



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

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: **Tuesday, March 07, 2023**
File No: ACU-22-058

Proposal: Request for a land use authorization for a Validation of a Unit of Land Not Lawfully Established

Applicant(s): Weyerhaeuser Co
16821 SE McGillvray Blvd #112
Vancouver, WA 98683

Staff Planner: Crystal Orr, Associate Planner

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 **Wednesday, March 22, 2023**. This proposal is for a Validation of a Unit of Land not Lawfully Established. Appeals are based on the applicable land use criteria. *Validation of a Unit of Land Not Lawfully Established is subject to approval under the Coos County Zoning and Land Development Ordinance (CCZLDO) Article 6.1 Lawfully Created Lots and Parcels; Section 6.1.175 Validation of a Unit of Land Not Lawfully Established; and Section 6.2.800 Final Plat Regulations.*

Subject Property Information

File Number: ACU-22-058

Applicant: Weyerhaeuser Company

Account Numbers: 1468800, 146880, 99920508

Map Numbers: 32S120000-00700, 32S120000-00701, 32S120000-00702

Property Owners: WEYERHAEUSER COMPANY
C/O TAX DEPARTMENT DAWN BYERS
220 OCCIDENTAL AVE S
SEATTLE, WA 98104-3120

POWERS RANCH CO.
5800 40TH AVE W
SEATTLE, WA 98199-1062

HTFF OR-T LLC
C/O HANCOCK NATURAL RESOURCE CORP INC
17700 SE MILL PLAIN BLVD STE 180
VANCOUVER, WA 98683-7582

Situs Address: No Situs Address

Acreege: 657.22 Acres, 143.70 Acres, 639.08 Acres

This notice shall be posted from March 7, 2023 to March 22, 2023

Zoning: FOREST (F)
Special Considerations: BIG GAME SENSITIVE (BGS)
NATIONAL WETLAND INVENTORY SITE (NWI)

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 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 can be found at the following link:
<https://www.co.coos.or.us/community-dev/page/planning-department>

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 Street, Coquille, Oregon. 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: _____ **Date:** Tuesday, March 07, 2023 .
Crystal Orr, Associate Planner

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 evidenced associated as listed in the exhibits.

EXHIBITS

Exhibit A: Conditions of Approval
Exhibit B: Vicinity Map

The Exhibits below are mailed/ emailed to the Applicant, Board of Commissioners and Planning Commission only. Copies are available upon request or at the following

Exhibit C: Staff Report

EXHIBIT "A"

Conditions of Approval

The applicant 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.

The applicant has met the applicable criteria, with the following conditions:

1. All necessary federal, state, and local permits shall be obtained.
2. A Final Plat meeting the applicable requirements in Section 6.2.800 shall be recorded within 90 days from the date the Planning Director validates the unit of land.

EXHIBIT "B"
Vicinity Map



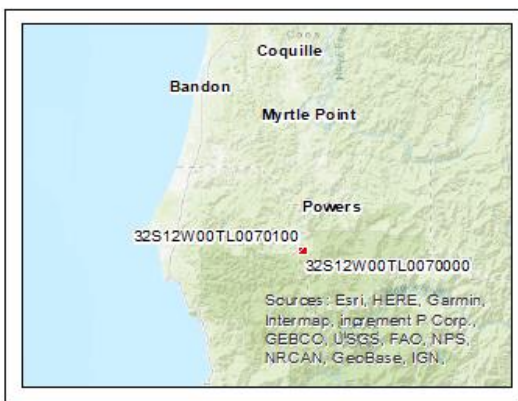
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423

Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



File:	ACU-21-058
Owner:	Weyerhaeuser Co.
Date:	February 28, 2023
Location:	Township 32S Range 12W Section 00(17/18) TL 700/701
Proposal:	Administrative Conditional Use



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

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

I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:

- A. PROPOSAL:** The applicants' proposal is a request for Planning Director Approval for Validation of a Unit of Land Not Lawfully Established as provided by the Coos County Zoning & Land Development Ordinance (CCZLDO).
- B. BACKGROUND/PROPERTY HISTORY:** Tax lot 700 was unlawfully divided by deed document 92-06-1148, and deed document 2020-11554. The applicant submitted the Conditional Use to validate the parcels on November 1, 2022. The application was deemed complete on December 1, 2022, which is within the required timeframe. The deemed complete process is a review that all the materials have been submitted as explained in the applications. This is not full review of the criteria as the burden of proof rest with the applicant and the details of the application are reviewed during the review period.
- C. LOCATION:** The subject properties are located southwest of the City of Myrtle Point and accessed by and located off of Salmon Creek Road.
- D. ZONING:** The properties are zoned Forest (F).

Section 4.2.500 Resource Zones

Forest (F)

The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.

The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the “F” zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.

- E. SITE DESCRIPTION AND SURROUNDING USES:** Tax lot 700 consists of 657.22 acres, tax lot 701 consists of 143.70 acres, and tax lot 702 consists of 639.08 acres. The parcels are surrounded by Forest (F) and Exclusive Farm Use (EFU) zoning and are being used for forest and farm uses.

II. GENERAL PROPERTY COMPLIANCE:

A. 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, unless approval has been granted by the Hearings Body.

B. 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: These properties were not acknowledged as lawfully created; therefore, this application was submitted to bring the properties into compliance through "Validation of a Unit of Land Not Lawfully Established".

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Validation of a Unit of Land Not Lawfully Established and is subject *Coos County Zoning and Land Development Ordinance (CCZLDO) Article 6.1 Lawfully Created Lots and Parcels; Section 6.1.175 Validation of a Unit of Land Not Lawfully Established.*

B. 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 must 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.

FINDING: This property has Big Game Sensitive and National Wetland Inventory Site. Big Game Sensitive will require a request for comments to Oregon Department of Fish & Wildlife and National Wetland Inventory Site will require a request for comments to Department of State Lands when development is proposed, any comments received from Department of State Lands must be adhered to at the time of development.

C. LAND DIVISION REQUIREMENTS (PARTITION REQUIREMENTS)

Coos County Zoning and Land Development Ordinance (CCZLDO)

i. GENERAL COMPLIANCE

- **ARTICLE 6.1 LAWFULLY CREATED LOTS AND PARCELS**

A legal lot is a lot or parcel created in compliance with the current state and county regulations for land divisions. Lots are created through subdivisions (4 or more lots is a subdivision) and parcels are created through a partition (3 or less parcels is a partition). Additionally, this ordinance recognizes that parcels may be created through other means that were consistent with a prior county ordinance or state law such as the adoption of different land division provisions [December 6, 1962 - December 31, 1985 ordinances in place prior to acknowledgement of the Coos County Comprehensive Plan

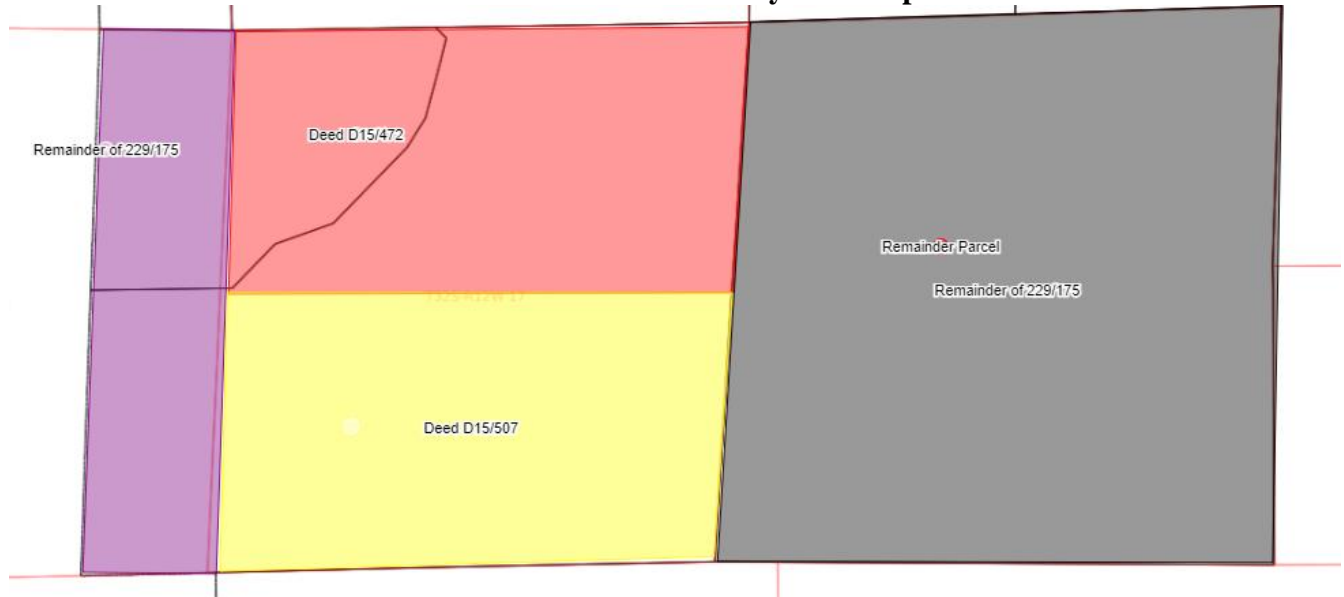
(CCCP)]. *Parcels created prior to the adoption of the current acknowledged CCCP (1986) may require an application to determine the legality of said parcel.*

Once lawful parcels or lots have been established pursuant to LDO Section 6.1.125 those lots or parcels shall remain lawfully created or discrete lots or parcels unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. If a parcel or lot is reconfigured by a property line adjustment that becomes the new discrete lot or parcel and the official date of creation.

- *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.*
- 2. *Notwithstanding subsection (1)(b) of this section, the Planning Director may approve an application to validate a unit of land under this section if the Planning Department or Hearings Body approved a discretionary decision for the construction or placement of a dwelling or other building on the unit of land after the sale. If the permit was approved for a dwelling, the Planning Director must determine that the dwelling qualifies for replacement under the criteria listed below.*
 - a. *The dwelling must contain:*
 - i. *Intact exterior walls and roof structure;*
 - ii. *Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;*
 - iii. *Interior wiring for interior lights; and*
 - iv. *A heating system*
- 3. *Coos County may approve an application for an Administrative Conditional Use Permit for the continued use of a dwelling or other building on a unit of land that was not lawfully established if:*
 - a. *The dwelling or other building was lawfully established prior to January 1, 2007; and*
 - b. *The permit does not change or intensify the use of the dwelling or other building.*
- 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.*
- 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: Tax lot 700 described in deed 65-4679 originally contained 1,440 acres according to deed records. In 1992 a parcel was deeded out (deed document 92-06-1148) containing 143.70 acres without Coos County Planning approval. In 2020 another parcel was deeded out containing 639.08 acres (deed document 2020-11554) without Coos County Planning approval.

Validation of a Unit of Land requires that the parcels 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. Tax lot 700 contained four lawfully created parcels as shown below:



The parcel in red was created by deed document D15/472, recorded on September 28, 1887. The parcel in yellow was created by deed document D15/507, recorded on October 5, 1887. Both of these parcels were later conveyed, along with the purple and gray parcel in deed document 229/175 recorded on August 11, 1953. The deeds from the year 1887 could have been used to deed the yellow and red parcel out on their own deeds, which would have resulted in two (2) remainder parcels (gray and purple).

The gray parcel (tax lot 702) was deeded out unlawfully through deed document 2020-11554. The other parcels (currently tax lot 700 and 702) are not in the original configuration of the lawfully created unit of land, but they could have been permitted in the configuration by deeding them out, consolidating two (2) of the three (3) parcels and then adjusting the boundary line between the parcels.

The Coos County Zoning and Land Development Ordinance that was adopted in June 1991 would have allowed the lots to be deeded out. See below criteria from the June 1991 ordinance:

SECTION 3.3.800. Lawfully Created Lots and Parcels.

All lots or parcels created prior to January 1, 1986 and all lots or parcels lawfully created thereafter shall remain discrete lots or parcels, unless individual lot or parcel lines are changed or vacated or the individual lot or parcel is further divided as provided by this Ordinance.

- (1) Separate tax lot or tax account numbers do not in themselves divide property into separate discrete lots or parcels.
- (2) Mortgages, trust deeds, or liens do not divide property.
- (3) Deeds for lawfully created lots or parcels not in the "same ownership" do divide property. "same ownership" shall include land deeded to the same persons (initials are considered the same as full names).

<u>OWNERS OF PROPERTY "A"</u>	<u>OWNERS OF CONTIGUOUS PROPERTY "B"</u>	<u>DOES A SEPARATE TRACT, LOT OR PARCEL EXIST</u>
John Adam Doe	John Doe	No
J. Adam Doe	John A. Doe	No
John & Mary Doe	J.A. & M.S. Doe	No
John A. Doe	Mary S. Doe	Yes
John & Mary Doe	M.S. Doe	Yes

- (4) Land sales contracts and trust deeds do divide property if there are no applicable planning, zoning or partitioning ordinances or regulations.
- (5) The presence of public road easements or public road dedications do not of themselves divide property into separate discrete lots or parcels, except where such public roads are located within an urban growth boundary or "developed or committed" exception area pursuant to OAR 660-04.
- (6) Submerged lands claimed by the state in fee and other intervening ownerships, do divide property into separate discrete lots or parcels.
- (7) Private road easements do not divide property.

D. Resource Zone Boundary Adjustment: A common ownership line between two adjacent owners in any resource zone or zones may be adjusted provided:

1. an administrative conditional use is approved addressing Review Standard #98 if the zoning is agricultural, or Review Standard #31 if the zoning is forestry, or both Review Standards #31 and #98 if both agricultural and forestry zoning is involved; and
2. a partition pursuant to Chapter VI is not required unless the creation of an access is necessary to accomplish the boundary adjustment.

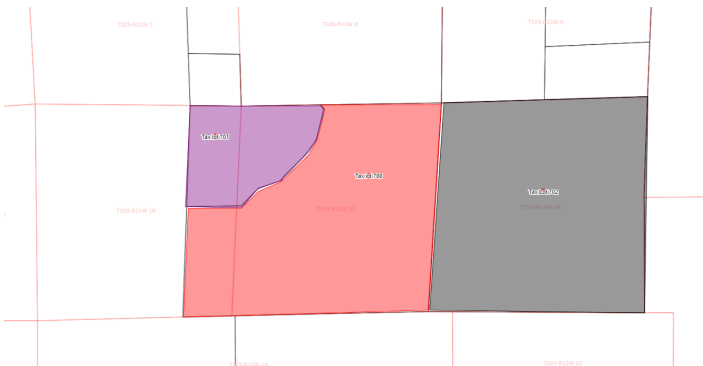
31. Division of forest parcels.

A. Requirements for forest parcels.

- 1) Any proposed parcel intended for forest use must be shown to be adequate to support the specific type of forest use proposed, or other forest use; and
- 2) If the proposed forest use is the production of trees, the parcel size shall be compatible with other parcels being managed for the same purpose in the nearby general area of the subject parcel, so as to ensure that new parcels will be large enough to foster and enhance long-term management of the subject parcel for timber production or other forest uses. In determining compatibility, consideration shall be given to type of land ownership (whether government, commercial corporate, or private individual), to mode of operation, and to other factors such as whether the ownerships are in strictly forest or mixed farm-forest use.

B. Requirements for non-forest parcels.

- 1) Review Standards #19 is complied with.
- 2) If the proposed parcel is intended for a non-farm or forest use, it shall be only as large as necessary to accommodate the use and any buffer area needed to ensure compatibility with adjacent farm or forest uses.

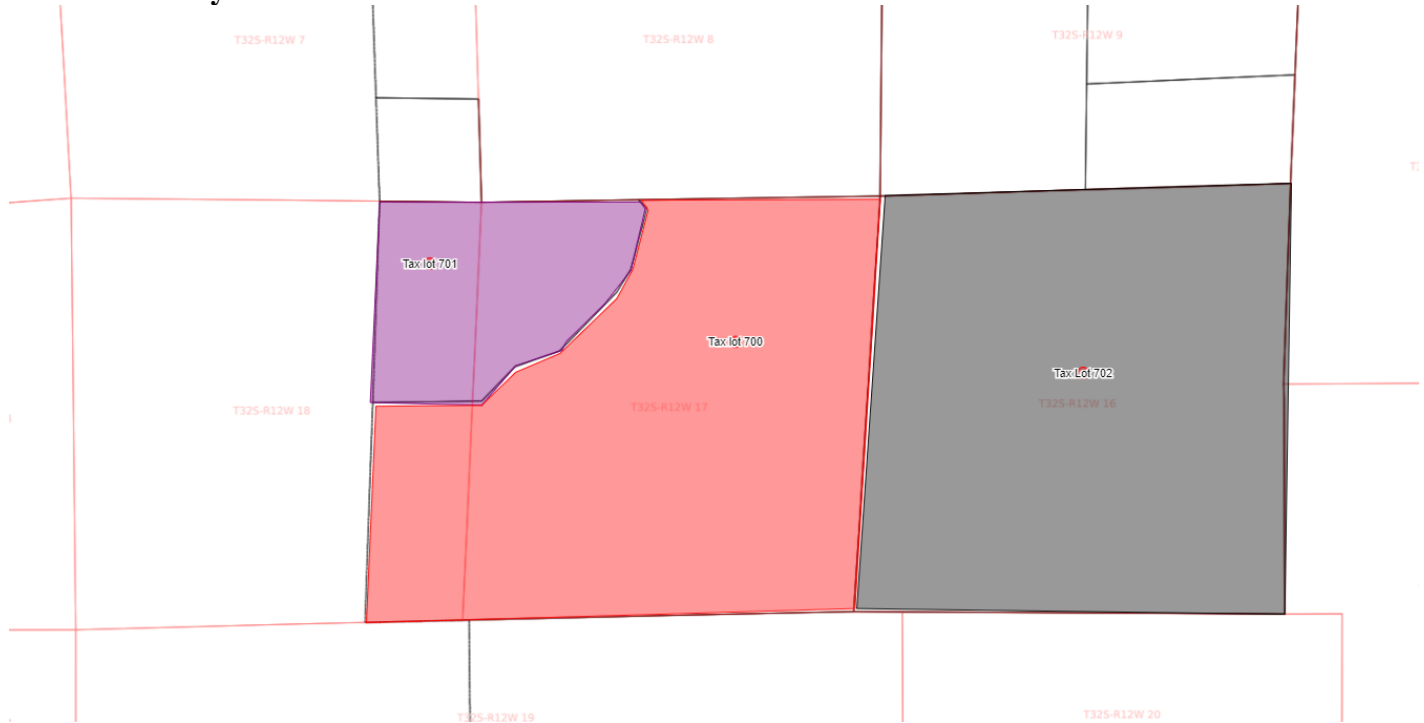


At the time that the red and purple parcels were divided and adjusted the property owners could have deeded out the parcels without Coos County Zoning and Land Development review and submitted a property line adjustment through a conditional use application. The adjustment would have met the requirements of the ordinance at the time they were created.

The Lawfully Created Lots and Parcels criteria within the 1991 Coos County Zoning and Land Development Ordinance did not require that all parcels be deeded out prior to reconfiguration of the parcel. The current Lawfully Created Lots and Parcels criteria requires states that “If a parcel or lot is reconfigured by a property line adjustment that becomes the new discrete lot or parcel and the official date of creation.” The ordinance in effect at the time did not require this, and therefore the gray lot could have been lawfully deeded out through a Lawfully Created Lots and Parcels Determination.

All of the tax lots meet the minimum acreage requirement for the Forest (F) zoning district of 80 acres. Tax lot 700 contains 657.22 acres, tax lot 701 contains 143.70 acres and tax lot 702 contains 639.08 acres.

The configuration of the parcels today Tax Lot 701 in purple, Tax Lot 700 in red, and Tax Lot 702 in Gray is below:



Staff finds that the applicant has met the criteria to Validate a Unit of Land Not Lawfully Established. The units of land become lawfully established when a Final Plat meeting the applicable requirements of the Coos County Zoning and Land Development Ordinance (CCZLDO) Section 6.2.800 Final Plat Regulations and Requirements to be recorded within 90 days from the date the Planning Director Validates the land. This means that the Final Plat must be recorded within 90 days of the appeal period (March 22, 2023).

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

The following will receive the decision and all attachments: Property Owners and Applicant; Applicant’s Surveyor; Board of Commissioners; Planning Commission; Department of Land Conservation and Development; County Road Department; County Surveyor; County Assessor; and Oregon Department of Transportation.

