

Appeals. 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.

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.

The application, staff report and any conditions may be found at the following link: <https://www.co.coos.or.us/community-dev> 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; however, an appointment is required to be setup for viewing purposes. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Crystal Orr, Planner I 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: _____
Crystal Orr, Associate Planner

Date: Tuesday, November 08, 2022 .

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

EXHIBITS

Exhibit A: Conditions of Approval

Exhibit B: Vicinity Map

Exhibit C: Adjustment Map

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

Exhibit D: PLA-21-047 Staff Report -**Findings of Fact and Conclusions**

Exhibit E: Application

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. This is a tentative decision and will become final if the conditions of approval are completed correctly and any required survey maps and/or deeds are completed.

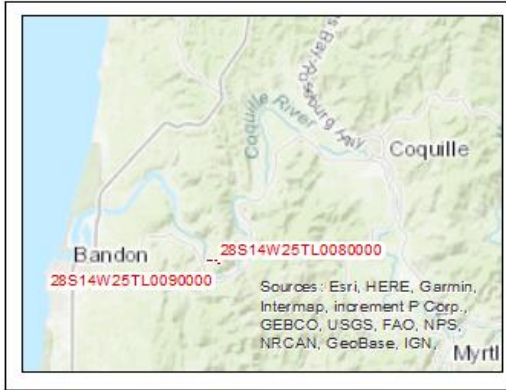
1. Shall comply with any requirements from Coos County Surveyor or Assessor’s Office.
2. Map and Monuments Required:
 - a. For any resulting lot or parcel ten acres or less, a survey map that complies with ORS 209.250 shall be prepared; and
 - b. The survey map shall show all structures within ten (10) feet of the adjusted line; and
 - c. The survey shall establish monuments to mark the adjusted line; and
 - d. 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.
3. Within one year from the date of tentative approval, the applicant shall prepare and submit to the Planning Director any map required by Section 6.2.800(4) and Section 6.2.800(5) if a survey is required.
4. **Final approval** – The applicant shall submit proof that the requirements of the tentative approval have been met. Upon submittal by the applicant that all conditions of approval have been met along with the deed and map, if required, have been provided along with the recording fee to the Planning Director a final determination will be made. The Director shall advise the applicant in writing if the documents submitted are sufficient or if amendments are required.
 - a. **The following items shall be submitted to the Coos County Planning Department prior to one year of the tentative decision:**
 - i. A supplemental document explaining how all conditions of approval have been completed and the applicant is ready for a final determination; and
 - ii. The applicant or applicant’s surveyor shall prepare and submit to the Planning Director any map required by Section 6.2.800(4) and Section 6.2.800(5) if a survey is required as explained under the Surveyor’s comments; and
 - iii. A deed following the exact format found in Figure 1 of Section 6.3.175.
 - b. Once the required documents are received by the County Planning Department, they will be forwarded to the County Surveyor and Cartographer for final comments. If revisions are required, the applicant and/or representative will be notified as soon as the revisions are identified. If there are no revisions required Staff will sign the map and route the map and deed on the Surveyor’s Office for completion and recording along with the recording fee. If there is no Survey Map required Planning Staff will submit the deed to the County Clerk’s Office with the fee to be recorded.

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: PLA-21-047
Owner 1: Nick Thomas
Owner 2: Nick Thomas
Date: October 19, 2022
Location: Township 28S Range 14W
Section 25 TL 800 & 900
Proposal: Property Line Adjustment

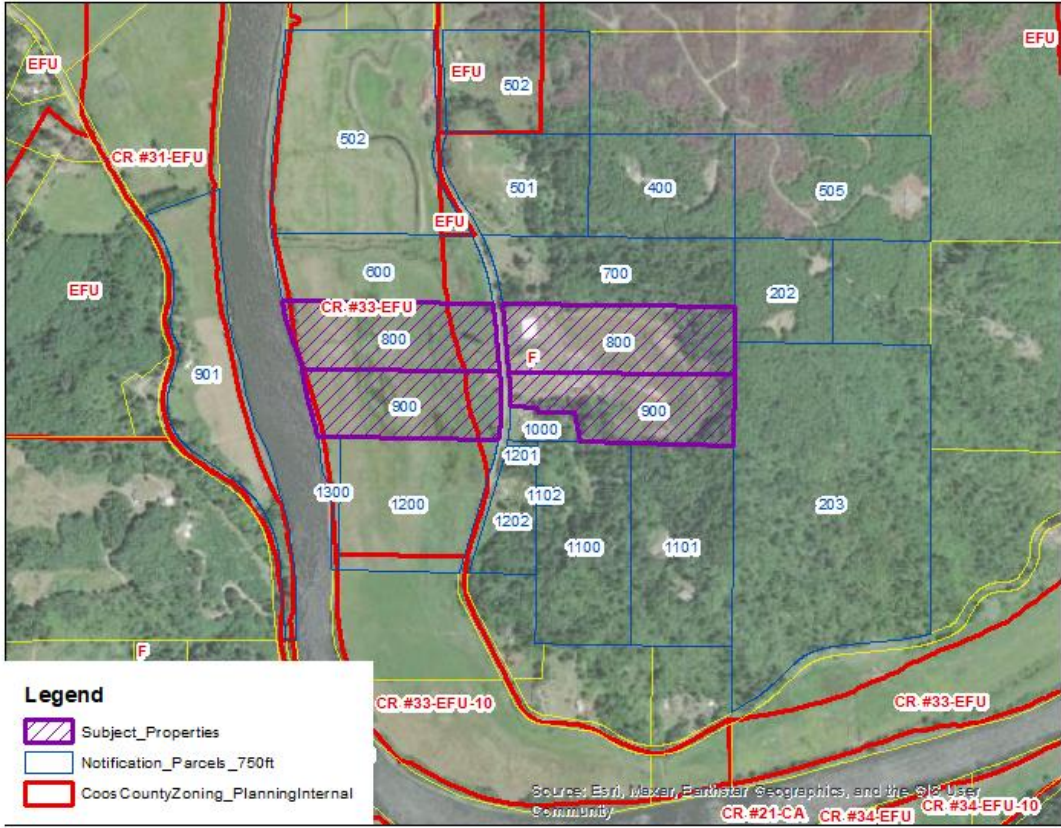
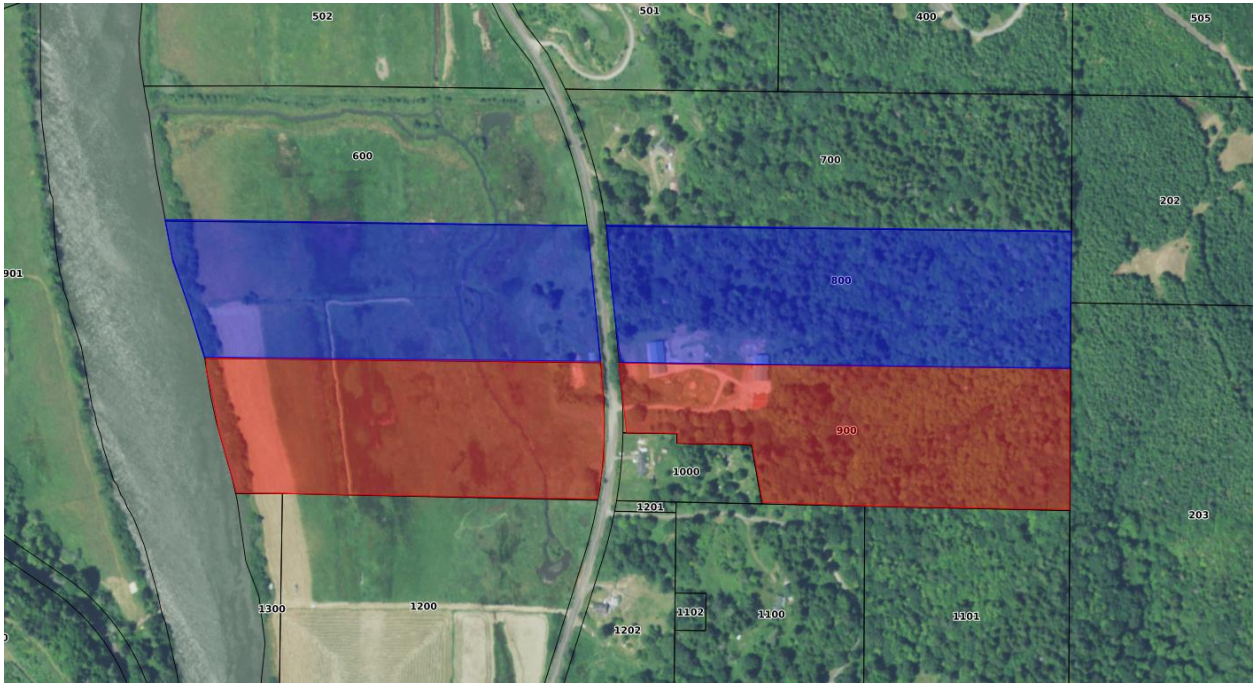


EXHIBIT "C"
BEFORE AND AFTER ADJUSTMENT MAPS
BEFORE:



AFTER:



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

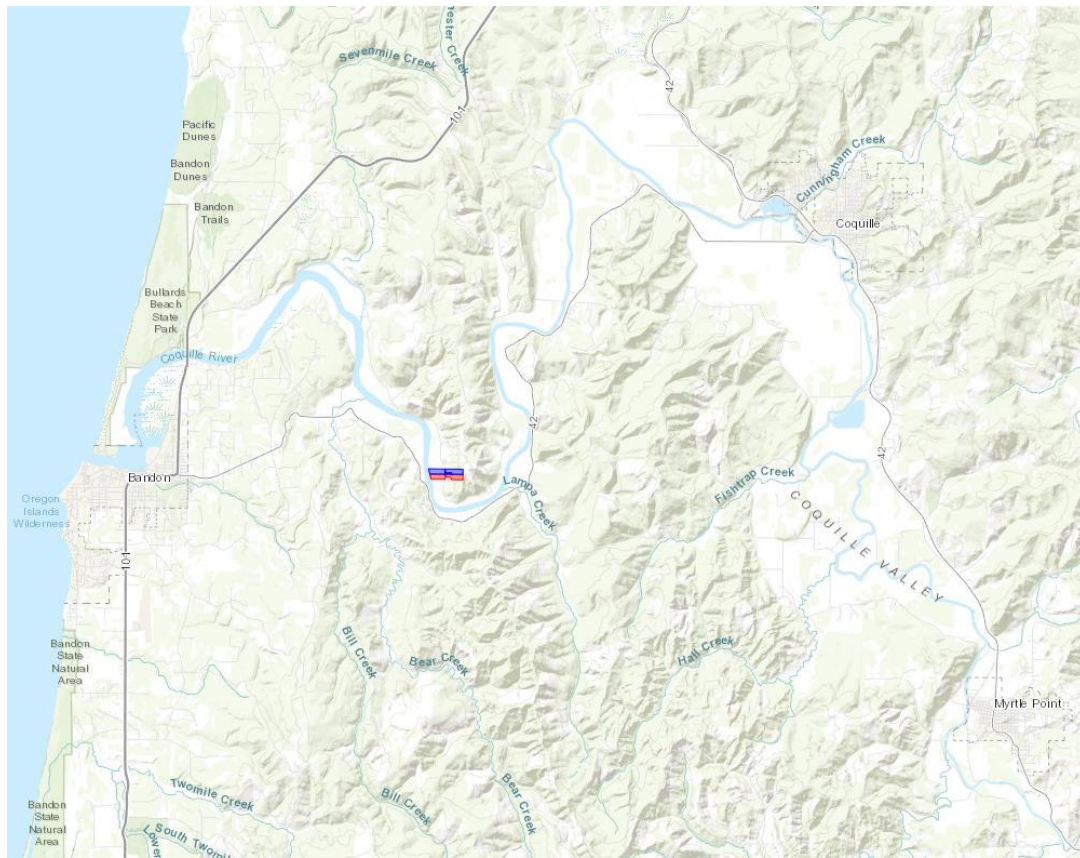
I. PROPOSAL AND BACKGROUND/PROPERTY HISTORY INFORMATION:

- A. Proposal:** The proposal is a request for Planning Director Approval of a Property Line Adjustment between two lawfully created units of land to resolve an encroachment. After the adjustment tax lot 900 will retain the structures that are encroaching.
- B. BACKGROUND INFORMATION:** Tax Lot 800 has some farm structures that were sited without permits. An after the fact compliance determination (CD-21-206) was submitted to bring the property into compliance.

Tax lot 900 contains a Sing-Family Dwelling and two (2) farm structures, all structures are being assessed as sited in 1998. The Dwelling was legally sited through a Vested Right (VR-99-001). Within the zoning clearance letter the existing improvements stated a barn. A Zoning Clearance Letter was issued to site the second farm structure through a Zoning Clearance Letter (ZCL-98-542).

The current application was submitted on November 2, 2021 and was deemed incomplete within the 30-day time frame, December 2, 2021. The applicant submitted the requested information and the application was considered complete on October 12, 2022. 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 units of land are located east of the City of Bandon.



- D. ZONING:** The portion of the two (2) parcels involved in the adjustment are zoned Forest (F) the properties have Coquille River Estuary Management Zoning (CREMP) as well, but this zoning is not included within the adjustment.

ARTICLE 4.2 – ZONING PURPOSE AND INTENT

Section 4.2.500 Resource Zones

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

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

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

E. SITE DESCRIPTION AND SURROUNDING USES:

Tax lot 800 currently consists of 29.70 acres, and tax lot 900 consists of 25.32 acres. Both parcels are zoned Forest and are surrounded by like zoning. The surrounding parcels appear to be used for Residential, Forest and Farm uses.

F. COMMENTS:

As part of the property line adjustment the only comments requested were from the County Surveyor and Assessor’s Office. Coos County Surveyor Mike Dado commented that he had no objections to the proposed adjustment. As a condition of approval all requirements of the Surveyor and Assessor’s Office shall be adhered.

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.

FINDINGS: Staff has reviewed the property history and the county files to determine at the time of this report this property is not in compliance. This application, along with the after the fact compliance determination will bring this property into compliance.

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: Tax lot 800 was created pursuant to 6.1.125.1.e by deed prior to any applicable partition ordinances that would have prohibited the creation (book 308, page 31). Tax lot 900 was also created by deed prior any applicable partition ordinances that would prohibit the creation (deed document #80-11163).

III. STAFF FINDINGS AND CONCLUSIONS:

A. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Director Approval of a Single Property Line Adjustment between two (2) lawfully created units of land. The proposal is subject to Coos County Zoning and Land Development (CCZLDO) Article 6.3 Property Line Adjustments.

B. Criteria and standards for 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:**

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. The Planning Director may waive any portion of this requirement if the property is large and does not have a lien holder.*
 - d. *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.*

FINDING: The application was received on November 2, 2021 and was deemed incomplete on December 2, 2021 as staff needed a title report, the title report was received on October 12, 2022 and deemed complete. A Vicinity Map showing the adjustment was submitted. The parcels have a lien through Bank of the West, a notice of decision will be mailed to them.

Therefore, all criteria have been satisfied.

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*
 - 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).*

FINDING: Both Parcels are Zoned Forest (F), which has a minimum lot size of 80 acres. Neither parcel is over the minimum lot size, which means they are lawful nonconforming parcels, After the adjustment both parcels will remain lawfully nonconforming parcels, which means that this adjustment will not change the conformance status of the properties.

Therefore, this request complies with the criteria under this section.

3. *An encroachment of existing or planned structures will not be created within required setbacks as a result of the line adjustment.*

FINDING: This adjustment will not create an encroachment. Therefore, this request complies with this criterion under this section.

4. *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.*

FINDING: Neither parcel will be reduced to less than an acre. Therefore, this request complies with the criteria under this section.

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.*

FINDING: This adjustment is not to qualify either unit of land for a dwelling. Therefore, this criterion does not apply.

- 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, 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.*

FINDING: The parcels are both Forest (F) zoned; therefore, this criterion has been met.

- **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.

FINDING: There will be no effect on existing easements. Therefore, this criterion has been met.

C. SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS:

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

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

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

IV. DECISION:

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

V. EXPIRATION:

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

VI. NOTICE REQUIREMENTS:

A notice of decision will be provided to property owners within 750 feet of the subject properties and the following agencies, special district or parties: Bandon Rural Fire Protection District and Southern Coos General Health District

A Notice of Decision and Staff Report will be provided to the following: Applicants/Owners, Department of Land Conservation and Development, Planning Commission, and Board of Commissioners.

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