



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. (See attached vicinity map for the location of the subject property).

Date of Notice: **Friday, April 28, 2023**
File Nos: ACU-23-018/ D-22-008/ PLA-22-036/ PLA-23-006

Proposal: Request for a land use authorization for a Validation of a Unit of Land Not Lawfully Established, Lawfully Created Parcel Determination & two (2) Property Line Adjustments.

Applicant(s): Stephan Stys
PO Box 574
Lakeside, OR 97449

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 12 p.m. on **Monday, May 15, 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-23-018

Applicant: Weyerhaeuser Company/ Fairview Timber

Account Numbers: 1245100/ 99916862/ 99920490
Map Numbers: 30S100000-00200, 201, 202

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

FAIRVIEW TIMBER LLC
C/O THE CAMPBELL GLOBAL, LLC
8809 LENOX POINTE DR STE B
CHARLOTTE, NC 28273-3377

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

This notice shall be posted from April 28, 2023 to May 15, 2023

Acreage: 239.70 Acres, 1235.15 acres, 109.95 acres
Zoning: FOREST (F)
Special Considerations: BIG GAME SENSITIVE (BGS) NATURAL HAZARD - LANDSLIDE
(NHLND) NATURAL HAZARD - WILDFIRE (NHWF)

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: Friday, April 28, 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 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 C: ACU-23-018 Staff Report -**Findings of Fact and Conclusions**

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:

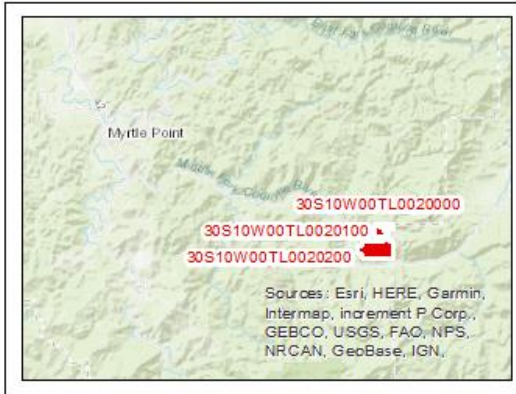
1. All necessary federal, state, and local permits shall be obtained.
2. A Final Plat meeting the applicable requirements in Section 6.2.800 shall be recorded within 90 days from the date the Planning Director validates the unit of land.

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



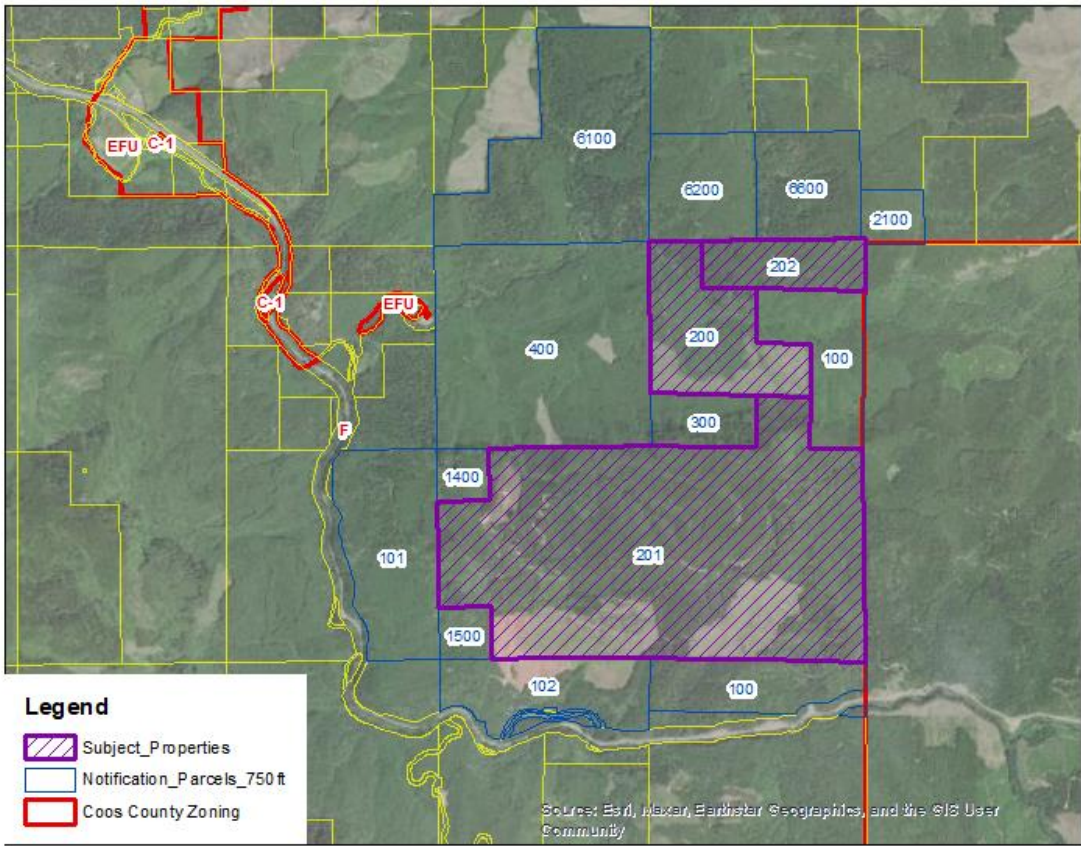
File: ACU-23-018

Owner: Weyerhaeuser Company
HTFF OR-T LLC
Fairview Timber LLC

Date: April 12, 2023

Location: Township 30S Range 10W
Section 00(1) TL 200, 202
Section 00(11,12) TL 201

Proposal: Administrative Conditional Use



**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 a 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 200 originally contained 1,584.80 acres according to deed document 65-4679. The unit of land was unlawfully divided by deed document 2012-1545, which created tax lot 201 with 1,235.15 acres, and left tax lot 200 with 349.65 acres. Deed document 2020-1154 further divided the unit of land creating tax lot 202 with 109.70 acres and resulted in tax lot 200 containing 239.70 acres. This application was submitted to resolve the illegal land division.
- C. LOCATION:** The subject properties are located southeast of the City of Myrtle Point.
- 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 200 consists of 239.70 acres, tax lot 201 consists of 1235.15 acres, and tax lot 202 consists of 109.70 acres. The units of land 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, a Validation of a Unit of Land Not lawfully Established Application was submitted.

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, Natural Hazard Landslide and National Wetland Inventory Site. These overlay zones/ special development considerations require a request for comments when development occurs. At this time no development is proposed.

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 200 described in deed 65-4679 originally contained 1,584.80 acres according to deed records. In 2012 a parcel (tax lot 201) was deeded out (deed document 2012-1545) containing 1,235.15 acres without Coos County Planning approval. In 2020 another parcel (tax lot 202) was deeded out containing 109.70 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. Had the property owner submitted a Lawfully Created Lots and Parcels application, as well as Property Line Adjustment applications to create the configuration, these parcels would have been considered legally created.

In 2012 when tax lot 201 was deeded the Lawfully Created Lots or Parcels criteria in effect was:

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 6.1.100 WHAT IS NOT A LAWFULLY CREATED LOT OR PARCEL:

The following circumstances do not lawfully create lots or parcels:

- 1. Tax lots do not create lawfully created lots or parcels. A tax lot is a unit of land used by the County Assessor's office to set a value for property taxation. Tax lot creation or modification often uses methods that do not meet legal lot standards. Also included in this category are individual tax account numbers or statements. A tax account is used for taxing purposes.*
- 2. Units of land conveyed by deed or contract do not necessarily create a legal lot or parcel. Units of land created by this method define ownership and title, but do not necessarily mean it was lawfully created under the state and local land use laws in effect at the time it was completed.*
- 3. Multiple ownership of a parcel shown as a percentage does not divide the property.*
- 4. A lot or parcel created by a land division without final county approval is not a legal lot. A partition or subdivision, in which the developer failed to complete the process within the allotted timeline and failed to receive an extension, is void. A plat must have been recorded at the County Clerk's office.*
- 5. Roads held in fee created after 1990 do not divide property.*

SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

- 1. The unit of land was created by an approved and recorded partition or subdivision;*
- 2. A unit of land determined to be a legal lot or parcel though a prior county approval of a land use decision;*
- 3. The unit of land is recognized as a legal lot as the result of court decisions or LUBA final opinion; or*
- 4. The unit of land was created by deed instrument or land sales contract recorded prior to December 6, 1962, which was the date of the first official Coos County Subdivision Ordinance. After 1962 there was a legal process adopted by Coos County for land divisions.*
- 5. The unit of land that was created by a lien foreclosure, foreclosure of a recorded contract of the sale of real property or the creation of cemetery lots;*

6. *The unit of land was created by the claim of intervening state or federal ownership of navigable streams, meandered lakes, tidewaters;*
7. *The unit of land was created as a result of a dedication of a public road (held in fee simple) prior to 1990 may divide property in the following cases:*
 - a. *Between December 6, 1962 and January 1, 1989 (date the ordinance stopped acknowledging roads divide property) there were land division provisions adopted by Coos County. Staff will apply the provisions that were in place at that time the property was deeded to determine if the dedicated public road (held in fee simple) allowed for the road to divide the property; or*
 - b. *If a public dedicated road was held in fee simple prior to December 6, 1962 and the property was bisected by a public dedicated road held in fee simple then the properties were lawfully divided and will be recognized as lawfully created parcels; or*
8. *The unit of land was created by a legal description in deeds or other instruments conveying real property prior to 1986. A deed may describe property as separate parcels but must have a beginning and ending point for each description within that deed.*

SECTION 6.1.150 APPLICATIONS ESTABLISHING LAWFULLY CREATED LOTS OR PARCELS:

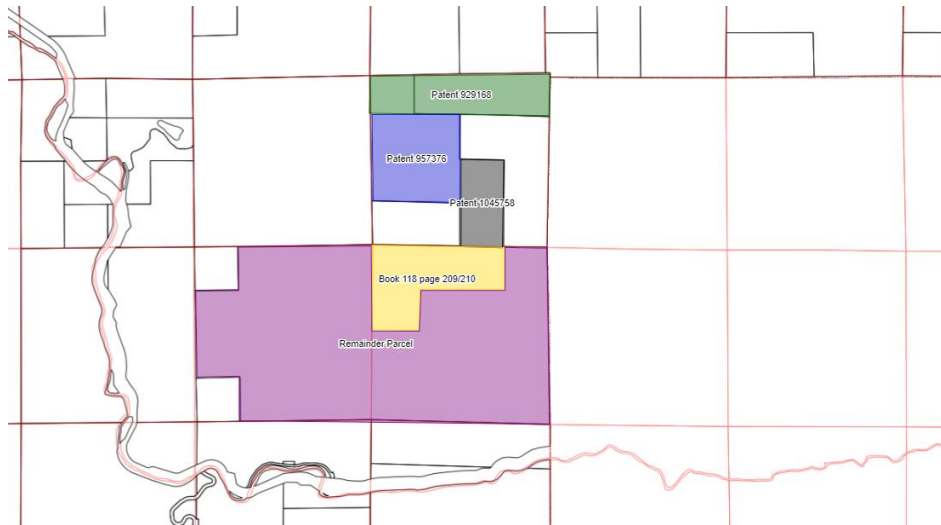
If a parcel or lot cannot be shown to exist pursuant to LDO Section 6.1.125 Subsections 1 through 5 above then an application and notice is required. In the case of Subsections 6 through 8 an applicant shall submit evidence to show that the parcel(s) or lot(s) were lawfully created. A map showing the lawfully created parcel(s) or lot(s) shall be submitted with the application.

Staff will review the application based on the criteria in LDO Section 6.1.125; however, the applicant may provide case law to review if there is another applicable circumstance not provided in Section 6.1.125. If County Counsel is required to review information to determine legal status of a parcel or lot additional fees may be charged.

All notices will be provided in accordance with LDO Section 5.0.

Once it is determined that a lawfully created lot or parcel exists it shall be separated out on its own deed prior to any reconfiguration such as property line adjustment. A copy of that deed needs to be provided to the Planning Department to show the process has been completed. If there are more than two discrete parcels found in rural area then a road may be required to provide access. The applicable road standards in Chapter VII will apply.

FINDING: In 2012 when the property was unlawfully divided by deeds a Lawfully Created Parcel Determination could have been submitted to confirm the below lawfully created units of land. Once that process was completed then the property owner could have adjusted the property through Property Line Adjustments which is addressed further in this report.



The map shows that these units of land are described in deeds or other instruments conveying property prior to 1986, which means that the parcels could have been created pursuant to CCZLDO Section 6.1.125.8 “The unit of land was created by a legal description in deeds or other instruments conveying real property prior to 1986. A deed may describe property as separate parcels but must have a beginning and ending point for each description within that deed”.

The green unit of land is described in Patent 929168. The blue unit of land is described in Patent 957376. The gray unit of land is described in patent 1045758. The yellow unit of land is described in Book 118 page 209, 210. The purple unit of land is the remainder unit of land.

In 2012 when tax lot 201 was deeded, the Property Line Adjustment Criteria in effect was:

ARTICLE 6.3 PROPERTY LINE ADJUSTMENTS

SECTION 6.3.100 PROPERTY LINE ADJUSTMENTS:

As set forth in ORS 92.190(3), the common boundary line between lots or parcels may be adjusted in accordance with this section without the replatting procedures in ORS 92.180 and 92.185 or the vacation procedures in ORS Ch. 368. Once a lot or parcel line has been adjusted, the adjusted line shall be the boundary or property line, not the original line. The Director has authority to approve a line adjustment as a Ministerial Action.

SECTION 6.3.125 PROCEDURE:

1. *An application for a line adjustment or elimination shall be filed by the owners of all lots or parcels affected. The application shall be accompanied by an appropriate fee and contain the following information:*
 - a. *Reason for the line adjustment;*
 - b. *Vicinity map locating the proposed line adjustment or elimination in relation to adjacent subdivisions, partitions, other units of land and roadways;*
 - c. *A plot plan showing the existing boundary lines of the lots or parcels affected by the line adjustment and the approximate location for the proposed adjustment line. The plot plan shall also show the approximate location of all structures within ten (10) feet of the proposed adjusted line;*
 - d. *A current property report (less than 6 months old) indicating any taxes, assessment or other liens against the property, easements, restrictive covenants and rights-of-way, and ownerships of the property of the proposed development. A title report is acceptable.*
2. *A line adjustment is permitted only where an additional unit of land is not created and where the lot or parcel reduced in size by the adjustment complies with the requirements of the applicable zone except that a line adjustment for the purpose of exchange or transfer of land between resource land*

owners shall be allowed so long as:

- a. No parcel is reduced in size contrary to a condition under which it was formed;
 - b. The resulting parcel sizes do not change the existing land use pattern (e.g. two conforming parcels must remain conforming; and two non-conforming parcels may remain non-conforming; and, two parcels, one conforming and one non-conforming, may remain as such regardless of which parcel is non-conforming after the exchange or transfer).
3. An encroachment of existing or planned structures will not be created within required setbacks as a result of the line adjustment.
 4. A line adjustment for a lot or parcel that is less than the minimum lot size before the adjustment and further reduced as a result of the adjustment is permissible provided the applicant submits either:
 - a. Proof that, for the lot or parcel reduced in size, sewage disposal is provided by either a publicly owned sewage disposal system, or a privately owned sewage disposal system regulated by the Public Utility Commission of Oregon; or
 - b. Written evidence, for the lot or parcel reduced in size, that an on-site septic system that is intended to remain in use after final approval was authorized by an approving authority, or if written evidence is not available, provide a septic system evaluation (prepared by a professional qualified under ORS 700) that certifies the existing system to be properly functioning, and that the existing septic system is either located entirely on the same lot or parcel containing an existing dwelling, or that a proper easement is provided to allow the continued use and maintenance of the system; or
 - c. Documentation, for a vacant lot or parcel reduced to less than one (1) acre, that the Department of Environmental Quality has approved the method of sewage disposal. Unless circumstances warrant otherwise (public services), parcels that are greater than one (1) acre shall not be subject to a septic system evaluation in the line adjustment process.
 5. In resource lands, a unit of land containing a dwelling, or approved for construction of a dwelling, cannot be adjusted with a vacant resource unit of land for the purpose of qualifying the vacant unit for a 160-acre dwelling.
 - a. A resource unit of land less than 160 acres and containing a (preexisting) dwelling, or approved for construction of a dwelling, cannot be adjusted with a vacant resource unit of land for the purpose of qualifying the vacant unit for a 160-acre dwelling;
 - b. A resource unit of land 160 acres or greater and containing a (preexisting) dwelling, or approved for construction of a dwelling, cannot be adjusted below 160 acres with a vacant resource unit of land for the purpose of qualifying the vacant unit for a 160-acre dwelling;
 - c. A resource unit of land 160 acres or greater and containing a dwelling approved as a 160-acre dwelling, or approved for construction of a 160-acre dwelling, cannot be reduced below 160 acres for the purpose of qualifying the vacant unit for a 160-acre dwelling.
 6. Same Designation: A line adjustment shall only be permitted where the sale or transfer of ownership is made between abutting owners of like designated lands, residential lands, commercial lands, industrial lands, and resource lands, unless an existing structure encroaches over an existing property boundary or the boundary line adjustment is required to comply with requirements of the State Department of Environmental Quality for a subsurface sewage system.

SECTION 6.3.150 EASEMENTS AND ACCESS:

A line adjustment shall have no effect on existing easements or access. Access shall not be eliminated through a property line adjustment process. If an access is potentially affected then an easement may be created for access to comply with this criterion.

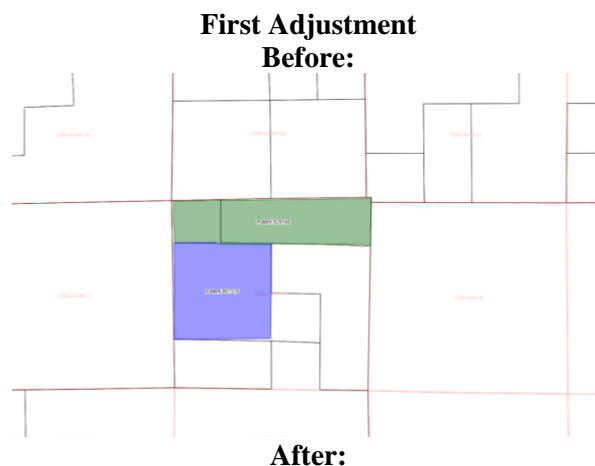
SECTION 6.3.175 MAPPING AND FILING REQUIREMENTS:

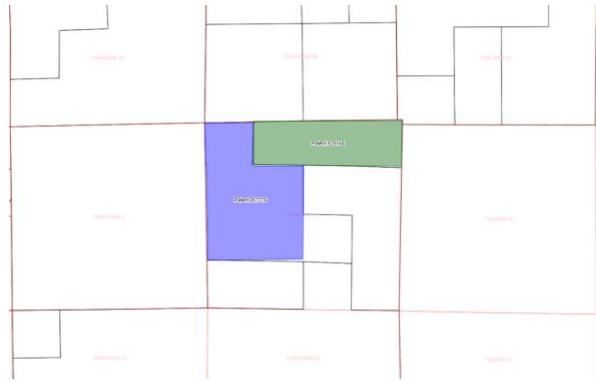
1. Map and Monuments Required:
 - a. For any resulting lot or parcel ten acres or less, a survey map that complies with ORS 209.250 shall be prepared;
 - b. The survey map shall show all structures within ten (10) feet of the adjusted line;
 - c. The survey shall establish monuments to mark the adjusted line.

2. *Approval and Filing Requirements:*
 - a. *Upon determination that the requirements of this section have been met, the Director shall advise the applicant in writing that the line adjustment is tentatively approved;*
 - b. *Within one year from the date of tentative approval, the applicant shall prepare and submit to the Director any map required by Section 6.2.800(4) and Section 6.2.800(5) if a survey is required. If no map is required, the applicant shall submit proof that the requirements of the tentative approval have been met. The Director shall indicate final approval by endorsement upon the map, if any, or if no map is required the Director shall advise the applicant in writing that final approval has been granted;*
 - c. *Once endorsed by the Director, the map shall then be submitted to the County Surveyor. When the map is filed, the County Surveyor shall indicate the filing information on the map;*
 - d. *A line adjustment shall be effective when the map is filed by the County Surveyor and an instrument (e.g., deed or covenant) is recorded with the County Clerk. If no map is required, then the line adjustment shall be effective when final approval is granted by the Director and an instrument is recorded with the County Clerk;*
 - e. *If a survey is required, the Deed shall be recorded and the Survey Map shall be filed simultaneously. The survey map, with the signature of the Coos County Planning Director shall be submitted to the County Surveyor along with the required filing fee. The survey map will be given a filing number which will be added to the Property Line Adjustment deed. The deed will then be recorded whereupon the recording number for said deed will be added to the face of the survey map. Said map will then be filed with the County Surveyor, completing the process.*

Finding: An additional unit of land would not have been created through the property line adjustments. The parcels would have met the conformance status. The conformance status of all units of land within the adjustments are considered conforming before and after each adjustment, as the units of land are over 80 acres, which is the minimum lot size. These units of land do not contain any development nor any septic systems. These adjustments were not to qualify the units of land for a 160-acre dwelling. The units of land are all zoned Forest (F).

The adjustments could have been completed meeting the requirements as follows:





Before the adjustment the green unit of land would have contained 140 acres and the blue unit of land would have contained 160 acres. After the adjustment the green unit of land would have contained 109.70 acres and the blue unit of land would have contained 190.30 acres.

Second Adjustment

Before:



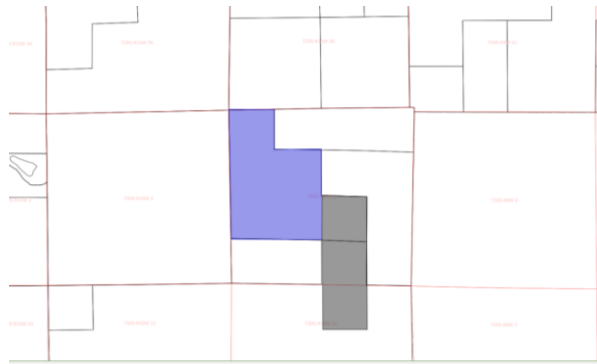
After:



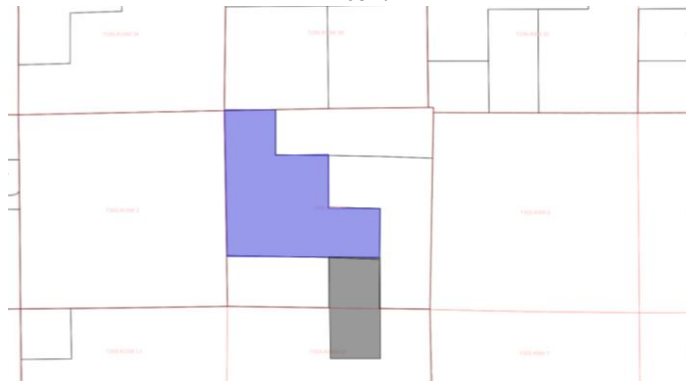
Before the adjustment the gray unit of land would have contained 80 acres and the yellow unit of land would have contained 160 acres. After the adjustment the gray unit of land would have contained 120 acres and the yellow unit of land would have contained 120 acres.

Third adjustment

Before:



After:



The blue unit of land would have contained 109.70 acres before the adjustment, the gray unit of land would have contained 120 acres. After the adjustment the blue unit of land would have contained 149.70 acres and the gray unit of land would have contained 80 acres.

In 2020 when tax lot 202 was deeded without planning approval the following Property Line Adjustment Criteria was in effect:

ARTICLE 6.3 PROPERTY LINE ADJUSTMENTS

SECTION 6.3.100 PROPERTY LINE ADJUSTMENTS:

As set forth in ORS 92.190(3), the common boundary line between lots or parcels may be adjusted in accordance with this section without the replatting procedures in ORS 92.180 and 92.185 or the vacation procedures in ORS Ch. 368. Once a lot or parcel line has been adjusted, the adjusted line shall be the boundary or property line, not the original line. The Director has authority to approve a line adjustment as an Administrative Action unless the application is required to correct an encroachment. In that circumstance the only applicable criteria is Sections 6.3.125.1, 6.3.150 and 6.3.175. Encroachments do not require notice.

SECTION 6.3.125 PROCEDURE:

2. *An application for a line adjustment or elimination shall be filed by the owners of all lots or parcels affected. The application shall be accompanied by an appropriate fee and contain the following information:*
 - a. *Reason for the line adjustment;*
 - b. *Vicinity map locating the proposed line adjustment or elimination in relation to adjacent subdivisions, partitions, other units of land and roadways;*
 - c. *A plot plan showing the existing boundary lines of the lots or parcels affected by the line adjustment and the approximate location for the proposed adjustment line. The plot plan shall also show the approximate location of all structures within ten (10) feet of the proposed adjusted line;*
 - d. *A current property report (less than 6 months old) indicating any taxes, assessment or other liens against the property, easements, restrictive covenants and rights-of-way, and ownerships of the property of the proposed development. A title report is acceptable.*
 - e. *A notice of application and decision will be provided to any and all lien holders of record for the property that will be affected by the proposed adjustment. Applicants should consult with any and all such lien holders prior to submittal of an application.*
7. *A line adjustment is permitted only where an additional unit of land is not created and where the lot or parcel reduced in size by the adjustment complies with the requirements of the applicable zone except that a line adjustment for the purpose of exchange or transfer of land between resource land owners shall be allowed so long as:*
 - a. *No parcel is reduced in size contrary to a condition under which it was formed;*
 - b. *The resulting parcel sizes do not change the existing land use pattern (e.g. two conforming parcels must remain conforming; and*
 - c. *Two non-conforming parcels may remain non-conforming; and, two parcels, one conforming and one non-conforming, may remain as such regardless of which parcel is non-conforming after the exchange or transfer).*
8. *An encroachment of existing or planned structures will not be created within required setbacks as a result of the line adjustment.*
9. *A line adjustment for a lot or parcel that contains a dwelling, not on a public sanitation system, and is less than an acre before the adjustment and further reduced as a result of the adjustment shall obtain documentation from Department of Environmental Quality (DEQ) that the sanitation system will still meet their requirements.*
10. *In resource lands, a unit of land containing a dwelling, or approved for construction of a dwelling, cannot be adjusted with a vacant resource unit of land for the purpose of qualifying the vacant unit for a 160-acre dwelling.*
 - a. *A resource unit of land less than 160 acres and containing a (preexisting) dwelling, or approved for construction of a dwelling, cannot be adjusted with a vacant resource unit of land for the purpose of qualifying the vacant unit for a 160-acre dwelling;*
 - b. *A resource unit of land 160 acres or greater and containing a (preexisting) dwelling, or approved for construction of a dwelling, cannot be adjusted below 160 acres with a vacant resource unit of land for the purpose of qualifying the vacant unit for a 160-acre dwelling;*
 - c. *A resource unit of land 160 acres or greater and containing a dwelling approved as a 160-acre dwelling, or approved for construction of a 160-acre dwelling, cannot be reduced below 160 acres for the purpose of qualifying the vacant unit for a 160-acre dwelling.*

11. *Same Designation: A line adjustment shall only be permitted where the sale or transfer of ownership is made between abutting owners of like designated lands, residential lands, commercial lands, industrial lands, resource lands, and estuary zoned lands unless an existing structure encroaches over an existing property boundary or the boundary line adjustment is required to comply with requirements of the State Department of Environmental Quality for a subsurface sewage system.*
12. *Property line adjustments are subject to a twelve (12) day appeal period. If appealed, this will be treated as a Planning Director's decision and the procedures in Article 5.8 will be followed. A notice of the decision will be mailed to the applicant and to all neighborhood or community organizations recognized by the County and whose boundaries include the site. Notice of the decision will also be mailed to the owners of record of property on the most recent property tax assessment roll where such property is located:*
 - a. *Within 100 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is wholly or in part within an urban growth boundary;*
 - b. *Within 250 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is outside an urban growth boundary and not within a farm or forest zone;*
 - c. *Within 750 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is within a farm or forest zone.*

SECTION 6.3.150 EASEMENTS AND ACCESS:

A line adjustment shall have no effect on existing easements or access. Access shall not be eliminated through a property line adjustment process. If an access is potentially affected then an easement may be created for access to comply with this criterion.

SECTION 6.3.175 MAPPING AND FILING REQUIREMENTS:

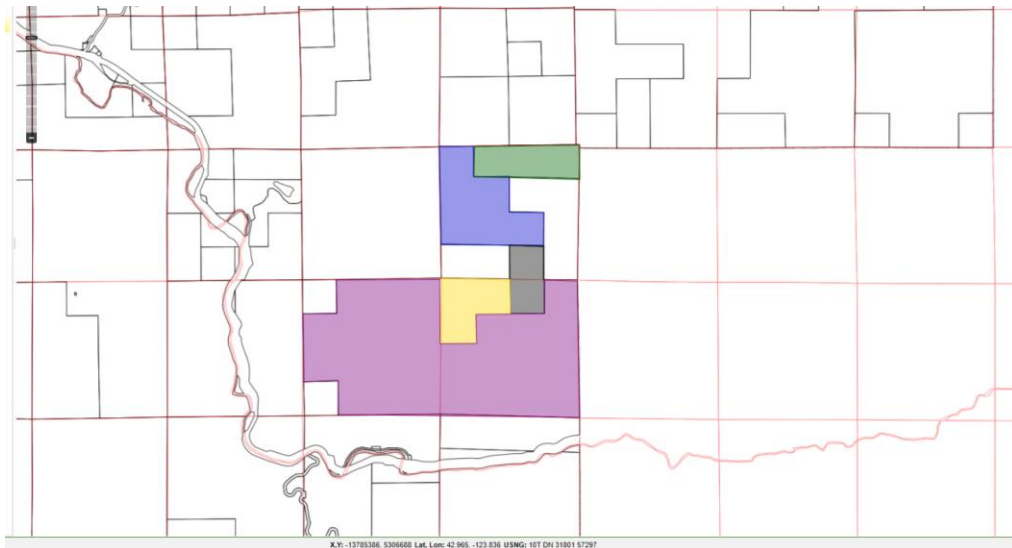
2. *Map and Monuments Required:*
 - a. *For any resulting lot or parcel ten acres or less, a survey map that complies with ORS 209.250 shall be prepared;*
 - b. *The survey map shall show all structures within ten (10) feet of the adjusted line;*
 - c. *The survey shall establish monuments to mark the adjusted line.*
3. *Approval and Filing Requirements:*
 - a. *Upon determination that the requirements of this section have been met, the Director shall advise the applicant in writing that the line adjustment is tentatively approved;*
 - b. *Within one year from the date of tentative approval, the applicant shall prepare and submit to the Director any map required by Section 6.2.800(4) and Section 6.2.800(5) if a survey is required. If no map is required, the applicant shall submit proof that the requirements of the tentative approval have been met. The Director shall indicate final approval by endorsement upon the map, if any, or if no map is required the Director shall advise the applicant in writing that final approval has been granted;*
 - c. *Once endorsed by the Director, the map shall then be submitted to the County Surveyor. When the map is filed, the County Surveyor shall indicate the filing information on the map;*
 - d. *A line adjustment shall be effective when the map is filed by the County Surveyor and an instrument (e.g. deed or covenant) is recorded with the County Clerk. If no map is required,*

then the line adjustment shall be effective when final approval is granted by the Director and an instrument is recorded with the County Clerk;

- e. If a survey is required, the Deed shall be recorded and the Survey Map shall be filed simultaneously. The survey map, with the signature of the Coos County Planning Director shall be submitted to the County Surveyor along with the required filing fee. The survey map will be given a filing number which will be added to the Property Line Adjustment deed. The deed will then be recorded whereupon the recording number for said deed will be added to the face of the survey map. Said map will then be filed with the County Surveyor, completing the process.
- f. The property line adjustment deed must be submitted on the exact format found in Figure 1 below.

The criteria in effect in 2020 had the same requirements as the adjustment criteria within 2012. Therefor staff finds that the unit of land could have been legally divided.

This would mean that the final configuration of these units of land not lawfully created would be as follows:



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 drawn to depict the final configuration above) must be recorded within 90 days of the appeal period (August 14, 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.