STAFF REPORT FOR ADMINISTRATIVE DECISION

APPLICANT/OWNER: Julius P. & Karen S. Hytrek
93281 Luscombe Lane
Coos Bay OR 97420

REQUEST: Land Division (2 parcel partition)

DECISION: Approved with Conditions

STAFF CONTACT: Debby Darling, Planner II

MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR’S MAPS: Township 27S Range 13W Section 02DC Tax Lot(s) 1100

PROPERTY LOCATION

The property is located south of the city of Coos Bay in the unincorporated community of Greenacres, and is accessed off of Luscombe Loop.

SPECIAL DISTRICTS/AGENCIES

Coos County Sherriff
Coos County Assessor
Coos County Roadmaster
Coos County Surveyor
Oregon Department of Environmental Quality (DEQ)
Coos County Health Department

Coos Bay School District #9
Oregon International Port of Coos Bay
Greenacres RFPD
Confederated Tribes of Coos, Siuslaw, and Lower Umpqua Indians (Confederated Tribes)

APPLICABLE CRITERIA

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

<table>
<thead>
<tr>
<th>LDO</th>
<th>Article 4.2, Section 4.2.400, Table 4.2C, Section 4.2.900 (6)</th>
<th>Uses; Rural Residential Zoning Districts including Rural Unincorporated Communities; Review Standards and Special Development Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>LDO</td>
<td>Article 4.4, Section 4.4.400</td>
<td>General Development Standards; Rural Residential</td>
</tr>
<tr>
<td>LDO</td>
<td>Article 4.7, Table 4.7a(3)(b); Appendix 1, Policy 5.7(3)</td>
<td>Special Considerations; Historical, Cultural, and Archaeological Resources, Natural Areas and Wilderness. Notification</td>
</tr>
<tr>
<td>LDO</td>
<td>Article 5.0, Section 5.0.150, 5.0.200</td>
<td>Administrative and Application Review Provisions; Application Requirements; Application Completeness</td>
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<td>LDO</td>
<td>Article 6.1, Section 6.1.100, 6.1.400</td>
<td>General Provisions , Enforcement; General Purpose; Application for Land Divisions</td>
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<tr>
<td>LDO</td>
<td>Article 6.2, Section 6.2.100, Section 6.2.250 (1), Section 6.2.350</td>
<td>Design and Development Standards; Purpose; Access; Lots and Parcels</td>
</tr>
</tbody>
</table>
I. BASIC FINDINGS

A. Lawfully Created Parcel: The property was lawfully created consistent with LDO §3.3.800(1). This property was lawfully conveyed to Gerald J. and S. B. Potts under deed reference number 79-33055 of the Coos County Deed Records, located in the Coos County Clerk’s office. Therefore it was a lawfully created property prior to January 1, 1986 and meets the criterion as listed in LDO §3.3.800(1).

B. Zoning: The subject property is zoned Rural Center (RC). The purpose of the “RC” district is to provide for the development of rural commercial, tourist commercial, residential and services facilities, necessities, convenience and supplies ancillary to nearby agricultural, forestry, recreational and rural residential uses and activities; and to conserve energy by providing for needed commercial outlets in rural areas already “committed” as residential/commercial nodes.

New commercial uses that are consistent with the objectives of the “RC” district are those uses which are needed for the convenient shopping needs of the nearby rural population, and are compatible, or can be made compatible, with surrounding properties.

C. Site Description: The property has 3.0 acres. Currently there is a dwelling, a mobile home, barns and sheds located on the property. There are a few screening trees along the western property line and surrounding the residential use. There is an open meadow like area in the southeast corner of the property. The property is accessed off of Luscombe Loop. The subject property lies within the Rural Unincorporated Community of Greenacres.

D. Surrounding Land Uses: Adjacent properties to the north, west, and east are zoned RC. Properties to the south are zoned Rural Residential – 2 (RR-2). Farther to the north, there is a small pocket of Industrial (IND) zoned properties.

E. History:
- March 13, 1980, a Verification Letter (Zoning Compliance) was issued to replace an existing mobile home and to reconnect to an existing septic system. There were no other homes noted on the property.
- May 26, 1989, a Zoning Compliance Letter (VL-89-201) was issued to replace a mobile home that previously burned and to reconnect to the existing septic system. There were no other homes noted on the property.
- June 19, 1997, an access permit was issued by the Coos County Road Department.
- February 19, 1998, a driveway confirmation was issued by the Coos County Road Department, confirming the new driveway met County Standards.
- March 19, 1998, a Zoning Compliance Letter (ZCL-98-095) was issued to replace the existing mobile home with a stick-built single family dwelling. Upon habitation of the new home, the mobile home was to be removed from the property as there was only one dwelling allowed on the subject property. This was signed by Julius Hytek. At the same time, clearance was given to reconnect to the existing septic system. It was noted on this ZCL that in addition to the mobile home, there were other outbuildings.
- August 3, 2000, a Zoning Compliance Letter (ZCL-00-350) was issued to site an accessory structure not for habitation, commercial or industrial use. Again it was noted that only one dwelling was allowed. This compliance letter noted that there was a mobile home on the property. There was no mention of a single family dwelling. Again, Mr. Hytek signed this compliance letter.
- The current application was submitted on January 21, 2014 and was deemed complete on January 29, 2014.
- TRC (Technical Review Committee) was held on February 26, 2014.
F. **Violation**

Pursuant to Section 1.3.200(A) no permits or verification letters shall be issued to change the use of a lot that does not conform to the requirements of the Ordinance, unless otherwise permitted by the Ordinance. The Ordinance does provide that the property owners may resolve the issue and then proceed with their application.

The mobile home was never removed from the property and is currently occupied as a dwelling unit. This has created a violation of the dwelling density for the zoning district. Both in 1998 and 2000, Mr. Hytek obtained zoning compliance letters that clearly stated only one dwelling was allowed and in 1998, it was made clear that the mobile home was to be removed from the property once the main house was completed. Before the final plats can be submitted, this violation must be resolved. This will be a condition of approval.

### II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

<table>
<thead>
<tr>
<th>LDO</th>
<th>Article 4.2. Section 4.2.400, Table 4.2C, Section 4.2.900 (6)</th>
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</table>

§ 4.2.100 **Use Matrices - General.** The uses and activities allowed within the individual zoning districts prescribed in Section 4.1.100, together with those uses that may be conditionally allowed or which are prohibited, are set forth in Tables 4.2a through 4.2g. These zoning use tables stipulate where and under what specific circumstances development may occur. The following symbols denote whether or not the specific use or activity listed in the tables is permitted outright, may be permitted with conditions, may be allowed subject to an Administrative Conditional Use, may be allowed subject to a hearings Body Conditional Use, or prohibited in the specific zoning district: *** P-# *** The use or activity may be allowed outright, but is specifically conditioned or limited by Section 4.2.900. ***

In addition to any applicable special conditions or findings prescribed in Section 4.2.900, the following may also limit and regulate uses and activities in Tables 4.2a through 4.2g:

1. Article 4.6, "Overlay Zones"
2. Article 4.7, "Special Considerations"
3. Chapter V, "$\text{"Administration"}$ (Procedural requirements)
4. Article 4.4, "General Development Standards"

**FINDING:** The subject property is zoned RC; therefore, LDO Section 4.2.400 (Table 4.2C) is applicable and has been reviewed in this section of the report below.

Article 4.6 is an overlay zone for floodplains and airports and this property does not fall within any of the overlay zones; therefore, that Article is not applicable to this review and requires no further review.

Article 4.7 addresses special regulatory considerations based on adopted inventories in the CCCP. After reviewing the inventory maps staff has determined that the property lies within the cultural interests of the Confederated Tribes and this will be addressed below.

Chapter V is the administration or procedural requirements which contain process for the application timelines and notice requirements. There are no other sections that are applicable to this application in Chapter V. This report has addressed the procedure requirements that are applicable to this review.

Article 4.4 covers the general development standards that all development unless otherwise allowed must be addressed.
TABLE 4.2c
Including Unincorporated Communities (UC)

<table>
<thead>
<tr>
<th>RURAL RESIDENTIAL USE</th>
<th>ZONE DISTRICT</th>
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<tbody>
<tr>
<td></td>
<td>RC within a UC</td>
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<tr>
<td>Land Divisions:</td>
<td>P-6</td>
</tr>
</tbody>
</table>

§ 4.2.900  Review Standards and Special Development Conditions. The review standards and special development conditions referenced in Tables 4.2-a through 4.2-g are set forth below:

6. Use must comply with Article 6.1 and 6.5.

FINDING: Table 4.2c above shows that a partition is a permitted use subject to review standard #6 in LDO § 4.2.900. As noted, review standard 6 requires that an applicant comply with LDO Articles 6.1 and 6.5. The applicant has submitted an application with Tentative Partition maps as required by Articles 6.1 and 6.5. These criteria have been satisfied.

§ 4.4.400  General Standards for Rural Residential Zoning Districts.

The general standards set forth in this section shall apply to the zoning districts and uses addressed in Table 4.2-c.

1. RR-5, RR-2, RC, CREMP Rural Residential, AND CREMP RC Zoning Districts
   A. Minimum Lot Size: ***
      - 1 acre in the RC district ***
   
   FINDING: The subject property is zoned RC and the minimum lot size for this zoning is one acre. The property currently consists of more than two acres; therefore, it can be divided into two parcels and still meet the minimum lot size requirements. Staff finds the land division proposal is consistent with the acreage density criterion.

   G. Offstreet Parking and Loading: (See Chapter X)
   
   FINDING: Chapter X, Section 10.1.400 (6) requires 2 spaces per dwelling unit for residential dwellings. This will need to be addressed when development occurs.

   H. Minimum Road Frontage/Lot Width:
      within UGB’s – 50 feet
      outside UGB’s – 20 feet
   
   FINDING: The subject property is outside of any UGB (Urban Growth Boundary). The minimum road frontage is 20 feet. The submitted tentative maps show there is more than adequate frontage for both lots.

Appendix 1, 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 property is noted on the special Considerations map to be in an area of cultural and archaeological interest to the Confederated Tribes. The map is general and does not have site specific information. Coos County relies on the tribes to provide data on a case by case basis. The Confederated Tribes are included in the notification of this land division and if there is any further development on either of the two resulting parcels, the Confederated Tribes will be notified at that time and comments will be requested. Therefore, this criterion has been met.

<table>
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<tr>
<th>LDO</th>
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Article 5.0 Administration and Application Review Provisions § 5.0.150 Application Requirements (Article 5.6 of this ordinance Site Plan Review Requirements and Chapter 6 Land Divisions have additional submittal requirements)

Applications for development or land use action shall be filed on forms prescribed by the County and shall include sufficient information and evidence necessary to demonstrate compliance with the applicable criteria and standards of this Ordinance and be accompanied by the appropriate fee.

***

Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. “Property owner” means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.

***

The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.

§ 5.0.200 Application Completeness (ORS 215.427)

A. An application will not be acted upon until it has been deemed complete by the Planning Department. In order to be deemed complete, the application must comply with the requirements of Section 5.0.150, and all applicable criteria or standards must be adequately addressed in the application.

***

FINDING: On January 21, 2014, the applicant, who is the property owner, submitted this application for a three parcel partition. There was sufficient information and evidence provided to demonstrate compliance with the LDO. The application was deemed complete on January 29, 2014 and a Technical Review Committee Meeting was scheduled and held on February
26, 2014. Issues or missing information were noted and conveyed to the Surveyor, particularly that the property was in violation and this must be resolved prior to submitting the final plats. The review has progressed. Staff finds the application meets the criteria of § 5.0.150 and 5.0.200. Criteria found in Article 6 are addressed below.

<table>
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**Article 6.1 General Provisions, Enforcement.**

§ 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.

***

§ 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.

<table>
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**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 VII 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…

***

FINDING: Access to the existing dwelling is provided off of Luscombe Loop. The County Roadmaster has stated that a driveway confirmation must be obtained for Parcel 2, upon development. At that time, a “Work in the Right of Way permit” 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…

***

FINDING: The property is zoned RC. The minimum lot size is 1 acre as explained in §4.4.100(1) of the LDO. Each parcel will meet or exceed the minimum lot size. This criterion has been met.

| LDO Article 6.5; Section 6.5.250 | Partitions and Subdivisions; Tentative Plan and Base Map |

**Article 6.5 Partitions and Subdivisions.**

A property divided by the sale or grant of property for state highway, county road, City Street or other right-of-way shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned. (OR 92-07-012PL)

FINDING: This property has not been divided by the sale or grant of property for state highway, county road, City Street, or other right-of-way. Therefore, this criterion does not apply.

§ 6.5.250 Tentative Plan and Base Map

1. Application

   a. All proposed tentative partition and subdivision plats and base maps shall comply with all applicable sections of this Ordinance. Applicants shall secure appropriate zoning authorization or clearance prior to submittal.

   b. A tentative partition or subdivision plat map and base map, complete with all submittal requirements and the appropriate fee, shall be submitted to the Planning Department.

   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. (OR 00-5-014PL)

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>Rural Road Standards: Minimum standards for new roads, streets, and driveways</th>
</tr>
</thead>
</table>

§ 7.2 Rural Road Standards, Table 7.2- Minimum Standards for New Roads, Streets, and Driveways

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 Travel Surface</th>
<th>Right-of-Way Width</th>
<th>Compacted Rock Depth</th>
<th>Maximum Grade</th>
<th>Centerline Maximum Degree of Curvature</th>
<th>Vertical Unobstructed Clearance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0-12 ADT</td>
<td>16’</td>
<td>12’</td>
<td>50’</td>
<td>5”</td>
<td>3”</td>
<td>18%</td>
<td>56 degrees</td>
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<tr>
<td></td>
<td>Private roadways in conjunction with a residential partition</td>
<td>12’</td>
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<td></td>
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<tr>
<td>Driveways</td>
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**FINDING:** The submitted application is for a two (2) parcel partition. Any new driveway must conform with the all-weather travel surface requirements, as well as the maximum grade.

**III. ANALYSIS**

The applicant is proposing a two 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. **However, there is a violation on the property, consisting of a second, illegal dwelling. The mobile home must be removed from the property or must be moved onto Parcel 2, so that after the land division, there will be only one dwelling on each parcel. Evidence must be submitted to the Planning Department to prove this has been accomplished. This will be a condition of approval and the final plats may not be submitted until the violation has been resolved. A written plan of compliance should be presented to the Planning Department.**

With the exception of the violation and 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 250-feet of the subject property. Notice of Decision with a copy of the staff report was forwarded to Applicant(s)/Owner(s) and Dave Perry, DLCD. Notice of Decision was also provided to the following: Coos County Planning Commission, The Coos County Board of Commissioners, the special districts as noted above,
and Troy Rambo, Surveyor. 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 March 12, 2014.

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 March 27, 2014, 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. The violation on the property, consisting of two dwellings must be resolved prior to submitting the final plats. The violation may be resolved by removing the mobile from the property or by obtaining a zoning compliance letter to move the mobile home to the portion of the property that will comprise Parcel 2, so that when the property is divided, there will be a single dwelling on each parcel, as per the dwelling density requirements. Planning requires a written plan of compliance, as well as photographic evidence once the violation has been resolved. Once this has been completed, the final plats may be submitted.

2. The final plats shall comply with all criteria in 6.5.450.

3. 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.

4. 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.

5. Date, scale, north point, as well as the initial point must be shown on the final plat and in the legend.

6. Names of the owners, partitioner, engineer and/or surveyor must be shown on the final plat.

7. On the final plats, the parcels shall be labeled Parcel 1 and Parcel 2.

8. The width of Luscombe Loop must be provided on the final plats.

9. There shall be a description of found monuments or monuments set in the legend on the final plats.

10. Description and signature block must appear on the face of the final plat.

11. Declarations and certificates must be shown on the final plat.

12. Current taxes must be paid before the Assessor can sign the final plat.

Fees:

Surveyor: Final Plat $100.00, Filing $100.00 plus $15.00 each additional page.

Planning: Submittal of Final Plat $300.00

Assessors: $100 processing fee will be required before the Assessor will sign the final plat. If the final plat is not filed before July 1 or the tax statements are not mailed by the time the final plat is submitted for approval, then a pre-payment of taxes must be collected before the Assessor will sign the final plats. Prepayment amount will be disclosed on a separate statement.

Road: A driveway confirmation/access permit must be purchased for Parcel 2 prior to development. Please check with the Planning Department for the current fee. A “Work in the Right of Way Permit” may also be required. Please check with the Road Department to determine if this is necessary.

Note: All fees are subject to change