



## KEIZER COMMUNITY DEVELOPMENT DEPARTMENT NOTICE OF DECISION

### PROPERTY LINE ADJUSTMENT 2020-19

#### I. REQUEST

The following report reviews a request to eliminate the common property lines between three parcels creating one parcel of 23,365 square feet. Currently Parcel 1 is 10,632 square feet and developed with a single family home. Both Parcel 2 (6,953 square feet) and Parcel 3 (5,780 square feet) are currently undeveloped. (Exhibit 1)

#### II. BACKGROUND

- A. **APPLICANT:** Terry Silbernagel
- B. **PROPERTY OWNER:** Edward Fischer and Leila Yanacek-Fisher
- C. **AGENT:** Multi-Tech Engineering – Brandi Dalton
- D. **PROPERTY LOCATION:** The properties are located at 267 Dearborn Av N, identified on Marion County Tax Assessor’s Map 073W02BC Tax lots 03200, 03201 and 03202. (Exhibit 2)
- E. **EXISTING PARCEL SIZES:** The property sizes are approximately 10,632 square feet (Parcel 1), 6,953 square feet (Parcel 2) and 5,780 square feet (Parcel 3).
- F. **PREVIOUS LAND USE APPROVAL:** In 2018, an approved Plat was recorded for the original parcel (267 Dearborn Av N - Partition 2015-17) for a side-by-side partition along with the parcel located to the east (287 Dearborn Av N – Partition 2016-09) creating a combined total of 5 lots. A shared private access easement was recorded to grant access for both partitions. This property line adjustment application, along with a similar application at 287 Dearborn A N (Property Line Adjustment 2020-20), is to eliminate the partitioned parcels completed in 2018.
- G. **EXISTING PUBLIC FACILITIES AND DEVELOPMENT:** Parcel 1 is developed with a single family dwelling and is served with both public water and sewer. Parcel 2 and Parcel 3 are undeveloped parcels.
- H. **ZONING/LAND USE:** All three properties are designated Low Density Residential (LDR) in the Comprehensive Plan, zoned Single Family Residential (RS) and located within the River-Cherry Overlay District (RCOD). Surrounding properties are developed with single family residences and are also zoned RS.

### III. COMMENTS

#### AGENCY COMMENTS:

- A. The Keizer Public Works Department (Exhibit 3) submitted comments regarding the existing requirement of public improvements.
- B. The Marion County Surveyor's office (Exhibit 4) submitted comments regarding the process for accomplishing the property line adjustment.
- C. The Keizer Police Department and the City of Salem reviewed the proposal and had no comments.

### IV. FINDINGS

The approval, or denial, of a Property line adjustment is based on compliance with decision criteria found in Section 3.106 of the Keizer Development Code. Section 3.106.04 establishes the decision criteria. The criteria and staff's findings are listed below.

1. **Section 3.106.04.A. The adjustment of the lot lines results in no more parcels than originally existed.**

**FINDINGS:** The proposal complies with this requirement as it removes the common property line between three existing parcels. The result will be one parcel of approximately 23,365 square feet therefore it will not result in *more* parcels than originally existed. This request satisfies this criterion.

2. **Section 3.106.04. B. The proposed property line adjustment results in parcels that meet all area and dimension standards of the Keizer Development Code.**

**FINDINGS:** The properties are zoned RS and are located within the RCOD as specified in Section 2.130 of the Keizer Development Code (KDC). The RCOD replaces *selected* development standards in the underlying zoning districts. In this case, both the minimum lot size and the minimum average width is based on the RCOD, while the minimum lot depth is based on the Single Family Residential section of the KDC.

The minimum lot size for a RS zoned parcel, with a detached single family home, located in the RCOD is 3,500 square feet. The minimum width for a RS parcel located in the RCOD is an average of 35 feet. The minimum average depth in the RS zone is 70 feet. This report is written to remove property lines and consolidate three lots, it does not change the existing zoning and in turn does not change the zoning requirements in the KDC.

As a condition of property line adjustment approval, and to accomplish the property line adjustment, the applicant is required to comply with the Marion County Surveyor's Office requirements (Exhibit 4) regarding the replat of the property. With this condition, this request satisfies this criterion.

3. **Section 3.106.04.C. The proposed property line adjustment does not locate lines in violation of the setback and height provisions of the Code relative to existing structures and improvements.**

**FINDINGS:** Parcel 1 has an existing single family home that currently meets the required setbacks. Parcel 2 and Parcel 3 are undeveloped lots and no new development is proposed with this property line adjustment. Since this proposal will adjust the property line between the three parcels in a manner that will not affect the setbacks, staff finds this request satisfies this criterion.

4. **Section 3.106.04.D. The property line adjustment involves only lots or parcels that have been lawfully created.**

**FINDINGS:** The applicant submitted a copy of the recorded plat from 2018 showing the lots were lawfully created along with the recent deed for this property. As mentioned earlier in this report, in 2018, the original parcel (267 Dearborn Av N) was approved for a side-by-side partition along with the parcel located to the east (287 Dearborn Av N) creating a combined total of 5 lots. A shared private access easement was recorded to grant access for both partitions. This property line adjustment application, along with a similar application at 287 Dearborn A N, is to eliminate the partitioned parcels completed in 2018, which will effectively return the property to its original state. It should be noted that the property is subject to improvement requirements that were conditions of partition approval (Partition 2015-17). All conditions of the earlier partitioning will become null and void with the recording of a Property Line Adjustment plat and any future proposed division or development of the subject parcel will require improvements as provided for in the Development Code at the time of any future application. Therefore, staff finds this request complies with this criterion.

5. **Section 3.106.04.E. The property line adjustment by itself does not prohibit any property from accessing either a public right of way or an access easement.**

**FINDINGS:** The proposed property line adjustment will eliminate the access issues that were created when the access easement, recorded in 2018, was eliminated by the previous property owner in turn land-locking the parcels in the back. Since the access easement was shared between this parcel and the adjacent parcel at 287 Dearborn, both property line adjustments must be recorded simultaneously to correct this situation. Therefore, as a condition of this property line adjustment approval, the property line adjustment at 287 Dearborn Avenue (Case 2020-20) must also be completed. With the above mentioned conditions of approval, staff finds the proposal to remove the common property lines between the three existing parcels, resulting in one parcel with street frontage to Dearborn Av N, complies with this criterion.

## V. DECISION

Notice is hereby given that the Zoning Administrator for the City of Keizer has **APPROVED** the proposed Property Line Adjustment application subject to certain requirements noted below. Findings in support of the decision can be found in Section IV of this report.

Any interested person, including the applicant, who disagrees with this decision, may request an appeal by the Keizer Hearings Officer at a public hearing. The appeal is subject to the appellant paying a \$250.00 fee. Requests for an appeal must be in writing, on a form provided by the City, and shall state the alleged errors in the original action. The request must be received in the Keizer Community Development Department, 930 Chemawa Road NE, Keizer by 5:00 p.m. January 18, 2021.

**Unless the decision is appealed, this decision becomes final on January 19, 2021.**

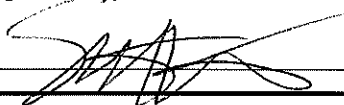
**VI. CONDITIONS**

1. Recording of a Replat and the recording of the property line adjustment deed, as required by Marion County Surveyor (Exhibit 4), must be accomplished before January 19, 2022. If such document is not recorded within one year of this decision, the preliminary approval shall lapse. The recording of the replat will be required to be completed concurrent with the replat for Property Line Adjustment 2020-20. The final Mylars for both replats will be submitted to the City, along with the necessary County fees, for the City to deliver to the Marion County Surveyor for final review and recording. After the property adjustment deeds and the replats are recorded, no alteration of property lines shall be permitted without first obtaining approval from the Zoning Administrator.
2. Satisfaction of existing improvement agreements, pertaining to the original partition approval, shall be granted by the City at the applicant's expense for recording of such satisfactions.
3. This approval does not remove or affect any covenants or restrictions imposed on the subject property by deed or other instrument. The proposed use may require permits from other local, State or Federal agencies. This decision does not take the place of, or relieve the responsibility for obtaining other permits or satisfying any restrictions or conditions thereon, including building permit approvals for future development on each of the parcels.

The proposed Property line adjustment conforms to Section 3.106.04 of the Keizer Development Code. Based on the above findings, staff concludes the proposal complies with the applicable decision criteria and approves the proposal subject to conditions outlined in Section VI of this report. If you have any question about this application or the decision please call (503) 856-3441 or visit the Community Development Department at 930 Chemawa Rd NE, Keizer, Oregon.

REPORT PREPARED BY: Dina Horner, Assistant Planner

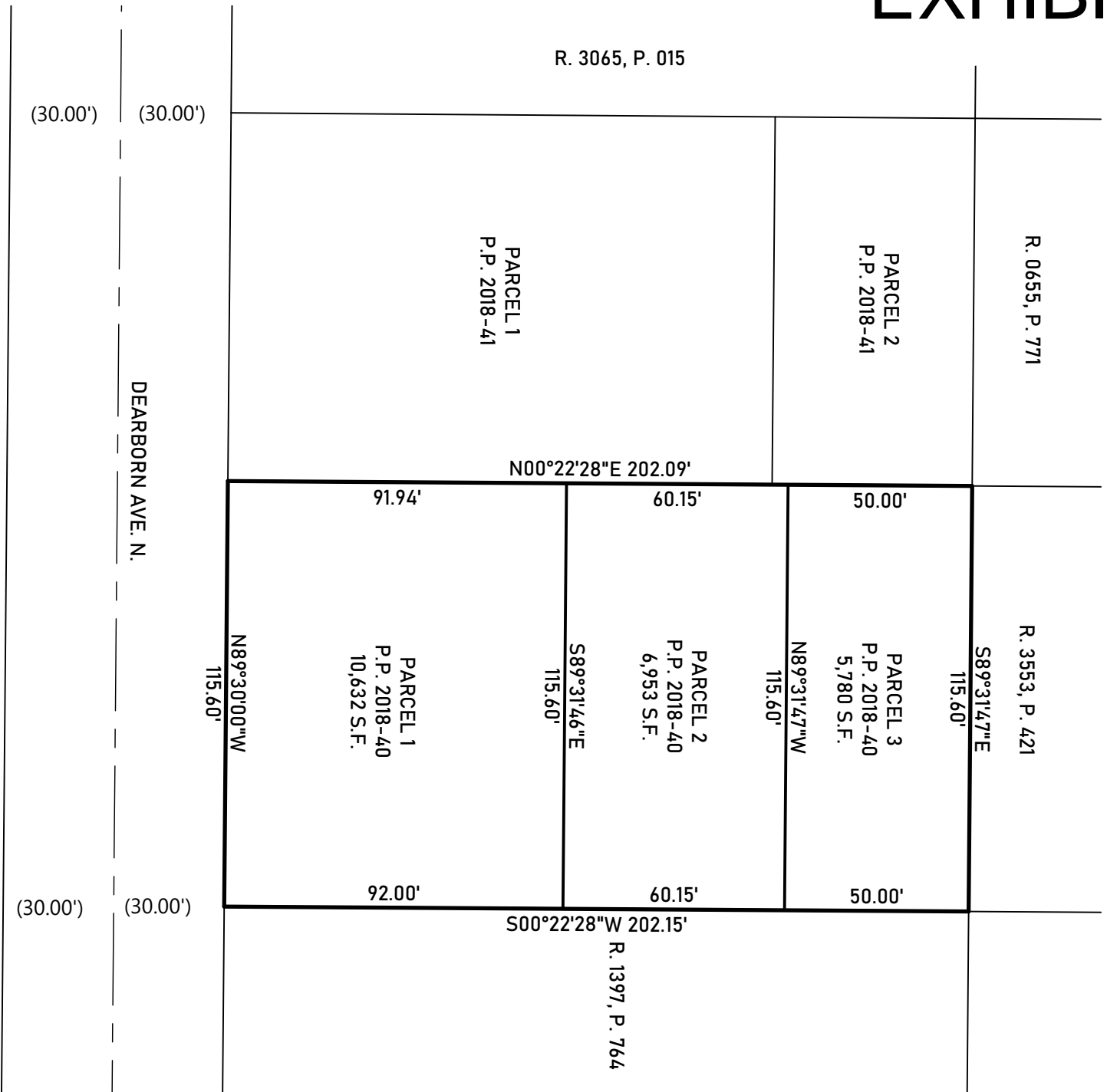
Approved by: Shane Witham, Interim Community Development Director



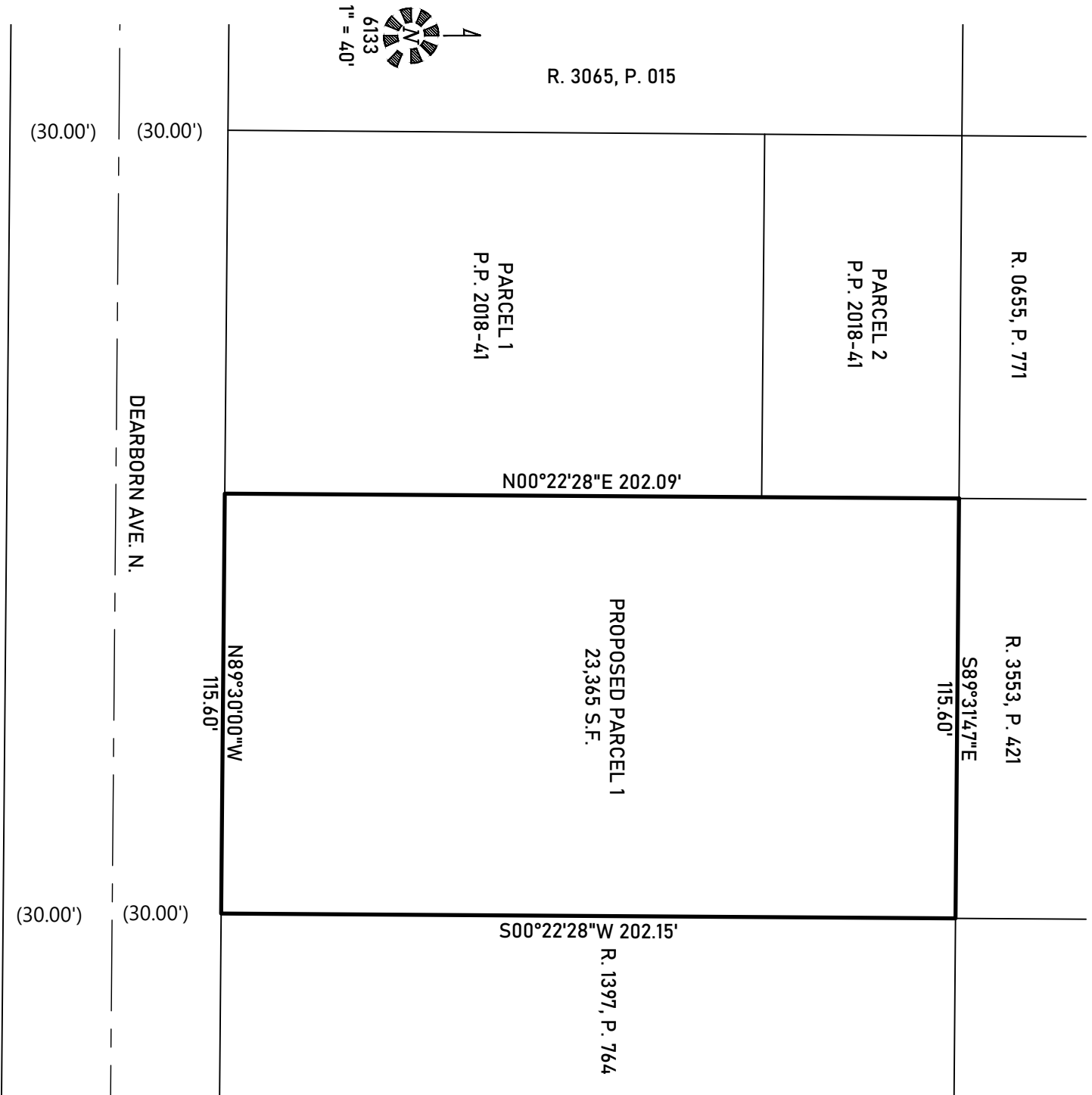
DATE: 1/7/21

# EXHIBIT 1

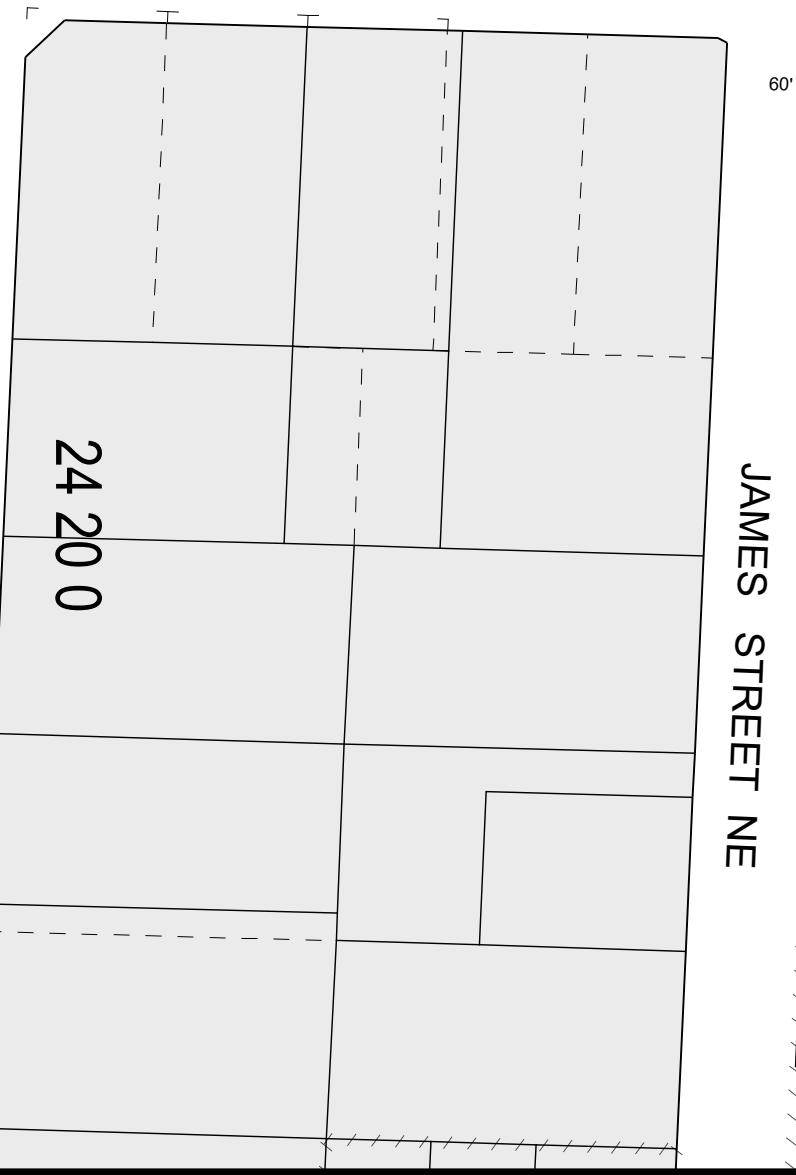
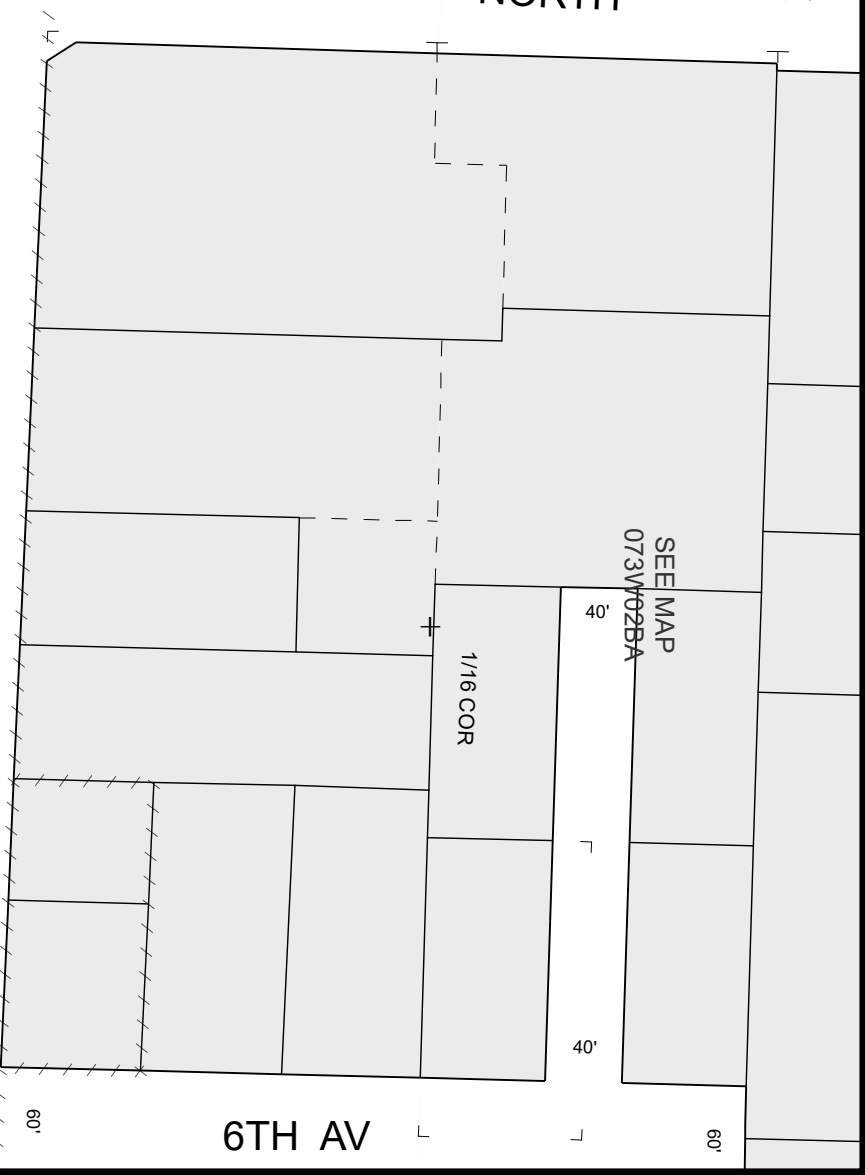
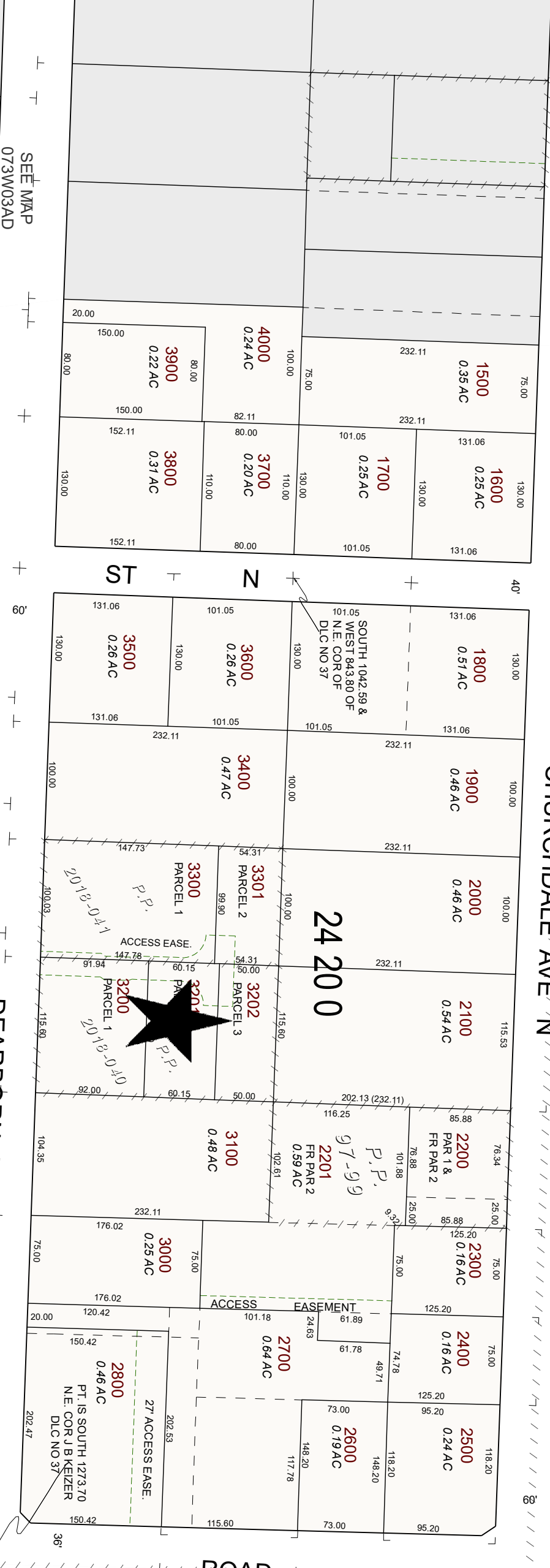
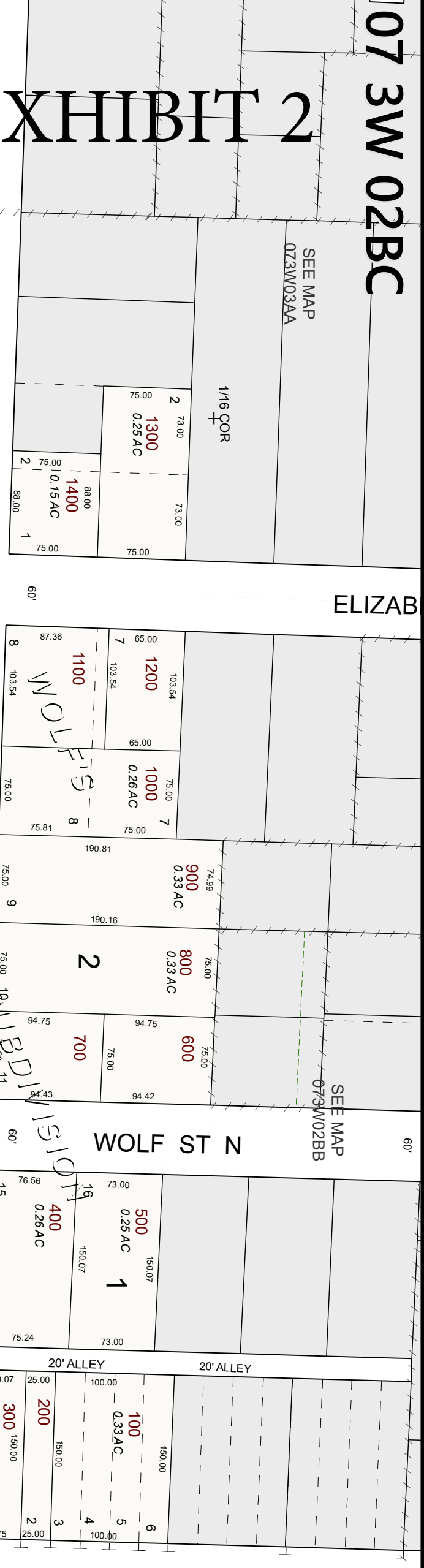
## EXISTING CONDITIONS



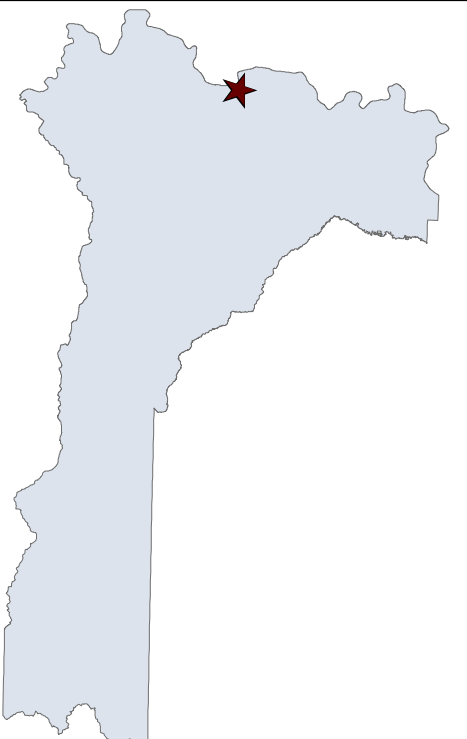
## PROPOSED CONDITIONS



# EXHIBIT 2



# KEIZER



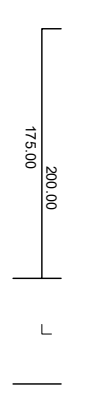
**MARION COUNTY, OREGON**  
 SW1/4 NW1/4 SEC2 T7S R3W W.M.  
 SCALE 1" = 100'

### LEGEND

- LINE TYPES**
- Taxlot Boundary
  - Road Right-of-Way
  - Railroad Right-of-Way
  - Private Road ROW
  - Subdivision/Flat Bndry
  - Waterline - Taxlot Bndry
  - Waterline - Non Bndry
  - Historical Boundary
  - Easement
  - Railroad Centerline
  - Taxcode Line
  - Map Boundary
- CORNER TYPES**
- + 1/16TH Section Cor.
  - ⊙ DLC Corner
  - ⊕ 1/4 Section Cor.
  - ⊕ 16 15 Section Corner
  - ⊕ 21 22 Section Corner
- NUMBERS**
- Tax Code Number  
**00 00 0**
- Acreage  
 0.25 Ac All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

### NOTES

Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW



### CANCELLED NUMBERS

2900
8300
8400
8500
8600A1

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT [www.co.marion.or.us](http://www.co.marion.or.us)

PLOT DATE: 10/16/2020

# KEIZER

TO: DINA RUSSELL, ASSISTANT PLANNER  
FROM: CITY OF KEIZER PUBLIC WORKS DEPARTMENT  
SUBJECT: PROPERTY LINE ADJUSTMENT CASE NO. 2020-19

APPLICANT – TERRY SILBERNAGEL  
ADDRESS – 267 DEARBORN AVE. N.  
ZONE – RESIDENTIAL SINGLE FAMILY (RS) – LOW DENSITY RESIDENTIAL (LDR)

PUBLIC WORKS DEPARTMENT REQUIREMENTS

The property for this application is subject to improvement requirements that were conditions for an earlier partition approval. All conditions of the earlier partitioning will become null and void with the recording of a Lot Line Adjustment plat and any future proposed division or development of the subject parcel will require improvements as provided for in the Development Code at the time of a future application.

Comments on Planning Action: Keizer PLA 20-19

Date 12/31/2020 Person Commenting Kent Inman

Subdivision:

1. Subdivision name must be approved per ORS 92.090.
2. Must be surveyed and platted per ORS 92.050.
3. Subdivision plat must be submitted for review.
4. Checking fee and recording fees required.
5. Per ORS 92.065 - Remaining monumentation bond may be required if some of the plat monuments have not been set and/or the installation of street and utility improvements has not been completed, or other conditions or circumstances cause the delay (or resetting) of monumentation.
6. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

Partition:

1. Per ORS 92.055 – Parcels over 10 acres can be unsurveyed.
2. Parcels ten acres and less must be surveyed.
3. Per ORS 92.050, plat must be submitted for review.
4. Checking fee and recording fees required.
5. A current or updated title report must be submitted at the time of review. Title reports shall be no more than 15 days old at the time of approval of the plat by the Surveyor's Office, which may require additional updated reports.

Property Line Adjustment:

1. No survey required. The resultant property is greater than ten acres.
2. Must be surveyed per ORS 92.060 (7) and the survey submitted for review.
3. Survey checking fee required at the time of review.

(See Page 2 for additional comments)



Property Line Adjustment (continued):

4. Property line adjustment deeds shall be recorded with the Marion County Clerk's Office prior to submitting the property line adjustment survey. Deed recording reference numbers shall be noted on the survey map. Per ORS 92.190 (4): The deed shall contain the names of the parties, the description of the adjusted line, references to original recorded documents and signatures of all parties with proper acknowledgment. [See Marion County Zoning Code MCC 16.33.140(E) and MCC 17.172.120(E)]

Marion County Planning requires perimeter descriptions of the resultant properties.

5. A re-plat (in the form of a partition plat) is required, due to the adjustment of a partition plat parcel line or subdivision lot line.

The deeds conveying the re-platted parcels shall be recorded after the recording of the re-plat.

Re-plat: (Re-configuration of lots or parcels and public easements within a recorded plat)

1. Must comply with all provisions per ORS 92.185 (6)
2. Must be surveyed and platted per ORS 92.050, and the plat submitted for review.
3. Checking fee and recording fees required.
4. A current or updated title report must be submitted at the time of review.
5. The portion of the subdivision or partition plat proposed for replatting contains utility easement(s) that will need to be addressed. Per ORS 92.185 (4), when a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation must notify the governing body in writing within 14 days of the mailing or other service of the notice.

If it is necessary to re-configure the utility easement created by this partition plat (see map), then it will be the responsibility of the applicant to determine the names of all of the utility companies affected by the proposed re-configuration, and give this list of names to the Marion County Surveyor's Office. Letters of notice will be sent by this office to the affected utility companies, who will determine whether or not the easement is to be maintained.

**Other comments specific to this Planning Action: Easements may exist that were created after the plat and recorded by separate document(s).**