

# Umatilla County

Department of Land Use Planning

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## AGENDA

Umatilla County Planning Commission Public Hearing  
Thursday, July 23, 2020, 6:30 PM  
VIRTUAL MEETING

*IF YOU WISH TO PARTICIPATE IN THE HEARING PLEASE SUBMIT COMMENTS BY 4PM, JULY 23<sup>RD</sup> 2020, TO PLANNER, MEGAN GREEN, [megan.green@umatillacounty.net](mailto:megan.green@umatillacounty.net) OR CONTACT THE PLANNING DEPARTMENT AT, (541) 278-6252.*

### Planning Commission

Suni Danforth, Chair      Hoot Royer  
Don Wysocki, Vice-Chair      Jon Salter  
Tammie Williams      Lyle Smith  
Tami Green  
Molly Tucker Hasenbank

### Planning Staff

Bob Waldher, Planning Director  
Carol Johnson, Senior Planner  
Megan Green, Planner II/ GIS  
Gina Miller, Code Enforcement Coordinator  
Tierney Cimmiyotti, Administrative Assistant

1.      **Call to Order**

2.      **New Hearing:**

**LAND USE DECISION REQUEST #LUD-271-20: BERN BLISS, APPLICANT/ DIAMOND G TIMBER LIMITED LLC, OWNER.** The applicant requests approval for a Lot of Record Dwelling on Tax Lot 200 on Assessor's Map #6N 35 34A. The applicant proposes a Single Family Lot of Record Dwelling located on high-value farmland. The Land Use Decision standards applicable to the applicant's request are found in Umatilla County Development Code (UCDC) 152.059(K)(3), Lot of Record Dwelling on High Value Farmland.

For further information concerning the above request or to submit written testimony, contact Megan Green, Planner II/ GIS, Umatilla County Planning Department, 216 SE 4<sup>th</sup> Street, Pendleton, Oregon 97801; telephone 541-278-6246; email, [megan.green@umatillacounty.net](mailto:megan.green@umatillacounty.net).

3.      **Minutes from June 25, 2020 Hearing**

4.      **Adjournment**

# Umatilla County

Department of Land Use Planning

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DIRECTOR  
ROBERT  
WALDHER

MEMO

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

**TO:** Umatilla County Planning Commission  
**FROM:** Megan Green, Planner II / GIS  
**DATE:** July 23, 2020

CODE  
ENFORCEMENT

**RE:** July 23, 2020 Planning Commission Hearing  
Lot of Record, Land Use Decision, #LUD-271-20  
Tax Lot 200, Map 6N 35 34A

SOLID WASTE  
COMMITTEE

SMOKE  
MANAGEMENT

**CC:** Robert Waldher, Planning Director

GIS AND  
MAPPING

RURAL  
ADDRESSING

LIAISON, NATURAL  
RESOURCES &  
ENVIRONMENT

### ***Request***

The applicant, Bern Bliss, is requesting approval for a Lot of Record Dwelling on Tax Lot 200 on Assessor's Map 6N3534A. The property is zoned Exclusive Farm Use and is of substandard size at 1.61 acres. Approval of this Land Use Decision results in one (1) dwelling on the property.

### ***Location***

The subject property is located west of the intersection of Sunnyside-Umapine Highway and Winesap Road on the south side of the Sunnyside Rd.

### ***Notice***

Notice of the applicant's request and the public hearing was mailed on July 2, 2020 to the owners of properties located within 750-feet of the subject property's perimeter. Notice was also published in the *East Oregonian* on July 11, 2020 notifying the public of the applicants request before the Planning Commission on July 23, 2020.

### ***Standards***

The Standards of Approval are found in the Umatilla County Development Code Section 152.059(K)(3), Lot of Record Dwelling on High Value Farmland.

Standards for reviewing a Lot of Record on High Value soils includes determining that the lot cannot be practicably managed for farm use (either alone or in conjunction with adjacent land), the Lot of Record Dwelling will not force a significant change in accepted farm or forest practices on surrounding lands and the dwelling will not alter the stability of the overall land use pattern in the area by applying the standards set forth in the impact test.

### ***Background***

Current ownership previously received Land Use Approval for a Lot of Record Dwelling on the subject property in 2007. However, at the time, the property was not recognized to be comprised of unique high value soils by staff. The application

**Memo**

Planning Commission Hearing – July 23, 2020

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was handled administratively and therefore, did not go before the Planning Commission for approval. Instead, approval was granted from County Planning staff. This previous approval was never acted upon.

The applicant provided letters from Virginia and Evelyn Feigner, property owners, which stated that the Feigners are not interested in incorporating tax lot 200 into their existing orchard. The Feigners own tax lots 400 and 501, which abut the subject property. Copies of these letters are included as attachments in the Planning Commission Packets.

***Conclusion***

The proposed Conditions of Approval address general requirements for siting a dwelling on EFU land, including signing and recording a Covenant Not to Sue (for general farming practices) and receiving a zoning permit from County Planning, along with all other necessary permits from local and state agencies.

***Decision***

The decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners.

**UMATILLA COUNTY  
PLANNING COMMISSION HEARING – JULY 23, 2020  
LAND USE DECISION, LOT OF RECORD REQUEST #LUD-2N-271-20  
BERN BLISS, APPLICANT  
DIAMOND G TIMBER LIMITED, LLC, OWNER  
PACKET CONTENT LIST**

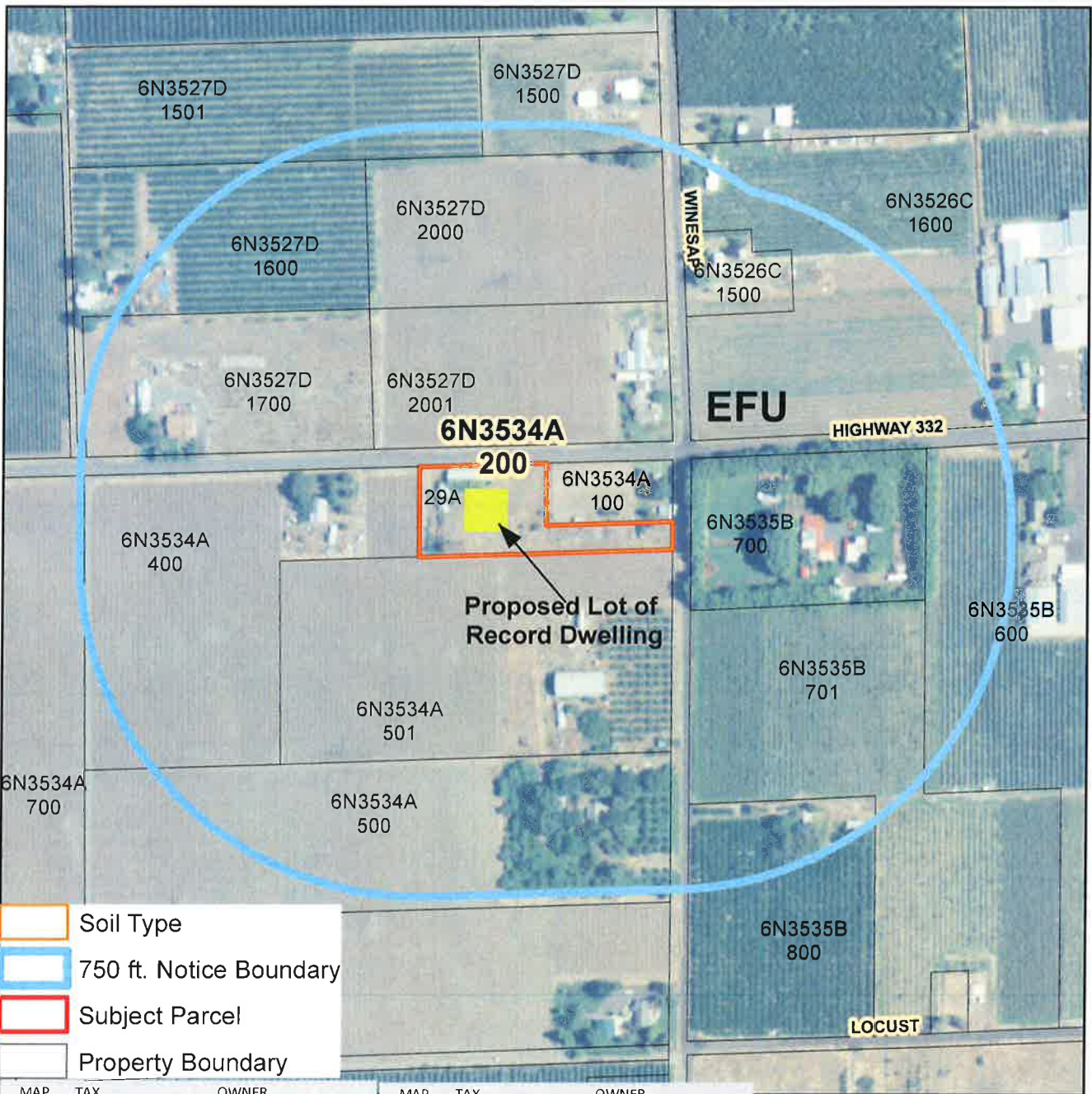
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|---|-------------|
| 1. Staff Memo to Planning Commission                | Pages 1-2   |
| 2. Vicinity and Notice Map                          | Page 5      |
| 3. Impact Test Map                                  | Page 7      |
| 4. Staff Report & Preliminary Findings              | Pages 9-19  |
| 5. Letter from Bern Bliss to nearby property owners | Page 21     |
| 6. Letter from nearby property owners to Bern Bliss | Pages 22-23 |
| 7. Agency Comments                                  | Pages 24-26 |

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**APPLICANT: BERN O. BLISS**  
**OWNER: DIAMOND G. TIMBER LIMITED, LLC**  
**APPLICATION FOR: LOT OF RECORD DWELLING; LUD-271-20**  
**MAP: 6N 35 34 A, TAX LOT: 200**



Notified Property Owners within 750 feet of Tax Lot 200



MAP	TAX	OWNER	MAP	TAX	OWNER
6N3526C	1500	CHRISTOPHERSEN WAYNE & GWYN M	6N3534A	200	DIAMOND G TIMBER LIMITED LLC
6N3526C	1600	LEFORE RONALD A & DONA A	6N3534A	400	FEIGNER EVELYN & FEIGNER VIRGINIA
6N3527D	1500	SLOANE ERIC ET AL	6N3534A	500	FEIGNER EVELYN & FEIGNER VIRGINIA
6N3527D	1501	SHELTON JUDY TASH	6N3534A	501	FEIGNER EVELYN & FEIGNER VIRGINIA
6N3527D	1600	SHELTON JUDY TASH	6N3534A	700	CA MOUNTAIN LLC
6N3527D	1700	CASILLAS FERNANDO JUAN & SUSIE M	6N3535B	600	LEFORE RONALD A & DONA A
6N3527D	2000	FUNK PROPERTIES LLC	6N3535B	700	WELLS MAX DAVID & LINDA KAE (TRS)
6N3527D	2001	FUNK PROPERTIES LLC	6N3535B	701	CAYUSE VINEYARDS LLC
6N3534A	100	PIPER JUDY L	6N3535B	800	DEWALT LARRY D

Soil Type	Non-Irrigated	Irrigated
29A	6s	4s

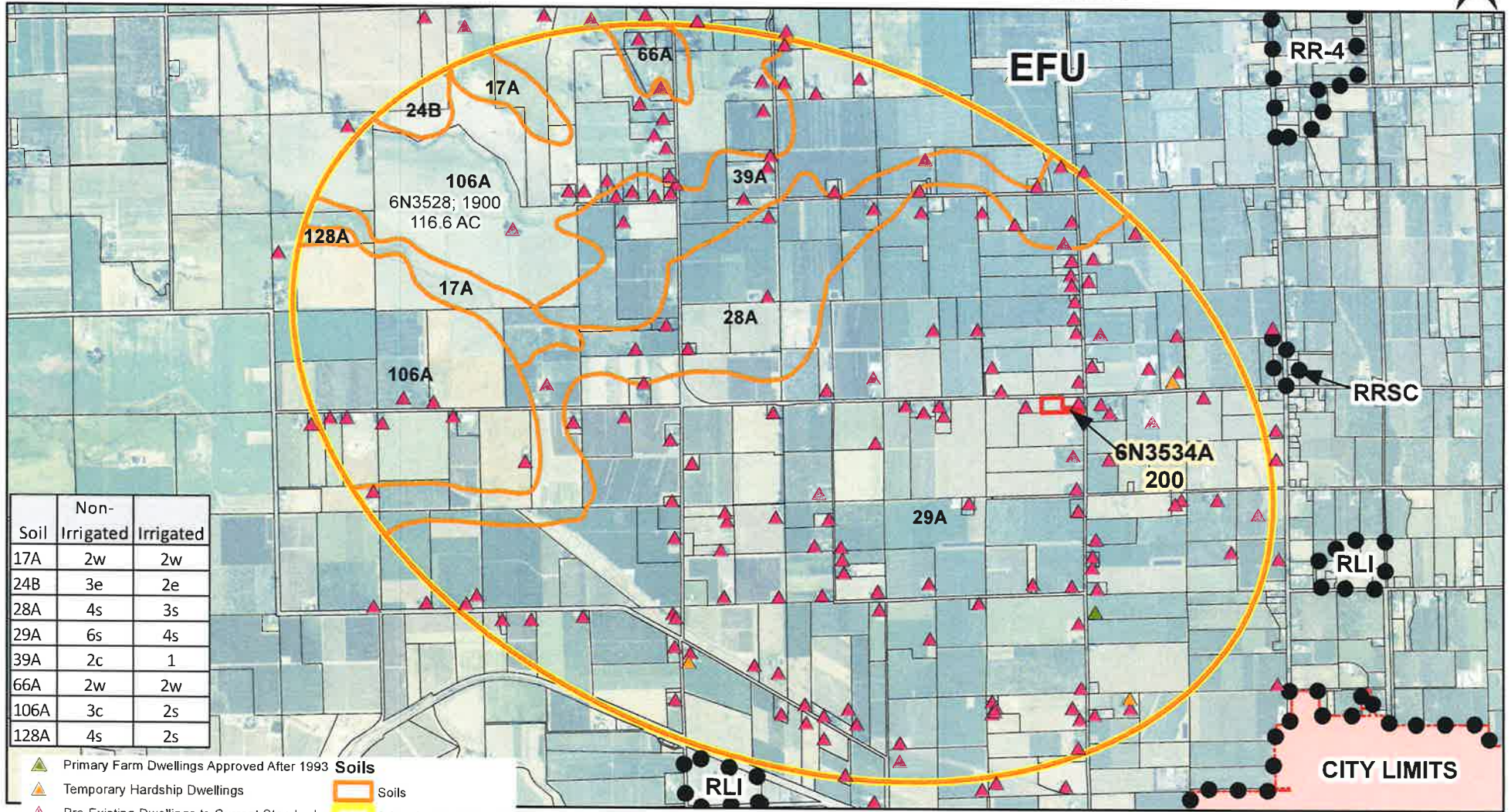
Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department Date: 5/22/2020

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**APPLICANT: BERN O. BLISS**  
**OWNER: DIAMOND G. TIMBER LIMITED, LLC**  
**APPLICATION FOR: LOT OF RECORD DWELLING; LUD-271-20**  
**MAP: 6N 35 34 A, TAX LOT: 200**

# IMPACT TEST



Soil	Non-Irrigated	Irrigated
17A	2w	2w
24B	3e	2e
28A	4s	3s
29A	6s	4s
39A	2c	1
66A	2w	2w
106A	3c	2s
128A	4s	2s

- Primary Farm Dwellings Approved After 1993
- Temporary Hardship Dwellings
- Pre-Existing Dwellings to Current Standards
- Zoning Boundary
- Soils
- 2,000 Acre Impact Area
- City Limits
- Subject Parcel
- Property Boundary



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. Green, Umatilla County Planning Department  
 Date: 5/22/2020



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**UMATILLA COUNTY PLANNING COMMISSION  
PRELIMINARY FINDINGS AND CONCLUSIONS  
BLISS LAND USE DECISION REQUEST, #LUD-271-20  
MAP #6N 35 34A, TAX LOT #200, Account #112261**

- 1. APPLICANT:** Bern O. Bliss, 184 DeHaven Street, Milton Freewater, OR 97862
- 2. OWNER:** Diamond G. Timber Limited, LLC, 14750 SW Springhill Rd, Gaston, OR 97119
- 3. REQUEST:** The applicant is requesting approval for a Lot of Record Dwelling on Tax Lot 200.
- 4. LOCATION:** The subject property is located west of the intersection of Sunnyside-Umapine Highway and Winesap Road on the south side of the Sunnyside Rd.
- 5. ACREAGE:** 1.61 Acres
- 6. PERMITS:** No permits have been issued on this parcel. The current structures on the property predate current permit process. The property received previous Land Use Approval for a Lot of Record Dwelling, however, this approval was not acted upon to completion.
- 7. COMP PLAN:** Orchard District Region Comp Plan Designation
- 8. ZONING:** EFU – Exclusive Farm Use Zone (160 acre parcel minimum)
- 9. ACCESS:** The applicant has provided that the property has three historical access points; two off of Sunnyside Highway and one off Winesap Road. Verification for ingress/egress from ODOT has been obtained, however an Access Permit will need to be provided from Umatilla County Public Works for access on Winesap Road.
- 10. ROAD TYPE:** Sunnyside - Umapine Highway, Highway 332 is a paved state highway, and Winesap Road, County Road No. 625 is paved county road.
- 11. EASEMENTS:** The applicant provides that there are no known easements.
- 12. LAND USE:** The applicant provides that the land has been dormant since 1984. From 1973 to 1984 a shake and shill mill was active. Prior to 1973, the property was used as a box shook mill. The structures from those operations still remain on the property today.

**13. ADJACENT USE:** The property is bounded on the north by Sunnyside Highway. The property to the east of the subject property, tax lot 100, contains a farm dwelling established prior to land use codes. It does not appear that lot 100 has any farm uses on the property. The properties to both the west and south of the subject property are apple orchards.

**14. LAND FORM:** Blue Mountains

**15. SOIL TYPES:** The subject property is comprised solely of high value unique soil. Milton Freewater 28A and 29A are considered unique, and therefore, high value. [High value soils are defined in UCDC 152.003 as Land Capability Class I and II.]

Soil Name, Unit Number, Description	Land Capability Class	
	Dry	Irrigated
29A: Milton Freewater Very Cobbly Loam, 0 to 3 percent slopes <i>Soil Survey of Umatilla County Area, 1989, NRCS.</i> The suffix on the Land Capability Class designations are defined as “e” – erosion prone, “c” – climate limitations, “s” soil limitations and “w” – water (See page 172).	6s	4s

**16. BUILDINGS:** There are two structures on the property (30’ x 40’ and 32’ x 80’) that were used for the previous mill operations. These buildings have not been used for several decades.

**17. UTILITIES:** The property is served by Pacific Power & Light for electric service.

**18. WATER/SEWER:** The applicant plans a septic system to serve the dwelling. The property has an existing domestic well that the applicant provides is in good condition.

**19. FIRE SERVICE:** The property is not located in a fire district, and it is not a subscriber to Milton-Freewater Fire District.

**20. IRRIGATION:** The property is not within an irrigation district and the property does not have known irrigation water rights.

**21. FLOODPLAIN:** This property is not in a floodplain. The property is found in Zone D (“Undetermined flooding”) which is not a special flood hazard zone. The Community Number for Umatilla County is #41059C and the Panel Number that covers this area is # 0435G with an effective date of September 3, 2010. The Panel is printed.

**22. NOTICES SENT:** Hearing notices to adjacent property owners and agencies were sent on July 2, 2020.

**23. NOTIFIED AGENCIES:** County Environmental Health, DLCD – La Grande, OWRD, State Department of Agriculture, Hudson Bay Irrigation District, Walla

Walla River Irrigation District, Umatilla County Assessor, Umatilla County Public Works, ODOT and Pacific Power and Light.

- 24. HEARING:** A virtual public hearing will be held before the Umatilla County Planning Commission on Thursday, July 23, 2020.

**STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE FOR LAND USE DECISIONS, To establish a Lot of Record Dwelling in the EFU Zone.** The standards for approval contained in Section 152.059(K) *Land Use Decision - Dwellings* and are provided in underlined text as follows. The responses are indicated in standard text.

(K) DWELLINGS.

The following permanent, single family dwellings may be authorized in an EFU zone. The dwellings may be conventional “stick built,” modular homes, manufactured homes or mobile homes meeting the definition of a dwelling and the standards in § 152.013(B) (5). All farm dwelling applications are subject to review and comment by the Department of Land Conservation and Development.

When a dwelling is approved through a land use decision in this section, the applicant or landowner must obtain a zoning permit pursuant to § 152.612 (D). The zoning permit will be a condition of the approval; all land use decision conditions of approval must be met within two years of the date of the signed final findings, pursuant to § 152.613 (A). A zoning permit issued for a dwelling approved under this land use decision section is authorized for four years from the date of the signed final findings and may be extended, but not for more than a total of six years from the date of the signed final findings. The date the final findings are signed signifies the final decision unless appealed as provided in § 152.769 (12).

(III) Lot of Record.

(3) A Lot of Record Dwelling under this division may be allowed on high value farmland as defined in § 152.003, if the following standards are met: Umatilla County finds that the soils on this property are predominately high value soils, as determined through information in the *Soil Survey of Umatilla County, 1999, NRCS.*

(a) The lot or parcel in which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner. Owner includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.:

i. Since prior to January 1, 1985; or

ii. By devise or intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985. The property was purchased in 1974 and has been owned continuously by the family, as defined above. The applicant provided ownership documentation with deed records verifying ownership since prior to January 1, 1985. While

ownership has varied over the years between Bern Bliss (applicant), Charles Bliss (Bern's son), and Roger Gildersleeve (Bern's grandson and owner of Diamond G Timber Limited, LLC), Umatilla County Counsel has determined that this Chain of Title qualifies for a Lot of Record Dwelling.

The following details the chain of title that shows the current property owner meets the provision stated above:

- August 28, 2002 Bern O. Bliss and Dorothy M. Bliss, husband and wife convey the property to Diamond G. Timber Limited LLC via a Correction Statutory Warranty Deed, Instrument # 2002-4190294.
- July 1, 2002 Bern O. Bliss and Dorothy M. Bliss, husband and wife convey the property to Diamond G. Timber Limited LLC via a Statutory Warranty Deed, Instrument # 2002-4150388.
- November 5, 2001 Charles R. Bliss conveys to Bern O. Bliss and Dorothy M. Bliss the subject property via a Quick Claim Deed, Instrument #2001-4000085
- September 14, 1979, Intermountain Wood Products, INC conveys the subject property to Charles R. Bliss via a Quick Claim Deed, and recorded under R116, Page 1639.

Umatilla County finds that the applicant/owner has met the criterion above. The criterion is met.

(b) The tract on which the dwelling will be sited does not include a dwelling;  
(c) The lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract; The subject property is a single parcel of land. It was part of a tract prior to November 4, 1993 and that tract has since been consolidated into what is now tax lot 200. There is not and was not previously a dwelling on the tract.

Umatilla County finds that the applicant does not have a dwelling on the parcel, nor on the tract that existed on November 4, 1993. The criterion is met.

(d) The proposed dwelling is not prohibited by and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law; Lot of Record Dwellings are not specifically prohibited or addressed in the County Comprehensive Plan. However, land use regulations have been adopted in the County Development Code for Lot of Record Dwellings and must comply with these adopted standards.

The Umatilla County finds that a Lot of Record Dwelling is allowed in compliance with the standards adopted in the County Development Code for lands zoned Exclusive Farm Use. The criterion is met.



(e) When the lot or parcel on which the dwelling will be sited lies in an area designated in the acknowledged Comprehensive Plan as “critical winter range” the requirements of that zone also apply (see §§ 152.455 through 152.458); Umatilla County finds that the subject property is not within the Critical Winter Range Overly Zone. The criterion is not applicable.

(f) When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed; Umatilla County finds that the subject property is not part of a tract of land. The criterion is not applicable.

(g) To site a Lot of Record Dwelling on high value farmland, the Planning Commission, or the designated Hearings Officer in the county, must determine that:

(i) The lot or parcel cannot practicably be managed for farm use, by itself or in conjunction with other land, due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity; The applicant provides that the subject property is too small to feasibly grow commercial crops. The applicant provides that adjacent land owners would be unable to farm the land in any fashion. Letters are attached from the current property owners, Virginia and Evelyn Feigner, of tax lots 400 and 501, which are adjacent to the subject property and appear to be in farm production. Tax lot 100 is not currently farmed and is mainly used as a residence.

(ii) The Lot of Record Dwelling will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. The applicant provides that the property has been dormant since 1984, when the shake and shingle mill closed. In addition, the applicant provides that the adjacent parcel, tax lot 100 is similar to the subject parcel in both size and crop feasibility. However, tax lot 100 has a pre-existing farm dwelling and has been historically used as a residence.

(iii) The dwelling will not materially alter the stability of the overall land use pattern in the area by applying the standards set forth in the impact test § 152.059 (K) (10).

(K)(10) Impact Test. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of possible new non-farm dwellings and parcels on other lots or parcels in the area similarly situated.

(a) The county shall identify a study area for the cumulative impacts analysis.

The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or Umatilla County Development Code, Revision Date: January 1, 2020, Page 81 of 463 the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural area. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area.

An impact analysis was conducted, Impact Map attached, and included 278 parcels. The list of parcels included in the Impact Area is extensive, and therefore, is available for viewing at the Umatilla County Land Use Planning office. The subject property is located in the Orchards District on the Umatilla County Comprehensive Plan, which previously to 1993, was zoned EFU, 10-acre minimum parcel size. This previous 10-acre minimum zoning is apparent in the land use pattern of the area; the average parcel size in the impact test is 9.17 acres. Due to the subject property's proximity to Milton Freewater City Limits and Residential Zoning, the impact area is skewed toward more EFU properties, nonetheless, the impact area encompasses 2,000 acres of EFU zoning.

Parcels within the impact area depict the overall land use pattern of the area. Generally there are irrigated and non-irrigated crops, as well as land that does not appear to be farmed. Many of the parcels appear to be small farms with dwellings. Land uses are further described in section (b) below.

(b) Within the study area identify the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this provision.

The impact area encompasses many different land uses due to the uniqueness of the area. There are orchards much like those neighboring the subject property, as well as bare non-irrigated lands similar to the subject property. There are also pastures, vineyards and grain crop fields. There are both

irrigated fields and those that are not irrigated and used for dryland crops. Several properties appear to only be used as a residence. Overall, the area is generally composed of small farms that contain dwellings.

There are numerous dwellings located within the impact study area. Of the 278 properties included, 178 contain dwellings. There are 167 pre-existing dwellings, 17 Primary Farm Dwellings that received previous land use approval and 3 Temporary Hardship Dwellings with land use approval, for a total of 186 dwellings. Several properties have two dwellings, both pre-existing and those that received land use approval prior to current regulations.

Dwellings that have been developed since 1993 have been primarily replacement dwellings for pre-existing dwellings and approved Primary Farm Dwellings. Three of the 17 primary farm dwellings were approved under current regulations that were enacted in 1993, while the remaining were legally developed under previous standards.

The largest parcel included in the study is approximately 116 acres, and does not qualify to be divided for the purpose of creating a new farm parcel as it does not exceed the 160-acre minimum for EFU zoning. In addition, it does have a pre-existing farm dwelling and would likely not qualify for a Lot of Record Dwelling.

New development opportunities of non-farm/lot-of record dwellings is severely limited. As previously mentioned, most of the parcels within the study area already contain dwellings. Currently, 100 of the 278 properties do not have dwellings, including the subject property. Many of these non-residential properties are not developed with structures and are actively used for farming.

Soils of the area are entirely high value, they are depicted below as well as on the Impact Test Map. Soils 28A and 29A are classified as unique soils, and therefore are High Value under § 152.003 of Umatilla County Development Code. It would be difficult for a new dwelling to be created as a non-farm dwelling due to the quantity of High Value Soils in the area.

Soil Number	Soil Name	Non-Irrigated	Irrigated
17A	Catherine variant-Catherine silt loams, 0 to 3 percent slopes	2w	2w
24B	Ellisforde silt loam, 1 to 7 percent slopes	3e	2e
28A	Freewater gravelly silt loam, 0 to 3 percent slopes	4s	3s
29A	Freewater very cobbly loam, 0 to 3 percent slopes	6s	4s
39A	Hermiston silt loam, 0 to 3 percent slopes	2c	1
66A	Pedigo silt loam, 0 to 3 percent slopes	2w	2w
106A	Umapine silt loam, reclaimed, 0 to 3 percent slopes	3c	2s

(c) Determine whether approval of the proposed non-farm/lot of record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the sturdy area;

Umatilla County finds that approval of the proposed non-farm/lot of record dwelling would not materially alter the effect of existing farm uses. There are many dwellings in the area, and several pre-existing dwellings that do not necessarily aid farm use, as it is not apparent that the parcels are farmed. In addition, prior to current regulations, the study area was allowed to be divided into smaller parcels for farm management purposes that were compatible with the area. Therefore, the addition of the proposed Lot of Record dwelling would have little to no effect on current farm use.

The subject property, and many of those included in the study area, are under Umatilla County Comprehensive Plan Orchard District Designation. Under that designation, the area is described as: “Certain lands within the Orchards District not developed into orchards or not suitable to tree fruit production have been included within this 10 acre parcel size because they exhibit a similar 5 to 18 acre typical parcel size pattern.”<sup>1</sup> In addition, “1. Under the Orchards District Plan Map designation, it is the intent to allow some flexibility with regard to providing nonfarm dwellings for retired farmers maintaining a retirement life estate, or making use of certain parcels not suited to farming, if found not to be incompatible with farming activities. The criteria to be met for approval of new, non-farm dwellings are: found in ORS 215.284 (7)<sup>2</sup>.” Umatilla County finds that the Orchard District Designation finds some flexibility for non-farm dwellings in order to otherwise use parcels that may not be fit for farming. The applicant states that the subject property would classify into the category as determined above.

(h) A dwelling under this section may be denied if the county determines that approval of the dwelling would:

(i) Exceed the facilities and service capabilities of the area;

(ii) Materially alter the stability of the overall land use pattern in the area; or

<sup>1</sup> Umatilla County Comprehensive Plan, pg. 18-16

<sup>2</sup> Umatilla County has adopted ORS 215.284 into the Development Code under Section 152.059(K)(3), the criteria of ORS 215.284 has been applied and referenced earlier in this document.

(iii) Create conditions or circumstances that the county determines would be contrary to the purposes or intent of its acknowledged Comprehensive Plan or land use regulations. Rural residents expect and receive fewer services than urban residents. If approved, development of the dwelling would still require on-site services for sewer and water resulting in the installation of a septic system, and use of the existing exempt domestic well. Umatilla County does not find that installation of a septic and exempt domestic well usage would exceed the capabilities of the area. The overall land use pattern of the area is small farms with dwellings. The addition of another dwelling on a small parcel would not materially alter the land use pattern. As mentioned in section (g)(iii)(c) above, the Comprehensive Plan Orchard District Designation allows for the creation of non-farm dwellings for parcels that are not suitable for farming. A condition of approval is imposed that the applicant receive all necessary permits from Environmental Health and Oregon Water Resources to establish a septic system and use of the existing domestic well.

Umatilla County finds that the proposed dwelling satisfies the criterion listed above. A condition of approval is imposed that the applicant receive an Access Permit from Umatilla County Public Works for ingress/egress from Winesap Road.

(i) An approved Lot of Record Dwelling application may be transferred by a person(s) who has qualified under this division to any other person(s) after the final approval of the Lot of Record Dwelling decision; A Lot of Record dwelling may be transferred, one time, by the person who has qualified under this division. The person receiving the transfer of the development right to the Lot of Record dwelling may not transfer the approval right further.

Umatilla County finds the condition of approval to allow the qualifying person (applicant) the one time transfer<sup>3</sup> of the development right for the Lot of Record dwelling satisfies the criterion.

(j) The county assessor will be notified when a Lot of Record Dwelling is approved; The County's Assessor's office is listed as a notified agency. Umatilla County finds that the County Assessor's Office shall be notified of the request for a Lot of Record dwelling application. The criterion is met.

(k) The soil class, soil rating or other soil designation set forth by the Natural Resources Conservation Service (NRCS) of the United States Department of Agriculture of a specific lot or parcel may be challenged if the property owner goes through the process as outlined in OAR 660- 033-0045. Not applicable. The applicant has not challenged the soil classifications.

<sup>3</sup> The applicant has not discussed with Planning Staff whether a transfer of the development right is intended.



(l) The County shall provide notice of all applications for Lot of Record Dwellings on high value farmland to the State Department of Agriculture. Notice shall be provided in accordance with the County's land use regulations but shall be mailed at least 20 calendar days prior to the public hearing before the Planning Commission. Umatilla County provided notice to Oregon Department of Agriculture July 2, 2020 which is 20 calendar days prior to the Planning Commission Hearing. This criterion is satisfied.

(m) Sign and record a Covenant Not to Sue as provided in § 152.059 (M) (IX). The applicant and property owner understand that a Covenant Not to Sue is a requirement for dwellings, including Lot of Record dwellings, approved on lands zoned EFU, and has indicated willingness to sign and record a Covenant Not to Sue, as provided in § 152.059 (M) (IX).

Umatilla County finds the precedent condition of approval requiring the property owner to sign and record a Covenant Not to Sue document satisfies the criterion.

**DECISION: BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE UMATILLA COUNTY PLANNING COMMISSION COULD APPROVE THE BLISS LAND USE REQUEST, UPON COMPLETION OF THE CONDITIONS LISTED BELOW.**

Precedent Conditions: The following "precedent" condition must be fulfilled prior to final approval of this request, signified by issuance of a County Zoning Permit.

1. Sign and record a Covenant Not to Sue Agreement. The Agreement will be provided by the County Planning Department.
2. Receive an Access Permit for ingress/egress from Winesap Road from Umatilla County Public Works.

Subsequent Conditions: The following subsequent conditions are fulfilled and followed after satisfaction of the precedent condition.

3. Obtain a Zoning Permit from the Umatilla County Planning Department, to place or construct a Lot of Record dwelling on the qualifying property. In order to receive approval of the Zoning Permit, provide a detailed site plan showing the location of the proposed Lot of Record dwelling, setback distances to property lines, access driveway, utility easements and the location of existing structures, etc.
4. Obtain all permits necessary for development. Approval from Umatilla County Environmental Health and Oregon State Building Codes is required after receiving Zoning Permit approval.

5. An approved application for a single family dwelling may be transferred *one time* by a person(s) who has qualified under this division to any other person(s) after the effective date of approval of the Lot of Record dwelling decision.
  
6. Authorization to place the Lot of Record dwelling on the qualifying property is valid for four years, with a possible two year extension if applied for through the County Planning Department prior to expiration of the four year approval date. Within this period of time the dwelling must be constructed and receive final inspection by Oregon State Building Codes. Since this approval is for a Lot of Record Dwelling, the development rights may be transferred one time to another person, the new owner must also adhere to this same development timeframe listed in this condition. In both situations, the four year time clock begins on the date the Zoning Permit is issued (condition number 3 above) and unless an extension is approved for an additional two years, the approval will expire. If the Lot of Record Dwelling approval expires, then the current land owner would need to re-apply with no guarantee that future approval could be granted.

UMATILLA COUNTY PLANNING COMMISSION

Dated \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Suni Danforth, Planning Commission Chair

Mailed \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

## **ATTACHMENTS**

March 31, 2020

Bern Bliss  
184 DeHaven Street  
Milton-Freewater, Oregon 97862

Greg Feigner, Virginia Feigner, Evelyn Feigner  
84172 Winesap Rd  
Milton-Freewater, Oregon 97862

RE: old mill site property abutting Winesap Rd and Sunnyside Rd, tax lot # 6N3534A000200

Dear Greg, Virginia, Evelyn

My son Charles spoke with Virginia recently regarding our old mill site property that abuts the Feigner Orchard adjacent to Winesap Rd and Sunnyside Rd. As you are aware the old mill has been dormant for the past 35 years or so. I transferred title to that parcel to my grandson RK Gildersleeve about 20 years ago as security for a loan to help me through a difficult financial challenge. Subsequently I was obliged to quit claim deed the property to my grandson, dba Diamond G Timber Limited LLC, who holds title to the property. For a time, I had thought our family might find some way to use the property in some farm related purpose, but that proved elusive as it has been essentially impossible to cost justify farming such a small parcel, so the property has remained dormant.

I have made application (see attached copy) for my Grandson, applying to Umatilla County Planning for a Lot of Record permit to put a dwelling on the property based on family chain of title grandfather provision under historical use prior to the implementation of the county comprehensive land use plan and current zoning went into effect.

**The Umatilla County Planning department is reviewing the application. As part of their review of our application, they have requested that we contact you as adjacent land owner, to see if your family may be interested in purchasing that 1.61 acre mill property to add to your existing orchard land.**

If you **are interested** in purchasing the property, we could set up a time to meet and discuss.

If you are **not interested** in purchasing the property, the Umatilla County Planning Department has requested that we obtain a letter from you documenting that we contacted you to see if you **might** be interested in purchasing the property, along with your statement declining interest in potential purchase of the old mill property.

I have enjoyed my life-long friendship with your family over the years and I respect your possible interest in property. We will appreciate your prompt response.

Sincerely,

Bern Bliss



enc: application for Lot of Record permit to put a dwelling on tax lot # 6N3534A000200

cc RK Gildersleeve, dba Diamond G Timber Limited, LLC 14750 SW Springhill Rd, Gaston, Oregon 97119  
cc Megan Green, Umatilla County Planning 216 SE 4<sup>th</sup> Street, Pendleton, Oregon 97801

RECEIVED

APR 08 2020

UMATILLA COUNTY  
PLANNING DEPARTMENT

April 1, 2020

Virginia Feigner, Evelyn Feigner, Greg Feigner  
84172 Winesap Rd  
Milton-Freewater, Oregon 97862

Bern Bliss  
184 DeHaven Street  
Milton-Freewater, Oregon 97862

RE: old mill site property tax lot # 6N3534A000200

Dear Bern,

Thank you for contacting our family regarding our possible interest in purchasing the old mill site.

In response to your inquiry whether or not we would be interested in purchasing the 1.6 acre property which abuts our orchard land tax lot numbers # 6N3534A000400 and # 6N3534A000501 to add that small acreage to our existing orchard, the short answer is no.

From our perspective it is not economically feasible; to begin with, besides the up-front cost of purchasing the land, the significant additional up-front costs of clearing off the land, removing the dilapidated old mill buildings, sawdust burner, conveyers, log-dump jammer would be very substantial.

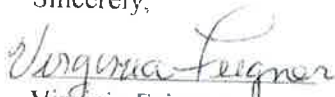
We would also have additional substantial up-front costs to repurpose/redevelop the property including, creating the planting layout, extending underground irrigation lines, preparing the soil, planting new fruit trees, and installing boundary fencing.

Beyond the up-front costs, which for us at this time are prohibitive, the reality is we would have the additional annual costs to irrigate, mow, fertilize, and protect the trees with dormant sprays and pay taxes on that parcel for several years before it would begin to produce any crop income to offset all these costs. The break-even point is just too far out.

In conclusion, it just doesn't make any economic sense for us to buy that parcel.

Wishing you and your grandson the best,

Sincerely,

  
Virginia Feigner,

  
Evelyn Feigner,

\_\_\_\_\_  
Greg Feigner

cc RK Gildersleeve, dba Diamond G Timber Limited, LLC 14750 SW Springhill Rd, Gaston, Oregon 97119



RECEIVED

MAR 30 2020

UMATILLA COUNTY  
PLANNING DEPARTMENT

March 23, 2020

Greg Feigner  
84172 Winesap Rd  
Milton-Freewater, Oregon 97862

Bern Bliss  
184 DeHaven Street  
Milton-Freewater, Oregon 97862

RE: old mill site property tax lot # 6N3534A000300

Dear Bern,

Thank you for contacting our family regarding our possible interest in purchasing the old mill site.

In response to your inquiry whether or not we would be interested in purchasing the 1.6 acre property which abuts our orchard land tax lot numbers # 6N3534A000400 and # 6N3534A000501 to add that small acreage to our existing orchard, the short answer is no.

From our perspective it is not economically feasible; to begin with, besides the up-front cost of purchasing the land, the significant additional up-front costs of clearing off the land, removing the dilapidated old mill buildings, sawdust burner, conveyers, log-dump jammer would be very substantial.

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In conclusion, it just doesn't make any economic sense for us to buy that parcel.

Wishing you and your grandson the best,

Sincerely,

Greg Feigner



cc RK Gildersleeve, dba Diamond G Timber Limited, LLC 14750 SW Springhill Rd, Gaston, Oregon 97119



Megan Green <megan.green@umatillacounty.net>

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## Sunnyside Highway Access for Diamond G. Timber Limited, LLC

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LAPP Thomas <Thomas.Lapp@odot.state.or.us>  
To: Megan Green <megan.green@umatillacounty.net>

Tue, Mar 10, 2020 at 7:21 AM

Megan,

ODOT has two existing driveways on inventory for tax lot 200, map 6N3534A. At MP 6.58 there is a 12' wide driveway to the farm field on the west side and at MP 6.62 there is a 14' wide driveway to the main site for the existing mill buildings or home site if this is the case. These driveways are not under a permit but are considered legal for the current use of the property under the status of Presumed to be Permitted. The planning action does not require an application for the continued use of these road approaches unless the property meets the change of use criteria for additional trips to the site.

At this time the department considers both driveways to be legal.

Thomas Lapp

District 12 Permit Specialist

1327 SE 3<sup>rd</sup> Street

Pendleton, OR 97801

Ph (541)278-3450

Fax (541)276-5767

[Quoted text hidden]



Welcome to  
Umatilla County

Megan Green <megan.green@umatillacounty.net>

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## Access Permit for Account 112261

**Courtney Talbott** <courtney.talbott@umatillacounty.net>  
To: Megan Green <megan.green@umatillacounty.net>

Mon, Mar 9, 2020 at 9:06 AM

Hi Megan,

I do not have anything for this lot if they are trying to access off of Winesap road. If they are trying to access off of HWY 332 they would have to do that through ODOT.

Thanks!

[Quoted text hidden]

--

**Courtney Talbott**

Umatilla County Survey Clerk - 541-278-5460

Umatilla County Harris Park - 541-938-5330



Welcome to  
Umatilla County

Megan Green <megan.green@umatillacounty.net>

## water rights info

**SILBERNAGEL Greg M \* WRD** <Greg.M.Silbernagel@oregon.gov>  
To: Megan Green <megan.green@umatillacounty.net>

Tue, Apr 7, 2020 at 6:35 AM

Hi Megan,

I was unable to find any water rights for the parcel 6N35E 34A Tax Lot 200.

I attached the map to make sure we were looking at the same location. Please send this map on future requests if you already have it saved in your files.

Greg

[Quoted text hidden]

 **6N35E34A\_Tax Lot 200.pdf**  
105K

**PLANNING COMMISSION HEARING  
JUNE 25, 2020  
DRAFT MINUTES**

**TYPE III LAND DIVISION;  
#LD-2N-201-20  
DONALD AND MARY MICHAEL, APPLICANTS/OWNERS  
REPLAT REQUEST**

**&**

**TEXT AMENDMENT;  
#T-20-082  
ADOPTION OF REVISIONS TO UMATILLA COUNTY  
DEVELOPMENT CODE**



**DRAFT MINUTES**  
**UMATILLA COUNTY PLANNING COMMISSION**  
**Meeting of Thursday, June 25, 2020, 6:30 pm**  
**Umatilla County Courthouse, 216 SE 4<sup>th</sup> Street, Pendleton, Oregon**

\*\*\*\*\*

**COMMISSIONERS**

**PRESENT:** Suni Danforth, Chair, Don Wysocki, Vice Chair, Gary Rhinhart, Molly Tucker  
Hasenbank, Tammie Williams, Jon Salter, Hoot Royer, Lyle Smith

**ABSENT:** Tami Green

**STAFF:** Bob Waldher, Planning Director; Megan Green, Planner/GIS; Tierney  
Cimmiyotti, Administrative Assistant

\*\*\*\*\*

*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 6:30 p.m. and read the Opening Statement.

**NEW HEARING**

**TYPE III LAND DIVISION, REPLAT REQUEST #LD-2N-201-20: DONALD & MARY MICHAEL, APPLICANTS/ OWNERS.** The applicant requests approval to replat Lots 1 and 2, of Block 1 of the Pleasant Valley Subdivision Plat, Book 8, Page 33, Assessor's Map 2N 32 34BA, Tax Lots 100 and 200. The applicant's proposed replat reconfigures the lots' shared property line. The Land Use standards applicable to the applicants' request are found in Umatilla County Development Code (UCDC) 152.697(C), Type III Land Divisions. The Planning Commission's decision is final unless timely appealed.

**STAFF REPORT**

Megan Green, Planner, stated that the applicant, Donald Michael, requests approval of a Replat (Type III Land Division) of Tax Lots 100 (Lot 1) and 200 (Lot 2) of Pleasant Valley Subdivision. Approval of the Michael Replat results in the reconfiguration of the shared property line, making Lots 1 and 2 run north-south rather than east-west. The Pleasant Valley Subdivision is located east of Highway 395 and south of McKay Drive, south of Pendleton and North of McKay Reservoir.

Ms. Green stated that the Standards of Approval are found in the UCDC Section 152.697(C), Type III Land Divisions. Standards for reviewing a Replat generally consist of complying with development standards and survey plat requirements. She added that the notice of the applicant's request and the public hearing was mailed on June 5, 2020 to the owners of properties located within 250-feet of the perimeter of Lots 1 and 2. Notice was also published in the East Oregonian

on June 13, 2020 notifying the public of the applicants request before the Planning Commission on June 25, 2020.

Ms. Green pointed out that two easements are not shown accurately on the Preliminary Michael Replat. The first, located along a portion of the north boundary of Lot 1, is a 15 foot (ft.) wide irrigation easement for Marion Jack Irrigation. On the preliminary replat, this is shown as a 10 ft. wide easement. She stated that Marion Jack Irrigation District has expressed that they would like to keep the width at 15 feet.

Ms. Green explained that the second easement, a 15 ft. wide access easement, runs parallel to the westerly boundaries of Lots 1-8, Block 1 of Pleasant Valley. This easement benefits Lots 1-8 and is not shown on the preliminary survey. Numerous property owners were concerned that this easement would be going away with the approval of the Michael Replat. The concerned property owners submitted a letter for the record, and Ms. Green distributed the letter to the Planning Commission and added it to the record as Exhibit A. She stated that the easement was recorded in 1977 and can be found on Reel 23 Page 1379 at County Records.

Ms. Green concluded that the proposed Conditions of Approval address the survey and recording requirements. Final approval for the request will be accomplished when the applicant records the final survey plat. Additionally, the applicant must meet with Oregon Water Resources regarding a potential well sharing agreement between the two reconfigured lots. She added that the decision made by the Planning Commission is final unless timely appealed to the County Board of Commissioners (BCC).

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

## TESTIMONY

**Applicant Testimony:** None; applicant was not in attendance.

**Neutral Testimony:** Colin White, 71626 SW Lake Drive, Pendleton, Oregon. Mr. White stated that he was concerned about the 15 ft. wide access easement which runs parallel to the westerly boundaries of Lots 1-8 of the Replat. Mr. White identified his property as tax lot 300, which is Lot 2 of the Pleasant Valley Subdivision. He stated that he uses the 15 ft. easement to access the rear of his property and has experienced issues in the past with people blocking the easement with vehicles. He stated that the Sheriff's Department was helpful in getting the vehicles removed.

Mr. White stated that he doesn't care what the Michael's do with their property next door, as long as his easement is not affected. It was determined that there would be no change to the easement as a result of this request. Mr. White was satisfied with the response.

**Public Agencies:** No additional comments.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION & DECISION**

Commissioner Wysocki abstained from voting, as he was not present for the entire presentation.

Commissioner Hasenbank made a motion to approve Land Division Replat Request #LD-2N-207-20, subject to the applicant fulfilling the precedent and subsequent conditions. Commissioner Salter seconded the motion. Motion passed with a vote of 7:0.

### **NEW HEARING**

**TEXT AMENDMENT #T-20-082, ADOPTION OF REVISIONS TO THE UMATILLA COUNTY DEVELOPMENT CODE.** The proposed revisions relate to relaxing certain setback standards and landscape design standards for properties zoned Retail Service Commercial and Light Industrial, along the Highway 395 North corridor in unincorporated Umatilla County. Planning Commission will make a recommendation of adoption to the Umatilla County Board of County Commissioners. A subsequent public hearing before the Board of County Commissioners is scheduled for July 15, 2020. Amendment procedures include UCDC Sections 152.750-152.753.

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

### **STAFF REPORT**

Bob Waldher, Planning Director, stated that in November 2019 Umatilla County completed amendments to the UCDC to improve the aesthetic character and economic vitality of the Highway 395 North Corridor. The 2019 text amendment applied to Commercial and Light Industrial Zoned properties adjacent to the highway corridor. He stated that the code revisions were based on an extensive public involvement process associated with the Highway 395 North Economic Development Project and a Transportation Growth Management (TGM) grant from the Oregon Department of Transportation (ODOT) and the Department of Land Conservation & Development (DLCD).

Mr. Waldher explained that the main objectives of the Highway 395 North project have always been to improve the aesthetic and economic viability of the corridor. While the original intent of design standards seemed practical to meeting the goals of the TGM project, it wasn't until staff actually applied the design standards, did they realize that a few of the provisions were not conducive to certain development along the corridor, especially automobile dealerships.

Mr. Waldher stated that in February 2020, Planning Department staff met with a prospective developer for an automobile dealership who was finding difficulty meeting some of the new design standards; primarily the 30 ft. maximum setback requirement from front lot lines and the 15% landscape coverage requirement. Following the discussion with the prospective developer, Planning Department staff met with members of the Highway 395 North Technical Advisory Committee (TAC) to discuss the challenges faced by the developer. He stated that the TAC was supportive of County staff amending the standards to exempt automobile dealerships from the 30 ft. maximum setback requirement in order to create an environment favorable to dealerships displaying their new car inventory on an open air sales lot.

Mr. Waldher stated that the TAC also recommended scaling back the 15% landscape requirement for large sites. They noted that the 15% landscape requirement seems to work well on smaller one acre (ac.) sites but, 15% landscaping on a 10 ac. site would require 1 ½ ac. of irrigated landscaping and does not support water conservation in an arid environment which has been designated by the State as a Critical Groundwater Area (CGWA). Furthermore, he explained this would not be consistent with the Oregon Department of Water Resources (OWRD) regulations limiting exempt well use to ½ ac. of irrigated landscaping. As a result, the committee recommended a provision ensuring that the amount of irrigated landscaping is not to exceed ½ ac.

Mr. Waldher stated that the recommendations of the TAC and Planning staff have been incorporated into the proposed Text Amendment which is included in the Commissioner's Packets and Criteria of Approval can be found in the UCDC Sections 152.750-152.753. He asked the Planning Commission to review, discuss and suggest any changes to the proposed Amendments. Planning Commission will make a recommendation of adoption to the Umatilla County Board of Commissioners (BCC). A subsequent public hearing before the BCC is scheduled for July 15, 2020 at 9am.

Chair Danforth asked if they could consider including similar language for farm equipment sales in the area. Mr. Waldher stated that they could include farm equipment sales in the amendment if the Planning Commission would like. Chair Danforth stated that tractors and other large farm equipment are sold throughout the corridor to serve the farming community. She feels it would make sense to include these agricultural based businesses in the Amendment. Mr. Waldher stated

that we could explore adding the farm language or modify the service oriented business part to include the language. Mr. Waldher agreed to look into making the addition.

**Proponent Testimony:** Frank Karraman, 625 Winslow Way E, Bainbridge Island, WA 98110. Mr. Karraman stated that he is speaking as a proponent for the revision and commended Planning staff and Mr. Waldher for the work they have done in preparing the changes.

**Public Agencies:** No additional comments.

Chair Danforth closed the hearing for deliberation.

### **DELIBERATION & DECISION**

Commissioner Hasenbank asked if the language is written to include four wheelers, side by sides and other ATV type vehicles. Mr. Waldher stated that requests for those permits would be processed under the same standards as other vehicles using the 'Other Uses Similar' allowance within the UCDC. Commissioner Hasenbank stated that she is satisfied with that response.

Commissioner Hasenbank made a motion to recommend approval of the Highway 395 Code Amendments to the Board of County Commissioners. Commissioner Rhinhart seconded the motion. Motion passed with a vote of 8:0.

### **MINUTES**

Chair Danforth called for any corrections or additions to the minutes from the February 27, 2020 meeting. Commissioner Williams moved to approve the minutes as presented. Commissioner Wysocki seconded the motion. Motion carried by consensus.

### **ADJOURNMENT**

Chair Danforth adjourned the meeting at 7:37 p.m.

Respectfully submitted,

Tierney Cimmiyotti,  
Administrative Assistant