

September 30, 2009

Malheur County Planning Commission
Malheur County Courthouse
Vale, Oregon 97918

Members of the Planning Commission:

I am requesting approval for the partition of two approximately 2 acre parcels from my farm and approval to place a non-farm dwelling on each parcel. The farm has been in our family since my grandfather took it out of brush in the 1940's. I purchased from my parents, Harold and Betty Kurtz.

The reasons I am requesting these specific sites are as follows:

1. There are no water rights on them.
2. The soils are steep, rocky and consists mostly of class VIII soils.
3. I will give an easement for ingress and egress to both sites along the Easterly 20' of my property.
4. A 20' all weather road meetings the requirements of the Nyssa Rural Fire Department and the Nyssa Rural Road District will be installed.
5. The concrete ditch on the East boundary of my property will be taken out and become part of the driveway.
6. I will be installing a gated pipe irrigation system on my property to irrigate my existing alfalfa field (see picture). The ASCS aerial map shows the field is 1.4 acres and Owyhee Irrigation District maps show I have 1.7 acres of water rights there. I will guarantee there will be no net loss of irrigated farm ground as a result of installing the driveway to the two sites.
7. The Nyssa Rural Road District preferred I only have one driveway installed and that is also the placement of the driveway on Cloverdale Ave. they prefer.
8. The seller understands the property needs to be surveyed and will have that completed after approval for the partitions has been granted. Surveyor will supply the easement and property description.

Thank you for your consideration in this matter.

Sincerely,

Mike Kurtz by Larry Wilson

Mike Kurtz by Larry Wilson as my agent.

Mike Kurtz by Larry Wilson 12/26/22

September 29, 2009

Malheur County Planning Commission
Malheur County Court
Vale, OR 97918

To Whom It May Concern,

This letter is to give permission to the Malheur County Planning Commission and the Planning Department to enter my property for purposes of evaluation my request for a partition and non-farm dwelling. It would be very helpful if you called before coming so I would be available to show you the location. My cell phone number is (541) 823-2143.

Thank you,

Mike Kurtz by Gary Wilson

Mike Kurtz

Mike Kurtz by Gary Wilson 12/26/2022



MALHEUR COUNTY

251 B Street West, #12 Vale, Oregon 97918

PLANNING DEPARTMENT

Phone (541)473-5185

File Number: 2022-12-009

Application Fee: \$350

Date Received: 12-27-2022

Date Deemed Complete: 12-27-2022

CONDITIONAL USE APPLICATION

LANDOWNER INFORMATION

Name: Michael A. Kurtz
Address: 776 Cloverdale Ave
City/State/Zip: Nyssa, OR 97913
Phone: 541-823-2143
Email: NONE

APPLICANT INFORMATION Check box if same

Name: LARRY WILSON (AS AGENT)
Address: 3573 Hwy 201
City/State/Zip: ONTARIO, OR 97914
Phone: 208-739-8383
Email: larry@malheurrealty.com

PROPERTY INFORMATION

Township: 19 Range: 46 Section: 34 Tax Lot: 900 Ref #: 9575 Acres: 111.17 Zoning: C-A1
20 46 02 300 9969 28.48 C-A1

139.65 Ac. Total

Address: 776 Cloverdale Ave, Nyssa, OR 97913

Current use: Dry hillside. Use of surrounding properties: Agricultural

Proposed use: 2 residential lots Permitted subject to section: _____

Water source: well Sewage disposal method: SEPTIC TANK

Are the wetlands/water waterways on your property? No Yes (description): _____

Do you own neighboring property? No Yes (description): _____

Name of road providing access: Cloverdale Ave.

LEGAL PARCEL STATUS

Partition: _____ Subdivision: _____

or Most Recent Pre- 09/04/1974 Deed #: _____ Date Filed: _____

Current Deed #: 2008-8230 Date Filed: 12/4/2008

*The deed and a map showing the property described in the deed(s) must accompany this application.

*Additional descriptive maps and pictures may be attached.

SIGNATURES:

Property Owner(s): Mike Kurt Date: 12/26/22

Property Owner(s): _____ Date: _____

Applicant(s): Harry Wilson Date: 12/26/22

Applicant(s): _____ Date: _____

PLEASE NOTE: Before this application will be processed, you must supply all requested information and forms, and address all listed or referenced criteria. Pursuant to ORS 215.428, this office will review the application for completeness and notify Applicant of any deficiencies within 30 days of submission. By signing this form, the property owner or property owner's agent is granting permission for Planning Staff to conduct site inspections on the property.

SHADED AREA TO BE COMPLETED BY PLANNING DEPARTMENT

| | |
|---|--|
| Legal Parcel Deed/Land Use Action: _____ | <input type="checkbox"/> NO <input type="checkbox"/> YES |
| Previous Map and Tax Lot: _____ | |
| Past Land Use Actions: If yes, list file #(s) _____ _____ | <input type="checkbox"/> NO <input type="checkbox"/> YES |
| Subject to previous conditions? | <input type="checkbox"/> NO <input type="checkbox"/> YES |
| Assessor Property Class: _____ Zoning: _____ | |
| Water Resources: Are there bodies of water or wetlands (seasonal or permanent) on property or adjacent properties? | <input type="checkbox"/> NO <input type="checkbox"/> YES |
| Describe (include setback distances): _____ | |
| <input type="checkbox"/> Fish bearing <input type="checkbox"/> Non fish bearing <input type="checkbox"/> Seasonal Creek | |
| <input type="checkbox"/> Irrigation ditch <input type="checkbox"/> Wetland <input type="checkbox"/> Pond/Lake <input type="checkbox"/> Not identified | |
| (Note: Check buffers. Different zones have different setback requirements that may require a more extensive permitting process.) | |
| Access: County or ODOT approach permit on file? <input type="checkbox"/> NO <input type="checkbox"/> YES, # _____ | |
| Address: Address exists and has been verified to be correct? | <input type="checkbox"/> NO <input type="checkbox"/> YES |
| Address needs to be assigned after approval? | <input type="checkbox"/> NO <input type="checkbox"/> YES |
| Fire District: _____ | |



MALHEUR COUNTY PLANNING DEPARTMENT

251 B Street West, #12 Vale, Oregon 97918

Phone (541)473-5185

CONDITIONAL USE PERMIT

DETAILED SPECIFIC WRITTEN REQUEST

This partition request was granted in 2009. The property has been surveyed. Seller did not file the partition plat in the allotted time and request it be approved AGAIN. Letters of original request and permission to enter the property are being resubmitted. Nyssa Fire district gave an email response supporting their previous response.

(Attach additional pages if necessary)

DETAILED STRUCTURAL INFORMATION

| PROPOSED IMPROVEMENTS | | | | |
|------------------------|--------|-------|--------|----------------|
| Structure/Development | Length | Width | Height | Square Footage |
| Dwelling | | | | |
| Driveway | | | | |
| Accessory Structure | | | | |
| Agricultural Structure | | | | |
| Other | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| EXISTING | | | | |
| Dwelling | | | | |
| Accessory Structure | | | | |
| Agricultural Structure | | | | |
| Other | | | | |
| | | | | |
| | | | | |

CONDITIONAL USE CRITERIA – Malheur County Code (MCC) CHAPTER 6-6-7

1. The proposal must be consistent with the goals and objectives of the Comprehensive Plan and MCC.
2. Taking into account location, size, design and operational characteristics of the proposed use, describe how your proposal is compatible with the surrounding area and development of abutting properties by outright permitted uses:

Will not interfere with any current neighbors.

Describe the operational characteristics (hours of operation, equipment used, etc.) of the proposed use:

The two lots are for residential purposes only.

Describe the number of people/employees/customers associated with the proposed use:

No employees. Undetermined family sizes.

3. What are the existing developments and viewpoints of property owners in the surrounding area?

No opposition was found with the original application and none known of now.

4. The proposed use cannot exceed or significantly burden public facilities and services available to the area. Please describe the impact the proposed use will have on the following public facilities and services and provide letters from the appropriate entities:

Roads: None. Letter from Myssa road district attached.

Fire & Police Protection: Letter attached from fire district. No impact.

Sewer & Water: None.

Electrical & Telephone: No impact.

Solid Waste Disposal: None.

5. What effect will the proposed use have on the stability of the community's social and economic characteristics?

None. There are few homes in the area, mostly surrounded by farm land and dry hillside, and the addition of two more in this secluded area will not change anything. The schools welcome new students.

6. Demonstrate that the proposed use will not interfere with traditional fish and wildlife use of habitats determined critical or sensitive in the fish and wildlife habitat protection plan for Malheur County.

There is no running water on the property. No fish will be interfered with. The sites may have some song birds, quail, etc. that shouldn't be affected.

7. How will the proposed use increase setbacks of structures to reduce possibilities of overshadowing adjoining property, noise, odor or night lighting nuisances during development and operation?

There are no dairy's, feed lots or intense farming operations adjacent to the property that will be bothered. All houses, shops, garages, etc. will adhere to county setback requirements.

8. What are the proposed landscaping improvements for the visual benefit of the subject site and for the improved appearance of the neighborhood and County?

Normal landscaping, lawns, etc. for residential purposes will only enhance the area. Currently is dry, brushy property with a few cottonwood trees on it. No water rights.

9. The location and size of driveway access points and right of way widening and improvement for present and future traffic circulation consistent with the adopted County road standards or the standards of the appropriate road district and the access management standards of the Malheur County Transportation System Plan.

Yes. Private driveway will be constructed per road district standards and place of driveway was approved by the Nyssa Road District.

10. What is the proposed visual screening of the outdoor waste and storage areas?

Garbage containers and fencing.

11. What efforts will be in place to control and focus the outdoor lighting to avoid glare being directed beyond property limits?

Homeowners will be encouraged to use directional lighting where needed. There are no close neighbors.

12. Demonstrate how the proposed use will not significantly increase the cost of, or force a significant change to, accepted farm or forest practices on surrounding lands devoted to or available for farm and forest use.

Describe the agricultural uses (orchards, wheat, grazing, etc.) that are within 0.25 miles of the proposed development. How will the proposed development interact with surrounding agriculture uses?

The predominant crops in the immediate area are wheat, hay, corn and some sugar beets and onions. There are no water rights on either parcel so no impact will be felt on neighboring properties. No complaints were received when this application was originally approved.

**NON-RESOURCE DWELLING and NON RESOURCE PARTITION –
Malheur County Code (MCC) 6-6-8-1 and (MCC) 6-6-8-2**

1. Describe how the proposed dwelling and the creation of the proposed partition(s) is compatible with farm uses and is consistent with ORS 215.243: There ARE NO water rights for these properties so NO irrigation practices will be altered, the access is across private property, the soils ARE extremely poor, class VIII and the houses will be situated in mostly dry hillside property. Should have no impact on surrounding farming practices.

2. Will the proposed dwelling and creation of the proposed partition(s) interfere seriously with accepted farming practices on adjacent lands and what conditions exist to avoid this problem? No. The answer to question 1 is the same as this question.

3. Will the proposed dwelling/partition be situated on generally unsuitable land for the production of farm crops or livestock considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of tract:

No, if yes: Yes, it is non-farmable ground.

- Is the proposed parcel only as large as necessary to accommodate the use and provide any buffer area needed to ensure compatibility with adjacent agricultural uses? Yes. The north parcel is 2.2 acres and the south parcel is 2.11 acres. There are no water rights for the property.

- Is the proposed parcel located on land with predominantly low productivity V-VII soils not suited for agricultural use and is large enough to accommodate the use and provide any buffer area needed to ensure compatibility with adjacent agricultural uses? How so? Yes. It is in A secluded draw with no water rights.

4. In what ways will the proposed partition avoid conflict with and have no significant adverse impact on:

- the quality of farm or range land: No conflict or impact.
- the watersheds: None.
- fish and wildlife habitat: None.
- soil and slope stability: None.
- air and water quality: None.
- outdoor recreation areas: None. This is private property surrounded by private properties.

5. Will the proposed partition be created for an existing dwelling or for preserving a historical dwelling? No. Created for new dwellings.

H. What are the findings of fact that describe the existing land use pattern of what the study area looks like now?

The study AREA is mostly Agricultural with the predominant crops being hay, wheat, corn, sugar beets & pasture. There are farm dwellings on most of the farms with non-farm dwellings on hillsides and mostly unirrigated grounds.

I. What are the findings of fact that describe what the study area would look like if all the potential development occurs?

Probably not much different. The original partition request was granted in 2009 and there have only been 2 new residences in the study AREA since then. (13 years).

J. Determine that the proposed dwelling will not materially alter the stability of the overall land use pattern of the study area. Does the cumulative impact of the existing and proposed non-farm dwelling and the potential new non-farm dwellings within the study area make it more difficult for the existing farms in the study area to continue operation due to diminished opportunities to expand, acquire water rights, purchase or lease farmland, such that the area will be destabilized, impeding normal production practices or crop and livestock due to increased population and associated activities?

It will not negatively alter the area. There are no water rights on the property. It is not being used for any farming practices nor has it ever. There are no plans to farm or ranch it as there is no water right for either lot.

6. Demonstrate that the dwelling will not materially alter the stability of the overall land use pattern of the area, by conducting the "Cumulative Impacts Analysis".

A. What are the types of soils that have been identified within the study area? CLASS VIII SOILS
ON THIS PROPERTY. SOILS ARE MOSTLY CLASS 36-F XERIC
TERRITORHEATS, VERY STEEP WITH A CAPABILITY UNIT VIII-e-1.
THERE MAY BE A SMALL PORTION OF SOILS CLASSED 21E - NYSSA SILT
LOAM, 12 TO 20% SLOPE WITH A CAPABILITY UNIT VI-e2

B. What are the types and numbers of existing dwellings that have been identified within the study area?

Primary Farm dwellings 25 Non-farm dwellings 4
Farm hand/labor dwellings _____ Hardship dwellings _____

C. What are the types of farm use occurring in the study area (row crops, pasture, range land, feed crops)? _____

MOSTLY DRY HILLSIDE, ROW CROPS (HAY, WHEAT, CORN
& SUGAR BEETS, SOME ONIONS), PASTURE.

D. What are the number of potential "lot of record" dwellings and non-farm dwellings within the study area?

Lot of Record dwellings 0 Non-farm dwellings 28

E. What are the number of parcels larger than the minimum lot size that may be divided to create new parcels for non-farm dwellings? 0 AS FAR AS CAN BE PROVEN.

F. On the parcels where you concluded no potential dwelling(s) will be sited, describe why? N/A

G. What dwelling development trends have been identified within the study area since 1993? THE AREA

HAS REMAINED RELATIVELY THE SAME WITH VERY FEW
NEW HOMES IN THE AREA. (AND THE WHOLE COUNTY
FOR THAT MATTER.)

STATUTORY BARGAIN AND SALE DEED

HAROLD E. KURTZ AND BETTY L. KURTZ Grantor,
hereby grants, bargains, sells and conveys unto MICHAEL ALAN KURTZ
Grantee

The following described real property situated in Malheur, County, Oregon, to-wit:

- LEGAL ATTACHED -

Inst. No. 2008-8230
I certify that the within Instrument of writing was received for record on the 4 day of Dec., 2008 at 12:41 O'clock P.M. FEE \$24
STATE OF OREGON, County of Malheur
DEBORAH R. DeLONG
County Clerk

By: Shirley Johnson Deputy

This property is free of liens and encumbrances EXCEPT: NONE

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)) THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)).

The true consideration for this conveyance is \$180,000.00 (Here comply with the requirements of ORS 93.030)

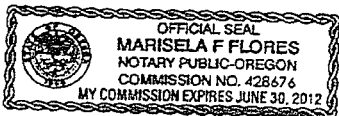
DATED this 4 day of December 2008

Harold E. Kurtz
Betty Kurtz

STATE OF OREGON, COUNTY OF MALHEUR ss.

The foregoing instrument was acknowledged before me this 4 day of December 2008

By HAROLD E. KURTZ & BETTY L. KURTZ



Marisela F. Flores
Notary Public for: Malheur County
Commission Expires: 6-30-12

Return Document and Until requested otherwise send all tax Statements to:

MICHAEL ALAN KURTZ
805 Thompson
Dr. Stimpert
Nyssa, Ore 97913

THIS DOCUMENT IS FILED FOR RECORD BY FIRST AMERICAN TITLE INS., AS AN ACCOMMODATION ONLY. IT HAS NOT BEEN EXAMINED AS TO ITS EXECUTION OR AS TO ITS EFFECT UPON TITLE.

KURTZ
DEED

INSTRUMENT NO. 2008 - 8230
Page 2 of 2 Pages

Map 194634 - Tax Lot 900

Land in Malheur County, Oregon, as follows:

In Twp. 19 S., R. 46 E., W.M.:

Sec. 34: W1/2 SE1/4,

EXCEPTING THEREFROM that portion of the SW1/4 SE1/4 described as follows;

Commencing at a point on the South boundary of said Sec. 4, 310 feet East of the Southwest corner of said SW1/4 SE1/4;
thence West 310 feet to said Southwest corner;
thence North, coincident with the North-South centerline of Sec. 34, 435 feet;
thence Southeasterly, in a straight line, to the Point of Beginning.

ALSO a parcel of land in the E1/2 SW1/4 described as follows:

Commencing at a point 435 feet North of the Southeast corner of the SW1/4 of said Sec. 34;
thence Northwesterly, in a straight line, to the Northwest corner of the NE1/4 SW1/4 of Sec. 34;
thence East to the centerline of said Sec. 34;
thence South, coincident with said North-South centerline, to the Point of Beginning.

Map 20462 - Tax Lot 300

Land in Malheur County, Oregon, as follows:

In Twp. 20 S., R. 46 E., W.M.:

Sec. 2: Govt Lot 4.

SEE MAP 19S 46E

KIMBERLY

800
122.00 AC

900
111.17 AC

29

1000
76.50 AC



33

34

CLOVERDALE

AVE

SEE MAP 20S 46E 03

SEE MAP 20S 46E 02

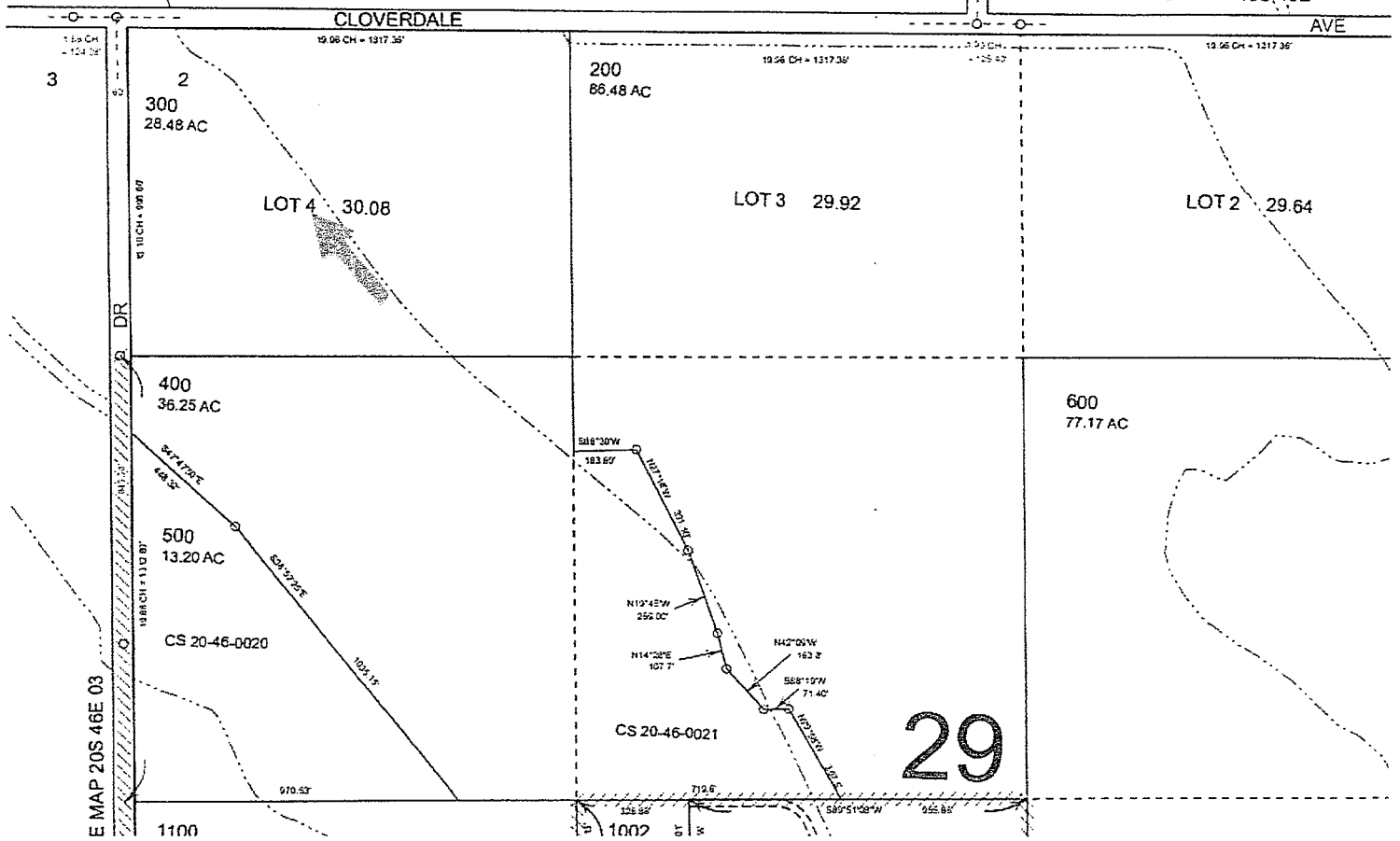
3

2

34

35

SEE MAP 19S.46E



Mike Kurtz Property Plot PLAN

1317'

20' ROAD
ACCESS
EASEMENT

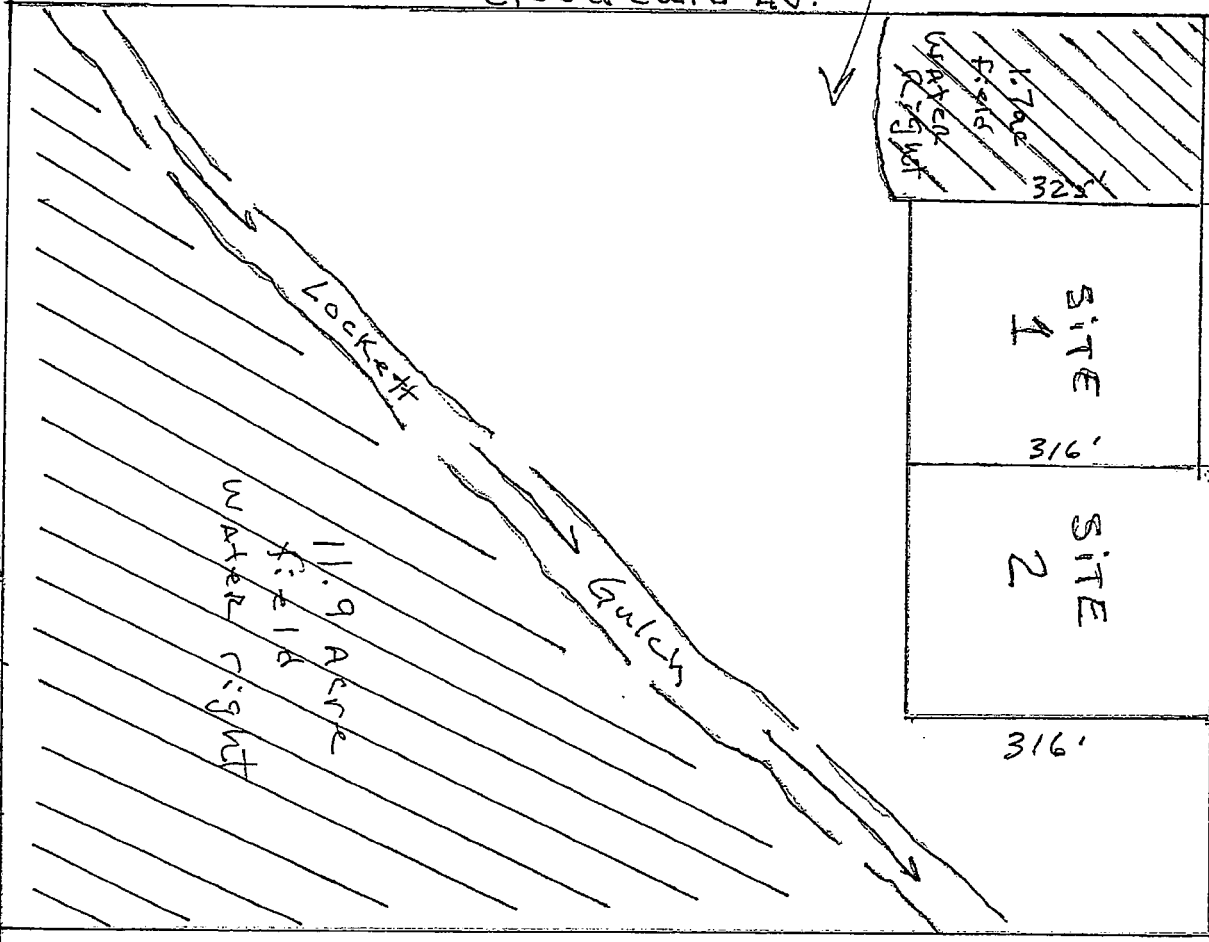
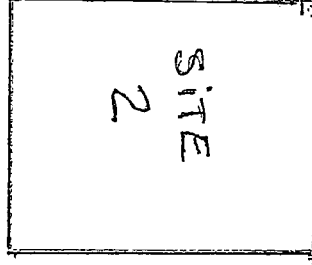
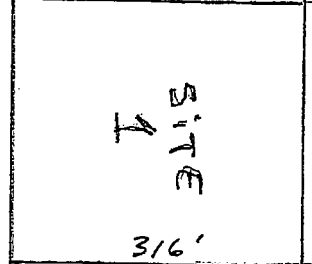
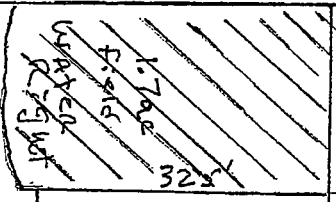
Cloverdale Av.

207'

275'

275'

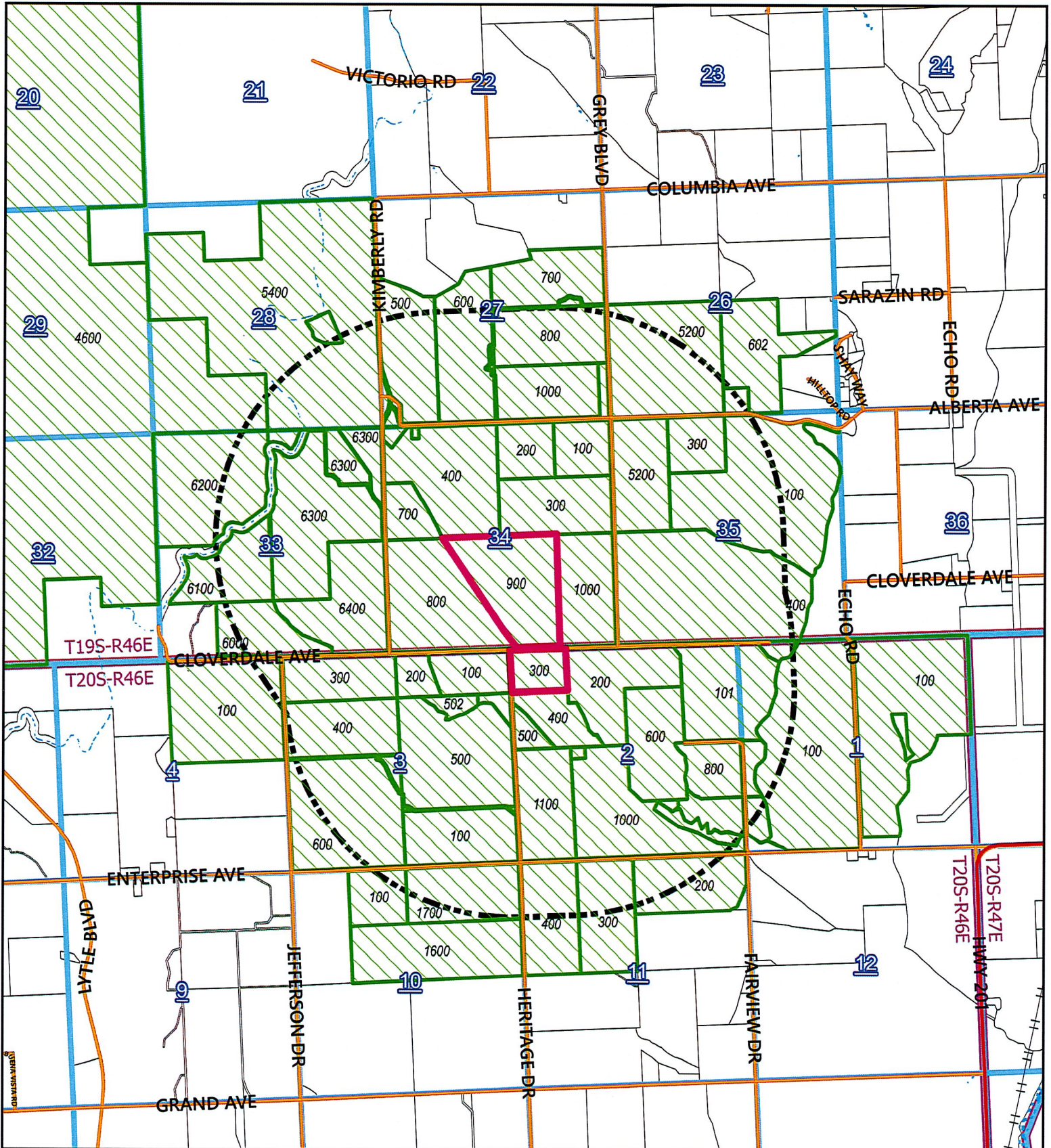
995'



11.9 ACRES
FIELD
WATER RIGHT

36 PITCH





Legend

- 1 Mile Radius
- Township and Range
- Sections
- Kurtz, Michael
- Property owners within mile radius from Kurtz property

Mile Radius Map

Kurtz, Michael

| | |
|--|--|
| | -20S46E02, 300 Reference# 9969 -19S46E34, 900 Reference# 9575 |
|--|--|

Map is prepared for assessment purposes only

N

W E

S

0 3,000

Feet

GL 10312022