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April 21, 2023

VIA EMAIL ONLY

Hearings Officer Joe Turner  
c/o Chris Liu, Land Use Planner  
Land Use Planning Division  
Multnomah County Dept of Comm Serv  
1600 SE 190th Ave,  
Portland, OR 97233

E-Mail: lup-hearings@multco.us and  
chris.liu@multco.us

Re: Appeal of Lightcap Lot of Record Decision-New Evidence

Dear Hearings Officer Turner:

We take this opportunity to provide three maps and a deed demonstrating the interplay between the properties in 1985. From our perspective the Lightcap parcel was a lot of historical lot of record as evidenced by maps (identified as Parcel 1 of the Miller Estate on attached map 1) and under the Chain of Title Exhibit A.4. Again, the effect of the Looney consolidation and partition merely effectuated the correct boundary between the Looney and Lightcap parcel from the deed executed in 1993. No other portion of the Lightcap parcel has changed since it was deeded to them. The parcel that the Lightcap's own is a historical parcel that the Miller's owned and sold to Bernet which predated zoning. Again, we believe that the Looney partition merely had the effect of removing any interest they could claim in the Lightcap parcel. We plan on elaborating on this more during final argument.

We would also like to take this opportunity to reiterate the issue we raised at the hearing on the April 14<sup>th</sup> that because the County most certainly knows the objective here is for the Lightcaps to submit building permits to build a residence on the property to both farm and actively manage the forestry on the property. And therefore the County's regulations are subject to Oregon's Needed Housing statute in particular ORS 197.307(4) which requires that the County only apply clear and objective criteria to regulating housing. And furthermore, the regulations cannot "...either in themselves or cumulatively" discourage needed housing. ORS 197.307(4)(b). We believe that the County continues to frustrate the efforts of the Lightcaps to construct a home on their parcel and by arguing that the property boundary is legal for the Looneys and not for the Lightcaps is not clear and objective, but rather a subjective decision which seems to take process over reality. As our office pointed out at the hearing the County already acknowledged the legal boundary by recording the partition that clearly references the deeds on the face of the document.

Chris Liu, Land Use Planner  
April 21, 2023  
Page 2

We look forward to providing a response next week to the County and our final argument. Thank you for your careful consideration of the additional maps.

Sincerely,

JORDAN RAMIS PC



Jamie D. Howsley  
Admitted in Oregon and Washington

Attachments

cc: Andy and Lisa Lightcap



# First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

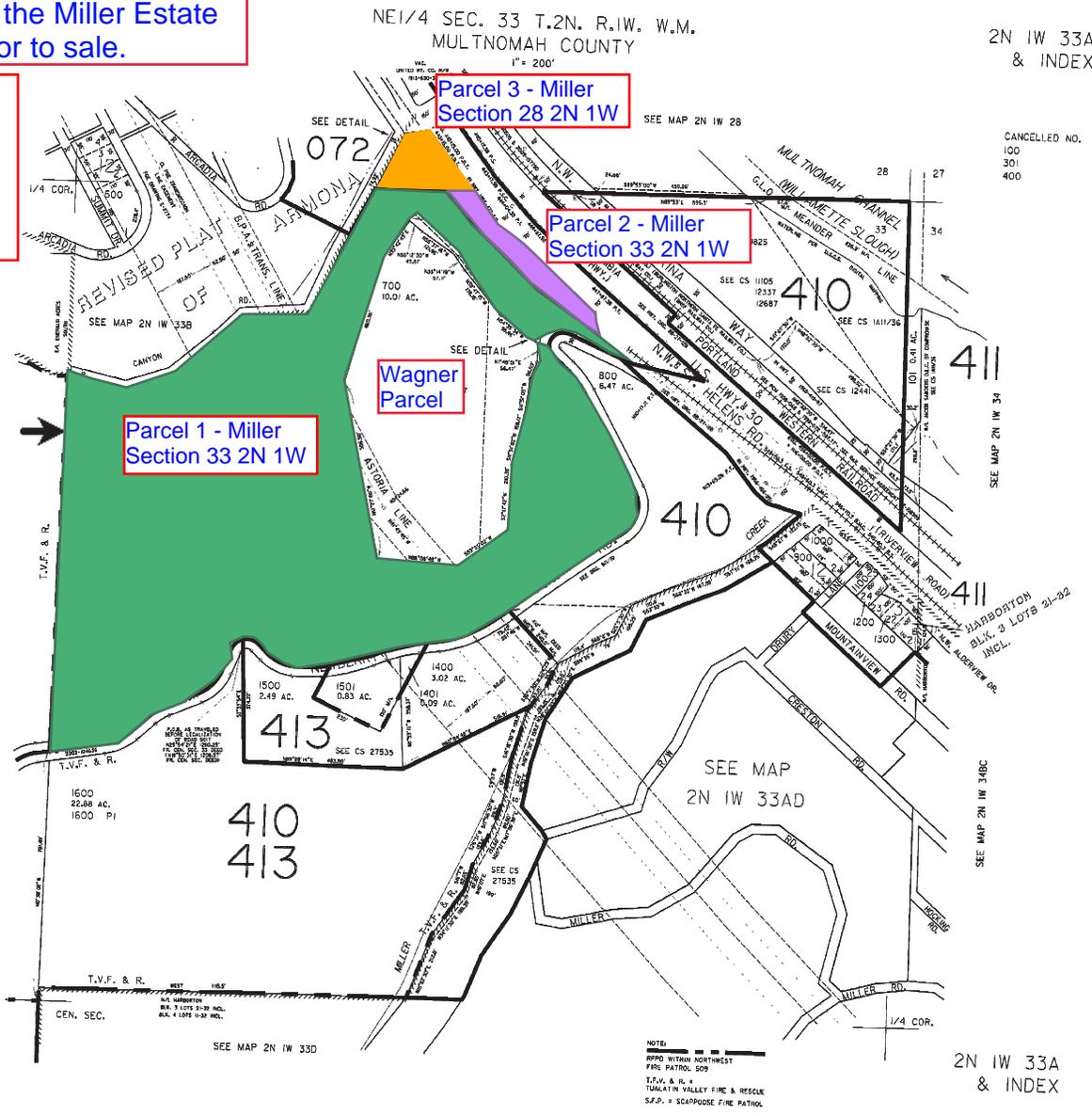
This map is provided as a convenience in locating property  
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey

## Reference Parcel Number 2N1W33A 00600

Classification Map displaying all three parcels of the Miller Estate tract in 1985 prior to sale.

Classification Map Key

- Parcel 1 = Green
- Parcel 2 = Purple
- Parcel 3 = Orange





# First American Title Insurance Company of Oregon

An assumed business name of TITLE INSURANCE COMPANY OF OREGON

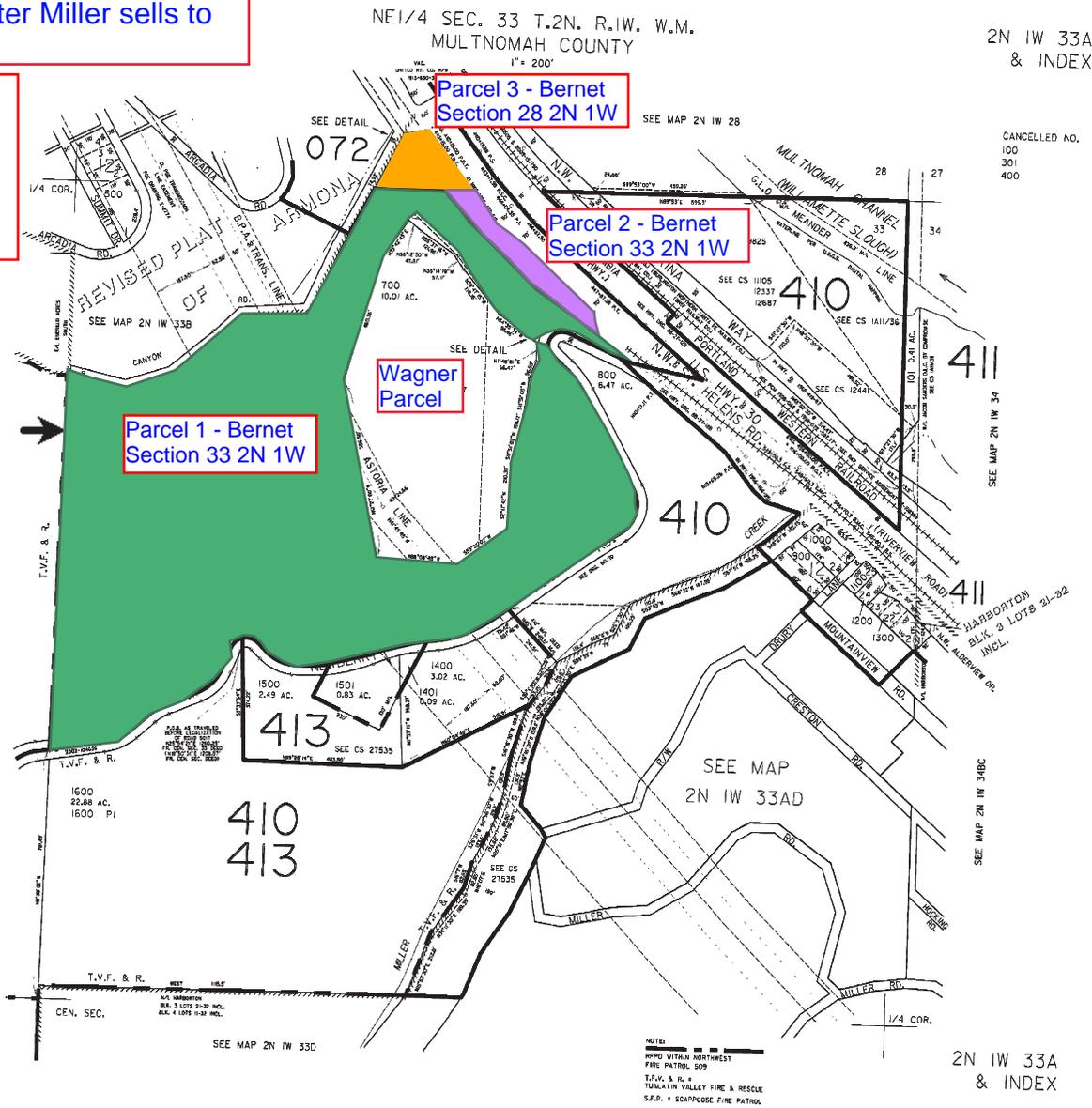
This map is provided as a convenience in locating property  
First American Title Insurance Company assumes no liability for any variations as may be disclosed by an actual survey

## Reference Parcel Number 2N1W33A 00600

Classification Map displaying all three parcels after Miller sells to Bernet in 1985

Classification Map Key

- Parcel 1 = Green
- Parcel 2 = Purple
- Parcel 3 = Orange





# First American Title Insurance Company of Oregon

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## Reference Parcel Number 2N1W33A 00600

Classification Map displaying all three parcels when Bernet sells portions of his tract to Looney in 1985

Classification Map Key  
Parcel 1 = Green  
Parcel 2 = Purple  
Parcel 3 = Orange  
Red Line = Bernet/Looney Line of Interest

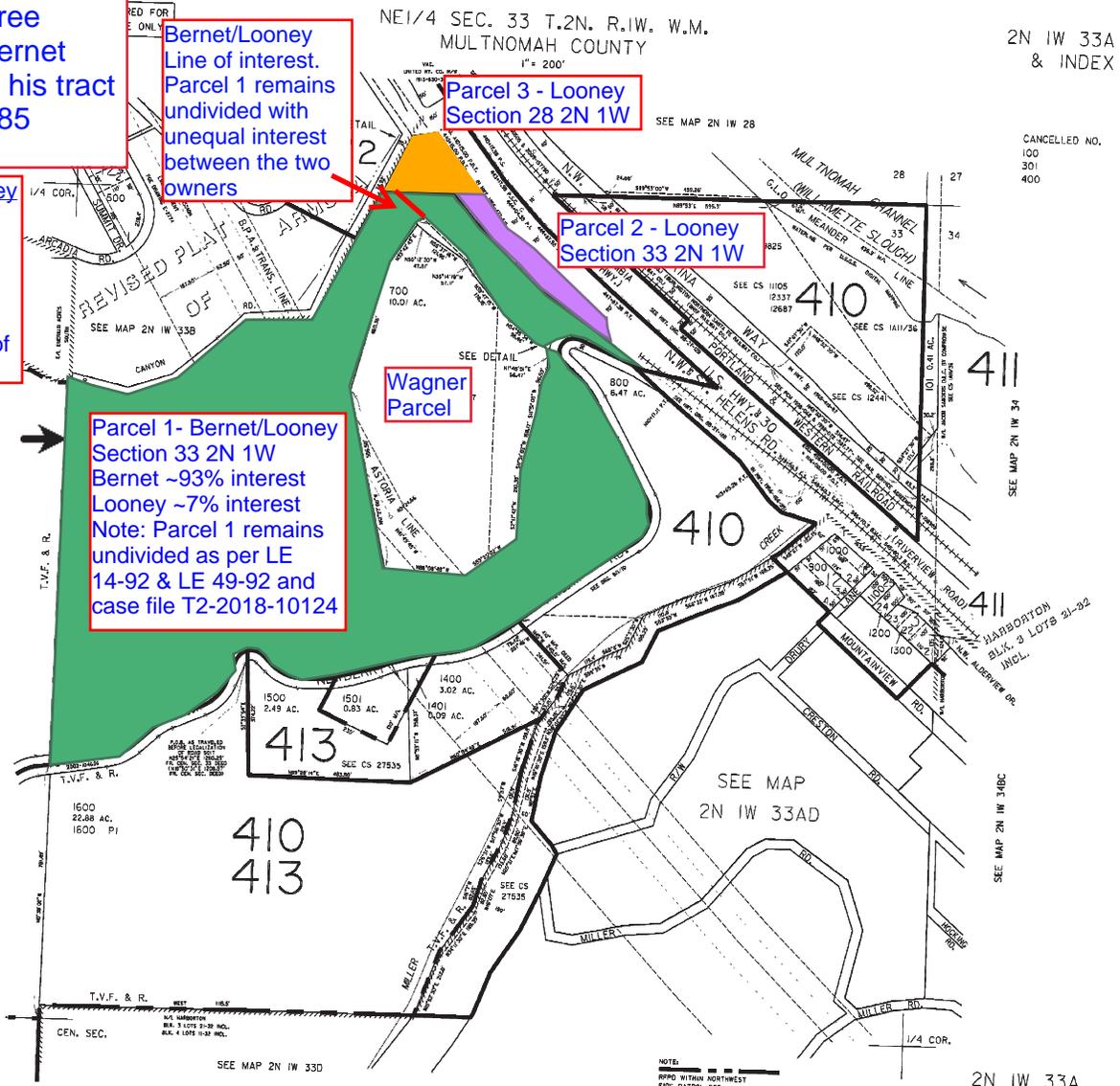
Bernet/Looney Line of interest. Parcel 1 remains undivided with unequal interest between the two owners

Parcel 3 - Looney Section 28 2N 1W

Parcel 2 - Looney Section 33 2N 1W

Parcel 1 - Bernet/Looney Section 33 2N 1W  
Bernet ~93% interest  
Looney ~7% interest  
Note: Parcel 1 remains undivided as per LE 14-92 & LE 49-92 and case file T2-2018-10124

Wagner Parcel



2N 1W 33A & INDEX

CANCELLED NO.  
100  
301  
400

2N 1W 33A & INDEX

541638

FORM No. 1481—OIED—CONSERVATOR (Individual or Corporate).

STEVENS-NESS LAW PUBLISHING CO., PORTLAND, OR. 97204

CA

CONSERVATOR'S DEED

BOOK 1862 PAGE 2227

THIS INDENTURE Made this 30th day of October, 1985, by and between WINONA J. MATHEWS, the duly appointed, qualified and acting conservator of the Estate of ALBERTA E. MILLER, a protected person, hereinafter called the first party, and FRED R. BERNET, individually and dba K.C.B. Construction hereinafter called the second party; WITNESSETH:

For value received and the consideration hereinafter stated, the receipt whereof hereby is acknowledged, the first party has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the said second party and second party's heirs, successors-in-interest and assigns all the estate, right and interest of the said protected person in that certain real property situate in the County of Multnomah, State of Oregon, described as follows, to-wit:

**PARCEL 1:** The following described property in the County of Multnomah and State of Oregon:

That part of the Northeast quarter of Section 33, Township 2 North, Range 1 West of the Willamette Meridian, in the County of Multnomah and State of Oregon, bounded on the west by the half section line running North and South through the center of said Section 33, on the Southeasterly and Easterly side by the Newbury County Road #325 on the Northeasterly side by the St. Helens Road, on the North side by the North line of said Section 33, and on the Northwesterly side by the Southeasterly side of the plat of Aronoma; EXCEPTING therefrom the following described property:

Beginning at a stone monument at road angle four of County Road #325 (said monument being on the Northwesterly side of the road as now traveled) and running thence along the Southerly side of a private roadway North 60° 40' West 41.6 feet to a point; thence North 48° 14' West 102.0 feet to a point; thence North 41° 30' West 74.00 feet to a point; thence North 36° 28' West 121.6 feet to a point; thence North 47° 12' West 189.0 feet to a point beyond said private roadway; thence South 33° 43' West 174.8 feet to a point; thence South 14° 33' West 403.0 feet to a point; thence South 12° 30' East 556.5 feet to a point; thence South 87° 30' East 238.8 feet to a point; thence North 51° 40' East 190.3 feet to a point; thence North 0° 23' East 211.3 feet to a point; thence North 9° 50' East 158.8 feet to a point; thence North 4° 28' East 113.8 feet to a point; thence North 18° 11' East 57.3 feet to a point; thence North 0° 11' West 71.0 feet to the point of beginning; FURTHER EXCEPTING the portions conveyed to the United Railways Company by deed recorded June 19, 1913 in Book 630 page 34 of Deed Records, and to the State of Oregon by deed recorded April 24, 1934 in Book 238 page 393 of Deed Records, in the name of Cecil J. Miller.

Recorded by  
Ticor Title  
Insurance Company

Mathews/Bernet deed  
October 30, 1985  
Description - Page 1 of 4

BOOK 1862 PAGE 2228

**PARCEL 2:** That portion of the following described property lying Northerly of Newbury Road, and Southerly of Canyon Road in the County of Multnomah and State of Oregon:

A strip of land 50 feet in width being 25 feet in width on each side of and parallel with and adjacent to the center line of United Railways Co. Tract across part of the Northeast quarter of the Northeast quarter of Section 33 and part of the Southwest quarter of the Southwest quarter of Section 28, Township 2 North, Range 1 West, ALSO a strip 47-1/2 feet in width being 25 feet in width on the Easterly side and 22-1/2 feet in width on the Westerly side of and parallel with and adjacent to the said center line across the Northwest quarter of the Northeast quarter of Section 33, said center line of tract (now abandoned) being described as follows:

Beginning at quarter corner between Sections 33 and 34, Township 2 North, Range 1 West; thence North along the section line 1310.4 feet to the center line of tract; thence Northwesterly along said center line 405 feet to the center of W.J. Miller Canyon in the Northeast quarter of the Northeast quarter of Section 33 for the true point of beginning of tract described; thence continuing Northwesterly along the said center line of tract 1743.85 feet to the center of Havilik Canyon in the Southwest quarter of the Southeast quarter of Section 28, above being vacated right of way of United Railways Co. as described in Book 630 page 349, Deed Records; EXCEPT the portion in roads, in the name of Cecil J. Miller as to an undivided 1/3 interest and in the name of Cecil J. Miller and Alberta E. Miller as to a 3/2 interest.

Insured by  
Ticor Title  
Insurance Company

**PARCEL 3:** The following described property in the County of Multnomah and State of Oregon:

All that piece or parcel of land lying and being in Section 28, Township 2 North, Range 1 West of the Willamette Meridian, which was conveyed by Verlin Ennis and Ellen E. Ennis to Mamie C. Miller by deed dated November 19, 1898, recorded November 26, 1898 in page 186 in Volume 253, Records of Deeds for Multnomah County, Oregon, described as follows:

Commencing at a point on the Section line between Sections 28 and 33, Township 2 North, Range 1 West of the Willamette

Meridian where the same is intersected by the West boundary line of the Portland and St. Helens County Road, running thence in a Northerly direction along the West boundary line of said County Road 222 feet to South Margin of a ravine thence in a Southwesterly course along the South margin of said ravine 315 feet to the dividing line between Section 28 and 33, Township and range aforesaid; thence East along said dividing line between said Sections 28 and 33 to the place of beginning.

Mathews/Bornet deed  
October 10, 1985  
Description - Page 2 of 4

NOV 5 1985