



**Staff Report Presented to the Planning Commission**

**REQUEST:** The applicant is seeking a variance to allow for a 3-foot setback from existing dwellings to the property line proposed in Application PLA23-06, resulting in a total of approximately 6 feet between dwellings. The subject property is zoned Residential High Density (R-3). The Comprehensive Plan Designation is Medium Density Residential (R-2). In the R-3 Zone the minimum interior side setback is 5 feet and the minimum front setback is 15 feet [SHMC 17.14.060(A)].

Application VR23-05 is being filed simultaneously with Application PLA23-06. Application PLA23-06 is an Administrative Decision and is not decided upon by the Planning Commission, however the approval of PLA23-06 is contingent on the approval of Application VR23-05.

- APPLICANT:** Laura LaRoque, Udell Engineering & Land Surveying, LLC
- PROPERTY OWNER:** Deborah Jensen
- FILE NUMBER:** VR23-05
- PROPERTY LOCATION:** 1589 & 1591 41<sup>st</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor’s Map as 13S01E28CD Tax Lot 4500.
- REVIEW AND DESIGN CRITERIA:** Sweet Home Municipal Code Section(s) 17.14 and 17.106
- HEARING DATE & TIME:** February 1, 2024 at 6:30PM
- HEARING LOCATION:** City Hall Council Chamber at 3225 Main Street, Sweet Home, Oregon 97386
- STAFF CONTACT:** Angela Clegg, Tourism & Economic Development Coordinator  
 Phone: (541) 818-8029; Email: aclegg@sweethomeor.gov
- REPORT DATE:** January 25, 2024

**I. PROJECT AND PROPERTY DESCRIPTION**

**ZONING AND COMPREHENSIVE PLAN DESIGNATIONS:**

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential High Density (R-3)	Medium Density Residential
Property North	Industrial (I)	General Industrial
Property East	Residential High Density (R-3)	Medium Density Residential
Property South	Residential High Density (R-3)	Medium Density Residential

Property West	Residential High Density (R-3)	Medium Density Residential
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**Floodplain:** Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject properties are not in the Special Flood Hazard Area.

**Wetlands:** The subject properties do not show wetlands/waterways on the properties depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

**Access:** Proposed Area A has access to 41<sup>st</sup> Avenue. Proposed Area B has existing access to 41<sup>st</sup> Avenue via a driveway through Proposed Area A.

**Water and Sewer Services:** Areas A and B have water and sewer services in 41<sup>st</sup> Avenue.

**Street:** After the adjustment Proposed Area A shall abut approximately 40 feet of 41<sup>st</sup> Avenue. The applicant shall ensure that the appropriate easements are recorded for access to and from Area B to 41<sup>st</sup> Avenue.

**TIMELINES AND HEARING NOTICE:**

Application Received: December 21, 2023

Application Deemed Complete: December 26, 2023

Notice Distribution to Neighboring Property Owners Within 100 feet and Service Agencies: December 26, 2023

Notice Published in New Era Newspaper: January 3, 2024

Date of Planning Commission Hearing: February 1, 2024

120-Day Processing Deadlines: April 24, 2024

**II. COMMENTS**

**Levi Gideon**

**CEDD Engineering:**

**Utilities:** There is a water main suitable for connection on 41<sup>st</sup> Avenue. There is a sewer main available to connect to in a utility easement that runs along the existing southeastern lot line. There is a stormwater ditch at the eastern existing property line that can be utilized. The home on Lot 20 will need to have separate water and sewer service from the home on Lot 19.

**Streets:** Lot 19 must provide an access easement for the benefit of Lot 20. Without this there would be no legal access to the newly formed lot.

**Stormwater:** Drainage from Lots 19 & 20 must flow through a recorded drainage easement, or to an appropriate stormwater facility.

**Blake Patterson**

**Public Works Division:** I have no comments at this time.

**Ray Grundy**

**Building Division:** Building has no comments or concerns at this time.

**Sweet Home**

**Fire District:** No comments as of the mailing of this notice.

**Public Comments:** No comments as of the mailing of this notice.

**III. REVIEW AND DESIGN CRITERIA**

The review and decision criteria for a variance are listed below in bold. Findings and analysis are provided under each review and decision criterion.

The Planning Commission may allow a Variance from a requirement or standard of this Development Code after a public hearing conducted in accordance with the Type III review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance. [17.106.060(A)]**

Applicant's Comments: See Attachment C, Page 5.

Staff Findings: The applicant is seeking a variance to allow for a 3-foot setback from existing dwellings to the property line proposed in Application PLA23-06, resulting in a total of approximately 6 feet between dwellings. The dwellings and accessories structures are preexisting. The dwelling on Proposed Area A encroaches into the minimum side setback by 2 feet, and the dwelling on Proposed Area B encroaches into the minimum front setback by 12 feet. The minimum interior side setback in the R-3 Zone is 5 feet and the minimum front setback in the R-3 Zone is 15 feet.

Approval of Property Line Adjustment Application PLA23-06 is contingent on the approval of the setback variance proposed in this application.

- B. Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. An economic hardship shall not be the basis for a variance request.**

Applicant's Comments: See Attachment C, Page 5.

Staff Findings: The subject property abuts similar size and shaped residential properties in the R-3 zone to the south, east and west (see Attachment A). The proposed variance shall allow the applicant to preserve and enjoy the property rights the same as the owners of other R-3 Zoned properties in the vicinity.

- C. The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.**

Applicant's Comments: See Attachment C, Page 5 and 6.

Staff Findings: Staff finds that the variance will not be materially detrimental to the public welfare or injurious to the property in the vicinity or district in which the property is located. The variance does not conflict with the objectives of any City plan or policy.

**D. The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).**

Applicant's Comments: See Attachment C, Page 6.

Staff Findings: The subject property has two preexisting single-family dwellings. The Current Municipal Code does not allow for two single family dwelling units on one lot. The applicant is proposing to separate the dwellings with Property Line Adjustment Application PLA23-06, filed simultaneously with the variance application. Separating the dwellings will bring the use into conformance with current code, however, to separate the dwellings the property line adjustment will not conform to the side and front setbacks of the R-3 Zone. The approval of the property line adjustment is contingent on the approval of the variance.

**E. The variance requested is the minimum variance which would alleviate the identified hardship.**

Applicant's Comments: See Attachment C, Page 6.

Staff Findings: The subject property has two preexisting single-family dwellings. The request to allow for a 3-foot setback from existing dwellings to the property line proposed in Application PLA23-06 is the minimum variance to alleviate the identified conformance with R-3 Zone land use. According to the site map provided by the applicant (Attachment B), there is approximately 6 feet total between the existing dwellings.

**F. All applicable building code requirements and engineering design standards shall be met.**

Applicant's Comments: See Attachment C, Page 7.

Staff Findings: There are preexisting dwellings and accessory structures on the subject property. If approved, any future development shall comply with the City of Sweet Home Engineering Standards, Sweet Home Municipal Code 17.14 Residential High Density (R-3) Zone, and the Oregon Residential Specialty Code.

#### **IV. STAFF RECOMMENDATION**

Staff finds the applicant has requested the minimum variance necessary to alleviate the hardship due to the preexisting placement of the single-family dwellings on the subject property. Staff has recommended Conditions of Approval listed below.

#### **V. CONCLUSIONS**

The application shall be subject to compliance with the conditions listed below, as required by the findings of fact presented in the Review Criteria (Section III), above. Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

**Conditions of Approval:**

1. Administrative approval and compliance with the Conditions of Approval for Property Line Adjustment Application PLA23-06.

2. Any future development shall comply with the City of Sweet Home engineering Standards and the development standards of SHMC 17.14.070.

## **VI. PLANNING COMMISSION ACTION**

The Planning Commission will hold a public hearing at which it may either approve or deny the application. If the application is denied, the action must be based on the applicable review and decision criteria.

Appeal Period: Staff recommends that the Planning Commission's decision on this matter be subject to a 12-day appeal period from the date that the decision is mailed.

Order: After the Planning Commission makes a decision, staff recommends that the Planning Commission direct staff to prepare an Order that is signed by the Chairperson of the Planning Commission. The Order shall memorialize the decision and provide the official list of conditions (if any) that apply to the approval; if the application is approved.

### Motion:

After opening of the public hearing and receiving testimony, the Planning Commission's options include the following:

1. Move to approve application VR23-05 and thereby permit the variance for the subject lot located at 1589 and 1591 41<sup>st</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E28CD Tax Lot 04500; adopting the Findings of Fact listed in Section III of the staff report, the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an order to be signed by the Chair to memorialize this decision.
2. Move to deny application VR23-05 and thereby deny the request for a variance for the subject lot located at 1589 and 1591 41<sup>st</sup> Avenue, Sweet Home, OR 97386; Identified on the Linn County Assessor's Map as 13S01E28CD Tax Lot 04500; adopting the following Finding of Fact (specify), the setting of a 12-day appeal period from the date of the mailing of the decision, and hereby direct Staff to prepare an Order to be signed by the Chair to memorialize this decision.
3. Move to continue the public hearing to a date and time certain (specify); or
4. Other

## **VII. ATTACHMENTS**

- A. Subject Property Map
- B. Site Plan
- C. VR23-05 Application Narrative
- D. VR23-05 Application
- E. Application PLA23-06 (For Information Only)

The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street, Sweet Home, Oregon 97386. Regular business hours are between 7:00 AM and 5:30 PM, Monday through Thursday, excluding holidays.



SUBJECT PROPERTY

40TH LN

41ST AVE

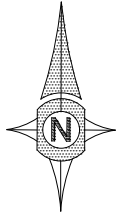
OSAGE ST

Subject Property Map  
PLA23-06 and VR23-05

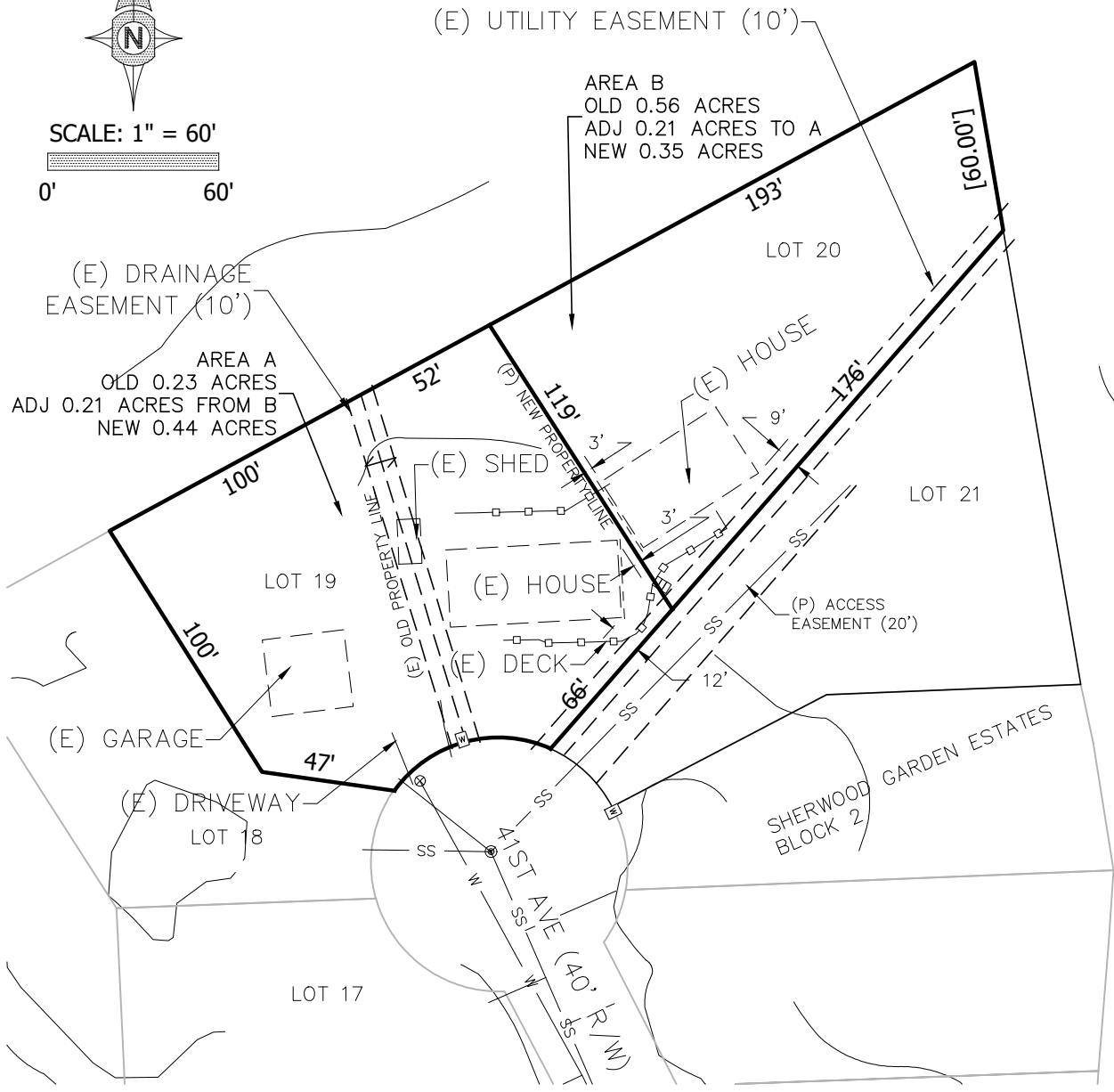
Date: 12/26/23



1 inch = 88 feet



SCALE: 1" = 60'



**PROPERTY INFORMATION**

**AREA A**

ZONING: R3  
 LAND USE: RESIDENTIAL  
 OWNER: DEBORAH JENSEN  
 ASSESSORS MAP: 13S-01E-28-CD  
 TAX LOT: 04500

**AREA B**

ZONING: R3  
 LAND USE: RESIDENTIAL  
 OWNER: DEBORAH JENSEN  
 ASSESSORS MAP: 13S-01E-28-CD  
 TAX LOT: 04500

**LEGEND**

- DECK RAILING
- OLD PROPERTY LINE
- R/W RIGHT OF WAY
- AVE AVENUE
- ADJ ADJUSTED

SHEET 1  
 of 1



Date 12/21/2023  
 Project 23-240  
 JENSEN  
 Drawn by  
 CJB  
 Checked by  
 KWL

**PROPERTY LINE ADJUSTMENT**  
**DEBBIE JENSEN**  
 1591/1589 41ST AVE  
 SWEET HOME, OR 97386

**UDELL ENGINEERING  
 AND  
 LAND SURVEYING, LLC**  
 63 EAST ASH ST.  
 LEBANON, OREGON, 97355  
 541-451-5125

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## PROPERTY LINE ADJUSTMENT & VARIANCE APPLICATIONS

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Submitted to: City of Sweet Home  
Planning Division  
3225 Main Street  
Sweet Home, OR 97386

Applicants/Property Owners: Deborah Jensen  
P.O. Box 711  
Brownsville, OR 97327  
(818) 434-6905  
[debbie1966@comcast.net](mailto:debbie1966@comcast.net)

Applicant's Representative: Udell Engineering and Land Surveying, LLC  
63 E. Ash Street  
Lebanon, OR 97355

Contact: Laura LaRoque  
Email: [laura@udelleng.com](mailto:laura@udelleng.com)  
Phone: (541) 990-8661

Site Location: 1589/1591 41<sup>st</sup> Avenue, Sweet Home, OR 97386

Linn County Assessor's Map No.: 13S-01E-28CD Tax Lot 4500

Site Size: ±35,000 square feet

Existing Land Use: Two Detached Residential Dwelling Units

Comprehensive Plan Designation: Medium Density Residential

Zone Designation: Residential High-Density (R3)

Surrounding Zoning: North: Industrial  
South: Residential High-Density (R3)  
East: Residential High-Density (R3)  
West: Residential High-Density (R3)

Surrounding Uses: North: Single Dwelling Residential  
South: Single Dwelling Residential  
East: Single Dwelling Residential  
West: Single Dwelling Residential





## I. Executive Summary

The proposal includes concurrent review of a Property Line Adjustment and Variance application. The subject properties are known as 1589/1591 41<sup>st</sup> Avenue and identified by Linn County Tax Assessor's Map No. 13S-01E-28CD Tax Lot 4500. The proposal includes an adjustment of the common property line between these two properties resulting in a net change of  $\pm 0.21$  acres and resultant properties  $\pm 0.44$ -acres (Area A) and  $\pm 0.35$ -acres (Area B) in size. The proposal also includes a variance to allow a three-foot setback from existing dwellings to the proposed property line.

The property line adjustment and variance review criteria under Sweet Home Development Code (SHDC) 17.92.050 and 17.106.060 are applicable to this request. This written narrative and associated documentation establish that the application complies with all applicable approval criteria. This documentation provides the basis for the city to approve the application.

## II. Analysis of Development Code Criteria

1. Property Line Adjustments are subject to provisions in Chapter 17.92.
2. Per SHDC 17.92.020, property line adjustments are reviewed in accordance with a Type I review procedure.
3. The application submittal requirements for a property line adjustment application are found under Section 17.92.040 and include: application forms, fee, and preliminary plat drawings and supplementary written narrative.

## III. 17.92.050 Property Line Adjustment Decision Criteria

Section 17.92.050 of the Sweet Home Development Code (SHDC) includes the following review criteria that must be met for a preliminary plat to be approved. Code criteria are written in **bold** and are followed by findings and conclusions.

### Criterion A

**A property line adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires approval of a land division.**

1. A Property Line Adjustment is proposed for subject properties known as 1589/1591 41<sup>st</sup> Avenue and identified by Linn County Tax Assessor's Map No. 13S-01E-28CD Tax Lot 4500.
2. The proposal includes an adjustment of the common property line between these two properties resulting in a net change of  $\pm 0.21$  acres and resultant properties  $\pm 0.44$ -acres (Area A) and  $\pm 0.35$ -acres (Area B) in size. No additional units of land will be created because of the proposed property line adjustment.



## Criterion B

Following the adjustment, all lots or parcels must comply with the area and dimension standards of the applicable zone. For existing non-conforming lots or parcels, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.

3. This application is for a Property Line Adjustment to adjust a common property line between two properties.
4. The subject properties are located at 1589/1591 41<sup>st</sup> Avenue and identified by Linn County Tax Assessor's Map No. 13S-01E-28CD Tax Lot 4500.
5. The subject properties are entirely within the Residential High-Density (R3) zoning district.
6. Each of the subject properties are improved with an existing residential dwelling.
7. A comparison of the dimensional standards of SHDC 17.14.060 and proposed dimensional standards are shown in the table below:

Minimum Lot Area & Width		
	Standard	Proposed
Single Family Dwelling, Manufactured Home	5,000 sf	±19,166 square feet (Area A) ±15,246 square feet (Area B)
Minimum Width at building line – Interior lot	60 feet	±132-feet (Area A) ±118-feet (Area B)
Maximum Lot Coverage	40%	±30% (Area A) ±10% (Area B)

8. Per SHMC 17.04.202, building line is defined as follows: "a line that is adjacent to the front side of a main building parallel to the front lot line."
9. Per SHMC 17.04.202, lot line, front is defined as follows: "The boundary line of a lot that abuts a street other than a side or rear yard line. For a corner lot, the shortest property line along a street, other than an alley. If two or more street lot lines are of equal length, the location of the architectural front of the home, either existing or proposed by the owner, shall be considered the front lot line. If the lot does not abut a street, the longest boundary line closest to the street, other than the pole portion of a flag lot, shall be the front lot line."
10. Per SHMC 17.04.202, lot coverage is defined as follows: That portion of the total lot area covered by structures and paving expressed as a percentage of the total lot area.



11. As shown above and in the Property Line Adjustment map, Area A and B comply with the area and dimension standards of the applicable zone.

**Criterion C**

**If there are existing structures on the lots or parcels, the boundary adjustment shall not reduce required setbacks or place a boundary beneath a structure.**

12. A comparison of required setbacks per SHDC 17.14.060 and proposed setbacks to the adjusted property line are shown in the table below:

Minimum Setbacks		
Front Yard	15 feet	Existing, Not Applicable (Area B) ±3-feet (Area B)
Garage	20 feet to the entrance	Existing, Not Applicable (Area A) Not applicable (Area B)
Side Yard (Interior)	5 feet per story	±3-feet / 83-feet(Area A) ±9-feet / 63-feet (Area B)
Side Yard (Street)	15 feet	Not applicable
Rear Yard	10 feet	Existing, Not Applicable (Area A) ±83-feet (Area B)

13. Per SHMC 17.04.202, the front, rear, and side lot lines are defined as follows:

LOT LINE, FRONT. The boundary line of a lot that abuts a street other than a side or rear yard line. For a corner lot, the shortest property line along a street, other than an alley. If two or more street lot lines are of equal length, the location of the architectural front of the home, either existing or proposed by the owner, shall be considered the front lot line. If the lot does not abut a street, the longest boundary line closest to the street, other than the pole portion of a flag lot, shall be the front lot line.

LOT LINE, REAR. A lot line not abutting a street which is opposite and most distant from the front lot line, and not intersecting a front lot line, except on a corner lot. In the case of irregular, triangular or other shaped lots, a line ten feet in length within the lot parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE. Any lot line not a front or rear line.

14. As presented on the Property Line Adjustment Map (Attachment A), the adjustment would result in an interior side yard setback encroachment for Areas A and front yard setback encroachment for Area B. A variance has been requested for this encroachment. Therefore,



this criterion will be met with a condition of approval requiring approval of the variance for setback encroachment.

IV. **17.106.060 Variance Decision Criteria**

**Criterion A**

**The variance is necessary because the subject Development Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance.**

14. Currently, Lot 20 of Block 2 of Sherwood Garden Estates is improved with two detached single dwelling units. Two detached single dwelling units on one lot are not permitted in the R-3 zoning district. A property line adjustment is proposed to separate the two existing dwellings onto separate lots thus bringing the uses in conformance with the R-3 zoning district. The proposed property line cannot be reconfigured to achieve conformance with minimum setback standards of the R-3 zoning district. The variance is necessary due to the proximity of existing development; therefore, this criterion is met.

**Criterion B**

**Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by the owners of other properties in the same vicinity or district. An economic hardship shall not be the basis for a variance request.**

15. The requested variance will allow for a property line adjustment to separate the two existing dwellings onto separate lots thus bringing the uses in conformance with the R-3 zoning district.
16. A substantial property right is the ability to use the land as its zoning intended. Property owners in residential zoning districts have a substantial property right to use and enjoy their property for dwelling.

**Criterion C**

**The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which the property is located, or otherwise conflict with the objectives of any City plan or policy.**

17. The Sweet Home Municipal Code does not state the purpose of a building setback. Typically, a building setback is to allow light and air between buildings and protection to neighboring properties.



18. The building separation distance for adequate light and air is subjective. Setback distances vary by zone district and dwelling type. Some dwellings such as zero lot line or attached dwellings can be constructed along a common wall or property line while others are required to be separated by a specific distance.
19. In the R-3 zoning district attached single dwelling units are outright permitted uses in addition to single dwelling detached units. Therefore, if the subject properties were not already improved, each lot could be improved with a single dwelling unit attached to another single dwelling unit along a common property. Since zero setback is permitted in some instances in the R-3 zoning district, the proposed 6-foot building separation or 3-foot setback (per lot) for the existing detached dwelling unit would not be materially detrimental to the public welfare or otherwise conflict with the objectives of any City plan or policy.
20. The building separation distance for protection of neighboring properties in the development code is also subjective. Protection is typically understood to mean fire and life safety protection. Fire and life safety provisions in the Oregon building and fire codes augment the Sweet Home Development Code. In this case, development of the subject properties has already gone through a permitting review process, and is therefore, found to be in compliance with applicable fire and life safety provisions of building and fire codes.

#### **Criterion D**

**The need for the variance is not self-imposed by the applicant or property owner (for example, the variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant).**

21. Currently, Lot 20 of Block 2 of Sherwood Garden Estates is improved with two detached single dwelling units. Two detached single dwelling units on one lot are not permitted in the R-3 zoning district. A property line adjustment is proposed to separate the two existing dwellings onto separate lots thus bringing the uses in conformance with the R-3 zoning district. The proposed property line cannot be reconfigured to achieve conformance with minimum setback standards of the R-3 zoning district. The variance is necessary due to the proximity of existing development and therefore, not self-imposed by the property owner. This criterion is met.

#### **Criterion E**

**The variance requested is the minimum variance which would alleviate the identified hardship.**

22. The requested variance is the minimum needed to alleviate the identified hardship; therefore, this criterion is met.



**Criterion F**

**All applicable building code requirements and engineering design standards shall be met.**

23. No construction is proposed in association with the property line adjustment or variance applications. All existing structures were permitted at the time of construction. Therefore, this criterion is not applicable.

**V. OVERALL CONCLUSION**

Based on the analysis in this report, the proposed property line adjustment and variance meets all the applicable review criteria as outlined above.

**VI. ATTACHMENTS**

A. Property Line Adjustment Map





**Land Use Application**

- Adjustment
- Annexation
- Comprehensive Plan Map Amendment
- Conditional Use
- Home Occupation
- Interpretations
- Nonconforming Uses
- Partition
- Property Line Adjustment
- Site Development Review
- Subdivisions and Planned Developments
- Text Amendments
- Variance
- Zone Map Amendment

Date Received: 12-21-23  
 Date Complete: 12-26-23  
 File Number: VR23-05  
 Application Fee: 650.00  
 Receipt #: 54916  
 Planning Commission Hearing Date: 02-01-24  
 City Council Hearing Date:     

Within 30 days following the filing of this application, the Planning Department will make a determination of completeness regarding the application. If deemed complete, the application will be processed.

Applicant's Name:  
 Laura LaRoque, Udell Eng. & Land Surveying, LLC

Applicant's Address:  
 63 E. Ash Street, Lebanon, OR 97355

Applicant's Phone Number:  
 (541) 990-8661

Applicant's Email Address:  
 laura@udelleng.com

**Property A**

Owner's Name:  
 Deborah Jensen

Owner's Address:  
 P.O. Box 711 Brownsville, OR 97327

Owner's Phone Number:  
 (818) 434-6905

Owner's Email:  
 Debbie1966@comcast.net

Property Address:  
13501E28CD04500

Assessor's Map and Tax Lot:  
 1591 41st Ave

**Property B**

Owner's Name:  
 Deborah Jensen

Owner's Address:  
 P.O. Box 711 Brownsville, OR 97327

Owner's Phone Number:  
 (818) 434-6905

Owner's Email:  
 Debbie1966@comcast.net

Property Address:  
13501E28CD04500

Assessor's Map and Tax Lot:  
 1589 41st Ave

Property Size Before: 0.23-acres Property Size After: 0.44-acres

Zoning Classification: R3 Comprehensive Plan: R2

Property Size Before:      Property Size After:     

Zoning Classification: R3 Comprehensive Plan: R2

**Nature of Applicant's Request**

Narrative describing the proposed land use action: Brief description on this form and attach extra sheets if needed.  
 Property line adjustment between two platted lots. Variance to reduce the minimum 5-foot setback to 3-feet.

I certify that the statements contained on this application, along with the submitted materials, are in all respects true and are correct to the best of my knowledge and belief.

Applicant's Signature:  
Laura LaRoque

Property Owner's Signature:  
Deborah A. Jensen

Property Owner's Signature: \_\_\_\_\_

Property Owner's Signature: \_\_\_\_\_

Date:  
12/21/23

Date:  
12/26/2023

Date: \_\_\_\_\_

Date: \_\_\_\_\_



In the matter of the ) Property Line Adjustment  
Property Line Adjustment ) File No. PLA23-06  
request by Deborah Jensen )

**NOTICE OF ADMINISTRATIVE DECISION ON A PROPERTY LINE ADJUSTMENT APPLICATION**

**FINDINGS OF FACT**

**SUMMARY**

1. The applicant has requested a property line adjustment replat between two lots containing pre-existing, nonconforming dwellings. The proposal includes an adjustment of the common property line between these two properties resulting in a net change of approximately 9,148 square feet (0.21 acres) from Proposed Area B (Lot 20) to Proposed Area A (Lot 19). Proposed Area A shall increase in size from approximately 10,019 square feet (0.23 acres) to approximately 19,166 square feet (0.44 acres). Proposed Area B shall decrease in size from approximately 24,394 square feet (0.56 acres) to approximately 15,246 square feet (0.35 acres).
2. There are existing structures in Area A and Area B. The property line adjustment will divide Tax Lot 4500 between the existing dwellings. Proposed Area A has access from 41<sup>st</sup> Avenue. Proposed Area B shall have an access easement granted through Proposed Area A or through the adjacent Lot 21, also owned by the applicant. There are City water and sewer services in 41<sup>st</sup> Avenue. There is an existing storm water main running through Tax Lot 4500, west of the existing dwelling on Area A (Storm Main 0311). Based on a review of the FEMA FIRM Maps; Panel 41043C0914G, dated September 29, 2010, the subject property is not in the 100-year floodplain. The subject property does not show wetlands/waterways on the property depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.
3. Public Notice and Comments: Public Notices were distributed in accordance with Chapter 17.122.010(D).
4. The City Community and Economic Development Director deliberated on this matter and passed a motion to approve the application on February 1, 2023. Final approval of PLA23-06 is reliant on the approval of Application VR23-05, decided upon by the Planning Commission at the February 1, 2024 public hearing. That motion of approval specified a 12-day appeal period from the date the Notice of Decision is mailed.

**APPEAL PROCEDURE**

Pursuant to Chapter 17.122.010 (H-K), All appeals of Type I land use decisions of the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 12 days of the date the decision is mailed. If the Planning Commission decision on a Type I decision is appealed, City staff shall schedule a hearing before the City Council. The City Council shall conduct the hearing consistent with procedures set forth in Chapter 17.132. Written notice of a public hearing on the appeal



shall be mailed to the applicant and those who received notice of the Planning Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Chapter 17.126.01. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the City Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. All appeals heard by the City Council may be appealed to the Land Use Board of Appeals (LUBA). The appeal shall be submitted within 21 days of the date the decision is mailed. Appeals shall comply with LUBA procedures. The fee for appeal of this decision would be \$610.00.

## **CHARACTERISTICS OF PROPERTY**

1. Location: The subject property is located at 1591 and 1589 41<sup>st</sup> Avenue, on the north edge of the bulb cul-de-sac, and north of Osage Street.
2. Zoning and Plan Designation: The subject property is zoned Residential High Density (R-3) Zone. The 2010 Comprehensive Plan land use classification for the subject property is Residential Medium Density. The purpose of the R-3 zone is to provide areas suitable and desirable for high-density residential development, and particularly for apartments, but where other types of residential and related public service uses are appropriate. The R-3 zone is most appropriate in areas which have been developed for high-density residential use or which are suitable for such use due to proximity to downtown Sweet Home and to highway-related commercial areas inside The City. (SHMC 17.14.010).
3. Site Description: After the adjustment, Proposed Area A shall increase in size from approximately 10,019 square feet (0.23 acres) to approximately 19,166 square feet (0.44 acres). Proposed Area B shall decrease in size from approximately 24,394 square feet (0.56 acres) to approximately 15,246 square feet (0.35 acres). There are existing dwellings on the subject property that will be divided with the property line adjustment. The property, located at 1591 and 1589 41<sup>st</sup> Avenue, is Tax Lot 04500 of Map 13S01E28CD. Proposed Lot 19 has access from 41<sup>st</sup> Avenue. Proposed Lot 20 shall have an access easement granted through Proposed Lot 19 or through the adjacent Lot 21, also owned by the applicant.

## **CONFORMANCE WITH APPLICABLE CRITERIA**

The applicant's request for a partition was reviewed by the City Community and Economic Development Director based on the applicable criteria in the Staff Report below.

## **CONCLUSION:**

The Community and Economic Development Director finds that the criteria presented in the staff report have been met.

### Conditions of Approval:

1. The final configuration of proposed Areas A and B shall substantially conform to the plot plan reviewed in this application. See Attachment B. The proposal includes an adjustment of the common property line between these two properties resulting in a net change of approximately 9,148 square feet (0.21 acres) from Proposed Area B (Lot 20) to Proposed Area A (Lot 19). Proposed Area A shall increase in size from approximately 10,019 square feet (0.23 acres) to approximately 19,166 square feet (0.44 acres). Proposed Area B shall decrease in size from approximately 24,394 square feet (0.56 acres) to approximately 15,246 square feet (0.35 acres).

2. The adjusted property line shall be situated so that all buildings and structures comply with the Standards of the R-3 Zone. See SHMC 17.14.060.
3. The Planning Commission approval of Variance Application VR23-05 shall be required. Approval of Application PLA23-06 shall be denied should the Planning Commission deny Application VR23-05.
4. The applicant shall ensure that the appropriate easements are recorded for access to and from Area B to 41<sup>st</sup> Avenue.
5. The dwelling on Area B (Lot 20) shall have separate water and sewer service from the dwelling on Area A (Lot 19).
6. The property line adjustment shall be surveyed and monumented as required by ORS Chapter 92. Documents must conform with the survey for the subject properties in accordance with ORS Chapter 92 and shall be recorded with Linn County. A property line adjustment deed shall be recorded with Linn County and contain the following:
  - A. The names of the parties;
  - B. The description of the adjusted line;
  - C. References to original recorded documents; and
  - D. Signatures of all parties with proper acknowledgment.
7. Development on the subject properties shall comply with all applicable local, state, and federal requirements; including but not limited to all applicable fire code requirements and other development requirements of the Sweet Home Municipal Code.

**ORDER**

Based on the Findings and Conclusions above, the Community and Economic Development Director, approved with conditions, the property line adjustment request for the Deborah Jensen property at 1591 and 1589 41<sup>st</sup> Avenue, Map 28CD, Tax Lot 4500.

DECISION DATE: February 1, 2024

MAILING DATE: February 5, 2024

APPEAL DEADLINE: February 17, 2024

\_\_\_\_\_  
Blair Larsen, CEDD Director

\_\_\_\_\_  
Date

The decision made by the Planner is final unless written appeal from an aggrieved party is received by the City of Sweet Home no later than the appeal deadline (12 days from the date of this decision). All appeals must be filed with the appropriate fee and documentation and submitted to: City of Sweet Home Community and Economic Development Department, 3225 Main Street, Sweet Home, OR 97386. The Planning Commission will hold a public hearing on the request upon appeal. If you would like any information concerning filing of an appeal, please contact the Planning Office at (541) 367-8113).

The failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and a copy will be provided at reasonable cost. A copy of the staff report is available for inspection at no cost and a copy will be provided at reasonable cost. Please contact the Community and Economic Development Department at 3225 Main Street, Sweet Home, OR 97386; Phone: (541) 367-8113

For Information Only

## SWEET HOME COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT STAFF REPORT

**REQUEST:** The applicant has requested a property line adjustment replat between two lots containing pre-existing, nonconforming dwellings. The proposal includes an adjustment of the common property line between these two properties resulting in a net change of approximately 9,148 square feet (0.21 acres) from Proposed Area B (Lot 20) to Proposed Area A (Lot 19). Proposed Area A shall increase in size from approximately 10,019 square feet (0.23 acres) to approximately 19,166 square feet (0.44 acres). Proposed Area B shall decrease in size from approximately 24,394 square feet (0.56 acres) to approximately 15,246 square feet (0.35 acres). The subject properties are identified on the Linn County Assessor's Map No.13S01E28CD Tax Lot 4500.

Application PLA23-06 is being filed simultaneously with Application VR23-05. Application VR23-05 is a Planning Commission Decision and is not an Administrative Decision, however the approval of PLA23-06 is reliant on the approval of Application VR23-05.

**APPLICANT:** Laura LaRoque, Udell Engineering and Land Surveying, LLC

**OWNER (PROPERTY A):** Deborah Jensen

**OWNER (PROPERTY B):** Deborah Jensen

**FILE NUMBER:** PLA23-06

**PROPERTY LOCATION:** **Area A (Lot 19):** Located at 1591 41<sup>st</sup> Avenue, Sweet Home, Identified on the Linn County Assessor's Map as 13S01E28CD Tax Lot 04500.

**Area B (Lot 20):** Located at 1589 41<sup>st</sup> Avenue, Sweet Home, Identified on the Linn County Assessor's Map as 13S01E28CD Tax Lot 04500.

**REVIEW AND DECISION CRITERIA:** Sweet Home Municipal Code (SHMC) Sections 17.14, 17.42.110, and 17.92

**STAFF CONTACT:** Angela Clegg. Phone: (541) 818-8029  
Email: [aclegg@sweethomeor.gov](mailto:aclegg@sweethomeor.gov)

### PROJECT AND PROPERTY DESCRIPTION

#### Zoning and Comprehensive Plan Designations:

Property	Zoning Designation	Comprehensive Plan Designation
Subject Property	Residential High Density (R-3)	Medium Density Residential
Property North	Industrial (I)	General Industrial
Property East	Residential High Density (R-3)	Medium Density Residential
Property South	Residential High Density (R-3)	Medium Density Residential
Property West	Residential High Density (R-3)	Medium Density Residential

#### Property Information:

**Floodplain:** Based on a review of the FEMA flood insurance rate map; Panel 41043C0914G, dated September 29, 2010, the subject properties are not in the Special Flood Hazard Area.

**Wetlands:** The subject properties do not show wetlands/waterways on the properties depicted on the Sweet Home Local Wetlands Inventory and the National Wetlands Inventory Map.

**Access:** Proposed Area A has access to 41<sup>st</sup> Avenue. Proposed Area B has existing access to 41<sup>st</sup> Avenue via a driveway through Proposed Area A.

**Sidewalks:** There are existing sidewalks abutting the driveway entrance along the bulb cul-de-sac.

**Services:** Areas A and B have water and sewer services in 41<sup>st</sup> Avenue.

**Street:** After the adjustment Proposed Area A shall abut approximately 40 feet of 41<sup>st</sup> Avenue. The applicant shall ensure that the appropriate easements are recorded for access to and from Area B to 41<sup>st</sup> Avenue.

**Notice and Timelines**

Application Received: December 21, 2023

Application Deemed Complete: December 26, 2023

120-Day Processing Deadlines: April 24, 2024

**I. COMMENTS RECEIVED**

**Levi Gideon**

**CEDD Engineering:**

**Utilities:** There is a water main suitable for connection on 41<sup>st</sup> Avenue. There is a sewer main available to connect to in a utility easement that runs along the existing southeastern lot line. There is a stormwater ditch at the eastern existing property line that can be utilized. The home on Lot 20 will need to have separate water and sewer service from the home on Lot 19.

**Streets:** Lot 19 must provide an access easement for the benefit of Lot 20. Without this there would be no legal access to the newly formed lot.

**Stormwater:** Drainage from Lots 19 and 20 must flow through a recorded drainage easement, or to an appropriate stormwater facility.

**Public Works Division:** No comments as of the issuance of this staff report.

**Ray Grundy**

**Building Division:**

Building has no comments or concerns at this time.

**Sweet Home Fire District:** No comments as of the issuance of this staff report.

**Public Comments:** No comments as of the issuance of this staff report.

**II. REVIEW CRITERIA AND FINDINGS OF FACT**

An application for a property line adjustment is subject to the review criteria listed in Sweet Home Municipal Code Section 17.92. SHMC Section 17.122.010(A) *Decision authority*. Applications subject to a Type I review shall be reviewed and decided by the City Manager or designee. Staff Findings of Fact and analysis are as follows.

**17.92.050: DECISION CRITERIA**

**Approval of a property line adjustment shall require compliance with the following criteria:**

- A. A property line adjustment cannot create or vacate a parcel. Creation or vacation of a parcel requires approval of a land division.**

Applicants Comments: See Attachment C, Page 2.

Staff Findings: The applicant has proposed a Property Line Adjustment replat. There are pre-existing structures on the proposed property that shall be divided with the approval of the property line adjustment and variance. Proposed Area A has access to 41<sup>st</sup> Avenue. There is an existing driveway through Proposed Area A to access the dwelling on Proposed Area B. Proposed Area B will become landlocked with the approval of the property line adjustment and will require an easement for access. The applicant shall ensure that the appropriate easements are recorded for access to and from Area B to 41<sup>st</sup> Avenue. With the recording of an easement, the property line adjustment won't create a new lot or a land locked parcel.

With the above conditions, staff finds that the application complies with these criteria.

- B. Following the adjustment, all lots or parcels must comply with the area and dimension standards of the applicable zone. For existing non-conforming lots or parcels, the adjustment shall not increase the degree of non-conformance of the subject property or surrounding properties.**

Applicant Comments: See Attachment C, Page 3 and 4.

Staff Findings: The proposed property is in the Residential High Density (R-3) Zone. Proposed Area A shall increase in size from approximately 10,019 square feet (0.23 acres) to approximately 19,166 square feet (0.44 acres). Proposed Area B shall decrease in size from approximately 24,394 square feet (0.56 acres) to approximately 15,246 square feet (0.35 acres). The resulting property line adjustment complies with the dimensional standards of the zone.

Based on the above findings, staff finds that the application complies with these criteria.

- C. If there are existing structures on the lots or parcels, the boundary adjustment shall not reduce required setbacks or place a boundary beneath a structure.**

Applicant Comments: See Attachment C, Page 4 and 5.

Staff Findings: The adjusted properties will encroach into required yard setbacks, existing buildings, or easements. There are preexisting buildings on Proposed Area A and Area B. The property line adjustment will encroach 2 feet into the side setback of Area A, and 12 feet into the front setback of Area B. The minimum side setback in the R-3 Zone is 5 feet and the minimum front setback in the R-3 Zone is 15 feet. A variance application for the setback encroachment has been filed simultaneously with the property line adjustment application. Approval of the property line adjustment applicant will be contingent on the approval of the variance application.

**17.14.060 Dimensional Standards**

- A. Unless otherwise required by this Development Code, the following minimum dimensional standards shall be required for all development in the R-3 zone:**

**1. Minimum Lot Area & Width**

- a. Single Family Dwelling, Manufactured Home: 5,000 square feet.**
- b. Duplex: 5,000 square feet.**

- c. **Attached Dwelling: 2,000 square feet.**
  - d. **Multiple Family (3 or more): 9,000 square feet (parcel) and 1,500 square feet per unit.**
  - e. **Other Uses: Sufficient to meet setbacks and development requirements.**
  - f. **Minimum Width at Building Line – Corner Lot: 70 feet.**
  - g. **Minimum Width at Building Line – Interior Lot: 60 feet.**
  - h. **Minimum Width at Building Line – Attached: 25 feet.**
2. **Minimum Setbacks**
- a. **Front Yard: 15 feet.**
  - b. **Garage, Carport: 20 feet to entrance.**
  - c. **Side Yard (Interior): 5-feet per story.**
  - d. **Side Yard (Street): 15 feet.**
  - e. **Rear Yard: 10 feet.**
  - f. **Attached Side Yard: 0 feet, and 10 feet exterior boundary.**
3. **Maximum Structure Height**
- a. **Single Family: 30 feet.**
  - b. **Single Family Attached, Duplex, Multi-Family: 40 feet.**
  - c. **Accessory Building: 20 feet (Roof Apex).**
4. **Maximum Lot Coverage:**
- a. **Single Family: 40%,**
  - b. **Single Family Attached: 60%.**
  - c. **Duplex, Multi Family: 60%.**

Staff Findings: The subject property has preexisting dwellings and accessory structures. The property line adjustment complies with the maximum lot coverage, minimum lot area and minimum lot width for Proposed Area A and Area B. The dwelling and structure heights are preexisting. The property line adjustment does not encroach on the front, rear, or west side of Area A, however the property line adjustment does encroach on the east setback by 2 feet. The property line adjustment does not encroach on the side or rear setback of Area B, however the property line adjustment does encroach on the front setback by 12 feet. A variance application for the setback encroachment has been filed simultaneously with the property line adjustment application. Approval of the property line adjustment applicant will be contingent on the approval of the variance application. No new development has been proposed with this application.

**17.14.070 Development Standards:**

- A. **Off-street parking: All single-family homes and duplexes shall require a garage or carport; and in addition, provide two hard-surfaced parking spaces. Other uses identified in the zone shall comply with provisions in Chapter 17.44.**
- B. **Signs. Signs shall conform to the standards contained in Chapter 17.50.**
- C. **Fencing. Fences shall conform to provisions contained in Chapter 17.52.**
- D. **Landscaping. Landscaping improvements shall conform to provisions contained in Chapter 17.54.**
- E. **Yards and lots. Yards and lots shall conform to provisions contained in Chapter 17.56.**
- F. **Other. A property owner is advised other regulations may apply for property in an identified natural resource area (Chapter 17.28); the flood hazard area (Chapter 17.30) and in or near an identified historical site (Chapter 17.32).**

Staff Findings: There are preexisting structures on the subject lots, however no new development has been proposed with this application.

**17.92.060 Implementation**

**After a property line adjustment is approved, the new boundary becomes effective only after the following steps are completed:**

- A. A legal description of the adjusted lots is recorded with the Linn County Clerk.**
- B. If required by ORS Chapter 92, or the County Surveyor, a final map and boundary survey are prepared and all new boundaries are monumented as required by ORS Chapters 92 and 209. The final map is submitted to The City for signatures and approval as outlined in Chapter 17.98.**

### **III. CONCLUSIONS**

Based on the Review Criteria above, for a property line adjustment, the application shall be subject to compliance with the conditions listed below, as required by the findings of fact presented in the Review Criteria (Section II), above. Any modifications to the conditions listed below would require approval in accordance with provisions of law (e.g., variance, subsequent land use application, etc.).

#### **Conditions of Approval:**

1. The final configuration of proposed Areas A and B shall substantially conform to the plot plan reviewed in this application. See Attachment B. The proposal includes an adjustment of the common property line between these two properties resulting in a net change of approximately 9,148 square feet (0.21 acres) from Proposed Area B (Lot 20) to Proposed Area A (Lot 19). Proposed Area A shall increase in size from approximately 10,019 square feet (0.23 acres) to approximately 19,166 square feet (0.44 acres). Proposed Area B shall decrease in size from approximately 24,394 square feet (0.56 acres) to approximately 15,246 square feet (0.35 acres).
2. The adjusted property line shall be situated so that all buildings and structures comply with the Standards of the R-3 Zone. See SHMC 17.14.060.
3. Approval of Property Line Adjustment Application PLA23-06 is contingent on the approval of Variance Application VR23-05. Should the Planning Commission deny Application VR23-05, Application PLA23-06 shall also be denied.
4. The applicant shall ensure that the appropriate easements are recorded for access to and from Area B to 41<sup>st</sup> Avenue.
5. The property line adjustment shall be surveyed and monumented as required by ORS Chapter 92. Documents must conform with the survey for the subject properties in accordance with ORS Chapter 92 and shall be recorded with Linn County. A property line adjustment deed shall be recorded with Linn County and contain the following:
  - A. The names of the parties;
  - B. The description of the adjusted line;
  - C. References to original recorded documents; and
  - D. Signatures of all parties with proper acknowledgment.
6. Development on the subject properties shall comply with all applicable local, state, and federal requirements; including but not limited to all applicable fire code requirements and other development requirements of the Sweet Home Municipal Code.

### **IV. ATTACHMENTS**

- A. Subject Property Map
- B. Proposed Site Map
- C. Application Narrative
- D. Application



The full record is available for review at the City of Sweet Home Community and Economic Development Department Office located at City Hall, 3225 Main Street through Friday, excluding holidays.

For Information Only



SUBJECT PROPERTY

40TH LN

41ST AVE

OSAGE ST

Subject Property Map  
PLA23-06 and VR23-05

Date: 12/26/23



1 inch = 88 feet

