STAFF REPORT FOR ADMINISTRATIVE DECISION

APPLICANT/ OWNER: Brian Reho
9069 SW 35th Ave
Portland OR 97219
Brian Reho Trust, Etal
Eden Gate Lake Estates Limited Partnership
C/O Brian Reho
9069 SW 35th Ave
Portland OR 97219

REQUEST: Land Division (3 parcel partition) with a Measure 49 waiver

DECISION: Approved with Conditions

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION
ASSESSOR’S MAPS: Township 23S Range 12W Section 3/10/10BD Tax Lot(s) 900/200/100

PROPERTY LOCATION
The property is located northeast of the City of Lakeside on North Tenmile Lake and is accessed by boat only.

SPECIAL DISTRICTS/AGENCIES
Coos County Sherriff
Lakeside RFPD
Coos County Roadmaster
Coos County Surveyor
Oregon Department of Environmental Quality (DEQ)
Coos County Assessor
Oregon Water Resources Department
Oregon Department of Fish & Wildlife (ODF&W)
Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

APPLICABLE CRITERIA
Coos County Zoning and Land Development Ordinance (LDO) and Coos County Comprehensive Plan (CCCP)

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I. BASIC FINDINGS

A. Lawfully Created Parcel:  The property was lawfully created consistent with LDO §3.3.800.  The Coos County 1982 Assessment records show that both tax lots 900 (23-12-03) and 200 (23-12-10) were purchased by Elmer and Edith Reho in 1973 under deed reference 73-0787936. Tax lot 100 in 23-12-10BD is Lot 21 in the Oregon Lake Estates Subdivision, established in 1961. In 1988 and 1989, resource boundary line adjustments were approved by the Planning Department, creating new configurations. This was true again in 2011 and 2012, when property line adjustments were authorized on the subject property. Therefore, the criterion under LDO §3.3.800 has been met and the subject property is a legal lot of record.

B. Zoning: Tax lots 900 and 200 are zoned Forest (F). Tax lot 100 is zoned Rural Residential-2 (RR-2). The purpose of the “F” zone is to designate forest lands and protect them for forest uses, except where findings establish that certain limited non-forest uses may be allowed. 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.

Mixed Farm-Forest Areas (“MU” areas) 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.

In certain areas of the County, these “mixed use” areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in “prime forest areas”, and grazing is in many places a co-dominant use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

The purpose of the “RR-2” district is to provide for small acreage homesites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary. The “RR-2” district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

C. Site Description: According to the current Coos County assessment records, these properties consist of 60.58 acres. The current assessment records show there is no development on the property. The property is well forested. There appears to be several small logging roads that traverse the property from east to west in several areas of the subject property. The property is bordered by the Carlson Arm of North Lake (Ten Mile Lakes) on the west.

D. Surrounding Land Uses: Properties to the north and east are zoned Forest. There are a few isolated properties to the west that are zoned Rural Residential. Properties to the south are zoned Rural Residential (RR). Carlson’s Arm of North Lake abuts the property to the west, along with the RR properties.
D. History:

♦ April 25, 1988, a resource boundary line adjustment in the forest zone is approved (ACU-88-12)
♦ June 26, 1989, a resource boundary line adjustment in the forest zone is approved (ACU-89-29)
♦ October 10, 2006, a Measure 37 final order (M124058) is received.
♦ March 21, 2007, a 12-lot subdivision application (SUB-07-03) pursuant to M-37 is submitted. This was denied by the Planning Director on August 30, 2007. On September 10, 2007, an appeal of the decision to deny SUB-07-03 was filed by Brian Reho. This was heard by the Planning Commission at their regular meeting on December 6, 2007. The Planning Commission voted to uphold the appeal and reversed the Planning Director’s decision to deny. However, on December 21, 2007, an appeal of the Planning Commission’s decision to overturn the Planning Director’s decision was filed by Steve Wilgers on behalf of the Werner and Joan Erickson Trust. This matter was heard by the Coos County Board of Commissioners at a regular hearing on February 20, 2008. At that time, the Board of Commissioners found in favor of the appellant and overturned the Planning Commission’s decision. The subdivision was denied under Measure 37. The Board order was signed on February 22, 2008.
♦ December 6, 2007, Measure 49 is approved by the State and becomes law, requiring new claims to be filed in lieu of Measure 37.
♦ 2009, a Measure 49 [E124958] claim is approved by the State for Ms. Edith Reho, excluding the ER Reho Family Limited Partnership. It was noted that Ms. Reho passed away in 2008 and that her heirs were now the lawful claimants.
♦ October 25, 2011, a property line adjustment (PLA-11-34) with 23-12-3/10,900, 901, 200; authorized by Planning on November 10, 2011.
♦ May 29, 2013, the current land division request under Measure 49 for a three parcel land division is submitted. The application was deemed complete pursuant to LDO Section 5.0 on May 6, 2013. The Technical Review Committee met on July 23, 2013.

E. Discussion: In April, 2006, Ms. Edith Reho submitted a Measure 37 claim to the State of Oregon [Department if Land Conservation and Development (DLCD)] on the subject property, claiming compensation because laws enacted after she had purchased her property prevented her from using that property in the manner she had intended. The State accepted her claim in October 2006 and she was granted, in lieu of compensation under ORS 197.352, that the State would not apply the certain laws to Edith Reho’s allowing her to divide the subject property into a maximum of 30 two (2) acre lots with dwellings on each of those lots. The laws that were waived under the Measure 37 claim were: the applicable provisions of Goal 4, ORS 215; and the applicable provisions of OAR 660, division 6. In 1991, Ms. Reho transferred through a series of conveyances 81.25% interest of her ownership in the subject property to the ER Reho Family Limited Partnership. The State determined that the ER Reho Family Limited Partnership was not a claimant to Measure 37; however, Edith Reho remained a claimant. In April, 2006, Ms. Reho also filed a claim with Coos County under Measure 37. Coos County also found in favor of Ms. Reho and agreed to waive the provisions in LDO Section 4.8, with the exception of the safety regulations for siting dwellings. When the land division was submitted in March of 2007, the applicants were the ER Reho Family Limited Partnership. The Planning Director was not able to approve this land division finding that the ER Reho Family Limited Partnership had no rights under law to file for a land division under a Measure 37 claim, as the State had already determined it was not a claimant. As noted above this decision was appealed and reversed; then appealed and reversed again and the subdivision was ultimately denied because the Rehos had not reapplied under Measure 49 for relief.

Ultimately, the Reho family did file a claim under Measure 49 [E124958] and were granted the right to divide the subject property into three parcels and to site a dwelling on each parcel. This was approved in 2009. In 2008, Ms. Edith Reho passed away and her property and claim reverted to her heirs, which was allowed under Measure 49.

Under Measure 49, the right to develop the property and site the dwellings goes with the land; however, once the property changes ownership, the new owners must develop within 10 years of taking ownership. In 2008,
when the Measure 49 claim was filed, the property was owned by Edith M. Reho Trust, Brian D. Reho, Trustee and the ER Reho Limited Partnership. (The ER Reho Limited Partnership was found not to be a claimant for Measure 49 purposes). In 2009, following Ms. Reho’s death, the property was owned by the ER Reho Limited Partnership; Brian D. Reho Trust, et al., Brian Reho Trustee; and the Edith M. Reho Trust, Brian Reho, Trustee. By 2011, the property ownership had again changed ownership and was owned by the Brian Reho Trust, et al, Brian Reho, Trustee; the ER Reho Limited Partnership; and Eden Gate Lake Estates Limited Partnership. Therefore, since there was an ownership change on December 30, 2009 to add the Brian Reho Trust, that becomes the date the 10 year development period begins; and current or subsequent owners will have until December 30, 2019 to develop the property. This will be noted under conditions of approval.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

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<tr>
<td>1.</td>
<td>RR-5, RR-2, RC, CREMP RURAL RESIDENTIAL, AND CREMP RC ZONING DISTRICTS.</td>
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**A. Minimum Lot Size:**

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- 2 acres in the RR-2 district

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except:

i. Pre-existing legal lots of record shall be entitled to a use, subject to the findings and special standards on Table 4.2-c.

ii. Smaller parcels may be permitted in an approved residential planned unit development, provided the allowable density of the parent parcel is not exceeded; or

iii. As provided by Section 3.3.100(E); or

iv. As provided by Section 3.3.100 (B).

**B. Dwelling Unit Density:** Dwellings shall be permitted on lots or parcels complying with the minimum lot size requirements of (1) A above, when the findings and special standards of Table 4.2-c have been satisfied; however, the exceptions to minimum lot size requirements of Section 3.3.100 shall apply.

**C. Lot Coverage:** No requirement.

**D. Setbacks:**

a. All buildings or structures with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from the right-of-way line, whichever is greater.

b. Firebreak: New or replacement dwellings on lots, parcels or tracts abutting the “Forest” zone shall establish and maintain a firebreak, for a distance of at least 30 feet in all directions.
Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs and other dead vegetation should be removed from beneath trees. [ORD 95-05-006PL 11/29/95]

E. **Structure Height:** No requirement.

F. **Fences, Hedges, and Walls:** No requirement, but vision clearance provisions of SECTION 3.3.400 apply.

G. **Offstreet Parking and Loading:** See Chapter X.

H. **Minimum Road Frontage/Lot Width:**

   within UGB’s – 50 feet  
   outside UGB’s – 20 feet

I. **Compatibility with Forest and Agricultural Management Practices and Production:** Any applicant for a rural residential dwelling building or septic permit adjacent to a forest or agriculture zone, shall sign a statement on the Zoning Clearance Letter acknowledging that: “the normal intensive management practices occurring on adjacent resource land will not conflict with the rural residential landowner’s enjoyment of his or her property”.

J. **Riparian Vegetation Protection:**

   i Riparian vegetation within 50 feet of a estuarine wetland, stream, lake, or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:

   a. Trees certified by the Coos Soil and Water Conservation District, a port district, or U.S. Soil Conservation Service posing an erosion or safety hazard may be emoved to minimize said hazard; or
   b. Riparian vegetation may be removed to provide direct access for a water-dependent use; or
   c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or
   d. Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan; or
   e. Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways, provided that the vegetation to be removed is the minimum necessary to accomplish the purpose; or
   f. Riparian vegetation may be removed in conjunction with existing agricultural
operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps.

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K. Access to new dwellings shall meet road and driveway standards in Chapter VII.

FINDING: The portion of the subject property that is zoned RR-2 is being combined with the remainder forest portion of the property under Measure 49. Although the zoning remains Rural Residential, it may not be further divided off of the remainder parcel under Measure 49. If this portion of the property is developed in the future, all development will be required to meet rural residential standards.

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All development and structures approved pursuant to Article 4.8 shall be sited in accordance with this Section.

A. Minimum Lot Size: The minimum parcels size shall be at least 80 acres. Land divisions involving a house that existed prior to June 1, 1995 see Section 4.8.800 (C). For land divisions where all resulting parcels are at least 80 acres, a conditional use is not required. However, the standards in Article 6.1 and 6.5 must be met. [OR96-06-007PL 9/4/96]

FINDING: The land division is being submitted under Measure 49. The claimants were granted the ability to divide the property into three parcels, with three homesites. The total acreage of the subject properties is approximately 61 acres. The land division will create two parcels of approximately 1.25 acres and the remainder property will be approximately 58.5 acres. Measure 49 has granted an exception to the minimum lot size in the Forest zone. As noted above, a small portion of the remainder parcel is zoned Rural Residential. This zone will not change and will be combined with the forest zoned portion of the property. The rural residential zoned portion of the property is not dividable from the rest of the property. This criterion has been waived.

B. Setbacks: All buildings or structures with the exception of fences shall be set back a minimum of thirty-five (35) feet from any road right-of-way centerline, or five (5) feet from any right-of-way line, whichever is greater.

FINDING: Pursuant to the tentative plat maps, there is boat access only to the new parcels in the partition. Therefore, there will be no roadway setbacks. Should a roadway be established in the future, these setbacks will be required to be met.

C. Structure Height: No requirement.

D. Lot Coverage: No requirement.

E. Fences, Hedges and Walls: No requirement, except for vision clearance provisions in Section 3.3.400 and Fire Siting and Safety Standards in Section 4.8.700.

FINDING: These criteria are not applicable.

F. Off-Street Parking and Loading: See Chapter X.

FINDING: The County Roadmaster is responsible to see that there is adequate parking. This will be addressed further below.
G. **Minimum Road Frontage/Lot Width:** 20 feet.

**FINDING:** There is no street frontage, as there are no roadways accessing the property. The parcels are all wider than 20 feet. This criterion has been met.

H. **Minimizing Impacts:** In order to minimize the impact of dwellings in forest lands, all applicants requesting a single family dwelling shall acknowledge and file in the deed record of Coos County, a Forest Management Covenant. The Forest Management Covenant shall be filed prior to any final County approval for a single family dwelling.

**FINDING:** Prior to any development on the property, applicants shall acknowledge and file in the deed records of Coos County a Forest Management Covenant stating they have no objections to normal logging practices.

I. **Riparian Vegetation Protection.**

1. Riparian vegetation within 50 feet of a estuarine wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife habitat inventory maps shall be maintained except that:
   a. Trees certified by the Coos Soil and Water Conservation District, a port district or U.S. Soil Conservation Service posting an erosion or safety hazard may be removed to minimize such hazard; or
   b. Riparian vegetation may be removed to provide direct access for a water-dependent use; or
   c. Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures; or
   d. Riparian vegetation may be removed to facilitate stream or streambank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan; or
   e. Riparian vegetation may be removed to site or properly maintain public utilities and road rights-of-way; or
   f. Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g. to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps.
   g. The 50’ riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the wetland, stream, lake or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure’s “footprint”.

**FINDING:** When development begins, the riparian setbacks will be required to be met. This is not a provision that is waived by Measure 49, as it deals with the health and safety of the waterways. No riparian vegetation shall be removed except as noted above.

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<td>The following standards shall govern the development of new lots and parcels in the Forest zone, including the CREMP and CBEMP Forest zones.</td>
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Section 4.8.800 (A) Any new lot or parcel shall not be less than 80 acres in size. However, the standards in Articles 6.1 and 6.5 must be met.

FINDING: This application for a 3 parcel land division is being submitted under Measure 49, which has allowed the claimants to develop this property into 3 parcels and to site dwellings on each of them. The proposal is to create 2 parcels that are approximately 1.25 acres each and a remainder parcel that is approximately 58.5 acres. Measure 49 waives the minimum lot size; however, the provisions of 6.1 and 6.5 are not waived and will be addressed below. This criterion has been partially waived.

| LDO | Article 4.7, Table 4.7a (3), (6); Appendix I, Policies 5.7(3); 5.6(1)(a) | Special Considerations: Historical/Archeological Sites & Structures, Significant Wildlife Habitat I |

Appendix I, Policy 5.6 (1)(a) Fish and Wildlife Habitats.
Coos County shall consider as "5c" Goal #5 resources (pursuant to OAR 660-16-000) the following:

- "Sensitive Big-game Range"
- Bird Habitat Sites (listed in the following table)
- Salmonid Spawning and Rearing Areas

Uses and activities deemed compatible with the objective of providing adequate protection for these resources are all uses and activities allowed, or conditionally allowed by the Zoning and Land Development Ordinance, except that special care must be taken when developing property adjacent to salmonid spawning and rearing areas so as to avoid to the greatest practical extent the unnecessary destruction of riparian vegetation that may exist along stream banks. The Oregon Forest Practices Act is deemed adequate protection against adverse impacts from timber management practices.

This policy shall be implemented by:

a. County reliance on the Oregon Forest Practices Act to ensure adequate protection of "significant fish and wildlife habitat" against possible adverse impacts from timber management practices; and

b. The Zoning and Land Development Ordinance shall provide for an adequate riparian vegetation protection setback, recognizing that "virtually all acknowledged counties have adopted a 50 foot or greater standard" (DLC fandom report on Coos County, November 28, 1984); and

c. Use of the "Special Considerations Map" to identify (by reference to the detail inventory map) salmonid spawning and rearing areas subject to special riparian vegetation protection; and

d. Stipulating on County Zoning Clearance Letters that removal of riparian vegetation in salmonid spawning and rearing areas shall be permitted only pursuant to the provisions of this policy.

e. Coos County shall adopt an appropriate structural setback along wetlands, streams, lakes and rivers as identified on the Coastal Shoreland and Fish and Wildlife Habitat inventory maps.

The Oregon Department of Fish and Wildlife and the Department of Forestry are working in conjunction with the requirements of this Plan and, are deemed adequate protection against adverse impacts from timber management practices.

Special consideration and care must be taken when developing property adjacent to "5c" bird sites so as to avoid, to the greatest practical extent, the unnecessary destruction of, or impact upon, said bird sites. The Oregon Forest Practices Act (FPA) is deemed adequate protection against adverse impacts from timber management practices.
This policy shall be implemented by:

a. County reliance upon the Oregon Department of Forestry and Oregon Department of Fish and Wildlife insuring adequate protection of "5c" bird sites from possible adverse impacts of timber management practices thru the Forest Practices Act; and

b. Use of the "Special Considerations Map" and detailed inventories in the Plan to identify "5c" bird sites subject to special protection; and

c. For "5c" bird site protection, stipulating in the Zoning and Land Development Ordinance that conflicting uses shall be reviewed by the Oregon Department of Fish and Wildlife to determine that any proposed use is not expected to produce significant and unacceptable environmental impacts on any of the "5c" bird sites; and

d. Stipulating on County Zoning Clearance Letters that establishment of conflicting uses adjacent to "5c" bird sites shall be permitted only pursuant to the provisions of this policy.

Coos County shall require a location map for any development activity (except grazing within its regulatory scope that is determined to be within a "5c" bird habitat. The location map shall be referred to the Oregon Department of Fish and Wildlife requesting an opinion within 10 days as to whether the development is likely to produce significant and unacceptable impacts upon the "5c" resource, and what safeguards it would recommend to protect the resource. ODFW's determination shall be reviewed by the Coos County Planning Director, who shall consider the ODFW findings and approve, approve with conditions, or deny an Administrative Conditional Use for the matter (ACU) based upon sound principles of conservation and appropriate balancing of the ESEE consequences so if conflicting uses are allowed the resource site is protected to some extent. The ACU will be processed pursuant to the Zoning and Land Development Ordinance.

FINDING: Measure 49 does not waive criteria that protect wildlife. Coos County has notified ODF&W of the impending land division and they have no stated objections to this partition. When it is time for development, then ODF&W will once again be notified of the proposed development and given the opportunity to comment. Also when development occurs, the applicants will have to comply with the 50 foot riparian vegetation protection setbacks. These criteria has been satisfied.

Appendix I, Policy 5.7(3)

Coos County shall continue to refrain from wide-spread dissemination site-specific inventory information concerning identified archaeological sites. Rather, Coos County shall manage development in these areas so as to preserve their value as archaeological resources.

This strategy shall be implemented by requiring development proposals to be accompanied by documentation that the proposed project would not adversely impact the historical and archaeological values of the project's site. "Sufficient documentation" shall be a letter from a qualified archaeologist/historian and/or a duly authorized representative of a local Indian tribe(s). The Coos County Planning Department shall develop and maintain a list of qualified archaeologists and historians. In cases where adverse impacts have been identified, then development shall only proceed if appropriate measures are taken to preserve the archaeological value of the site. "Appropriate measures" are deemed to be those, which do not compromise the integrity of remains, such as: (1) paving over the sites; (2) incorporating cluster-type housing design to avoid the sensitive areas; or (3) contracting with a qualified archaeologist to remove and re-inter the cultural remains or burial(s) at the developer's expense. If an archaeological site is encountered in the process of development, which previously had been unknown to exist, then, these three appropriate measures shall still apply. Land development activities found to violate the intent of this strategy shall be subject to penalties prescribed by ORS 97.745 (Source: Coos Bay Plan).

This strategy is based on the recognition that preservation of such archaeologically sensitive areas is not
only a community's social responsibility but is also a legal responsibility pursuant to Goal #5 and ORS 97.745. It also recognizes that historical and archaeological sites are non-renewable, cultural resources (Source: Coos Bay Plan).

FINDING: The subject property is located within an inventoried area of archaeological interest to the local Indian Tribes. The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have been notified of the impending land division. They have no objections to the land division. They will also be notified again when development occurs. This criterion has been satisfied.

LDO Article 6.1, Section 6.1.100, 6.1.400 General Provisions, Enforcement; General Purpose; Application for Land Divisions

§ 6.1.100 General Purpose. The general purpose of this Chapter is to prescribe the form and content of subdivision plats and partition plats (minor and majors) and the procedures to be followed in their development and approval and to designate those authorized to give such approval; to establish the minimum requirements and standards necessary for efficient, safe, and attractive subdivisions and partitions consistent with the natural resources of the County; and to provide penalties for violations. It is intended that this Chapter be consistent with ORS Chapters 92 and 215.

It is further the intent of this Chapter:
1. To ensure that land be subdivided or partitioned in a manner which will promote the public health, safety, convenience, and general welfare.
2. To aid in the implementation of the Coos County Comprehensive Plan.
3. To protect the natural assets of the County by providing the means for encouraging orderly developments by relating the number, design, and distribution of lots or parcels to existing topographical, ecological, hydrological, and other natural conditions.
4. To minimize through proper design and layout, the danger to life and property by the hazards of fire, flood, water pollution, soil erosion and land slippage.
5. To ensure that proper consideration are given for adequate light and air, and prevention of overcrowding of land.
6. To provide lots, parcels, and development sites of sufficient size and appropriate shape and character for the purpose for which they are to be used.
7. To provide for adequate water supply, sewage disposal, storm drainage, and other utilities needed for public health, safety, and welfare.
8. To provide adequate provisions for transportation designed to handle the anticipated usage and to ensure that they minimize safety hazards and adverse impact on the neighboring area.
9. To ensure that the costs of providing rights-of-way and improvements for vehicular and pedestrian traffic, utilities, and public areas serving new developments be borne by the benefited persons rather than by the people of the County at large.
10. To encourage new concepts and innovations in the arrangement of building sites, lots, and parcels within divisions by means of a Planned Unit Development or clustering. Deviations from the traditional approaches of dividing lands may be considered for approval when such deviations will facilitate the ultimate development of the land in a unique manner that will be compatible with the purpose of this Chapter.

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§ 6.1.400 Application for Land Divisions
i. Applications: All applications for land divisions shall be submitted to the Planning Department as required by this Chapter.

FINDING: By submitting the application for the partition, the applicants have met the general provisions and intent of Article 6.1.

LDO Article 6.2, Section 6.2.100, Section Design and Development Standards; Purpose; Access; Lots
ARTICLE 6.2 Design and Development Standards

§ 6.2.100 Purpose All land divisions shall conform to the design and development standards specified in the following sections. The standards so specified shall be considered as the minimum appropriate for land division, partition, PUD or subdivision development and are not intended to limit the developer from using higher standards of design and development.

§ 6.2.150 Roads or Streets The standards of Chapter VII shall apply.

***

FINDING: The applicant must submit a land division that conforms to the design and development standards in Article 6.2. The applicant has submitted base and tentative partition maps that meet the design standards and have been approved by the County Surveyor. The standards in Chapter 7 shall be reviewed separately.

§ 6.2.250 Access

(1) The development of land shall be such as to provide each lot or parcel with one of the following alternative means of access.

(a) a lot or parcel shall abut upon a public street, other than an alley…

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FINDING: The tentative maps show that there is only boat access to this property. Therefore, this criterion does not apply to this application. When development occurs, the applicants will have to contact the Division of State Lands for dock permits, as well as obtain County compliance to site the dock. It is possible a flood elevation certificate will also be required.

§ 6.2.350 Lots and Parcels

(1) Lots and parcel sizes shall meet the minimum lot sizes as established by the applicable zoning district…

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FINDING: The property is zoned Forest and Rural Residential-2. The minimum lot size has been waived by the State through Measure 49. The requirement is that no lot shall be greater than 5 acres on property that is not high value forest land except the remainder lot which will be dedicated to forest uses. The two smaller lots are approximately 1.25 acres each. The remainder lot is approximately 58 acres. The residential portion is being combined with the remainder forest portion of the property and will be considered a single parcel. This criterion has been waived, but the Measure 49 criterion has been met.
c. Within ten (10) days of receiving a complete application, the Planning Department shall distribute copies of the tentative partition or subdivision plat map and base map to affected cities, special districts and County departments.

2. Tentative Plat Map and Base Map Standards
An application for a partition or subdivision shall include a tentative plat map and a base map, each drawn on mylar or substantial high quality tracing paper measuring 18" x 24" using archival ink and drafting material. The maps shall be clearly and legibly drawn to a standard engineer's scale. All maps shall be drawn to the same scale except as otherwise authorized by the County Surveyor. Each map shall be clearly titled as being part of a tentative partition, subdivision plat, or planned community. (OR 00-5-014PL)

3. Required Maps a tentative partition or subdivision plat map and base map shall be submitted for the lot or parent parcel to be divided.

FINDING: The submitted maps contain the map data and information required by this Section with the exceptions noted below in the Conditions of Approval. The maps and fee were submitted and the application was deemed complete. A Technical Review Committee Meeting was scheduled and held to discuss possible discrepancies on the maps. Any changes noted are listed in the conditions below.

<table>
<thead>
<tr>
<th>LDO</th>
<th>Section 7.2, Table 7.2</th>
<th>Minimum Standards for new Roads, Streets, and Driveways</th>
</tr>
</thead>
</table>

§ 7.2 Minimum Standards for new Roads, Streets, and Driveways

<table>
<thead>
<tr>
<th></th>
<th>Average Daily Traffic</th>
<th>Subgrade Width</th>
<th>All-Weather Surface Width</th>
<th>Right-of-Way Width</th>
<th>Compacted Rock Depth</th>
<th>Maximum Grade</th>
<th>Centerline Minimum Degree of Curvature</th>
<th>Vertical Unobstructed Clearance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private roadways in conjunction with a residential partition</td>
<td>0-12 ADT</td>
<td>16'</td>
<td>12'</td>
<td>50'</td>
<td>5&quot;</td>
<td>3&quot;</td>
<td>18%</td>
<td>56 degrees</td>
</tr>
<tr>
<td>Driveways</td>
<td></td>
<td>12'</td>
<td></td>
<td></td>
<td>Finish Rock</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

FINDING: The submitted application is for a three (3) parcel partition. At this point, there are no roads or driveways proposed. The property is accessed by boat only. Once development occurs, there may be driveway or access permits required, provided land access can be provided. The County Roadmaster will be responsible for issuing these permits and all roads and driveways that are proposed must meet County requirements. When boat access is requested, a permit from the Department of State Lands will be required for a new dock as will County clearance. A flood elevation certification may also be required.

<table>
<thead>
<tr>
<th>LDO</th>
<th>Section 10.1.400</th>
<th>Required number of parking spaces for type of use.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>USE</th>
<th>STANDARD</th>
</tr>
</thead>
<tbody>
<tr>
<td>6. Residential</td>
<td></td>
</tr>
<tr>
<td>a. single-family dwelling.</td>
<td>2 spaces per dwelling unit.</td>
</tr>
</tbody>
</table>

FINDING: Once development occurs, these parking standards shall be met.
The applicant is proposing a three parcel land division. Based on review of the aerial photographs, assessment records, Planning Department records, and the applicants’ submitted evidence, it appears the land division application conforms with the provisions and takes into account the requirements to ensure necessary standards for efficient, safe, and attractive developments while remaining consistent with ORS 92 and 215 and Measure 49. Therefore, based on the evidence in the record the proposal meets the criteria.

Please note, all applications are subject to review of all applicable review criteria in the Coos County Comprehensive Plan (CCCP), the Coos County Zoning and Land Development Ordinance (LDO), and all land use regulations. Please be aware the burden of proof rests with the applicant.

Pursuant to §6.5.450, an application for a final partition plat, complete with all submittal requirements and appropriate fee, shall be submitted to the Planning Department for approval not later than five years after the date of approval of the tentative plat.

IV. NOTIFICATION

The Planning Department mailed individual written notice of the decision to the owners of record of all property located within 750-feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s), Owner(s), Dave Perry, DLCD. Notice of Decision was also provided to the following: Chris Hood, Stuntzner Engineering and Forestry, LLC; Coos County Planning Commission; The Coos County Board of Commissioners; the special districts and agencies as noted above. In addition, notice of the decision was posted at the Coos County Courthouse, Coquille Annex and North Bend Annex. All notices were mailed and posted on October 23, 2013.

V. NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Coos County Hearings Body pursuant to Article 5.8 of the Coos County Zoning and Land Development Ordinance within 15 days from the date of written notice. This means that appeals must be received in the Planning Department by 5 p.m. on November 7, 2013, in order to be considered. This decision will not be final until the period for filing an appeal has expired. Detailed information about the appeal process, filing fees and additional information will be provided by the Planning Department upon request. The decision is based upon the submitted application, supporting evidence, facts, and findings to the criteria.

V. CONDITIONS OF APPROVAL

1. Pursuant to ORS 215.416(1), the fees charged by the Planning Department for permit applications represent the average cost of processing the application. If the actual cost of processing the application exceeds the average cost, then the applicant shall be responsible for paying the full amount. If such an amount is due, it must be paid before the final plats can be accepted.
2. Current taxes must be paid before the Assessor can sign the final plat. If the final plat is not filed before July 1, a prepayment of taxes must be collected. Contact the Assessor’s office to ascertain what this prepayment might be.
3. Final Plat fees for the Planning Department are $300 and must be paid when submitting the final plats. There may be fees from other Departments. Please check with the Road Department, Surveyor’s office, Assessor’s office and Clerk’s office to determine what those fees will be.
4. The tentative and final plats must read that the access is boat only.

Note: All fees are subject to change.

FINAL PLAT¹

¹*NOTE: the above mentioned Final Plat requirements are noted for convenience and are not intended to replace all of the final plat requirements identified in the LDO §6.5.450.
1. The final plats shall comply with all criteria in 6.5.450.
2. A statement that no domestic water supply facility will be provided shall be included on the face of the final plat. It is the responsibility of the applicants to deliver a copy of the statement to each prospective purchaser of the undeveloped parcel. There are no water rights of record on the subject property. Property owners should be aware that they should contact Oregon Water Resources Department.
3. A statement that no sewage disposal facility will be provided shall be included on the face of the final plat. It is the responsibility of the applicant to deliver a copy of this statement to each prospective purchaser of the undeveloped parcel.
4. Date, scale, north point, as well as the initial point must be shown on the final plat and in the legend.
5. Names of the owners, partitioner, engineer and/or surveyor must be shown on the final plat.
6. Description and signature block must appear on the face of the final plat.
7. The names of all streets or roads, the exact location and width of said streets or roads; and easements intersecting the boundary of the tract must be shown on the final plat.
8. Declarations and certificates must be shown on the final plat.
9. The final plat should state that the access is boat only.

OTHER CONDITIONS:

10. At the time of development, the Department of State Lands should be notified and a waterway permit for the dock must be obtained, along with zoning clearance to site the dock. Please be aware that a floodplain certification might also be required at that time.
11. If at any time, roadways or driveways are developed, the County Roadmaster must be notified and the roads and driveways must be developed according to County Standards. Any road access to the property must have an access permit from the Road Department.
12. At the time of development, both ODF&W and the local Indian Tribe shall be notified.
13. Pursuant to Measure 49, once the property ownership changes in any way, the new owners of record have ten (10) years in which to develop the property under Measure 49. The date of ownership change for Measure 49 purposes is December 30, 2009, when the Brian Reho Trust was added to the ownership. Therefore any development under Measure 49 must be completed by December 30, 2019, or the new development will be required to meet current land use standards.
14. Under Measure 49, the 58 acre remainder parcel cannot be further divided. This includes separating the property along a zone boundary. The RR-2 portion of the property is to be an undividable portion of the remainder parcel.
15. At this time, there are no roads proposed for the development, as the property is boat access only. If at some time in the future, roads are developed on this property, they are required to meet County standards and must be approved by the County Roadmaster. If serving more than two properties, the road must be named pursuant to Coos County Code. Any driveways must also be approved by the Coos County Roadmaster.

Attachments:
Application
Maps
Decision Notice