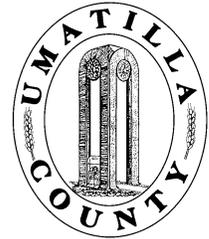


Umatilla County

Department of Land Use Planning



AGENDA

Umatilla County Planning Commission Public Hearing

Thursday, November 19, 2020, 6:30 PM

VIRTUAL MEETING

IF YOU WISH TO PARTICIPATE IN THE HEARING PLEASE SUBMIT COMMENTS BY 4PM, NOVEMBER 19TH 2020, TO planning@umatillacounty.net OR CONTACT THE PLANNING DEPARTMENT AT, 541-278-6252.

Planning Commission

Suni Danforth, Chair
Don Wysocki, Vice-Chair
Tammie Williams
Tami Green
Molly Tucker Hasenbank

Hoot Royer
Jon Salter
Lyle Smith

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:

TYPE I LAND DIVISION, SUBDIVISION REQUEST #S-057-20: KMK LAND, LLC, APPLICANT/ JOY WULFF, OWNER. The applicant requests approval to subdivide the property located on Assessor's Map 4N 28 15, Tax Lot 702. The applicant's proposed subdivision will create eight (8) lots of at least 4 acres in size. The Land Use standards applicable to the applicants' request are found in Umatilla County Development Code 152.665, Type I Land Divisions.

For further information concerning the above request, or to submit written testimony, please contact Megan Green, Planner II / GIS at the Umatilla County Planning Department, 216 SE 4th Street, Courthouse, Pendleton, Oregon 97801; telephone 541-278-6246; or email megan.green@umatillacounty.net.

3. Minutes from October 22, 2020 Hearing

4. Adjournment

Umatilla County

Department of Land Use Planning



DIRECTOR
ROBERT
WALDHER

MEMO

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Umatilla County Planning Commission
FROM: Megan Green, Planner II / GIS
DATE: November 12, 2020

CODE
ENFORCEMENT

RE: November 19, 2020 Planning Commission Hearing
Type I (Subdivision) Land Division, #S-057-20
Tax Lots 702, Map 4N 28 15

SOLID WASTE
COMMITTEE

CC: Robert Waldher, Planning Director

SMOKE
MANAGEMENT

GIS AND
MAPPING

Request

The applicant, KMK Land LLC, requests approval of a Subdivision (Type I Land Division) of Tax Lot 702 located on Map 4N 28 15. Approval of the Magnolia Acres Subdivision would result in eight (8) subdivision lots of at least 4-acres in size.

RURAL
ADDRESSING

LIAISON, NATURAL
RESOURCES &
ENVIRONMENT

Location

The property is located on the east side of State Highway 207 and south of Gettman Road, south of Hermiston City Limits.

Standards

The Standards of Approval are found in the Umatilla County Development Code Section 152.665, Type I Land Divisions. Standards for reviewing a Subdivision generally consist of complying with development code standards, Traffic Impact Analysis standards and subdivision plat requirements.

Notice

Notice of the applicant's request and the public hearing was mailed on October 29, 2020 to the owners of properties located within 250-feet of the perimeter of Tax Lot 702. Notice was also published in the *East Oregonian* on November 7, 2020 notifying the public of the applicant's request before the Planning Commission on November 19, 2020.

Background

Both the Tentative Subdivision Plan and the draft Covenant, Codes and Restrictions identify each new subdivision lot as a parcel. Because this proposal is for a subdivision, they shall be identified as lots. Both the applicant and the surveyor are aware of this, and that the final subdivision plan shall identify the newly created lots as such.

Conclusion

The proposed Conditions of Approval address road improvement and access standards, including road naming and an Irrevocable Consent Agreement, fencing along irrigation

Memo

Planning Commission Hearing – November 19, 2020

canals and the survey and recording requirements with final approval accomplished through the recording of the final subdivision plat.

Decision

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

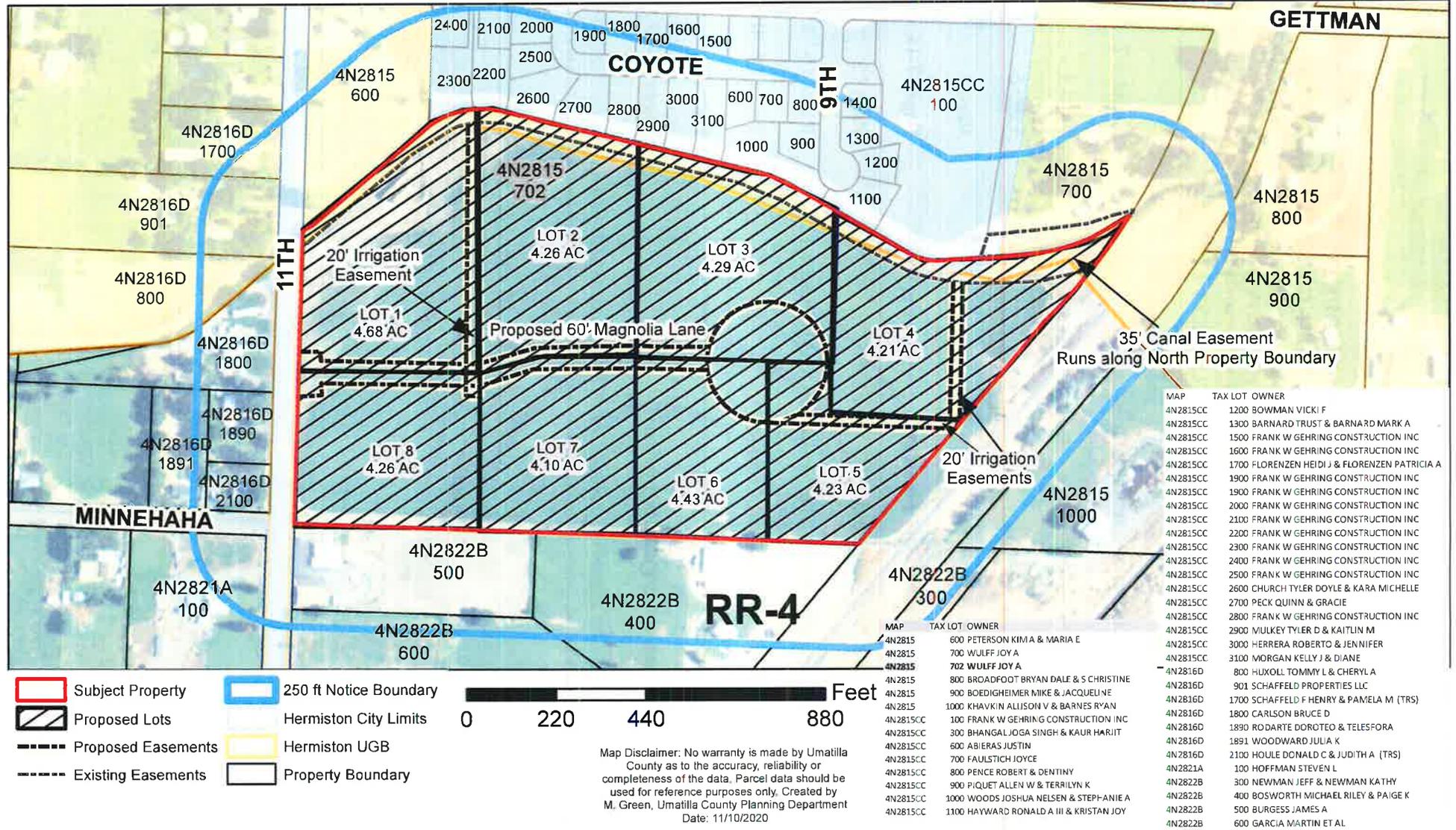
**UMATILLA COUNTY
PLANNING COMMISSION HEARING – NOVEMBER 19, 2020
TYPE I LAND DIVISION, SUBDIVISION REQUEST #S-057-20
KMK LAND, C/O MITCH BOYD, APPLICANT
JOY WULFF, OWNER
PACKET CONTENT LIST**

1. Staff Memo to Planning Commission	Pages 1-2
2. Vicinity and Notice Map	Page 4
3. Soils Map	Page 5
4. Tentative Subdivision Plan	Page 6
5. Staff Report & Preliminary Findings	Pages 7-14
6. County Road “S-1” Standard	Page 15
7. ODOT Communication – Thomas Lapp, ODOT District 12	Pages 16-18
8. Hermiston Irrigation District Comment	Pages 19-20
9. City of Hermiston, Planning Department Comment	Page 21
10. Draft Covenants Codes & Restrictions	Pages 22-28

APPLICANT: KMK LAND, LLC
OWNER: JOY WULFF
APPLICATION FOR: TYPE I LAND DIVISION (SUBDIVISION) S-057-20
MAP: 4N 28 15, TAX LOT 702



Notified Landowners within 250 feet of Subject Property

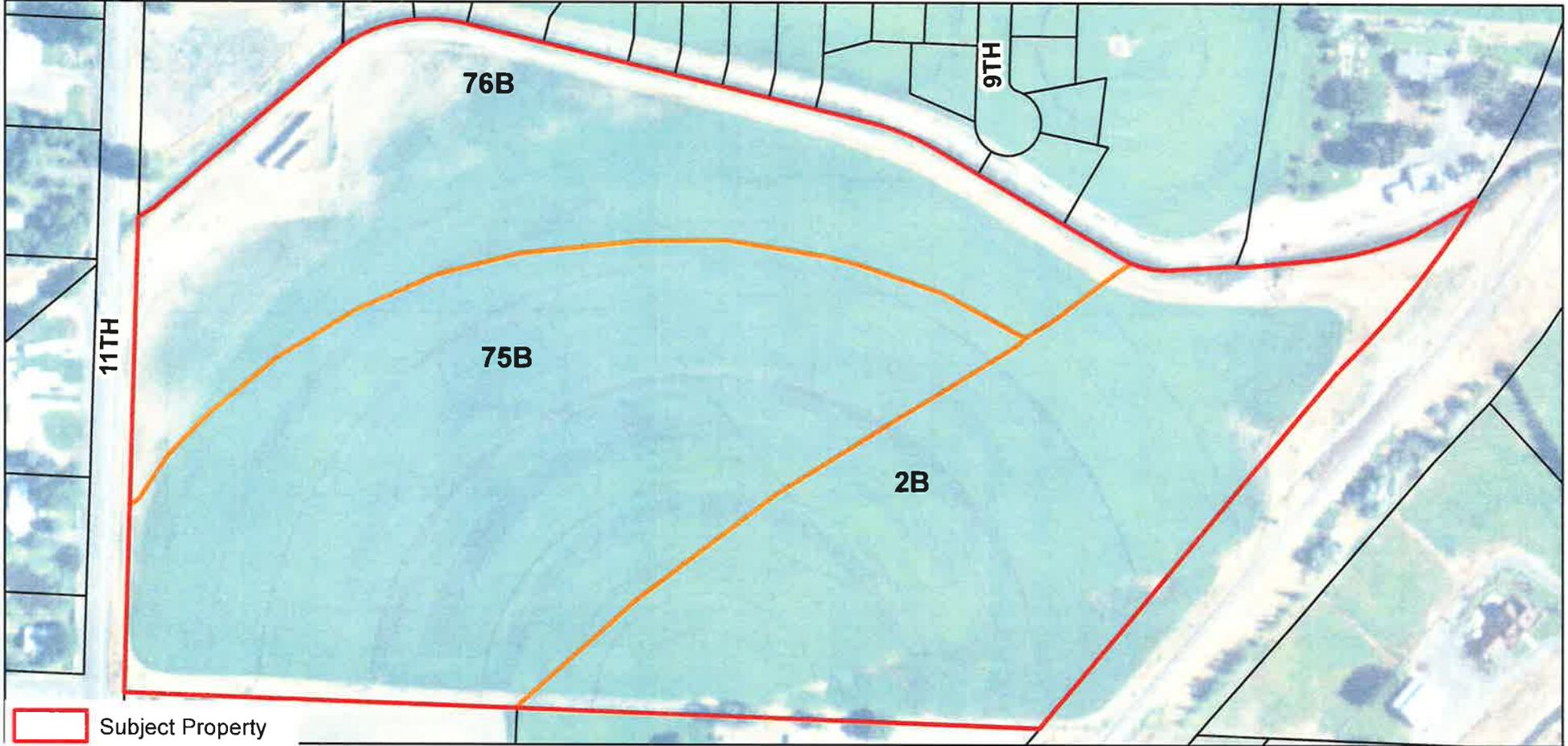


MAP	TAX LOT	OWNER
4N2815CC	1200	BOWMAN VICKI F
4N2815CC	1300	BARNARD TRUST & BARNARD MARK A
4N2815CC	1500	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	1600	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	1700	FLORENZEN HEIDI J & FLORENZEN PATRICIA A
4N2815CC	1900	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	1900	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2000	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2100	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2200	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2300	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2400	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2500	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2600	CHURCH TYLER DOYLE & KARA MICHELLE
4N2815CC	2700	PECK QUINN & GRACIE
4N2815CC	2800	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	2900	MULKEY TYLER D & KAITLIN M
4N2815CC	3000	HERRERA ROBERTO & JENIFER
4N2815CC	3100	MORGAN KELLY J & DIANE
4N2816D	800	HUXOLL TOMMY L & CHERYL A
4N2816D	901	SCHAFFELD PROPERTIES LLC
4N2816D	1700	SCHAFFELD F HENRY & PAMELA M (TRS)
4N2816D	1800	CARLSON BRUCE D
4N2816D	1890	RODARTE DOROTE & TELESFORA
4N2816D	1891	WOODWARD JULIA K
4N2816D	2100	HOULE DONALD C & JUDITH A (TRS)
4N2821A	100	HOFFMAN STEVEN L
4N2822B	300	NEWMAN JEFF & NEWMAN KATHY
4N2822B	400	BOSWORTH MICHAEL RILEY & PAIGE K
4N2822B	500	BURGESS JAMES A
4N2822B	600	GARCIA MARTIN ET AL

MAP	TAX LOT	OWNER
4N2815	600	PETERSON KIM A & MARIA E
4N2815	700	WULFF JOY A
4N2815	702	WULFF JOY A
4N2815	800	BROADFOOT BRYAN DALE & S CHRISTINE
4N2815	900	BOEDIGHEIMER MIKE & JACQUELINE
4N2815	1000	KHAVKIN ALLISON V & BARNES RYAN
4N2815CC	100	FRANK W GEHRING CONSTRUCTION INC
4N2815CC	300	BHANGAL JOGA SINGH & KAUR HARJIT
4N2815CC	600	ABIERAS JUSTIN
4N2815CC	700	FAULSTICH JOYCE
4N2815CC	800	PENCE ROBERT & DENTINY
4N2815CC	900	PIQUET ALLEN W & TERRILYN K
4N2815CC	1000	WOODS JOSHUA NELSEN & STEPHANIE A
4N2815CC	1100	HAYWARD RONALD A III & KRISTAN JOY

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: 11/10/2020

APPLICANT: KMK LAND, LLC
OWNER: JOY WULFF
APPLICATION FOR: TYPE I LAND DIVISION (SUBDIVISION) S-057-20
MAP: 4N 28 15, TAX LOT 702
SOILS MAP



- Subject Property
- Soils
- Property Boundary

MUSYM NON-IRRIGATED IRRIGATED

2B	4e	2e
75B	7e	4e
76B	7e	4s

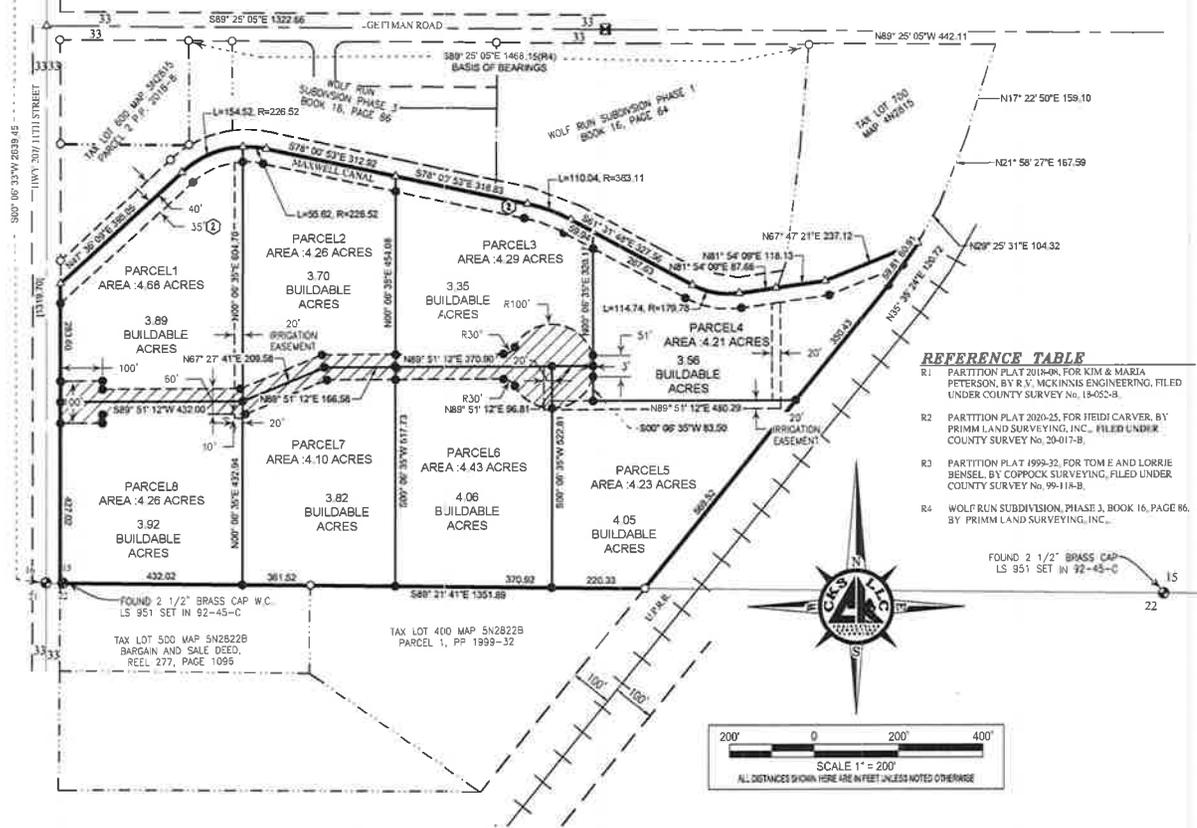
Map Disclaimer: No warranty is made by Umatilla County as to the accuracy, reliability or completeness of the data. Parcel data should be used for reference purposes only. Created by M. Green, Umatilla County Planning Department
 Date: 11/10/2020



FOUND 2" ALUMINUM
CAP UNREADABLE SET

**MAGNOLIA ACRES SUBDIVISION
REPLAT OF PARCEL 1 of PARTITION PLAT 2020-5**
within the SW1/4, Section 15,
Township 4 N., Range 28 E., W.M.,
Umatilla County, Oregon

**NOTE:
PRELIMINARY FOR
APPLICATION PURPOSES ONLY**



SURVEYOR'S NARRATIVE & CERTIFICATE:

THIS SURVEY WAS MADE AT THE REQUEST OF KMK LAND, LLC. FOR THE PURPOSE OF SUBDIVIDING PARCEL 1 AS SHOWN ON PARTITION PLAT 2020-5. THE BASIS OF BEARINGS IS BASED WOLF RUN SUBDIVISION, PHASE 3, BOOK 16, PAGE 86 BY PRIMM LAND SURVEYING, INC., ALONG THE SOUTH RIGHT OF WAY LINE OF GETTMAN ROAD.

THIS PARCEL WAS ORIGINALLY SURVEYED IN JUNE OF 2017 BY PRIMM LAND SURVEYING, PARTITION PLAT 2017-10. AGAIN IN JUNE OF 2018 BY R.V. MCKINNIS ENGINEERING, PARTITION PLAT 2018-08. THEN AGAIN IN FEBRUARY 2020 BY PRIMM LAND SURVEYING, PARTITION PLAT 2020-05.

THE SOUTH BOUNDARY IS ALONG THE SOUTH SECTION LINE OF SECTION 15. THE EASTERN PORTION OF THE SOUTH LINE IS THE NORTH BOUNDARY OF PARCEL 3 OF PARTITION PLAT 1999-32. THE EAST BOUNDARY IS ALONG THE WESTERN RIGHT OF WAY OF THE UPPER TRACKS. THE NORTH BOUNDARY IS ALONG THE SOUTH EASEMENT LINE OF THE MAXWELL CANAL. THE WEST BOUNDARY IS HWY 307&L-TT-CREEK HWY.

I, LANCE C. KING, A REGISTERED PROFESSIONAL LAND SURVEYOR HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MONUMENTED THE BOUNDARIES AS SHOWN IN ACCORDANCE WITH OREGON CHAPTER 92. THAT THE POINT OF BEGINNING IS AS SHOWN ON THE MAP AND IS WITHIN ACCORDANCE WITH THE REQUIREMENTS OF ORS 92.060(1). I CERTIFY THAT ALL BOUNDARY MONUMENTS WILL BE PLACED ON OR BEFORE 7/27/2021. THAT THE ADDING PROPERTY AND ALL PROPERTY ACCESSED IN THIS SURVEY WAS DONE IN ACCORDANCE WITH ORS 92.0747. THAT THE SURVEY WAS MADE BY ME OR UNDER MY DIRECTION. THAT THE MONUMENTS ARE AS SHOWN AND THAT THIS MAP IS A TRUE AND ACCURATE REPRESENTATION OF SAID SURVEY.

THE LAND BEING SUBDIVIDED IS DESCRIBED AS FOLLOWS:
PARCEL 1 OF PARTITION PLAT 2020-05, INSTRUMENT NO. 2020-6970615 OFFICE OF UMATILLA COUNTY RECORDS. LOCATED IN THE SOUTHWEST CORNER OF SECTION 15, TOWNSHIP 4 NORTH, RANGE 28 EAST, OF THE WILLAMETTE MERIDIAN, UMATILLA COUNTY, OREGON.

OWNER'S DECLARATION:

KNOW ALL MEN BY THESE PRESENTS: THAT I, THE UNDERSIGNED, AM THE REPRESENTATIVE OF THE LANDS AS SHOWN AND DESCRIBED ON THIS PLAT, AND HAVE CAUSED THE SAME TO BE SUBDIVIDED AND SURVEYED IN ACCORDANCE WITH OREGON CHAPTER 92. WE ACKNOWLEDGE THE FOLLOWING EASEMENTS: WE HEREBY DEDICATE AN ADDITIONAL 60 FOOT WIDE ACCESS AND UTILITY EASEMENT WE HEREBY DEDICATE 20 FOOT WIDE IRRIGATION EASEMENTS

- ① A BLANKET RIGHT-OF-WAY EASEMENT TO UMATILLA ELECTRIC COMPANY AS PER BOOK 170, PAGE 246 AND BOOK 309, PAGE 183 OF THE UMATILLA COUNTY RECORDS, EXISTS ON THIS PROPERTY.
- ② EASEMENTS AS SHOWN ON PARTITION PLAT 2017-10, INSTRUMENT NO. 2017-4586073

REFERENCE TABLE

- R1 PARTITION PLAT 2019-06, FOR KIM & MARIA PETERSON, BY R.V. MCKINNIS ENGINEERING, FILED UNDER COUNTY SURVEY No. 18-052-8.
- R2 PARTITION PLAT 2020-25, FOR HEIDI CARVER, BY PRIMM LAND SURVEYING, INC., FILED UNDER COUNTY SURVEY No. 20-017-8.
- R3 PARTITION PLAT 1999-32, FOR TOM E AND LORRIE BENSEL, BY COPPOCK SURVEYING, FILED UNDER COUNTY SURVEY No. 99-118-8.
- R4 WOLF RUN SUBDIVISION, PHASE 3, BOOK 16, PAGE 86, BY PRIMM LAND SURVEYING, INC.

KMK LAND LLC
MITCH BOYLAN, REPRESENTATIVE

STATE OF OREGON } s.s.
COUNTY OF UMATILLA }

BEFORE ME THIS _____ DAY OF _____, 2020 APPEARED
THE OWNERS AND ACKNOWLEDGED THE FOREGOING DECLARATION

NOTARY PUBLIC FOR OREGON

PRINTED NAME _____
COMMISSION NO. _____
MY COMMISSION EXPIRES _____

**REGISTERED
PROFESSIONAL
LAND SURVEYOR**

**OREGON
MAY 10, 2011
LANCE CLARK KING
61420**

RENEW: 6/30/2021

LEGEND

- PARTITION BOUNDARY
- NEW PARTITION LINE
- SECTIONAL LINE (SEC)
- RIGHT-OF-WAY (ROW)
- TAX LOT LINES
- EASEMENT
- /// // // // NEW EASEMENT BEING DEDICATED
- () DATA OF RECORD
- [] CALCULATED DISTANCE
- ⊕ MONUMENT AS NOTED
- SET 5/8" x 3/8" REBAR WITH RED PLASTIC CAP MARKED PLS 61420
- FND. 5/8" IRON BAR AS NOTED
- △ CALCULATED POINT

APPROVALS:

UMATILLA COUNTY SURVEYOR
APPROVED THIS _____ DAY OF _____, 2020

UMATILLA COUNTY SURVEYOR

HERMISTON IRRIGATION DISTRICT
APPROVED THIS _____ DAY OF _____, 2020

MANAGER

UMATILLA COUNTY PLANNING DEPARTMENT
APPROVED THIS _____ DAY OF _____, 2020

UMATILLA COUNTY PLANNING DIRECTOR

UMATILLA COUNTY TAX COLLECTOR
TAXES ARE PAID IN FULL
APPROVED THIS _____ DAY OF _____, 2020

UMATILLA COUNTY TAX COLLECTOR

NOTE: ①
A BLANKET RIGHT-OF-WAY EASEMENT TO UMATILLA ELECTRIC COMPANY AS PER BOOK 170, PAGE 246 AND BOOK 309, PAGE 183 OF THE UMATILLA COUNTY RECORDS, EXISTS ON THIS PROPERTY

UMATILLA COUNTY OFFICE OF RECORDS

SURVEY FOR:
KMK LAND, LLC

CKS, LLC
CIVIL-STRUCTURAL-ELECTRICAL ENGINEERING,
SURVEYING & PLANNING

ONTARIO HERMISTON
368 SW 5TH AVE. 945 W. ORCHARD AVE.
ONTARIO, OR 97144 HERMISTON, OR 97138
PHONE (541) 889-5411 PHONE (541) 567-2345
FAX (541) 889-2074 FAX (541) 567-2505
WEB: CKSLLC.NET

CHECKED BY: ADP FIELDBOOK No.: D-320 PAGE(S): 27-31
DRAWN BY: RMT DWG FILE No.: B-1236
APPROVED BY: LCK FILENAME: VD17004.dwg JOB No: VD-17004
DATE: 6/5/2017 DATE REVISED: SHEET: 1 of 1

UMATILLA COUNTY PLANNING COMMISSION
STAFF REPORT AND PRELIMINARY FINDINGS
KMK LAND SUBDIVISION REQUEST, #S-057-20
Map #4N 28 15, Tax Lot #702, Account #167876

1. APPLICANT: Mitch Boylan, KMK Land, LLC, 495 E Main St, Hermiston, Oregon 97838
2. PROPERTY OWNERS: Joy Wulff, 795 W Gettman Rd, Hermiston, Oregon 97838
3. LOCATION: The property is located on the east side of State Highway 207 and south of Gettman Road, south of Hermiston City Limits.
4. PARCEL ACREAGE: Tax Lot 702 = 34.39 acres
5. REQUEST: The applicant requests approval of a rural residential subdivision. The proposed subdivision establishes eight lots, which is the maximum amount of lots under current zoning regulations. The property is not currently developed with any dwellings or other structures. (See the applicant's tentative plan map for lot configuration, plan details and proposed access.)

According to the applicant, each undeveloped lot will have its own water source either from an individual domestic well or through the sharing of a domestic well. Individual septic systems are proposed for each lot. However, the applicant has not submitted site suitability reports from County Environmental Health, indicating if the lots can be approved for individual septic systems.

Conventional site built dwellings are planned for each proposed lot. The applicant submitted with the application a draft copy of the covenants, conditions and restrictions (CCR). A copy of the draft CCR is attached.

6. PROPOSED LOT ACREAGE: (Gross)

Lot 1=4.68 ac	Lot 3=4.29 ac	Lot 5=4.23 ac	Lot 7=4.10 ac
Lot 2=4.26 ac	Lot 4=4.21 ac	Lot 6=4.43 ac	Lot 8=4.26 ac

7. COMPREHENSIVE PLAN MAP DESIGNATION: Rural Residential

8. ZONING: RR-4 Zone (Rural Residential four-acre minimum parcel/lot size)

9. ACCESS: Access will be provided from State Highway 207, Lots 1 through 8 are proposed to be served by a 60-ft wide access utility easement, Magnolia Lane. The proposed lane will be located south from the current access point along Highway 207. The applicant is asked to verify access approach permits from State Highway Department for the access approach to State Highway 207.

10. ROAD TYPE: State Highway 207 is a two lane paved State Highway. Proposed Magnolia Lane is required to be improved with 22-ft wide gravel road surface within the proposed 60-ft wide access utility easement. A Road Naming Application for Magnolia Lane has been submitted to Planning and fees have been paid for the application and sign installation.

11. EASEMENTS: Hermiston Irrigation District has a 35 foot irrigation district from Maxwell

Canal (the northern boundary) onto the property. Umatilla Electric has an existing power pole easement along the property. (Areas within the utility easements are not available for development of structures and buildings.)

12. LAND USE: The property is planned and zoned for rural residential use as rural home sites and to provide space for rural services, gardens, a limited number of farm animals and pasture.

13. ADJACENT LAND USE: The property is zoned rural residential, RR-4. Likewise, the properties to the east, south and west of the property are zoned RR-4. Properties to the north are within Hermiston city limits and appear to be primarily single family residences.

14. SOILS: The property consists of the following soils.

Unit Number, Soil Name, Description & Slope	Land Capability Class		Acres
	Dry	Irrigated	
2B: Adkins fine sandy loam, gravelly substratum, 0 - 5 percent slopes	4e	2e	10.6
75B: Quincy loamy fine sand, 0 - 5 percent slopes	7e	4e	13.8
76B: Quincy loamy fine sand, gravelly substratum, 0 - 5 percent slopes	7e	4s	9.8

15. BUILDINGS: Currently there are no buildings on the property.

16. UTILITIES: Electricity is provided by Umatilla Electric and land line phone service to the area is provided by Eastern Oregon Telecom.

17. WATER AND SANITATION: Currently there is neither a well or septic system on the property. The applicant provides that future purchasers will be responsible for installing wells and septic systems.

18. IRRIGATION: Irrigation water rights from Hermiston Irrigation District cover the subject property.

19. OTHER: Before subdivisions can be accepted for recording, all property taxes must be paid in full including, if applicable, prepayment of the current tax year. This will be noted in the conditions that taxes must be paid prior to recording the final survey plat map. The property may need to be disqualified from the Farm Deferral program, and may have to pay the last 10 years of deferred taxes. It is recommended that the applicant consult with the County Taxation department, however, the deferral is not a condition of this approval, rather, will be addressed as due property taxes.

20. PROPERTY OWNERS & AGENCIES NOTIFIED: October 29, 2020

21. PUBLIC HEARING DATE: November 19, 2020

22. AGENCIES NOTIFIED: Oregon Department of Transportation, County Public Works Director, County Surveyor, County Environmental Health, Umatilla County Fire District #1, County Assessor, County GIS/Mapping Department, Oregon State Water Resources, County Rural Address Coordinator, Umatilla Electric, City of Hermiston, Hermiston Irrigation District, Umatilla Electric and the Confederated Tribes of the Umatilla Indian Reservation

23. COMMENTS RECEIVED: Comments currently received are from Hermiston Irrigation District, Oregon Department of Transportation District 12 and the City of Hermiston Planning Department. Comments received to date are included as attachments.

24. CRITERIA FOR APPROVAL, TYPE I LAND DIVISION "SUBDIVISION", contained in Section 152.666(6) of the Development Code.

Following are a list of the standards of approval applied to a rural residential subdivision¹. Included is information gathered from the tentative plan and the review of the proposed access, road improvements, traffic potential, and rural facilities to serve rural residential development. The standards are provided in underlined text and responses are provided in standard text.

(a) Complies with applicable elements of the Comprehensive Plan, including, but not limited to, policies listed in the public facilities and services and transportation elements of the Comprehensive Plan.

Sewage Disposal: The property owner understands individual septic systems are necessary to serve each undeveloped lot. The proposed lots are greater than four acres, and therefore, do not require site evaluations as a condition of approval. However, new septic systems will need approval from County Environmental Health prior to development.

Domestic Water: Domestic water wells are under the authority of State Water Resources. Domestic wells are exempt wells and do not require a water right. Each exempt well allows 15,000 gallons per day of household usage including irrigation of up to one half acre of lawn and landscaping per well. The applicant provides that the future purchaser of each subdivision lot will be responsible for receiving exempt well approval, and drilling of the well.

Irrigation Water: The property owner must develop an irrigation water delivery system to protect access to irrigation water rights for each lot. This is to ensure the subdivision lots will continue to benefit from irrigation water rights and access to irrigation water. The applicant's tentative plan provides the locations of three (3) 20-foot irrigation easements. The property is within the Hermiston Irrigation District and is required to meet the district's standards as a precedent condition of approval; this can be satisfied with a signature on the Recorded Subdivision Plat.

Newly created lots that abut irrigation ditches are required to erect a 6 foot high chain link fence, 25 feet back from the lip of the ditch so as to separate the ditch from the development unless an agreement is reached between the ditch company and the property owner/developer that a buried

¹ ORS 92.010 (16) "Subdivide land" means to divide land to create four or more lots within a calendar year.
UCDC 152.003 "Subdivide Land. To divide land into four or more lots within a calendar year."

pipe would be more appropriate². A precedent condition of approval is imposed that a 6 foot high chain link fence be installed, 25 feet from the lip of the ditch, along the existing irrigation canal. A combination of photos and receipts of the product may be submitted to Planning to satisfy this criterion. Or, submittal of a written agreement between the applicant and Hermiston Irrigation District allowing for a buried pipe in lieu of fencing.

Fire Protection: The subject property is within the Umatilla County Fire District #1. The district provides fire protection services to the area and received notification of the applicant's subdivision proposal. The new Magnolia Lane is planned with a 50-foot radius turn-around area providing space for emergency vehicles to ingress and egress. The proposed turn-around area also is required to be improved to accommodate large firefighting equipment by the fire protection service provider. The applicant is required, as a condition of approval, to provide confirmation from Umatilla County Fire District that both access and turn-around areas are adequate for emergency vehicles ingress and egress.

Access and Road Improvements: Access approach permits from the State Highway for proposed Magnolia Lane and the existing driveway must be confirmed by Oregon Department of Transportation (ODOT) and is imposed as a precedent condition of approval.

The County's Transportation Plan (TSP) requires right-of-ways within subdivisions to have a width of 60-feet, with a minimum of two, 11-foot travel lanes. The County Road Department standard is a Subdivision "S-1" standard. The S-1 standard consists of a crushed gravel surface compacted to a thickness of 8 inches. The applicant's plan proposes a 60-foot access/utility private right of way. A condition of the subdivision is imposed to improve the road, Magnolia Lane, to the Subdivision 1 S-1 road standard including the proposed turn around area. A diagram of the County Subdivision "S-1" road standard is attached.

The tentative plan demonstrated a 100 foot approach to Highway 207, ODOT District 12 Permit specialist Thomas Lapp provided that the 100 foot wide approach was excessive and not agreed upon by ODOT. A condition of approval is imposed that the 100' wide approach be amended to 60' wide (as required by County Road Standards) on the Final Plat. Email communication with Thomas Lapp is included as an attachment.

Road Signs and Addresses: Private roads serving as access to three or more buildings³ are to be named. The applicant proposes that Magnolia Lane serve all eight of the rural residential subdivision lots. Therefore, the Lane is recommended to be named and a road sign installed as a condition of approval. The condition requiring the installation of the road sign is imposed. The applicant is responsible for paying for the sign and the County Road Department is the agency that will install the sign. The sign may be installed either on the applicant's property near the State right of way, or within the State right of way, where allowed by ODOT. In addition, a "Private Drive" Sign is required due to the road connecting to a State Highway.

² County Comprehensive Plan, Chapter 14, Public Facilities, and Services, (18) pg. 14-4

³ County Code of Ordinances, Addressing Chapter 93.05 – Definitions. "Building. A building designed for human occupancy, such as a residence or place of business, or other buildings as determined by the Planning Department."

There are not currently any addresses assigned to the subject property, and no addresses will be affected by the creation of Magnolia Lane. The applicant has submitted the Road Naming Application and required fees.

Road Improvement Agreements: Over time additional road impacts occur and future upgrading and realignment of roads become necessary. An Irrevocable Consent Agreement (ICA) is required when there are new parcels and lots added along county roads, public roads and private lanes. The ICA is for participation in this future road upgrading. The Irrevocable Consent Agreement runs with the property and is binding on the heirs, assigns and all other successors in interest to the owner of the property, according to the interest of the property, and does not operate as a personal contract of the owner.

An Irrevocable Consent Agreement (ICA) is part of the subdivision approval. The agreements for future participation in improvements Magnolia Lane serving Lots 1 through 8, if and when, a Local Improvement District is formed for road improvements along this roadway. County Planning finds by the property owner signing and recording the ICA agreement, fulfills the road improvement agreement requirement. Signing and recording the Irrevocable Consent Agreement for future participation in road improvements to the 60-ft access utility easement, Magnolia Lane, serving Lots 1 through 8 is a condition of approval.

(b) Complies with the Statewide Planning Goals adopted by the Land Conservation and Development Commission (LCDC), until the comprehensive Plan is “acknowledged.” The Umatilla County Comprehensive Plan was acknowledged October 24, 1985, by the State Land Conservation & Development Commission (LCDC). The Plan designates the subject property and surrounding properties for rural residential use. The applicant’s proposal will create a total of eight rural residential lots. This property and properties in the vicinity are designated rural residential as part of the County adopted and State acknowledged Comprehensive Plan.

(c) Complies with provision of 152.019, Traffic Impact Analysis, as applicable. A Traffic Impact Analysis (TIA) is required to be submitted with a land use application when the proposal is projected to cause an increase in traffic volume by 250 or more Average Daily Trips (ADT). A single family dwelling generates approximately 9.52 ADT on week days. The applicant’s proposal will add eight developable lots, one dwelling per lot, and therefore total less than 250 ADT, as verified by ODOT District 12 Permit specialist, Thomas Lapp. Therefore, the TIA is not applied to the applicant’s request. However, ODOT may request a TIA to be conducted (see attached email from Thomas Lapp).

(d) Complies with applicable provisions listed in the zoning regulations of this chapter;

The applicant’s property is zoned Rural Residential – four acres (RR-4).

Lot Size: All proposed lots will conform to or exceed the 4-acre minimum parcel size for the RR-4 zone.

Setbacks: All proposed lots show adequate area available for dwellings, accessory structures, septic systems and a water source within the zoning setback requirements. Setback standards will be

enforced at the time development is proposed.

Flood Hazard Areas: The subject parcel is not located within a Special Flood Hazard Area.

(e) Complies with the applicable provisions, including the intent and purpose of the Type I regulations listed in this chapter:

Subdivision Name: The applicant has selected Magnolia Acres Subdivision as the subdivision name. The County Surveyor or the County GIS Manager must approve new subdivision names to avoid duplicate names. The applicant's subdivision name, Magnolia Acres Subdivision, had not yet been confirmed by the County GIS Manager as an acceptable subdivision name. This is because the subdivision plat map requirements have yet to be met. A condition of the subdivision approval is imposed to place the approved subdivision name on the Final Subdivision Plat Map, prior to recording the plat.

(f) The Tentative Plan conforms and fits into the existing development scheme in the area, including the logical extension of existing streets [roads] and public facilities through the tentative plan; The subject property and the surrounding properties are plan designated and zoned for rural residential development. The existing development scheme is rural residential parcels with pasture land used as rural home sites. All of the proposed lots will be served by Magnolia Lane, which will be dedicated as a private easement on the final Subdivision Plat. There are no public facilities such as public water and sewer systems that may be extended into the rural area and no abutting streets or roads that would be logically extended onto or through the subject property. The applicant's tentative plan does include irrigation water pipeline easements to Lots 5, 6, 7 and 8 for access to irrigation water from Maxwell Canal.

(g) Complies with other specific requirements listed in Section 152.667 for approval of subdivisions within multiple use areas. The subdivision is not proposed within an adopted Comprehensive Plan multiple use designated area. Therefore, specific requirements in Section 152.667 are not applied.

DECISION: THE MAGNOLIA ACRES SUBDIVISION, #S-057-20, REQUEST COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:

The following "Precedent Conditions" shall be completed prior to issuance of final approval signified by recording of the final subdivision survey plat map.

1. Receive approval for the Road Naming Application of the private easement serving Lots 1 through 8, proposed as Magnolia Lane.
2. Sign and record Irrevocable Consent Agreement for Lots 1 through 8 to participate in future road improvements to the 60-ft access easement and turn around, Magnolia Lane. (Document provided by the Planning Department.)
3. Submit verification from Oregon Department of Transportation confirming access approach permits from State Highway 207 to the 60-ft access easement, Magnolia Lane.

4. Improve the 60-ft access easement, Magnolia Lane, and the proposed 50-ft radius turn-around to the County Subdivision "S-1" road standard. The S-1 road standard consists of a 22-ft wide, nominal compacted 8-inch crushed gravel surface road.

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

5. Provide confirmation from Umatilla County Fire District #1 that both the easement access road and turn-around areas consist of adequate area for emergency vehicles to ingress and egress.
6. Erect a 6 foot high chain link fence. The fence shall be installed 25 feet from the lip of the ditch, along the existing irrigation canal. [Verification of the improvement may be provided by combination of photos and receipts of the product]. Or, submittal of a written agreement between the applicant and Hermiston Irrigation District allowing for a buried pipe in lieu of fencing.
7. Provide verification from Hermiston Irrigation District that irrigation standards have been met. This can be satisfied with a signature on the final subdivision plat.
8. Pay and/or pre-pay property taxes prior to recording the final subdivision plat map.

The following "Subsequent Conditions" may consist of on-going requirements and conditions to be fulfilled following approval of the Tentative Subdivision Plan Plat:

9. Within two years, record the final subdivision plat that meets county and state plat requirements. The subdivision name, Magnolia Acres Subdivision, must be placed on the subdivision plat. The plat shall show the 60-ft access utility easement, Magnolia Lane and turnaround, as well as the irrigation water pipeline easements to each lot, as represented on the tentative plan survey map.

Each newly created lot shall be identified as a lot rather than a parcel on the final subdivision plan.

10. Obtain zoning permits from the Umatilla County Planning Department to place structures on the parcels with an approved site plan showing setbacks, driveways, utilities, etc.
11. Obtain all other permits necessary for development (i.e. septic, building, etc.)

UMATILLA COUNTY PLANNING COMMISSION

Dated the _____ day of _____, 20____

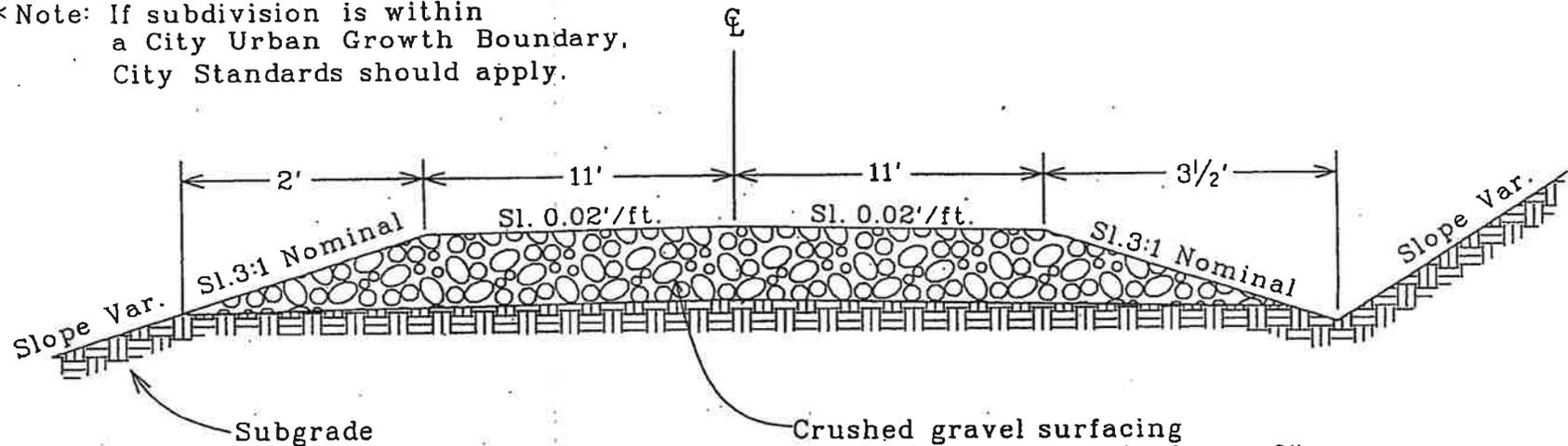
Suni Danforth, Chair,
Umatilla County Planning Commission

"S-1"

(Subdivision)

To be used in cases where access is to 4 or more parcels.

* Note: If subdivision is within a City Urban Growth Boundary, City Standards should apply.



* Culvert pipes to be installed in locations determined by the Director of Public Works. Materials & workmanship shall conform to current ODOT Standard Specifications

* All other construction details and specifications to conform to current ODOT Standard Specifications and to be approved by the Director of Public Works.

* Any changes to surfacing width or depths or variance from current Oregon Department of Transportation Standard Specifications must be approved by the Director of Public Works.

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

Umatilla Co. Rd. Dept.

"S-1"

Drawn By: JG

Checked By: GR

Date: July 1997

Road Standard



Magnolia Acres Subdivision - Highway 207

4 messages

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

Fri, Sep 18, 2020 at 1:51 PM

Re: Map 4N 28 15
Tax Lot 702

Hello Tom,

I recently received the tentative plan for Magnolia Acres. It is my understanding that KMK Land has already been working with you on their approach approval, is that correct?

I had a couple of questions for you -

- They are proposing 8 lots, each to have a maximum of 1 dwelling due to current zoning restrictions, which would still total less than 250 ADT, correct? And therefore, not require a TIA?
- The surveyor shows a 100' wide drive entrance from Highway 207, which narrows down to 60' after 100' of travel. The county requirement is 60 feet, so is the 100' width one of your requirements for their approach?

Their request will need to go before the Planning Commission so any additional information you can provide to me will be appreciated. I've included a copy of their tentative plan for your reference.

Thanks!

Megan

Megan Green, Planner II / GIS
Umatilla County Department of Land Use Planning
Tel: 541-278-6246 | Fax: 541-278-5480
216 SE 4th Street | Pendleton, OR 97801
<http://www.umatillacounty.net/planning>

2 attachments

-  **Preliminary Plat w easements.pdf**
1040K
-  **4N2815.pdf**
688K

LAPP Thomas <Thomas.Lapp@odot.state.or.us>

Thu, Oct 8, 2020 at 9:31 AM

To: Megan Green <megan.green@umatillacounty.net>
Cc: WISE Jeff <Jeff.WISE@odot.state.or.us>, HOWLAND Paul L <Paul.L.HOWLAND@odot.state.or.us>, Mitch Boylan <boylan.mitch@gmail.com>, HOLT Marilyn M <Marilyn.M.HOLT@odot.state.or.us>

Megan,

We estimate 8 homes would create 80 trips per day to the site, with 8 peak hour trips. The Region Access Management Engineer will determine if a TIA is required but I doubt it is needed.

I have had some conversations with Mr. Boylan about his subdivision but we have not received an approach application or finalized the approach location. I did the access control research for MP 9.60 and there is no access control to the parcel.

This property already has an existing approach to the north by the irrigation canal and we discussed removing that approach when they build the new connection since a second subsequent rural approach could not meet spacing standards and will be at the discretion of the Region and District Manager for approval.

The department has not agreed to a 100' wide highway approach since we have not discussed the approach design specifically. A 100' approach width is excessive and is not agreed too. A 60' width with 20' turn radius both sides would be 100' at edge of pavement and even that is excessive for a development of this size, akin to a county road. He can dedicate 60' to the county but they could function well with a 30' to 40' throat width approach to serve 8 homes.

Does the County require a full 60' approach width for this site or just a 60' dedication?

Thomas Lapp

District 12 Permit Specialist

1327 SE 3rd Street

Pendleton, OR 97801

Ph (541)278-3450

Fax (541)276-5767

From: Megan Green <megan.green@umatillacounty.net>

Sent: Friday, September 18, 2020 1:51 PM

To: LAPP Thomas <Thomas.Lapp@odot.state.or.us>

Subject: Magnolia Acres Subdivision - Highway 207

This message was sent from outside the organization. Treat attachments, links and requests with caution. Be conscious of the information you share if you respond.

[Quoted text hidden]

2 attachments

 **Preliminary Plat w easements.pdf**
1040K

 **4N2815.pdf**
688K

Megan Green <megan.green@umatillacounty.net>

Fri, Oct 9, 2020 at 10:12 AM

To: LAPP Thomas <Thomas.Lapp@odot.state.or.us>

Cc: WISE Jeff <Jeff.WISE@odot.state.or.us>, HOWLAND Paul L <Paul.L.HOWLAND@odot.state.or.us>, Mitch Boylan <boylan.mitch@gmail.com>, HOLT Marilyn M <Marilyn.M.HOLT@odot.state.or.us>

Hi Tom,

Thank you for that helpful information. The County requirement is 60' width dedication of right of way with 22' width improved travel lane. The turnaround requirement at the cul de sac is 50' radius minimum.

If it's alright with you, I will share this with the Planning Commission next month.

Thanks,

[Quoted text hidden]

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

Mon, Oct 12, 2020 at 10:09 AM

Cc: WISE Jeff <Jeff.WISE@odot.state.or.us>, HOWLAND Paul L <Paul.L.HOWLAND@odot.state.or.us>, Mitch Boylan <boylan.mitch@gmail.com>, HOLT Marilyn M <Marilyn.M.HOLT@odot.state.or.us>

Megan,

You may share my comments with the planning commission. I did speak to Mitch and he said they do intend to close the existing approach to the north so if this is the case we would approve the new approach for 'No Alternate Access' in the optimized location for spacing and sight distance. When they apply for the new approach their site plan must show closure of the existing approach to avoid approval with mitigation.

[Quoted text hidden]

HERMISTON IRRIGATION DISTRICT



East Hurlburt Avenue
Hermiston, OR 97838-2445
Office: 541-567-3024
Fax: 541-564-1069
E-mail: Office@HermistonID.org

August 5, 2020

Umatilla County Department of Land Use Planning
Attn: Director Robert Waldher
216 SE 4th St, #104
Pendleton OR 97801

**RE: Land Division Request
Map & Tax Lot 4N2815 702**

Dear Mr. Waldher,

The Hermiston Irrigation District has reviewed the public notice for the parcel listed above. An internal review of this parcel revealed that it has 33.70 acres of water rights and actively irrigates from HID's system. Unless otherwise notified by the landowner, the water right will continue to be attached to the land as it is currently mapped. Any change would require approval from Oregon Water Resources Department.

There is a US Bureau of Reclamation easement through the property for the Maxwell Canal. That easement is 40' to the north from the centerline of the canal and 35' to the south from the center line of that canal.

Attached is HID's Policy with our requirements that need to be met before the signing of the final mylars.

We appreciate working with the County on such land use matters. As always, please contact our office if you have any questions, suggestions or ideas.

Respectfully,

Karra Van Fossen
Water Right Specialist

Encl:/ **HID Policy for Land Owners Divisions, Partitions and Subdivisions**

**Hermiston Irrigation District (District)
Policy for Land Owners
Divisions, Partitions and Subdivisions**

- 1) Owners must pipe to meet District specifications from HID's point of diversion to each parcel or lot created, to include an outlet on each parcel or lot.
- 2) Owner must provide and record an easement of at least 10-feet on each side of the pipe, 20-feet overall minimum. No easements may be split by parcel property lines.
- 3) Owner must pay material and installation costs for installation or modification of a diversion box or pipeline to accommodate the new pipeline.
- 4) For land with full water rights, the owner(s) must sign a Consent of Transfer to allow for a minimum of ½ acre less water right than the acreage in each parcel or lot of 1 acre or more. For lots of less than 1 acre ½ or less of the area may retain a water right.
- 5) For land with a partial water right, owner(s) must designate irrigated acreage to be placed on each parcel or lot and sign a Consent of Transfer and a Request for Transfer to allow the transfer to be completed.
- 6) All associated fees must be paid including the mandatory state filing fee, the District's transfer fees, the \$40 review fee and the current irrigation assessments.
- 7) Owners of land with private ditches or pipeline, which serves others down stream of the property, must record a minimum of a 20-foot easement to protect down stream water users.
- 8) The District requires the installation of a 6' chain link fence, or other fencing approved by the District, on the edge of the rights-of-way on all property being divided or built upon within the Hermiston urban growth boundary. Lands outside the urban growth boundary may be required to fence rights-of-way with appropriate fencing to keep livestock out of the canals and ditches.

Dated: September 8, 2005

Len Jeppeson, Director Division 1

John Lybrand, Director Division 4

Mike Bergstrom, Director Division 2

Charles Miller, Director Division 5

John Wilgers, Director Division 3



Subdivision Request S-057-20

2 messages

Clinton Spencer <cspencer@hermiston.or.us>
To: Megan Green <megan.green@umatillacounty.net>
Cc: Heather LaBeau <hlabeau@hermiston.or.us>

Thu, Nov 5, 2020 at 3:19 PM

Megan,

I wanted to send some quick comments on this subdivision proposal on the south side of the Hermiston UGB. The city appreciates the opportunity to comment on this development proposal and supports the application. However, the city also wishes to make it clear that the property is located outside the Hermiston UGB and is not eligible for connection to city water or sewer services without a UGB amendment and annexation to the city of Hermiston. This is not likely to be an issue in the near future but as the development ages and septic systems fail, the city may receive requests for city sewer services and the city is not able to provide utility service outside the UGB.

Thank you for the opportunity to comment.

Clinton Spencer
Planning Director
(541) 567-5521
cspencer@hermiston.or.us



Where Life is Sweet

Megan Green <megan.green@umatillacounty.net>
To: Clinton Spencer <cspencer@hermiston.or.us>
Cc: Heather LaBeau <hlabeau@hermiston.or.us>

Thu, Nov 5, 2020 at 3:51 PM

Hi Clint,

Thank you for your comments. I will share this information with the Planning Commission.

Best regards,

Megan
[Quoted text hidden]

Megan Green, Planner II / GIS
Umatilla County Department of Land Use Planning

After recording return to:

KMK Land LLC
495 E Main Street
Hermiston, OR 97838

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
MAGNOLIA ACRES SUBDIVISION**

KMK Land LLC (an Oregon limited liability company) is the sole owner of record of the entire real property described as **Parcels 1-8 of Partition Plat 2020-XX**, all located in Umatilla County, Oregon (sometimes referred to herein as the "Parcels") do hereby adopt covenants, conditions, and restrictions regarding the use of the property set forth above which are for the purpose of protecting the value and desirability of said Parcels. A map showing the Parcels subject to this Declaration is attached as Exhibit "A."

SECTION 1- GENERAL PROVISIONS:

The term "Grantor" wherever used herein shall refer to KMK Land LLC, or any person or persons or legal entity to whom the rights of the Grantor as set forth in these restrictive covenants shall be specifically transferred.

The term "Grantee" wherever used herein shall refer to any persons, LLC, corporation or association, including grantor, who shall hereafter assert or claim any right, title, claim, or interest otherwise, and whether voluntary or by operation of law. The term "Grantee" shall not refer to any mortgagee, as herein defined, unless such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

The protective restrictions and covenants herein provided shall be attached to and shall pass with the Parcels described above, and shall bind all persons who may at any time hereinafter and from time to time own or claim any right, title, or interest in and to said real property, whether acquired through voluntary act or through operation of law.

SECTION 2- BUILDING RESTRICTIONS:

The Parcels shall be used exclusively for rural residential living purposes and such uses as are customarily incidental thereto as allowed in Umatilla County's Development Code for Rural Residential Use as allowed in the RR-4 Zone, unless otherwise restricted on a recorded plat, these Declaration of Restrictions or in a supplemental declaration covering the Parcels. A petition to have any parcel(s) rezoned must have a unanimous vote by all 8 parcel owners.

A. Dwelling Type: No dwelling, shall be erected, altered, or permitted to remain on any lot other than detached single family dwelling not to exceed two (2) stories in height and a private, completely enclosed attached or detached garage for not less than two (2) cars. Garages shall not be used or converted to living space but shall remain available for the parking and storage of motor vehicles and recreational equipment. Any construction begun on any lot shall be completed within twelve (12) months of commencement.

Completion shall include, but not be limited to, complete exterior paint, all concrete work complete, and yard area at finished grade.

B. Specific Restrictions on Dwellings: Manufactured homes, mobile homes, kit homes, and modular homes are prohibited. T-111 siding or vinyl siding is prohibited from being used on the dwelling. Any asphalt shingles shall be of architectural style. Home types resembling Quonset huts or fabric truss dwellings are not allowed. All dwellings shall face "Magnolia Lane". Carports are not allowed.

C. Minimum Floor Size and Roof Appearance: The ground floor area of the main structure, exclusive of one-story open porches and garage, shall be not less than 1800 sq. ft. for a one-story dwelling nor less than 1450 sq. ft. for a dwelling of more than one-story. Roof pitch shall be a minimum of 4 x 12, and siding must match the primary dwelling. All dwellings shall have a minimum of twelve (12) inch eaves.

D. Specific Restrictions on Outbuildings: Outbuildings, including but not limited to shops, barns, horse stalls, greenhouses, pool houses, tool sheds shall be designed to be compatible with garage exterior or the primary dwelling. Outbuildings are prohibited from being constructed from cargo containers. All outbuildings, storage buildings, shops, barns, garages, or other outdoor storage facilities shall be made from new materials. Outbuildings may not cover, in total, more than twenty percent of the total square footage of your property.

SECTION 3- TEMPORARY STRUCTURES:

No structure of a temporary character, nor trailer, camper, mobile home, basement, tent, shack, garage (attached or detached), barn, or other outbuilding shall be used on any Parcel as a dwelling or residence either temporarily or permanently.

SECTION 4- EXCAVATIONS:

Grantee agrees not to make excavations for stone, sand, gravel, earth, or minerals upon any building site except where such excavation is necessary for the construction of a dwelling. Immediately upon excavation being made and as soon as the same can properly be treated, any land laid bare to erosion by water or wind, shall be planted in grass, native vegetation, or in some manner controlled and drained as so to prevent the washing or erosion thereof. Roadways or walks shall be cut into slopes only with proper precautions to prevent erosion by wind or rain, and unsightly gashes and cuts shall not be exposed which detract from the appearance of the general landscape.

If Grantor so requests in writing, all materials excavated that is necessary to remove from building site shall become property of the Grantor and shall be disposed of where Grantor may direct, the moving of the same to be performed at the cost of the grantor, EXCEPT, that Grantee shall bear the cost of loading the truck. If, upon notice by Grantee that there will be such excess materials and no directions are given of the same, Grantee shall dispose of it as he sees fit and at his own cost. Grantee agrees that he shall be liable for any damages caused by any excavation done on their premises which causes the sloughing or collapse of any sand, gravel, soil or rock, placed on the premises of Grantees on top of the natural level of the ground which fails, slides, or is washed upon the premises of an adjoining lot.

SECTION 5- REFUSE DISPOSAL & STORAGE OF MATERIALS

No machinery, appliance, or structure or unsightly material may be stored upon the real property, nor shall trash, garbage, ashes, or other refuse be thrown, dumped, burned, or otherwise disposed of upon the real property. The Grantee, at its expense, shall be responsible for the proper disposal of its trash, garbage, ashes, or other refuse before it accumulates. Further, Grantee shall be required to store garbage cans or

garbage disposal facilities out of the public sight. The requirements of this Section shall not apply during the time the primary dwelling is being constructed upon the building site, however, all refuse materials shall be placed within the property line of the building site upon which the structure is to be erected. The Grantor shall have the right to enter upon any vacant site for the purpose of burning or removing weeds, brush, growth, refuse, at Grantee's expense.

SECTION 6 – FENCES AND HEDGES:

No fence, hedge, or boundary wall situated anywhere upon any building site shall have a height greater than 6ft. The type of materials of any fence must be new. All structural framing will face the interior of the Parcel upon which the fence is built. Archways are prohibited on the driveway leading to the dwelling on a Parcel. All shrubbery, hedges, and trees must be planted at least 10 feet away from any property line.

SECTION 7 – NOXIOUS USE OF PROPERTY

No portions of the real property or of any building site shall be used for the conduct of any trade or business except as allowed by the Umatilla County zoning ordinances. No noxious or undesirable use of any portion of the real property shall be permitted or maintained. All unimproved Parcels shall be kept free of trash, debris, and shall not be used for livestock grazing.

The Grantor, until such time as it has sold all Parcels, shall have the unqualified right to determine whether any such act or activity is noxious or undesirable and such determination shall be binding upon all parties including Grantee and his successor in interest.

SECTION 8 – BILLBOARDS AND SIGNS:

No signs or billboards of any kind or for any use shall be erected, painted, or displayed upon any of the real property. The Grantor reserves the right to display signs, during the period the Grantor or his authorized agent is selling Parcels or residences.

SECTION 9 -GENERAL CONVENANCES:

A. Occupancy Limitations: No dwelling or residence of any Parcel or other property area created under any supplemental declaration shall be used for living purposes by more persons than it was designed to accommodate comfortably.

B. Maintenance of Property: All improvements on any such property shall be kept and maintained by the owner in a clean, safe, attractive, and slightly condition and good repair.

C. No Hazardous Activities: No activities shall be conducted on any property within the property covered by this Declaration and no improvements constructed on any such property which are or might be unsafe or hazardous to any person or property. Small controlled and contained brush fires, fire pits, and barbecues are allowed but no Parcel owner shall allow such fires to burn under the control and management of the property owner.

D. No Unsightliness: No unsightliness shall be permitted on any property within the subdivision. Without limiting the generality of the foregoing, all unsightly structures, facilities, equipment, objects, and condition shall be enclosed within an approved structure or privately screened from view. Trailers, trucks, (other than pickups), boats, tractors, vehicles other than automobiles, campers not on trucks, snow removal equipment and garden of maintenance equipment shall be kept at all times, except when in actual use, enclosed in a garage or shop, or screened from view or generally kept behind the principal dwelling.

The purpose of this is to avoid vehicles and equipment from accumulating in front of the principal dwelling and to enhance the properties appearance. Refuse, garbage, and trash shall always be kept in a covered container and disposed of on a regular basis.

E. No Annoying Lights, Sounds, or Odors: No light shall be emitted from any Parcel which is unreasonably bright or causes unreasonable glare; no sound shall be emitted on any property which is unreasonably loud or annoying, and no odor shall be emitted on any property which is noxious or offensive to others.

F. Restrictions on Animals: A Parcel may have no more than two (2) adult horses. No pigs, hogs, peacocks, emus, ostriches, geese, or flightless birds (not including chickens or ducks) can be kept on any Parcel. No Parcel may have more than a combination of 16 adult chickens and/or ducks. No Parcel owner shall have more than a combination of 10 head of livestock. Livestock is defined as cattle, sheep, llamas, goats, alpacas, or other four-legged domesticated livestock. No Parcel owner shall have more than a combination of 4 adult dogs and/or cats. All fowl must be fenced and contained and not allowed to run or fly at large. No vicious animals may be kept on any lot. No commercial dog kennel may be maintained on any lot. No dog shall be allowed to run at large, and all dogs must be kept within the Parcel owner's boundary unless on a leash and accompanied by the owner. Animals raised for a 4-H or FFA student project are exempt from the above restrictions but are limited to two animals per 4-H or FFA student per parcel.

G. Fences: Common three and four strand barb wire fences shall not be allowed on any parcel within 100 feet of Magnolia Lane.

H. Storage Facilities: No truck beds, cargo containers, or vans shall be used as storage facilities on any Parcel. All storage facilities, such as shops, or barns shall be built in compliance with building code regulations and shall have a building permit unless exempt from permitting requirements.

I. Chemical Applications: No restricted use pesticides or herbicides shall be applied to any Parcels unless it is in strict conformance with all regulations and labeled requirements.

J. Large Trucks: No more than two (2) large trucks and/or truck/trailer combinations (i.e., 34,000 GVW or greater) may be kept or parked on a Parcel. Any such truck and/or truck/trailer combination shall always be parked on a graveled, paved, or concrete surface behind the dwelling and may not be parked more than thirty (30) continuous days. No heavy trailers (defined by Oregon DMV as a trailer with a loaded weight of over 8,000 pounds) may be left parked on the property for more than 48 hours at one time.

K. Business Usage: No business shall be conducted on any Parcel that is open to or made readily available to the public.

SECTION 10 – DUTY TO REBUILD:

In the event the property or the improvements thereon shall suffer damage or destruction from any cause, the owner of such premises shall undertake the repair, restoration, or reconstruction of the property within ninety (90) days of such damage or destruction and complete construction within one (1) year.

SECTION 11- ROAD USAGE AND MAINTENANCE:

The following conditions apply to Magnolia Lane as shown on the map attached. Magnolia Lane provides the access for the Parcels subject to this Declaration.

A. Grantor has constructed and installed a paved roadway on **Parcels 1-8 of Partition Plat 2020-XX** as shown on the Plat map attached. No gates or fences may be built within the 30 feet of the center of the roadway area without the consent of the owners of all Parcels.

B. No person shall drive upon the roadway in excess of 15mph.

C. The Parcel owners shall maintain and repair the existing road, bridge, and electric gate by performing all maintenance and repairs necessary to keep the roadway in a passable condition for conventional motor vehicles on a year-round basis.

D. This agreement shall not be constructed to require the parties to maintain the roadway to any federal or state standards. The parties shall, however, comply with fire and safety code provisions to allow ready access for emergency vehicle access and turnaround and the Umatilla County road standards.

E. Maintenance of the road will cover the full length of the common easement and the width to the extent required by Umatilla County. Each Parcel owner shall be responsible for its own driveway from the road to the dwelling. Such driveways shall be constructed according to the county's P-1 standard, a copy of which is attached to this Declaration. Drainage areas shall be kept free of weeds.

F. Unless the parties agree otherwise, the cost of repairs, maintenance, or improvements to the roadway shall be shared equally by each parcel.

G. Prior to expenditure commitment of funds for road improvements the Parcel owners shall meet in person or by phone or through letter to discuss the proposed maintenance or improvements, as well as the respective cost. Expenditures for maintenance or improvements, for which a parcel owner shall be liable under this agreement, shall not be incurred unless the owners of **Parcels 1-8 of Partition Plat 2020-XX** consent is writing to the maintenance or improvements.

Unless otherwise agreed, the parties agree to obtain at least two (2) estimates for the proposed maintenance and/or improvements. A decision to hire the contractor shall be made within fifteen (15) days from the date the Parcel owners are provided with the estimate. The parties shall select the low bidder according to the contractor. Should a Parcel owner not pay their proportionate share when due any of the other lot owners shall have the right to enforce payment by suit of action provided such payment is not so made within ten (10) days of written demand mailed or served upon the non-paying Parcel owner.

SECTION 12- WATER WELLS:

All parties are aware that present state statutes authorize domestic use of well water up to 15,000 gallons per day, and up to one-half acre of irrigation for non-commercial lawn and garden, and for stock watering purposes.

SECTION 13- IRRIGATION SYSTEM:

All parcels come with their own irrigation rights through the Hermiston Irrigation District. The Grantor has installed an irrigation system for each of the lots to share. It is a gravity fed system and each parcel will have control over their pumping from that system.

A. Unless the parties agree otherwise, the cost of repairs, maintenance, or improvements to the irrigation system shall be shared equally by each parcel that is serviced by that system. If parcels 1, 2, 5, and 6 share a gravity fed irrigation line and it were to fail, then only parcels 1, 2, 5, and 6 would be required to pay for the repairs, maintenance, and improvements.

B. If a parcel wishes to elect out of the irrigation system that services their parcel, they should do so in writing to all owners of the Magnolia Lane parcels as soon as possible.

SECTION 14- TERM OF RESTRICTIONS:

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of fifteen (15) years from the date these covenants are recorded after which time said covenants shall automatically be extended for successive periods of five (5) years unless an instrument signed by 75% of the Parcel owners have been recorded, agreeing to change said covenants in a whole or in part. The recording of a modification or amendment to these covenants may occur at any time and unless otherwise modified, be subject to the terms and automatic renewal periods as set forth herein. Each Parcel shall be entitled to one vote.

SECTION 15- SEVERABILITY:

Invalidation of any of these conditions and restrictions shall in no way affect any of the other provisions, which shall remain in full force and effect.

SECTION 16- ENFORCEMENT:

The foregoing conditions and restrictions constitute covenants running with the land and shall bind and inure to the benefit of, and be enforceable by suit for injunction, specific performance, or for damages to the owner or owners of any of the above-described lands, and each of their legal representatives, heirs, successors, or assigns. A failure, either by the owners above named or their legal representatives, heirs, successors, assigns, to enforce any of such conditions or restrictions shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 17- ATTORNEY FEES:

Should suit of action be instituted to enforce any of the foregoing conditions or restrictions after written demand for the discontinuance of a violation thereof and any failure so to do, then, whether said suit be reduced to decree, judgement or not, the owner seeking to enforce or to restrain any such violation shall be entitled to have and recover from such defendant or defendants, in addition to the costs and disbursement allowed by law, such sum as the court may judge reasonable as attorney fees in such suit or action.

Date ____ of _____, 2020

Paul A. Barnett, member of KMK Land, LLC

State of Oregon, County of Umatilla

This record was acknowledged before me on the ____ of _____, 2020 by Paul A. Barnett.

Notary Public – State of Oregon

Mitchell L. Boylan, member of KMK Land, LLC

State of Oregon, County of Umatilla

This record was acknowledged before me on the ____ of _____, 2020 by Mitchell L. Boylan.

Notary Public – State of Oregon

Kristen Coller, member of KMK Land, LLC

State of Oregon, County of Umatilla

This record was acknowledged before me on the ____ of _____, 2020 by Kristen Coller.

Notary Public – State of Oregon

DRAFT

**PLANNING COMMISSION HEARING
OCTOBER 22, 2020
DRAFT MINUTES**

**TYPE III LAND DIVISION
REPLAT REQUEST #LD-6N-428-20**

**Mark Wagoner, Applicant
Wagoner Touchet Farms, Inc. & Barbara Brown, Owners**

&

**PLAN AMENDMENT #P-127-20,
ZONING MAP AMENDMENT #Z-315-20**

**Co-adopt City of Pendleton
Urban Growth Boundary Adjustment**

DRAFT MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, October 22, 2020, 6:30 PM
Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon

** **

COMMISSIONERS

PRESENT: Suni Danforth, Chair, Don Wysocki, Vice Chair, Molly Tucker Hasenbank,
Tammie Williams, Hoot Royer, Tami Green, Jon Salter
ABSENT: Lyle Smith
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 PM and read the Opening Statement.

NEW HEARING

TYPE III LAND DIVISION, REPLAT REQUEST #LD-6N-428-20: MARK WAGONER, APPLICANT / WAGONER TOUCHET FARMS INC & BARABRA BROWN, OWNERS.

The applicant requests approval to Replat Lots 399 and 400 of the Gardena Contoured Tracts Third Addition subdivision, Surveyor’s Book 4, Page 5, Assessor’s Map 6N 33 14, Tax Lots 300 and 302. The applicant’s proposed Replat reconfigures the lots’ shared property lines and will shrink Subdivision Lot 400 around existing structures. The Land Use standards applicable to the applicants’ request are found in Umatilla County Development Code (UCDC) 152.697(C), Type III Land Divisions.

Chair Danforth called for the Staff Report.

STAFF REPORT

Megan Green, Planner/ GIS, stated that the applicant, Mark Wagoner, requests approval of a Replat (Type III Land Division) of Subdivision Lots 399 and 400 of Gardena Contoured Tracts 3rd Addition Subdivision. Approval of the Brown State Line Addition results in the reconfiguration of the shared property line, shrinking Subdivision Lot 400 around existing structures. The subject properties are located about 0.2 miles east of the intersection of Stateline and Barnes Road, about 14 miles northwest of the City of Milton Freewater, as the crow flies. Both properties are located along the Oregon-Washington border.

She 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.

Ms. Green stated that she mailed public notice with the applicant's request and the public hearing date scheduled for October 1, 2020 to the owners of properties located within 750 feet of the perimeter of Lots 399 and 400. Notice was also published in the *East Oregonian* on October 10, 2020 notifying the public of the applicants request before the Planning Commission on October 22, 2020.

Ms. Green explained that Subdivision Lots 399 and 428 were consolidated (for tax purposes only) to create Tax Lot #302. Subdivision Lots 400, 401 and 430 were also consolidated (for tax purposes only) to create Tax Lot #300. However, Subdivision Lots 401, 428 and 430 are not involved in this replat request and therefore, if the request is granted, new tax accounts and tax lot numbers will need to be created to separate the replatted lots from the other subdivision lots under same ownership. She added that the proposed Conditions of Approval address the survey and recording requirements and final approval will be accomplished by recording the final survey plat.

Ms. Green clarified to the Commissioners that the decision made by them on this matter will be final, unless timely appealed to the Board of County Commissioners.

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: Mark Wagoner, 371 Bald Road, Touchet, Washington. The applicant was not present but submitted written testimony, sent via email:

Hello, I am Mark Wagoner of Touchet, WA. My son Tim and I own and operate a family farm of 2400 acres in the Gardena area in the Walla Walla Valley. One hundred acres of the two hundred acres of the Barnes farm is in Umatilla County. I rented the Barnes farm in 1997 from Jean Barnes. Her two daughters, Barbara Brown and Judy Poitras, subsequently inherited the farm in 2002. In 2011 they sold Wagoner Touchet Farms the farmland and kept land around their houses. We used the clustering provision in Walla Walla County to minimize Judy Poitras's land area and maximize our farmland. Barbara just kept the intact, original Gardena Contoured tracts from 1892, for her house and buildings.

As our farm has gotten bigger we have had to build more machinery storage for our increasing amount of farm machinery. We have built farm buildings on four of the farms we own in the Gardena area. We would like to build one on the Barnes farm and the logical place to do it is in Barbara's big lot. We already store our sprinklers pipes and bee houses on her property and have nowhere to store spare parts and motorcycles for moving sprinkler pipes. We have already demolished two decrepit buildings on the site and

hailed away a bunch of junk. If you approve this request, it will make Barbara and my son and I very happy. Also it will add property taxes to Umatilla County. Thank you.

Opposition Testimony: None.

Public Agencies: No comments.

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Commissioner Williams made a motion to approve Type III Land Division, #LD-6N-428-20. Commissioner Royer seconded the motion. Motion passed with a vote of 7:0.

NEW HEARING

PLAN AMENDMENT #P-127-20, ZONING MAP AMENDMENT #Z-315-20 to Co-adopt City of Pendleton Urban Growth Boundary (UGB) Adjustment. The City of Pendleton requests the County co-adopt a proposed change to the city's UGB that would remove 69.2 acres of industrial land from within the UGB and replace it with 69.2 acres of land to be rezoned from Exclusive Farm Use (EFU) to City Light Industrial (M-1), and annexed into the City. The criteria of approval are found in Umatilla County Development Code (UCDC) 152.750-152.755 and the Joint Management Agreement (JMA) between the City and County.

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

STAFF REPORT

Bob Waldher, Planning Director, stated that the City of Pendleton requests the County co-adopt a proposed change to the City's UGB. The proposed change would remove 69.2 acres of industrial land from within the UGB and replace it with 69.2 acres of land to be rezoned from Exclusive Farm Use (EFU) to City Light Industrial (M-1), and annexed into the City. The UGB adjustment is requested to support airport related development of properties that are identified in the City's 2018 Airport Master Plan as an, "airfield development area". Specifically, the UGB adjustment will support the growing Unmanned Aircraft Systems (UAS) industry that desires land and hangars located nearer to existing airport runways.

Mr. Waldher stated that an initial hearing was held before the City of Pendleton Planning Commission on May 28, 2020. The amendment was adopted at the Pendleton City Council Meeting held July 7, 2020 under Ordinance #3960. He added that a copy of the adopted City Ordinance is included in the Commissioner's packets.

Mr. Waldher stated that the Criteria of Approval for Amendments are found in UCDC 152.750-152.755 and the JMA between the City & County. Provisions for Adjusting a UGB are contained in Oregon Administrative Rules (OAR) 660-024-0070, UGB Adjustments.

Mr. Waldher explained that under the provisions of the JMA, the City of Pendleton is responsible for preparing and reviewing all legislative and quasi-judicial amendments to the City Comprehensive Plan text and maps. All adopted amendments to the City's Comprehensive Plan and/or maps affecting the Urban Growth Area (UGA) or UGB shall be referred to the County for adoption as amendments to the County Plan. The County has a responsibility to review and adopt the amendments approved by the City for these to be applicable in the UGA. Additionally, the process of approval by the County involves review by the County Planning Commission with a recommendation to the Board of County Commissioners (BCC). The BCC must also hold a public hearing and make a decision whether or not to co-adopt the proposed change to the City of Pendleton UGB.

TESTIMONY

Applicant Testimony: Tim Simons, Pendleton Community Development Director & City Engineer; George Cress, Pendleton City Planner; Bob Patterson, Pendleton Public Works Director; and Wayne Green, Associate City Engineer & Airport Engineer; All located at Pendleton City Hall, 500 SW Dorion Avenue, Pendleton, Oregon.

Mr. Cress stated that the City of Pendleton proposes an Urban Growth Boundary adjustment that would remove 69.2 acres of industrial land from the UGB and replace it with 69.2 acres of airport activity use. The proposed amendment would remove property owned by the City of Pendleton just south of Stage Gulch Road, near the southwestern Airport Ownership Line and replace it with property owned by the City of Pendleton that is East of Airport Taxiway Golf and north of Airport Runway 8/26. Property proposed to be added is under Federal Aviation Administration (FAA) purview. This UGB Amendment was initiated by the property owner, City of Pendleton.

Mr. Cress stated that the 69.2 acres of land to be brought into the Pendleton UGB is currently leased for airport and agricultural uses. The lessee signed an agreement that if the City develops the land around Taxiway Golf for UAS activities, the leased land would be decreased and the lessee duly compensated. Therefore, the City has communicated to all parties that expansion of development may occur on lands owned by the City. The purpose of the UGB amendment request was to support airport related development of properties that are identified in the City's 2018 Airport Master Plan as an Airfield Development Area. Specifically, the City UAS airport industry is growing and desires land and hangars located nearer to airport runways.

Mr. Cress added that two zone changes will accompany the UGB Amendment. The acreage to be removed from the UGB will be rezoned to Exclusive Farm Use (EFU) and the land to be added

to the UGB will be rezoned Airport Activities (AA) with this application. The new parcel will also be annexed into the City Limits.

Mr. Cress explained that the Pendleton City Water Master Plan identifies the need for a main water line to be extended to increase fire flow capacity in the airport area. This UGB land swap will include 6.2 acres of land to extend the water line. This same acreage is identified in the Waste Water Master Plan for extension of a sewer main line. The 6.2 acre section is south of Taxiway Golf, below Taxiway Echo, a triangular portion abutting Airport Road then extending north wide enough to support the water main. The water line extension will be installed alongside Taxiway Golf's existing airport improvements. The remaining 63 acres to be brought into the UGB lies east of Taxiway Golf in what is a recognized economic opportunity land for UAS industries and is presently dry farmed. There is a proposed UAS project designated in the 2018 Airport Master Plan for this area. The project has received funding from the Economic Development Administration and the State of Oregon to build UAS hangars and testing facilities. Mr. Cress presented a map of the region and went into more detail about the parcels involved in the UGB land swap.

Chair Danforth asked about how the UAS activities may affect the surrounding farm ground in the area. Mr. Cress stated that the property around the airport is owned by the City of Pendleton. He added that the farmers surrounding the airport participate in airport activities and receive compensation. Wayne Green stated that there has been no disruption to farming activities due to UAS activities. In fact, a couple of land owners and offered their land to be used for testing and other projects.

Commissioner Royer asked about expected growth for the UAS program in Pendleton. Mr. Green replied that interest is high in the UAS program and they have more companies involved than hangars to put them in. They are currently starting construction on an 18,000 square foot hangar and have designs ready for two additional large hangars. They received \$16 million as part of the Coronavirus Aid, Relief, & Economic Security (CARES) Act and plan to use that money to start construction on the new hangars as soon as possible.

Commissioner Wysocki asked about the current land use on the portions of land that will be removed from the UGB. Mr. Green stated that the land being removed from the UGB is located south of the old landfill. It is a steep canyon and undevelopable in its current state. He described it as basic range land that is not farmable. Commissioner Wysocki stated that the land being removed is far less productive farmland than the land being annexed into the UGB. Chair Danforth agreed and pointed out that the incoming acreage is designated as high-value farm ground.

Public Agencies: Mr. Waldher stated that the Department of Land Conservation and Development (DLCD) did an extensive review and worked closely with the City of Pendleton on this application. The request was analyzed by DLCD specialists dealing with economic development, Goal 9 and farm & forest matters. Based on the Airport Master Plan, it was

determined that the City had a need to expand their airport industrial supply and the request meets the Oregon Administrative Rules (OAR).

Chair Danforth closed the hearing for deliberation.

DELIBERATION & DECISION

Chair Danforth stated that she does not like to see farm ground go out of production. However, she is very excited for the City and the growth it is bringing to the area so she feels it is a good use. Commissioner Williams agreed and said they have her support.

Commissioner Hasenbank made a motion to recommend approval of Plan Map Amendment, #P-127-20, and Zoning Map Amendment #Z-315-20 to co-adopt City of Pendleton UGB Adjustment to the Umatilla County Board of Commissioners. Commissioner Williams seconded the motion. Motion passed with a vote of 7:0.

A subsequent Public Hearing before the Umatilla County Board of Commissioners is scheduled for Wednesday, December 2, 2020 at 9:00 AM in Room 130 of the Umatilla County Courthouse, 216 SE 4th Street, Pendleton, Oregon. The meeting will be held virtually and members of the public who wish to attend via telephone conference can do so by calling, 541-728-0275.

MINUTES

Chair Danforth called for any corrections or additions to the minutes from the July 23, 2020 meeting. Commissioner Hasenbank stated that her name is misspelled at the bottom of page 2. Ms. Cimmiyotti agreed to make the change. No additional changes were noted. Commissioner Williams moved to approve the minutes with the name correction on page 2. Commissioner Hasenbank seconded the motion. Motion carried by consensus.

ADJOURNMENT

Chair Danforth adjourned the meeting at 7:21 p.m.

Respectfully submitted,

Tierney Cimmiyotti,
Administrative Assistant