
NOTICE OF DECISION

Case File: T2-2022-16045

Permit: Property Line Adjustment

Applicants: Gregory & Donna Martinez, **Owners:** Gregory & Donna Martinez (Tract 1), Erik Erik L. Ingebrigtsen (Tract 2)

Location: **(Tract 1):** 21520 NW Gilkison Rd. Scappoose Property ID #: R326267
Map, Tax lot: 3N2W26A-02100 Alternate Account #: R982260470

(Tract 2): 21500 NW Gilkison Rd. Scappoose Property ID #: R326240
Map, Tax Lot: 3N2W26A-02000 Alternate Account #: R982260220

Base Zone: Rural Residential (RR)

Overlays: Significant Environmental Concern for Wildlife Habitat (SEC-h), Geological Hazards (GH), and Significant Environmental Concern for Stream (SEC-s)

Proposal Summary: Applicant requests a Property Line Adjustment to move a common property line between tax-lots 3N2W26A-02100 (Tract 1) and 3N2W26A-02000 (Tract 2). Tract 1 will increase in size from 3.18 acres to 3.21 acres. Tract 2 will reduce in size from 3.95 acres to 3.92 acres.

Decision: **Approved with Conditions**

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Wednesday, March 22, 2023 at 4:00 pm.

Opportunity to Review the Record: The complete case file containing all evidence associated with this application is available for review by contacting Marisol Cervantes at 503-988-9452 or at Marisol.Cervantes@multco.us. Paper copies of documents are available at the rate of \$0.40/per page.

Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at land.use.planning@multco.us or (503) 988-3043. The appeal form is available at www.multco.us/landuse/application-materials-and-forms. This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

Issued by: _____

By: Marisol Cervantes, Planner

For: Scot Sigel, FAICP
Planning Director

Date: Wednesday, March 08, 2023



Applicable Approval Criteria:

Multnomah County Code (MCC): General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions

Rural Residential (RR): MCC 39.4365(C) Review Uses – Property Line Adjustments, MCC 39.4375 (A), (B), (C), (D), and (F) Dimensional Requirements and Standards, MCC 39.4395 Access

Property Line Adjustment: MCC 39.4380(B)(1)(a) - (b), (2)(a) - (b) Lots of Exception and Property Line Adjustments, MCC 39.9300(A) – (D) Property Line Adjustment

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://www.multco.us/landuse/zoning-codes> under the link **Chapter 39: Multnomah County Zoning Code**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Permit Expiration – This land use permit shall expire as follows:
 - a. The permit shall expire two (2) years after the date of the final decision, unless the Property Line Adjustment was established according to all specifications and conditions of approval in the land use approval. [MCC 39.1185(A)]
 - i. For the purposes of 1.a, “established” means the final deeds have been recorded with the county recorder. If the final deeds have not been recorded within the two-year period, this Property Line Adjustment approval becomes void.

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
3. No additional lot or parcel shall be created from any parcel by this approved property line adjustment. [MCC 39.9300(A)]
4. The property owner(s) or their representative(s) shall:
 - a. Complete the Property Line Adjustment (PLA) in compliance with the LUP Planning PLA forms. [MCC 39.9300(D)]
5. Prior to submitting building plans for zoning review, the property owner(s) or their representative(s) shall:
 - a. Submit a revised site plan for Tract 1 that shows the two smaller sheds setback 10 feet from the south and north property line, or removed from the subject property. [MCC 39.4375(C)]
6. At the time of recording, the property owner(s) or their representative(s) shall record the deeds with the enclosed stamped legal descriptions attached as an exhibit in this order:
 - a. **Transferring the Property:** The deed will need to be recorded with the legal description transferring the land between the two property owners.
 - b. **Enlarging Tract 1 (Martinez) Property:** The deed and new legal description shall be recorded that describes the authorized enlarged Martinez (Tract 1) property.
 - c. **Reducing Tract 2 (Ingebrigtsen) Property:** The deed and new legal description shall be recorded that describes the authorized reduced Ingebrigtsen (Tract 2) property.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.0 Project Description:

Staff: The applicants are proposing a property line adjustment between “Tract 1” (21520 NW Gilkison Rd. Scappoose / 3N2W26A-02100) and “Tract 2” (21500 NW Gilkison Rd. Scappoose / 3N2W26A-02000). Tract 1 will increase in size from 3.18 acres to 3.21 acres. Tract 2 will be reduced in size from 3.95 acres to 3.92 acres after the adjustment.

2.0 Property Description & History:

Staff: Tracts 1 and 2 are both located within the Rural Residential (RR) zoning district in the West Hills rural area. Both properties have frontage from NW Gilkison Rd. According to the Multnomah County Department of Assessment, Records and Taxation (DART) and the provided site plan, Tract 1 contains a 1906 dwelling with an attached deck, detached shop, an existing green house and two smaller storage sheds. Tract 2 contains a 1963 dwelling with an attached garage and a detached farm building.

3.0 Public Comment:

Staff: Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 (Exhibit C.3). Staff did not receive any public comments during the 14-day comment period.

4.0 Administrative Procedures Criteria:

4.1 MCC 39.1515 CODE COMPLIANCE AND APPLICATIONS.

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the limited instances specified.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance.

For purposes of the current application, there are no open compliance cases on the subject properties, and there is no evidence in the record of any specific instances of noncompliance on the subject properties. *Criteria met.*

5.0 Rural Residential (RR) Criteria:

5.1 MCC 39.4365 Review Uses

* * *

(C) Property Line Adjustment pursuant to the provisions of MCC 39.4380.

Staff: The applicants requested a property line adjustment between Tract 1 (21520 NW Gilkison Rd.) and Tract 2 (21500 NW Gilkison Rd.). Sections 6.1 – 6.2 below address the provisions of MCC 39.4380.

5.2 MCC 39.4375 Dimensional Requirements and Standards

(A) Except as provided in MCC 39.3090, 39.4380, 39.4385 and 39.5300 through 39.5350, the minimum lot size for new parcels or lots shall be five acres. For properties within one mile of the Urban Growth Boundary, the minimum lot size shall be as currently required in the Oregon Administrative Rules Chapter 660, Division 004 (20 acre minimum as of October 4, 2000).

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

* * *

Staff: Subsection (A) and (B) above are for informational purposes. As shown on the Tentative Plan Map (Exhibit A.7) and Survey Map (Exhibit A.8), the proposed front-lot line lengths are 50.01 feet for Tract 1 and 344.30 feet for Tract 2.

As shown on the Tentative Plan Map (Exhibit A.7), proposed minimum yards are as follows:

Tract 1

Structure	Front Yard	Side Yards	Rear Yard
Dwelling	Over 30 feet	10.2 – 12.1 feet	Over 30 feet
Shop	Over 30 feet	50 – 76 feet	Over 30 feet
Greenhouse	Over 30 feet	42.3 – 63 feet	Over 30 feet
Sheds	Over 30 feet	1.6 – 3.65 feet	Over 30 feet

Tract 2

Structure	Front Yard	Side Yards	Rear Yard
Dwelling	60 feet	51 – 227 feet	370 feet
Barn	230 feet	24.2 – 281 feet	207 feet

The proposed lot line adjustment satisfies the minimum yard requirements for all structures except the two sheds on Tract 1. A condition of approval requires the property owner to relocate the sheds to meet the 10-foot minimum side yards setback or remove the sheds from the property. *As conditioned, these criteria are met.*

(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.

* * *

Staff: This application does not include any proposed development. If future development is proposed, the requirements of (D) above may be applicable.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the lot.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10-year 24-hour storm event is no greater than that before the development.

Staff: A Septic Certification Review Form for both Tract 1 and Tract 2 is included as Exhibit A.4. Both properties contain an on-site sewage disposal system and as indicated by the County Sanitarian, the proposed property line adjustment poses no concern to the existing septic systems and drain-fields on both Tract 1 and Tract 2. *Criteria met.*

5.3 MCC 39.4395 Access

All lots and parcels in this base zone shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 39.3090(B).

Staff: Tract 1 and Tract 2 both abut NW Gilkison Rd. and take access off NW Gilkison Rd. *Criterion met.*

6.0 Property Line Adjustment Criteria:

6.1 MCC 39.4380 Lots of Exception and Property Line Adjustments

* * *

(B) Property Line Adjustment

Pursuant to the applicable provisions in MCC 39.9300, the approval authority may grant a property line adjustment between two contiguous Lots of Record upon finding that the approval criteria in (1) and (2) are met. The intent of the criteria is to ensure that the property line adjustment will not increase the potential number of lots or parcels in any subsequent land division proposal over that which could occur on the entirety of the combined lot areas before the adjustment.

Staff: The applicable provisions in MCC 39.9300 are discussed below. Land use case no. T2-2020-14023 and T2-2020-14024 found that Tract 1 and Tract 2 are each an individual Lot of Record. *Criterion met.*

(1) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements;

(b) If the properties abut a street, the required access requirements of MCC 39.4395 are met after the relocation of the common property line; and

Staff: The minimum yard requirements of MCC 39.4365(C) are discussed in Section 5.2 above. The access requirements of MCC 39.4395 are discussed in Section 5.3 above. As noted in section 5.2, a condition of approval requires the relocation of two storage sheds to meet the 10-foot minimum side yards or the removal of the two storage sheds from the property (Tract 1). *As conditioned, these criteria are met.*

(2) At least one of the following situations occurs:

(a) The lot or parcel proposed to be reduced in area is larger than 5 acres prior to the adjustment and remains 5 acres or larger in area after the adjustment, or

(b) The lot or parcel proposed to be enlarged in area is less than 10 acres in area prior to the adjustment and remains less than 10 acres in area after the adjustment.

Staff: As shown on the Tentative Plan Map (Exhibit A.7), Tract 1 is currently 3.18 acres and Tract 2 is currently 3.95 acres. The proposed lot line adjustment increases Tract 1 to 3.21 acres and reduces Tract 2 to 3.92 acres, which satisfies the requirements of (2)(b) above. *Criteria met.*

6.2 MCC 39.9300 Property Line Adjustment

A property line adjustment is the relocation of a common property line between two abutting properties. The Planning Director may approve a property line adjustment based upon findings that the following standards are met:

(A) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: As shown on the Tentative Plan Map (Exhibit A.7), the proposed adjustment of the common property line between the two abutting properties (Tract 1 and Tract 2) does not create any additional lots or parcels. A condition of approval states that the transfer area moving from Tract 2 to Tract 1 shall not remain a separate unit of land. *As conditioned, this criterion is met.*

(B) Owners of both properties involved in the property line adjustment shall consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and

Staff: The property owners of Tract 1 and Tract 2 authorized this Property Line Adjustment application (Exhibit A.1). A condition of approval requires the recording of the conveyances necessary to complete the property line adjustment approved by this decision. *As conditioned, this criterion is met.*

(C) The adjusted properties shall meet the approval criteria for a property line adjustment as given in the base zone; and

Staff: As discussed in Section 5.1 – 5.3 and 6.1 – 6.2, the adjusted tracts meet the approval criteria for a property line adjustment in the Rural Residential (RR) base zone or the criteria can be met through a condition of approval. *As conditioned, this criterion is met.*

(D) The procedure and forms shall be submitted for obtaining approval of a property line adjustment as provided for by the Planning Director.

Staff: The applicants submitted the required information for this Property Line Adjustment Application (Type II Review) as Exhibits A.1 – A.4, A.6 and A.7. *Criterion met.*

7.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for a Property Line Adjustment between Tract 1 and Tract 2 in the Rural Residential (RR) zone. This approval is subject to the conditions of approval established in this report.

8.0 Exhibits

‘A’ Applicant’s Exhibits

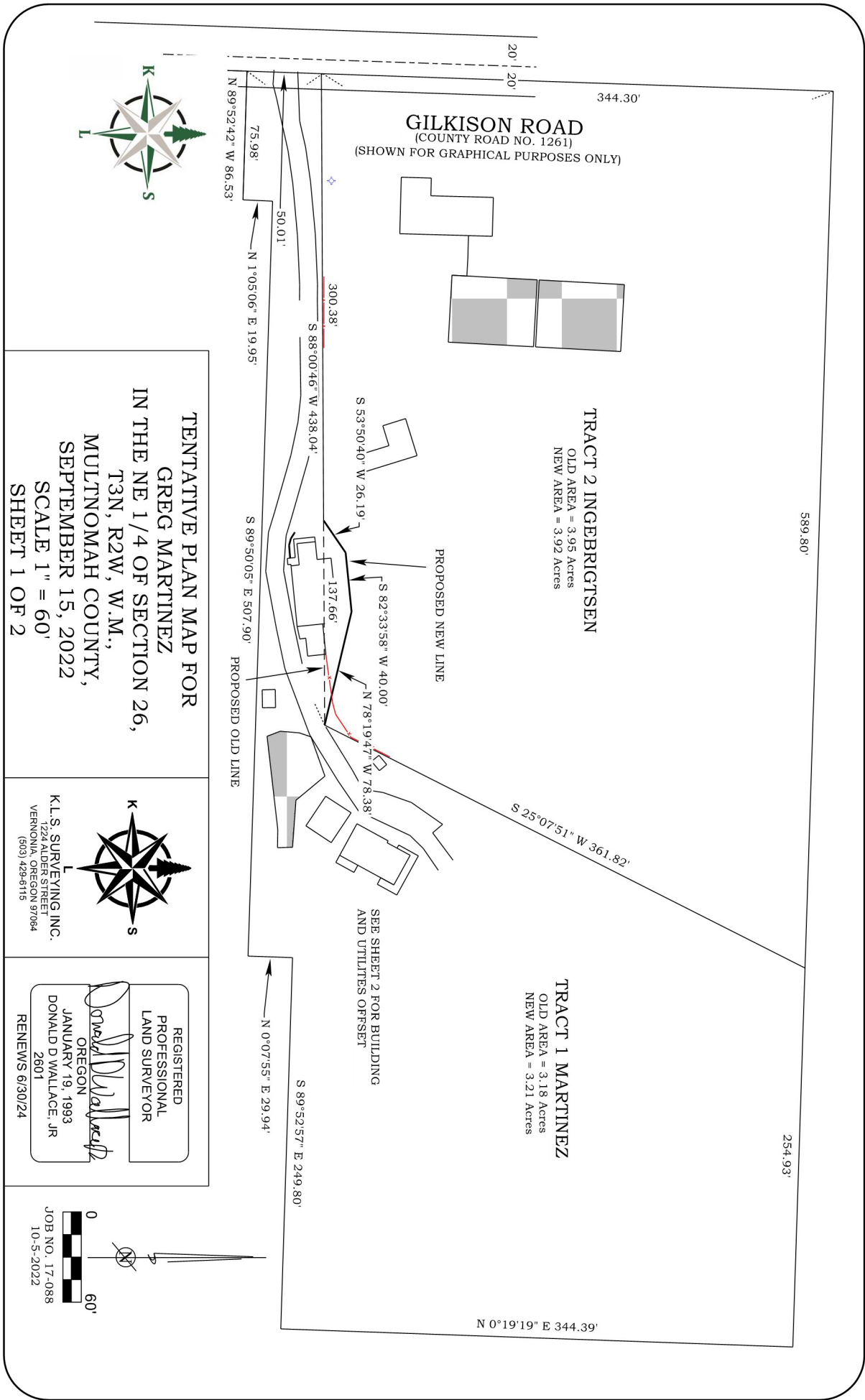
‘B’ Staff Exhibits

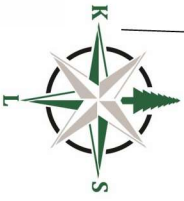
‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review by contacting Marisol Cervantes at (503) 988-9452 or Marisol.Cervantes@multco.us.

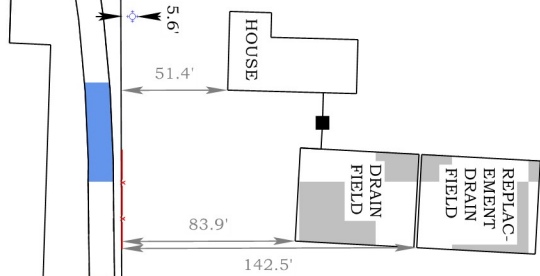
Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Property Line Adjustment Application	08.10.2022
A.2	2	Deed for 21520 NW Gilkison Rd. Book 1331, Page 1242-1243 recorded on February 10, 1979	08.10.2022
A.3	1	Statutory Special Warranty Deed for 21500 NW Gilkison Rd. recorded on October 06, 1998	08.10.2022
A.4	6	Septic Certification Forms for 21520 & 21500 NW Gilkison Rd.	08.10.2022
A.5	1	Transfer Tract description and survey, Ingebrigtsen to Martinez	10.05.2022
A.6	3	Post Property Line Adjustment legal descriptions (21500 & 21520 NW Gilkison Rd.	10.05.2022
A.7*	2	Tentative Plan Map of Proposed Property Line Adjustment	10.05.2022

A.8	2	Survey Map of the subject properties post Property Line Adjustment	10.05.2022
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 3N2W26A-02100 (Alt Acct# R982260470)	08.10.2022
B.2	1	Division of Assessment, Recording, and Taxation (DART): Property Information for 3N2W26A-02000 (Alt Acct# R982260220)	08.10.2022
B.3	1	Surveyor’s Instructions for Finishing a Property Line Adjustment Handout	12.16.2022
B.4	1	Applicant’s Instructions for Finishing a Property Line Adjustment Handout	12.16.2022
‘C’	#	Administration & Procedures	Date
C.1	2	Incomplete letter	09.06.2022
C.2	1	Applicant’s acceptance of 180 day clock	09.09.2022
C.3	1	Complete letter (day 1)	11.04.2022
C.4	5	Opportunity to Comment	12.16.2022
C.5	10	Decision	03.08.2023



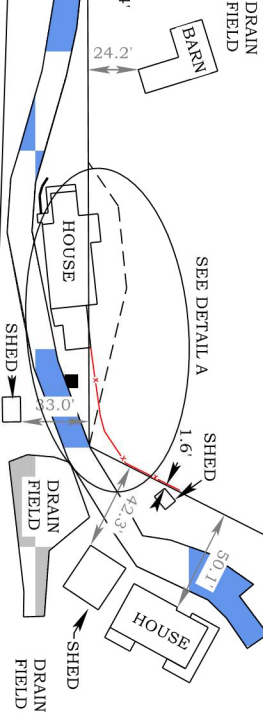
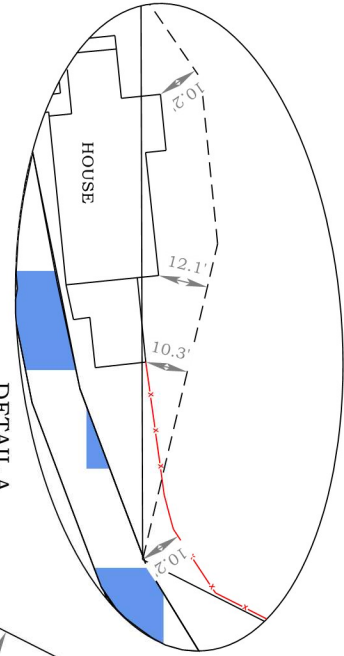


GILKISON ROAD
(COUNTY ROAD NO. 1261)
(SHOWN FOR GRAPHICAL PURPOSES ONLY)



TRACT 2 INGEBRIGTSEN
OLD AREA = 3.95 Acres
NEW AREA = 3.92 Acres

DETAIL A
30 Ft/In



TRACT 1 MARTINEZ
OLD AREA = 3.18 Acres
NEW AREA = 3.21 Acres

- LEGEND
- WELL
 - SEPTIC TANK
 - FENCE
 - GRAVEL DRIVEWAY

TENTATIVE PLAN MAP FOR
GREG MARTINEZ
IN THE NE 1/4 OF SECTION 26,
T3N, R2W, W.M.,
MULTNOMAH COUNTY,
SEPTEMBER 15, 2022
SCALE 1" = 60'
SHEET 2 OF 2



K.L.S. SURVEYING, INC.
1222 ALDER STREET
VERNONIA, OREGON 97064
(503) 428-6115

REGISTERED
PROFESSIONAL
LAND SURVEYOR
JANUARY 19, 1993
DONALD D WALLACE, JR
2601
RENEWWS 6/30/24



JOB NO. 17-088
10-5-2022