



UNION COUNTY Planning Department

Inga Williams
Planning Director

1001 4th Street, Suite C La Grande, OR 97850 • Phone (541) 963-1014 • www.UnionCountyOR.gov
IWilliams@Union-County.org • PTracy@Union-County.org • PHall@Union-County.org

APPLICATION NO. 2026-0036

STAFF REPORT CONDITIONAL USE – NON-FARM DWELLING

Purpose of the Application	Establish a single-family dwelling not provided in conjunction with farm use (non-farm dwelling)
Relevant Ordinance Criteria	UCZPSO Article 5; Article 2, Sections 2.04.18, 2.05.26.B, 2.10; Article 21.00; Supporting: OAR 660-033-0130(5)
Property Owner	Brock Wright
Applicants	Jon Jinings & Tracey Hanshew
Property Location	Township 02N, Range 40 EWM, Section 23, Tax Lot 100; Assessor ID No. 13653; Wheeler Lane, Elgin, OR, no assigned address.
Zone Designation	A-4 Timber Grazing
Comprehensive Plan Designation	Timber Grazing
Applicable Zone Designation	A-1 Exclusive Farm Use (predominant soils – agriculture)
Approximate Parcel Size	~50.43 Acres

I. QUASI-JUDICIAL LAND USE DECISION

A motion to approve or deny includes findings that justify the approval or denial of the application as presented during the public hearing, which may include the application, exhibits, staff report, and testimony. Only findings which support the Planning Commission's motion should be read into the record.

In order to approve this use, findings must be made that all criteria listed below are found to be present; the absence of one of these criteria may be used to deny the use:

- The dwelling and associated activities will not force a significant change in or significantly increase the cost of farming practices on nearby lands; and
- The dwelling will be situated on a parcel, or a portion of a parcel, that is generally unsuitable land for all farm and forest uses due to the:
 - terrain,
 - adverse soil or land conditions,
 - drainage and flooding,
 - vegetation,
 - location and size of the parcel,
 - and the parcel cannot reasonably be put to farm or forest use in conjunction with other land; and
- The dwelling will not materially alter the stability of the overall land use pattern of the area as proven by the cumulative impacts analysis.

Motion to Approve

"I move that the Planning Commission approve the Conditional Use application for a Non-farm Dwelling as requested in Application No. 2026-0036. The application complies with applicable criteria of the Union County Zoning, Partition, and Subdivision Ordinance and is supported by *[choose any or all of the following]*

- analysis and findings in the staff report,
- information provided in the application,
- verbal testimony at the public hearing by the applicants,
- verbal testimony at the public hearing by the public in support of the application.

We find that the dwelling and associated activities will not force a significant change in or significantly increase the cost of farming practices on nearby lands; that the dwelling will be situated on [a parcel/a portion of a parcel] that is generally unsuitable land for all farm and forest uses due to the: *[choose any or all of the following]*

- terrain,
 - adverse soil or land conditions,
 - drainage and flooding,
 - vegetation,
 - location and size of the parcel,
 - the parcel cannot reasonably be put to farm or forest use in conjunction with other land;
- and the dwelling will not materially alter the stability of the overall land use pattern of the area as proven by the cumulative impacts analysis.

This motion includes the requirement for the applicants to comply with the conditions of approval, as listed in Section II of the staff report."

Motion to Deny

"I move that the Planning Commission deny the Conditional Use application for a Non-farm Dwelling as requested in Application No. 2026-0036. The application does not comply with *[state relevant section of Code]* of the Union County Zoning, Partition, and Subdivision Ordinance and this is supported by *[choose any or all of the following]*

- the staff report analysis and findings that the application does not comply with the land use regulations,
- information provided in the application that does not support an approval because the application does not comply with the conditions required for approval, which is/are *[view listed conditions on Page 1]*.
- verbal testimony by the public at the public hearing in opposition to the application, more specifically..."

II. CONDITIONS OF APPROVAL

1. The approval to construct a non-farm dwelling is valid for four years from the date of decision. One two-year extension and five additional one-year extensions may be granted by the Planning Director if the applicable state and county regulations and circumstances of the application are unchanged and the request for the extension is applied for prior to the approval expiration date. Within the approval period, the property owner is required to apply for construction permits and have substantial construction completed on the dwelling, which means completion of the supporting foundation, prior to the expiration of the approval.
2. Prior to the Planning Department issuing zoning approvals for septic or building permits:

- (a) The property owner(s) shall sign and record in the Union County deed records a document binding the landowner and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices.
 - (b) The property owner(s) shall complete the partition plat required to make the subject property a legal parcel per Parcel Validation Application No. 2026-0024. Per that decision, the plat must be recorded by 5:00 p.m. on June 16, 2027, or the validation is null and void and this non-farm dwelling approval is null and void.
3. Within 60 days of the recordation of the partition plat required to make the subject property a legal parcel, the owners shall (a) notify the County Assessor that the parcel is no longer being used as farmland, and (b) request that the Assessor disqualify the parcel for special assessment at value for farm use or any other special assessment for timber or open space. All additional taxes imposed as a result of the disqualification shall be paid within the 60-day limit.
4. The dwelling, onsite sewage treatment system, accessory structures, and all other improvements related to a dwelling shall be located entirely within the proposed development area depicted on the image copied below, which is the area identified by the applicants as land not suitable for farming or forestry. The driveway and power corridor will essentially follow the route outlined below.¹



III. BACKGROUND AND PROPERTY INFORMATION FINDINGS

¹ The Planning Commission can require a change to the allowed development area for the dwelling if you choose to approve the application. The location proposed by the applicants does not need to be the only location considered.

The subject property is a single parcel of approximately 50.43 acres located on Wheeler Lane, approximately 10 miles northeast of the City of Elgin in an area generally known as Cricket Flat. The property is described as Township 02N, Range 40 EWM, Section 23, Tax Lot 100, Assessor ID No. 13653. It is zoned A-4 Timber Grazing with a Comprehensive Plan designation of Timber Grazing.

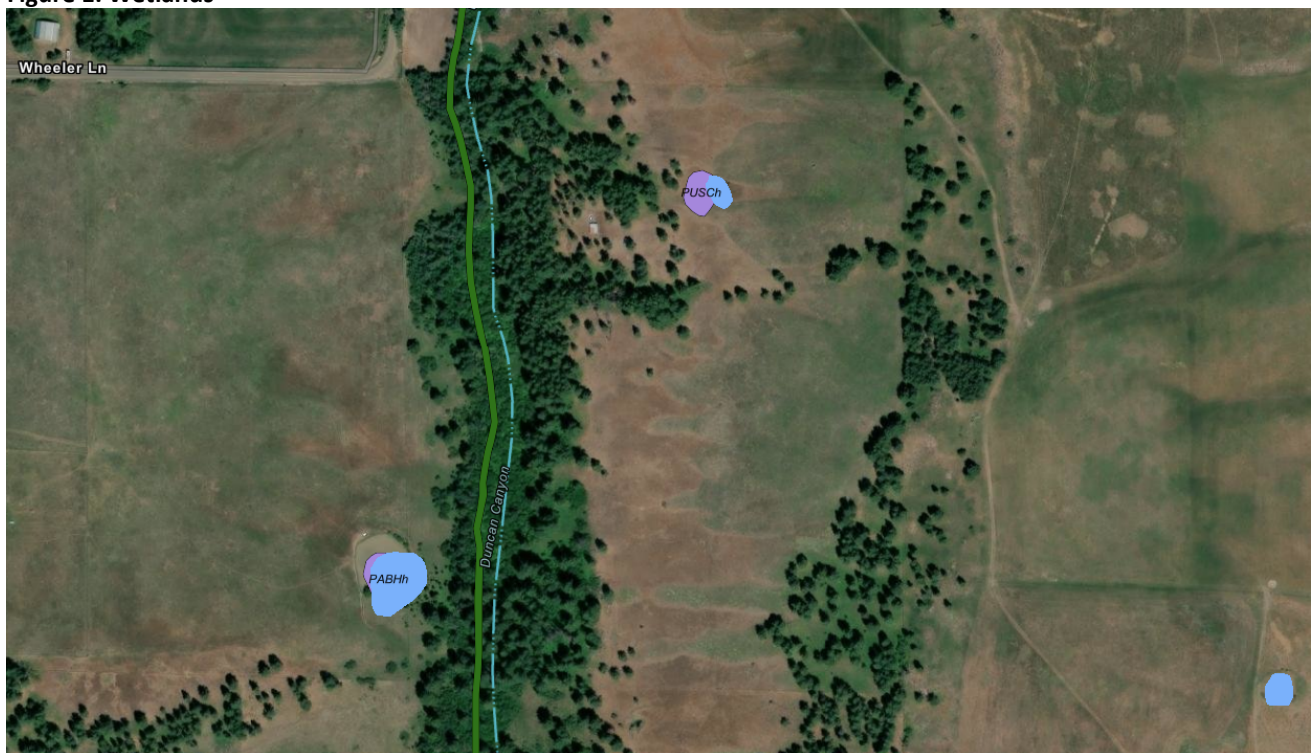
The soil composition of the parcel is predominantly agricultural: approximately 26-acres of rangeland soils and 9-acres of cropland soils (35-acres agricultural), compared with approximately 15.6-acres forest soils. The applicable zone district is therefore A-1 Exclusive Farm Use, which allows the applicants to apply for a non-farm dwelling conditional use.

At the location where the property is adjacent to Wheeler Lane, a.k.a. County Road No. 86, at its northwest corner, the road corridor turns approximately 90 degrees. Based on Survey 074-1977, the property has approximately 60 feet of frontage on this corner, providing legal access but limited road frontage.

The property contains a small agricultural building. It lies within the Elgin School District, and fire protection is supplied by the Oregon Department of Forestry.

Duncan Canyon, which includes an intermittent stream, is oriented north to south along the west side of the property. A 0.2-acre freshwater pond is located in the upper-middle portion of the parcel (**Figure 1**). The eastern two-thirds of the property rise gently to a lightly timbered bench at the property line.

Figure 1. Wetlands



Parcel Legal Status

The parcel was created by deed in 1977 (Land Sale Contract 76423; Warranty Deed 108533) without partitioning approval. A parcel created after November 8, 1973 must have been approved through a county partition process to be lawful. It was therefore unlawfully created.

On June 16, 2026, the Planning Director approved parcel validation File No. 2026-0024, utilizing ORS 92.176, as a ministerial decision, subject to two conditions: (1) recording of a partition plat within 365 days (by 5:00 p.m. June 16, 2027), failing which the validation is null and void; and (2)

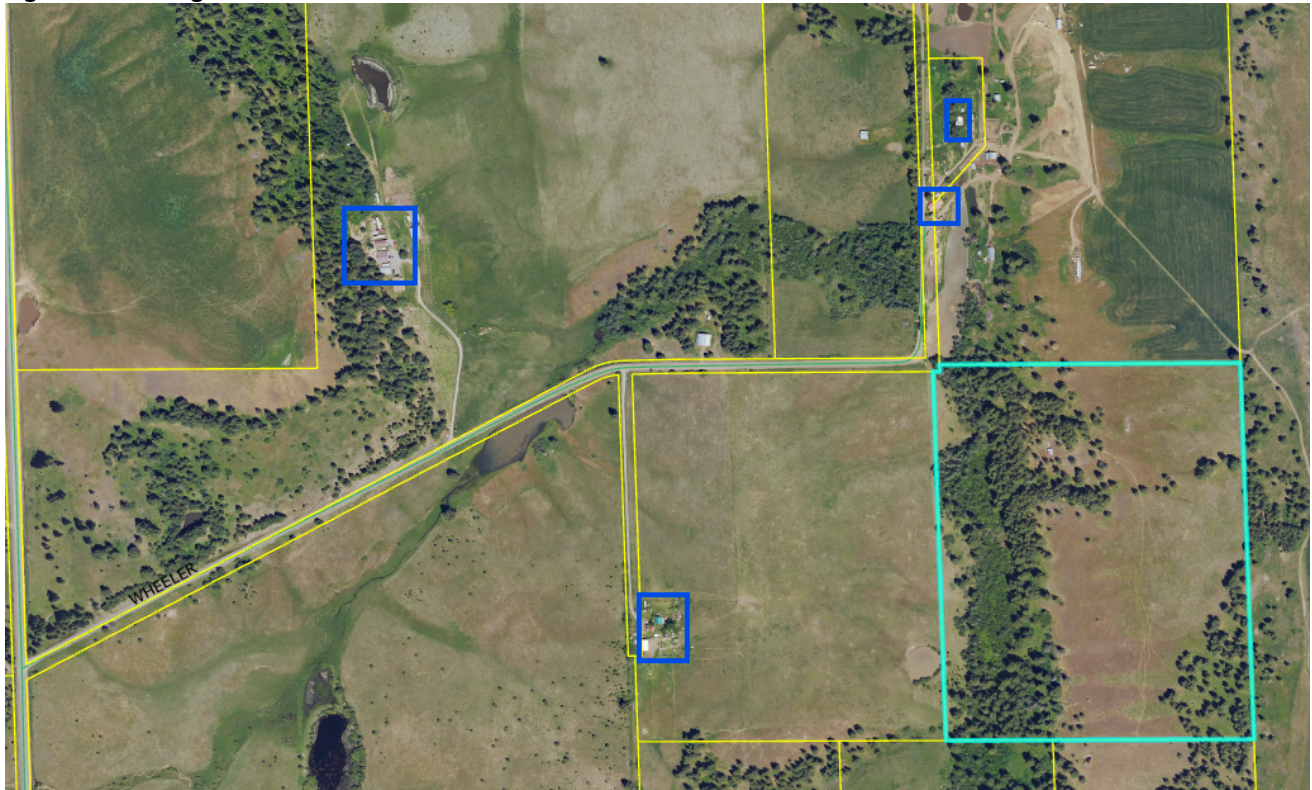
compliance with applicable laws in effect at the time a complete development application is submitted, per ORS 215.427(3)(a) or 227.178(3)(a).

Surrounding Land Uses

Lands to the north are managed for livestock production and dry farming in conjunction with lands to the east and southeast, including a seasonal winter livestock feeding operation immediately north of the northwest corner of the subject property. This feeding area is likely the most intensive agricultural activity in the vicinity. Other lands surrounding the property also graze livestock and may also conduct dry farming.

There are four dwellings that access Wheeler Lane, outlined by blue boxes in **Figure 2**.

Figure 2. Dwellings



Should the parcel be approved for a non-farm dwelling, the back taxes to be paid will be approximately \$14,650.

IV. AGENCY COMMENTS

No agency comments were received as of the finalization of the staff report.

V. PUBLIC TESTIMONY

No written public testimony was received as of the finalization of the staff report.

VI. FINDINGS APPLYING CODE CRITERIA

All applications are subject to the requirements of the Union County Zoning, Partition, and Subdivision Ordinance (UCZPSO), State Statute (ORS) and Oregon Administrative Rules (OAR). Sections in boldface type below denote the relevant regulations. Sections in regular type denote summaries of applicants' supporting documentation or staff analysis of the application.

UCZPSO Section 5.04 – In the A-4 Zone predominantly farmland lots and parcels shall comply with Section 2.04 Conditional Uses...

Findings: The A-4 Timber Grazing zone is a mixed farm/forest zone. Under UCZPSO Article 5, parcels with predominantly crop or range soils are subject to the corresponding section of Article 2.00 (A-1 Exclusive Farm Use Zone); parcels with predominantly forest soils are subject to the forest provisions of Article 5.00. Union County has determined that the parcel is composed predominantly of crop and range soils, so the applicable zone district is Article 2, Exclusive Farm Use.

UCZPSO ARTICLE 2, EXCLUSIVE FARM USE ZONE

Section 2.04 - Conditional Uses with General Review Criteria

In the A-1 Zone, the following uses and their accessory buildings and uses are permitted subject to county review under Article 24.03 Quasi-Judicial land use decision and the specific standards for the use set forth in Section 2.05, as well as the general standards for the zone and the applicable standards in Article 21.00 (Conditional Uses).

18. Single-family residential dwelling, not provided in conjunction with farm use subject to Subsection 2.05.26.B and Section 2.10.

Subsection 2.05.26. General Standards.

B. Single-Family Dwelling Deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Findings and Conclusion: This criterion may only be completed once approval of the use is given. The property owner(s) is required to complete this step prior to any issuance of zoning approvals.

Section 2.10 Dwellings not in Conjunction with Farm Use

Subsection 2.10.1. Non-Farm Dwelling. A non-farm dwelling sited on a lot or parcel is subject to the following requirements:

Subsection 2.10.1.A. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

This criterion is not satisfied merely by the absence of conflict in the abstract; it requires a demonstration that accepted farming practices on nearby lands will not have to change and will not become costlier due to the establishment of a non-farm dwelling.

Applicants' Position (See Applicants' Narrative Pages 1 through 9)

The applicants define 'on nearby land' as an area extending approximately 1,600 feet (0.3 miles) from the exterior boundary of the subject property, noting that neither the UCZPSO nor state law defines "nearby lands." Within that area, the applicants identify only agricultural uses, consisting primarily of livestock grazing and production with some dryland hay and cereal grain production, and no discernible commercial forest management activities or forest uses. Drawing upon the potential impacts from OAR 660-033-0130(5)(c)(D), which outlines the farm and forest compatibility test, the applicants address traffic, water availability and delivery, introduction and spread of weeds, flooding, litter, trespass, damage to crops or livestock, and reduction in crop yields.

Staff Analysis

OAR 660-033-0130(5)(c)(D) is commonly known as the farm impacts test and must be analyzed for every conditional use. Impacts can include, but are not limited to: traffic, water availability and delivery, introduction of weeds or pests, damage to crops or livestock, litter, trespass, reduction in crop yields, and flooding. Impacts could also be related to the construction or installation of the proposed use, in this case the construction of a dwelling, septic system, driveway, and any accessory structures.

The proposed development area (PDA) is located in the northeast and east portion of the parcel with the driveway and power corridor running west to Wheeler Lane along the northern boundary. Staff agrees with the applicants' assessment of nearby uses and that the seasonal winter cattle feeding operation immediately north of the property's northwest corner is the most intensive agricultural use nearby. This use would be within 1,000 to 1,500 feet of the dwelling, depending on the location chosen.

One item for the Planning Commission to consider is how a dwelling in proximity to that winter-feeding operation, including its noise, odor, dust, and equipment movement, could impact the manner and management of the operation.

Further analysis of all impacts is provided in the following table.

Potential Impact	Applicants' Position	Staff Analysis
Traffic	Wheeler Lane identified as an approximate 24-foot gravel road that dead-ends north of the subject property. Low levels of traffic, low dependence on the road for movement of farm equipment and livestock, low vehicle speeds – one extra dwelling will not result in traffic conflicts.	Existing traffic is limited to trips from four homes and agricultural uses. A typical dwelling creates an average weekday trip production of 10 trips per day. (one trip equals a single outbound or inbound trip) Construction of a site-built dwelling could increase traffic significantly during construction period, less if it is a manufactured home. Increase would be temporary.
Water availability / delivery	Field observation, aerial imagery, and an OWRD Water Rights Information Query show no irrigated agriculture or irrigation infrastructure on nearby lands. In the absence of these features, water availability and delivery cannot be inhibited.	Staff has verified via the OWRD that there are two water rights in proximity to the subject parcel. 69331 Wheeler Lane has 4 runoff reservoirs and 69416 Wheeler Lane has one runoff pond. No other water rights appear to exist.
Weeds	The property carries a substantial weed infestation due to being undermanaged; the likely vector for spread is existing livestock grazing under lease. Applicants intends integrated weed management and has contacted the Union SWCD and the Union County Weed Board. The	The weed infestation is an existing condition. An additional dwelling would most likely not contribute to higher levels of noxious weed transmittal. Construction traffic might do so.

Potential Impact	Applicants' Position	Staff Analysis
	presence of the dwelling will improve likelihood of property management.	
Flooding	Not within a designated flood plain. FIRM Panel 4102160135B (eff. May 15, 1980).	The Area of Inquiry is outside the mapped flood plain. The dwelling and associated infrastructure should not create runoff to flood structures on adjacent property.
Litter	Litter is often a function of increased traffic. No visitor-oriented uses are proposed and all would require a separate land use approval.	Litter is more often a symptom of visitors than of property owners. The applicants are not creating a use that invites visitors unknown to the applicants. This request does not appear to create the possibility of increased litter issues. Construction activities may provide an increased incidence of litter.
Trespass	The applicants do not anticipate engaging in trespass, nor have any use that would invite other users to trespass.	Trespass is also more often a symptom of visitors and their unfamiliarity with property boundaries, or willful disobedience. This request does not appear to increase the possibility of trespass.
Crop/livestock damage, yield reduction	Damage and reduction would be a result of a conflict already stated, and no such conflicts appear to exist.	Agree with applicants' assessment.

UCZPSO 2.10.1.B. The following applies to a non-farm dwelling:

UCZPSO 2.10.1.B(1) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

Applicants' Position (See Applicants' Narrative Pages 10 through 13)

The applicants seek a finding of general unsuitability as to the portion of the parcel, the proposed development area (PDA), rather than the parcel as a whole. The area avoids Duncan Canyon and heavily forested areas. The applicants estimate the dwelling and associated infrastructure, including the driveway, will occupy approximately one acre.

The PDA occupies a portion of property with no meaningful amount of standing timber and no soils assigned a forest productivity rating. The PDA is generally unsuitable for the production of farm crops because the prevalence of rocks and rocky areas renders the property unsuitable for cultivation. This conclusion is supported by the fact that there has been no cultivation on the property over the past 41 years.

The PDA will not be sited on a portion of the property generally suitable for livestock because the dwelling and associated infrastructure will not measurably reduce the livestock grazing capacity of the property. As to livestock, the applicants calculate the parcel supports approximately 35.5

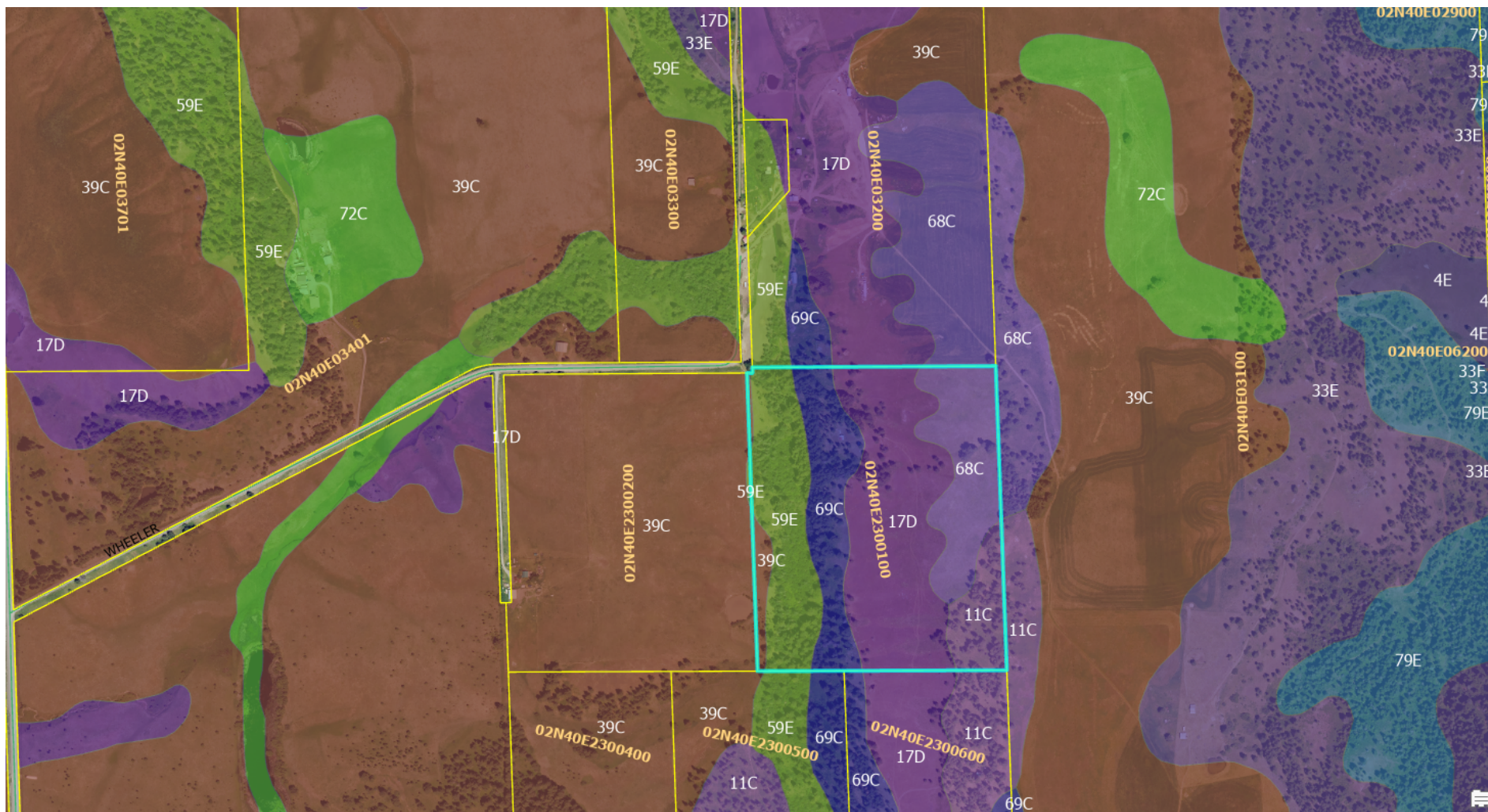
Animal Unit Months (AUMs) when properly managed, which would decrease to approximately 34.5 AUMs after accounting for the one-acre development footprint, which the applicants characterize as no noticeable or measurable difference in grazing capacity.

Staff Analysis

Soils on the parcel are described below. Descriptions are from the Soil Survey of Union County created by the United States of Agriculture, Soil Conservation Service. **Figure 3** shows the soils on the subject property and adjacent properties.

- 68C Watama silt loam:** 2 to 12 percent slopes, Class IVe – This unit is suited to cultivated crops and is limited mainly by the restricted rooting depth, moderately slow permeability, and the hazard of erosion, suited to homesite and recreational use, main limitation is the shallow depth to bedrock.
- 17D Gwinly very cobbly silt loam:** 12 to 20 percent slopes, Class VII – This unit responds well to proper grazing uses, poorly suited to homesite and recreational development, main limitations are stoniness and depth to rock.
- 11C Cowsly silt loam:** 2 to 12 percent slopes, Class IIIe – this unit is well suited to the production of ponderosa pine and Douglas-fir, potential production per acre of wood fiber is 4,480 cubic feet from 40-year-old trees, unit is poorly suited to homesite development, main limitation is the very slow permeability of the clay subsoil.
- 69C Watama-Gwinly complex:** 2 to 20 percent slopes, Class VI – unit is used as rangeland and for wildlife habitat, unit is poorly suited to homesite or recreational development, main limitation is the shallow depth to the bedrock.
- 59E Tolo silt loam:** 12 to 35 percent slopes, Class VIe – unit is used mainly for timber production, it is also used for wildlife habitat, unit is well suited to the production of Douglas-fir and western larch, potential production per acre of wood fiber for 40-year-old Douglas-fir is 4,880 cubic feet, unit is suited to homesite development, main limitations are slope and low soil strength.
- 39C Lookingglass silt loam:** 2 to 20 percent slopes, Class IIIe – most areas of this unit are used for crops, mainly wheat and alfalfa hay, a few areas are used for timber production and wildlife habitat, unit is poorly suited to homesite and recreational development, main limitations are the very slow permeability of the clay subsoil, shrinking and swelling of the soil and low soil strength.

Figure 3. Soils of the parcel (blue highlight) and adjacent lands



Merchantable Tree Species: The parcel consists predominantly of agricultural soils and is not under forest assessment. The parcel contains two soils, 11C and 59E, which are considered forest soils. Soil 39C is mixed crop and forest soil, which appears to be used for crops or rangeland in this general area. The proposed development area is not located on forest soils and does not contain the majority of trees on the site.

Farm Crops: A review of aerial photos back to 1994 shows no cultivation on the parcel. However, the absence of historic cultivation is not itself the test. If the current or former owners did not want to farm, that does not mean the property is unsuitable for cultivation. The criterion asks whether the land is generally unsuitable considering terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size.

In the aerial below from 1994, **Figure 4**, the adjacent property is cultivated up to the property line and the cultivated area generally follows the line of Soil 68C. Soil 68C continues into the subject property. Shown in **Figure 5**, the adjacent owner also cultivates a larger stretch of land to the east, which is Soil 39C, the mixed forest-crop soil. **Figure 6** is a 2024 aerial showing that the adjacent parcel continues to be cultivated.

Figure 4. 1994 Google Earth Aerial

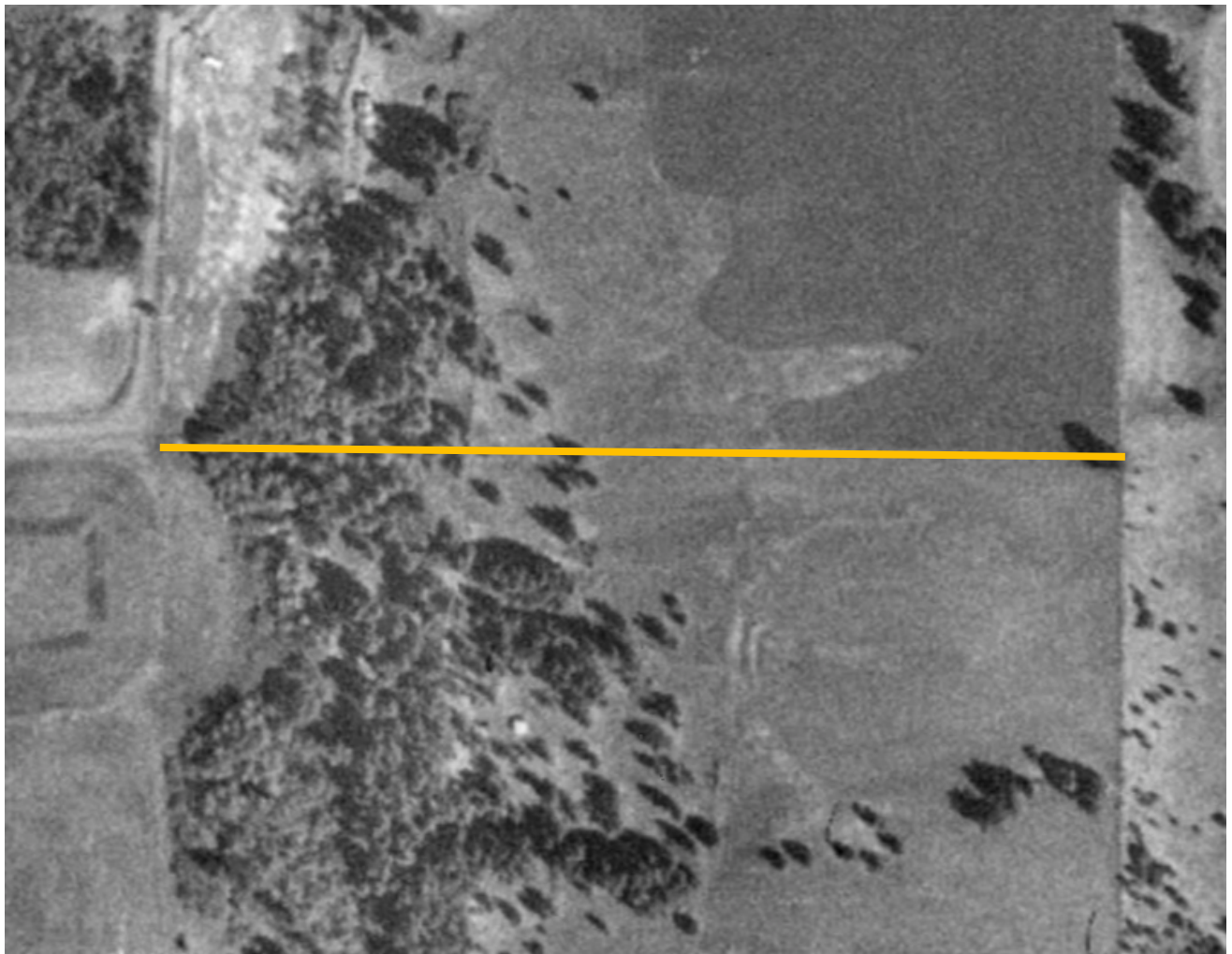


Figure 5. 2006 Google Earth Aerial showing adjacent cultivation

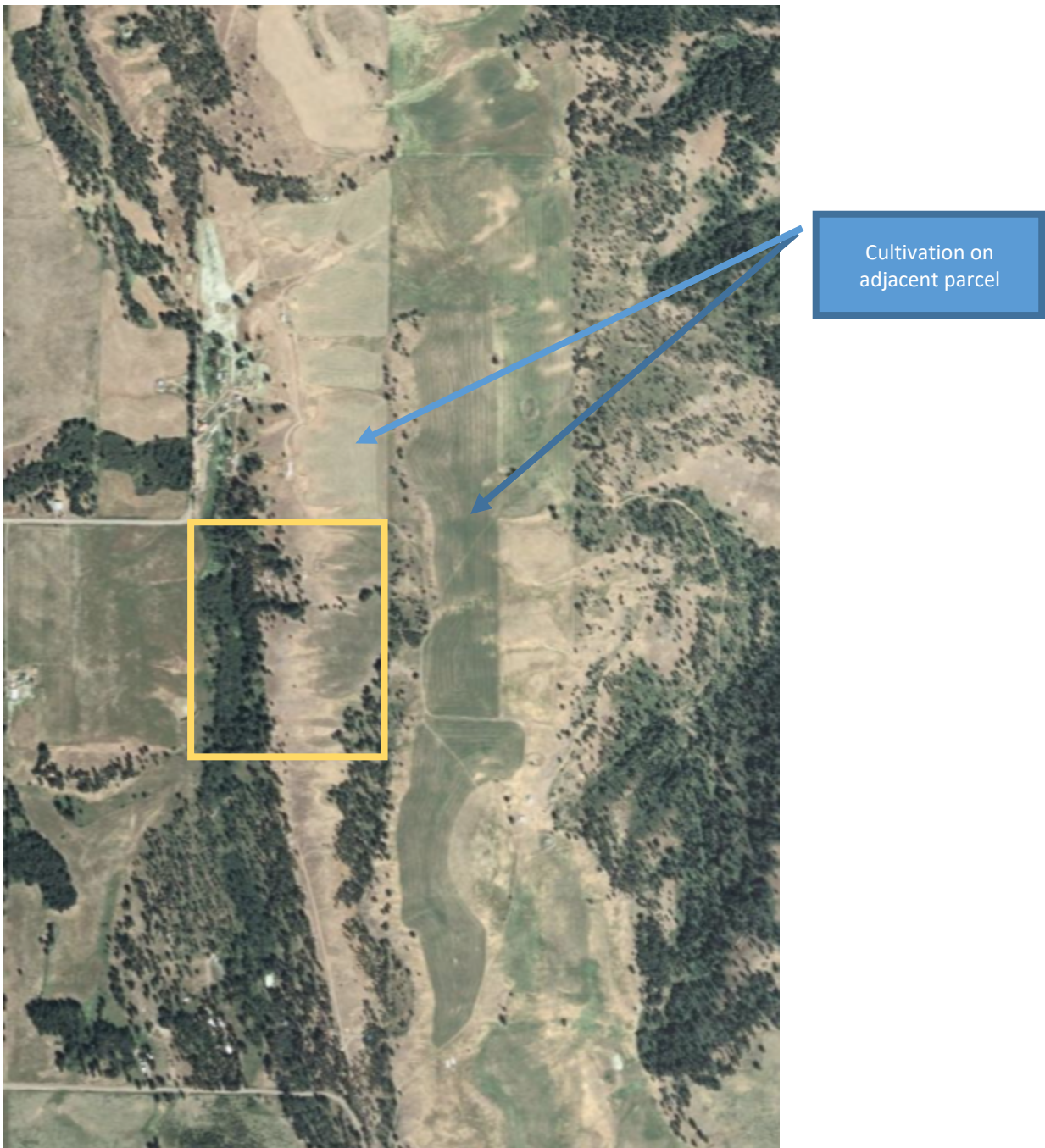


Figure 6. 2024 Aerial



Livestock: This criterion does not ask whether the dwelling will reduce farm capability on the parcel but whether the parcel or the portion of the parcel chosen for development is considered generally unsuitable for farming. The applicants' AUM analysis establishes that the parcel could support approximately 35.5 AUMs and can carry 14–15 cow-calf pairs for 60 days, or 5–6 pairs for a five-month season. The applicants further reports that the northern operation has leased the subject property for light seasonal grazing under an agreement with the current owner, and states an intent to continue offering the property for lease.

Continued UCZPSO 2.10.1.B. The following applies to a non-farm dwelling:

UCZPSO 2.10.1.B(2) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

Applicants' Position (response to this section is incorporated into Applicants' Narrative Pages 10 through 14)

The applicants discuss soils on Page 12 of their narrative and respond to this criterion on Page 14. The applicants state that they believe the NRCS soil mapping is generally accurate but not perfect. The upland portion of the property is laced with rocky areas running predominantly east-west and these areas seem similar to dry stream channels.

Staff Analysis – Class I–VI Presumption

UCZPSO 2.10.1.B(2) provides that in Eastern Oregon a parcel or portion of a parcel is presumed to be suitable if composed predominantly of Class I–VI soils.

The applicants' PDA appears to be located entirely within Soil 68C, which is a Class IV soil and is, therefore, presumed to be suitable for farming. Soil 17D, which runs through the middle of parcel north to south is the only soil not presumed to be suitable and it is also poorly suited to homesite use. As a whole, the parcel is predominantly composed of Class I–VI soils and is presumed suitable for farm or ranch use.

Continued UCZPSO 2.10.1.B. The following applies to a non-farm dwelling:

UCZPSO 2.10.1.B(3) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules...

Findings: The subject property is not under forest assessment.

UCZPSO 2.10.1.C. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed non-farm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of non-farm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth below in subparagraphs (1) through (3).

If the application involves the creation of a new parcel for the non-farm dwelling, a county shall consider whether creation of the parcel will lead to creation of other non-farm parcels, to the detriment of agriculture in the area by applying the standards set forth below in subparagraphs (1) through (3). [Staff note, this application does not include the creation of a new parcel so this is not applicable.]

UCZPSO 2.10.1.C(1) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

UCZPSO 2.10.1.C(2) Identify within the study area the broad types of farm uses (irrigated or non-irrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, non-farm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of non-farm/lot-of-record dwellings that could be approved under Subsections A and B and Section 2.10, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for non-farm

dwelling under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible non-farm dwellings under this subparagraph; and

UCZPSO 2.10.1.C(3) Determine whether approval of the proposed non-farm/lot-of-record dwellings together with existing non-farm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential non-farm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

Subsection 2.10.1.C(1) - Identify a study area

Applicants' Position (See Applicants' Narrative Page 17 & top of 18)

The applicants identify a study area of approximately 2,227 acres, depicted in Figure 3, page 17, of the applicants' narrative and Attachment E of the narrative. The entire study area is zoned A-4 Timber Grazing. The boundary primarily follows property ownership lines. The applicants exclude lands to the east and northeast that become steep and rugged on the basis that they differ in topography and vegetation.

Staff Analysis

The study area exceeds the 2,000-acre minimum. The study area contains no lands zoned rural residential or for urban or non-resource uses; all lands within it are zoned A-4. The boundary follows ownership lines and captures the parcels analyzed for farm and forest impacts. The exclusion of the steep land to the east is reasonable and does not appear to be selected to influence the outcome, as those lands are less developed and their inclusion would tend to dilute rather than concentrate the dwelling density.

Subsection 2.10.1.C(2) – Identify:

- **broad types of farm uses**
- **dwelling development trends since 1993**
- **potential number of non-farm/lot-of-record dwellings that could be approved**
- **identification of predominant soil classifications**
- **parcels created prior to January 1, 1993**
- **parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings**

Applicants' Position (See Applicants' Narrative Page 18 to top of 21)

The applicants report the study area comprises 26 tax lots in 19 ownerships (Table 2 on Page 19 of the applicants' narrative and Attachment F). Fourteen dwellings are present: three predating 1973, ten with retained farm tax deferral presumed approved as farm dwellings, and one non-farm dwelling (2N40E Tax Lot 3706, established 2022, 38.20 acres). Nine of the 14 dwellings are on tax lots of 47.70 acres or less. Average tax lot size is 85.64 acres; median is 40.48 acres. Only three of the 14 dwellings (21%) were constructed after 1993, which the applicants characterize as a flat trend over 32+ years.

Farm uses are non-irrigated: primarily cattle grazing with limited sheep in the far west and dryland hay or cereal grain concentrated in the eastern portion.

Predominant soils are 17D Gwinly Very Cobbly Silt Loam (Class VII), 33E Klicker Stony Silt Loam (Class VI), 39C Lookingglass Silt Loam (Class IIIe), 59E Tolo Silt Loam (Class VI), and 69C Watama-Gwinly Complex (Class VI).

The applicants define “similarly situated” as a lot or parcel within the study area that shares four features with the subject property: no existing dwelling, predominantly used for agriculture, not part of a tract or larger ownership that includes a dwelling within the study area, and similar size (30–80 acres). Applying that definition, the applicants identify one similarly situated property: 2N40E22 Tax Lot 300 (31.74 acres, created March 3, 1977, acquired by the current owner in 2019). The applicants state no similarly situated parcels are large enough to be divided for farm or non-farm dwelling purposes, and that Tax Lot 300 is ineligible for a lot-of-record dwelling due to its 2019 acquisition date.

Staff Analysis

Staff considers other lots or parcels in the study area to be similarly situated if they are vacant parcels in the same zone district.

Within the study area there are 14 dwellings and this is shown on **Figure 7**. There are two dwellings approved as non-farm dwellings. There is a third non-farm dwelling approved but not yet constructed.

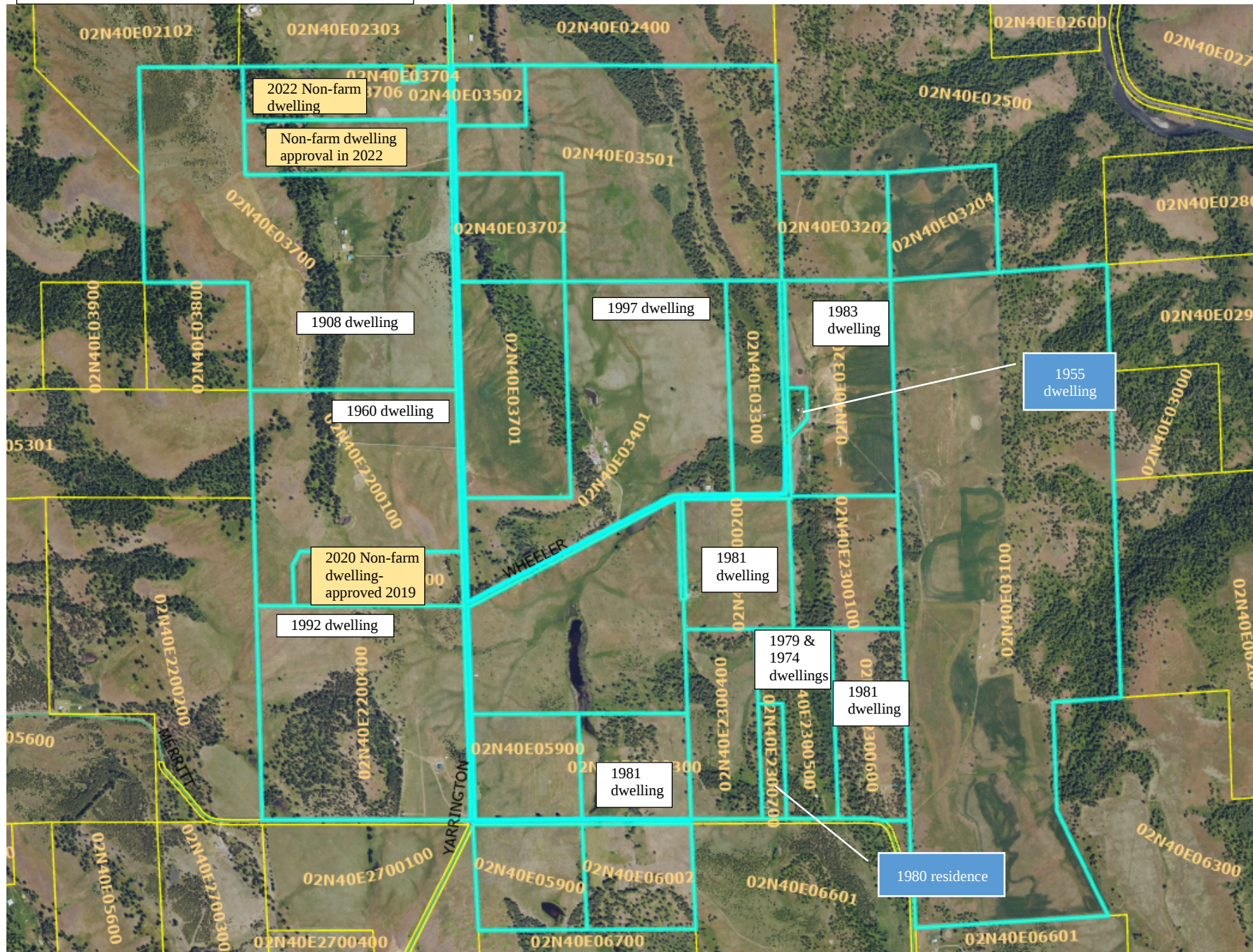
There are 14 vacant parcels within the study area. One parcel is approved for a non-farm dwelling and one is the subject site, so that leaves 12 vacant parcels with a potential for a non-farm dwelling. Six of the vacant parcels are large enough that they could potentially be further divided for two non-farm dwellings each for a potential of 18 non-farm dwellings. Staff has not verified if every vacant parcel in the study area is a legal parcel nor when that parcel was possibly created. Staff did not evaluate lot-of-record dwelling eligibility (continuous family ownership since 1985) for each vacant parcel.

No parcel contains enough acreage to be able to partition and meet minimum acreage requirements, presumed to be 320 acres.

The predominant soils in the study area are:

- 17D - Range - 194 acres
- 33E – Forest - 202 acres
- 39C – Forest[Farm] – 1,218 acres
- 59E – Forest - 180 acres
- 69C – Range - 188 acres

Figure 7. Study area with dwellings identified



Subsection 2.10.1.C(3) - Potential to materially alter the stability of the land use pattern in the area.

Applicants' Position (See Applicants' Narrative Page 21 to 22)

The applicants state the proposal would not materially alter the stability of the land use pattern for several reasons. First, dwellings on lots the size of the subject property largely make up the land use pattern. Second, dwellings on these properties will not result in diminished opportunities for existing farm and ranch operations to lease land. Third, non-farm dwellings on the subject property or other properties in the area cannot reduce the ability of farm properties to acquire water rights because none exist.

Staff Analysis

The threshold set by this criterion is “materially alter,” defined by the cumulative effect on the ability of existing types of farms to continue operating. Three non-farm dwellings have been approved in the study area in the last seven years. There is a potential for 18 non-farm dwellings.

The applicants cannot definitively state that lease land will be available following approvals for non-farm or lot of record dwellings.

UCZPSO 2.10.2. Non-Farm Dwelling. A non-farm dwelling sited on a parcel created after January 1, 1993, as allowed in ORS 215.263(5), is subject to the following requirements:

- A. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farm or forest practices on nearby lands devoted to farm or forest use.**
- B. No final approval of a non-farm dwelling shall be given unless any additional taxes imposed upon the change in use have been paid.**
- C. If a single-family dwelling is established on a lot or parcel as set forth in ORS 215.705 to 215.750, no additional dwelling may later be sited as a non-farm dwelling.**
- D. The dwelling will not materially alter the stability of the overall land use pattern of the area.**
- E. The non-farm dwelling complies with such other conditions as the governing body or its designee considers necessary.**

The parcel will have been created after January 1, 1993 once the partition plat is recorded, so this Subsection applies to the application. However, findings regarding these criteria have been made in prior sections.

UCZPSO Article 21.00 – Conditional Use Standards

Subsection 21.06.1 – A conditional use shall ordinarily comply with the standards of the zone concerned for uses permitted outright except as specifically modified by the Planning Commission in granting the conditional use.

Findings: The Planning Commission may attach conditions it finds necessary to carry out the purposes of the Ordinance. The applicable Article 21.00 standards are satisfied or can be satisfied through the recommended conditions.

Subsection 21.07.6.

- A. The Planning Commission shall not grant final approval of an application for the establishment of a non-farm dwelling on land in the A-1, A-2, A-3 & A-4 EFU Zones that are or have been**

receiving special assessment for forest or farm use without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815.

- B. The Planning Commission may grant "tentative" approval to establish a non-farm dwelling upon making the findings for a non-farm dwelling. Final approval shall be given by the Planning Director upon receipt of evidence that the lot or parcel upon which establishment of the non-farm dwelling is proposed has been disqualified for valuation at true cash value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815.
- C. The owner of a lot or parcel upon which the establishment of a non-farm dwelling has been tentatively approved shall within 60-days after the date tentative approval was granted, simultaneously:
 - (1) Notify the County Assessor that the lot or parcel is no longer being used as farmland; and
 - (2) Request that the County Assessor disqualify the lot or parcel for valuation at true cash value for farm use under ORS 308.370 or other special assessment under ORS 308.765, 321.352, 321.730 or 321.815.

Findings: The subject property is in the A-4 Zone and is receiving farm use special assessment. This subsection requires the owner, within 60 days after tentative approval, to simultaneously notify the County Assessor that the parcel is no longer used as farmland and request disqualification. Because the parcel must be validated as legal by recordation of a partition plat, the condition of approval created for these criteria references that application and allows the property owner to delay notifying the Assessor until the parcel is made legal.

VII. NOTIFICATION

This application was deemed complete on June 30, 2026. The department reviews this application type using the quasi-judicial process pursuant to Union County Zoning, Partition, and Subdivision Ordinance (UCZPSO) Article 24.03, and 24.09 through 24.12. In compliance with the UCZPSO, the department sent a Notice of Hearing to property owners within 500 feet of the property subject to this application (subject property) and placed a public notice in the East Oregonian Newspaper on August 12, 2026.

Once a decision is made, the department will send a Notice of Planning Commission Decision to the same property owners. The Notice of Planning Commission Decision will inform adjacent property owners that they have 30 calendar days from the date of the decision to appeal the Planning Commission's decision to the Board of County Commissioners.



UNION COUNTY Planning Department

Inga Williams
Planning Director

1001 4th Street, Suite C La Grande, OR 97850 • Phone (541) 963-1014 • www.UnionCountyOR.gov
IWilliams@Union-County.org • PTracy@Union-County.org • PHall@Union-County.org

FARM/FOREST LAND USE APPLICATION

Check correct one: ___ Conditional Use ___ Administrative Use ___ Variance
 ✓ Other Non-Farm Dwelling Application

Submission Date: 6/30/2026

Applicant

Name(s)		
Phone Number		
Email Address		
Mailing Address		

Owner ☐ Same as Applicant

Name(s)		
Phone Number		
Email Address		
Mailing Address		

Include an attachment with additional names and contact information if the above spaces are not sufficient.

Township	Range	Section	Tax Lot	Zoning Designation	Acreage	Tax Assessor's Ref. No.

Include additional property information as an attachment if more properties are involved in the request.

Situs address or N/A
Wheeler Lane

Purpose of the Application

1) What use are you proposing that requires land use approval.

Non-Farm Dwelling

2) Cite the applicable Zoning, Partition and Subdivision Ordinance (UCZPSO) section(s).

Please see attached

Current Use of and Existing Structures on Property

Please see attached

Required Attachments

1) Narrative & Supporting Evidence

Applicants are responsible for submitting all necessary evidence to support their request. Each proposed use must comply with the requirements outlined in the UCZPSO and must be clearly justified. Provide thorough, detailed responses for each relevant code section. Be sure to include documentation that supports any claims made. Staff will review the submitted materials and determine whether the request meets the applicable code requirements, does not meet them, or may meet them with specific conditions. Vague and unsupported statements may result in a denial based on insufficient evidence. Before submitting your application, consult with staff to ensure you are responding to all necessary code sections.

2) A **vicinity map** showing the subject property and surrounding roads and adjacent properties.

3) A **site plan**, see attached example.

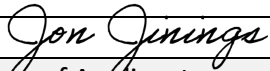
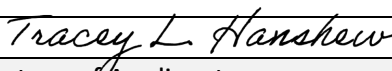
4) A copy of the latest **deed**.

5) A map identifying all adjacent property under same ownership, and locations of any dwellings, if such conditions exist.

ATTESTATION

I/We, the undersigned, swear that this application, including the information and justifications submitted, is true and correct to the best of my/our knowledge and belief. I/We understand that this land use action may result in a change to the property valuation. I/We acknowledge that the property owners must abide by all conditions of approval and all applicable state statutes, federal regulations, and Union County regulations in order to get final approval and be able to begin the use.

All owners of the property must sign

			
Signature of Applicant		Signature of Applicant	
Jon Jinings	6/29/2026	Tracey L. Hanshew	6/29/2026
Printed Name	Date	Printed Name	Date

Signature of Owner, if not applicant		Signature of Owner, if not applicant	
Printed Name	Date	Printed Name	Date

Include an attachment with additional signatures if the above spaces are not sufficient.

For Planning Department Purposes Only

Date Considered Complete _____

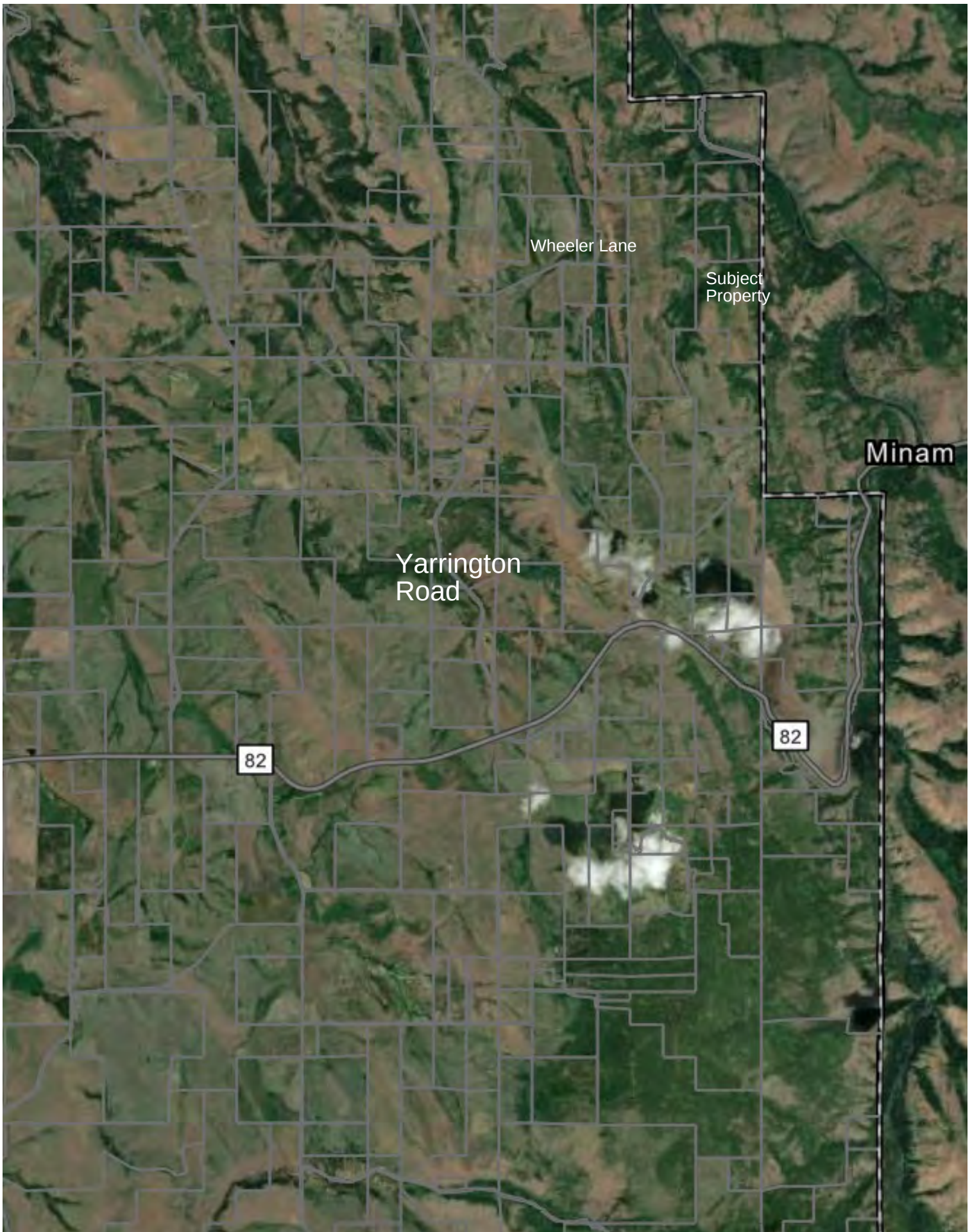
Payment Receipt Number _____

Application Number _____

Vicinity Map: 2N40E23 Tax Lot 100



Vicinity Map II 2N40E23 Tax Lot 100



Applicant Narrative for Non-Farm Dwelling: Jinings-Hanshew, June 2026

Property Location: Township 02N, Range 40E, Section 23, Tax Lot 100, Assessor Id No. 13653

Thank you for considering our personal narrative as part of this application. In brief, this is a dream property for Jon and me. Jon is a born-and-raised Oregonian. He learned to walk on a small ranch near Enterprise, Oregon, where his family raised alfalfa hay and Black Angus replacement heifers. He completed his growing up in the communities of Burns, Oregon and Redmond, Oregon.

Jon has devoted his life to working toward the best uses and preservation of rural land across the state. He has lived in Union County both as a student at Eastern Oregon University and after graduating, working in this county. He grew up with livestock, was a 4-H Leader for many years, and served as a barn superintendent during the Deschutes County Fair. In short, he believes in and actively supports the future of rural communities.

I have been in the Pacific Northwest for 9 years now. I grew up in Texas on around 800 acres, where my family raised cattle and horses and grew food for livestock and our family. I was fortunate to live near my grandparents and learned a great deal about using just what we needed and helping others in need. As with most 'farm kids,' when life took me into a profession that required me to live in cities, I have worked and dreamed of getting back to the solitude and peace of living out of town. As a history professor at EOU, I stayed close to my roots, teaching and researching the history of rodeo, cattle ranching, and the American West. I understand students from around eastern Oregon, small towns, farms, and ranches.

Having lived this lifestyle, Jon and I feel at home in Union County and are committed to preserving this way of life and its history, being good neighbors, and maintaining this land with minimal disruption. We are not wealthy people. We have worked hard and had to make sacrifices to earn what we have. This property gives us a place to call our own and will be our final home. Thank you again for considering our application.

Property Description: 2N40E23 Tax Lot 100



The subject property is a single parcel measuring 50.43 acres in size. The property is located about 10 miles northeast of the city of Elgin near an area generally known as “Cricket Flat” and is accessed from Wheeler Lane, which is a county road. Wheeler Lane addresses the subject property at its northwest corner, which provides legal access but no road frontage. Duncan Canyon, which feels like a bit of an exaggeration, bi-sects the property along its western side and is characterized by Aspens and some Ponderosa Pine trees, other riparian type vegetation and a perennial creek which goes dry in the summer.

Beyond Duncan Canyon, the remaining two-thirds of the subject property rise gently to the east where a lightly timbered bench meets the property line. Lands to the south are of similar size and disposition as the subject property and include dwellings fronting Merritt Lane. Vegetation and distance separate the subject property from development on the southern properties. Lands to the north of the subject property appear to be managed for livestock production in conjunction with lands to the east. Two dwellings and a variety of outbuildings are present in the vicinity of Duncan Canyon as it proceeds north towards the Grande Ronde River. The upland portion of this property is used for equipment storage, cattle grazing, and some dryland hay production. It is the applicant’s understanding that the northern operation has leased the subject property for light seasonal grazing.

These features exhibited by the subject property: a lack of road frontage, the presence of Duncan Canyon, topography, vegetation, and the distance from Merritt Lane combine to provide a unique, remarkable level of separation from other properties and associated land uses. Separation of this nature reduces the potential for neighborhood conflicts, including conflicts with agricultural practices. Separation of this nature also creates a level of seclusion the applicant finds highly desirable.

The subject property is included in a Union County A- 4 Timber Grazing Zoning district. The county's A-4 zone is considered a "mixed" agriculture/forest zone established pursuant to [660-006-0050](#) which recognizes that an area is characterized by a combination of Farming, Ranching, and

Forestry activities. Areas included within an agricultural/forest zone are protected under Statewide Planning Goals 3 (*Agricultural Lands*) and 4 (*Forest Lands*). This means that such areas are eligible to receive approval for any use allowed by Goals 3 and 4 as further articulated at OAR Chapter 660, Divisions 6 and 33. However, a county shall apply either the forest standards or the agricultural standards for siting a dwelling based on the predominant use of the tract on January 1, 1993.

The Union County Planning Department has determined agriculture as the predominate use of the subject property. This means that the standards for siting a dwelling are to be based on the provisions of ORS 215.284, OAR 660-033-0130(4), and the Union County Zoning, Partitioning

Statewide Planning Goal 4 – Forest Lands

TO CONSERVE FOREST LANDS BY MAINTAINING THE FOREST LAND BASE AND TO PROTECT THE STATE'S FOREST ECONOMY BY MAKING POSSIBLE ECONOMICALLY EFFICIENT FOREST PRACTICES THAT ASSURE THE CONTINUOUS GROWING AND HARVESTING OF FOREST TREE SPECIES AS THE LEADING USE ON FOREST LAND CONSISTENT WITH SOUND MANAGEMENT OF SOIL, AIR, WATER, AND FISH AND WILDLIFE RESOURCES AND TO PROVIDE FOR RECREATIONAL OPPORTUNITIES AND AGRICULTURE.

Statewide Planning Goal 3 – Agricultural Lands

TO CONSERVE FOREST LANDS BY MAINTAINING THE FOREST LAND BASE AND TO PROTECT THE STATE'S FOREST ECONOMY BY MAKING POSSIBLE ECONOMICALLY EFFICIENT FOREST PRACTICES THAT ASSURE THE CONTINUOUS GROWING AND HARVESTING OF FOREST TREE SPECIES AS THE LEADING USE ON FOREST LAND CONSISTENT WITH SOUND MANAGEMENT OF SOIL, AIR, WATER, AND FISH AND WILDLIFE RESOURCES AND TO PROVIDE FOR RECREATIONAL OPPORTUNITIES AND AGRICULTURE.

and Subdivision Ordinance. The applicant strongly agrees with the county's determination.

The subject property has been in continuous ownership since 1983, which would ordinarily qualify for a lot-of-record dwelling. However, the Union County

Planning Department determined that it was not legally created. The applicant submitted and the county has approved a parcel validation application pursuant to ORS 92.176. Please see Attachment A. The parcel validation ensures that the subject property is eligible for consideration under this application. The subject property was surveyed in 1977. Please see Attachment B. It will be necessary for the applicant to file a partition plat prior to obtaining building permits.

The subject property is also unique for what it does not have. Specifically, the property is not considered Winter Range for either Mule Deer or Rocky Mountain Elk, nor is it considered to provide important habitat for any other wildlife species. The subject property is not included in a flood plain or floodway and includes only De minimis amounts of possible wetlands.

In conclusion, the applicant believes this is a remarkable property that is well suited for a variety of uses. The property will flourish under the presence and management of an on-site owner.

2.10 - DWELLINGS NOT IN CONJUNCTION WITH FARM USE

1. Non-Farm Dwelling. A non-farm dwelling sited on a lot or parcel is subject to the following requirements:

A. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

Response:

The following definitions are provided in Section 1.08 of the Union County Zoning, Partitioning and Subdivision Ordinance (UCZPSO):

ACCEPTED FARMING PRACTICE: A mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use. As applied to composting operations on high-value farmland, "accepted farming practice" includes composting operations that either (1) compost only materials produced on the subject tract, or (2) compost materials brought from off-site and processed alone or in conjunction with materials generated on the subject tract, and use all on-site generated compost for on-farm production in conjunction with, and auxiliary to, the farm use on the subject tract.

FARM USE: Means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, furbearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation and storage of the products raised on such land for human use and animal use and disposal by marketing or otherwise. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic species. It does not include the use of land subject to the provisions of ORS Chapter 321, except land used exclusively for growing cultured Christmas trees as defined in ORS 215.203(3).

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

FOREST USES: The (1) production of trees and the processing of forest products; (2) open space, buffers from noise, and visual separation of conflicting uses; (3) watershed protection and wildlife and fisheries habitat; (4) soil protection from wind and water; (5) maintenance of clean air and water; (6) outdoor recreational activities and related support services and wilderness values compatible with these uses; and (7) grazing land for livestock.

The applicant has been unsuccessful in finding a local or state provision defining what constitutes “nearby lands.” For purposes of this application, nearby lands (Area of Inquiry) are considered to be those within about 1,600 feet (0.3 miles, which is what the buffering tool would allow) measured from the exterior boundary of the subject property.

Identification and description of the surrounding lands, the farm and forest operations on those lands, and the accepted farm practices on each farm operation and the accepted forest practices on each forest operation.

Lands surrounding much of the subject property are in an ownership pattern that is similar but not exactly the same, suggesting the presence of a family with multiple individuals owning different pieces of land. This pattern is identified in greater detail in the applicant’s response to Section 2.10.1.C., the “Materially Altered Standard.”

Property in the northwest quadrant is used for dryland hay or cereal grain production. Lands immediately north of the subject property’s NW corner are utilized to feed cattle during the winter, while the remainder of the northern area is used for a combination of cattle grazing, dryland hay or cereal grain production, and equipment storage. While seasonal, the feedlot situation is recognized as the most intensive agricultural activity occurring within the area of inquiry. At least two dwellings and a variety of outbuildings are also present.

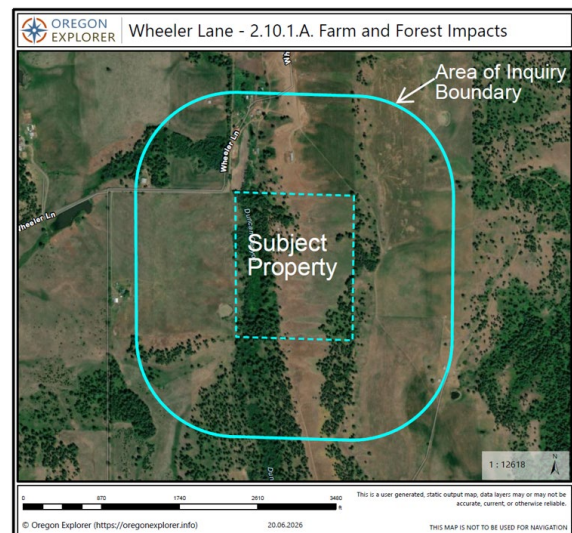


Figure 1 – Farm and Forest Impacts Test, Area of Inquiry

Lands to the northeast, east, and southeast are also used for livestock production, as well as some dryland farming. These lands are part of a single, large tax lot and are presumed to be in joint management with lands to the north. The topography and vegetation of the subject property create a degree of separation, making it challenging to see or hear what is

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 occurring at these locations. It is the applicant's understanding that this operation has
2 occasionally grazed the subject property under an agreement with the current owner.

3 Lands to the south and southwest are comprised of four tax lots ranging between 9.79
4 acres and 47.70 acres. Two tax lots are in separate ownership, the other two are included
5 in single ownership, resulting in a tract of about 57 acres. All three ownerships include
6 dwellings that front Merrit Lane. It is presumed that these ownerships have been grazed by
7 livestock, although there does not appear to be commercial agricultural activities occurring
8 at this time.

9 Some nearby lands to the south do include modest amounts of timber. There does not
10 appear to be sufficient stands of commercial timber to warrant active forest management
11 practices. A majority of forested areas present to the south are generally associated with
12 stream corridors, which often include as much riparian vegetation as merchantable tree
13 species. The Oregon Forest Practices Act (FPA) limits some logging activities within stream
14 corridors which further reduces the chance of commercial forest practices occurring.
15 Please see ORS 527.736, et seq. Aerial photos dating back to May 6, 1994, do not indicate
16 the occurrence of commercial logging activities.

17 Duncan Canyon physically separates the subject property and lands directly to the west.
18 These lands are part of a single 40.48 acre parcel, which are used for livestock grazing.
19 Aerial photos indicate that dry land farming has occurred on a portion of this property in the
20 past.

21 *An assessment of the individual impacts to each farm and forest practice, and whether the*
22 *proposed use is likely to have an important influence or effect on any of those practices;*
23 *and*

24 From this point on the application will not address forest issues because there are no
25 discernible commercial forest management activities or forest uses occurring within the
26 Area of Inquiry.

27 For purposes of this application, examples of potential conflicts to commercial farming
28 and ranching operations include traffic, water availability and delivery, introduction of
29 weeds or pests, flooding, litter, trespass, damage to crops or livestock, and reduction in
30 crop yields. These items have been drawn from OAR 660-033-0130(5)(c)(D), which
31 interprets the Farm and Forest Compatibility test at ORS 215.296. These laws are very
32 similar to the provisions of Section 2.10.1.A., of the UCZPSO and may be used for
33 guidance. The potential conflicts are addressed one by one below:

34 Traffic

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 Conflicts between traffic and agriculture are often due to motorists being unprepared to
2 share the road with large, much slower equipment. Farm equipment typically moves at
3 speeds of 25 mph or less. Under these circumstances, motorists can make poor choices
4 like attempting to pass equipment at dangerous locations. Dangerous choices can result
5 in accidents that can leave individuals injured and equipment damaged. Accidents can
6 also take out fences, allowing livestock onto the roadway, which creates additional risk and
7 concern.

8 The potential for conflict increases at the height of farming season between the months of
9 June and September. During this time Oregon Agriculture is in full swing and moving
10 equipment is necessary for crop support, harvesting, and transporting commodities. In
11 some rural locations county roads are utilized to move cattle with the assistance of riders
12 on horseback or four-wheelers. The prospect of having to use busy roads with traffic
13 travelling at high speeds can be enough to discourage farmers and ranchers from using
14 traditional means, forcing them to find alternative methods of transportation.

15 The Area of Inquiry is served by Wheeler Lane, which is recognized by the Union County
16 Transportation Systems Plan (TSP) as a Rural Local Road. In Union County, roads carrying
17 this designation are typically characterized by a 24' gravel surface located within a 60' right-
18 of-way. The applicant has not verified these measurements, but they seem about right.
19 Wheeler Lane does in fact have a gravel surface and it effectively ends just north of the
20 subject property. Not being a through route, traffic levels on Wheeler Lane are essentially
21 limited to vehicle trips generated by four existing homes.

22 Dryland hay production typically results in a single crop, as opposed to multiple cuttings
23 that can be expected on irrigated fields. This means that the use of equipment is
24 necessary for a shorter period of time, resulting in less potential for traffic conflicts.
25 Furthermore, it appears likely that hay or grain produced on nearby properties is held
26 internally and fed to livestock on-site rather than offered to outside markets. Ownership
27 and field patterns also suggest that equipment movement. While trading work and
28 resources between farms and ranches remains common practice, ownership and field
29 patterns indicate that it may not be necessary to use this segment lane much at all.

30 The conditions described above combine to show that Wheeler Lane has low levels of
31 traffic and that the agricultural use of Wheeler Lane is not extensive. Furthermore, the
32 existing gravel surface limits reasonable vehicle speeds to 25 mph or less, about the speed
33 of a piece of farm equipment.

34 For these reasons: low levels of vehicle traffic on Wheeler Lane, low dependence on
35 Wheeler Lane for the movement of farm equipment and livestock, and low vehicle speeds

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 due to the condition of Wheeler Lane itself, the addition of one new single-family dwelling
2 will not result in traffic conflicts with accepted farm practices occurring in the Area of
3 Inquiry on lands devoted to farm use.

4 Water availability and delivery

5 It is the applicant's understanding that the Area of Inquiry does not include irrigated
6 agriculture or irrigation infrastructure. This understanding is informed by physical
7 observations, review of on-line aerial images, and utilizing the Oregon Water Resources
8 Department (OWRD) Water Rights Information Query.

9 In the absence of these features, water availability and delivery cannot be inhibited. The
10 addition of one new single-family dwelling will not result in water availability or delivery
11 conflicts with accepted farm practices occurring in the Area of Inquiry on lands devoted to
12 farm use

13 Introduction and spread of weeds

14 Weeds are the nemesis of any rural property owner. The Union County Noxious Weeds list
15 identifies that local spread of noxious weeds can be natural by wind, water, and animals;
16 but human activities such as, recreation, vehicle travel, and the movement of
17 contaminated equipment, products, and livestock often greatly increase the distance and
18 rate of dispersal.

19 Many rural properties include an abundance of weeds. Neglected or under-managed
20 properties are even more likely to be characterized by an infestation of weeds and other
21 less desirable species. The subject property falls into the later category. An over
22 abundance of weeds is already present; they don't need to be introduced. The natural
23 spread of weeds from the subject property is currently possible by wind. The perennial
24 stream in Duncan Canyon is unlikely to water volumes responsible for spreading weeds in
25 a substantial way. Bird and wildlife may both contribute to spreading weeds from the
26 subject property. However, the property is not considered big game habitat, suggesting low
27 or relatively low use by ungulate species. An increased presence of birds is unlikely
28 without some unnatural subsidy, like a landfill. Put another way, it is not reasonable to
29 expect that the natural introduction and spread of weeds will increase based on the
30 presence of one single-family dwelling on the subject property.

31 Regarding human activities, the subject property is not available for public recreation.
32 Vehicle travel between the subject property and other ownerships within the Area of
33 Inquiry, while possible, is unlikely to be common occurrence. The movement of equipment
34 between the subject property and other ownerships within the Area of Inquiry is also
35 possible but is unlikely to exceed current levels of activity. Exporting products from the

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

subject property to other ownerships with it the Area of Inquiry will not result in the introduction or spread of weeds simply because the subject property generates no “products” such as hay or other commodities that would be of value to nearby properties.

The most likely way for weeds to be directly introduced or spread from the subject property to other ownerships within the Area of Inquiry would be through livestock grazing. More specifically, other ownerships leasing the subject property for livestock grazing are likely to experience the spread of weeds upon returning their livestock to the home operation. This situation is likely an existing occurrence and can be reduced through improved management.

Human activities are the most likely cause of introducing and spreading weeds. Human activities are also the most direct form of weed abatement and weed management. Multiple sources indicate that integrated weed management relies on a balanced approach using four core control methods:

Cultural Control: Modifying the environment to favor desirable plants over weeds. This includes crop rotation, maintaining ideal planting density, proper fertilization, and grazing management.

Physical/Mechanical Control: Directly removing or destroying weeds through methods like hand-pulling, hoeing, mowing, plowing, and prescribed burning.

Biological Control: Introducing or encouraging natural enemies to suppress weed populations, such as beneficial insects or targeted livestock grazing.

Chemical Control: Using selective herbicides as a targeted tool to control specific weed populations while safeguarding non-target organisms.

Based on the above, the best way to limit the introduction or spread of weeds within the Area of Inquiry is through proper management. The applicant is actively researching integrated weed management plans and has reached out to the Union Soil and Water Conservation District. The applicant is also working to learn more about services and assistance available from the Union County Weed Board.

The addition of one new single-family dwelling will not result in conflicts due to the introduction or spread of weeds with accepted farm practices occurring in the Area of Inquiry on lands devoted to farm use. Furthermore, the applicant believes that the presence of a new single-family dwelling will improve the likelihood of proper management, which would positively contribute to arresting the introduction and spread of weeds within the Area of Inquiry.

Flooding

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

The Area of Inquiry is not in a flood plain. Please see FIRM Flood Plain Map **4102160135B** included as Attachment C. Because the area is not considered prone to flooding, the addition of one new single-family dwelling will not result in flooding conflicts with accepted farm practices occurring in the Area of Inquiry on lands devoted to farm use.

Litter

Littering is illegal in the state of Oregon. Specifically, ORS 164.805 identifies Offensive littering as follows:

(1) A person commits the crime of offensive littering if the person creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:

(a) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility;

(b) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

(c) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle that the person is operating. This subsection does not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Department of Transportation or a person operating a school bus described under [ORS 801.460](#) ("School bus.").

Despite the state laws against it, litter does occur. As mentioned above, litter is often a function of increased traffic. Unmindful motorists may throw items out of their vehicle window or unsecured items may fly out of the back of trucks. As identified at Figure 1., the Area of Inquiry includes a little more than one-quarter mile of one county road, Wheeler Lane. As further described in this application's response to "Traffic" above, very little new vehicle traffic will be generated from the presence of a single-family dwelling on the subject property.

Possibilities for conflicts between litter and agriculture are increased in areas prone to flooding. According to an article written by [Christine Gelley](#), Agriculture and Natural Resources Educator, Noble County Ohio State University Extension the Ohio Country Journal, and published in [Ohio's Country Journal](#):

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 “One of the many challenges of flooded conditions we have seen in recent weeks is
2 dealing with the garbage that is often swept into crop fields and pastures along with
3 the water. It certainly is frustrating to watch the water recede and leave a trail of
4 litter tangled in crop residue and fence lines.

5 Along with being unsightly, this litter may be accidentally ingested by livestock if it is
6 baled in hay or harvested with grain and can cause damages to equipment if it
7 becomes entangled.”

8 Fortunately, the Area of Inquiry is not included in a mapped flood plain area and is not
9 considered prone to flooding.

10 Possibilities for conflicts between litter and agriculture are also increased at locations that
11 purposefully attract visitors such as home occupations, farm stands or stores, agritourism
12 events, or outdoor mass gatherings. More people simply means more traffic and additional
13 trash. Some of the additional traffic may result is additional refuse. Some additional trash
14 may, intentionally or not, result in more litter. The applicant does not anticipate engaging in
15 any of these activities. Should this perspective change in the future, a new land use
16 application will be required and additional analysis will be necessary.

17 For these reasons: low levels of vehicle traffic on Wheeler Lane, no identified risk of
18 flooding, and no visitor-oriented activities allowed without and new land use application
19 with additional analysis, the addition of one new single-family dwelling will not result in
20 litter conflicts with accepted farm practices occurring in the Area of Inquiry.

21 Trespass

22 Trespass is illegal in the state of Oregon. A person commits the crime of Criminal Trespass
23 if the person enters or remains unlawfully in or upon a premises when such premises is not
24 open to the public, or the person fails to leave premises that are open to the public after
25 being lawfully directed to do so by the person responsible for that location.

26 Possibilities for conflicts between litter and agriculture are also increased at locations that
27 purposefully attract visitors such as home occupations, farm stands or stores, agritourism
28 events, or outdoor mass gatherings. More people simply means more traffic and additional
29 trash. Some of the additional traffic may result is additional refuse. Some additional trash
30 may, intentionally or not, result in more litter. The applicant does not anticipate engaging in
31 any of these activities. Should this perspective change in the future, a new land use
32 application will be required and additional analysis will be necessary.

33 The addition of one new single-family dwelling will not result in trespass conflicts with
34 accepted farm practices occurring in the Area of Inquiry on lands devoted to farm use.

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

Reduction in crop yields

Reduction in crop yields would be attributable to one or more of the potential conflicts identified here. There is no risk of conflict from these items, as described in the applicant's response to Section 2.10.1.A. of the UCZPSO. Therefore, the addition of one new single-family dwelling will not result in reduction in crop yields within the Area of Inquiry on lands devoted to farm use.

Damage to crops or livestock

Damage to crops and livestock would be attributable to one or more of the potential conflicts identified here. There is no risk of conflict from these items, as described in the applicant's response to Section 2.10.1.A. of the UCZPSO. Therefore, the addition of one new single-family dwelling will not result in damage to crops and livestock within the Area of Inquiry on lands devoted to farm use.

Conclusion – Section 2.10.1.A. UCZPSO

There are no discernable commercial forestry activities or forest uses being conducted in the Area of Inquiry. Therefore, there is no possibility for a new single-family dwelling on the subject property to significantly impact, influence, or effect such activities in any way.

Lands within the Area of Inquiry are used for agricultural activities: primarily livestock grazing and production, with some dryland farming (primarily hay production). As demonstrated above, the addition of one new single-family dwelling will not create conflicts to accepted farming practices on lands within the Area of Inquiry due to:

Traffic

Water availability or distribution

Introduction and spreading of weeds.

Flooding

Litter

Trespass

Reduction in crop yields

Damage to crops or livestock

Therefore, the dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

Section 2.10.1.A. is satisfied.

B. The following applies to a non-farm dwelling:

(1) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel or portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and

Response:

The applicants' response focuses on why the dwelling will be sited on a portion of a parcel that is generally unsuitable for the production of farm crops and livestock or merchantable tree species.

The dwelling is proposed to be sited on a very small portion of the subject property within the development envelope indicated at Figure 2. A larger map of the development envelope is also included as Attachment D. The development envelope has been selected based on multiple considerations. First, as described in the applicant's response to Section 2.10.1.A., this location does not pose a risk to farm or forest activities occurring on nearby lands. Furthermore, as will be described below, this location does not reduce the potential for farm and forest uses to occur on the subject property.

The second consideration is wildfire risk. The development envelope deliberately avoids heavily forested areas in favor of lands where defensible space can be provided, and primary and secondary fuel breaks can easily be maintained. The applicant also intends to abide by other home hardening and [Firewise](#) principals.

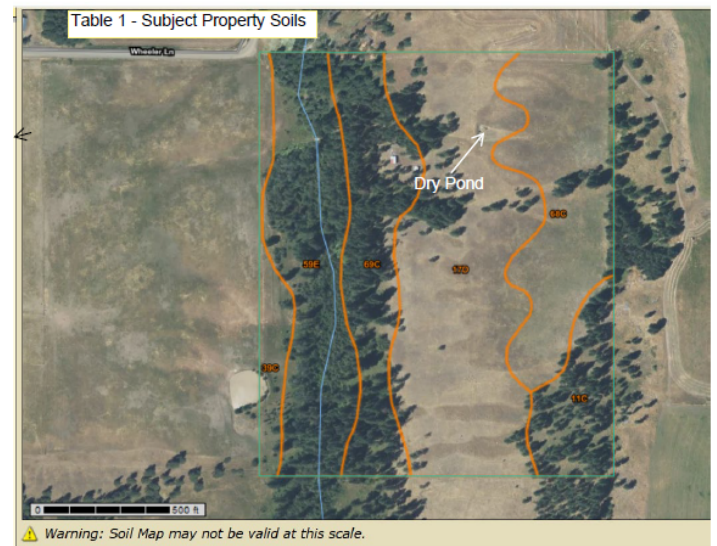
The third consideration includes ecological and environmental benefits. The development envelope does not include Duncan Canyon, which could impact riparian conditions and the perennial stream present in the bottom. The development envelope has also received approval for a standard septic system. Approved locations are generally identified on Figure 2 as "A" and "B".

Final considerations include applicant preference. As described above, the development envelope serves to satisfy the applicant's interest in complementing current and future resource uses, reducing the risk of wildfire, and avoiding ecological and environmentally

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application



Figure 2 - Proposed Development Envelope



Symbol	Map Unit Name	Resource Category	Agriculture Capability Class	Acres	Acres/ AUM	Forest Index Cubic Feet	Notes
11C	Cowslly Silt Loam	Crop	IIIe	3.7	3	NA	The subject property is comprised of about 38.6 acres of agricultural soils and about 11.8 acres of forest soils. Therefore, the predominant use of the property is considered to be agriculture.
17D	Gwinly Very Cobbly Silt Loam	Range	VIIIe	17.9	2.5	NA	
39C	Looking Glass Silt Loam	Forest	NA	1.7	2.7	85	Of the 38.6 acres of agricultural soils, about 25.6 acres are considered to be best suited for livestock grazing.
59E	Tolo Silt Loam	Forest	NA	10.1	1	102	
68C	Watama Silt Loam	Crop	IVe	9.3	1	NA	The property can be expected to support about 35.5 Animal Unit Months (AUMs) over a typical grazing season when properly managed.
69C	Watama Gwinly Complex	Range	IVe	7.7	1.5	NA	

sensitive areas. With the orientation of Wheeler Lane resulting in no road frontage, Duncan Canyon providing separating from property to the west, and upland topography providing separation from property to the west, the development envelope also affords an almost unmatched level of seclusion that is rare on a property almost any size. The applicant will make a final dwelling location selected from lands within the development envelope prior to obtaining building permits.

In their appraisal of rural properties, County Assessors typically use one-acre to represent presence of a single-family dwelling and associated outbuildings and infrastructure. Based on existing County Assessor principle, as well as site specific calculations, the applicant estimates that the dwelling and associated infrastructure, including the driveway, will occupy about an acre.

The proposed development envelope does not include any meaningful amount of standing timber, or soils considered suitable for forest uses or assigned a forest productivity rating. Please see Figure 2 and Table 1. Therefore, the portion of the parcel where the dwelling will be situated is unsuitable for the production of merchantable tree species. The applicant's response will now focus on suitability for farm crops and livestock.

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

As indicated at Table 1., the development envelope includes soils identified by the Natural Resources Conservation Service (NRCS) as Gwin Very Cobbly Silt Loam (Symbol 17 D) and Watama Silt Loam (Symbol 68C). Gwin Very Cobble Loam Loam has an agricultural capability class VII and is shown to be present on about 18-acres. Class VII soils are severely limited and considered generally unsuitable for farm use. Watama Silt Loam has an agricultural capability of IV and is shown to be present on about 10-acres. Class IV soils are less severely limited, which suggests a suitability for crops and livestock production. The soil mapping services provided by NRCS are not property specific and as indicated at the bottom of Table 1., accuracy of the mapping products are likely to vary depending on scale.

The applicant believes that the NRCS soil mapping does a decent, although not perfect job of identifying soils and soil features on the subject property. For instance, the upland portion of the property is laced with rocky areas running predominantly east-west and seem similar to dry stream channels. Some of these channels bi-sect areas identified as Watama Silt Loam. This situation does not appear to be captured by the NRCS maps.

The applicant has also studied aerial images going back to December 31, 1985. At no point does it appear that the portion of the subject property mapped as Watama Silt Loam, or any other portion of the subject property has been cultivated.

It is the applicant's experience that lands suitable for crop production, will be put to crop production. The absence of cultivation efforts over the last 41 years combined with the prevalence of rocks and rocky areas running east to west in a channel fashion is substantial evidence that the subject property, including any portion of the subject property is, generally unsuitable for the production of farm crops.

Rangeland capability in the Western United States is typically measured in terms of Animal Unit Months. The most common "Animal Unit" is a 1,000-pound cow and her unweaned calf. An "Animal Unit Month" (AUM) is the amount of air-dry forage needed to support one 1,000-pound cow and her unweaned calf for one month, or about 750 pounds of forage. Today's standard beef breeds generally produce larger cows that often weigh 1,200-1,400 pounds. A 1,200-pound cow and her unweaned calf represent about 1.2 AUM's.

According to soils information provided by Union County in combination with data from the Rangeland Analysis Platform (RAP), the subject property has the ability to support about 35.5 AUM's when managed properly. This amount of forage is capable of supporting 14-15 1,200-pound cows and their unweaned calves (pairs) for 60-days prior to shipping to summer pasture. It would also support 5-6 pairs for a five-month grazing season from May 15 to October 15.

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

The proposed dwelling and associated infrastructure are expected to occupy about one-acre, perhaps less. Adjusting for the presence of these facilities indicates that, with proper management, the subject property would have the ability to support about 34.5 AUM's. This amount of forage is capable of supporting 14-15 pairs for 60 days prior to shipping to summer pasture. It would also support 5-6 pairs for a five-month grazing season from May 15 to October 15. Put another way, the presence of a dwelling and associated infrastructure will have no noticeable or measurable difference in the livestock grazing capacity on the subject property and the agricultural potential is not reduced.

Conclusion – Section 2.10.1.B.(1) UCZPSO

The dwelling will not be sited on a portion of the subject property generally suitable for the production of farm crops because the prevalence of rocks and rocky areas running east to west in a channel fashion renders the subject property unsuitable for cultivation. The absence of cultivation efforts over the last 41 years supports this conclusion.

The dwelling will not be sited on a portion of the subject property generally suitable for livestock because the presence of a dwelling and associated infrastructure will have no noticeable or measurable difference in the livestock grazing capacity on the subject property and the agricultural potential is not reduced. Therefore, the dwelling location cannot be put to farm use in conjunction with other lands as part of a grazing operation because grazing the dwelling location cannot contribute to a livestock operator's ability to obtain a profit in money.

The dwelling will not be sited on a portion of the subject property generally suitable for the production of merchantable tree species because the proposed development envelope does not include any meaningful amount of standing timber, or soils considered suitable for forest uses or assigned a forest productivity rating.

Section 2.10.1.B.(1) is satisfied.

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

(2) A lot or parcel or portion of a lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel or portion of a lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the lot or parcel or portion of the lot or parcel is not "generally unsuitable." A lot or parcel or portion of a lot or parcel is presumed to be suitable if, in Eastern Oregon, it is composed predominantly of Class I-VI soils. Just because a lot or parcel or portion of a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or

Response:

Suitability for farm use has been described in detail in the applicant's response to Section 2.10.1.B.(1).

The dwelling will not be sited on a portion of the subject property generally suitable for the production of farm crops because the prevalence of rocks and rocky areas running east to west in a channel fashion renders the subject property unsuitable for cultivation. The absence of cultivation efforts over the last 41 years supports this conclusion.

The dwelling will not be sited on a portion of the subject property generally suitable for livestock because the presence of a dwelling and associated infrastructure will have no noticeable or measurable difference in the livestock grazing capacity on the subject property and the agricultural potential is not reduced. Therefore, the dwelling location cannot be put to farm use in conjunction with other lands as part of a grazing operation because grazing the dwelling location cannot contribute to a livestock operator's ability to obtain a profit in money.

The dwelling will not be sited on a portion of the subject property generally suitable for the production of merchantable tree species because the proposed development envelope does not include any meaningful amount of standing timber, or soils considered suitable for forest uses or assigned a forest productivity rating.

Conclusion – Section 2.10.1.B.(2) UCZPSO

Section 2.10.1.B.(2) is satisfied.

(3) If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. If a lot or parcel is under forest assessment, the area is not “generally unsuitable” simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not “generally unsuitable.” If a lot or parcel is under forest assessment, it is presumed suitable if, in Eastern Oregon it is composed predominantly of soils capable of producing 20 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land.

Response:

The subject property is not under Forest assessment.

Conclusion – Section 2.10.1.B.(3) UCZPSO

Section 2.10.1.B.(3) is not applicable.

C. The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth below in subparagraphs (1) through (3). If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth below in subparagraphs (1) through (3).

Response:

This criterion calls for an assessment of whether future nonfarm dwellings approved lots or parcels in the area that are **similarly situated** to the subject property could lead cumulative impacts. Emphasis added. Specifically, this criteria tests seeks to avoid the approval of a nonfarm dwelling that would trigger additional approvals resulting in a conversion or chain of conversions to the detriment of agriculture in the area.

The subject property is a 50.43 acre parcel. The predominant use of the subject property has been determined to be agriculture. The subject property does not include a dwelling and is not part of a tract or larger ownership that includes a dwelling within the study area.

For purposes of this application the term “similarly situated” is understood to mean a lot or parcel within the identified study area that share these features with the subject property:

- No existing dwelling.
- Predominantly used for agriculture.
- Not part of a tract or larger ownership that includes a dwelling within the study area.
- Similar size (30-80-acres)

The applicant is not requesting a land division that would result in the creation of a new parcel.

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

(1) Identify a study area for the cumulative impacts analysis. The study area shall include at least 2,000 acres or a smaller area not less than 1,000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or non-resource uses shall not be included in the study area;

Response:

The identified study area includes about 2,227-acres indicated at Figure 3. A larger map of the study area is also included as Attachment E. All of the study area is included in an A-4 Timber Grazing zoning district.

The subject property is located to the southeast of the area's center. The study area is representative of the area surrounding the subject property because it includes similar open, rolling topography with timbered draws in some locations. The study area boundary primarily follows property ownership lines and includes those lands analysed in the applicant's response to Section 2.10.1.A. Merritt Lane is present at the southern boundary and Yarrington/Scott Road bi-sects the western portion of the area.

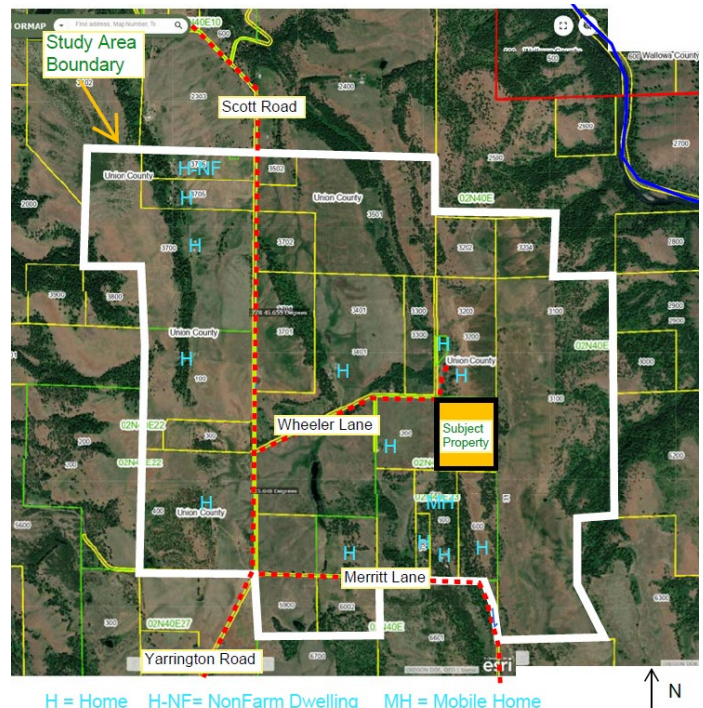


Figure 3 – Existing Land Use Pattern

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 The study area avoids lands to the east and northeast that rapidly become steep and
2 rugged as the descend to the Wallowa River. These lands are different in terms of
3 topography and vegetation.

4 **(2) Identify within the study area the broad types of farm uses**
5 **(irrigated or non-irrigated crops, pasture or grazing lands), the**
6 **number, location and type of existing dwellings (farm, nonfarm,**
7 **hardship, etc.), and the dwelling development trends since 1993.**
8 **Determine the potential number of nonfarm/lot-of-record dwellings**
9 **that could be approved under Subsections A and B and Section 2.10,**
10 **including identification of predominant soil classifications, the**
11 **parcels created prior to January 1, 1993 and the parcels larger than**
12 **the minimum lot size that may be divided to create new parcels for**
13 **nonfarm dwellings under ORS 215.263(4). The findings shall describe**
14 **the existing land use pattern of the study area including the**
15 **distribution and arrangement of existing uses and the land use**
16 **pattern that could result from approval of the possible nonfarm**
17 **dwellings under this subparagraph; and**

18 Response:

19 The existing land use pattern of the area is considered to be a combination of mid-sized
20 (40-80 acres) tax lots and some larger tax lots (80-439.52 acres). The average tax lot size is
21 85.64 acres, while the median tax lot size is 40.48-acres. As shown on Figure 3, 14
22 dwellings are present within the Study Area. Nine of the existing dwellings are on tax lots of
23 47.70 acres or less. Seven of the existing dwellings are on tax lots touching the subject
24 property.

25 It is the applicant's understanding that the study area does not include irrigated agriculture
26 or irrigation infrastructure. This understanding is informed by physical observations, review
27 of on-line aerial images, and utilizing the Oregon Water Resources Department (OWRD)
28 Water Rights Information Query.

29 Agricultural activities within the Study Area primarily consist of livestock production with
30 cattle grazing being the most common use. Limited numbers of sheep are present on the
31 far western portion of the Study Area. Dryland farming is occurring on a minority of the Study

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 Area and appears concentrated on the eastern portion of the Study Area. Dryland hay or
2 cereal grain produced on these land are likely utilized on site to feed cattle over the winter
3 rather than being offered to an outside market.

4 As shown by Table 2, and further informed by Attachment F, the study area is comprised of
5 26 tax lots representing 19 different ownerships.

Tax Lots	Owners	Total Dwellings	Dwelling Types			“Similarly Situated”	Notes
			Pre 1973	Farm	Non Farm		
26	19	14	3	10	1	1	Only one ownership meets the parameters for consideration as being “Similarly Situated”
			TL 3700-1908	TL 3705-2013	TL 3706- 2022	<u>Section 22</u>	
			TL 3300-1955	TL 3401-1997		TL 300 – 31.74 AC	Seven of the 14 existing dwellings are located on lands that touch the subject property.
			TL 100-1960	TL 3200-1983			Two of the 14 existing dwellings are located in the center of the study area.
				<u>Section 22</u>			
				TL 400-1992			Five of the 14 existing dwellings lay west of Yarrington/Scott Road.
				<u>Section 23</u>			
				TL 200 – 1981			After Discounting the Cemetery Property:
				TL 300 – 1981			- Average Tax Lot Size is 85.64 Acres - Median Tax Lot Size is 40.48 Acres
				TL 500 – 1979 Also 1974 MH			The three dwellings built prior to 1973 are considered existing.
	TL 600-1981			Tax Lots including 10 of the dwellings constructed after 1973 have retained farm tax deferral and are presumed to have been approved as Farm Dwellings.			
	TL 700-1980			A single Tax Lot includes a dwelling without retaining farm tax deferral, indicating a nonfarm dwelling approval.			
				No ownerships within the study area appear to qualify for a lot-of-record dwelling.			

6
7 Many of the existing dwellings were built between 1979 and 1983. Nine of the 14 dwellings
8 are located on tax lots of 47.70 acres or less. Only three of the existing dwellings (21%)
9 appear to have been constructed after 1993, resulting in a flat trend over the past 32+
0 years. Only one tax lot meets the stated parameters for being “similarly situated.” This
1 property is located west of Yarrington Road in the western portion of the Study Area.

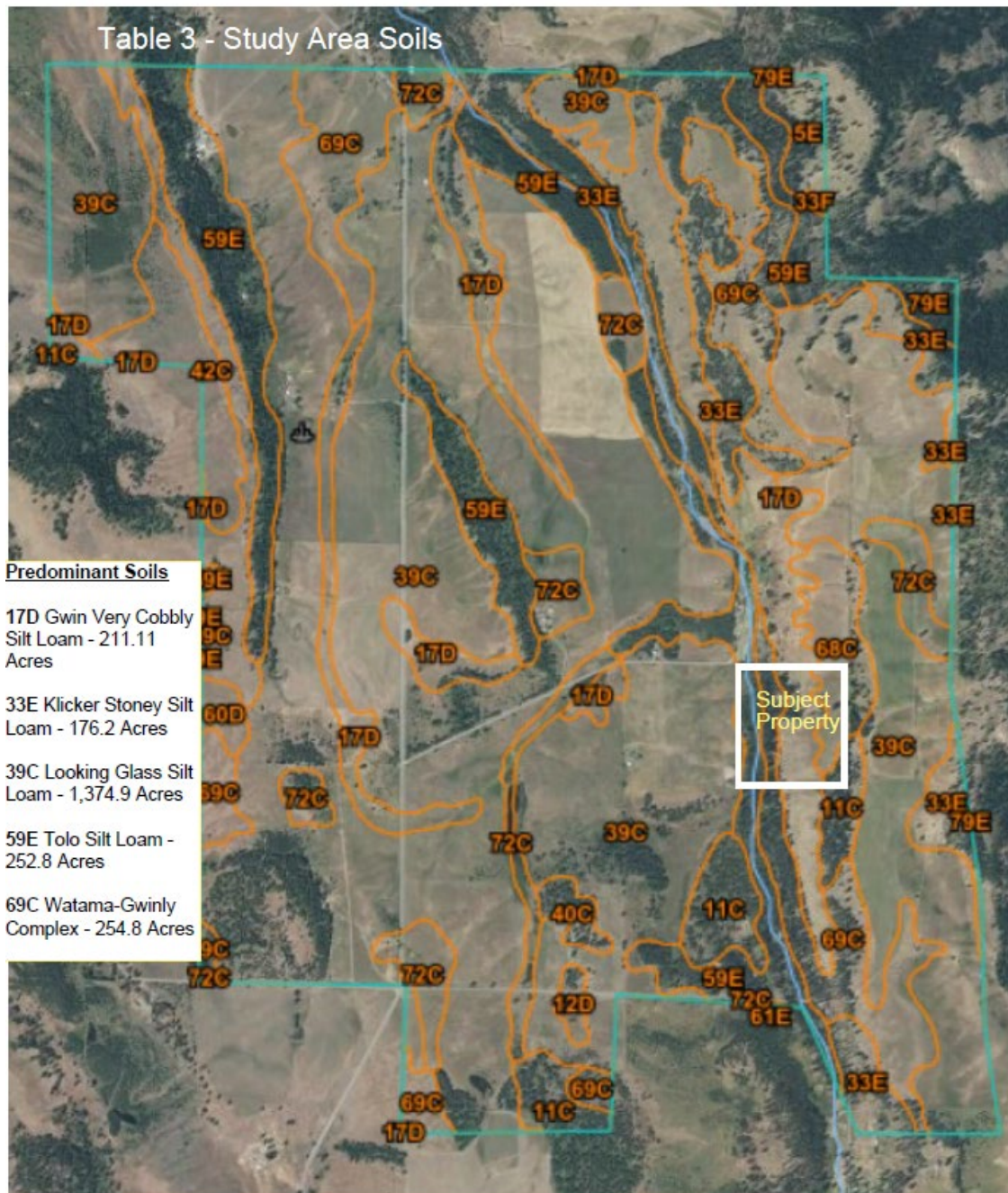
2 About 16 different soil types are present within the study area. However, most are minority
3 inclusions. The principle soils within the subject area are:

14 17D Gwin Very Cobbly Silt Loam. Agricultural Capability Class VII

5 33E Klicker Stoney Silt Loam. Agricultural Capability Class VI

16 39C Lookingglass Silt Loam. Agricultural Capability Class III

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application



21

22 59E Tolo Silt Loam. Agricultural Capability Class VI

23 69C Watama-Gwinly Complex. Agricultural Capability Class VI

24 The one property that can be considered similarly situated is about 31 .74 acres and is
25 described at 2N40E22 Tax Lot 300. According to Union County tax records the property
26 appears to have been created on March 3, 1977. This property is flanked to the north and
27 south by ownerships with dwellings. With the exception of the Mt Pleasant Baptist

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

Cemetery, it is the only property in the Study Area laying west of Yarrington/Scott Road that does not include an existing dwelling. A nonfarm dwelling placed on this property would have no consequence to the identified study area because dwellings on parcel of this size are part of the stability of the overall land use pattern.

The applicant is not proposing a land division and there are no lots or parcels similarly situated that are large enough to be divided for either farm or nonfarm dwelling purposes. Furthermore, the one ownership that is similar situated is identified to have been acquired by the current owner in 2019, making it ineligible for a lot-of-record dwelling.

(3) Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

Response:

The applicant is proposing one nonfarm dwelling within a Study Area measuring about 2,227 acres, which will raise the total number of nonfarm dwellings to two. The other nonfarm dwelling in the Study Area is located in the northwest portion of the study area and is identified on Figure 3. The property measures 38.20 acres in size and is described at 2N40E tax lot 3706. The nonfarm dwelling was established in 2022.

The existing land use pattern of the area is considered to be a combination of mid-sized (40-80 acres) tax lots and some larger tax lots (80-439.52 acres). The average tax lot size is 85.64 acres, while the median tax lot size is 40.48-acres. As shown on Figure 3, 14 dwellings are present within the Study Area. Nine of the existing dwellings are on tax lots of 47.70 acres or less. Seven of the existing dwellings are on tax lots touching the subject property.

It is the applicant's understanding that the study area does not include irrigated agriculture or irrigation infrastructure. This understanding is informed by physical observations, review

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

of on-line aerial images, and utilizing the Oregon Water Resources Department (OWRD) Water Rights Information Query.

Agricultural activities within the Study Area primarily consist of livestock production with cattle grazing being the most common use. Limited numbers of sheep are present on the far western portion of the Study Area. Dryland farming is occurring on a minority of the Study Area and appears concentrated on the eastern portion of the Study Area. Dryland hay or cereal grain produced on these land are likely utilized on site to feed cattle over the winter rather than being offered to an outside market.

Conclusion – Section 2.10.1.(C) UCZPSO

The approval of the proposed nonfarm dwelling together with the single other existing nonfarm dwelling will not materially alter the stability of the land use pattern in the 2,227 acres study area for several reasons. First, dwellings on lots of parcels of this size largely comprise the existing land use pattern. This pattern has, and will continue to, co-exist with, support and contribute to agricultural activities occurring in the study area.

Second, the presence of dwellings on these properties will not result in diminished opportunities for existing farm and ranch operations to lease land. Nothing about the applicant's proposal will make property occupied by the other nonfarm dwelling in the Study Area any more or less available. The applicant intends to continue offering to lease the subject property for livestock grazing, although the amount of weeds currently present might count against it. Regular management activities by an on-site owner will help address weed issues and improve forage conditions. Improved forage conditions will support high stocking rates.

Third, it is the applicant's understanding that the study area does not include irrigated agriculture or irrigation infrastructure. This understanding is informed by physical observations, review of on-line aerial images, and utilizing the Oregon Water Resources Department (OWRD) Water Rights Information Query. Therefore, a nonfarm dwelling on the subject property, or other properties in the Study Area can not reduce the ability to acquire water rights.

Finally, most of the individual ownerships (68%) within the study area include an existing dwelling. Furthermore, several tax lots are held in ownership that is very similar although not exactly the same (ie. Jane Doe v Jane LE Doe) when this situation is accounted for it is apparent that 17 of the 19 ownerships in the Study Area. The majority of dwellings (64%) are located on tax lots that are 47.70 acres or less. An even greater majority of the existing dwellings (79%) have been in place since before 1984. The land use pattern of the Study Area is essentially locked in place and has been for over 40 years. For these reasons,

Burden of Proof. Jinings/Hanshew Nonfarm Dwelling Application

1 approving a nonfarm dwelling on the subject property will not diminish the number of tracts
2 or acreage in farm use.

3 Conclusion – Section 2.10.1.(C) UCZPSO

4 Section 2.10.1.(C) is satisfied.
5

6 Final Conclusion

7 Based on the facts and evidence included in the Burden of Proof the proposed nonfarm
8 dwelling will not:

- 9 • Force a significant change in or significantly increase the cost of accepted farming
10 or forest practices on nearby lands devoted to farm or forest use;
- 11 • Be situated upon a portion of the subject property that is generally suitable for the
12 production of farm crops and livestock or merchantable tree species; or
- 13 • Materially alter the stability of the overall land use pattern of the area.

14 The applicant respectfully requests approval of this nonfarm dwelling application.
15

16 Attachments

- 17 A. Parcel Validation Approval
- 18 B. Property Survey (1977)
- 19 C, FIRM Flood Plain Map
- 20 D. Development Envelope
- 21 E. Study Area
- 22 F. Study Area Property Information
23



UNION COUNTY Planning Department

Attachment A

Inga Williams
Planning Director

1001 4th Street, Suite C La Grande, OR 97850 • Phone (541) 963-1014 • www.UnionCountyOR.gov
IWilliams@Union-County.org • PTracy@Union-County.org • PHall@Union-County.org

FILE No. 2026-0024

STAFF REPORT PARCEL VALIDATION

Purpose of the Application	Validate a parcel not lawfully established
Relevant Ordinance Criteria	Oregon Regulatory Statute (ORS) 92.176; Union County Zoning, Partition and Subdivision Ordinance Article 2
Property Owner	Brock Wright
Applicants	Jon Jinings & Tracey Hanshew
Property Location	Township 02N, Range 40E, Section 23, Tax Lot 100 Assessor Id No. 13653
Zone Designation	A-4 Timber Grazing
Comprehensive Plan Designation	Timber Grazing
Ruling Zone Designation	A-1 Exclusive Farm Use
Approximate Parcel Size	~50.43 Acres

I. DECISION

The application is **APPROVED**, subject to the following conditions:

1. The owner of the unit of land shall cause a partition plat to be recorded within 365 days after the date the county validated the unit of land. If the partition plat is not recorded by 5 pm June 16, 2027, this validation is null and void.
2. Development or improvement of a parcel created under 92.176(5) must comply with the applicable laws in effect when a complete application for the development or improvement is submitted as described in ORS 215.427 (3)(a) or 227.178 (3)(a).

II. BACKGROUND AND PROPERTY INFORMATION FINDINGS

The subject property is located on Wheeler Rd, northeast of Elgin, Oregon, and north of State Highway 82. The property is zoned A-4 Timber Grazing and is approximately 50.43 acres. The soil composition on the parcel is predominantly composed of agricultural soils, 26 acres rangeland soils and 8.5 acres cropland soils, and 15.6 acres forest soils. Based on the majority soils of the property, the applicable zoning designation is A-1 Exclusive Farm Use.

The property is described as Township 2N, Range 40 EWM, Section 23, Tax Lot 100. The parcel is adjacent to Wheeler Road, County Road Number 86. Based on Survey 074-1977, it appears to have approximately 60 feet of road frontage on a 90-degree corner. The property does not contain a dwelling, is within the Elgin School District, and fire service is supplied by the Oregon State Forestry Fire District. A perennial, intermittent stream is located through the west half of the property and is oriented north to south. This stream area is identified as Duncan Canyon with no stream name. A 0.2 acre freshwater pond is located upper-middle of the property.

III. FINDINGS APPLYING CODE CRITERIA

This application is subject to the Oregon Revised Statutes. The relevant statute section has not been adopted into the Union County Zoning, Partition, and Subdivision Ordinance but remains an applicable statute. Sections in boldface type below denote relevant regulations. Sections in regular type denote staff analysis of the application.

ORS 92.176 – Validation of Unit of Land Not Lawfully Established

1) A county or city may approve an application to validate a unit of land that was created by a sale that did not comply with the applicable criteria for creation of a unit of land if the unit of land:

a. Is not a lawfully established unit of land; and

Findings: Union County adopted the Zoning and Subdivision Ordinance of Union County -1973 Series on November 8, 1973. All new parcels and lots required land use approval after this date. The unit of land identified as T02NR40E23 Tax Lot 100 was first described on Land Sale Contract 76423 and then recorded on Warranty Deed 108533 both signed on July 25, 1977. The Planning Department has no record of any partitioning approval at that time. Since the parcel was created after November 8, 1973 and was partitioned by deed alone, the parcel is considered to have been unlawfully created.

Conclusion: The subject property is not a lawfully established unit of land.

b. Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.

Findings: The county adopted a revision to the 1973 Ordinance on April 18, 1975, which was Ordinance 1975-001. Staff has determined that the subject property was zoned Agricultural A-2 at the time of creation, which makes Section 3.04 of that Code applicable. The section stated that the Minimum Ownership Area allowed in the A-2 zone was 10 acres.

Conclusion: The subject property was created as a 40-acre parcel and, therefore, would have complied with the applicable criteria for creation of a lawful unit of land in effect at the time the parcel was created.

5) A unit of land becomes a lawfully established parcel when the county validates the unit of land under this section if the owner of the unit of land causes a partition plat to be recorded within 365 days after the date the county validates the unit of land

Findings: A partition plat has not been submitted with the application but is a condition of approval. Recording of the final plat shall occur within 365 days of the validation approval and will complete the process per ORS 92.176(5).

Conclusion: This is a requirement for the applicant in order to complete the validation, not a requirement to determine lawful status.

6) A county may not approve an application to validate a unit of land under this section if the unit of land was unlawfully created on or after January 1, 2007.

Findings: The parcel was created prior to January 1, 2007. The application is not precluded by ORS 92.176(6). Tax Lot 100 was created in 1977.

Conclusion: This criterion does not preclude the subject property from validation.

IV. MINISTERIAL LAND USE DECISION

The parcel validation decision is being made as a ministerial decision by the Planning Director as the decision is made in obedience to legal authority and without discretion.



Planning Director

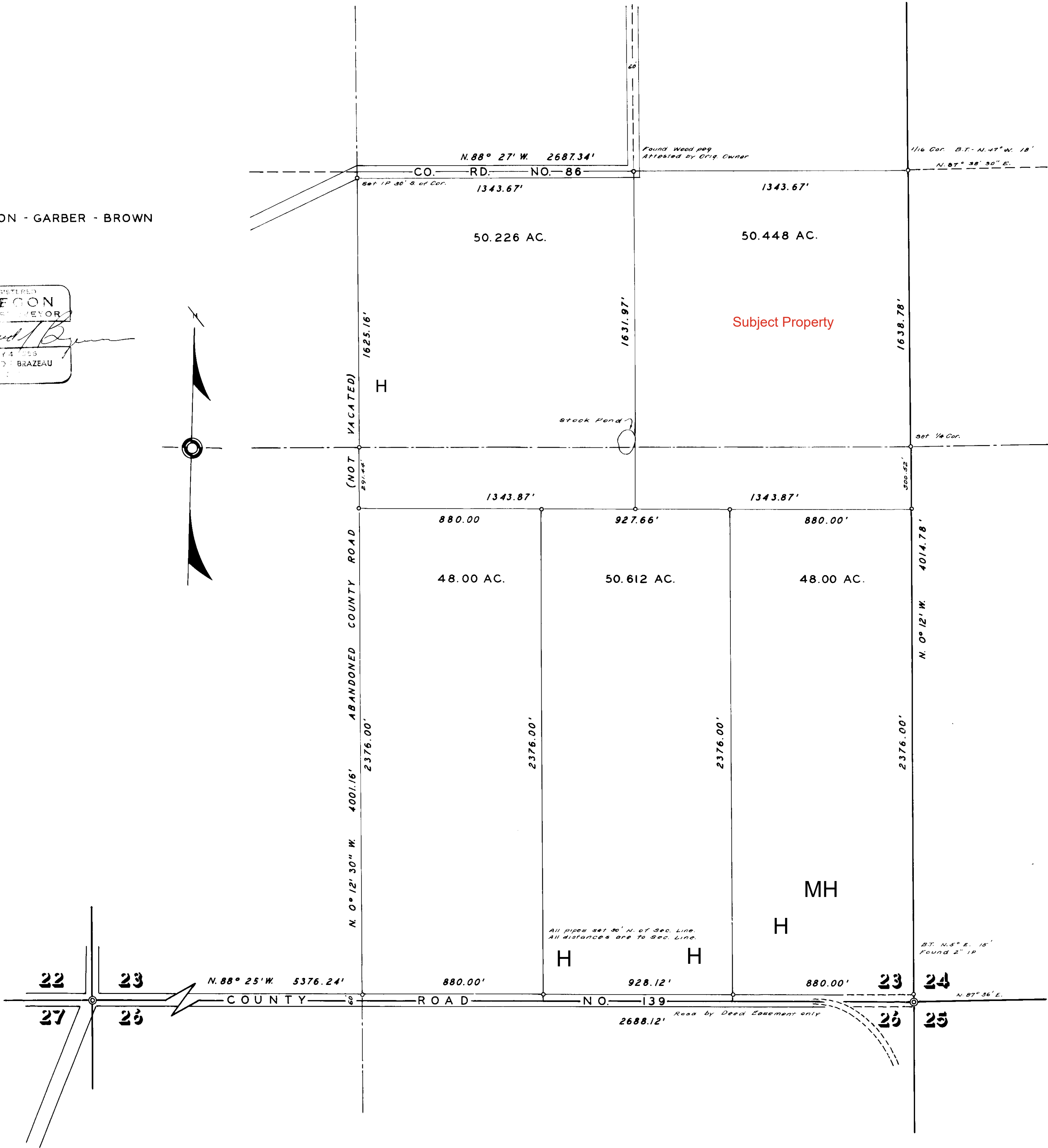
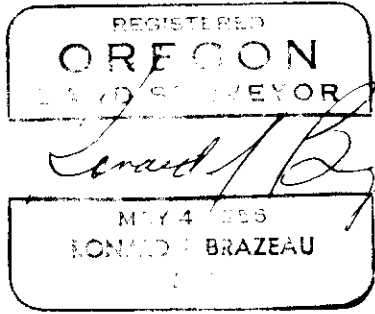
6/16/26

Date

Attachment B
Property Survey - Home Locations Added

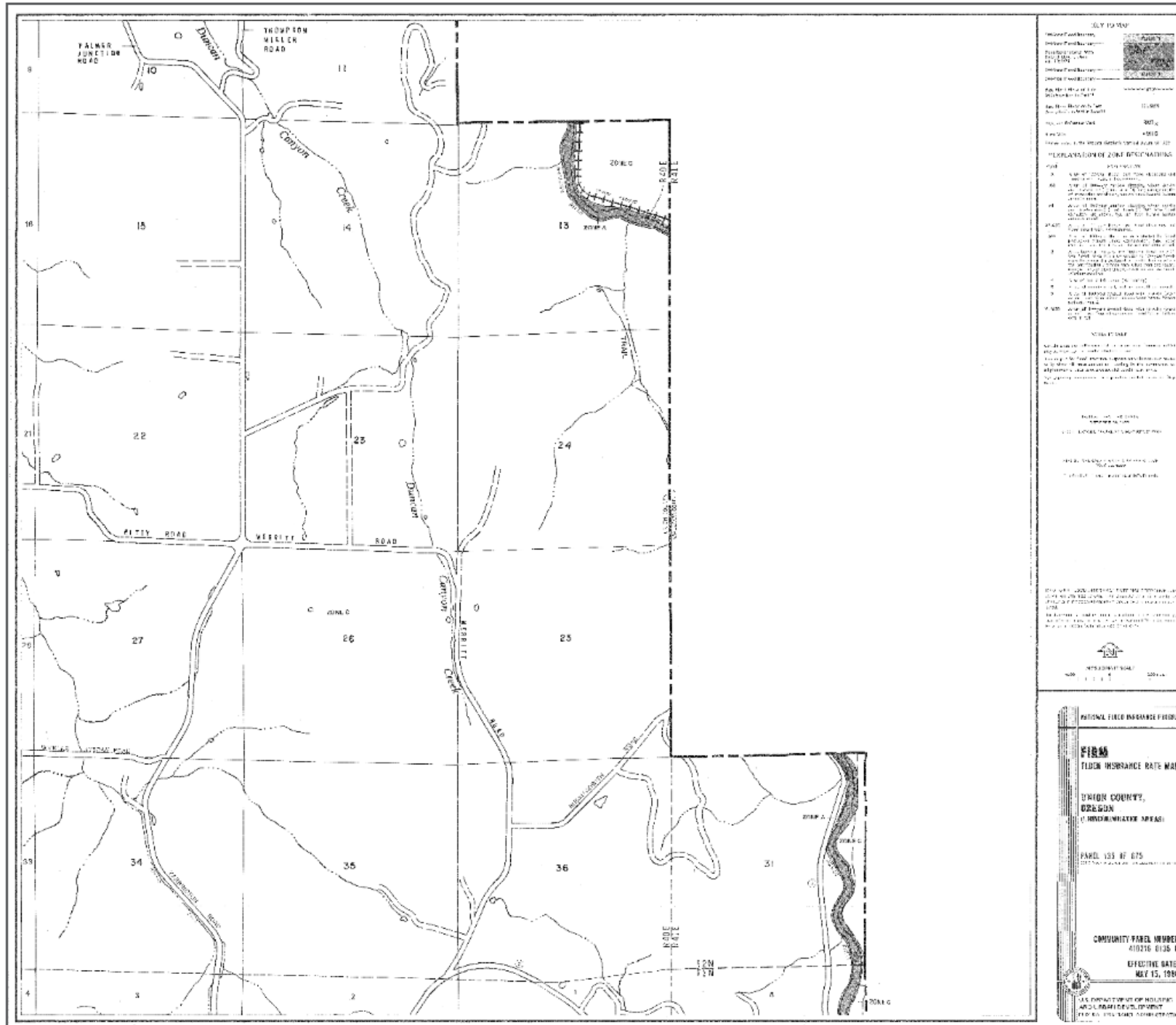
JN 262 REF. MAP OF FIELD SURVEY
LOCATED IN SECTION 23, TWP. 2 N., R. 40 E., W.M.
UNION COUNTY, OREGON
DATE: AUGUST 1977 SCALE: 1" = 300'
BEARINGS: TRUE FROM E. LINE OF S. 23

FOR: THOMPSON - GARBER - BROWN



24.77

The flood map for the selected area is number **4102160135B**, effective on **5/15/1980**





0 200'+/-

N



H = Home H-NF= NonFarm Dwelling MH = Mobile Home

N

Study Area Properties

2N40E Section 23

Assessor Number	Tax Lot	Owner(s)	Size	Home Present	No Home Purchase Date	Other Lands In Study Area	Similarly Situated
13653	100	Brock Wright	50.43	No	May 4, 1983	No	Subject Property
13654	200	Larry & Jo Anne Brown	40.48	Y - 1981	NA	No	No-Existing Dwelling
13484	300	Lawrence & Jennie Hazard	39.09	Y - 1981	NA	Yes	No-Existing Dwelling
13647	400	Amanda Kinney	47.39	No	November 17, 2026	Yes 2N40E23 700	No-Part of Tract with Existing Dwelling
13649	500	Lovenguth Trust	40.18	Y-1979	NA	No	No-Existing Dwelling
13651	600	Brian Thompson	47.70	Y-1981	NA	No	No-Existing Dwelling
13655	700	Amanda Kinney	9.79	Y-1980	NA	Yes 2N40E23 400	No-Existing Dwelling

2N40E Section 22

Assessor Number	Tax Lot	Owner(s)	Size	Home Present	No Home Purchase Date	Other Lands in Study Area	Similarly Situated
13644	100	Rodney Folen Trust	120.96	Y-1960	NA	No	No-Larger Size & Existing Dwelling
13645	300	Micheal Greenhalgh	31.74	No	October 31, 2019	No	No-Smaller than 40 acres
13597	400	Gary Wilmes Ranches	150.90	Y-1992	NA	No	No-Larger Size & Existing Dwelling

2N40E

Assessor Number	Tax Lot	Owner(s)	Size	Home Present	No Home Purchase Date	Other Lands in Study Area	Similarly Situated
13590	3100	Ronald & Carrie Gerber	439.52	N	NA	Yes	No-Large Size

13591	3200	Carrie Wheeler Gerber	75.47	Y-1983	NA	Yes	No-Existing Dwelling
13593	3202	Joy Wheeler	40.00	No		Yes	No-Ownership w/Existing Dwelling
13594	3204	Carrie Wheeler Gerber	40.00	No		Yes	No-Ownership w/Existing Dwelling
13595	3300	Joy Wheeler	40.48	Y-1955	NA	Yes	No-Existing Dwelling
13598	3401	Alesky Skaluzab	272.68	Y-1997			N0-Large Size w/dwelling
13601	3501	Joy LE Wheeler	184.47	No		Yes	No-Large Size
15009	3502	Joy LE Wheeler	14.62	No		Yes	No-Ownership w/Existing Dwelling
13603	3700	Templin Family Trust	229.86	Y-1908	NA	No	No-Large Size w/dwelling
13605	3701	Ronald & Carrie Gerber	78.18	No		Yes	No-Ownership w/Existing Dwelling
13606	3702	Ronald & Carrie Gerber	39.09	No		Yes	No-Ownership w/Existing Dwelling
13608	3704	Mt Pleasant Baptist Cemetery	1.00	No	NA	No	No. Small Size and Different Use
13609	3705	Tyler & Kylie Kennon	38.14	Y-2013	NA	No	No-Existing Dwelling
13610	3706	Jeff & Lisa Nice	38.20	Y-2022 NF	NA	No	No-Existing Dwelling
13646	5900	Larry & Jennie Hazard	77.18	No		Yes	No-Ownership w/Existing Dwelling
14389	6002	Lawernce C. Hazard	39.09	No		Yes	No-Ownership w/Existing Dwelling