



# LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

Room 114, Linn County Courthouse  
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Phone 541-967-3816 Fax 541-926-2060  
www.linncountyor.gov

## NOTICE OF LAND USE HEARING

NOTICE IS HEREBY GIVEN that on **November 12, 2024 at 7:00 p.m.** in the Old Armory Building on the corner of 4th Avenue and Lyon Street, Albany Oregon a public hearing will be held before the **Linn County Planning Commission** (Commission). This hearing is to afford interested parties an opportunity to be heard on the following matter. Any comments you wish to provide will be appreciated; however, Oregon law requires that testimony and evidence must be directed toward the decision criteria. You may present your testimony at the public hearing or provide written comments to this Department before the public hearing dates. The Commission will make a decision after the close of the hearing. This meeting location is accessible to persons with disabilities.

**PD24-0256;** A property status determination application to determine whether a tax lot meets the definition of an authorized unit of land in Linn County Code.

Township 14, Range 04W, Section 36, Tax Lot 901. The tax lot is located south of Cartney Drive, 1.00 mile southeast of the intersection of Cartney Drive and Highway 99E, and approximately 3.04 miles northeast of the city of Harrisburg. The tax lot is zoned Exclusive Farm Use (EFU).

This matter comes before the Commission on appeal by McCarthy Holthus, LLP of the Linn County Planning and Building Department decision regarding the application. The hearing is *de novo*. The purpose of this notice is to solicit comments and input of surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Commission may make a final land use decision.

**COMMENTS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BY** \_\_\_\_\_ **AGENCY (IF ANY)** \_\_\_\_\_ **DATE** \_\_\_\_\_

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

Linn County		State of Oregon		Other	
<input type="checkbox"/>	EHP	<input type="checkbox"/>	Sheriff	<input type="checkbox"/>	School:
<input type="checkbox"/>	Parks	<input type="checkbox"/>	Bldg Official	<input checked="" type="checkbox"/>	Landowners
<input checked="" type="checkbox"/>	Assessor	<input type="checkbox"/>	Roads	<input type="checkbox"/>	City Of:
<input checked="" type="checkbox"/>	GIS	<input checked="" type="checkbox"/>	Surveyor	<input type="checkbox"/>	Other:
<input type="checkbox"/>	Flood Official	<input type="checkbox"/>	Water	<input type="checkbox"/>	Parks
<input type="checkbox"/>		<input type="checkbox"/>	ODFW	<input type="checkbox"/>	State Fire Marshal
<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>	RFD:

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

1. 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.

Section 920.100(B)(31) of the Linn County Land Development Code contains the definition of an authorized unit of land. It reads as follows:

**920.100 - Definitions**

- (31) "Authorized unit of land":
- (a) Means a unit of land that:
    - (i) has been lawfully created (see lawfully created unit of land), and
    - (ii) is one of the lots described in subparagraph (b), or one of the parcels described in subparagraph (c), or one of the units-of-record described in subparagraph (d).
  - (b) A lot:
    - (i) that was platted before January 4, 1968, and
      - (I) recorded on an individual deed before March 22, 1972; or
      - (II) recorded on an individual deed on or after March 22, 1972 but before September 2, 1980, and meeting the requirements of land use regulations in effect between March 22, 1972 and September 2, 1980; or
    - (ii) that was platted on or after January 4, 1968 but before March 22, 1972; and
      - (I) recorded on an individual deed before March 22, 1972; or
      - (II) designated RR or RCT in August 14, 1991; or
    - (iii) that was platted on or after March 22, 1972 but before September 2, 1980; and
      - (I) recorded on an individual deed before September 2, 1980; or
      - (II) designated RR or RCT in August 14, 1991; or
    - (iv) that was platted after September 2, 1980.
  - (c) A parcel:
    - (i) that was approved and recorded on an individual deed between 1980 and 1991 and that conforms to the partition as approved; or
    - (ii) that was platted after 1991.
  - (d) A unit-of-record that was:
    - (i) described by metes and bounds on a deed that was recorded in Linn County:
      - (I) before March 22, 1972. The term may include more than one authorized unit of land if each unit was recorded on a deed before March 22, 1972, and if Appendix 2 are met; or
      - (II) on or after March 22, 1972 but before September 2, 1980 and meeting the requirements of land use regulations in effect between March 22, 1972 and September 2, 1980. The term may include more than one authorized unit of land if each unit was recorded on a deed on or after March 22, 1972, but before September 2, 1980, and if Appendix 2 are met; or
    - (ii) created by a judgment of a foreclosure of:
      - (I) a lien financing the purchase or improvements of real property; or
      - (II) a recorded contract of sale of real property.
  - (e) An authorized unit of land may or may not be a developable unit of land. Notwithstanding any provision to the contrary, the determination that a lawfully created unit of land is an authorized unit of land only authorizes the applicant thereof to apply for a development permit under the Land Development Code. That determination does not grant any development rights.
  - (f) Notwithstanding the definition of authorized unit of land in this paragraph, for purposes of units of land located in the Rural Resource, Rural Development, and

Urban Growth Management zoning designations, the term also includes a unit of land:

- (i) described by metes and bounds on an individual deed that was recorded in Linn County between March 22, 1972 and September 1, 1980; and
  - (ii) which contain a lawfully established dwelling that was established as of September 1, 1980.
- (g) The term, authorized unit of land, does not include administrative units of land (see Appendix 2 entitled "Authorized Units of Land" following this Chapter).

## Appendix 2

'Each unit of land is an authorized unit of land if each unit is contiguous to another unit of land that is described on the same instrument and each unit has been kept as a separate tax-lot and described as a separate entry on the instrument (i.e. either as Tract 1 and Tract 2, etc. or as Parcel 1 and Parcel 2, etc.) "*Rae Test*".

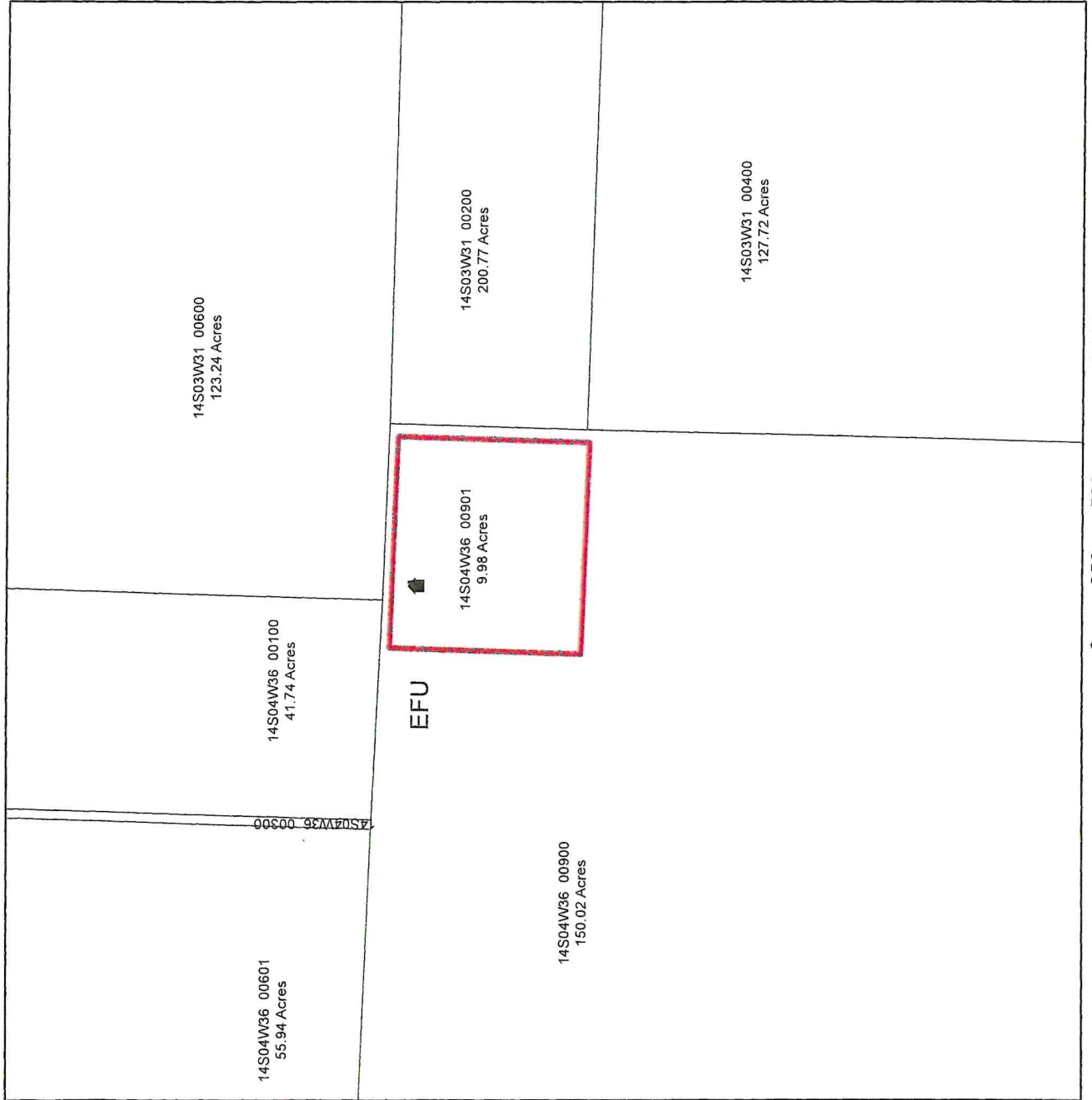
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or 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 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.
12. 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.

# Linn County Planning & Building Department

# Notice Map



Subject Property  
taxlots  
Zoning

PD24-0256  
14S04W36 00901  
HOGAN  
9.98 acres



08/13/2024