

1600 SE 190th 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: T2-2018-10162

Permit: Property Line Adjustment

Location:

Tract 1: 7808 SE 282nd Ave., Gresham

Tax Lot 300, Section 19CB, Township 1 North, Range 4 East, W.M.

Alt. Acct # R994191440 Property ID#R342236

Tract 2: No Address (SE 282nd Ave.), Gresham

Tax Lot 400, Section 19CB, Township 1 North, Range 4 East, W.M.

Alt. Acct # R994190860 Property ID#342186

Applicant: Jamie Van Agtamel, LEI Engineering & Surveying

Owners: Scott Ekstrom

Base Zone: Multiple Use Agriculture - 20 (MUA-20)

Overlays: None

Summary: A request for a property line adjustment to transfer approximately 0.48 acres from Tract 1 to Tract 2 in the Multiple Use Agriculture – 20 (MUA-20) zone. After the completion of the property line adjustment, Tract 1 will be 1.52 acres and Tract 2 will be 4.75 acres.

Decision: Approved with Conditions

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, June 27, 2018 at 4:00 pm.

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.

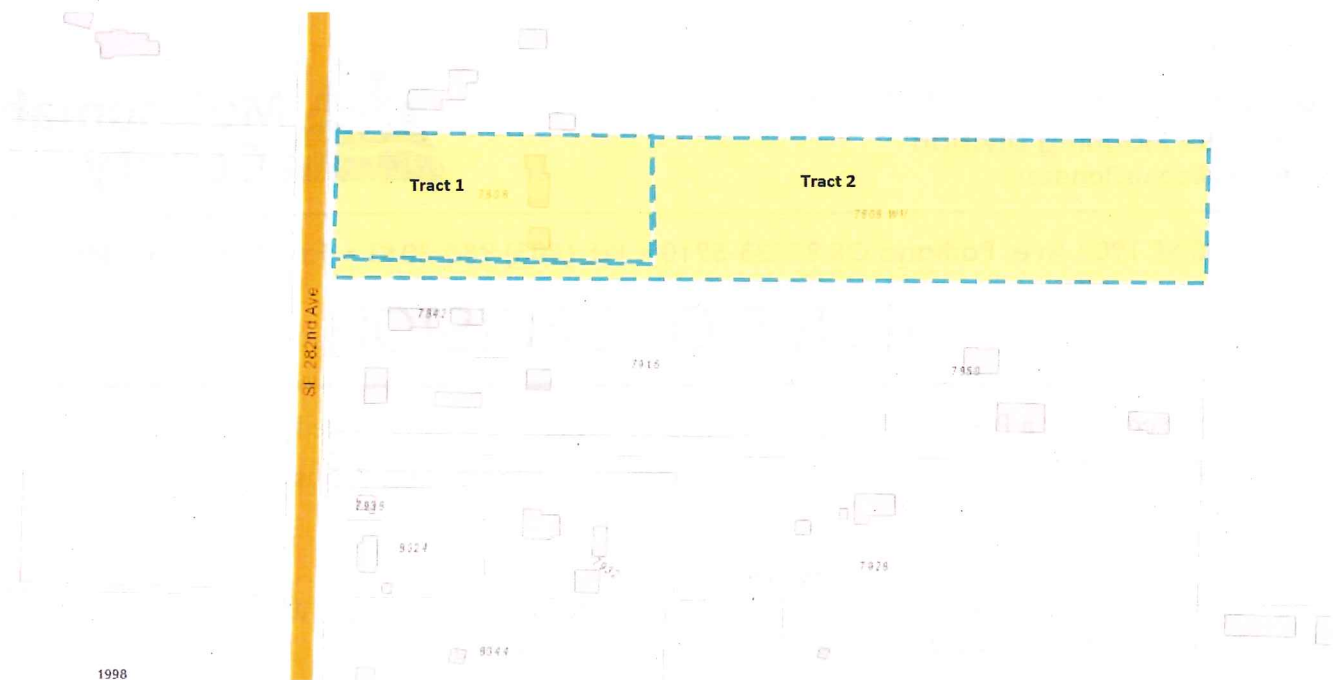
Issued by:



Chris Liu, Asst. Planner

For: Michael Cerbone, AICP
Planning Director

Date: Wednesday, June 13, 2018



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 Chris Liu, Staff Planner at 503-988-2964 or email chris.liu@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC): 37.0560 *Code Compliance*, MCC 36.0005 & MCC 36.2870 *Lot of Record*, MCC 36.2825(C) *Property Line Adjustment*, MCC 36.2855 *Dimensional Requirements*, MCC 36.2860(B) & MCC 36.7790 *Property Line Adjustments*, MCC 36.2885 *Access*

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 at the link *Chapter 36: West of the 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. No additional lot or parcel shall be created through this process. [MCC 36.7790(A)]
3. The approved property line adjustment shall be finished by recording a new plat.
4. 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.3) 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.

5. 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.

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. Project Description:

Staff: The applicant requests a property line adjustment to transfer approximately 0.48 acres from Tract 1 to Tract 2 in the Multiple Use Agriculture – 20 (MUA-20) zone. After the completion of the property line adjustment, Tract 1 will be 1.52 acres and Tract 2 will be 4.75 acres.

2. Property Description:

Staff: The subject properties are located in the Multiple Use Agriculture 20 zone near the border for Clackamas County, immediately outside the Urban Growth Boundary, and approximately a mile away from the city border for Gresham. The surrounding area is a mixture of urban, rural residential, and farm land. SE 282nd Ave. provides access to both properties.

Tract 1 has two lawfully established buildings consisting of an approximately 1800 sq. ft. single-family dwelling and an approximately 890 sq. ft. shop outbuilding. Tract 2 is vacant and utilized for agricultural purposes.

3. Administration and Procedures:

3.1 CODE COMPLIANCE AND APPLICATIONS

MCC 37.0560: Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1)** It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or
- (2)** It is necessary to protect public safety; or
- (3)** It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: Both properties are in full compliance with all applicable provisions of the Multnomah County Code. The two subject properties are each a Lot of Record as discussed in section 4.1 below. The existing single-family dwelling and shop outbuilding located on Tract 1 are lawfully established.

Standard met

4. Multiple Use Agriculture – 20 Approval Criteria:

4.1 LOT OF RECORD

MCC 36.0005: Lot of Record - Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured,

- (a) satisfied all applicable zoning laws and**
- (b) satisfied all applicable land division laws, or**
- (c) complies with the criteria for the creation of new lots or parcels described in MCC 36.7785.**

Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) "Satisfied all applicable zoning laws" shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) "Satisfied all applicable land division laws" shall mean the parcel or lot was created:

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
- 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and 5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)**

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

- 1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.**
- 2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.**

MCC 36.2870(A): In addition to the Lot of Record definition standards in MCC 36.0005, 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 zone 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, MUA-20 zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;
- (6) May 16, 2002, Lot of Record section amended, Ord. 982.

Staff: Staff has reviewed the deed information provided in case #T1-2016-6379 (Exhibit A.9) as part of this property line adjustment application. Staff verifies that the aforementioned deed information demonstrates that each property is an individual Lot of Record.

Staff has therefore determined that Tax Lot 300, Section 19CB, Township 1 North, Range 4 East, W.M. and Tax Lot 400, Section 19CB, Township 1 North, Range 4 East, W.M. are each an individual Lot of Record.

Criteria met.

4.2 REVIEW USES

MCC 36.2825(C): Uses listed in this section may be permitted after required review as Type II decisions pursuant to MCC 37.0510 through 37.0800, or as specified for the use.

(C) Property Line Adjustment pursuant to the provisions of MCC 36.2860.

Staff: The applicable provisions of MCC 36.2860 for the proposed property line adjustment are addressed in section 4.5 below.

Standard met.

4.3 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS

MCC 36.2855: All development proposed in this district shall comply with the applicable provisions of this section.

(A) Except as provided in MCC 36.2860, 36.2870, 36.2875, and 36.4300 through 36.4360, the minimum lot size shall be 20 acres.

(C) Minimum Yard Dimensions – Feet

| Front | Side | Street Side | Rear |
|-------|------|-------------|------|
| 30 | 10 | 30 | 30 |

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

Staff: The subject properties are each a Legal Lot of Record and are less than 20 acres as the zoning in the area at the time of creation had a lower minimum lot size requirement. The existing structure meets the maximum height requirements and the front lot line is approximately 190 feet.

Criteria met.

4.3.1 MCC 36.2855 (B), (D), (E), (F), (G), (H), (I), (J)

Staff: The above standards are not applicable to this proposed property line adjustment application as no new development is proposed.

Standards not applicable.

4.4 ACCESS

MCC 36.2885: 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 for passenger and emergency vehicles. This access requirement does not apply to a preexisting lot and parcel that constitutes a Lots of Record described in MCC 36.2870(B).

Staff: Both parcels involved in the proposed property line adjustment are lots of record. See section 4.1 above.

Standard met.

4.5 LOTS OF EXCEPTION AND PROPERTY LINE ADJUSTMENT

MCC 36.2860(B): Property Line Adjustment Pursuant to the applicable provisions in MCC 36.7790, 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.

(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 36.2885 are met after the relocation of the common property line; and

Staff: The relocated common property line provides a minimum 30 ft. rear yard between the single-family dwelling and the rear lot line. All other minimum yard requirements and lot line length requirements continue to be met following the adjustment (Exhibit A.3 – A.4). Adequate access is provided and was verified by County Transportation Planning.

Criteria met.

4.5.1 (2) One of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 20 acres prior to the adjustment and remains 20 acres or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 40 acres in area prior to the adjustment and remains less than 40 acres in area after the adjustment.

Staff: Both parcels are under 40 acres in area currently and will remain less than 40 acres after the adjustment. Tract 1 will be 1.52 acres and Tract 2 will be 4.75 acres (Exhibit A.3 – A.4).

Criteria met.

4.6 PROPERTY LINE ADJUSTMENT

MCC 36.7790: 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

Staff: No additional lots or parcels will be created as part of the proposed property line adjustment. The common property line between Tract 1 and Tract 2 is proposed to be relocated to reduce the size of Tract 1 and increase the size of Tract 2 (Exhibit A.3 – A.4).

Standard met.

4.6.1 (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

Staff: Scott Ekstrom is the listed property owner on County tax records for the subject properties. Mr. Ekstrom signed the property line adjustment application indicating his consent to the adjustment (Exhibit A.1).

Standard met.

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

Staff: The application successfully demonstrated compliance with the property line adjustment requirements outlined in MCC 36.2860(B). See section 4.5 of this decision.

Standard met.

4.6.3 (D) The procedure and forms shall be submitted for obtaining approval of a property line adjustment as provided for by the Planning Director.

Staff: Applicant Jamie Van Agtmael provided the necessary forms and information for the property line adjustment application (Exhibits A.1 – A.8).

5. Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the property line adjustment to transfer approximately 0.48 acres from Tract 1 to Tract 2 in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

6. Exhibits

‘A’ Applicant’s Exhibits

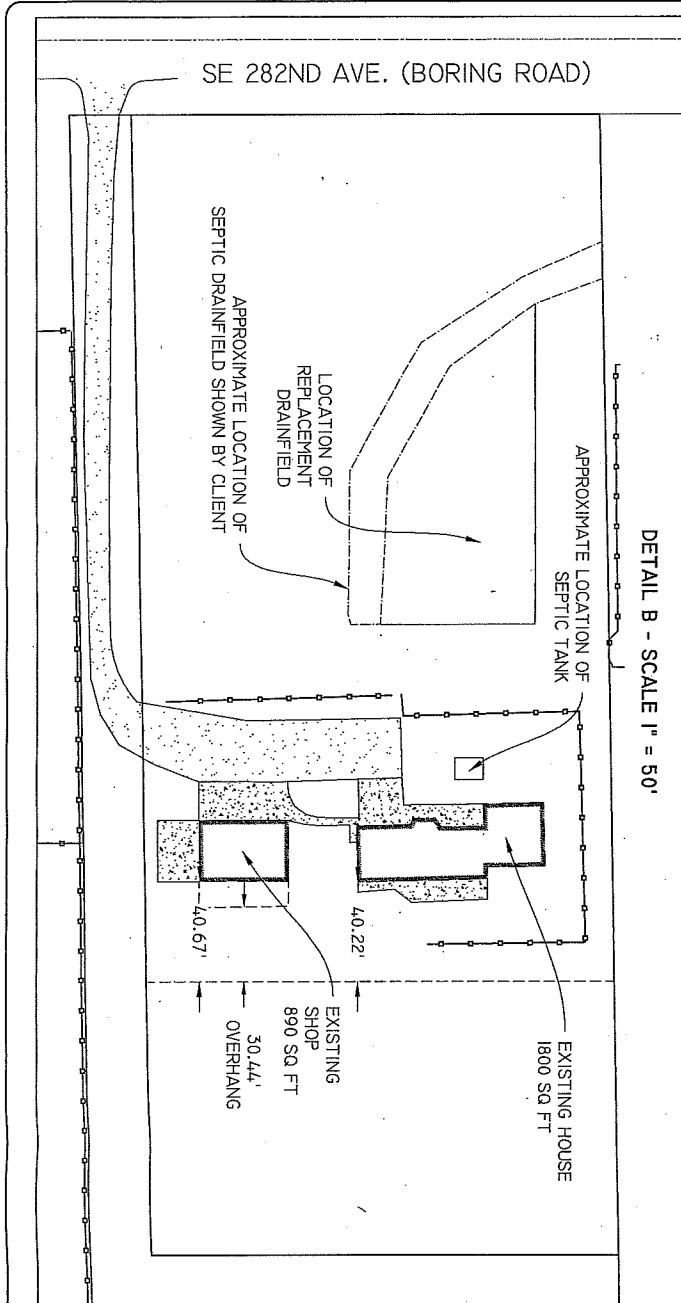
‘B’ Staff Exhibits

‘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 T2-2018-10162 at the Land Use Planning office.

| Exhibit # | # of Pages | Description of Exhibit | Date Received/ Submitted |
|-----------|------------|--|--------------------------|
| A.1 | 2 | Property Line Adjustment Application | 3.20.18 |
| A.2 | 2 | Statutory Warranty Deed recorded on March 18, 2011 at Inst. #2011-034517 | 3.20.18 |
| A.3* | 1 | Tentative Plan Map | 3.20.18 |
| A.4 | 2 | Tentative Survey Plat | 3.20.18 |

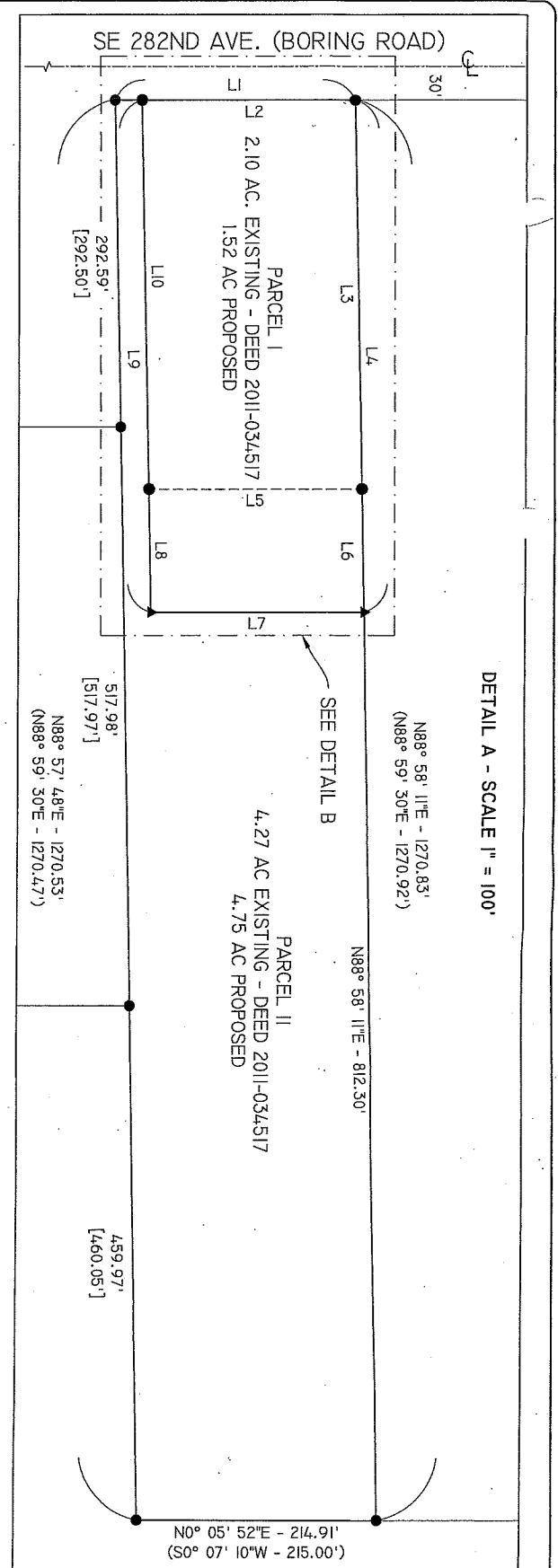
| | | | |
|-----|---|--|---------|
| A.5 | 9 | LEI Engineering & Surveying Stormwater review dated April 3, 2018: a. Storm Water Certificate for Land Divisions & Property Line Adjustments (5 pages) b. Hydrology Analysis and Site Plan dated April 3, 2018 (5 pages) | 4.3.18 |
| A.6 | 1 | Transportation Planning Review | 4.3.18 |
| A.7 | 2 | Septic Review Certification for property ID# R994190860 | 5.16.18 |
| A.8 | 3 | Septic Review Certification for property ID# R994191440 | 5.16.18 |
| A.9 | 4 | Deed information provided in case T1-2016-6379 | 3.20.18 |
| | | | |
| 'B' | # | Staff Exhibits | Date |
| B.1 | 2 | A&T Property Information for 1S4E19CB - 00300 | 3.20.18 |
| B.2 | 3 | A&T Property Information for 1S4E19CB - 00400 | 3.20.18 |
| | | | |
| 'C' | # | Administration & Procedures | Date |
| C.1 | 1 | Complete Letter (Day 1) | 4.20.18 |
| C.2 | 3 | Opportunity to Comment | 4.26.18 |
| C.3 | 9 | Administrative Decision | 6.14.18 |
| | | | |



| LINE TABLE | | |
|------------|---------------|----------|
| LINE # | BEARING | DISTANCE |
| L1 | S0° 00' 00"W | 215.04' |
| (L1) | S0° 00' 00"W | 215.00' |
| L2 | N0° 00' 00"W | 190.00' |
| L3 | N88° 58' 11"E | 348.53' |
| (L4) | N88° 58' 11"E | 458.53' |
| L5 | N0° 00' 00"W | 190.00' |
| (L6) | N88° 58' 11"E | 110.00' |
| (L7) | N0° 00' 00"W | 190.00' |
| (L8) | N88° 57' 48"E | 110.00' |
| (L9) | N88° 57' 48"E | 458.53' |
| L10 | N88° 57' 48"E | 348.53' |

LEGEND:

- FENCE
- DRIVE WAY
- CONCRETE



SCALE
VARIES
PROPORTION
15'-109'
MAP
EX-1

TENTATIVE
PLAN
MAP

LEI ENGINEERING & SURVEYING

2160 Davcor St Se
Salem, Oregon 97302
(503) 399-3828
www.leiengineering.com

"DECADES OF ENGINEERING EXCELLENCE"

PROPERTY LINE ADJUSTMENT
TENTATIVE PLAN MAP
7806 SE 282ND DRIVE

PREPARED FOR:
SCOTT EKSTROM

EXPIRES

MAR 20 2018