regarding the criteria of approval of the Wells land division request; the potential increase in traffic, road improvement requirements, and the presence of the FEMA mapped floodplain. The Planning Commission may impose additional conditions of approval if the conditions are regarding the criteria listed in UCDC §152.684, Type II Land Divisions or §152.627, Circumstances for Granting a Variance.

26. STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND DIVISIONS, § 152.684, Land Divisions, Type II contains the criteria of approval for property that is not in a resource zone. The following standards of approval are underlined and the findings are in normal text.

§ 152.684 STANDARDS FOR APPROVAL.

In granting approval of a Type II Land Division, the Planning Director shall find that the Type II Tentative Plan and required supplementary material:

(A) Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and the transportation elements of the Comprehensive Plan. The Umatilla County Comprehensive Plan and Transportation System Plan apply to the rural areas of the county. The applicant's property is designated Rural Residential in the County Comprehensive Plan. The County's Plan was acknowledged by the State of Oregon and subsequently was zoned RR-2 in compliance with the County's acknowledged Comprehensive Plan.

(B) If approved, will permit development on the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances; The Umatilla County Planning Commission finds that flexibility for future development on the subject property and adjoining lands is retained (to the extent permitted by the Umatilla County Development Code). Both parcels will continue to be accessed via Mauer Lane. Proposed Parcel 1 will contain one existing dwelling and Proposed Parcel 2 has adequate building space outside of the FEMA mapped floodplain for siting one single family dwelling, septic system and well. Development standards (setbacks, lot coverage, etc.) will be reviewed at the time development is proposed. This criterion is satisfied.

(C) Complies with the zoning requirements or a proposed change thereto associated with the

partition map proposal; The Umatilla County Planning Commission finds that the Umatilla County Development Code requires a minimum lot size of two (2) acres for Rural Residential. Tax Lot 502 is 4.00 acres. The proposed partition would result in the following parcel sizes: Proposed Parcel 1 – 2.00 acres and Proposed Parcel 2 – 2.00 acres (See attached vicinity map for parcel locations). As outlined in this section, each parcel created by this land division meets the minimum parcel size for the RR-2 zone.

(D) Complies with provisions of § 152.019, Traffic Impact Analysis, as applicable. The standards of applicability of UCDC 152.019 will be addressed below:

UCDC 152.019 (B) Applicability: A Traffic Impact Analysis shall be required to be submitted to the County with a land use application, when one or more of the following actions apply:

(1) A change in plan amendment designation; or
(2) The proposal is projected to cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:

(a) An increase in site traffic volume generation by 250 Average Daily Trips (ADT) or more (or as required by the County Engineer). The latest edition of the Trip Generation manual, published by the Institute of Transportation Engineers (ITE) shall be used as standards by which to gauge average daily vehicle trips; or Two (2) parcels will be created through this land division and potentially one (1) additional dwelling will be constructed. A single family dwelling generates approximately 9.52 ADTs during the week day (p. 296, *Trip Generation Manual 9th Edition*, ITE). Thus, one (1) additional single family dwelling would generate less than 10 ADTs, far less than the required 250 ADTs required to complete a Traffic Impact Analysis. The Umatilla County Planning Commission finds that there will not be an increase of more than 250 ADT. This standard is not applicable.

(b) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or The Umatilla County Planning Commission finds that the land division is for single-family dwellings and will not increase traffic by vehicles with a 20,000 pound gross vehicle weight. The majority of the increase in vehicle traffic will be personal use cars and pickups. This standard is not applicable.

(c) The location of the access driveway does not meet minimum intersection sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or vehicles queue or hesitate, creating a safety hazard; or The Umatilla County Planning Commission finds that the proposed parcels will

be served by Mauer Lane, an existing private lane. Mauer Lane connects with Tum a Lum Road at an existing approach. This standard is not applicable.

(d) A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area; or The Umatilla County Planning Commission finds that there are no proposed changes to the internal traffic patterns and will not cause safety issues. This standard is not applicable.

(e) For development within the I-82/US 730 Interchange Area Management Plan (IAMP) Management Area, the location of the access driveway is inconsistent with the Access Management Plan in Section 7 of the IAMP. The Umatilla County Planning Commission finds that the proposed development is not within the I-82/US 730 IAMP Management Area. This standard is not applicable.

(E) Roads and recorded easements for access purposes are laid out so as to conform, within the limits of the development standards, to the plats of subdivisions and maps of partitions already approved for adjoining property unless the Planning Director determines it is in the public interest to modify the road pattern; The Umatilla County Planning Commission finds the applicant's partition will result in the creation of a new roadway and 30-foot wide recorded easement to serve Parcel 1. The applicant's proposed easement will run north to south connecting to Mauer Lane. The Umatilla County Planning Commission finds that the newly dedicated roadway easements conform with the existing roadway patterns. This criterion is satisfied.

(F) Dedicated road or public recorded easement shall be provided to each parcel and conform to right-of-way and improvement standards as follows:

(1) If a recorded easement for access purposes in a Type II Land Division will serve three or fewer parcels and will not likely serve other parcels or lots due to existing conditions, such as topography or the size or shape of land, or the parcels are not buildable, the easement or right-of-way is required to be improved to meet the Option 1 or "P-1" County Road Standard as provided in § 152.648 (D). The easement or right-of-way shall be a minimum of 30 foot wide and improved with a surface width of at least 16-feet.

Mauer Lane: The portion of Mauer Lane located on the subject property will serve a total of three parcels following the land division approval. Properties to the south are too small to be partitioned under current zoning regulations and Tax Lot 513 to the east is unlikely to be further partitioned due to the existing Special Flood Hazard Area. Tax Lot 513 is largely located within the floodway, portions of the six-acre property are in the AE zone with approximately one-half acre located outside the special flood hazard area. New development in the floodway is extremely limited and restricted to a favorable no-rise analysis and all development in the floodway and/or the AE zone require floodplain development permits with restrictive structural requirements.

The Umatilla County Planning Commission finds that the existing access easement, Mauer Lane, located along the southern boundary of Parcel 2 will serve three lots or parcels and will not likely serve other lots or parcels due to the presence of the FEMA mapped floodplain.

New north-south access/utility easement: The proposed access and utility easement, to benefit Parcel 1, will only serve Parcel 1. The property to the north has direct access to Tum a Lum Road, this new access/utility easement is unlikely to serve more than three parcels. The Umatilla County Planning Commission finds and concludes the imposition of a condition requiring the new access/utility easement, running north-south to benefit Parcel 1, shall be improved to the County P-1 Road Standard satisfies the criterion.

(2) If the partition is located within a rural fire district or a hospital district which provides service, emergency vehicle considerations for recorded easements which dead-end shall provide either circle drives or driveway turnarounds. The Planning Director or Public Works Director shall determine which type of emergency vehicle access above is most appropriate. Circle drives and turnarounds shall be improved to the same standard as the road they serve as provided in § 152.648 (D), shall be kept clear and shall be of adequate circumference to provide turn around space for emergency vehicles. The subject property is located within the Milton-Freewater Rural Fire District, the applicant has indicated that they subscribe to the fire district for fire protection. Mauer Lane terminates at the south-east corner of the subject property and provides access to tax lots 511 and 513. The Umatilla County Planning Commission finds a dedicated hammerhead turnaround or cul-de-sac adequate for emergency vehicles is required. The applicant's preliminary partition plat contains a potential turnaround, present as the combination of Mauer Lane and the newly created access easement to serve Parcel 1.

The Umatilla County Planning Commission finds and concludes a precedent condition of approval is imposed that the applicant identify a hammerhead or circle drive turnaround for emergency vehicles, and that said turnaround area be dedicated on the plat. The turnaround area shall be improved to the P-1 road standard. Additionally, written satisfaction from Milton-Freewater Rural Fire District, providing that the turnaround is adequate for emergency vehicles, is required.

(3) If a public road or recorded easement for access purposes in a Type II Land Division will serve four or more parcels and will likely serve additional parcels or lots, or likely be an extension of a future road as specified in a future road plan, the right-of-way or easement shall be required to be improved to meet the Option 2 or "P-2" County Road Standard as provided in § 152.648 (D). The 60-foot right-of-way or easement shall be improved with a surface width of at least 22-feet. All 60 foot rights-of-way or easements are to be named prior to final approval of the partition plat and the road name must be included on the final partition plat map. Road signs are to be paid for prior to the final partition plat approval.

The Umatilla County Planning Commission finds that the proposed parcels will utilize

Mauer Lane, an existing 25-foot access easement. Mauer Lane currently serves four parcels, five following this partition request. The Umatilla County Planning Commission finds a dedication of an additional 35-feet is required, for a total right-of-way width of 60-feet. Therefore, the applicant is requesting relief to the access easement width requirement through a variance request to reduce, or vary, the Option 2 or “P-2” 60-foot easement width standard. [See the circumstances for variances in number 28 below.] The applicant has no control over the width of Mauer Lane as the applicant does not own adjoining property to the access easement. The applicant did submit photos of Mauer Lane’s road improvements, and the lane appears to have been built to the P-2 road standard.

(4) Recorded easements or dedicated public roads required in the Type II Land Division may warrant the installation of road signs at intersections with named or numbered county roads, state highways, or with other existing easements or public roads within or abutting the partitioned land. The Public Works Director will determine if road signs are necessary at these intersections. Such signs shall be of a type approved by the Public Works Director. Easement or public road names or numbers shall be the same as existing named or numbered county or public roads if an extension of such county or public road. All other road names or numbers shall be selected by the Planning Director as provided in Umatilla County Code of Ordinance, Chapter 93. Road signs shall be installed and maintained by the county, provided the partitioner pays the expense of the initial investment of making and placing the sign. The Umatilla County Planning Commission finds Mauer Lane is an existing and previously named private lane. A road sign was previously installed by County Public Works. This criterion is satisfied.

(5) Existing County or Public Roads shall be improved pursuant to the requirements of this chapter. See J. below.

(6) Shall obtain necessary approval and/or permits from either the State Highway Department or County Public Works Director for location, design, and improvement standards of access points onto County Roads, (approved) public roads, or state highways. The Umatilla County Planning Commission finds that Mauer Lane is an existing private lane connecting to Tum a Lum Road. New approaches to Mauer Lane do not require approach permit approvals. This criterion does not apply.

(G) Each parcel under four acres in size, both those partitioned or the remaining piece which are to be for residential purposes, have a site suitability approval from the Department of Environmental Quality (DEQ) County Environmental Health. A waiver to this requirement may be granted if the applicant makes a written request to the Planning Director and the Planning Director finds

(1) The parcel, four acres or under, is to be used for non-residential purposes and the owner's signature to this effect is on the partition form;

(2) The parcel remaining has an existing dwelling and zoning densities will not permit additional dwellings.

The Umatilla County Planning Commission finds that Parcel 1 is proposed to be under four acres in size and used for residential purposes with an existing single family dwelling, zoning density does not allow for Parcel 1 to develop an additional dwelling. Parcel 2 is to be under four acres in size and will be undeveloped land for residential use.

The Umatilla County Planning Commission finds a precedent condition of approval requiring Parcel 2 to receive site suitability approval from County Environmental Health satisfies this criterion and is imposed.

(H) Shall provide easements along existing irrigation ditches that traverse or abut the partition where no such easements have yet been recorded. The purpose of the easement shall be for perpetual maintenance of the ditch and if within an irrigation district, said easement width and purpose shall be approved by the Irrigation District Board. The Umatilla County Planning Commission finds that there are no current easements for irrigation ditches. The subject property is not within an irrigation district, this criterion does not apply.

(I) Considers energy conservation measures (e.g. road, lot and building orientation for solar and wind usage) unless vegetation, topography, terrain, or adjacent development will not allow these energy conservation measures. The Umatilla County Planning Commission finds that the proposed parcel size is adequate to accommodate on-site energy conservation measures. Energy conservation recommendations are specifically identified in the findings and policies of the Umatilla County Comprehensive Plan. This criterion is met.

(J) All required improvements have signed agreements with the Board of Commissioners to meet the standards of this chapter or improvements specified by the Planning Commission or Public Works Director, and are recorded in the Recorder's Office at the time, and as a condition of approval for a Type II Land Division. As development occurs along rural roads, road upgrading and realignments may become necessary, therefore, one Irrevocable Consent Agreement (ICA) is required for Parcels 1 and 2 for the future financial participation in the upgrading, and possible realignment of Tum a Lum Road (County Road) and Mauer Lane (private). An Irrevocable Consent Agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property and does not operate as a personal contract of the owner.

The Umatilla County Planning Commission finds, as a precedent condition of approval, an Irrevocable Consent Agreement for Tum a Lum Road must be signed and recorded by the property owners to satisfy the criterion.

The Umatilla County Planning Commission finds, as a precedent condition of approval, an Irrevocable Consent Agreement for Mauer Lane must be signed and recorded by the property owners to satisfy the criterion.

(K) Adequately addresses any known development limitations within the proposed Type II Land Division, outlining appropriate measures to mitigate the limitation. The Umatilla

County Planning Commission finds that Parcel 2 contains some development limitations due to the presence of the FEMA mapped floodplain. Portions of Parcel 2 are within the AE zone (base flood determined), however the proposed configuration provides adequate buildable space outside the AE zone. This criterion is satisfied.

(L) Addresses the comments of the appropriate water agency if the proposed Type II Land Division has a water right. The Umatilla County Planning Commission finds that the subject property is not located within an irrigation district. Oregon Water Resources Department was notified and sent a copy of these findings. OWRD has provided comment regarding the point of diversion, and stated that if an irrigation easement exists, the applicant will want to ensure that the easement will continue to benefit both Parcels 1 and 2. The applicant clarified that there is not an existing irrigation easement, and stated that the landowner of Tax Lot 513 was unwilling to grant an easement for this purpose.

The Umatilla County Planning Commission finds and concludes that the applicant has adequately addressed the concerns of OWRD. With the imposition of Precedent Condition #8, the applicant will be required to consult with OWRD prior to partition plat approval which satisfies the criterion. The criterion is satisfied.

27. SURVEYING REQUIRED - 152.644 (A) (2) PARCELS CREATED SMALLER THAN 10 ACRES IN A NON-RESOURCE ZONE NEED TO BE SHOWN ON A PARTITION PLAT: The Umatilla County Planning Commission finds that this request involves parcels located in a non-resource zone and smaller than 10 acres in size thus requiring a partition plat to be submitted. The appropriate recording fee for this document will be required.

28. VARIANCE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR VARIANCES, Section 152.627, Circumstances for Granting a Variance, contains the criteria of approval for reviewing a variance. The standards of approval are underlined, the responses and findings are provided in standard text.

§ 152.627 CIRCUMSTANCES FOR GRANTING A VARIANCE.

A variance may be granted under some or all of the following circumstances:

(A) Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property since enactment of this chapter have had no control;

Applicant's Response: The existing parcel is 4 acres in a RR-2 zone. However, access to the parcel is only by a 25-foot wide road off of Tum-A-Lum and would be considered sub-standard. This is the last potential lot or subdivision on Mauer Lane due to floodplain and lot configurations. The variance of an access being 25-feet tends to calm traffic and reduce speeds down the lane.

Planning's Response: The first 400-feet of Mauer Lane are located on the subject property, however property to the north and south of the existing easement are not owned by the applicant.

The current right-of-way width for Mauer Lane is 25-feet, which is the entire width of the subject property's "pole". Mauer Lane serves more than four parcels, thus the standard right-of-way width is 60-feet.

The Umatilla County Planning Commission finds the applicant does not own or have authority over the other properties adjacent to Mauer Lane and did not have control over the development pattern of other properties in the vicinity. This criterion is met.

(B) The variance is necessary for the preservation of a property right of the applicant substantially the same as possessed by the owner of other property in the same zone or vicinity;

Applicant's Response: The variance is necessary for the property zoned RR-2 to be realized and be of similar size as adjacent lots in the zoning.

Planning's Response: To preserve the applicant's property right to partition Tax Lot 502, a variance is necessary to provide relief from the P-2 road standard. Because the access easement (Mauer Lane) serves four or more parcels, the current land division standards for access is a 60-foot wide easement. The applicant's variance request to this standard would substitute, or allow, the use of a 25-foot easement in place of a 60-foot easement. The 25-foot easement right-of-way would still allow for a 22-foot wide roadway, which is the requirement under the P-2 standard. Photos submitted by the applicant demonstrate Mauer Lane's current conditions, it has been improved with a gravel surface and is in good condition. The Umatilla County Planning Commission finds approval of the variance would allow the applicant to pursue their property right for a land division. This criterion is met.

(C) The variance would not be materially detrimental to the purposes of this chapter, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any county plan or policy;

Applicant's Response: The variance would only add one additional lot to Mauer Lane and would not impact other properties at this location or otherwise conflict with the objectives of the County plan or policy.

Planning's Response: The use of Mauer Lane for access would continue as it has historically. In addition, allowing a land division with access via a 25-foot wide easement instead of a 60-foot wide easement would still provide space for two-way traffic. Further, allowing a variance to the 60-foot easement width requirement and recognizing the existing 25-foot easement width still would provide and allow for a 22-foot wide improved surface, the P-2 road standard to occur. Therefore, the variance would not be materially detrimental to the objective of a county plan to provide adequate space within access easements for development of a two-way roadway where more than four parcels are served.

(D) The variance requested is the minimum variance which would alleviate the hardship.

Applicant's Response: The variance of 25-feet is the minimum since this is the width of the existing parcel access.

Planning's Response: Mauer Lane's existing right-of-way width is 25-feet, which is the width that the applicant is requesting. This is also the minimum variance to alleviate the hardship as the applicant has no ability to dedicate additional easement width.

(E) At no time shall a setback from a property line or access easement be decreased below 5 feet in any zone

Applicant's Response: No response.

Planning's Response: This criterion is for variances to setback requirements. The applicant is requesting a variance to road improvement requirements, not a setback requirement. The Umatilla County Planning Commission finds and concludes this criterion does not apply.

DECISION: APPROVED

THE WELLS LAND PARTITION AND VARIANCE REQUESTS COMPLY WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request, signified by the recording of the Final Partition Plat:

1. Pay, and if applicable, prepay property taxes to the County Assessor's Office.
2. Pay public notice fees as invoiced by the Planning Division.
3. Receive site suitability from County Environmental Health for Parcel 2. The site suitability report shall be submitted to County Planning for satisfaction.
4. Improve the access easement running north-south and benefitting Parcel 1 to the County P-1 Road Standard, which is an improved travel surface of at least 16 feet with 4 inches of compacted gravel.

[Verification that roadway improvements have been completed to the County Option 1 (P-1) standards may be provided by a combination of photos of the road improvements and receipt copies for gravel and services by the road contractor, or by written verification from a licensed Civil (road) Engineer that County Option 1 (P-1) standards have been met.]

5. Identify an emergency vehicle cul-de-sac or hammer head turnaround and improve the turnaround to the P-1 standard.
6. Sign and record an Irrevocable Consent Agreement to participate in future improvements to Tum a Lum Road. The ICA document will be provided by the County Planning Division.

7. Sign and record an Irrevocable Consent Agreement to participate in future improvements to Mauer Lane. The ICA document will be provided by the County Planning Division.
8. Comply with Oregon Water Resources Department requirements for point of diversion or irrigation easements. Written verification from OWRD that these concerns have been addressed will satisfy the condition.
9. Submit a Preliminary Partition Plat complying with State and County regulations to the Umatilla County Planning Division, GIS/Mapping Department, and surveyor. The Plat shall identify an acceptable hammerhead or circle drive turnaround area to be dedicated and the southern access easement shall be named Mauer Lane on the plat.

Subsequent Conditions: The following subsequent conditions must be fulfilled following final approval of the Partition Plat by Umatilla County:

1. Record the Final Partition Plat within two years and prior to signing any deeds.

UMATILLA COUNTY PLANNING COMMISSION

Dated _____ day of _____, 2023

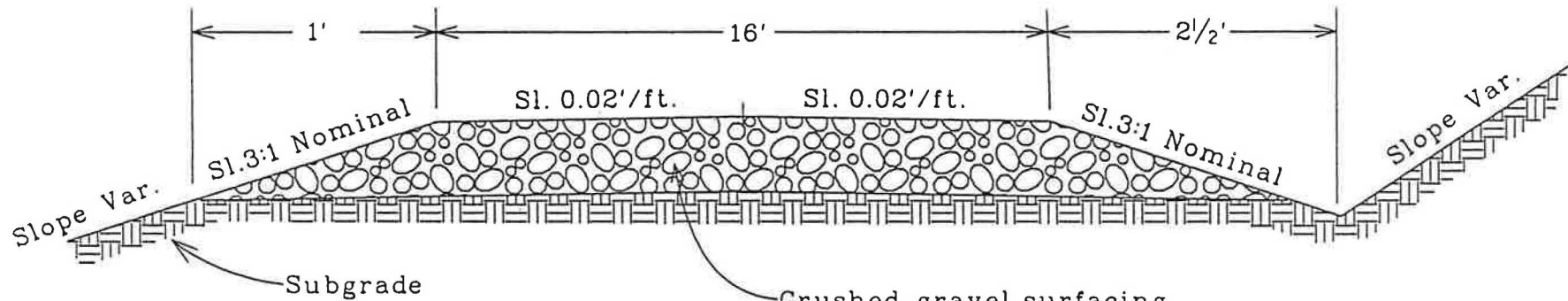
Suni Danforth, *Chair*

Mailed _____ day of _____, 2023

"P-1"

(Land Partition)

To be used in cases where additional Partitioning
or development is not anticipated and access
is to 3 or fewer parcels.



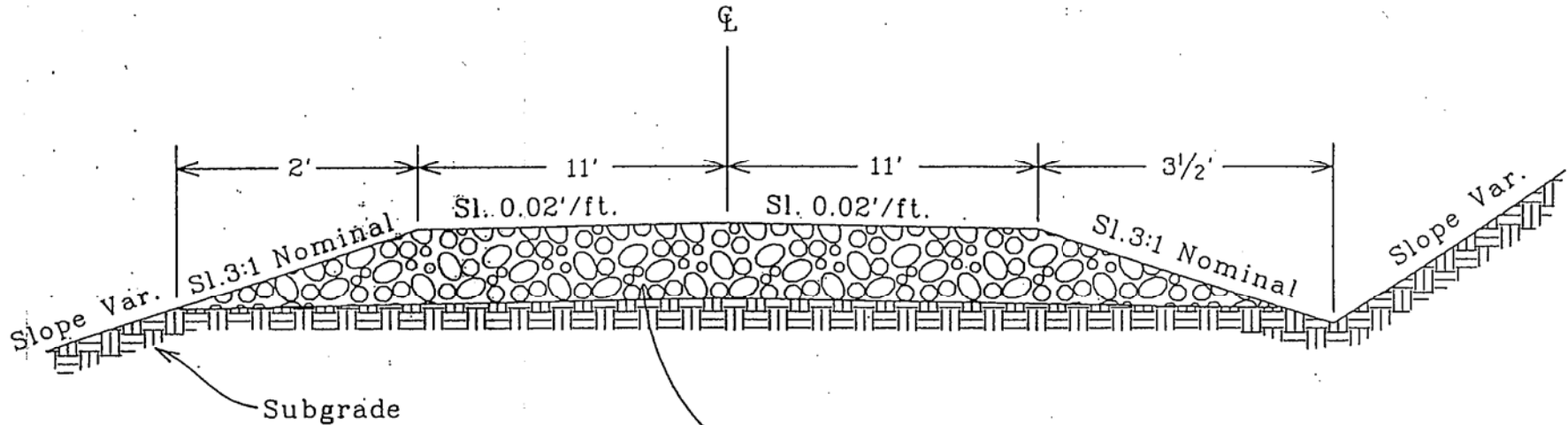
- * Note: If Partition is within a City Urban Growth Boundary, City Standards should apply.
- * Culvert pipes to be installed in locations determined by the Director of Public Works. Materials & workmanship shall conform to current ODOT Standard Specifications
- * All other construction details and specifications to conform to current ODOT Standard Specifications and to be approved by the Director of Public Works.
- * Any changes to surfacing width or depths or variance from current Oregon Department of Transportation Standard Specifications must be approved by the Director of Public Works.

Umatilla Co. Rd. Dept.	
"P-1"	
Drawn By: JG	Checked By: GR
Date: July 1997	Road Standard

"P-2"

(Land Partition)

To be used in cases where future partitioning or development is anticipated.



- * Note: If Partition is within a City Urban Growth Boundary, City Standards should apply.
- * Culvert pipes to be installed in locations determined by the Director of Public Works. Materials & workmanship shall conform to current ODOT Standard Specifications
- * All other construction details and specifications to conform to current ODOT Standard Specifications and to be approved by the Director of Public Works.
- * Any changes to surfacing width or depths or variance from current Oregon Department of Transportation Standard Specifications must be approved by the Director of Public Works.

Crushed gravel surfacing
Nominal compacted thickness 8"
(size and grading requirements to conform to current Oregon Department of Transportation Specifications).

Umatilla Co. Rd. Dept.

"P-2"

Drawn By: JG

Checked By: GR

Date: July 1997

Road Standard

APPLICANT'S SUPPLEMENTAL INFORMATION

50

6235 24 A 502 SWNE
Error in legal
511 1992 NOV - 6 A 48

EASEMENT FOR INGRESS & EGRESS

REEL 227 PAGE 1122

Dated ^{Corobex} September 8, 1992

176882

In consideration of the sum of \$1.00 and other value given or promised. LARRY E. MAUER and KATHLEEN M. MAUER, husband and wife. Grantors convey to ROGER W. HICKS, an individual, Grantee, their heirs, successors and assigns, a perpetual nonexclusive easement to use a strip of land for Ingress Egress 25 foot in width lying North and adjacent to the South property line the following described parcel:

See Exhibit "A" attached hereto and by this reference incorporated herein.

Such easement is to be appurtenant to the following described tract of land which shall be the dominant estate herein to wit:

See Exhibit "B" attached hereto and by this reference incorporated herein.

The Terms of this easement are as follows:

1. Grantee, his agents, independent contractors, and invitees shall use the easement strip only for road purposes as access to the property described in Exhibit "B" and in conjunction with such use may construct, maintain and repair a road thereon.

2. Grantee agrees to indemnify and defend Grantor from any loss, claim or liability to Grantor arising in any manner out of Grantee's use of the easement strip and Grantor shall have no liability to Grantee or others for any condition existing thereon.

3. In the event the easement is not used by the Grantee for a period of three years or if otherwise abandoned by the Grantee, the easement shall automatically expire and Grantee, upon request, shall execute a recordable document evidencing such expiration.

4. This easement is granted subject to all prior easements or encumbrances of record.

5. In further consideration of this easement being granted, Grantee agrees and covenants to contribute one-third (1/3) of all expenses of

AFTER RECORDING RETURN TO:
R.A. Andy Millar
P.O. BOX 388
Milton-Freewater, OR 97862

maintaining that entire easement, granted herein and similarly granted October 3, 1985 by Roger W. Hicks to John D. Mauer and Jane A. Mauer which document was recorded October 7, 1985, Microfilm R-130, Page 847, Deed Records.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on the day and year first above written.

Larry E. Mauer
 LARRY E. MAUER - Grantor

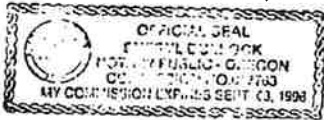
Kathleen M. Mauer
 KATHLEEN M. MAUER - Grantor

Roger W. Hicks
 ROGER W. HICKS - Grantee

STATE OF OREGON)
COUNTY OF UMATILLA)

DATED: 10/8/92

Personally appeared the above named, LARRY E. MAUER and KATHLEEN M. MAUER, and acknowledged the foregoing to be their voluntary act. Before me:

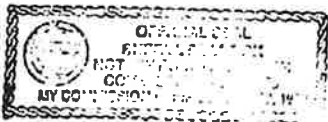


Doreen Bullock
Notary Public for Oregon
My commission expires: 9/18/96

STATE OF OREGON)
COUNTY OF UMATILLA)

DATED: 9/30/92

Personally appeared the above named, ROGER W. HICKS, an individual, and acknowledged the foregoing to be his voluntary act. Before me:



Doreen Bullock
Notary Public for Oregon
My commission expires: 9/18/96

EXHIBIT "A"

799.49

A parcel of land located in Southwest Quarter of Northeast Quarter of Section 24, Township 6 North, Range 35, and being a portion of that tract conveyed to Earl J. Ayers, et al, by Deed recorded in Book 279, Page 563, Deed Records, and described as beginning at Northwest corner of Southwest Quarter of Northeast Quarter of said Section 24; thence South 0° 16' 00" West along West line of Southwest Quarter of Northeast Quarter of said Section 24, a distance of 7990.49 feet to Northwest corner of that tract conveyed to Roderick F. Bannister, et al, by Deed recorded in Book 279, Page 564, Deed Records, and the true point of beginning for this description; thence North 89° 28' 43" East along North line of said Bannister Tract a distance of 750.50 feet to a 1/2 inch iron rod; thence leaving said North line North 4° 10' 59" East a distance of 329.07 feet to a 1/2 inch iron rod; thence North 80° 29' 19" East a distance of 16.25 feet to a 1/2 inch iron rod; thence North 3° 54' 00" East a distance of 138.68 feet to a 1/2 inch iron rod on South line of that tract conveyed to Robert V. Wood et ux, by Deed recorded in Book 278, Page 7, Deed Records; thence South 89° 31' 40" West along said South line a distance of 376.78 feet to a 1/2 inch iron rod at Northeast corner of that tract conveyed to Gene A. Huffman, et ux, by Deed recorded in Microfilm R-19, Page 608, Deed Records; thence South 0° 16' 00" West along East line of said Huffman Tract a distance of 444.13 feet to a 1/2 inch iron rod at Southeast corner of said Huffman Tract, said point also being 25 feet North of North line of said Bannister Tract; thence South 89° 28' 43" West along South line of said Huffman Tract a distance of 422 feet to West line of Southwest Quarter of Northeast Quarter of said Section 24; thence South 0° 16' 00" West along said West line a distance of 25 feet to the true point of beginning;

SUBJECT to any and all water rights of way and roads;

All being East of the Willamette Meridian, Umatilla County, Oregon.

er:\wp511re\exhibits.hic

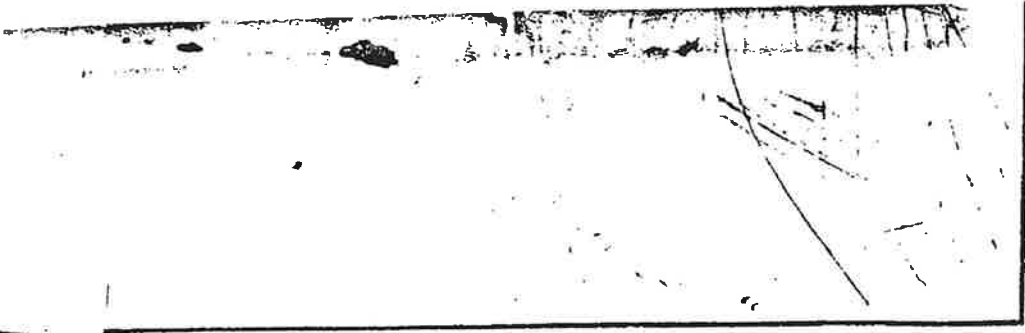


EXHIBIT "B"

The Easterly 184.46 feet, as measured at right angles to the Easterly line of the following described tract of land, recorded in Book 317, Page 171, Deed Records.

That part of the Southwest Quarter of the Northeast Quarter of Section 24, Township 6 North, Range 35, E.W.M., described by commencing at the Northwest corner of said Southwest Quarter of the Northeast Quarter and running thence South 999.65 feet along the West line of said Northeast Quarter to a point 200.00 feet South as measured along said West line of the Northwest corner of the Bannister property, recorded in Book 292, Page 527, Deed Records, for the place of beginning; thence continuing South along said West line of the Northeast Quarter 267 feet to the Southwest corner of said Bannister property; thence Easterly along the South line of said Bannister property, 900.0 feet; thence North, parallel with the West line of said Bannister property, 473.1 feet to a point in the North line of said property, 900 feet Easterly of the Northeast corner thereof; thence Westerly along said North line 325 feet to a point 575.0 feet East of the Northwest corner of said property; thence South along a line parallel with said West line 200 feet; thence Westerly along a line parallel with said North line 575.0 feet to the place of beginning;

ALSO including an easement for ingress and egress to be used with others over and across the Southerly 25 feet of the above described tract.

SUBJECT to an easement for ingress and egress purposes over and across the Southerly 25 feet of the above described tract.

All being East of the Willamette Meridian, Umatilla County, Oregon;

EXCEPTING any and all water rights of way and roads.

SUBJECT to real property taxes 1988 through present.

STATE OF OREGON, COUNTY OF UMATILLA
I Thomas L. Groat, County Clerk, certify that this instrument was received and recorded on 11-06-92 at 9:48 in the record of document code type DE-EAS

Location R227-1122
Document number 92-176882
Fee 50.00

Thomas L. Groat
Umatilla County Clerk

received by J. McVaugh Deputy

er:\mp31\ro\exh1002.bic

SWNE. 24. CW. 35
#501

FORM 1085 8-55

RIGHT OF WAY EASEMENT

279861

(INDIVIDUAL)

For value received the undersigned Grantor, Leon L. & Dolores I. Olsen
Roderick F. Bannister and Genevieve M. Bannister do hereby grant to PACIFIC POWER & LIGHT COMPANY, a corporation, its successors and assigns, the Grantee, an easement or right of way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances (including telephone and telegraph wires, towers, poles, props, guys and other supports and the right to place all or any part of such line in underground conduits) at or near the location and along the general course now located and staked out by the Grantee over, across and upon the following described real property in Umatilla County, State of Oregon to-wit:
The South Half of the following described tract of land:

Beginning at the Northwest corner of the Southwest Quarter of the Northeast Quarter of Section 24, Township 6 North, Range 35; thence South along the West line of said Southwest Quarter of the Northeast Quarter, a distance of 330 feet to the Southwest corner of that tract of land conveyed to Robert V. Wood, et ux, by Deed recorded in Book 278, page 7, Deed Records, Umatilla County, Oregon, and the true point of beginning for this description; thence continuing South along the West line of the said Southwest Quarter of the Northeast Quarter a distance of 940.5 feet, more or less, to a point 20 rods North of the Southwest corner of that tract of land described in Deed to W. H. Neeley, et ux, by Deed recorded in Book 178, page 625, said Deed Records; thence East and parallel to the South line of the said Neeley tract a distance of 80 rods, more or less, to the line running North and South through the center of the East Half of said Section 24; (said point also being 20 rods North of the Southeast corner of the said Neeley tract); thence North along the said centerline a distance of 940.5 feet, more or less, to the Southeast corner of the said Wood tract; thence West along the South line of the said Wood tract a distance of 80 rods, more or less to the point of beginning;

All being East of the Willamette Meridian.
Together with the right of ingress and egress over the adjacent lands of the Grantor for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing such line and appurtenances, and exercising other rights hereby granted.

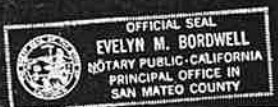
All such rights hereunder shall cease if and when such line shall have been abandoned.
Dated this 30th day of July, 1965.

Roderick F. Bannister (Seal) X Leon L. Olsen (Seal)
Genevieve M. Bannister (Seal) X Dolores I. Olsen (Seal)

STATE OF California
COUNTY OF San Mateo



On this 30th day of July, 1965, personally appeared before me, a notary public in and for the State of California the within named Roderick F. Bannister and Genevieve M. Bannister to me known to be the identical persons described therein and who executed the foregoing instrument, and to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year above written.



Evelyn M. Bordwell
Notary Public for San Mateo County
residing at 124 West 25th Avenue, San Mateo
My commission expires EVELYN M. BORDWELL
My Commission Expires Oct. 22, 1968

181
204

STATE OF Oregon
County of UMATILLA
August 9, 1965 before me, John L. VanTine
a Notary Public in and for the State of UMATILLA County and State, personally appeared
LEON L. OLSEN & DOLORES I. OLSEN
known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes and consideration therein expressed.
My commission expires 11-10-28-1967
Notary Public
John L. VanTine
Filed or typed name of Notary Public

RIGHT TO RECORD IN BOOK RECORD OF DE BY
PACIFIC POWER & LIGHT COMPANY
STATE OF CALIFORNIA
COUNTY OF SAN MATEO
DAY OF JULY
AT THE HOUR OF 10:00
IN BOOK 278
RECORD OF DEEDS
BY JOHN L. VANTINE
AUG. 24, 1965

SWNE 24 CN 35
#501

FORM 1089 6-23

RIGHT OF WAY EASEMENT
(INDIVIDUAL)

279881

For value received the undersigned Grantor, Leon L. & Delores I. Olsen
Roderick F. Bannister and Genaviava M. Bannister do hereby grant to PACIFIC POWER & LIGHT COMPANY, a corporation, its successors and assigns, the Grantee, an easement or right of way for an electric transmission and distribution line of one or more wires and all necessary or desirable appurtenances (including telephone and telegraph wires, towers, poles, props, guys and other supports and the right to place all or any part of such line in underground conduits) at or near the location and along the general course now located and staked out by the Grantee over, across and upon the following described real property in Umatilla County, State of Oregon to-wit:
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All being East of the Willamette Meridian.
Together with the right of ingress and egress over the adjacent lands of the Grantor for the purpose of constructing, reconstructing, stringing new wires on, maintaining and removing such line and appurtenances, and exercising other rights hereby granted.

All such rights hereunder shall cease if and when such line shall have been abandoned.
Dated this 30th day of July, 1965.

Roderick F. Bannister (Seal) & Leon L. Olsen (Seal)
Genaviava M. Bannister (Seal) & Delores I. Olsen (Seal)

STATE OF California
COUNTY OF San Mateo



On this 30th day of July, 1965, personally appeared before me, a notary public in and for the State of California, Roderick F. Bannister and Genaviava M. Bannister to me known to be the identical persons described therein and who executed the foregoing instrument, and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein mentioned.
IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year above written.



Evelyn M. Bordwell
Notary Public for San Mateo County
residing at 124 West 25th Avenue, San Mateo
My commission expires EVELYN M. BORDWELL
My Commission Expires Oct. 22, 1968

181
204

STATE OF California
County of Umatilla
August 9, 1965 before me, John L. VanTine
a Notary Public in and for the State of California, County and State, personally appeared
Leon L. Olsen & Delores I. Olsen
known to me to be the persons whose names are subscribed to the within instrument and acknowledged that
they executed the same for the purposes and consideration therein expressed.
WITNESS my hand and official seal.
(SEAL)
My commission expires: 10-28-1967
Notary Public
John L. VanTine
Printed or typed name of Notary Public

RIGHT
PACIFIC
STATE OF
COUNTY OF
RECEIVED
DAY OF
AT THE REQUEST OF
IN BOOK
RECORDED IN
BY

AUG. 24, 1965

MAIL TO:
PACIFIC POWER
AND LIGHT COMPANY
ATTENTION: RECORDS
1000-10th Street
Portland, Oregon 97202

RECEIVED

AGREEMENT FOR WELL MAINTENANCE

R185 #1435

150240

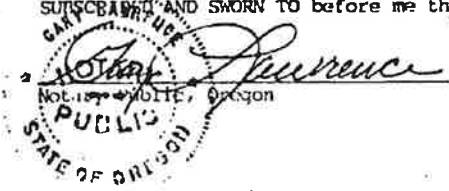
We, the undersigned, and as of this date owners of real property, descriptions attached hereto and made a part hereof, do hereby agree that we, and/or our heirs and assigns, jointly maintain in condition such that usage be made available to the property owners, the well bordering on tax lots #502 and #513 as shown on the attached tax map.

Properties being described and identified by Umatilla County, Oregon for assessment purposes as follows:

Dated October 20, 1989
Tax Lot # 502

Roger W. Hicks
Roger W. Hicks

SUBSCRIBED AND SWORN TO before me this 20 day of October, 1989.



My commission expires: 12-20-91

Dated October 23, 1989

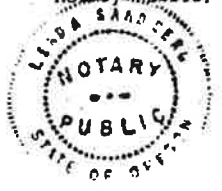
John D. Mauer
John D. Mauer
Jayne A. Mauer
Jayne A. Mauer

Tax Lot # 513

SUBSCRIBED AND SWORN TO before me this 23rd day of October, 1989.

Linda Sandberg
Notary Public, Oregon

My commission expires: 10-28-90



P-44853

STATE OF OREGON
 COUNTY OF UMATILLA
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JOHN D. & JANE MAUER
 54959 MAUER LANE
 MILTON FREEWATER, OR 97862

confirms the right to use the waters of the TUMALUM RIVER, a tributary to the COLUMBIA RIVER for IRRIGATION of 9.0 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 12, at page 9. The date of priority is 1906. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1-1/2 miner's inches (0.34 cubic foot per second), or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	24	NE NW	915 FEET SOUTH AND 1420 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 24

A description of the place of use to which this right is appurtenant is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	24	SW NE	9.0

This certificate is issued to confirm an HISTORIC CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered September 8, 2004, approving Transfer Application T-9481, and together with Certificate 88678, supersedes Certificate 13098, State Record of Water Right Certificates.

WITNESS the signature of the Water Resources Director, affixed AUG 31 2016.

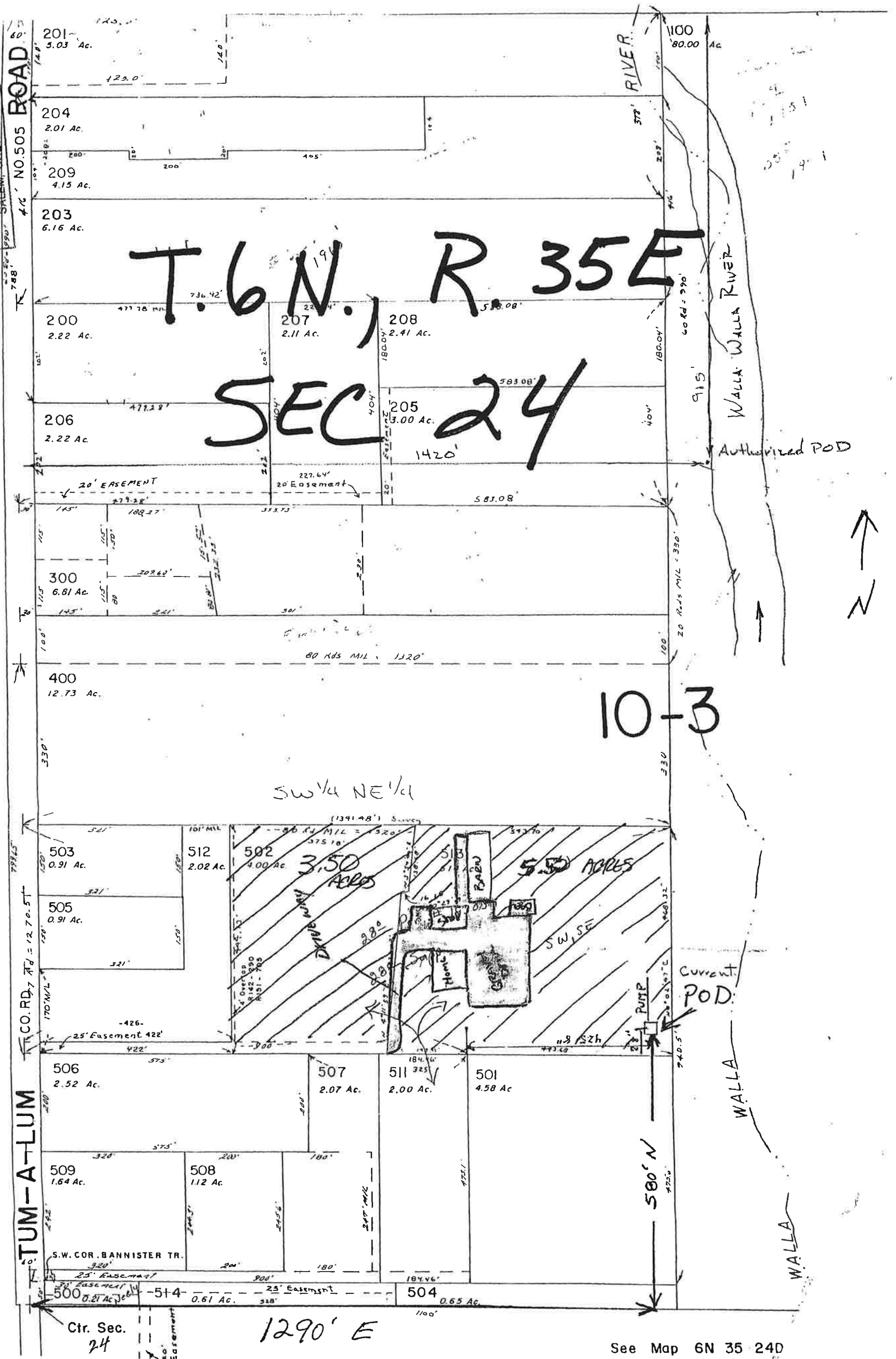


 Dwight French, Water Right Services Administrator, for
 Thomas M. Byler, Director

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

RECEIVED
 JUN 27 2003
 WATER RESOURCES DEPT
 SALEM, OREGON

See Map 6N 35 24B



NO. 505 ROAD

TUM-A-LUM

T. 6N., R. 35E
 SEC 24

10-3

SW 1/4 NE 1/4

1290' E

See Map 6N 35 24D

SCALE 1" = 200'

T-9481

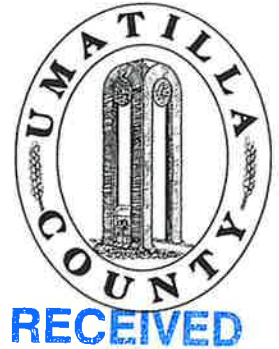
Jane Mauer 12/16/03
 Jane Mauer 12/16/03

Ronald Galt Reber 12-16-03
 Donny Galt Reber 12-16-03

Umatilla County

Department of Land Use Planning

216 SE 4th ST, Pendleton, OR 97801, (541) 278-6252



SEP 07 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

Request for a Public Hearing

Process taken from UCDC 152.769

REQUEST FOR A HEARING

The purpose of a notice for a land use request application is to provide affected property owners and agencies the opportunity to review the request and the tentative findings and conclusions of the Department, and to either offer comments or requested conditions, or request a public hearing be held to deliberate on issues they deem are significant.

FILING FEE

Requesting a Public Hearing - \$250

It is the responsibility of the applicant to submit a complete application with all necessary attachments. Planning staff can refuse an incomplete application.

Version: February 20, 2009
File Location: H:\shared\FORMS_Master\Appeal_Hearing.doc

Section 1: Request and Description of Application

This information deals with the Land Use Request Application where a Public Hearing is being requested.

DESCRIPTION OF THE LAND USE REQUEST APPLICATION IN QUESTION:

- Land Use Request Application File Number: LD-6N-441-23
- Type of Land Use Request Application: Land Division Request
- Decision-Making Body: Planning Director or Other _____
- For a Request of a Public Hearing, Date Notice was sent: 8-22-2023

Section 2: Contact Information

Name of Submitter(s): Charles Lawrence

Address: 85115 Tum A Lum Rd.

City, State, Zip: Milton Freewater, OR 97862

Telephone Number & Email
Address: 509 876-1279
charlie.lawrence10@gmail.com

Date of Submittal for Request of a Public Hearing: 9-7-2023

RECEIVED

SEP 07 2023

UMATILLA COUNTY
PLANNING DEPARTMENT

Section 3: Basis for the Request for a Public Hearing

Complete only for a Request for a Public Hearing

The Request for a Public Hearing must be based on issues you feel should be addressed in a public forum. Please describe the reasons you feel that a public hearing should be held before the Umatilla County Planning Commission in relation to the land use request application specified above:

see attached

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X *Charles Lawrence* 9-6-23
Signature of Submitter Date

Charles Lawrence
Printed Name of Submitter

X *Linda Lawrence* 9-6-23
Signature of Submitter Date

Linda Lawrence
Printed Name of Submitter

X *John D. Mauer* 9/6/23
Signature of Submitter Date

John D MAUER
Printed Name of Submitter

X *Jane A. Mauer* 9/6/23
Signature of Submitter Date

JANE A MAUER
Printed Name of Submitter

Office Use Only

Date this paperwork was received: September 7, 2023

Accepted by: *Megan Dawchewski* Megan Dawchewski
Signature of Planning Staff & Printed Name

Fee Paid? Yes No Receipt Number: 22112

Section 4: Certification

I/We, the undersigned, swear under penalty of perjury that the above responses are made truthfully and to the best of my knowledge.

X Carol Burks
Signature of Submitter

9-6-23
Date

Carol Burks
Printed Name of Submitter

X Mike Burks
Signature of Submitter

9/6/23
Date

MIKE BURKS
Printed Name of Submitter

X Justin Burks
Signature of Submitter

9-6-23
Date

Justin Burks
Printed Name of Submitter

X _____
Signature of Submitter

Date

Printed Name of Submitter

Office Use Only

Date this paperwork was received: September 7, 2023

Accepted by: Megan Danchevski Megan Danchevski
Signature of Planning Staff & Printed Name

Fee Paid? Yes No

Receipt Number: 22112

The construction of a home located on parcel 2, as outlined in the land division request, and the planting of any large trees on this parcel, would significantly obstruct our view of the Blue Mountains and of neighboring pasture land. This in turn would negatively impact the resale value of our property. The view was a significant factor in our decision to purchase the property.

We are also concerned about increased traffic on Mauer Lane. Since our property is located at the west end of Mauer Lane, we would be affected the most. This is mostly a gravel road which stirs up dust every time a vehicle passes our house, especially during the summer months when we are outside.

Mauer Lane is narrower than 25 feet in areas due to erosion of the roadway on the south side. There is also a small hill that is eroding onto the roadway making two way traffic possible only on the west end. At its narrowest point next to our property, the lane is only about 15 feet wide. (pictures attached)

Another concern is the installation of another septic system in the area and the drilling of a new well and how this will affect the water table.



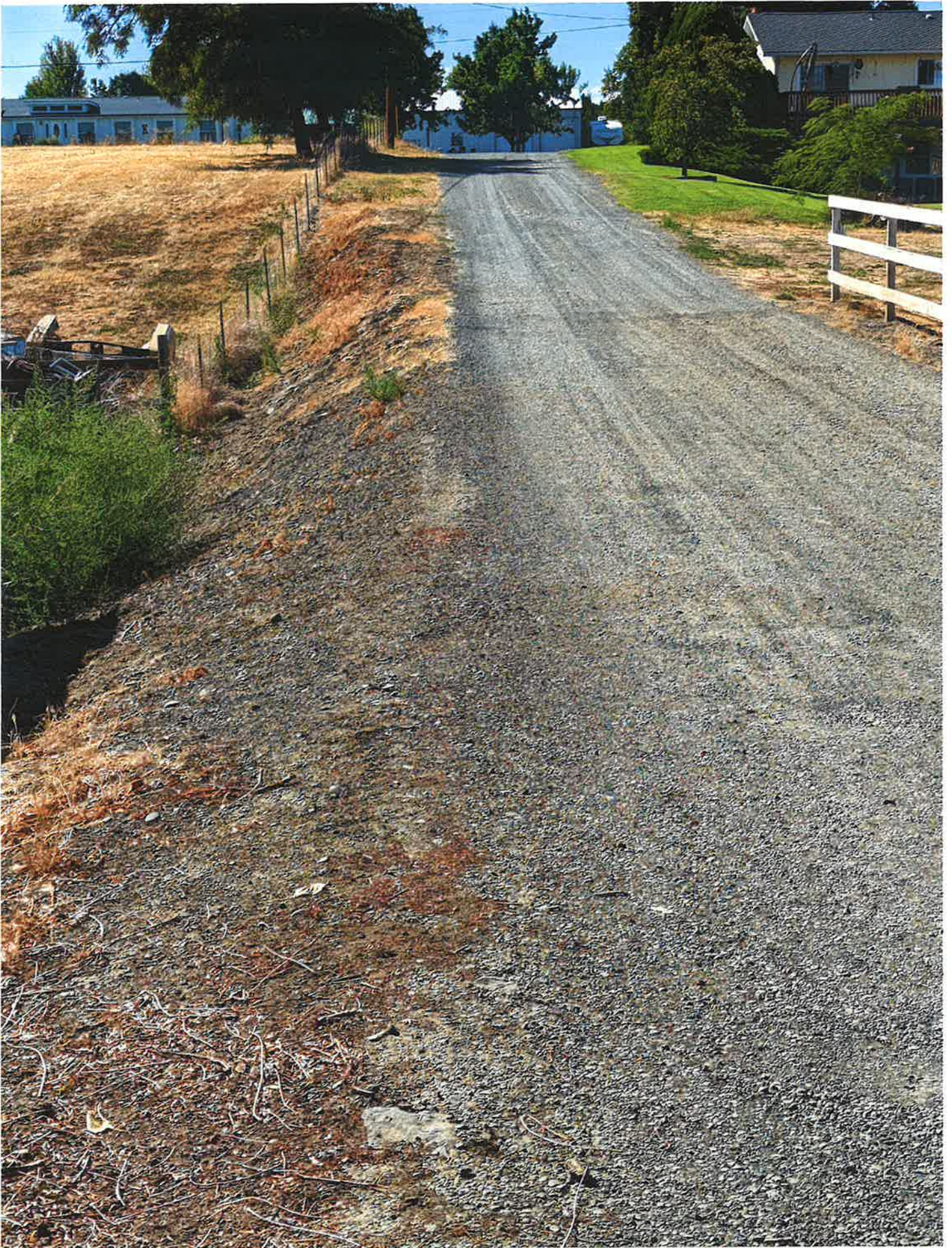
Charles Lawrence



Linda Lawrence

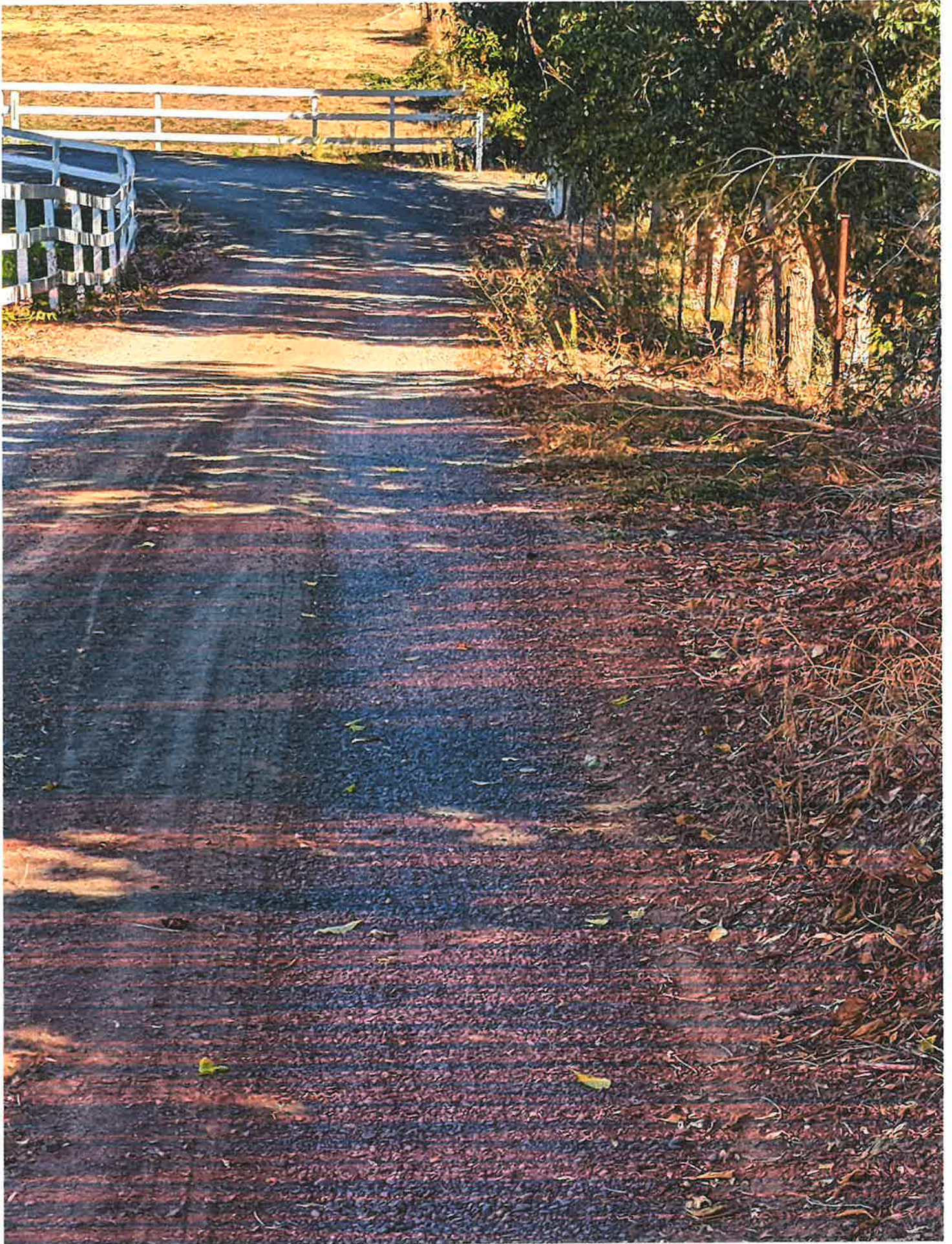
85115 Tum A Lum Rd.

Milton Freewater, OR 97862









Buying our home 12 years ago, we were under the impression, and were told, this beautiful view property could not be developed as it was protected "farm and grazing land" by the County. That was the first question we put forth as we were moving back to our "home town" for our retirement.

We had spent the last 25 years in the Portland / Willamette Valley where beautiful farm land is being systematically destroyed with apartment complexes and housing so close you can touch your neighbors home.

Needless to say our retirement savings went into our home and many needed repairs which is still ongoing. We thought this would be a good investment for us and our son.

We are the family that will be the most affected, and stand to lose the most of all recipients of this letter of intent, by the Wells' and the County.

The house that will be built will be directly behind our home. The view will be gone, greatly reducing the value of our home.

We will be looking at the backside of another house. Will outbuildings be permitted? Tall trees planted?

It seems the county is on board with this and any objections will be overlooked.

Other concerns: Are there any limits on the size of new construction? How many stories? Outbuildings? RV's?

occupancy? Duplex?

Very discouraging - Seem to be no restrictions -
Perhaps the "Wells" would like to compensate
us for the loss of value to our home & property -

Carol, Michael

1 Justin Burks

85137 Turn-a-Lum Rd - Milton - Free water

Attached are two pictures of how far the flood
waters came up onto this property, two years ago.



2020



September 6, 2023

Umatilla County
Community Development Department
216 SE 4th Street
Pendleton, OR 97801

Re: Proposed Land Division Request #LD-6N-441-23
Variance Request #V-366-23
Assessors Map #6N 35 24A
Tax Lot #502 – John & Amy Wells, Applicants/Owners

Dear Ms. Davchevski,

I am writing to address my concerns about the above proposed 2 acre parcel as well as to clarify questions on the access to and improvements to the surrounding road that would grant owner access to the property in question and the other current property that the Wells Family owns and occupies.

I have owned and lived on my property on Mauer Lane for over 45 years. We have enjoyed the quality of life that this acreage has allowed us and our fellow neighbors to have. We have all tried to be a close-knit community and help one another when needed.

The proposed splitting and selling of this 2 acre parcel is of concern to many of us in the neighborhood due to the values of our properties decreasing, more traffic on a small lane, and easement and contamination issues.

I would first like to address my concerns.

There was a 5-year study done on the aquifer which demonstrated that this aquifer has very high water. The lower portion of this proposed 2 acre parcel is clearly located within a flood zone per your own county map. Along with it being in this recognized flood zone there is an underground spring that is located along the lower portion of this proposed 2 acre parcel that is only 3 feet below the ground. With this being said, whenever there is a hard rain or when there has been any winter accumulation of snow, there is standing water for several days or more on the lower portion of this proposed 2 acre parcel.

There is a neighboring property owned by Mr. Craig Reiswig that is located at almost the same level that this proposed property is located, not only has his property flooded severely, but when he built, he had to have an above-ground septic system. Is this going to be required for this property? Has anyone looked into what will need to be done to this property for a well and septic system? Will this be put into the writing so that any contractor will clearly know what is required?

Will the drain field for this proposed property be required to be on the upper portion of the property? There is a free flowing natural spring that is located just below this proposed parcel and if the drain field is not installed properly there would be the risk of contamination via this spring to several neighboring properties, at least 4 or 5 properties that I can think of off of the top of my head. If something is not installed correctly to prevent this, who will then be responsible for the decontamination of the properties the spring flows across?

Now I would like to address a few other concerns regarding easements and access to the proposed 2 acre parcel and the surrounding properties.

Will there be an easement on this proposed 2 acre parcel that will allow for garbage pick-up? At this time, there is only one garbage pick-up company for rural Milton-Freewater. This said company has refused to drive any farther than the driveway located between the Wells Family barn and this proposed 2 acre parcel to pick up garbage. How will the county handle this?

Where is it stated in the documents sent to us to show an easement allowing the Wells Family to have driving access to their barn to maintain it and their outdoor arena?

Is the roadway coming off of Tum-A-Lum Road included in the 2 acres? Is that not already part of the easement for the current existing properties located on and/or near this proposed 2 acre parcel?

If the Wells Family and whomever buys this proposed 2 acre parcel are going to use the portion of the driveway that is currently maintained by the Mauer family, then this section of the road will need to be updated and widened with the appropriate amount of gravel put down as mentioned for the other portions of said lane. Who will then be responsible to maintain this portion of the lane during the winter with snow and during the remaining portion of the year to keep weeds down?

Is not also a conflict of interest that the said current owner of this property had a surveyor from the company in which he works for conduct the survey on this property? While we trust that things have been done professionally and in the best interest of everyone in the neighborhood, the surveyor did make a direct comment that "this would be close but they would find a way to make it work out". This statement should indicate that this may need to reviewed by an outside source not connected to anyone who lives on or near the property.

With these listed concerns and questions, I would like to request a public forum to discuss this matter before anything more is done as I believe that this is clearly an agricultural piece of property due to said issues and concerns listed above.

Sincerely,

John Mauer and Jane Mauer

The image shows two handwritten signatures in black ink. The top signature is "John E. Mauer" and the bottom signature is "Jane A. Mauer". Both signatures are written in a cursive, flowing style.



Megan Davchevski <megan.davchevski@umatillacounty.gov>

Wells Subdivision Access Road

John WELLS <johnwells_36@msn.com>

Tue, Sep 12, 2023 at 2:38 PM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Megan

Regarding road access for the Wells subdivision.

I spoke with Mr Tom Fellows, Public Works Director for Umatilla County on September 11, 2023 about Mauer Lane and our proposed subdivision access. Mr Fellows was familiar with Mauer Lane and has been down this lane in the past to visit Mr John Mauer. Mr Fellows said Mauer Lane is a private lane and the existing width is sufficient for heavy equipment which has accessed the Mauer property in the past.

I explained that we intended to subdivide and add one additional residential lot with access from Mauer Lane. Mr. Fellows said the subdivision for one additional residential lot would add a few extra trips per day and would not be a concern. He felt that the P1 standard of a 16 feet wide access for the current existing road and proposed conditions should be sufficient.

This seemed relevant to the record and you could confirm directly with Mr Fellows if verification was necessary.

Best Regards
John Wells



Megan Davchevski <megan.davchevski@umatillacounty.gov>

LD-6N-441-23 - John and Amy Wells

3 messages

SILBERNAGEL Greg M * WRD <Greg.M.SILBERNAGEL@water.oregon.gov>

Thu, Oct 12, 2023 at 8:59 AM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Cc: MARTIN Luke C * WRD <Luke.C.MARTIN@water.oregon.gov>

Hi Megan,

I reviewed LD-6N-441-23 and found that the point of diversion is located on the parcel to the east of parcels 1 and 2 for the water rights associated with this property. If the applicant has an easement to the POD, they should insure that it remains with the two new parcels.

https://apps.wrd.state.or.us/apps/wr/wrinfo/wr_details.aspx?snp_id=195397

Also, it's a minor thing but I started looking at this because the map number on the second page is incorrectly labeled 5N 28 35C and should be 6N 35 Section 24. I have included Luke Martin who is the watermaster for this area and may have additional comments.

Thank you,

Greg Silbernagel - Watermaster, District 5

Oregon Water Resources Department

[116 SE Dorion Ave.](#)

[Pendleton, OR 97801](#)

[\(541\) 969-1677](#)

Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thu, Oct 12, 2023 at 9:18 AM

To: SILBERNAGEL Greg M * WRD <Greg.M.SILBERNAGEL@water.oregon.gov>

Cc: MARTIN Luke C * WRD <Luke.C.MARTIN@water.oregon.gov>

Thank you, Greg! I will pass this information along to the applicant.

[Quoted text hidden]



Megan Davchevski <megan.davchevski@umatillacounty.gov>

LD-6N-441-23 - John and Amy Wells

John WELLS <johnwells_36@msn.com>

Fri, Oct 13, 2023 at 4:39 AM

To: Megan Davchevski <megan.davchevski@umatillacounty.gov>

Thank you Megan

The water right is a surface water irrigation right to the TumALum River, a branch of the Walla Walla River. There is no easement across Mauer's property(6N-35-24A-513) to the point of diversion (POD). Mauer's have been unwilling in the past to grant an easement and have insisted on operating the irrigation system.

The irrigation line is shown on Sheet 2/2 along the eastern edge of Parcel 2 and continues across the eastern edge of Parcel 1 and then follows the northerly edge of Parcel 1 until terminating near an existing fence corner.

I am not finding the "incorrectly labeled 5N 28 35C" as referenced in the email from Greg Silbernagel. Maybe it has been corrected in the latest version of the partition plat or I am not seeing it.

Best Regards,

John

Sent from [Mail](#) for Windows

[Quoted text hidden]