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Coos County Community Development

Mailing Address: 250 N. Baxter, Coquille, Oregon
Office Location: 60 E. Second St., Coquille OR 97423
Planning, Building and Enforcement
Phone: 541-396-7770
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TDD (800) 735-2900

NOTICE OF LAND USE DECISION

You have received this notice because you are an adjacent property owner or an interested party, and this notice is required to be provided pursuant to ORS 215.416. The proposal identified in this decision will be located on the subject property. Notice to Mortgagee, Lienholder, Vendor, or Seller: ORS Chapter 215 (ORS 215.513) requires that if you receive this notice, you must promptly forward it to the purchaser.

DATE: November 13, 2024

RE: Property Line Adjustment Request (PLA-24-009)

Dear Recipient,

This land use notice is being sent to property owner(s), applicant(s), adjacent property owners (with notice distances from the subject property determined by zone area: Urban 100 feet, Rural 250 feet, and Resource 750 feet), special taxing districts, interested agencies, and any person who has requested notice. This notice serves to inform you of a decision related to a property line adjustment request between HORN, CASEY M & GRETA S (Tax Lot 100) and MCMAHON, JERRY D (Tax Lot 101). The surveyor for this project is James Terrel.

The Coos County Community Development Staff has reviewed the Property Line Adjustment (PLA) application for compliance with the criteria outlined in the Coos County Zoning Ordinance, Article 6.3. Based on this review, the proposal has been found to meet all applicable criteria, as explained in the attached report. The purpose of this adjustment is to establish clear access between the properties while ensuring compliance with setback and zoning requirements. The next step is to complete the mapping and filing requirements outlined in Section 6.3.175.

Comments were requested from relevant authorities, including the County Surveyor and Cartography Staff in the Assessor's Office. Mike Dado, the County Surveyor, reviewed the proposal and had no objections. The proposal has been found to conform to the Coos County land use criteria.

RIGHT TO APPEAL: Any person who is adversely affected, aggrieved, or entitled to written notice may appeal this decision by filing a written appeal in the manner and within the time period provided in Coos County's land use regulations, specifically Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. Per ORS 215.416(B) and ORS 197.797, the appeal period is a minimum of 12 days (November 25, 2024) from the date of this notice's mailing. This decision will not become final until the appeal period has expired. Additionally, individuals who receive this written notice cannot directly appeal to the Land Use Board of Appeals under ORS 197.830. An appeal from this decision will be reviewed through a de novo hearing, where the applicant and other parties will have the opportunity to present testimony, arguments, and evidence without limitation to issues raised in the notice of appeal.

Post November 13, 2024 to November 25, 2024

60 E. Second St., Coquille OR | Mailing Address: 250 N. Baxter, Coquille, Oregon 97423

☎ 541-396-7770

@ planning@co.coos.or.us



<https://www.co.coos.or.us/community-dev>

The decision-maker at the hearing will consider all relevant submissions as if they were presented at an initial hearing.

ADDITIONAL INFORMATION: The full staff report and application materials for PLA-24-008 can be viewed online at <https://www.co.coos.or.us/community-dev/page/pla-24-009-mcmahon-horn> . Additionally, copies may be purchased at the Community Development office at a rate of \$0.50 per page. Please review the vicinity map for the location of the subject property. For questions or further details, contact the Coos County Planning Department by phone at 541-396-7770 or by email at planning@co.coos.or.us . Documents may also be mailed to 250 N. Baxter, Coquille, OR 97423. Staff analysis was completed by Jill Rolfe, Director.

SUBJECT PROPERTY DETAILS:

PROPERTY #1

Account Number: 2352200
Map Number: 28S1431CD-00100

Property Owner: HORN, CASEY M & GRETA S
PO BOX 2063
BANDON, OR 97411-2063

Situs Address: None

Acreage: 9.24 Acres

Zoning: EXCLUSIVE FARM USE (EFU)

PROPERTY #2:

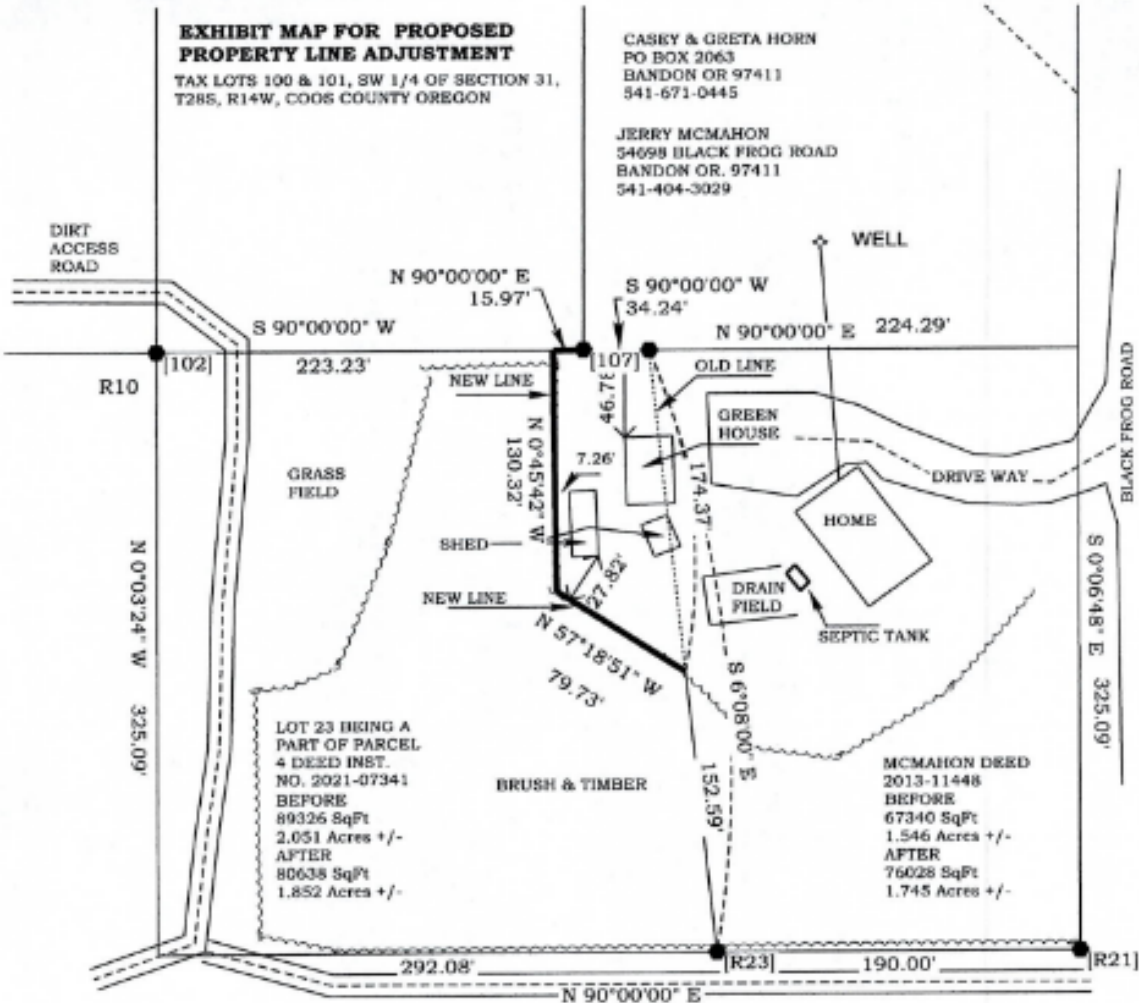
Account Number: 2352201
Map Number: 28S1431CD-00101

Property Owner: MCMAHON, JERRY D
PO BOX 1916
BANDON, OR 97411-1916

Situs Address: 54698 BLACK FROG RD BANDON, OR 97411

Acreage: 1.55 Acres

Zoning: EXCLUSIVE FARM USE (EFU)



LEGEND

- ◆ WELL
- FOUND MONUMENT

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 SEPTEMBER 14, 2021
 JAMES DEAN TERREL
 65473PLS

EXPIRES: 6-30-26



FILE NAME		
2024040 MCMAHON.trv		
SCALE	DATE	DRAWN BY
80 Ft/in	8-16-2024	JDT
JOB	REVISION	SHEET
2023008	1/1	1/1

This map drawn with TRAVERSE PC, Software



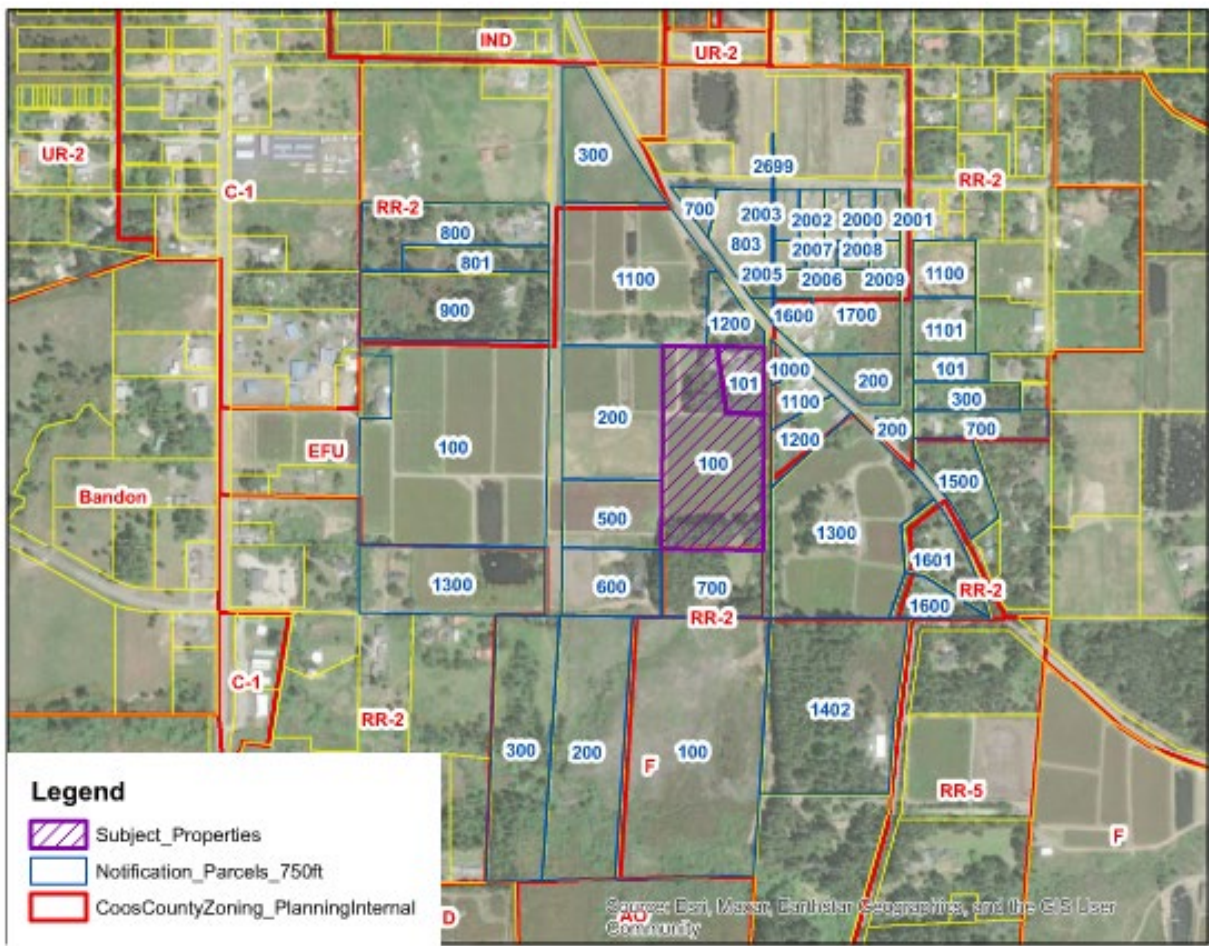
File: PLA-24-009

Applicant/
Applicant: Jerry McMahon/
Casey & Greta Horn

Date: November 11, 2024

Location: Township 28S Range 14W
Section 31CD TL 100/101

Proposal: Property Line Adjustment



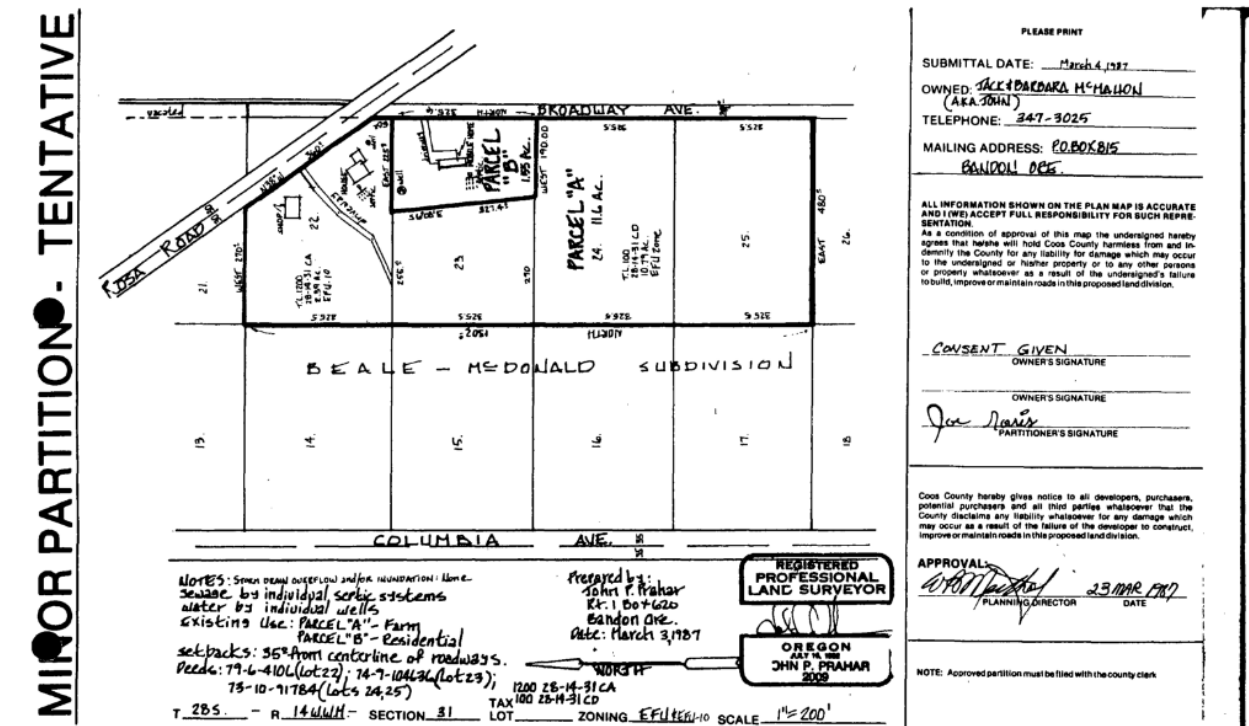
STAFF REPORT

I. COMPLIANCE ASSESSMENT SUMMARY: GENERAL COMPLIANCE:

- **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.

FINDING: These properties were part of the Beal-McDonald Subdivision (a pre-ordinance plat). In 1987, a minor partition created tax lot 101. Parcel "A" comprises lots 22, 23, 24, and 25, minus the portion identified as Parcel "B" (tax lot 101). Parcel "A" is listed under map numbers 28S1431CD-00100 and 28S1431CA-001200. Tax lot 1200 has been reconfigured through property line adjustments and is no longer part of tax lot 100 (see PLA-21-013).



Tax lot 101 was approved for a replacement dwelling (a manufactured dwelling) in 1998; however, additional development on the site has not received approval. Resolving this will be a condition of approval. Some that development was sited on tax lot 100 but once the after the fact permitting has been received and the property line adjustment completed tax lot 100 will be in compliance.

- **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: As explained above the properties were created through a minor partition approval in 1987 and then property line adjustments reconfigured tax lot 100. Therefore, these are lawfully created units of land.

- **SECTION 6.3.125 PROCEDURE 3. GENERAL CRITERIA**

1. General.
 - a. No person may relocate all or a portion of a property line without review and approval of a property line adjustment application.
 - b. Tax lot boundaries do not necessarily represent property boundaries. Tax lot boundaries are established by the County Assessment for purposes of assessment and taxation. Tax lots may or may not coincide with legal property boundaries. Only boundaries of lawfully established units of land can be adjusted through the provisions of this chapter.
 - c. A line adjustment is permitted only where an additional unit of land is not created; and
 - d. A property line adjustment involving a parcel authorized by a Measure 49 waiver cannot increase parcels larger than:
 - i. Two acres if on high value farmland, high value forestland, or within a ground water restricted area; or
 - ii. Five acres if not on high value farm or forest land; unless
 - iii. The property increasing in size is the remainder parcel and is already larger than the two or five acre maximum parcel size.

2. Submittal Requirements: An application for a line adjustment or elimination shall be filed by the owners of all units of land affected. The application shall be accompanied by an appropriate fee and contain the following information:
 - a. A property line adjustment must include a tentative map drawn on 8 ½” x 11” or 11” x 17” size paper. The map shall contain the following information:
 - i. North arrow and Scale – The property boundaries and any other required detail shall be provided to scale.
 - ii. Existing and proposed property line dimensions and size in square feet or acres of the lawfully established units of land that are subject of the application. The existing and proposed property configurations will be shown on separate sheets of paper as before and after maps and shall contain acreage before an after adjustments.
 - iii. Identification, size, and dimensions of the area(s) proposed to be adjusted from one property to the other.
 - iv. Roads abutting and located within the subject properties, including names and road right-of-way or easement widths, and labeled as either public or private.
 - v. Location of on-site wastewater treatment systems or name of sanitary sewer district. This includes drain field and repair areas. All on-site wastewater improvements are to remain on the same unit of land as the structure it is serving.
 - vi. Easements, shown with dimensions, type, labeled as existing or proposed, and specifically noting to whom they benefit
 - vii. Existing structures and the distance from each structure to the existing and proposed property lines. Setbacks for all structures within 50 feet of the proposed property line (130 feet if property is zoned Forest or Forest Mixed Use) must be verified on a site plan prepared and stamped by an Oregon registered professional land surveyor. If no structures exist within the specified area, the surveyor can submit a stamped letter so stating.
 - b. A current preliminary title report or title search (less than 6 months old) for each property, to determine ownership and any recorded deed restrictions.
 - c. Evidence to show that the units of land are lawfully created pursuant to Section 6.1 Lawfully Created. If the conformance of the unit of land is unknown, then a Lawfully Created Determination application will be required either prior or in conjunction with a property line adjustment application. If a Lawfully Created Unit of Land Determination is required, then this will be treated as an Administrative Action.
 - d. Upon completion of the Property Line Adjustment Review the mapping and filing requirements of Section 6.3.157 shall be followed.

FINDINGS OF COMPLIANCE: The application was reviewed and found to have been submitted on the incorrect application form, and the title report for one of the properties was missing. Additionally, the property line adjustment application lists the acreage incorrectly, and the map does not show the entire property. The application also reflects the incorrect zoning and is missing the lienholders. However, enough information was provided to allow for a conditional decision on the property line adjustment. The request does not involve a Measure 49 claim, so it can be determined based on the information provided. As a condition of approval, the correct acreage, proof of lienholders, application, and tentative map must be submitted.

3. General Criteria - A Property Line Adjustment requires application pursuant to Ministerial Application (Type I) procedures according to Article 5.0, unless otherwise specified by this section. An application for multiple property line adjustments can be made under one application, so long as the deeds are recorded in the correct sequence. All property line adjustments are subject to the following standards and criteria, unless previously stated in this section:
 - a. The property line adjustment cannot:
 - i. Create an additional unit of land; or
 - ii. Violate any applicable specific conditions of previous land use approvals or recorded deed restrictions. An example would be if parcels were required to meet a minimum acreage or have an accessory structure and adjustment would remove the primary use or structure.
 - b. All properties affected by the proposed adjustment are legal units of land unless this adjustment is to correct an improperly formed unit of land or to correct an encroachment issue.
 - c. A property line adjustment is subject to the minimum lot or parcel size standards of the applicable zoning district, except in the following circumstances:
 - i. One or both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large or larger than the minimum lot or parcel size for the applicable zone; or
 - ii. Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.
 - d. Split-zoned properties: The adjustment will not create a split-zoned unit of land that does not comply with the standards for creation of a parcel in each zone unless the property owner provides for the recording of a restrictive covenant in the deed records for the subject property that prohibit the property from being partitioned along the zoning boundary until such time as each parcel would comply with the minimum standards for the creation of a unit of land (meeting the criteria for land division) in each zone. If a split-zone unit of land is created, it shall not be used to justify a rezone in the future.
 - e. All required setback for the applicable zoning districts has been mapped as required and comply. An encroachment of existing or planned structures will not be created within required setbacks as a result of the line adjustment

FINDINGS OF COMPLIANCE: The proposal will not create an additional unit of land, violate any applicable conditions of a previous land use approval or deed restriction. The properties involved will be lawfully created and will remain lawfully created after the line is adjusted. Both properties are below the minimum lot size. Both properties are zoned as Exclusive Farm Use (EFU). The adjustment has been evaluated to ensure that all setback requirements are met for existing structures, and the proposed property line does not create any encroachments. Therefore, the proposal complies with the criteria.

4. Resource Zoned Properties: In addition to the General Criteria in subsection 3 the following additional criteria is required to be addressed.
 - a. All property line adjustments that are less than 200 acres (before and after the property line adjustment) are subject to an Administrative Action (Type II Review). If there is no structural development on either unit of land and the purpose of the application is not to qualify for a dwelling then it can be reviewed as a Ministerial Action (Type I).
 - b. A property line adjustment cannot be used to:

- i. Separate a temporary hardship dwelling, relative farm help dwelling, home occupation, or processing facility from the primary residential or other primary use without land use approval to change the accessory use to a primary use; or
- ii. As prohibited by ORS 92.192(4)(a) through (c), in a manner that would:
 - 1. Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;
 - 2. Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling.
 - 3. Allow an area of land used to qualify a lawfully established unit of land for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard. Or
 - 4. Allow for change in configuration to qualify for a Forest Template Dwelling. The adjustment may require a template test prior and after any adjustments made after January 1, 2019 at the time a Forest Template Dwelling Application is received.

FINDINGS OF COMPLIANCE: The proposed property line adjustment involves the movement of less than half of an acre to correct an encroachment. Both properties are each less than 200 acres, both before and after the adjustment. Given the acreage of the parcels, this adjustment is subject to an Administrative Action (Type II Review) as required for property line adjustments involving resource-zoned properties under 200 acres.

The purpose of this application is to correct a structural encroachment, not to qualify for a dwelling, and there is existing structural development on one of the parcels (tax lot 101). Therefore, this adjustment does not qualify for a Ministerial Action (Type I Review), which would only apply if there were no structural development and if the purpose were not related to dwelling qualification. Tax lot 101 is developed with a dwelling and accessory structures. The proposed property line adjustment complies with all relevant restrictions regarding the separation of accessory uses and the requirements of ORS 92.192. This adjustment does not separate a temporary hardship dwelling, relative farm help dwelling, home occupation, or processing facility from the primary residential or other primary use. Therefore, it adheres to the criterion that a property line adjustment cannot result in the separation of accessory uses without appropriate land use approval to reclassify the accessory use as a primary use.

Additionally, the adjustment complies with the requirements set forth in ORS 92.192(4)(a) through (c). Specifically, it does not reduce the size of a lawfully established unit of land containing an existing dwelling or one approved for construction to below the minimum parcel size for the EFU Zone. Furthermore, it does not increase the size of the other unit in a way that would enable it to qualify for a dwelling based on the minimum parcel size. The adjustment preserves the acreage standards for dwelling qualification, ensuring that no area of land used to qualify a unit for a dwelling based on acreage standards is transferred or used to qualify another unit of land for a dwelling.

The configuration change does not alter the eligibility of the land for a dwelling. In conclusion, the proposed property line adjustment meets all outlined restrictions, maintaining compliance with ORS 92.192 and ensuring that accessory uses, dwelling qualification standards, and Forest Template Dwelling eligibility remain unaffected. Therefore, the application meets the criteria.

5. Property Line Adjustments that require an Administrative Action 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.

FINDINGS OF COMPLIANCE: A notice of decision has been prepared and will be mailed out within 750 feet for the exterior boundary of the contiguous property ownership along with the all interested parties. As an Administrative Action, this adjustment is subject to a 12-day appeal period. A notice of the decision will be provided to the applicant and to neighborhood or community organizations, as well as property owners within the required distance from the subject properties based on the Forest Zone criteria (750 feet).

II. COMMENTS RECEIVED: No Comments were received at the time of this decision.

III. CONDITIONS OF APPROVAL AND EXPIRATION: 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.

1. A correct application and map is required to be submitted prior to filing the final map and deed.
2. The applicant did not list any lien holders to allow proper notice to be provided. A certificate of mailing or proof that there were no lien holders for either property shall be provided prior to acceptance of the map and deed.
3. All development will need to be shown lawful or obtain after the fact Zoning Compliance.
4. Section 6.3.175 Mapping and Filing Requirements As a condition of approval, the applicant must comply with the mapping and filing requirements outlined in Section 6.3.175. For any resulting parcel that is ten acres or less, a survey map must be prepared in accordance with ORS 209.250. This map should indicate all structures within ten feet of the adjusted property line, and monuments must be established to mark the new boundary. The Coos County Surveyor retains the right to require mapping and monumentation for parcels larger than ten acres. The applicant then has one year from the date of tentative approval to submit the required survey map if a survey is necessary, or to provide proof that all conditions of the tentative approval have been satisfied if no map is required. The Director will signify final approval by endorsing the survey map or, if no map is necessary, by notifying the applicant in writing.

Once endorsed by the Director, the survey map must be submitted to the County Surveyor, who will add filing information to the map. The property line adjustment becomes effective once the map is filed by the County Surveyor and the relevant instrument (such as a deed or covenant) is recorded with the County Clerk. If no map is needed, the adjustment will take effect upon final approval from the Director and the recording of the instrument.

If a survey is required, the deed and survey map must be recorded simultaneously. The survey map, signed by the Coos County Planning Director, will be submitted to the County Surveyor along with the necessary filing fee. This map will receive a filing number, which will be added to the property line adjustment deed before recording. The recording number for the deed will then be added to the face of the survey map, which completes the filing process. The property line adjustment deed must be submitted in the exact format specified by Coos County regulations.

Jill Rolfe, Director _____

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