



RECORD # 217 - 22 - 000686 - PLNG
Planning Commission: \$250
County Court: \$2050.00 + 20% of initial application fee (deposit)
Actual costs with deposit required at time of appeal submission

Crook County

APR 26 2022

Crook County Community Development/ Planning Division

300 NE 3rd Street, Room 12, Prineville Oregon 97754

Phone: 541-447-3211

plan@co.crook.or.us

www.co.crook.or.us

APPEAL PETITION TO PLANNING COMMISSION or COUNTY COURT

Appellant Information

Last Name: Marston / Strom First Name: _____

Mailing Address: 11040 SW Red Cloud Rd

City: Powell Butte State: OR Zip: 97753

Day-time phone: (541) 548 - 6175 Cell Phone: () -

Email: dennis@tisdaplaz.com

If group, name of representative: Dennis Marston

Land Use Application Being Appealed: (file number) 217-21-000417-PLNG

Property Description: Red Cloud Ranch Sub-Division Lot 2, Block 8
Township _____ Range _____ Section _____ Tax lot(s) _____

Appellant's Signature: [Signature] Date: April 26, 2022

I/We, the undersigned, wish to appeal the decision made by the Crook County Planning Commission regarding application no. _____, that a final decision was made on the _____ day of _____, _____.

EVERY NOTICE OF APPEAL SHALL INCLUDE:

1. The appeal shall be in writing and shall contain:
 - a. Name, signature, and address of the appellant(s).
 - b. Reference to the application title and case number, if any;
2. A statement of the nature of the decision:
 - a. A statement of the specific grounds for the appeal, setting forth the error(s) and the basis of the error(s) sought to be reviewed: and
 - b. A statement as to the appellant's standing to appeal as an affected party.
3. Proper filing fee in accordance with Section 18.172.050.
4. If the decision appealed from is a decision made without a hearing or without notice to area property owners, written notice of appeal must be filed within twelve (12) calendar days of the date written notice of the decision is mailed to those entitled to such notice. With respect to all other appeals, written notice of appeal must be filed within 10 calendar days of

the date written notice of the decision is mailed to those entitled to decision. If the last day of the appeal period falls on a Saturday, Sunday or legal holiday, the notice of appeal is due on the next business day.

5. An appeal shall be filed:
 - a. With the County Court for appeals from final decisions by the Planning Commission;
 - b. With the Planning Commission for appeals from final decisions by the Planning Director or Planning Department staff; and
 - c. Shall cite the specific "Zoning Ordinance Section" and "Comprehensive Plan Policies" alleged to be violated.

The Notice of Appeal must include the items listed above. Failure to complete all of the above will render an appeal invalid. Any additional comments should be included on the Notice of Appeal.

TRANSCRIPT: The appellant must provide a copy of the transcript of the proceedings (at the appellants' expense) appealed to the County Planning Department not less than seven (7) calendar days before the hearing date set by the County Court or Planning Commission.

SCOPE AND STANDARD OF REVIEW OF APPEAL: An appeal to the County Court is not a new hearing; it is a review of the decision. Subject to the exception in paragraph (6) below, the review of the final decision shall be confined to the record of the proceeding below, which shall include, if applicable:

1. All material, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and received by the Commission or Court as evidence.
2. All material submitted by Crook County Staff with respect to the application.
3. The transcript of the Planning Commission hearing(s).
4. The written final decision of the Commission and the petition of appeal.
5. Argument (without introduction of new or additional evidence) by parties or their Legal representative.
6. The appellate body may, at its option, admit additional testimony and other evidence from an interested party or party of record to supplement the record of prior proceedings. The record may be supplemented by order of the appellate body upon written motion by a party. The written motion shall set forth with particularity, the basis for such request and the nature of the evidence sought to be introduced. Prior to supplementing the record, the appellate body shall provide an opportunity for all parties to be heard on the matter. The appellate body may grant the motion upon a finding that the supplement is necessary to take into consideration the inconvenience of locating the evidence at the time of initial hearing, with such inconvenience not being the result of negligence or dilatory act by the moving party.

An appeal from the Planning Director or Planning Department staff to Planning Commission shall be de novo; meaning that the burden of proof remains with the applicant and that new testimony and evidence, together with the existing Planning Department file, may be received at the hearing on the appeal.

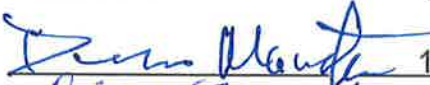


STANDARD OF REVIEW ON APPEAL: The burden of proof remains with the applicant. The burden is not met by merely showing that the appellate body might decide the issue differently.

APPELLATE DECISION: Following the hearing of the appeal, the appellate body may affirm, overrule, or modify the Planning Commission's final decision.

This appeal is made pursuant to Section 18.172.110 of the Crook County Code. The required fee has been received by the Crook County Planning Department as the filing fee for this appeal.

I / We are appealing the decision for the following reasons: (be specific)

SEE ATTACHED STATEMENT

<u>Name</u> (print)	<u>Signature</u>	<u>Address</u>
Dennis Marston		11040 SW Red Cloud Rd 541-280-5505
Delores Marston		" "
Terrence Strom		10944 SW Red Cloud Rd 320-247-2996
Janelle Strom		" "

(If additional space is needed attach another sheet)

Each party that authorizes the "Representative" to speak on their behalf must submit a letter stating so, which is signed, dated, and attached to this appeal.

Appeal Petition to Planning Commission – Statement of Grounds

We the adjacent property owners submit this appeal for further review over concerns of environmental impact and road safety that directly impacts our properties.

Affected LOTS: Parcel 1, PP1993-09 Tax Lot 3601 & Parcel 2, PP1993-09 Tax Lot 3600

The specific finding in document Residential Land Partition 217-22-000417-PLNG is with section 17.24.040 Additional factors to be considered:

AWW

Item (6) Need for additional setback, screening, landscaping, and other requirements relative to the protection of adjoining and area land uses.

FINDING: “Staff did not identify a need for on-site improvements, or a need for additional setback, screening, landscaping, or other requirements relative to the protection of adjoining and area land uses”

Our Statement:

The properties involved, both the applicant for partition and our adjacent properties on located on a steep slope where the properties in question are up slope and thus pose a risk and impact.

Therefore we, the appellants specifically have concerns with regards to the following:

Water run-off beyond what has been historical. Note: The adjacent lot to “parcel 2”, shown as Parcel 1, PP1993-09 Tax Lot 3601, has a dry creek south to north. The creek bed enters Lot 3601 approx 50' from the upper south east corner. Wastewater locations and any contamination, which might flow westward and down slope are a concern.

Road safety, as snow/ice conditions during winter make the proposed road “extremely” dangerous such that a vehicle sliding off the road will careen down, and possibly to the residences below. Routine periods occur often during Winter when access is a major issue. The owners of Parcel 1, Tax Lot 3601, living at that location for twenty years, can attest to sliding down an icy driveway and having their driveway impassable for several weeks requiring one to walk thru snow, up the hill, for access.

Finally, the aesthetics of large rock piles and severe road construction on those lots to the east make them a visual nuisance. The properties in question are out of character with the high dessert ruralness of the Red Cloud Ranch Sub-Division. It would appear some landscaping be required to mitigate the visual impact. Especially the new road constructed next to the west property line on applicant's parcel #2. The road was cut so close to a backyard gazebo located in the upper corner of the adjacent lot rendering it nearly useless.

These concerns are not addressed in the Finding and we request they be reviewed before granting a partition.

x +

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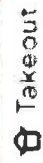
Google Maps



Groceries



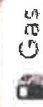
Restaurants



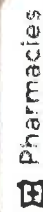
Takeout



Hotels



Gas



Pharmacies

SW Red
Pike



Google

Imagery ©2022 Maxar Technologies, State of Oregon, Map data ©2022

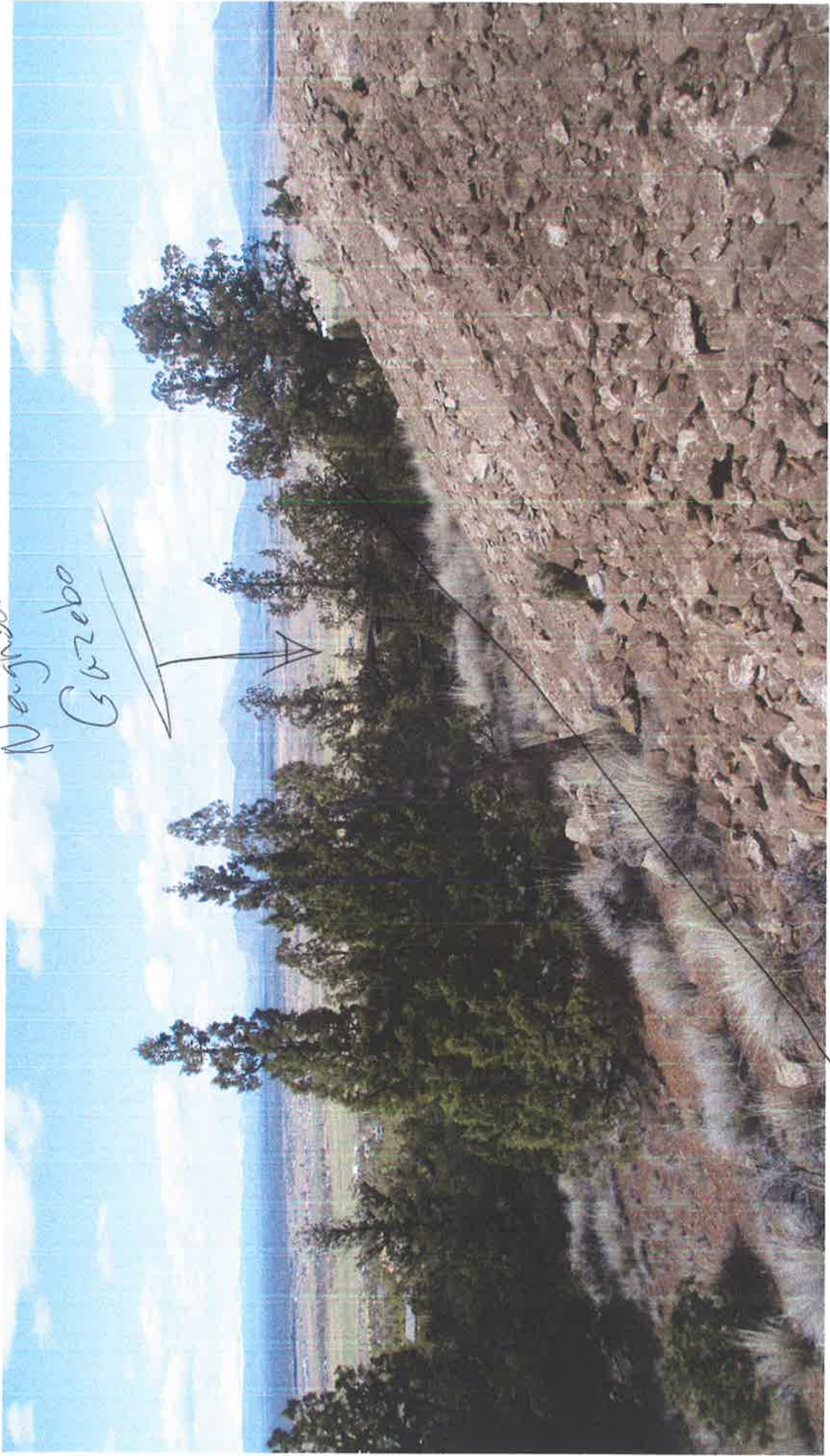
United States

Terms

Privacy

Send feedback

Neighbors
Gazdeo



Rabbit



VR
CHECK

Looking
South

#A



Back from
Road Construction

#B

Roller Down Hill



Large Pebble
Seems more doing
Rain Storm

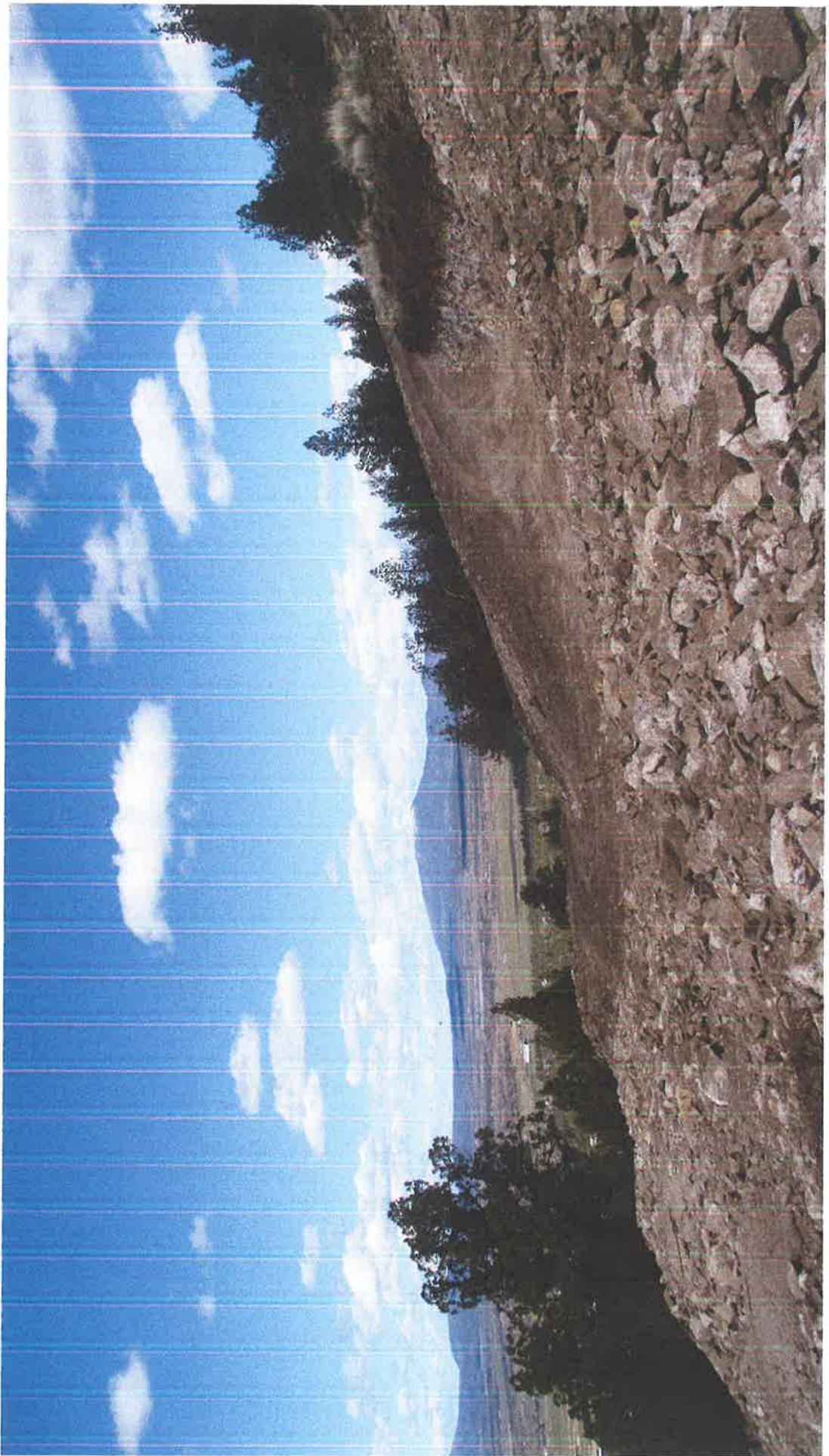
Dry Creek looking
DRY

#C



Arg Creek, Looking South

#C

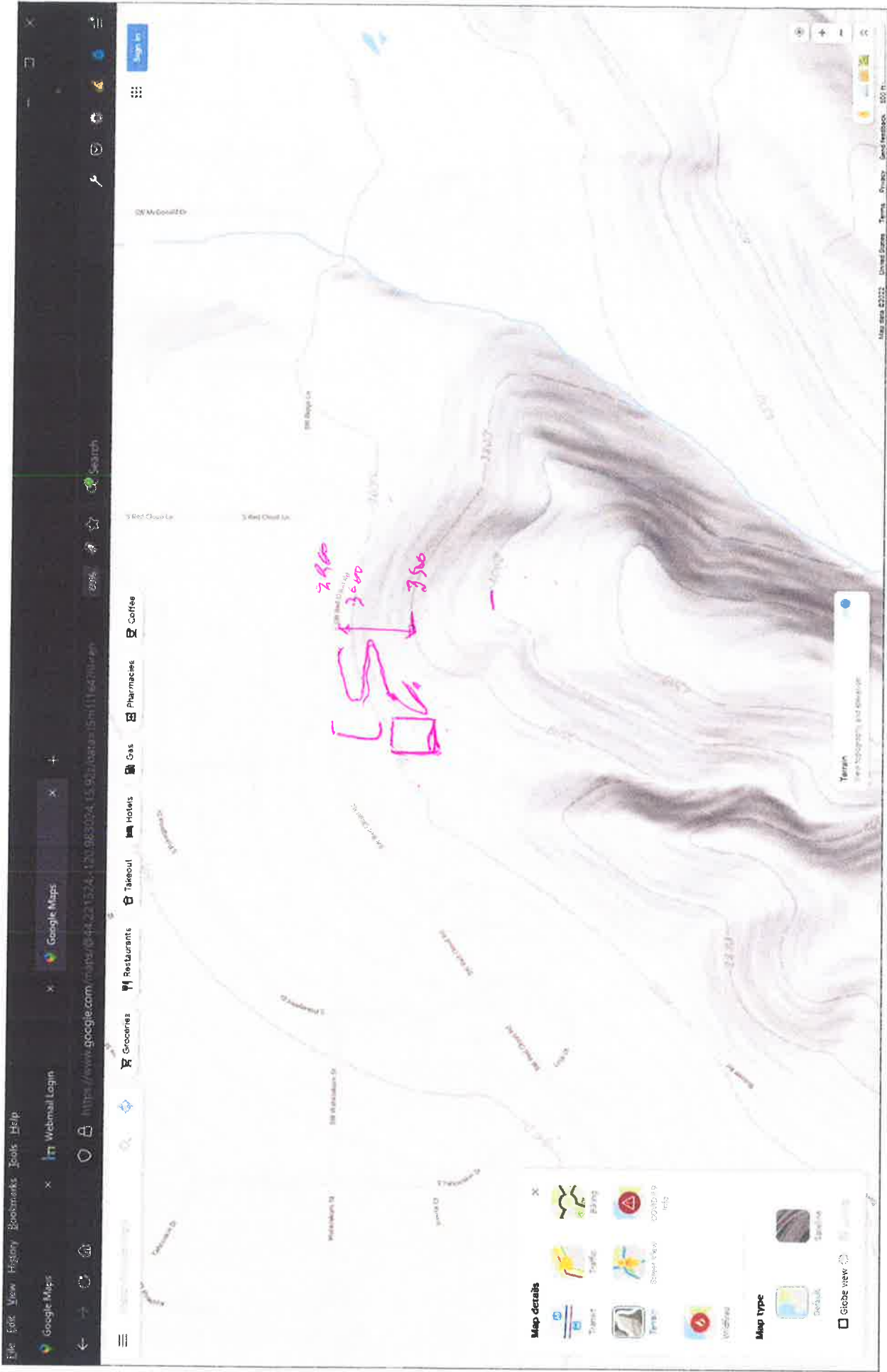








Winter crash into
tree to stop sliding
Drive way becomes solid ice!





Groceries

Restaurants

Takeout

Hotels

Gas

Pharmacies



Google

SW Red Cloud Rd

SW Red Cloud Rd

Google



Crook County Planning Department
300 NE 3rd Street, Room 11, Prineville Oregon 97754
Phone: 541-447-3211
Plan@co.crook.or.us

RESIDENTIAL LAND PARTITION

217-21-000417-PLNG

22

April 14, 2022

OWNER: Daniel Brown
5024 SW Williams Rd
Powell Butte, OR 97753

SURVEYOR: Povey & Associates
Attn: Paul
338 SW 7th St
Redmond, OR 97756

LOCATION: The subject property is located on SW Red Cloud Rd. It is identified on the County Assessor's maps as 1515310003700.

ZONING: Rural Residential Zone - R-5

I. APPLICABLE CRITERIA

Title 17, Subdivisions

Chapter 17.24 Land Partitioning

- 17.24.020 Filing Procedures and Requirements.
- 17.24.030 Requirements for Approval.
- 17.24.060 Final Map for Partitioning.

Chapter 17.36 Design Standards

- 17.36.010 Compliance required.
- 17.36.020 Road Standards.
- 17.36.030 Subdivision roads and public ways.
- 17.36.050 Maintenance of roads.

Title 18, Zoning

Chapter 18.88 Rural Residential Zone, R-5

- 18.88.010 Uses permitted outright.
- 18.88.030 Lot size.

II. BACKGROUND

The Applicant has proposed to divide a 9.68-acre property into two parcels. Proposed Parcel 1 will be 4.84 acres and will be vacant. Proposed Parcel 2 will be 4.84 acres and will be vacant. Crook County allows for a 5% reduction in acreage requirements for loss of right-of-way dedications, so parcels in the R-5 zone must be at least 4.75 acres. Both proposed parcels will meet the minimum parcel size requirement in the R-5 zone.

Documentation of Ownership: MF 2020-301673 – Recorded 07/28/2020.

Wastewater: The proposed parcels have been evaluated for on-site systems (217-21-001487-EVAL). The evaluation indicated that the sites are not suitable for standard systems, and that alternative treatment systems will be required.

Domestic Water: Both proposed parcels will be served by Avion Water Co.

Irrigation Rights: The subject property does not have irrigation water rights.

Fire Protection: The subject property is within the Crook County Fire Protection District.

Access: Access for the proposed parcels will be via a newly constructed road. The road was submitted for approval concurrently with the proposed partition, and has received approval from the Crook County Road Department.

III. FINDINGS OF FACT

Title 17, SUBDIVISIONS

Chapter 17.24 Land Partitioning

17.24.020 Filing procedures and requirements for land partitioning.

Any person proposing a land partitioning, or his authorized agent or representative, shall prepare and submit five copies of the tentative plan for the proposed partitioning together with an application for partitioning and the appropriate filing fee to the county planning department at least 30 days prior to the commission meeting at which consideration is desired, except as otherwise provided in this chapter.

The tentative plan for partitioning, when submitted, shall include the following:

- (1) A vicinity map locating the proposed partitioning in relation to adjacent subdivisions, roadways and adjoining land use and ownership patterns.*
- (2) A plan of the proposed partitioning showing tract boundaries and dimensions, the area of each tract or parcel, and the names, right-of-way widths, and improvement standards of existing roads.*
- (3) Names and addresses of the landowner, the partitioner, a mortgagee if applicable, and the engineer or surveyor employed or to be employed to make necessary surveys and prepare the legal descriptions of each parcel to be created.*
- (4) A statement regarding contemplated water supply, sewage disposal, solid waste disposal, fire protection, access, etc.*
- (5) North point, scale and date of map, and property identification by tax lot, section, township and range.*

- (6) *Statement regarding past, present and intended use of the parcel(s) to be created, or the use for which the parcel(s) are to be offered.*
- (7) *Where a tract of land is within the boundaries of an irrigation district, an application for partitioning of the tract shall be accompanied by a water rights division plan approved by the irrigation district or other water district holding the water rights, or when there is no such district, by the district watermaster or his representative serving the Crook County area.*
- (8) *Legal access to the proposed parcels. (Ord. 231 § 1 (Exh. A), 2010; Ord. 19 § 5.020, 2003)*

FINDING: The vicinity map and application materials submitted included all the criterion identified in subsection (1)-(8) above.

17.24.030 Requirements for approval.

No application for partitioning shall be approved unless the following requirements are met:

- (1) *Proposal is in compliance with the comprehensive plan.*
- (2) *Proposal is in compliance with the applicable zoning.*
- (3) *An approved water rights division plan.*

FINDING: The proposed land partition is in compliance with the Crook County Comprehensive Plan, which has identified the property for residential use. The proposed partition will result in two parcels that meet the minimum lot size established by the underlying zone. Crook County allows for a 5% reduction in acreage requirements for loss of right-of-way dedications. The properties are not within an identified irrigation district, a water rights division plan is not required.

17.24.040 Additional factors to be considered

In addition to the requirements set forth in CCC 17.24.030, the following factors may be considered by the commission for approval or disapproval of an application for land partitioning:

- (1) *Placement and availability of utilities.*
- (2) *Safety from fire, flood, and other natural hazards.*
- (3) *Adequate provision of public facilities and services.*
- (4) *Possible effects on natural, scenic, and historical resources.*
- (5) *Need for on-site or off-site improvements.*
- (6) *Need for additional setback, screening, landscaping, and other requirements relative to the protection of adjoining and area land uses.*

FINDING: Utilities and services were identified within the tentative plan. Crook County Fire & Rescue will provide services to the property. The property is not located within an area of special flood hazard, or any other natural hazard areas. The properties will be served by Avion Water for municipal water, but no other public facilities are located in the area. No natural, scenic, or historic resources are located within the vicinity of the proposed partition. Staff did not identify a need for on-site or off-site improvements, or a

need for additional setback, screening, landscaping, or other requirements relative to the protection of adjoining and area land uses.

17.24.060 Final map for partitioning

FINDING: The final map for partitioning will meet the requirements of 17.24.060.

Chapter 17.36 Design Standards

FINDING: The proposed road constructed to serve the proposed partition and neighboring property to the east has been reviewed in accordance with the criterion of CCC 17.36. To ensure compliance, conditions have been included addressing the applicable design standards.

Title 18, Zoning

Chapter 18.88 Rural Residential Zone, R-5

18.88.030 Lot Size

The minimum property size for a new parcel shall be five acres in size.

FINDING: Proposed parcel 1 will be 4.84 acres. Proposed parcel 2 will be 4.84 acres. In accordance with the 5% exception policy provided by the county, the minimum parcel size can be reduced down to 4.75 acres. Since the proposed parcels will remain above that minimum, they will meet the minimum lot size in the R-5 zone.

IV. DECISION

Approved, subject to the following conditions of approval.

V. CONDITIONS OF APPROVAL

1. The owner/applicant shall have two years from the expiration of the appeal period to file the final plat (April 26, 2024). The final plat shall be in conformance with the criteria in Section 17.24.60 of the Crook County Code.
2. All necessary taxes, fees, and assessments shall be paid before the final plat is filed.
3. Site plan approval is required prior to any development on proposed either parcel.
4. Road design standard conditions:
 - a. Prior to submittal of the final plat to the Planning Department for approval, a road name shall be applied for and approved.
 - b. During construction, the Crook County Roadmaster shall have the authority to visit and inspect the road construction operations. Prior to any development permits being submitted to the county for review, the Roadmaster shall inspect and approve the road in accordance with the construction standards approved by the Applicants engineer.

- c. Prior to submittal of the final plat to the Planning Department for approval, a road maintenance agreement shall be dedicated for the future maintenance of the road. A copy of the dedication shall be provided to the Planning Department

The above approval may be appealed in writing to the Crook County Planning Commission no later than **4:00 pm on April 26, 2022**, on payment of an appeal fee of \$250.00. Appeals must be received by Crook County Community Development / Planning Division no later than the above date and time. All appeals must be accompanied by the appeal fee.

Respectfully,



Brent Bybee, Planning Manager
Crook County Community Development

cc: Applicant
Applicant's Surveyor/County Surveyor
C.C. Departments
Crook County Fire and Rescue
Property Owners within 250'



Disclaimer: CROOK COUNTY MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THIS COUNTY IS NOT RESPONSIBLE FOR POSSIBLE ERRORS, OMISSIONS, MISUSE, OR MISINTERPRETATION. COUNTY DIGITAL INFORMATION IS PREPARED FOR REFERENCE PURPOSES ONLY AND SHOULD NOT BE USED, AND IS NOT INTENDED FOR, SURVEY OR ENGINEERING PURPOSES OR THE AUTHORITATIVE AND/OR PRECISE LOCATION OF BOUNDARIES, FIXED SURVIVAL WORKS, AND/OR THE SHAPES AND COORDINATES OF "AS SHOWN" TO REPRESENTATION IS MADE CONCERNING THE LEGAL STATUS OF ANY APPARENT ROUTE OF ACCESS OR UTILITIES IN DIGITAL OR HANDSCOPED MAPS OF GEOGRAPHICAL INFORMATION OR DATA. DATA FROM THE CROOK COUNTY ASSOCIATE'S OFFICE MAY NOT BE CURRENT. DATA IS UPDATED AS SCHEDULED AND RESOURCES PERMIT. PLEASE VERIFY CROOK COUNTY DATA OF YOUR INTEREST. 10/11/2018

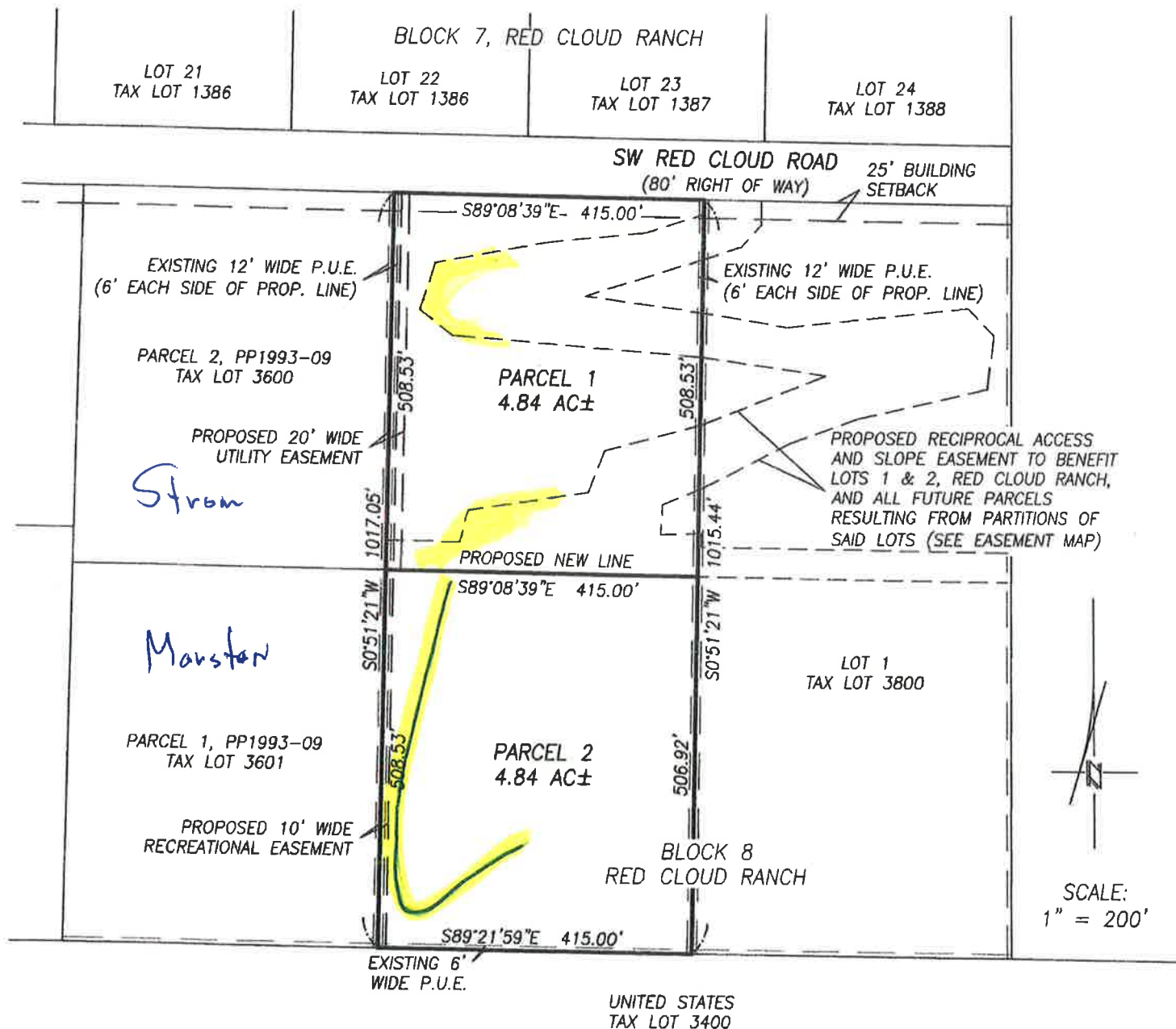
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PROPOSED LOT PARTITION FOR DAN BROWN,
 LOCATED IN LOT 2, BLOCK 8, RED CLOUD RANCH,
 CROOK COUNTY, OREGON

TAX LOT 15-15-31-3700

ZONE: R5



MEASUREMENTS SHOWN HEREON ARE BASED
 ON THE PLAT OF RED CLOUD RANCH. THIS
 MAP IS PRELIMINARY IN NATURE AND IS FOR
 PLANNING PURPOSES ONLY.

PREPARED: MARCH 16, 2022

P&A POVEY AND ASSOCIATES
 P.O. BOX 131, REDMOND, OR 97756
 (541) 548-6778 21-006F.DWG

