

**PRELIMINARY FINDINGS OF FACT
LAND PARTITION/REPLAT REQUEST
LP-N-482-20
R-N-057-20**

REQUEST: To partition an approximate 1498-acre property into two parcels.

APPLICANT/OWNER: Kaizen Holding, LLC
80702 Paterson Ferry Rd.
Irrigon, OR 97844

PROPERTY DESCRIPTION: Tax Lots 200 and 400 of Assessor's Map 4N 26 08; tax lot 100 of 4N 26 09; tax lot 101 of 4N 26 04; and tax lot 101 of 4N 26 05

PROPERTY DESCRIPTION: Approximately 4 miles Southwest of Irrigon on Paterson Ferry Road

I FINDINGS OF FACT:

The subject parcel is zoned Exclusive Farm Use (EFU) with a minimum lot size of 160 acres. The subject property is presently in agricultural use and will continued to be used as such. The applicant is proposing to divide the subject property into two agricultural parcels, one proposed at over 1300 acres and the other at approximately 192 acres.

APPROVAL CRITERIA:

Morrow County Zoning Ordinance Article 3 Exclusive Farm Use Zone (EFU) and Morrow County Subdivision Ordinance Article 5 Land Partitions will apply. Criteria are listed below in **bold type**, followed by a response in standard type.

**MORROW COUNTY ZONING ORDINANCE ARTICLE 3 USE ZONES SECTION
3.010(L). LAND DIVISIONS.**

1. **Minimum Parcel Size. The minimum size for creation of a new parcel shall be 160 acres.**
The new parcels are proposed to be more than 160 acres. This criterion is met.
2. **A division of land to accommodate a use permitted by Section C, except a residential use, smaller than the minimum parcel size provided in Subsection 1 may be approved if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.**
This criterion is not applicable as the division is not to accommodate a use permitted under Section C, which addresses Conditional Uses.
3. **A division of land to create up to two new parcels smaller than the minimum size established under Subsection 1, each to contain a dwelling not provided in conjunction with farm use, may be permitted if:**
 - a. **The nonfarm dwellings have been approved under Subsection H;**
 - b. **The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;**
 - c. **The parcels for the nonfarm dwellings are divided from a lot or parcel that complies with the minimum size in Subsection 1; and**

- d. **The remainder of the original lot or parcel that does not contain the nonfarm dwellings complies with the minimum size established under Subsection 1.**

This criterion is not applicable as the division of land is not for the purpose of creating nonfarm dwelling parcels.

- 4. **A division of land to divide a lot or parcel into two parcels, each to contain one dwelling not provided in conjunction with farm use, may be permitted if:**

- a. **The nonfarm dwellings have been approved under Subsection H;**
- b. **The parcels for the nonfarm dwellings are divided from a lot or parcel that was lawfully created prior to July 1, 2001;**
- c. **The parcels for the nonfarm dwellings are divided from a lot or parcel that is equal to or smaller than the minimum size in Subsection A but equal to or larger than 40 acres;**
- d. **The parcels for the nonfarm dwellings are:**
 - (1) **Not capable of producing more than at least 20 cubic feet per acre per year of wood fiber; and**
 - (2) **Either composed of at least 90 percent Class VII and VIII soils, or composed of at least 90 percent Class VI through VIII soils and are not capable of producing adequate herbaceous forage for grazing livestock. The Land Conservation and Development Commission, in cooperation with the State Department of Agriculture and other interested persons, may establish by rule objective criteria for identifying units of land that are not capable of producing adequate herbaceous forage for grazing livestock. In developing the criteria, the commission shall use the latest information from the United States Natural Resources Conservation Service and consider costs required to utilize grazing lands that differ in acreage and productivity level; and**
- e. **The parcels for the nonfarm dwellings do not have established water rights for irrigation.**

This criterion is not applicable as the request is not for dwellings not in conjunction with farm use.

- 5. **This Section does not apply to the creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use zone at the time the zone is established.**

This criterion is not applicable as this approval is not for the creation or sale of cemetery lots.

- 6. **This Section does not apply to divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.**

This criterion is not applicable as the division of land is not resulting from a lien foreclosure or foreclosure of a recorded contract.

- 7. **This Section does not allow a division or a property line adjustment of a lot or parcel that separates a use described in B.29, C.3, or C.7 from the lot or parcel on which the primary residential use exists.**

This criterion is not applicable as the division does not contain the uses mentioned, identified as farm worker dwellings, temporary hardship dwellings, or home occupations.

8. **This Section does not allow a division or a property line adjustment of a lot or parcel that separates a processing facility from the farm operation specified in Section B.17.**

This criterion is not applicable as the division does not separate a processing facility from the farm operation.

9. **A division of land may be permitted to create a parcel with an existing dwelling to be used:**

a. **As a residential home as described in ORS 197.660 (2) only if the dwelling has been approved under Section H; and**

b. **For historic property that meets the requirements of Section B.33.**

This criterion is not applicable as the property does not have an existing dwelling.

10. **Notwithstanding the minimum lot or parcel size described in Subsection 1,**

a. **A division of land may be approved provided:**

(1) **The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and**

(2) **A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.**

b. **A parcel created pursuant to this Subsection that does not contain a dwelling:**

(1) **Is not eligible for siting a dwelling, except as may be authorized under ORS 195.120;**

(2) **May not be considered in approving or denying an application for siting any other dwelling;**

(3) **May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and**

(4) **May not be smaller than 25 acres unless the purpose of the land division is to facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan or to allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.**

This criterion is not applicable as this is not an application for a public park, open space, or a land conservation organization.

11. **A division of land smaller than the minimum lot or parcel size in Subsection 1 may be approved provided:**

a. **The division is for the purpose of establishing a church, including cemeteries in conjunction with the church;**

b. **The church has been approved under Subsection B.26;**

c. **The newly created lot or parcel is not larger than five acres; and**

d. **The remaining lot or parcel, not including the church, meets the minimum lot or parcel size described in Subsection 1 either by itself or after it is consolidated with another lot or parcel.**

This criterion is not applicable as the division is not for the purpose of establishing a church or cemetery.

12. **Notwithstanding the minimum lot or parcel size described Subsection 1, a division for the nonfarm uses set out in Subsection B.12 if the parcel for the nonfarm use is not larger than the minimum size necessary for the use.**
This criterion is not applicable as the division is not for a fire service facility as indicated in Subsection B.12.
13. **The governing body of a county may not approve a division of land for nonfarm use under Subsection 2, 3, 4, 9, 10, 11, or 12 unless any additional tax imposed for the change in use has been paid.**
This criterion is not applicable as the proposal is not for a nonfarm dwelling.
14. **Parcels used or to be used for training or stabling facilities may not be considered appropriate to maintain the existing commercial agricultural enterprise in an area where other types of agriculture occur.**
This criterion is not applicable as the parcel is not used for training or stabling facilities.
15. **A division of a lawfully established unit of land may occur along an urban growth boundary where the parcel remaining outside the urban growth boundary is zoned for agricultural uses and is smaller than the minimum parcel size, provided that:**
 - a. **If the parcel contains a dwelling, the parcel must be large enough to support the continued residential use.**
 - b. **If the parcel does not contain a dwelling, it:**
 - (1) **Is not eligible for siting a dwelling, except as may be authorized in ORS 195.120;**
 - (2) **May not be considered in approving or denying an application for any other dwelling; and**
 - (3) **May not be considered in approving a redesignation or rezoning of agricultural lands, except to allow a public park, open space, or other natural resource use.**

This criterion is not applicable as the land is not along an urban growth boundary.

**MORROW COUNTY SUBDIVISION ORDINANCE ARTICLE 5 LAND PARTITIONS
SECTION 5.030. REQUIREMENTS FOR APPROVAL. No application for partitioning shall be approved unless the following requirements are met:**

1. **Proposal is in compliance with the County and affected City Comprehensive Plan and applicable Zoning.**
The proposed land partition meets the requirements of the Zoning Ordinance and Comprehensive Plan as outlined in these Findings. The applicant will need to submit both a preliminary and final partition plat to be in compliance with this Article and ORS Chapter 92. This is recommended and listed as a Condition of Approval.
2. **Each parcel is suited for the use intended or offered; including, but not limited to, sewage disposal approval and guaranteed access.**
The applicant has requested one new parcel which is proposed to be approximately 192 acres in area.

Access to proposed Parcel 2 will be provided by an access and utility easement from Paterson Ferry Road. It is recommended and listed as a Condition of Approval that the easement be shown on the Plat.
3. **All required public service and facilities are available and adequate or are proposed to be provided by the partitioner.**

Electricity and telephone are available to the existing parcel from nearby Paterson Ferry Road and available to the parcel via the access and utility easement. The applicant will have to work with providers to obtain any necessary services to the proposed parcels.

4. **Proposal will not have any identifiable adverse impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities.**

The current parcel and surrounding uses are farm land and will be continued to be used as such. This criterion is met.

5. **An approved water rights diversion plan as applicable.**

The preliminary Findings of Fact were referred to the County Water master to determine water rights and for any necessary approvals.

6. **Flag lots will not be permitted when the results would be to increase the number of properties requiring direct and individual access from a State Highway or other arterial. Flag lots may be permitted to achieve planning objectives under the following conditions:**

- a. **When flag lot driveways are separated by at least twice the minimum frontage distance.**
- b. **The driveway must meet driveway standards described in Article 8, Section 8.020.V.**
- c. **The lot meets the minimum lot area of the zoning district, without including the driveway.**
- d. **Only one flag lot shall be permitted per private right-of-way or access easement.**

This provision does not apply as no flag lots are proposed.

7. **The depth of any lot will not be restricted as long as a buildable parcel is proposed.**

The application meets this criterion as a buildable parcel is proposed.

8. **No plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company will be approved unless the County has received and accepted a certification from the district or company that the subdivision or partition is either entirely excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company.**

A portion of this property is within the boundaries of West Extension Irrigation District (WEID) however the portion of the property within the district is not affected by this action. WEID has been notified of this request.

9. **The Commission will deny an application for partitioning when it can be shown by the Commission that the partitioning is part of a plan or scheme to create more than three (3) parcels without going through subdivision, or is part of a development pattern creating more than three (3) parcels without subdividing.**

This provision does not apply to this application.

10. **In addition to the requirements set forth above, the following factors may be considered for approval or disapproval of an application for land partitioning is a geographical or other factor identified by other, appropriate professionals or Plans such as the requirements of the Comprehensive Plan, FEMA requirements, Byways rules, etc., requires it:**

- a. Placement and availability of utilities.
- b. Safety from fire, flood and other natural hazards.
- c. The same improvements may be required for a partitioning as required of a subdivision, if required it will be installed by the applicant.
- d. Possible effects on natural, scenic and historical resources.
- e. Need for onsite or offsite improvements.
- f. Need for additional setback, screening, landscaping and other requirements relative to the protection of adjoining and area land uses. If the proposed partition is located within an Urban Growth Boundary, the affected city must be given notice according to the respective Joint Management agreement.
- g. In the approval of a land partition, the need for street and other improvements will be considered and may be required as a Condition of Approval at a different standard than for a subdivision.

Planning staff would not recommend any additional requirements based on the factors above.

SECTION 5.075. REPLATTING. A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

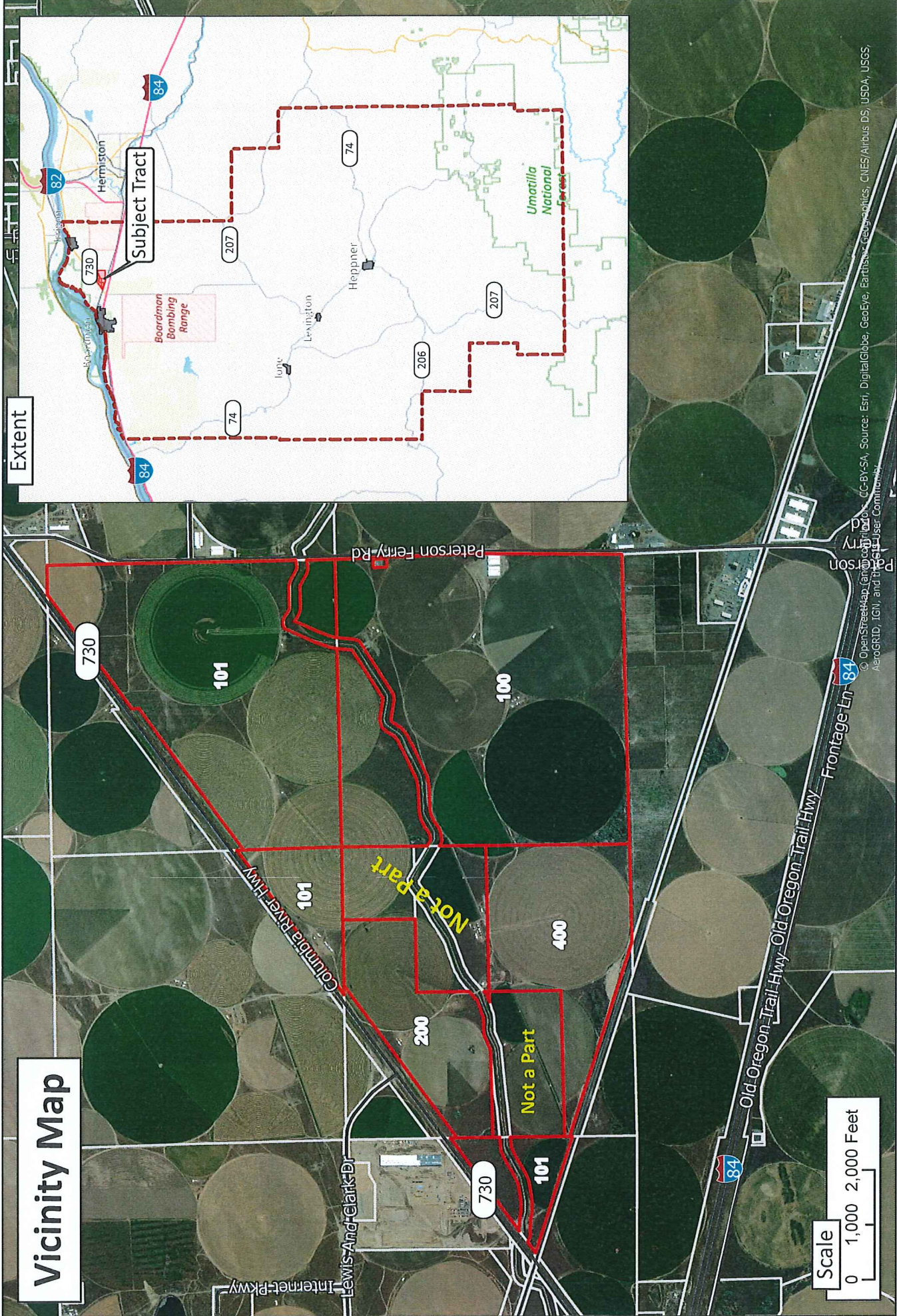
1. **A replat will apply only to a recorded plat.**
A replat is required as the applicant is proposing to partition Parcel 1 of Partition Plat 2010-3.
2. **Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined in ORS 92.225.**
This provision does not apply as this is not a replat of an undeveloped subdivision. Notice was provided under the requirements of a Land Partition.
3. **Notice shall be provided to the owners of property adjacent to the exterior boundaries of the tentative subdivision replat.**
Adjoining property owner notice was provided on May 6, 2020.
4. **When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat. Any utility company that desires to maintain an easement subject to vacation under this section must notify the Planning Department in writing within 14 days of the mailing or other service of the notice.**
No changes to utility easements are proposed. This replat is at the request of the applicant.
5. **A replat will not serve to vacate any public street or road.**
No streets or roads are proposed to be vacated.
6. **A replat will comply with all subdivision provisions of this Article and all applicable Ordinances.**
See Land Partition requirements above.

- III LEGAL NOTICE PUBLISHED:** May 6, 2020
Heppner Gazette-Times and East Oregonian
- IV AGENCIES NOTIFIED:** Jon Jinings, Department of Land Conservation and Development; Linda Hayes-Gorman and Charles Kennedy, Department of Environmental Quality; Greg Silbernagel, Water master; Michael Hughes and Marty Broadbent, Boardman Rural Fire Protection District; Larry Burns, Irrigon Rural Fire Protection District; Bev Bridgewater, West Extension Irrigation District; Mike Gorman, Morrow County Assessor; Matt Scrivner, Morrow County Public Works Director; Stephen Haddock, Morrow County Surveyor.
- V PROPERTY OWNERS NOTIFIED:** May 6, 2020
- VI HEARING DATES:** May 26, 2020
Bartholomew Building
Heppner, Oregon
- VII PLANNING COMMISSION ACTION:** Staff recommend approval subject to the following **Precedent Conditions of Approval**. These conditions must be completed before the Planning Director may sign the final partition plat or before the land may be deeded to a third party.
1. Submit both a preliminary and final partition plat to be in compliance with Article 5 of the Morrow County Subdivision Ordinance and ORS Chapter 92.
 2. The access and utility easement for Parcel 2 shall be shown on the final Partition Plat.

Jeff Wenholz, Chair

Date

ATTACHMENTS:
Vicinity Map
Application and Attachments



Vicinity Map

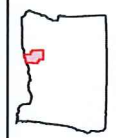


LP-N-482-20
R-N-057-20
 Kaizen Holdings, LLC
 4N 26E 09 Multiple TL's

Legend

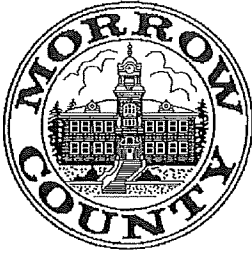
Tax Lots

Subject Tract



Cartography By: Stephen Wrecksics
 Morrow County Planning Department
 Coordinate System: NAD83 Oregon GIC Lambert ft
 Datum: North American 1983
 Projection: Lambert Conformal Conic
 Date Saved: 5/6/2020 11:22 AM
Folder: S:\Planning\Land Partition\Land Partitions in the Northern Portion of the County\2020LP-N-482-20\025





LAND USE APPLICATION LAND PARTITION

FILE NUMBER LP-N-482-20 Date Received: 4/24/2020

Date Deemed Complete: 4/28/2020

Applicant:

Name(s) Kaizen Holdings, LLC

Address 80702 Paterson Ferry Rd
Irrigon, OR 97844

Phone (541) 481-2818 E-mail address FFOffice@Integra.net

Legal Owner: (if different from applicant)

Name(s) Same

Address _____

Existing Property Description:

Township 4N Range 26E Section 08 Tax Lot(s) 400

Zoning Designation Farmland - EFU

Located within an UGB? No If yes, which city? _____

Physical Address _____

General Location _____

Public Road Access No

Improvement Type and Condition of Road —

Water will be supplied by —

Fire Protection District or method Boardman

Location of electric and telephone utilities —

Sewage disposal method —

(Department of Environmental Quality must approve site suitability and specify requirements for septic systems.)

List any water, irrigation, drainage, water control, water improvement district or water improvement company that provide services to the subject property —

Description of Proposed Partition:

Number of new lots proposed 1

For what use or uses is the parcel now used

Farm land

For what use or uses are the parcels intended

Farm land

Are there any covenants, conditions, or restrictions to be used? —

If **yes**, submit a copy of restrictions or proposed restrictions to be used.

Describe the topography of the land

flat

Is the land subject to flooding?

No

Will any new access(es) be required?

No, existing easement along south boundary of existing parcel 3

Will there be any identifiable impacts on adjoining or area land uses, public services and facilities, and natural resource carrying capacities? If so, please explain: No

Please submit with this application a proposed partition plot plan. The plan should show all accesses, existing and proposed; any easements that cross the property; location of any structures, present and proposed; all creeks, drainage or irrigation ditches and other water features; and topographical features that would affect the partition.

Signatures:

I(we), the undersigned, acknowledge that I/we am familiar with the standards and limitations set forth by the Morrow County Zoning and Subdivision Ordinance and that additional information and materials may be required, as provided by the Zoning and Subdivision Ordinance and Comprehensive Plan. I/we propose to meet all standards set forth by the County's Zoning and Subdivision Ordinance and any applicable State and Federal regulations. I(we) certify that the statements and information provided with this application are true and correct to the best of my knowledge.

Signed: [Signature]

(Applicant)

(Applicant)

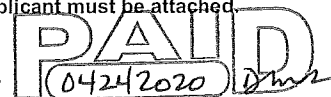
(Legal Owner)

(Legal Owner)

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

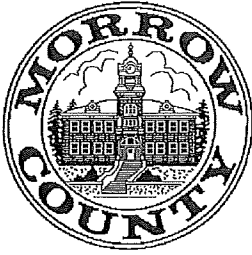
Date: 4/24/2020

Fee: \$600



Special Land Partition Application Instructions to Owners of Land Receiving Water From an Irrigation District: If you own land located within an Irrigation District, please contact the district prior to submitting your land partition application. The district may have special requirements which may affect your land partition. Oregon Revised Statute 92.090(6) requires Irrigation District review of all land partitions and subdivisions located within an Irrigation District. Compliance with district requirements will be made a condition of approval of your application. Verification of review may be indicated in writing or with an authorized signature on your preliminary plat

Morrow County Planning Department
P.O. Box 40, Irrigon Oregon 97844
(541) 922-4624 FAX: (541) 922-3472



LAND USE APPLICATION REPLAT

Fee pd.

FILE NUMBER R-N-057-20

Date Received 4/24/2020

Applicant or Legal Owner:

Date Deemed Complete 4/28/2020

Name(s) Kaizen Holdings LLC

Address 80702 Paterson Ferry Rd

Phone (541) 481-2818 E-mail address FFOffice@Integra.net

Legal Owner: (if different from applicant)

Name(s) Same

Address _____

Phone _____ E-mail address _____

Existing Property Description:

Township 4N Range 26E Section 08 Tax Lot(s) 400

Zoning Designation Farmland-FFu Located within an UGB? No If yes, which city? _____

Physical Address _____

General Location _____

List any water, irrigation, drainage, water control, water improvement district or water improvement company that provide services to the subject property: None

Replat Type Requested:

☐ Subdivision _____ ☒ Land Partition 2010-3
(name) (number)

☐ Property Line Adjustment
Conveying Parcel: Acres Before _____ Acres After _____
Receiving Parcel: Acres Before _____ Acres After _____

Please explain why the replat is requested: Collateral for FSA loan


Will the replat affect any utility easement? NO If yes, please identify which utility companies are affected and in what way the easement is affected.

A reconfiguration of a recorded subdivision or partition plat or a change in the number of lots in the subdivision or partition may be approved by the Planning Commission or as defined in ORS 92.180. Replats will act to vacate the platted lots or parcels and easements within the replat area with the following conditions:

- A replat will apply only to a recorded plat;
- Notice shall be provided when the replat is replatting all of an undeveloped subdivision as defined on ORS 92.225;
- Notice shall be provided to the owners of the property adjacent to the exterior boundaries of the tentative subdivision replat;
- When a utility easement is proposed to be realigned, reduced in width or omitted by a replat, all affected utility companies or public agencies shall be notified, consistent with a governing body's notice to owners of property contiguous to the proposed plat.
- A replat will not serve to vacate any public street or road; and
- A replat will comply with all subdivision provisions of the Morrow County Subdivision Ordinance and all applicable ordinances.

Please submit with this application a proposed replat plot plan. The plan should show all accesses, existing and proposed; any easements that cross the property; location of any structures, present and proposed; all creeks, drainage or irrigation ditches and other water features; and topographical features that would affect the replat.

Signatures:

Signed:  (Applicant) _____ (Legal Owner)

Printed: _____ (Applicant) _____ (Legal Owner)

Date: 4/24/2020 Date: _____

If this application is not signed by the property owner a letter authorizing signature by the applicant must be attached.

Special Instructions to Owners of Land Receiving Water From an Irrigation District: If you own land located within an Irrigation District, please contact the district prior to submitting your application. The district may have special requirements which may affect your replat. Oregon Revised Statute 92.090(6) requires Irrigation District review of all land partitions and subdivisions located within an Irrigation District. Compliance with district requirements will be made a condition of approval of your application. Verification of review may be indicated in writing or with an authorized signature on your preliminary plat.

**Morrow County Planning Department
P.O. Box 40, Irrigon Oregon 97844
(541) 922-4624 FAX: (541) 922-3472**

PARTITION PLAT NO. 2020 -

A Replat of Parcel 3 of Partition Plat 2010-03

Township 4 North, Range 26 East, W.M.,

Sections 3, 4, 5, 7, 8, & 9

Township 5 North, Range 26 East, W.M.,

Section 33

Morrow County, Oregon

For: Kaizen Holdings, LLC

P.O. Box 109

Boardman, Oregon 97818

PROPERTY DESCRIPTION:

The property being partitioned is a portion of the land described in the Morrow County Deed Records: Merolm XXXXX, more particularly described as follows: Parcel 3 of Partition Plat 2010-03 as Filed in the Record of Partition Plats, Document No. 2010-25891, Recorded April 30, 2010. All Located in the County of Morrow, State of Oregon.

SURVEYOR'S CERTIFICATE & NARRATIVE:

I, Ronald V. McKinnis, being a Registered Professional Land Surveyor of the State of Oregon, certify that I have correctly surveyed and monumented the lands more particularly described in the Legal Descriptions shown hereon according to ORS Chapter 92 of the State of Oregon. The Initial Point of this survey is the XXX.

This survey is based on my Partition Plat 2010-03 for the Kaizen Holdings. The purpose of this survey was

OWNER'S DECLARATION & DEDICATION:

We, the undersigned owners of the lands shown on this plat, do hereby dedicate the Easements and Public Roadways as shown on this Plat. We also acknowledge that we have caused this plat to be created, we authorized that this Plat be prepared in accordance with the provisions of ORS Chapter 92, and We recognize this Plat as the Official Plat and Map of the Partition as filed in the County of Morrow, State of Oregon.

Vern Fredrickson, President
Kaizen Holdings, LLC

On this _____ day of _____, 2020, the above described parcel was surveyed and shown to me as the identical individual who executed the plat, dedication and acknowledged that he did so freely and voluntarily of his own will.

Before me: _____

My Printed Name is _____

My Commission No. is _____

My Commission Expires _____

APPROVALS:

I certify that I have examined and approved this Partition Plat in accordance with ORS Chapter 92 and the Morrow County Subdivision Ordinance on this _____ day of _____, 2020

Morrow County Planning Director

I certify that I have examined and approved this Partition Plat on this _____ day of _____, 2020

Morrow County Surveyor

I certify that I have examined and approved this Partition Plat on this _____ day of _____, 2020

Morrow County Tax Assessor & Morrow County Tax Collector

Morrow County Clerk
Recording Information

REGISTERED
PROFESSIONAL
LAND SURVEYOR

RONALD V. MCKINNIS
JUN. 23, 1991
2431

Expires 12-31-20

Section Corner Found or Set
Found Monument as noted
Set 5/8" X 30" Rebar
W/ Plastic Cap, PLS #2431
Calculated Point, Not Set

SURVEY BOUNDARIES

Record & Measured from P.P. 2010-03
Or From Reference Cited

Record GLO

SCALE 1" = 1000 Ft.
April, 2020

ENGINEERING - LAND SURVEYING - WATER RIGHTS
R. V. MCKINNIS ENGINEERING
77980 Portland Loop
Forest Grove, OR 97138
(503) 567-2017

Rev. 04-28-20

Nick R. Blanc
nblanc@blancfirm.com
*Licensed in OR & CA

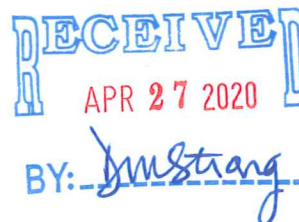
David M. Blanc
dblanc@blancfirm.com
*Licensed in OR & WA



39 SE Court Ave.
Pendleton, OR 97801
Phone: (541) 215-4810
Fax: (541) 215-6609
www.blancfirm.com

April 24, 2020

SENT VIA FIRST CLASS MAIL AND
CERTIFIED MAIL, RETURN RECEIPT REQUESTED



Stephanie Case
Interim Planning Director
Morrow County Planning Department
P.O. Box 40
Irrigon, OR 97844

Re: Partition of Land by Kaizen Holdings, LLC
Our File No. 020-068

Dear Ms. Case:

Our firm represents Kaizen Holdings, LLC, ("Kaizen") which had a land partition/replat request conditionally granted by the County on December 10, 2019 in matter number LP-N-476-19. Kaizen is seeking to create three parcels (two new, one remainder). I have enclosed a map showing the two new parcels for your reference.

Based on the County's approval of the partition, filing of the final Partition Plat is conditioned upon the approval of the related rezone of the proposed Parcel 2. As I'm sure you are aware, 1000 Friends of Oregon has filed a Notice of Intent to Appeal the County's decision to rezone the proposed Parcel 2, placing the matter in limbo.

Kaizen has made plans to lease the proposed Parcel 3 to Frederickson Farming, LLC ("Frederickson") for farming purposes. The proposed Parcel 3 is not subject to any rezoning request or decision, but is part of Kaizen's partition application, meaning the creation of this parcel is being held up by the current appeal.

Frederickson has been attempting to procure an FSA loan to farm the proposed parcel 3. However, because no parcel has been legally created, Frederickson has been unable to do so, and the deadline for doing so is quickly approaching. For this reason, Kaizen has asked me to research the possibility of filing a new land partition/replat request with the County for Parcel 3 only.

The issue that has been discussed between myself and my client is whether two applications for a partition can be submitted and granted within a calendar year. Pursuant to ORS 92.010(9), "[p]artitioning land' means dividing land to create not more than three parcels of land within a calendar year" The Morrow County Subdivision Ordinance similarly defines "Partition Land"

as “[t]o divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year.” In my opinion, these definitions are similar, but ORS 92.010(9) makes more clear the fact that there is no limit on the amount of partition requests submitted within a calendar year so long as no more than three new parcels are created in that time frame.

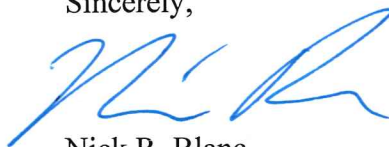
Because there is only a limitation on the number of parcels that can be created, not the number of applications that can be submitted, I believe the County has the authority to review and approve multiple partition requests so long as no more than three new parcels are created. This is true where the land that is subject to the partition is classified as EFU as ORS Chapter 215 adopts ORS 92.010(9) as the definition for partitioning land.

Kaizen is preparing to submit a land partition/replat request for the proposed Parcel 3 in the very near future. This new request is not meant to vacate or in any way interfere with or amend the decision in matter numbers LP-N-476-19 and R-N-054-19. I thought it best to give you prior notice so that any objections or questions to my analysis could be brought up as soon as possible.

Once again, I believe that the submission and approval of a new request for just one of the parcels is viable under Oregon law. In the event that both the new request and the previous request are approved within this calendar year, only three new parcels would have been created which is allowed by ORS Chapter 92. Furthermore, in the unfortunate event that the matter of the zoning issue is not resolved within this calendar and the new request was approved, only two new parcels would be created in this calendar year and the approval of the third parcel taking place in the next calendar year would be lawful.

I thank you for your time in reviewing this matter and invite any questions or concerns. Time is of the essence and I hope we can come to a quick decision and resolution.

Sincerely,



Nick R. Blanc

w/encl.

cc. w/ encl. Kaizen Holdings, LLC
 Justin Nelson, Morrow County Counsel

PARTITION PLAT No. 2019 -

A Replat of Parcel 3 of Partition Plat 2010-03

Township 4 North, Range 26 East, W.M.,

Sections 3, 4, 5, 7, 8, & 9

Township 5 North, Range 26 East, W.M.,

Section 83

Morrow County, Oregon

For:

Kaizen Holdings, LLC

P.O. Box 109

Boardman, Oregon 97818

PROPERTY DESCRIPTION:

The property being partitioned is a portion of the land described in the Morrow County Deed Records

Morrow County, Oregon, more particularly described as follows:

Township 4 North, Range 26 East of the Willamette Meridian, Sections 6;

also,

Parcel 3

Township: 4N

Range: 26E

Section: 08

Division: 400

SURVEYOR'S CERTIFICATE & NARRATIVE:

I, Ronald V. McKinnis, being a Registered Professional Land Surveyor of the State of Oregon, certify that I have correctly surveyed and monumented the boundaries of the parcels particularly described in the Legal Descriptions shown herein according to ORS Chapter 92 of the State of Oregon. The Initial Point of this survey is the XXX.

This survey is based on my Partition Plat 2010-03 for the Kaizen Holdings. The purpose of this survey was

OWNER'S DECLARATION & DEDICATION:

We, the undersigned owners of the lands shown on this plat, do hereby dedicate the Easements and Public Roadways as shown on this Plat. We also acknowledge that we have caused this plat to be created, we authorize the Surveyor to prepare this Plat to be prepared in accordance with the provisions of ORS Chapter 92, and we recognize the Plat as the Official Plat and Map of the Partition as filed in the County of Morrow, State of Oregon.

Vern Fradette, President
Kaizen Holdings, LLC

On this day of 2019, the above individual, Vern Fradette, appeared before me, a duly qualified and sworn Notary Public for Oregon, and acknowledged that he did so freely and voluntarily of his own will.

Before me:

My Printed Name is _____

My Commission No. is _____

My Commission Expires _____

APPROVALS:

I certify that I have examined and approved this Partition Plat in accordance with ORS Chapter 92 and the Morrow County Subdivision Ordinance on this day of 2019

Morrow County Planning Director

I certify that I have examined and approved this Partition Plat on this day of 2019

Morrow County Surveyor

I certify that I have examined and

Parcel 2
Township: 4N
Range: 26E
Section: 09
Division: 100

SURVEY RECORDS:
McKinnis for Kaizen Holdings, P.P. 2010-03, C.S. #C-1573-C

I, Ronald V. McKinnis, do hereby certify that this is a true and exact copy of the Original Plat as filed for the Kaizen Holdings, LLC in Morrow County

REGISTERED PROFESSIONAL LAND SURVEYOR

RONALD V. MCKINNIS
JAN. 23, 1960
2451
Expires 12-31-20

Section Corner Found or Set

Found Monument as noted

Set 5/8" x 30" Rebar

W/ Plastic Cap, PLS #2431

Calculated Point, Not Set

SECTION LINE

Record & Measured from P.P. 2010-03
Or From Reference Cited

Record CLO

SCALE 1" = 1000 Ft.
September, 2019

ENGINEERING - LAND SURVEYING - WATER RIGHTS
R. V. MCKINNIS ENGINEERING
79980 Pindle Loop Road
Hermiston, Oregon 97838
(541) 567-2017

Rev. 09-24-19