



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m. June 12, 2024. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: David & Kaitlyn Braun

LANDOWNERS: Same

FILE NUMBER/TYPE OF REQUEST: PD24-0144; an application for a property line adjustment and a variance.

LOCATION OF PROPERTY: The properties are located on the west side of Tennessee Road, approximately 0.92 miles north of the intersection of Tennessee Road and Ranch Drive, and approximately 5.53 miles southeast of the city of Albany. (T11S, R02W, Section 15, Tax Lots 300 and 402)

PLAN DESIGNATION/ZONE DESIGNATION: Agricultural Resource / Exclusive Farm Use (EFU)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: An application to adjust property lines between two properties. The property line adjustment would result in tax lot 300, a 14.95-acre property, being decreased to 5.05 acres and tax lot 402, a 0.87-acre property, being increased to 10.77 acres. Also, a variance to the width standard of 800 feet to decrease tax lot 300 in size and a variance to the side yard structural standard of 50 feet to create a 20-40 feet setback from accessory buildings located on adjusted tax lot 402. and The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department may make a final land use decision.

COMMENTS: [Blank lines for comments]

BY _____ AGENCY (IF ANY) _____ DATE _____

STAFF CONTACT PERSON: Alyssa Boles; (541)967-3816, ext.2360 or aboles@co.linn.or.us

Table with 3 columns: Linn County, State of Oregon, Other. Rows include EHP, Parks, Assessor, GIS, Sheriff, Bldg Official, Roads, Surveyor, Flood Official, DEQ, DOGAMI, DSL, Water, ODFW, ODOT/OSHD, ODSF, DLCD, Parks, State Fire Marshal, School, Landowners, City Of, Other, RFD: Albany Fire.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.
2. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

Sections 925.320(B), 925.350(B), and 938.300(B) of the Linn County Land Development Code contain the decision criteria specified for use with this application.

Section 925.320(B) - Decision criteria: generally

- (1) The property line adjustment, if approved, shall not create any additional units of land.
- (2) Except as otherwise authorized in paragraph (3), a property which meets or exceeds the minimum property size required by the zoning district shall not be reduced below the minimum property size.
- (3) A property which meets or exceeds the minimum property size in the UGA–UGM zoning district may be reduced below the minimum property size through a variance approved under this Development Code.
- (4) Subject to subsections (5) and (6), an authorized unit of land in non-resource zoning districts which does not meet the size standard of the zoning district may be further reduced in size by a property line adjustment.
- (5) The property line adjustment shall not:
 - (a) reduce the property below the area and configuration needed to maintain water supply and an approved septic system.
 - (b) eliminate vehicular access for any of the properties unless an alternative access has been provided and approved.
 - (c) create building encroachments into specified setback areas. Where there is an existing encroachment, the adjustment shall not result in any greater setback encroachment unless a variance has been granted.
 - (d) cause an undeveloped property to become ineligible for an approved septic system.
 - (e) encroach the location of an existing or approved septic system unless:
 - (i) A repair area for an existing, off-site septic system can be identified by Environmental Health Program (EHP) and secured by the applicant through an easement;
 - (ii) The location of the off-site repair area is surveyed; and
 - (iii) An easement, together with the surveyed description of the off-site repair area, is recorded in the County Clerk's office with a copy of the recorded documents provided to EHP.
- (6) No width, depth, or frontage standard of any property that meets the standards required by the zoning district may, by a property line adjustment, fail to continue to meet the applicable standard unless a variance has been granted.

Section 925.350(B) – Decision criteria; Type IIA property line adjustments

- (1) The decision criteria set forth in LCC 925.320.
- (2) No property may be reduced below one acre. This limitation is based on the smallest unit of land considered to be adequate for a rural home site.
- (3) A reduction of an authorized unit of land in an EFU, F/F or FCM zoning district may be approved for less than five acres but not less than one acre only if it meets one of the tests in this subsection. The objective of the tests is to assure compatibility with surrounding land uses and existing land development patterns. To further that objective, the following tests shall only include resource-zoned lands:
 - (a) The authorized unit of land as it currently exists, is bordered on at least 67 percent of its perimeter by other authorized units of land that are:
 - (i) resource-zoned, and
 - (ii) smaller than 5 acres, and
 - (iii) at least two such properties had dwellings on them on January 1, 1993; or
 - (b) The authorized unit of land, as it currently exists, is bordered on at least 25 percent of its perimeter by other authorized units of land that are:
 - (i) resource-zoned, and
 - (ii) smaller than 5 acres, and

- (iii) at least four dwellings existed on January 1, 1993 within one-quarter mile of the center of the subject property; or
- (c) The authorized unit of land as it currently exists, is determined to be within an area of significant impact regardless of impact directly on its perimeter. The impact area is measured outward one-quarter mile from the center of the subject property. The impacted area must contain
 - (i) all or part of at least 11 other authorized units of land that are resource-zoned, and
 - (ii) at least three dwellings, all of which must have existed on or before January 1, 1993; or
- (d) The proposed adjustment to a property line is not adjacent to an area which may be subjected to off-site farm or forest-related impacts. Any decrease in the size of the property shall not reduce the buffer between farm or forest activities on nearby or adjacent tracts and the subject property.
- (4) If the applicant fails all of the tests set forth in subparagraphs (a) to (d) of paragraph (3) of this subsection, the failure to have met a structural setback standard may nonetheless be resolved by reducing a property by one acre or less, with the actual reduction being no more than is necessary to alleviate the actual encroachment plus the required setback.
- (5) If a single authorized unit of land being reduced in size consists of more than one contiguous tax-lot, the tax-lots shall be consolidated into a single tax-lot if the application is approved.
- (6) For all properties being reduced in size below the typical field size set forth by *LESA* or below the 10% allowed ministerially for forested property, a terrain feature must exist or a management practice must be in place or proposed that makes the adjustment advantageous to the point that it mitigates the reduction.
- (7) A property proposed to be reduced in size below the typical field size set forth by *LESA* or below the 10% allowed ministerially for forested property shall not result in a property size which would alter the stability of the land use pattern of the area.
- (8) On land zoned EFU, F/F, or FCM, a property line adjustment may not be used to:
 - (a) Decrease the size of a property that, before the relocation or elimination of the common property line, is smaller than the minimum property size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;
 - (b) Decrease the size of a property that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum parcel size, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or
 - (c) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

938.300(B) Decision criteria

(B) Decision criteria.

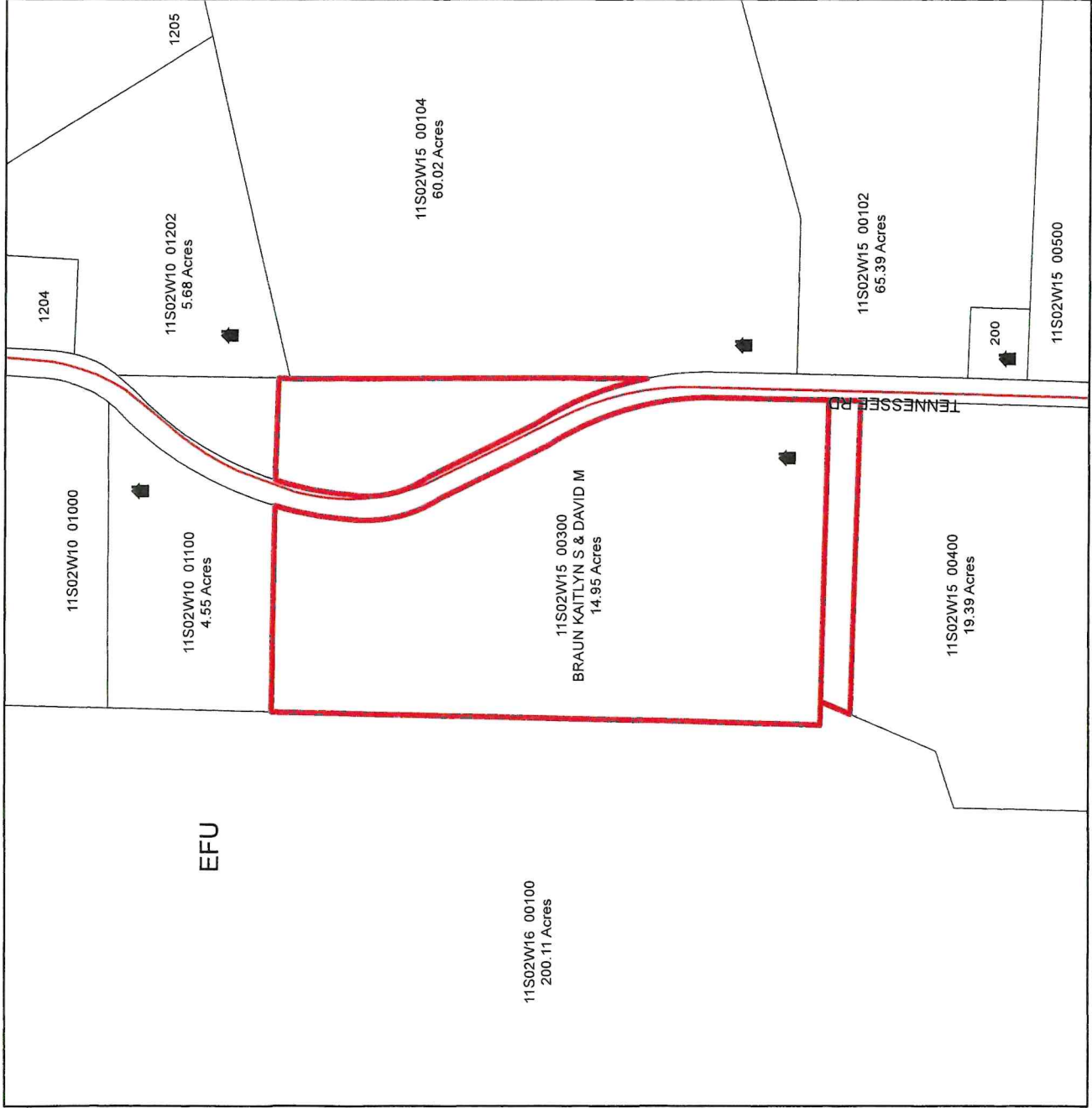
- (1) A variance from a development standard as set forth in LCC 934 (Development Standards Code) is needed because conditions or circumstances or both exist on the land or structure involved that renders development impractical or impossible;
 - (2) Granting a variance from a development standard will not have a significant adverse effect on property, improvements, or public health or safety in the vicinity of the subject property; and
 - (3) Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.
3. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
4. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
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5. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
6. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.
8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.

Linn County Planning & Building Department

Notice Map



- Subject Properties
- taxlots
- Zoning
- roads

PD24-0144
BRAUN
11S02W15 00300
11S02W15 00402



05/22/2024

Acreage Land Solutions LLC

Rural Land Use Consultants and Oregon General Contractor CCB # 206629

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Albany, OR 97322
541.619.4949

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LEGAL:11S02W15-00-00300

35642 Tennessee Rd
Albany, OR 97322

Property A: Tax Lot 300 -
Currently 14.95, post PLA
5.05 AC with existing dwelling

Property B: Tax Lot 402 -
Currently 0.87 AC, post PLA
10.77 AC farm parcel

Note: PLA separates the orchard from the dwelling, horse pasture and associated horse facilities by adjusting the line between two existing parcels. No new dwelling rights result and tax the lot 402 designation follows with the orchard parcel.

Variances to lot width, depth and minimum setbacks are applied for.