

1600 SE 190<sup>th</sup> Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

## NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-2017-6582

**Permit:** Property Line Adjustment

**Location:**

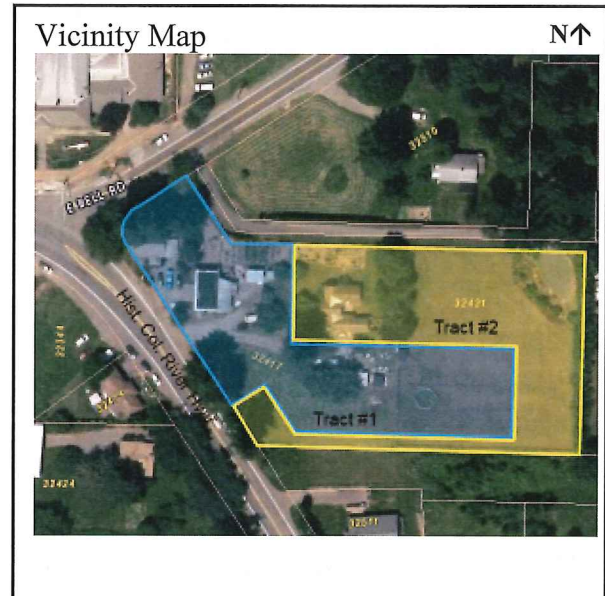
**Tract 1:** 32417 E. Hist. Columbia River Hwy  
Tax Lot 106, Section 04BB  
Township 1 South, Range 4 East, W.M.  
Tax Account #R649631490

**Tract 2:** 32421 E. Hist. Columbia River Hwy  
Tax Lot 107, Section 04BB,  
Township 1 South, Range 4 East, W.M.  
Tax Account #R649631500

**Applicants:** Garrett & Beverly Law

**Owners:** Garrett & Beverly Law

**Base Zone:** Springdale Rural Center (SRC)



**Summary:** The applicant is proposing a property line adjustment between tract 1 and tract 2 in the Springdale Rural Center.

**Decision:** Approved with Conditions

Unless appealed, this decision is effective Thursday, May 11, 2017, at 4:00 PM.

Issued by:



Lisa Estrin, Planner

For: Michael Cerbone, AICP  
Planning Director

Date: Thursday, April 27, 2017

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-0167 or [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us).

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Thursday, May 11, 2017 at 4:00 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 35.3325(D), MCC 35.3355, MCC 35.3360(B), MCC 35.3370, MCC 35.3385, MCC 35.7790

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [multco.us/landuse/zoning-codes](http://multco.us/landuse/zoning-codes) under the link *Chapter 35: East of Sandy River Rural Plan Area*.

## **Conditions of Approval**

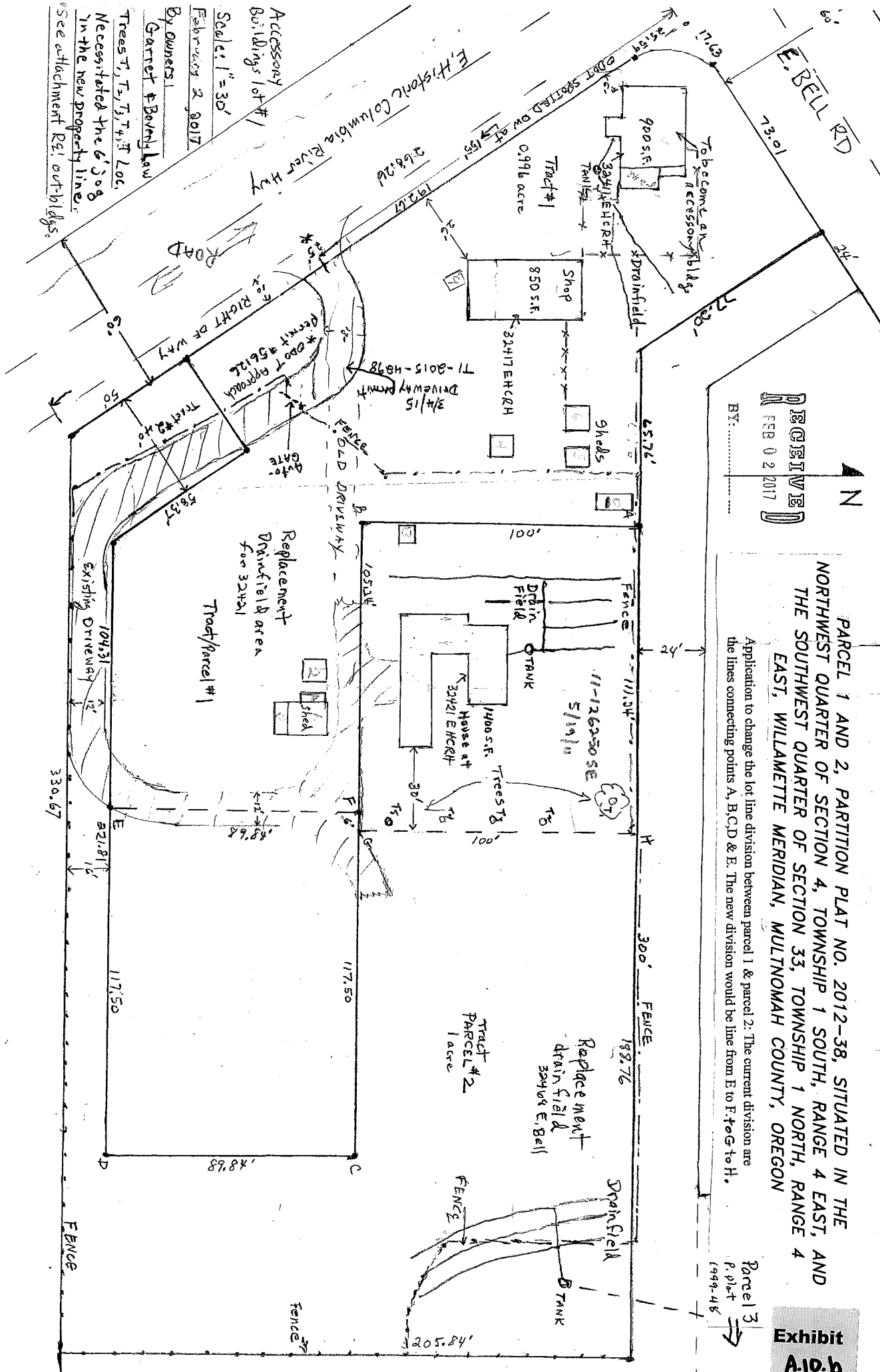
The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(A). The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695. The request for a permit extension must be submitted prior to the expiration of the approval period.**
3. The approved property line adjustment shall be finished by recording a new plat to reconfigure Parcel 1 and Parcel 2 of Partition Plat 2012-38.
4. Prior to land use sign off of the new plat to reconfigure Parcel 1 and Parcel 2 of Partition Plat 2012-38, the existing dwelling and its related septic system on Parcel 1 (established in 1910) shall obtain all necessary building permits to be decommissioned. The decommissioning of the dwelling into an accessory building shall meet the accessory building standards of MCC 35.3320(F). If the property owners wish to maintain physical improvements not permissible pursuant to MCC 35.3320(F), an Accessory Use Determination as required by MCC 35.3325 shall be applied for and approved before the property line adjustment can be completed.

BY \_\_\_\_\_

Application to change the lot line division between parcel 1 & parcel 2: The current division are the lines connecting points A, B,C,D & E. The new division would be line from E to F, F to G to H

**Exhibit  
A-10.b**



5. No additional lot or parcel shall be created through this process. [MCC 35.7790(A)]
6. Prior to recording the plat to complete the property line adjustment, the property owner or representative thereof, shall submit copies of the draft plat to Multnomah County Planning for verification that the adjusted properties conform to the approved Tentative Plan Map. If the submitted documents conform to the approved Tentative Plan Map (Exhibit A.8) and zoning requirements, planning staff will sign the plat when it is ready to be recorded. Land Use Planning must sign the plat before it can be recorded.
7. After the Planning Director and County Surveyor have signed off on the Plat, the property owners shall record the plat with the County Recorder's office. Please note that state law requires that property taxes be paid before a plat can be recorded.
8. Prior to land use sign off for the plat, the property owner shall indicate in writing whether they wish to obtain a land use approval for a produce stand as required by MCC 35.3325(B). If the property owner wishes to apply for a produce stand, they shall contact Code Compliance at 503.988.5508 to enter into a Voluntary Compliance Agreement. No flowers or produce shall be sold from the flower stand or property without first obtaining an Administrative Decision by the Planning Director for the "Wholesale or retail sales, limited to those products raised or grown on the premises..."
  - a. If the flower stand is to remain, it shall demonstrate compliance with the minimum street side yard requirement of MCC 35.3355(C) before the final plat is signed by Land Use Planning. The property owner shall obtain a land use permit to authorize the structure.
  - b. If the applicant has decided not to apply for a produce stand permit, the flower stand shall be removed from the property before the final plat can be signed by Land Use Planning. [MCC 37.0560, MCC 35.3315 and MCC 35.3325(B)]
9. Prior to land use sign off of the plat, the hoop house (#10) shall be moved to comply with the minimum side yard requirements of MCC 35.3355(C) or removed from the property. The property owner shall obtain a land use permit to authorize the structure.
10. Prior to land use sign off of the plat, all exterior lighting on existing and to be modified buildings shall be modified, if necessary, to comply with the County's Dark Sky Lighting Standards listed in MCC 35.0570.
11. Prior to land use sign off of the plat, the property owner shall contact Code Compliance at 503.988.5508 to set up a site inspection to verify that Conditions 4, 8, 9 and 10 have been met.

**Note:** When ready to have the plat reviewed, the applicant shall call the Staff Planner, Lisa Estrin at (503) 988-0167 or [lisa.m.estrin@multco.us](mailto:lisa.m.estrin@multco.us), for an appointment for review plat. Please note, Land Use Planning must review and sign the plat before it is recorded.

**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **1.00 Project Description:**

**Staff:** The applicants are proposing to adjust the property line between Parcel 1 and Parcel 2 of Partition Plat 2012-38. Parcel 1 is currently 43,397 sq. ft. in size (0.996 of an acre). After the adjustment, Parcel 1 will be 43,964.8 sq. ft (1.009 acre). Parcel 2 is currently 43,560 sq. ft (one acre). After the adjustment, it will be 42,992.2 sq. ft (0.986 of an acre). It appears the chief reason for the property line adjustment is to transfer the existing 1,506 sq. ft. dwelling currently on Parcel 2 to Parcel 1. The applicant is proposing to decommission the existing dwelling on Parcel 1 and convert it to an accessory storage building, so that only one dwelling will be on the property. After completion of the property line adjustment, Parcel 2 will be a vacant parcel.

### **2.00 Property Description & History:**

**Staff:** Parcel 1 is currently occupied by a 880 sq. ft. single family dwelling (32411 E. Hist. Columbia River Hwy), a 840 sq. ft. accessory shop building, a 200 sq. ft. metal shed, a 64 sq. ft. plastic storage shed, a 64 sq. ft. wood shed, a 100 sq. ft. garden shed, a 145 sq. ft. recycling and storage shed, a 48 sq. ft. flower stand, and a 72 sq. ft. hoop house. The property currently has approximately 1,533 sq. ft. of accessory buildings. (Exhibit A.10)

Parcel 2 contains a 1,506 sq. ft. single family dwelling which was originally constructed in 1905. In addition, it contains a 36 sq. ft. chicken coop. No other outbuildings are shown on the Accessory Building Map (Exhibit A.10).

In March 2012, Land Use Planning approved a Category 3 Land Division and Lot of Exception. Partition Plat 2012-38 was recorded on May 3, 2012.

### **3.00 Property Line Adjustment Criteria:**

#### **3.01 § 35.3325 REVIEW USES**

##### **(D) Property Line Adjustment pursuant to the provisions of MCC 35.3360.**

**Staff:** The applicant is proposing a property line adjustment (Exhibit A.1 & A.2).

#### **3.02 § 35.3360 ...AND PROPERTY LINE ADJUSTMENTS**

##### **(B) Property Line Adjustment**

**Pursuant to the applicable provisions in MCC 35.7790, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.**

**Staff:** Based on the findings in Section 3.15, both Parcel 1 and Parcel 2 are each an individual Lot of Record. The applicant is requesting a property line adjustment between these two Lots of Record.

#### **3.03 (1) The following dimensional and access requirements are met:**

##### **(a) The relocated common property line is in compliance with all minimum**

yard and minimum front lot line length requirements;

**(b) If the properties abut a street, the required access requirements of MCC 35.3385 are met after the relocation of the common property line; and**

**Staff:** Based on the findings in Section 3.06, the buildings and structures on Parcel 1 and Parcel 2 will meet the minimum yard requirements of MCC 35.3355(C) as conditioned. Parcel 1 will have a minimum front lot line length of 73.01 feet adjacent to E. Bell Road right-of-way (Exhibit A.8). Parcel 2 will have a 50 ft front lot line length adjacent to E. Historic Columbia River Highway right-of-way (Exhibit A.8). Each parcel will continue to have road frontage on a public right-of-way as required by MCC 35.3385. *Criteria met.*

**3.04 (2) At least one of the following situations occurs:**

**(a) The lot or parcel proposed to be reduced in area is larger than 1 acre prior to the adjustment and remains 1 acre or larger in area after the adjustment, or**

**(b) The lot or parcel proposed to be enlarged in area is less than 2 acres in area prior to the adjustment and remains less than 2 acres in area after the adjustment.**

**Staff:** Parcel 1 is currently 43,397 sq. ft. in size (0.996 of an acre). After the adjustment, Parcel 1 will be 43,964.8 sq. ft (1.009 acre). Parcel 2 is currently 43,560 sq. ft (one acre). After the adjustment, it will be 42,992.2 sq. ft (0.986 of an acre). *Criteria met.*

**3.05 § 35.3355 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS**

**(A) Except as provided in MCC 35.3360, 35.3370, 35.3375 and 35.4300 through 35.4360, the minimum lot size for new parcels or lots shall be one acre.**

**(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

**Staff:** Parcel 1 will be one acre after the Property Line Adjustment. With the additional 150 sq. ft from the public right-of-way, the area calculated for Parcel 2 would increase from 42,992 sq. ft. to 43,142 sq. ft. (0.99 of an acre). Parcel 2 may be reduced below one acre in size pursuant to the Property Line Adjustment regulations in MCC 35.3360. *Criteria met.*

**3.06 (C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

\* \* \*

**Minimum Front Lot Line Length – 50 feet.**

**(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.**

**Staff:** No additional right-of-way is needed for either E. Bell Road or E. Historic Columbia River Highway so the minimum yard requirements are those listed in (C). Proposed Parcel 2



will have no structures located on it after the property line adjustment (Exhibit A.8). The Tentative Plan Map (Exhibit A.8) and the Accessory Building Map & List (Exhibit A.10) shows the following setbacks for each building after the completion of the property line adjustment on Parcel 1:

Building	Front	Side (Closest)	Street Side	Rear
New Acc Bldg (old dwelling) (#8)	13 ft	43 ft	6 ft	228 ft
Shop (#7)	78 ft	23 ft	26 ft	155 ft
New Dwelling	190 ft	48 ft	120 ft	105 ft
Metal Shed (#1)	245 ft	27 ft	130 ft	59 ft
Plastic Storage Shed (#2)	237 ft	46 ft	117 ft	68 ft
Chicken Coop (#3)	181 ft	65 ft	93 ft	104 ft
Woodshed (#4)	133 ft	46 ft	84 ft	155 ft
Hoop House (#10)	120 ft	2.5 ft	124 ft	175 ft
Garden Shed (#5)	115 ft	19 ft	104 ft	167 ft
Recycling & Storage Shed (#6)	105 ft	19 ft	91 ft	170 ft
Flower Stand (#9)	117 ft	68 ft	28 ft	153 ft

Four of the existing buildings do not meet at least one of the required yards. Two of the buildings (#8 & #7) are legal nonconforming structures to the required yards as they were constructed prior to zoning. The hoop house (#10) and flower stand (#9) have not been authorized by land use at their existing locations so they are not nonconforming structures. Both are very moveable structures and can be made to meet the required yards of MCC 33.3355(C). A condition of approval has been included that these structures be demolished or moved to meet the dimensional requirement before the property line adjustment can be completed. *Through a condition, these criteria will be met.*

- 3.07 (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

**Staff:** None of the existing accessory structures exceed the 35-ft height limitation. *Criterion not applicable.*

- 3.08 (F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, required parking, and yard areas shall be provided on the contiguous ownership.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces that are greater than 400 square feet in area. The system shall be**

**adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

**Staff:** The County Sanitarian has reviewed the proposed property line adjustment and finds that on-site sewage disposal can be provided on each of the proposed parcels (Exhibit A.5). Stormwater will be reviewed when new development is proposed for Parcel 2. *Criterion met.*

- 3.09 (G) Grading and erosion control measures sufficient to ensure that visible or measurable erosion does not leave the site shall be maintained during development. A grading and erosion control permit shall be obtained for development that is subject to MCC Chapter 29.**

**Staff:** No ground disturbance is proposed at this time. *Criterion not applicable.*

- 3.10 (H) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:**
- (1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU zone; or**
  - (2) Where the farm use does not occur on land in the EFU zone, the owner shall record a covenant that states he recognizes and accepts that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.**

**Staff:** Parcel 1 is not adjacent to farm uses. Parcel 2 will need to record the covenant at time a new dwelling is constructed on it. *Criterion not applicable at this time.*

- 3.11 (I) New, replacement or expansion of existing industrial use buildings shall minimize stormwater drainage impacts by limiting the footprint of the building or buildings to 7,500 square feet of the maximum 15,000 square feet.**

**Staff:** No industrial buildings exist on the property. *Criterion not applicable at this time.*

- 3.12 (J) All exterior lighting shall comply with MCC 35.0570.**

**Staff:** A condition of approval has been included requiring Parcel 1 to comply with the County's Dark Skies ordinance listed in MCC 35.0570. *Through a condition, this criterion will be met.*

- 3.13 § 35.3370 LOT OF RECORD**

**(A) In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:**

- (1) July 10, 1958, SR and R zones applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RC zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change to RC for some properties, Ord. 395**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004 applied a minimum 2 acre lot size to RC zoned areas outside "acknowledged unincorporated communities" except where properties are within one mile of the**



Urban Growth Boundary the minimum is 20 acres;

(7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 35.3385, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 35.3360, 35.3375, and 35.4300 through 35.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest.

(3) An area of land created by court decree.

**Staff:** The two parcels were created by Partition Plat 2012-038 in August, 2012. The partition plat was approved by land use decision, T2-2011-1719. Both parcels are currently discrete Lots of Record. Provided the process is completed properly by recording a new plat to achieve the property line adjustment, the two modified parcels will remain discrete Lots of Record.

### 3.14 § 35.3385 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 35.3370(B).

**Staff:** Both parcels will continue to front onto a public right-of-way. Parcel 1 will front onto E. Bell Road and the Historic Columbia River Highway. Parcel 2 will also have road frontage onto the Historic Highway. *Criterion met.*

### 3.15 § 35.7790 PROPERTY LINE ADJUSTMENT

A property line adjustment is the relocation of a common property line between two abutting properties. The Planning Director may approve a property line adjustment based upon findings that the following standards are met:

(A) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

(B) Owners of both properties involved in the property line adjustment shall consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and

(C) The adjusted properties shall meet the approval criteria for a property line adjustment as given in the underlying zoning district; and

(D) The procedure and forms shall be submitted for obtaining approval of a property

**line adjustment as provided for by the Planning Director.**

**Staff:** The proposed property line adjustment starts with two legal parcels and will end with two parcels. No additional parcel will be created. A condition of approval has been included to ensure compliance with (A). All property owners have consented in writing to the proposed adjustment (Exhibit A.1). The proposed adjustment has met the approval criteria listed in the SRC zone (MCC 35.3360). The applicant has followed the procedure and used the forms provided by the Planning Director for the property line adjustment. *Criteria met.*

#### **4.00 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Property Line Adjustment in the Springdale Rural Center zone. This approval is subject to the conditions of approval established in this report

#### **5.00 Exhibits**

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

Exhibits with a “\*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2017-6582 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	Property Line Adjustment Application	1/03/2017
A.2	1	Revised Property Line Adjustment Application	1/06/2017
A.3	4	General Warranty Deed for Oregon Deed Restriction dated 11/01/2016	
A.4	1	Exhibit Map Showing Partition Plat 2012-38	1/03/2017
A.5	2	Septic Review Certification and Signed Site Plan	1/03/2017
A.6	1	Aerial Photo of Site	1/03/2017
A.7	1	Easement Map	1/03/2017
A.8	1	Tentative Plan Map	1/03/2017
A.9	1	Floor Plan of the Existing Dwelling on Tract 1	1/03/2017
A.10	2	List of Accessory Buildings on Partition Plat #2012-38 and Legend Map	2/02/2017
A.11	1	Features proposed to be removed from existing dwelling on Tract 1 to decommission it. Dated 12/31/2016	2/02/2017
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1S4E04BB - 00106	1/3/2017
B.2	2	A&T Property Information for 1S4E04BB - 00107	1/3/2017

'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	1/31/2017
C.2	1	Complete Letter (Day 1 – February 17, 2017)	3/6/2017
C.3	3	Opportunity to Comment	3/7/2017
C.4	10	Administrative Decision	4/27/2017