

1600 SE 190th Avenue, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF NSA DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2018-10987 **Permit:** National Scenic Area "Parcel" Determination

Location:

Prop. #1: 30606 NE Lampert Rd, Troutdale **Property Owner:** Elizabeth Huddleston
Portion of Tax Lot 600, Section 32B, Township 1 North, Range 4 East, W.M.
Alternative Account #R053501000 **Property ID#**R111614

Prop. #2: Tax Lot to the North of 30811 NE Hurt Road, Troutdale **Property Owner:** Paul Jung
Tax Lot 2500, Section 32B, Township 1 North, Range 4 East, W.M.
Alternative Account # R053501020 **Property ID#**R111615

Applicant: Kelli Jung **Base Zone:** Gorge General Residential – 10 (GGR-10)

Landscape Setting: Rural Residential in Pastoral

Summary: The applicant requests the County determine if the consolidation of a portion of Property #1 ("Portion of Lot 10" and "Portion of Lot 12") and Property #2 ("Portion of Lot 11") is a lawfully established "Parcel".

Determination: Pursuant to the applicant's request, the 3.24+/- acre unit of land created in May 1969 by Warranty Deed (Exhibit A.15) consisting of the northern "Portion of Lot 11" and the northern "Portion of Lot 12" constitutes the lawfully established "Parcel" based on the evidence in the record and the findings in this report. To re-establish the lawful parcel configuration, the property owners would need to complete the Lot Consolidation process listed in MCC 38.7794.

The southeastern "Portion of Lot 10" is not a unit of land that qualifies as a "Parcel" at this time. The "Portion of Lot 10" could be aggregated with the legal "Parcel" (consolidated 3.24+/- acre unit of land referenced above) through the County's Lot Consolidation process as listed in MCC 38.7794. After the consolidation process is completed, the resulting reconfigured parcel (4.63+/- acre parcel) would qualify as a "Parcel".

Unless appealed, this decision is effective Friday, November 15, 2019, at 4:00 PM.

Issued by:



Lisa Estrin, Senior Planner

For: Adam Barber, Interim Planning Director

Date: Friday, November 1, 2019

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office (*Tuesday-Friday 8am-4pm*). Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at lisa.m.estrin@multco.us or 503-988-0167.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 38.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Columbia River Gorge Commission until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, November 15, 2019 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 38.0015 Definitions – “Parcel”.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at multco.us/landuse/zoning-codes under the link *Chapter 38: Columbia River Gorge National Scenic Area*.

Conditions of Approval

The conditions listed are necessary to ensure that a lawful parcel is re-established in compliance with this land use decision. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in brackets.

1. Pursuant to MCC 38.0690, this land use determination expires two years from the date the decision is final if the final plat has not been recorded to consolidate the “Portion of Lot 11” and “Portion of Lot 12” into a single parcel. The property owner may request to extend the timeframe within which this land use determination is valid, as provided under MCC 38.0700. Such a request must be made prior to the expiration date of this decision.
2. Prior to approval of any land use permit for development, the property owners shall consolidate the “Portion of Lot 11” and “Portion of Lot 12” by recording a plat that removes the remaining lot lines from the subdivision plat and creates a single parcel.

Note: The property owners may consolidate the three units of land identified as the “Portion of Lot 10”, the “Portion of Lot 11”, and the “Portion of Lot 12” into a single parcel through the County’s Lot Consolidation process. This process is finished through the recording of a single plat.

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*.

1.00 Project Description:

Staff: The applicant requests a determination that the area of land labeled as Property #1 and the area of land labeled as Property #2 (see graphic below) when combined into a single unit of land is a “Parcel” as defined in MCC 38.0015 Definitions.



2.00 Property Description & History:

Staff: Property #1 is a portion of tax lot 1N4E32B – 00600. It is approximately 3.20 acres in size and contains an existing 936+/- sq. ft. outbuilding. The land is wooded and has other vegetative cover, except for a small area near the outbuilding. County topographic information indicates the slopes on the northeastern portion of Property #1 exceed 40%. County topographic information indicates the slopes on the southwestern portion of Property #1 range from 25 to 31%.

Property #2 consists of tax lot 1N4E32B – 02500. The property is approximately 1.47 acres in size and currently vacant. The land is heavily wooded. County topographic information indicates the slopes on the property range from 19 to 24%.

3.00 Parcel Criteria:

MCC 38.0015 Definitions defines a “Parcel” as:

- (a) Any unit of land legally created by a short division, partition, or subdivision, that was legally recognized under all state laws and local ordinances in effect on November 17, 1986. A unit of land that is eligible for consolidation as provided in the Management Plan shall not be considered a parcel.

(b) Any unit of land legally created and separately described by deed, or sales contract, or record of survey prior to November 17, 1986, if the unit of land complied with all planning, zoning, and land division ordinances or regulations applicable at the time of creation and up through November 16, 1986.

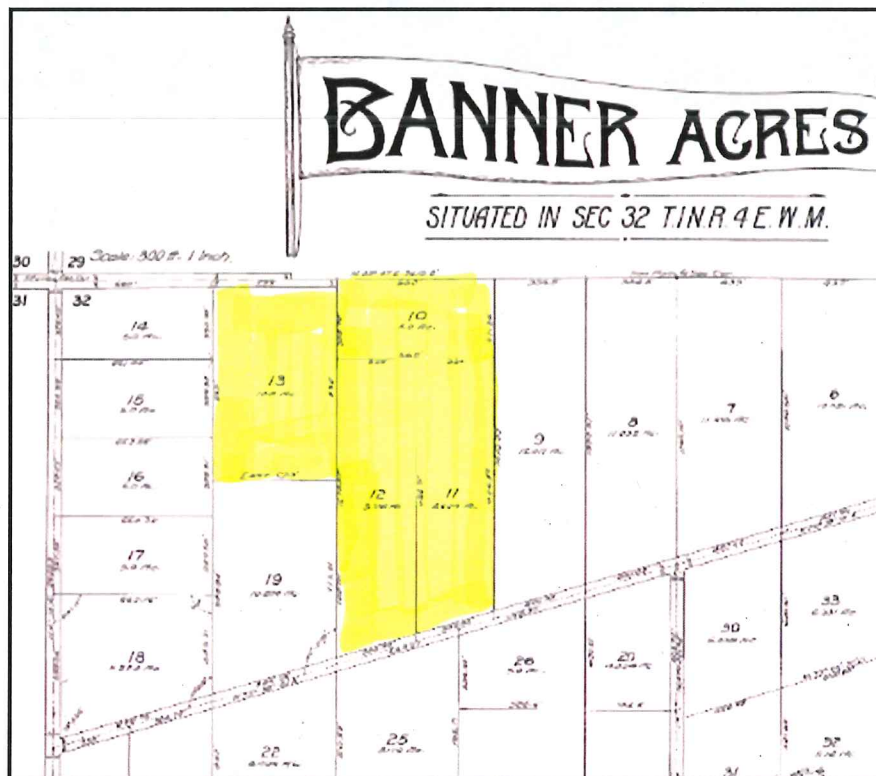
(c) A unit of land legally created and separately described by deed or sales contract after November 17, 1986 if the unit was approved under the Final Interim Guidelines or a land use ordinance consistent with the Management Plan, or by the U.S. Forest Service Office prior to the Final Interim Guidelines.

(d) A unit of land shall not be considered a separate parcel simply because it:

1. Is a unit of land created solely to establish a separate tax account;
2. Lies in different counties;
3. Lies in different sections or government lots;
4. Lies in different zoning designations; or
5. Is dissected by a public or private road.

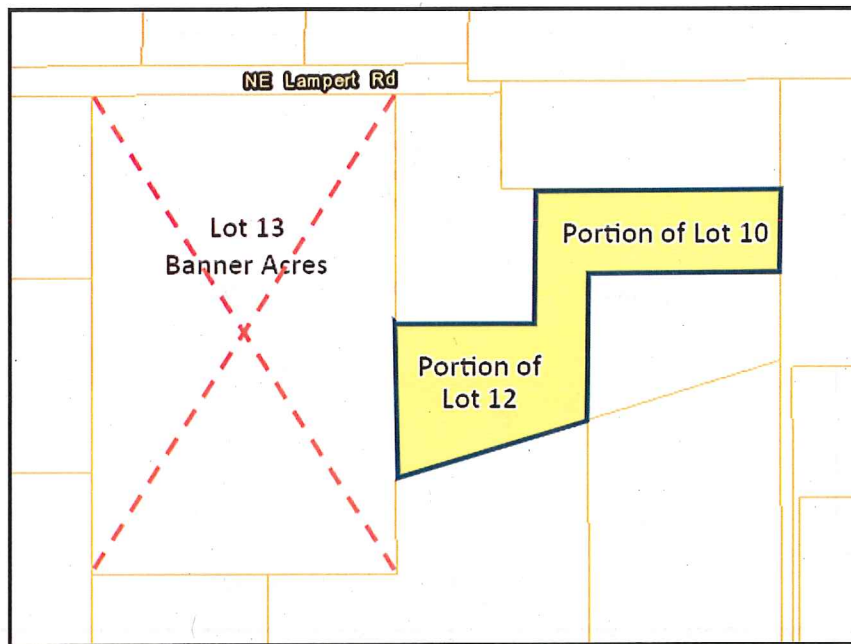
Staff: The applicant is requesting that the County determine that Property #1 and #2 qualify together as a "Parcel" pursuant to MCC 38.0015 Definitions. A number of deeds were provided that show the transfer of various units of land from October, 1962 to June 1971 (Exhibit A.3, A.4, A.11, A.12, A.13, A.14, A.15, A.16, A.17, A.18, A.19, A.34, A.35, and A.36). The County will discuss a number of these deeds in order to determine what is the lawfully created parcel involved in this decision.

In the year 1910, the Banner Acres subdivision was recorded and created the original lots that have been divided up over the years. Graphic #1 below shows Lots 10, 11, 12 and 13 of Banner Acres in their original configuration:



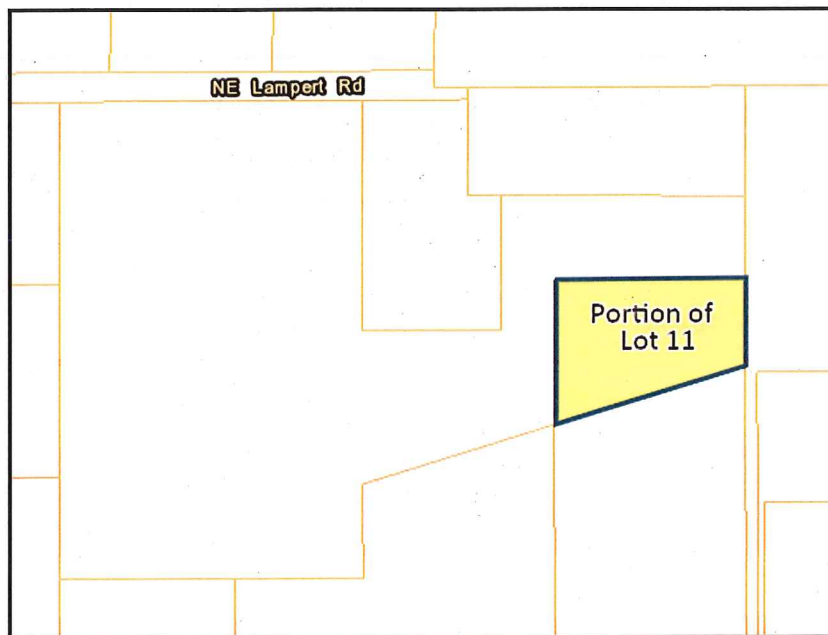
Graphic #1

Graphic #2 below illustrates the area of Property #1 subject to this Parcel Determination. Presently, Property #1 is part of tax lot 1N4E32B – 00600 which consists of the entire Lot 13, Banner Acres and a “Portion of Lot 10” and a “Portion of Lot 12”, Banner Acres. This Parcel Determination request does not include Lot 13, Banner Acres as it is a discrete legal lot from the Banner Acres subdivision plat recorded in the year 1910.



Graphic #2

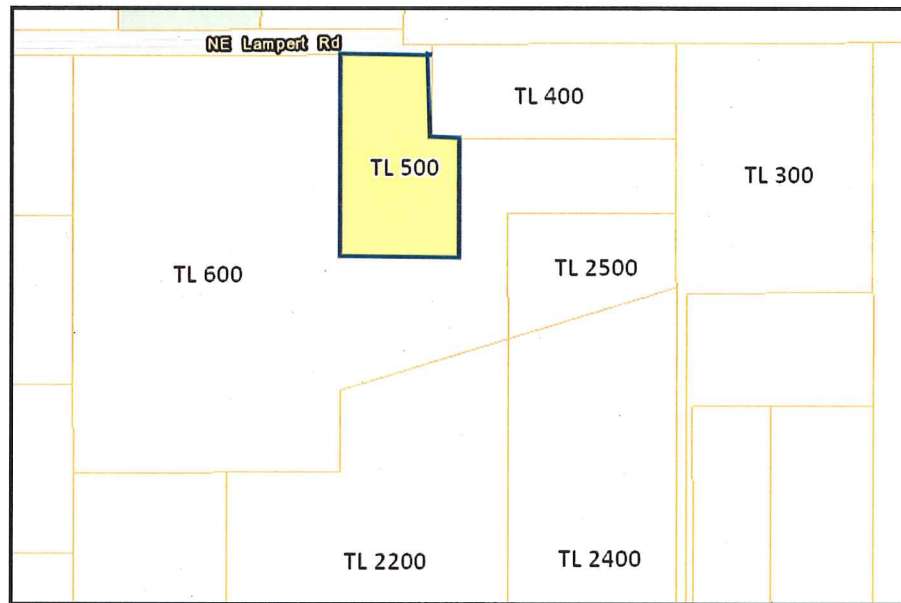
As shown in Graphic #3 below, Property #2 is a landlocked unit of land that is approximately 1.47+/- acres and is a portion of the original subdivision Lot 11, Banner Acres (“Portion of Lot 11”).



Graphic #3

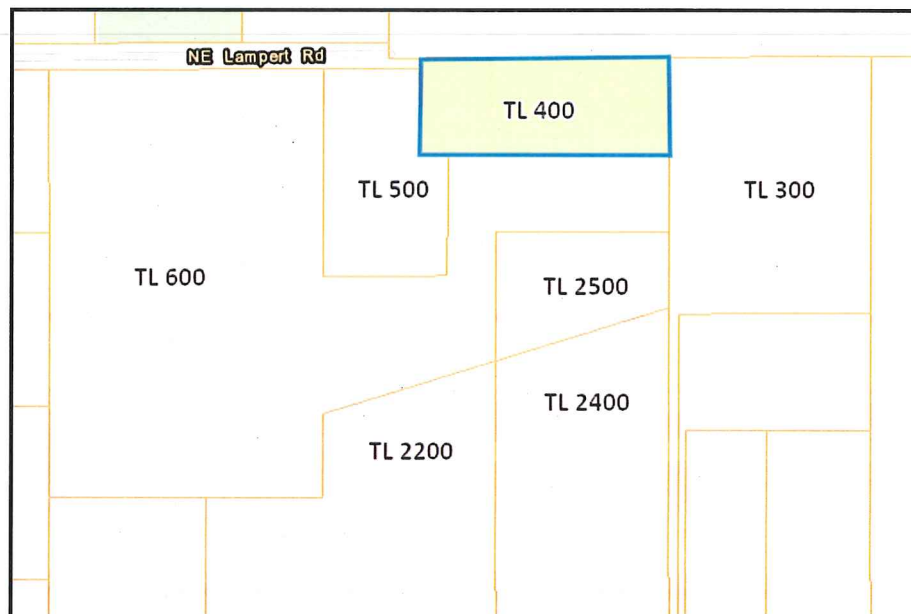
As mentioned above, the applicant provided various deeds to document the partitioning that took place in the area starting in 1968.

In August 1968, a Warranty Deed (Exhibit A.13) was recorded which transferred 2.00 acres from Lot 10 and Lot 12, Banner Acres. This area is now known as tax lot 1N4E32B – 00500. Graphic #4 below shows the area of land involved in this deed:



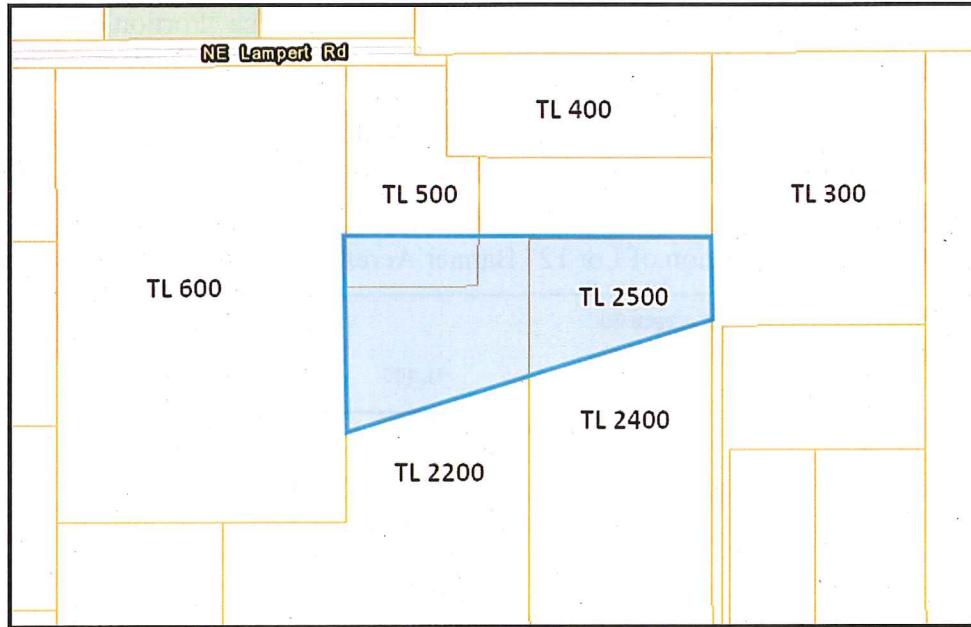
Graphic #4

In September 1968, a Warranty Deed (Exhibit A.14) was recorded which transferred 2.00 acres from Lot 10, Banner Acres. This area of land is now known as tax lot 1N4E32B – 00400. Graphic #5 below shows the area of land involved in the deed:



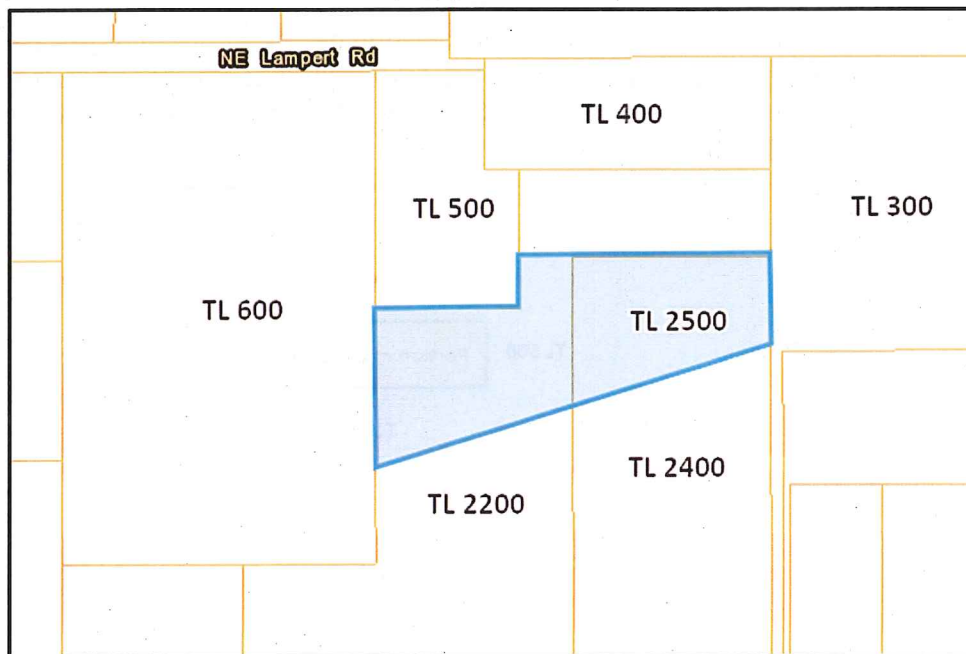
Graphic #5

Subject Properties: In May 1969, a Warranty Deed (Exhibit A.15) was recorded which transferred the northern “Portion of Lot 11” and the northern “Portion of Lot 12” to create a single 3.24 acre parcel. The zoning at the time was F-2 (Agricultural District) and the zone had a minimum lot size of 2.00 acres to create a new parcel. The F-2 zone did not have a minimum front lot line length nor did it require road frontage (Exhibit B.9). Graphic #6 below shows the area of land described in the deed and is part of this Parcel determination:



Graphic #6

In reality, the area of land transferred in the Warranty Deed (Exhibit A.15) did not include the northwest corner of Lot 12 as that area of land had been transferred out to another party in August 1968 and is part of tax lot 1N4E32B – 00500 (see Graphic #4 above). The May 1969 Warranty Deed (Exhibit A.15) transferred the land shown in Graphic #7 below:

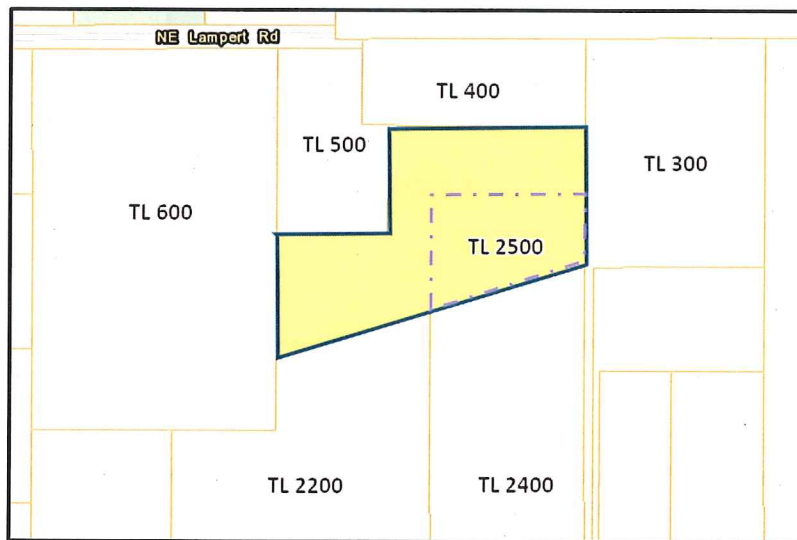


Graphic #7

To create a new parcel in 1969, the property owner needed to record a new metes and bounds legal description and transfer it via a deed or contract to another party. This is the methodology employed by John and Mary Beck to transfer the 3.24 acre unit of land to Enid Jones (Exhibit A.15). The unit of land (shown in Graphic #7 above) consists of one parcel formed from a “Portions of Lot 11” and a “Portion of Lot 12”, Banner Acres and as shown in Graphic #7 constitutes the lawfully established Parcel as defined in MCC 38.0015 Definitions for this determination.

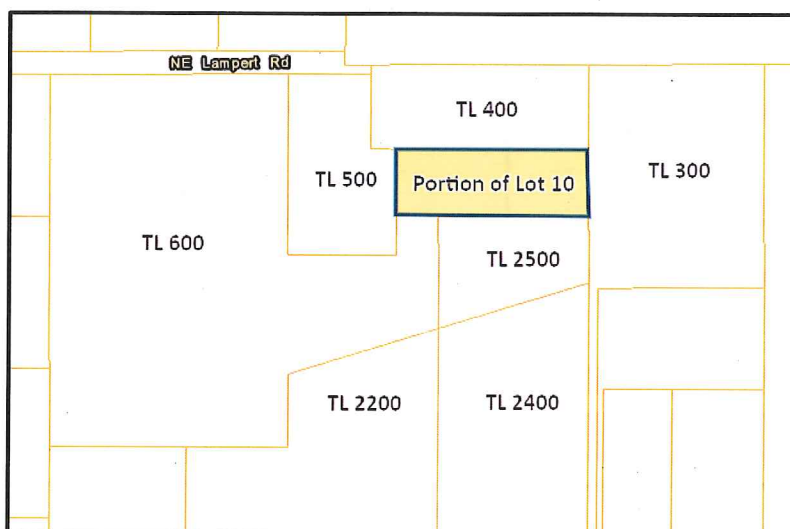
Presently, the “Parcel” is not currently in its legal configuration. The “Portion of Lot 11” is owned by Paul Jung. The “Portion of Lot 12” is owned by Elizabeth Huddleston. To re-establish the “Parcel”, the property owners will need to complete the County’s Lot Consolidation process listed in MCC 38.7794. A condition of approval has been included with this determination requiring the consolidation of “Portion of Lot 11” with the “Portion of Lot 12” before any development can be approved.

The applicant requested that the County find that the lawful parcel consists of a “Portion of Lot 10”, a “Portion of Lot 11”, and a “Portion of Lot 12” Banner Acres as shown in Graphic #8 below.



Graphic #8

The County has not been able to find any deed that consolidates the “Portion of Lot 10” with the lawful parcel represented in Graphic #7. At present, the legal description lists the entire Lot 10 except for those portions conveyed in tax lots 400 and 500 (Graphics #4 & #5 above). Graphic #9 shows the remaining “Portion of Lot 10” below.



Graphic #9

Based upon the deeds submitted as part of this application and other information in the record (Exhibits A.3, A. 4, A.11 through A.19, A.34, A.35, A.36 and Exhibits B.3, B.4, B.9, B.10, B.17 and B.18), the “Portion of Lot 10”, (Graphic #9) was created as a remainder unit of land after the creation of the parcels contained in tax lots 400 and 500 in the Fall of 1968.

At the time the “Portion of Lot 10” was reconfigured as a remainder piece in September 1968, the area was zoned F-2 (Agricultural District) with a 2 acre minimum lot size. The “Portion of Lot 10” is approximately 1.395 acres (60,781 sq. ft.) which did not meet the minimum lot size of the F-2 district (Exhibit B.9 & B.10) in 1968. From Fall 1968 to the present, the “Portion of Lot 10” is described as a separate unit of land in the legal description. It has not been combined into an adjacent parcel.

Zoning in the area has changed over the years from two acres to the current minimum lot size of 10 acres (Gorge General Residential – 10). At no time did the 1.395 acre unit of land meet the minimum lot size for County zoning.

Date	Area Zoning	Minimum Lot Size
1962	F-2	2 acres
12.9.1975	F-2	Varied from 2 to 38 acres
10.6.1977	MUA-20	20 acres
8.14.1980	EFU	38 acres
10.13.1983	EFU	38 acres
2.20.1990	EFU	38 acres
6.22.1993	GGR-10	10 acres

Since the unit of land composed of a “Portion of Lot 10” did not meet the minimum lot size at the time of its reconfiguration or thereafter, planning staff will not consider further whether it met the land division codes at the time of its creation. *The “Portion of Lot 10” is not a lawfully created parcel and may not be used for development until such time as it is combined into a legal parcel or lot.*

It is possible to achieve a reconfigured “Parcel” that is consistent with the applicant’s request shown in Graphic #8. The property owners would need to aggregate the “Portion of Lot 10” with the legal parcel through the County’s Lot Consolidation process listed in MCC 38.7794. The paragraph below explains the actions needed to achieve the “Parcel” the applicant is seeking.

Lot Consolidation Process: At present, the applicant has applied for a Type I Lot Consolidation to consolidate “Portion of Lot 11” with “Portion of Lot 10” and “Portion of Lot 12”, Banner Acres. The Lot Consolidation process can be used to restore the legal configuration of the “Parcel” and to combine the “Portion of Lot 10” unit of land into it. MCC 38.7794(A)(1)(b) 2. allows the use of the consolidation process to correct a past unlawful land division. If the property owners choose to consolidate the “Portion of Lot 10” with the legal parcel, the reconfigured “Parcel” will be 4.635+/- acres. The Lot Consolidation process will need to be finished with a plat so that the reconfigured “Parcel” will no longer contain any remaining subdivision lot lines.

Planning staff has placed a condition of approval requiring the consolidation of “Portion of Lot 11” and “Portion of Lot 12” to return the unit of land to its legal configuration. If the property owners choose that can consolidate the “Portion of Lot 10” with the legal “Parcel”.

4.00 Conclusion

At present, a legal parcel does not exist; however, the legal parcel can be restored through the consolidation of the “Portion of Lot 12” with the “Portion of Lot 11”. This restored legal parcel may then absorb the unlawfully created unit of land identified as the “Portion of Lot 10” to create a single consolidated 4.635+/- acre parcel. Once the Lot Consolidation process is complete, the approximately 4.635 acre parcel qualifies as a lawfully created “Parcel” as defined in MCC 38.0015. This determination is subject to the conditions of approval established in this report.

5.00 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits
- ‘D’ Comments Received

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2018-10987 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	2	NSA Application Form	10/10/2018
A.2	1	Note to Planner	10/10/2018
A.3	3	#3 – Statutory Warranty Deed for Tax Lot 1N4E32B - 00600 recorded on 09/27/2017 at Instrument #2017-116324 (Huddleston Property) [Grantor: Russu Grantee: Huddleston]	10/10/2018
A.4	2	#4 – Bargain and Sale Deed for tax lot 1N4E32B – 02500 (R111615) recorded on 09/24/2009 at Instrument #2009-1036067 (Paul Jung Property) [Grantor: K Jung, Grantee: P Jung]	10/10/2018
A.5	1	Taxation Map 1N4E42B with tax lot 2500 highlighted	10/10/2018
A.6	1	Portion of the Banner Acres Subdivision Plat	10/10/2018
A.7	1	Exhibit A Map dated Sep 24 1987 and recorded in Book 2044, Page 2088 with tax lot ‘22’ highlighted	10/10/2018
A.8	1	A Portion of a Taxation Map with Tax Lots identified with Letters (no date on map)	10/10/2018
A.9	1	A Portion of Taxation Map which was part of a title report with Book 677, Page 483 hand written on it and tax lot 600 flagged	10/10/2018
A.10	1	Zoning Map for 32-1N-4E (no date identifying it)	10/10/2018
A.11	1	Bargain and Sales Deed recorded in Book 2139 Page 93 recordation date Oct. 11, 1962 for Lot 10, Banner Acres [Grantor: Enid Jones grants Life Estate to Grantee: Edward and Vera Jones]	10/10/2018

A.12	3	Contract of Sale of Real Estate recorded in Book 2152, Pages 6, 7 & 9 (no page 8) recordation date Jan. 24, 1963 for an undivided one-half interest in Lot 13 Banner Acres [Grantor: Enid Jones; Grantee: Jean Fraser]	10/10/2018
A.13	1	Warranty Deed recorded in Book 635, Page 1327 recordation date Aug. 19, 1968 for an undivided one-half interest in Tax Lot 1N4E32B – 00500 (Anderson Property) [Grantor: Enid Jones; Grantee: Fraser]	10/10/2018
A.14	1	Warranty Deed recorded in Book 639, Page 694 recordation date Sep 10, 1968 describing Tax Lot 1N4E32B – 00400 (Leipper Property) [Grantor: Enid Jones; Grantee: Leipper]	10/10/2018
A.15	1	Warranty Deed recorded in Book 677, Page 483 recordation date May 13, 1969 describing Tax Lot 1N4E32B – 2500 & Northern Portion of Lot 12 (Jung, Anderson & Huddleston Property minus southeast rectangle of Lot 10, Banner Acres) [Grantor: Beck; Grantee: Enid Jones]	10/10/2018
A.16	2	Warranty Deed recorded in Book 679, Pages 636 & 637 recordation date May 23, 1969 describing Tax Lot 1N4E32B – 00500 (Anderson Property) [Grantor: Fraser; Grantee: Beck]	10/10/2018
A.17	2	Warranty Deed recorded in Book 679, Page 638 & 639 recordation date May 23, 1969 describing Tax Lot 500 (Anderson Property) [Grantor: Jones; Grantee Fraser]	10/10/2018
A.18	2	Deed recorded in Book 705, Page 1626 & 1627 recordation date Nov 6 1969 describing Tax Lot 1N4E32B – 00500 (Anderson Property) [Grantor: Beck; Grantee: Jones]	10/10/2018
A.19	2	Warranty Deed recorded in Book 797, Page 302 & 303 recordation date June 29, 1971 describing Tax Lot 1N4E32B – 00500 (Anderson Property) [Grantor: Jones & Fraser; Grantee: Lewis & Clark]	10/10/2018
A.20	1	Tax Record for R05350-1020 for 1988	4/7/2019
A.21	2	Tax Record for R05350-1020 for 1989	4/7/2019
A.22	2	Tax Record for R05350-1020 for 1990	4/7/2019
A.23	2	Tax Record for R05350-1020 for 1991	4/7/2019
A.24	2	Tax Record for R05350-1020 for 1992	4/7/2019
A.25	1	Tax Record for R05350-1020 for 1993	4/7/2019
A.26	1	Tax Record for R05350-1020 for 1994	4/7/2019
A.27	1	Tax Bill for R05350-1020 for 1988 & 1989	4/7/2019
A.28	1	Tax Bill for R05350-1020 for 1989 & 1990	4/7/2019

A.29	1	Tax Bill for R05350-1020 for 1990 & 1991	4/7/2019
A.30	1	Tax Bill for R05350-1020 for 1994	4/7/2019
A.31	1	Parcel Record Card for R053501020 (1N4E32B – 02500)	4/7/2019
A.32	1	Exhibit 'A' recorded in Instrument #94-129925 on August 25, 1994	4/7/2019
A.33	2	Tax Lot Description Card for R053501020 indicating a new description card attached 1969C	4/7/2019
A.34	2	Statutory Warranty Deed recorded in Instrument #94-129925 on August 25, 1994	4/7/2019
A.35	3	Warranty Deed recorded in Book 2042, Pages 623 - 625 on September 15, 1987	4/7/2019
A.36	2	Warranty Deed recorded in Book 2042, Page 63 & 64 on September 15, 1987	4/7/2019
A.37	1	Email regarding T2-2018-10987 & T1-2018-10765	4/7/2019
'B'	#	Staff Exhibits	Date
B.1	3	A&T Property Detail for Property #1 (Huddleston)	10/10/2018
B.2	2	A&T Property Detail for Property #2 (Jung)	10/10/2018
B.3	1	Parcel Record Card for 1N4E32B - 00600	11/13/2018
B.4	1	Parcel Record Card for 1N4E32B - 02500	11/13/2018
B.5	1	Survey #29114 recorded in 1969	11/8/2018
B.6	1	Survey #47187 recorded in 1983	11/8/2018
B.7	1	Survey #54664 recorded in 1995	11/8/2018
B.8	1	1962 Zoning Map for 1N4E32B (Zoned F2)	9/19/2019
B.9	1	May 1968 F-2 Zoning Regulations	9/27/2019
B.10	2	May 1968 Lot Sizes for Zones	9/27/2019
B.11	1	10.5.1977 Zoning Map for 1N4E32B (Zoned F2)	9/27/2019
B.12	1	10.6.1977 Zoning Map for 1N4E32B (Rezoned MUA-20)	10/16/2019
B.13	1	8.14.1980 Zoning map for 1N4E32B (Rezoned EFU)	10/16/2019
B.14	1	10.13.1983 Zoning Map for 1N4E32B (Zoned EFU)	10/16/2019
B.15	1	2.20.1990 Zoning Map for 1N4E32B (Rezoned EFU/SEC)	10/16/2019
B.16	1	6.22.1993 Zoning Map for 1N4E31 & 32 (Rezoned GGR-10)	10/16/2019

B.17	1	Deed Chart Cataloging Applicant's Submitted Deeds	10/22/2019
B.18	4	Staff Created Graphics and the related Deeds	10/22/2019
B.19	6	Residential District – GGR and GSR Zoning Code	10/22/2019

'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter dated November 8, 2018	11/8/2018
C.2	1	Applicant's Acceptance of 180 Day Clock	12/2/2018
C.3	1	Complete Letter (Day 1 – April 8, 2019)	4/9/2019
C.4	2	Opportunity to Comment	6/17/2019
C.5	13	Administrative Decision	10/29/2019

'D'	#	Comments Received	Date
D.1	2	USFS Cultural Resources Survey Determination	10/30/2018
D.2	1	Comments received from Mr Leipper	6/28/2019
D.3	1	Comments received from Mr Ray	7/2/2019
D.4	2	Comments received from Friends of Columbia Gorge	7/2/2019