



# NOTICE OF LAND USE DECISION

**You may have received this because you are an adjacent property owner, and this notice is required to be provided pursuant to ORS 215.416. The proposal is identified in this decision and will be located on the subject property.**

Planning Department  
60 E. Second St.  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

This decision notice is required to be sent to the property owner(s), applicant(s), adjacent property owners (distance of notice is determined by zone area – Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, agencies with interest, or person that has requested notice. Please read all information carefully as this decision. (See attached vicinity map for the location of the subject property).

Date of Notice: **Wednesday, June 26, 2024**  
File No(s): ACU-24-024

Proposal: Request for a land use determination and approval for a Validation of a Unit of Land Not Lawfully Established that could be been allowed through a property line adjustment.

Property Owner(s): ISENHART LIVING TRUST                      COOK, PATTY ET AL  
PO BOX 174    PO BOX 111  
BROADBENT, OR 97414-0174                                      BROADBENT, OR 97414-0111

Surveyor(s): Bartton Heichel, P.L.S, Land Mark Surveying, Inc.  
PO Box 13  
Roseburg, OR 97470

Staff Planner: Jill Rolfe, Planning Director

Decision: **Approved with Conditions.** All decisions are based on the record. This decision is final and effective at close of the appeal period unless a complete application with the fee is submitted by the Planning Department at 5 p.m. on **Monday, July 08, 2024.** If the office is not open the drop box is available but the any appeal not received by the date and time indicated by this notice will be rejected Pursuant to Section 5.8.100 Property Line Adjustments are appealable within twelve (12) days the written notice is mailed. Appeals are based on the applicable land use criteria. *Property line adjustments pursuant to CCZLDO Article 6.3 Property Line Adjustments. Civil matters including property disputes outside of the criteria listed in this notice will not be considered. For more information, please contact the staff planner listed in this notice.*

### Property Information

Map Number(s)	Account Number	Zoning	Total Property Acreage
30S121900-00101	1308001	EXCLUSIVE FARM USE (EFU)	3.30 Acres
30S121900-00100	1308000	EXCLUSIVE FARM USE (EFU) FOREST (F)	148.44 Acres
30S121900-00200	1308200	EXCLUSIVE FARM USE (EFU) FOREST (F)	159.52 Acres

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

Mailed notices to owners of real property required by ORS 215 shall be deemed given to those owners named in an affidavit of mailing executed by the person designated by the governing body of a county to mail the notices. The failure of the governing body of a county to cause a notice to be mailed to an owner

This notice shall be posted from June 26, 2024 to July 8, 2024

of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance. **NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.**

The application, staff report and any conditions may be found at the following link:

<https://www.co.coos.or.us/community-dev/page/land-use-applications-submitted>

The application and all documents and evidence contained in the record, including the staff report and the applicable criteria, are available for inspection, at no cost, in the Planning Department located at 60 E. Second St., Coquille, Oregon; however, an appointment is required to be setup for viewing purposes. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Crystal Orr, Associate Planner and the telephone number where more information can be obtained is **(541) 396-7770**.

Failure of an issue to be raised in a hearing, in person or in writing, or failure to provide statements of evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes raising the issue in an appeal to the Land Use Board of Appeals.

Reviewed by: *Jill Rolfe*  
Jill Rolfe, Planning Director

Date: Tuesday, June 25, 2024 .

**This decision is authorized by the Coos County Planning Director, Jill Rolfe based on the staff's analysis of the Findings of Fact, Conclusions, Conditions of approval, Application and all evidence associated as listed in the exhibits.**

#### EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

Exhibit C: Adjustment Map

The following exhibits are on file at the Coos County Planning Department and may be accessed by contacting the department. All noticeable decisions are posted on the website for viewing when possible.

Exhibit D: Staff Report -**Findings of Fact and Conclusions**

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**

The applicant (applicant includes property owner and any successor) shall comply with the following conditions of approval with the understanding that all costs associated with complying with the conditions are the responsibility of the applicants and that the applicants are not acting as an agent of the county. If the applicant fails to comply or maintain compliance with the conditions of approval the permit may be revoked as allowed by the Coos County Zoning and Land Development Ordinance. Please read the following conditions of approval and if you have any questions contact planning staff. This is a tentative decision and will become final if the conditions of approval are completed correctly and any required survey maps and/or deeds are completed.

The only condition of approval is to record a final plat within the 90 days of the decision. If this is not able to be accomplished the statute provides for additional time. Once a plat is completed and recorded the parcel will be considered lawfully created and can be sold.

**EXHIBIT "B:  
NOTIFICATION MAP**

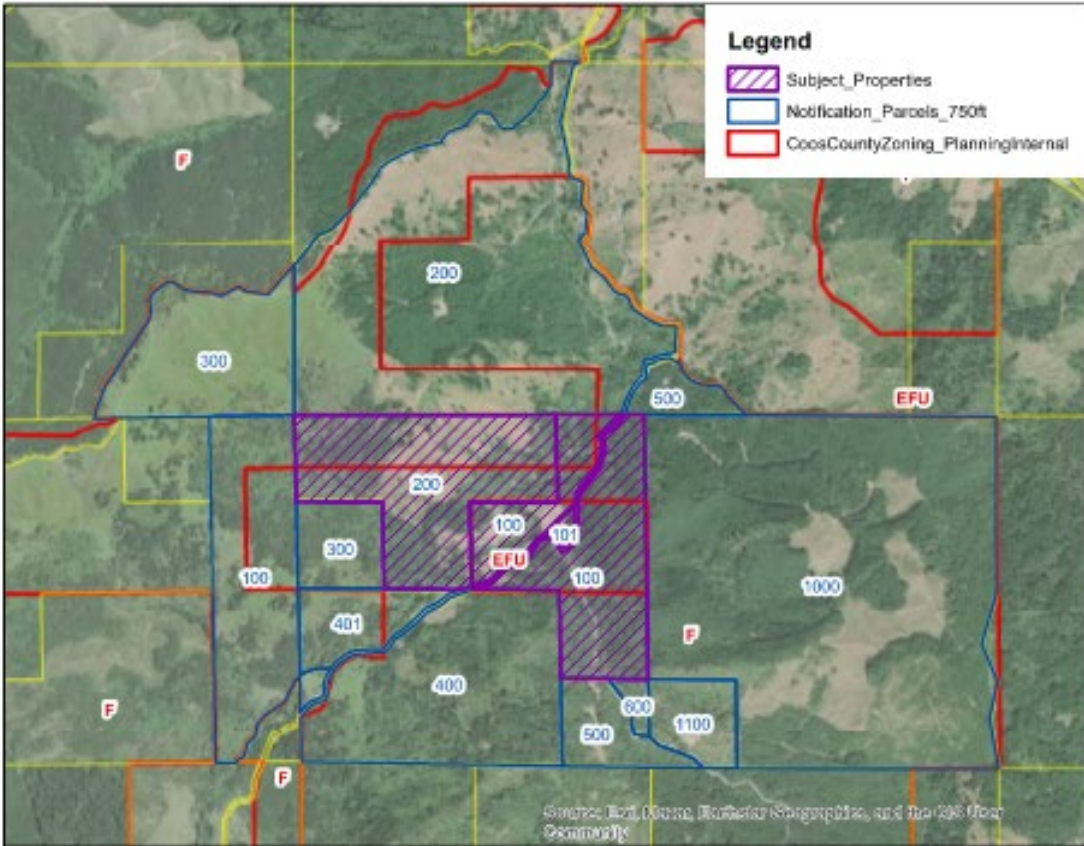


**COOS COUNTY PLANNING DEPARTMENT**

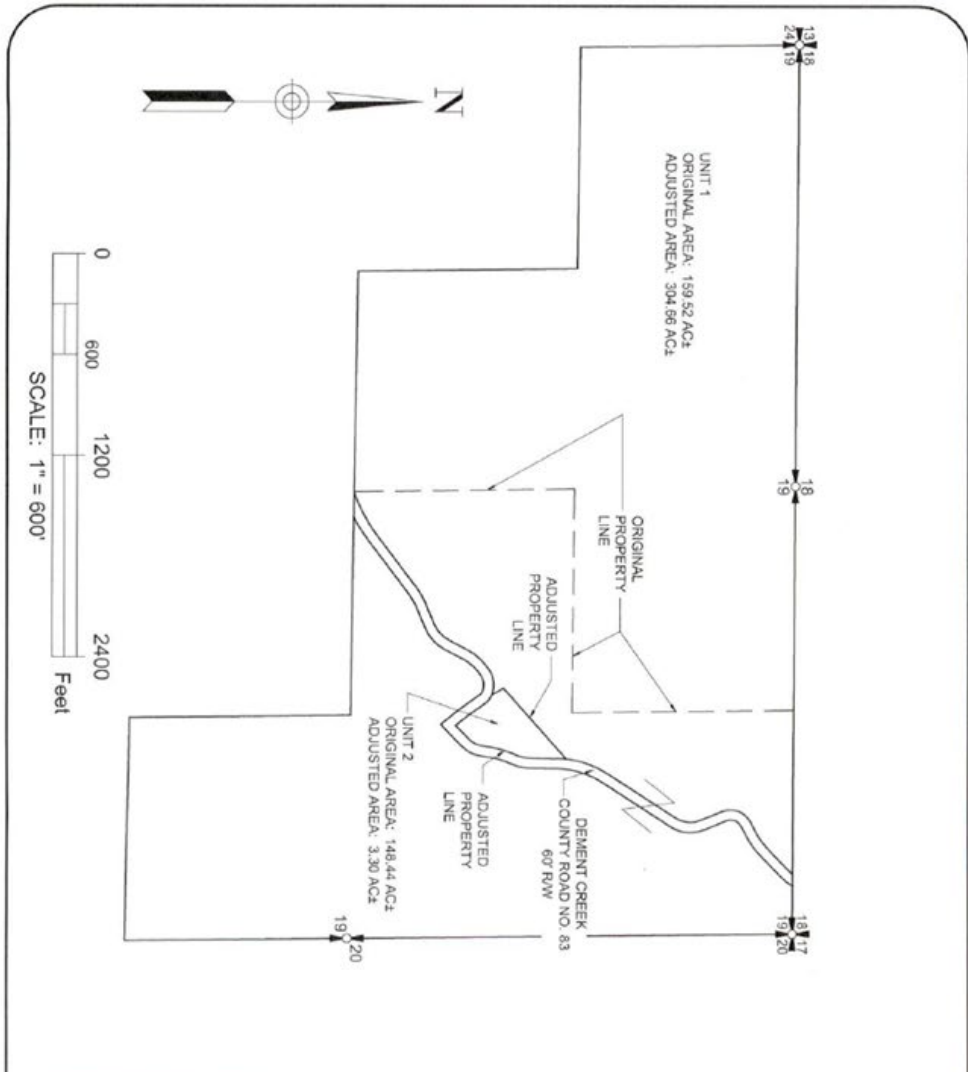
Mailing Address: 250 N. Baxter, Coquille, Oregon 97423  
Physical Address: 60 E. Second, Coquille Oregon  
Phone: (541) 396-7770  
TDD (800) 735-2900



File: ACU-24-024  
Applicant/  
Owner: Isenhart Living Trust, John & Laura  
Trustees  
Date: June 25, 2024  
Location: Township 30S Range 12W  
Section 19 TL 100, 101, 200  
Proposal: Validation of a Unit of Land Not  
Lawfully Created



**EXHIBIT "C"**  
**Property Line Adjustment Map**  
**Before and After Map**



**OWNER:**  
UNIT 1: ISENHART LIVING TRUST  
JOHN & LAURA ISENHART, TRUSTEES  
PO BOX 174  
BROADBENT, OR 97414

**MAP ID:** 3081219-00-00200  
**TAX ID:** 1308200  
**ZONE:** EXCLUSIVE FARM USE (EFU)  
FOREST (F)

**UNIT 2:** ISENHART LIVING TRUST  
JOHN & LAURA ISENHART, TRUSTEES  
PO BOX 174  
BROADBENT, OR 97414

**MAP ID:** 3081219-00-00100  
**TAX ID:** 1308200  
**ZONE:** EXCLUSIVE FARM USE (EFU)  
FOREST (F)

Sheet 1 of 1

**PRELIMINARY PROPERTY LINE ADJUSTMENT**

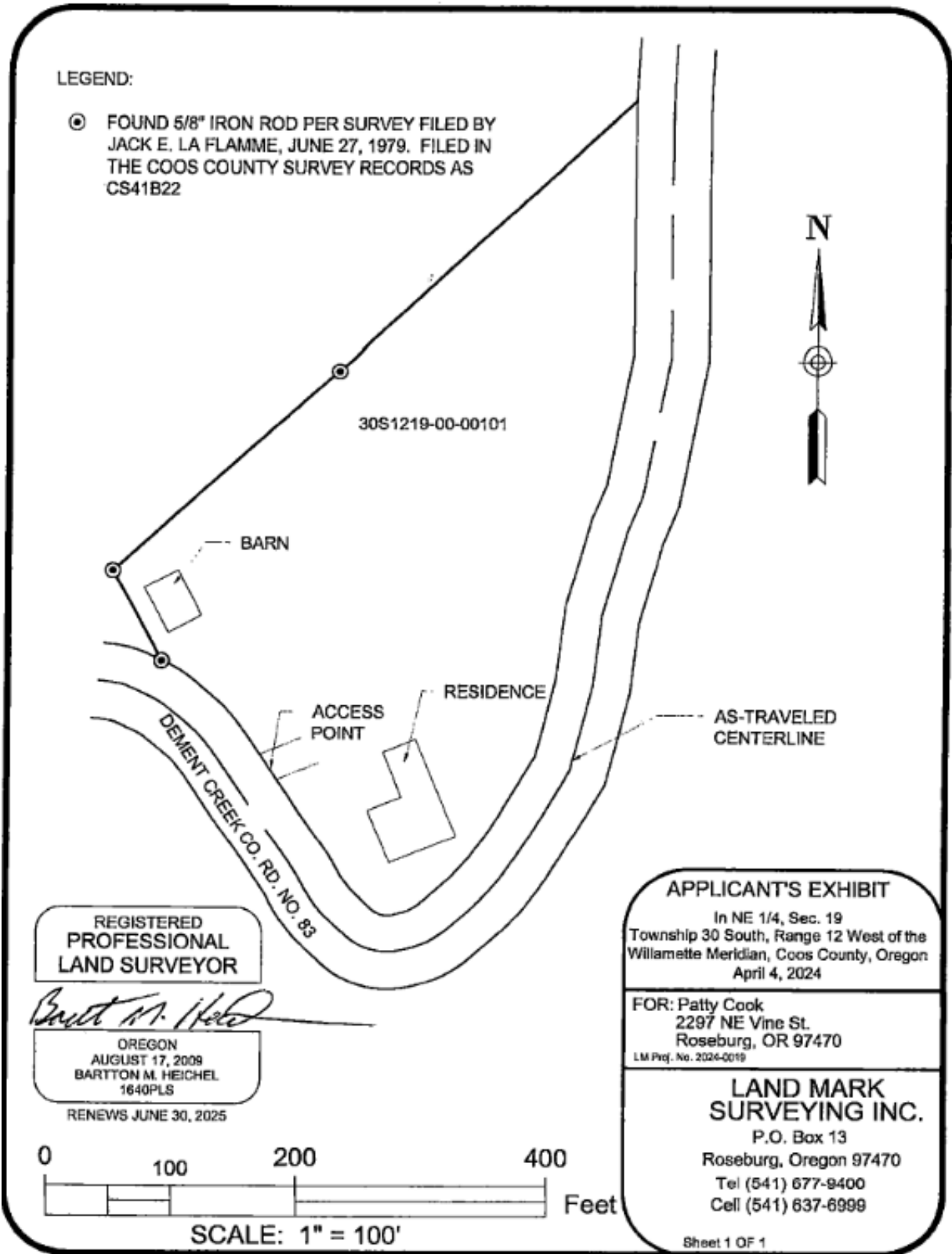
In the North 1/2 and Southeast 1/4 of Section 19,  
Township 30 South, Range 12 West of the Williamette Meridian  
Coos County, Oregon  
May 17, 2024

**REGISTERED PROFESSIONAL LAND SURVEYOR**  
MAREION BRANTON, L.S. 12009  
1549 W. 20th St.  
RENEWALS JUNE 30, 2025

**FOR: John & Laura Isenhart**  
P.O. Box 174  
Broadbent, OR 97414

**LM Land Mark Surveying, Inc.**  
P.O. Box 13 • Medford, Oregon 97510  
Office (541) 877-3400 • Fax (541) 837-5599

Plot Plan



**EXHIBIT “D”  
STAFF REPORT  
FINDINGS OF FACT AND CONCLUSIONS**

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**I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:**

**A. Proposal:** The proposal is a request for Planning Director approval Validation of a Unit of Land Not Lawfully Established through an after the fact Property Line Adjustment.

**B. BACKGROUND INFORMATION:**

On October 22, 1999, a deed was recorded conveying property from the Isenhart Living Trust to John E. Heidenrich or Charlotte Clawson. The Assessor's Office provided a letter on May 18, 2000, explaining that the “Property Line Adjustment” deed does not meet the criteria of ORS 92.190(4). The property will be divided without proper process. This was noted on the account until the properties were brought into compliance.

Earlier this year, when the property owner wanted to list the property for sale, the issue was raised. Staff spent time reviewing the available process, and the property owner hired a surveyor to assist. The only viable process available was a validation of a unit of land using a process that could have been done at the time it was created. A property line adjustment could have been completed to create this unit of land. Therefore, this is the process used to resolve the unlawfully created unit of land.

**C. COMPLIANCE PURSUANT TO SECTION 1.1.300:** It shall be unlawful for any person, firm, or corporation to cause, develop, permit, erect, construct, alter or use any building, structure or parcel of land contrary to the provisions of the district in which it is located. No permit for construction or alteration of any structure shall be issued unless the plans, specifications, and intended use of any structure or land conform in all respects with the provisions of this Ordinance.

**FINDING:** Staff has reviewed the property history and available county records to determine at the time the only issue of compliance is the legality of the lot. Once the plat is recorded the property will be in compliance.

**II. BASIC FINDINGS:**

**A. LOCATION:** The property is south of the Rural Unincorporated Community of Broadbent off of Dement Creek Road. The property is near the divide of Dement Creek Road and Eckley Mountain Road.

**B. ZONING:** The subject properties are zoned Forest (F) and Exclusive Farm Use (EFU).

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

***Forest Mixed Use (FMU)***

*The purpose of the Forest Mixed Farm-Forest Areas (“MU” areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.*

*If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.*

*If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.*

***Exclusive Farm Use (EFU)***

*These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.*

*The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.*

*According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:*

- 1. Committed rural residential areas and urban growth areas.*
- 2. Proposed rural residential areas as per the Exception to Goals #3 and #4.*
- 3. Proposed industrial/commercial sites.*
- 4. Existing recreation areas (e.g., golf courses) [Recreation designation]*
- 5. Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).*
- 6. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].*

*The secondary criterion for establishing the "Agricultural Lands Inventory" was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.*

**C. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS:**

*SECTION 4.11.125 Special Development Considerations: The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed In the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site*

*SECTION 4.11.200 Purpose: Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.*

**The proposal does not include any type of earth moving or structural development; therefore, even if the property was in a Special Development Consideration and/or Overlay Zone it would not be required to be addressed.**

**D. SITE DESCRIPTION AND SURROUNDING USES:**

The subject parcels are mostly farm and forest lands. With residential development sited on tax lot 101.

**E. COMMENTS: No comments have been received on this application.**

**F. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:**

*“Lawfully established unit of land” means:*

*1. The unit of land was created:*

- a. Through an approved or pre-ordinance plat;*
- b. Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;*
- c. In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.*
- d. By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;*
- e. By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation.*
- f. By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. “Navigable-for-title” or “title-navigable” means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

**FINDING: Tax lot 100 and 101 could not be determined to be lawful as tax lot 101 was divided off in 1999 without going through a lawful planning process. Tax lot 200, created through a deed description in 1975, was permitted by deed or land sale contract if there were no applicable planning, zoning, subdivision, or partition ordinances or regulations that prohibited the creation. This application will correct the legality of tax lots 100 and 101.**

**III. STAFF FINDINGS AND CONCLUSIONS:**

**A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:**

The proposal is for Planning Director Approval of a Validation of a Unit of Land Not Lawfully Established through an after the fact Property Line Adjustment. The proposal is subject to Coos County Zoning and Land Development (CCZLDO) Section 6.1.175 Validation of a Unit of Land Not Lawfully Established through an after the fact property line adjustment.

**B. Key definitions:**

- *ACTIVITY: Any action taken either in conjunction with a use or to make a use possible. Activities do not in and of themselves result in a specific use. Several activities such as dredging, piling and fill may be undertaken for a single use such as a port facility. Most activities may take place in conjunction with a variety of uses.*
- *DEVELOP: To bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights to access.*
- *DEVELOPMENT: The act, process or result of developing.*
- *USE: The end to which a land or water area is ultimately employed. A use often involves the placement of structures or facilities for industry, commerce, habitation, or recreation.*

- *ZONING DISTRICT: A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.*
- *Dwelling: Any building that contains one or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.*
- **Applicable Criteria:**

**SECTION 6.1.175 VALIDATION OF A UNIT OF LAND NOT LAWFULLY ESTABLISHED:**

This section does not condone or encourage illegal land divisions, and as a penalty, this process will be charged a triple fee. Road requirements will be at the discretion of the Roadmaster.

1. The Planning Director may approve an application to validate a unit of land that was created by a sale that did not comply with the applicable criteria for creation of a unit of land if the unit of land:
  - a. Is not a lawfully established unit of land pursuant to LDO Section 6.1.125; and
  - b. Could have complied with the applicable criteria for the creation of a lawfully established unit of land in effect when the unit of land was sold.

**FINDING: On October 22, 1999, a deed was recorded conveying property from the Isenhart Living Trust to John E. Heidenrich or Charlotte Clawson. The Assessor's Office provided a letter on May 18, 2000, explaining that the “Property Line Adjustment” deed does not meet the criteria of ORS 92.190(4). The property will be divided without proper process. This was noted on the account until the properties were brought into compliance.**

**The applicant submitted a letter requesting the triple fee be waived. Staff supported the request as the property owners were willing to bring the properties into compliance with out any enforcement action. The Board of Commissioners waived the fee.**

**There are no additional road requirements as both properties have direct access from Dement Creek Road.**

**This has been processed as a conditional use with a notice of decision rendered an appeal period set in compliance with notices requirements.**

**The property owners at the time could have applied for and received approval to reconfigure tax lots 100 and 200 through a property line adjustment, creating the proposed configuration. Therefore, this criterion has been addressed.**

**Subsections 2 and 3 do not apply to this request.**

4. An application to validate a unit of land under this section shall be reviewed as an Administrative Conditional Use, pursuant to LDO Article 5.2. An application to Coos County under this section is not subject to the minimum lot or parcel sizes established for the applicable zoning district.

**FINDING: The minimum lot size in this case would be 80 acres but it is not applicable to this request. Therefore, this has been addressed.**

5. A unit of land becomes a lawfully established parcel when the Planning Director validates the unit of land under this section if the owner of the unit of land causes a Final Plat meeting the applicable requirements of LDO Section 6.2.800 FINAL PLAT REGULATION AND REQUIREMENTS to be recorded within 90 days after the date the Planning Director validates the unit of land.

**FINDING: The Planning Director finds that the reconfiguration of the two tax lots could have been possible at the time the lot was sold. This would not be possible under the current standards due to the restriction on minimum lot sizes. The Planning Director authorizes this request, but the parcels will not become lawfully established until the final plat is recorded. A final partition plat is required to be file to complete this process.**

A “Partition plat” includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition. Plats are required to meet ORS 92.

**IV. DECISION:**

The proposed Property Line Adjustments meet the requirements of the Coos County Zoning and Land Development Ordinance, with conditions listed in Exhibit “A” of this report.

**V. EXPIRATION:**

This is a tentative approval that is valid for up to one year. To finalize this decision the applicant shall comply with the approval and filing requirements found in the conditions of approval in Exhibit “A” of this report once the appeal period has expired and an appeal has not been filed.

**VI. NOTICE REQUIREMENTS:**

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special district or parties: Coos Forest Protective Association

A Notice of Decision and Staff Report will be provided to the following:

Applicants/Owners, Department of Land Conservation and Development, County Surveyor, County Assessor’s Cartography Staff, Planning Commission and Board of Commissioners.

Adjacent property owners will receive a Notice of Decision and maps, but all other attachments can be found by contacting the Community Development Department - Planning Department or visiting the website. If not found on the website the public may contact the department to view the official record.