



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

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NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by **5:00 p.m., May 30, 2024**. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: Barndo Builders **LANDOWNER:** Barndo Builders/Bear Valley Developers, LLC

FILE NUMBER/TYPE OF REQUEST: PD24-0044 & PD24-0045; combined applications for a partition, easement review, variance, and property line adjustment.

LOCATION OF PROPERTY: The properties are located on the east side of Highway 228, approximately 0.11 miles north of the intersection of Highway 228 and Old Holley Road, and 2.88 miles southwest of the city limits of Sweet Home. (T14S, R01W, Section 14B, Tax Lots 600 & 603)

PLAN DESIGNATION/ZONE DESIGNATION: Rural Center / Rural Center (RCT-2.5)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: The applicant is proposing a property line adjustment to adjust lines between two properties. Tax lot 600 would increase in size from 5.07 acres to 5.28 acres and tax lot 603 would decrease in size from 8.77 acres to 8.57 acres. The applicant proposes to partition tax lot 600 into one, 2.51-acre parcel and one, 2.77-acre parcel and proposes to partition tax lot 603 into one, 2.52-acre parcel, one, 2.64-acre parcel, and one, 3.40-acre parcel. Also, the applicant requests a variance to the lot width standard and the width to depth ratio to create some of the proposed parcels. Also, an easement review to establish a variable width easement (30-50 ft.) to provide access to proposed parcels. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department may make a final land use decision.

COMMENTS: _____

BY _____ **AGENCY (IF ANY)** _____ **DATE** _____

ADDRESS: _____

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

Linn County				State of Oregon				Other
x	EHP		Sheriff		DEQ	x	ODOT/OSHD	School:
	Parks		Bldg Official		DOGAMI		ODSF	x Landowners
x	Assessor	x	Roads	x	DSL		DLCD	City Of:
x	GIS	x	Surveyor	x	Water		Parks	Other:
x			Flood Official		ODFW		State Fire Marshal	x RFD: Sweet Home Fire

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

- Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

Sections 924.200(B), 924.250, 935.130(A), 925.320(B), and 938.300(B) of the Linn County Land Development Code contain the decision criteria specified for use with this application.

924.200 - Decision criteria for partitions; generally

(B) *Decision criteria.*

- Absent a variance, the partitioning of land must meet established minimum parcel sizes, established setbacks and other applicable property development standards in the Development Code.
- If the proposal complies with all of the applicable criteria specified in this section and in LCC 924.210 or 924.250, the Director shall grant tentative approval to the partition.
- If the size of a parcel was the basis for a dwelling having been allowed outright, the parcel shall not be reduced in size below the qualifying minimum for that dwelling unless that dwelling is subsequently authorized under a different dwelling test.
- If the size of a parcel and the farm use of that parcel were the justification for a dwelling allowed conditionally, any reduction of the parcel size shall be allowed only if the resulting farm use continues to meet a current farm dwelling test. Such is an action is Type IIA. For example, the conditional use for a dwelling once justified by a 200-acre cow-calf operation, may or may not be justified if the parcel is allowed to be partitioned or adjusted downward to an 80-acre parcel.
- If the property is split-zoned and the split-zoning was not initiated by the landowner, the property may be partitioned in accordance with this Chapter along the zoning district or jurisdictional boundary if:
 - A property is transected by an urban growth boundary, city limits, county line or a boundary between a non-resource zone and a zoning district in the RRZ;
 - The property is transected by a boundary between two resource zoning districts and the resulting parcels would either conform to the minimum parcel size in the applicable zoning districts or have otherwise been authorized under the provisions of LCC 924.500 to LCC 924.800;
 - The resulting parcels have sufficient on-site area to provide an approved septic system; and
 - The proposed development on the resulting parcels can either meet the property-line and riparian setbacks or has been approved for a variance.
- The proposed parcels meet the minimum size, width and depth standards of the zoning district in which they are located and conform to the standards of LCC Chapter 923 (Lot and Parcel Design Standards Code). In the RR and RCT zoning districts, properties containing more than one lawfully-established, habitable dwelling may be partitioned into substandard-sized parcels if consistent with Plan Policy 14 or 9, respectively. Where more than one dwelling exists, no parcel may be created that does not contain a

- dwelling and the size of each parcel shall be balanced as much as practical, given the location of dwellings, outbuildings, septic systems, setbacks and driveways.
- (7) The partition of land will not create more than three authorized units of land within one calendar year.
 - (8) Except as provided in paragraph (9) of this subsection, each proposed parcel shall have an approved septic system located within the boundaries of the proposed parcels.
 - (9) Within the Rural Resource Zone.
 - (a) For a parcel in the RRZ created solely for resource management purposes, such parcel may not be required to have an approved septic system.
 - (b) For a parcel in the RRZ not created solely for resource management purposes, such parcel is required to have an approved septic system unless the use does not require such system.
 - (c) For a parcel in the RRZ created for a non-resource management purpose, such parcel is required to have an approved septic system unless the use does not require such system. Written certification from an irrigation district, drainage district, water control district, water improvement district or district improvement company within whose boundaries the proposed partition is located as to whether or not the property is within the district and is subject to district fees. (See ORS 92.090)
 - (10) When property proposed for partitioning is within a city's urban growth area (UGA), appropriate time shall be given for a city's review and comment pursuant to the urban growth boundary management agreement. Partitions within an urban growth area may require an urban conversion plan approved by the city.

924.250 - Decision criteria for partitions without recognized access

- (B) Decision criteria
 - (1) The land partition complies with the Comprehensive Plan and all other applicable provisions of the Linn County Code.
 - (2) Any access being created has received approval pursuant to LCC Chapter 935 (Access Improvement Standards Code) from the Director and the Roadmaster and if a performance security is required, pursuant to LCC 924.460, the developer has agreed, in writing, to provide such security.

935.150 - Decision Criteria: easement of road access

- (A) A request for easement of road access recognition may be approved if, on the basis of the application, investigation, testimony and evidence submitted, findings and conclusions show that all of the following decision criteria can be met:
 - (1) The proposed placement of the easement of road access shall not pose a traffic hazard, taking into consideration the number of nearby access points and geographic conditions of the property; and
 - (2) The easement of road access is the only reasonable method of providing access to the parcel;

925.320(B) - Decision criteria: generally

- (B) Decision criteria.
 - (1) The property line adjustment, if approved, shall not create any additional units of land.
 - (2) Except as otherwise authorized in paragraph (3), a property which meets or exceeds the minimum property size required by the zoning district shall not be reduced below the minimum property size.
 - (3) A property which meets or exceeds the minimum property size in the UGA-UGM zoning district may be reduced below the minimum property size through a variance approved under this Development Code.
 - (4) Subject to subsections (5) and (6), an authorized unit of land in non-resource zoning districts which does not meet the size standard of the zoning district may be further reduced in size by a property line adjustment.

- (5) The property line adjustment shall not
 - (a) reduce the property below the area and configuration needed to maintain water supply and an approved septic system.
 - (b) eliminate vehicular access for any of the properties unless an alternative access has been provided and approved.
 - (c) create building encroachments into specified setback areas. Where there is an existing encroachment, the adjustment shall not result in any greater setback encroachment unless a variance has been granted.
 - (d) cause an undeveloped property to become ineligible for an approved septic system.
 - (e) encroach the location of an existing or approved septic system unless:
 - (i) A repair area for an existing, off-site septic system can be identified by Environmental Health Program (EHP) and secured by the applicant through an easement;
 - (ii) The location of the off-site repair area is surveyed; and
 - (iii) An easement, together with the surveyed description of the off-site repair area, is recorded in the County Clerk's office with a copy of the recorded documents provided to EHP.
- (6) No width, depth, or frontage standard of any property that meets the standards required by the zoning district may, by a property line adjustment, fail to continue to meet the applicable standard unless a variance has been granted.

938.300(B) Decision criteria

(B) Decision criteria.

- (1) A variance from a development standard as set forth in LCC 934 (Development Standards Code) is needed because conditions or circumstances or both exist on the land or structure involved that renders development impractical or impossible;
 - (2) Granting a variance from a development standard will not have a significant adverse effect on property, improvements, or public health or safety in the vicinity of the subject property; and
 - (3) Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
 3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department Director. Oral comments cannot be accepted for Director decisions.
 4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
 5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
 6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.

7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.427.
8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing, that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.427.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

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