



NOTICE OF LAND USE DECISION BY THE COOS COUNTY PLANNING DIRECTOR

Coos County Planning
225 N. Adams St.
Coquille, OR 97423
http://www.co.coos.or.us/
Phone: 541-396-7770
Fax: 541-396-1022

Date of Notice: September 5, 2019
File No: D-19-003/PLA-19-007, PLA-19-010
RE: Request for a land use authorization for a Lawfully Created Unit of Land Application and Property Line Adjustments between two lawfully created parcels.
Applicant(s): Murray Clarno, Clyde Mulkins
15902 Fair Oaks Drive South, PO Box 809
Spanaway, WA 98387, North Bend, OR 97459

This decision notice serves as public notice to all participants, adjacent property owners, special districts, agency with interests, or person with interests. If you are an adjacent property owner, this notice is being mailed to you because the applicant has applied for a use or activity on their property that requires that you receive notice pursuant to ORS 197.763. Please read all information carefully as this decision may affect you. (See attached vicinity map for the location of the subject property).

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 a person named in the affidavit to receive the notice shall not invalidate an ordinance. The failure of the governing body of a county to cause a notice to be mailed to an owner of a lot or parcel of property created or that has changed ownership since the last complete tax assessment roll was prepared shall not invalidate an ordinance.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 (ORS 215.513) REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER."

The requested proposal has been [X] Approved [] Deny subject to the findings to the criteria found in Exhibit A. Approval is based on findings and facts represented in the staff report.

Property Information

Account Numbers: 820500, 820203
Map Numbers: 28S111200-00300, 28S111200-00401
Property Owners: STEEL CREEK-LAIRD RANCH & TREE FARM, LLC
6830 STARBOARD LN
GIG HARBOR, WA 98335-5104
Situs Addresses: 14991 SITKUM LN MYRTLE POINT, OR 97458
Acreage: 151.56 Acres, 6.14 Acres
Zonings: EXCLUSIVE FARM USE (EFU)
FOREST (F)
Special Considerations: ARCHAEOLOGICAL SITES (ARC)
FLOODPLAIN (FP)

Notice shall be posted from September 5, 2019 until 5 pm on September 17, 2019

FOREST MIXED USE (MU)

The purpose of this notice is to inform you about the proposal and decision, where you may receive more information, and the requirements if you wish to appeal the decision by the Director to the Coos County Hearings Body. Any person who is adversely affected or aggrieved or who is entitled to written notice may appeal the decision by filing a written appeal in the manner and within the time period as provided below pursuant to Coos County Zoning and Land Development Ordinance (CCZLDO) Article 5.8. If you are mailing any documents to the Coos County Planning Department the address is 250 N. Baxter, Coquille OR 97423. Mailing of this notice to you precludes an appeal directly to the Land Use Board of Appeals.

PROPOSAL: Request for Planning Director Approval of a property line adjustment between two lawfully created parcels, under application file number D-19-003/ PLA-19-007/ PLA-19-010

The application, staff report and any conditions can be found at the following link: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment-Applications2019.aspx> . 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 225 North Adams Street, Coquille, Oregon. Copies may be purchased at a cost of 50 cents per page. The decision is based on the application submittal and information on record. The name of the Coos County Planning Department representative to contact is Crystal Orr, Planning Specialist and the telephone number where more information can be obtained is (541) 396-7770.

This decision will become final at 5 p.m. on September 17, 2019 unless before this time a completed **APPLICATION FOR AN APPEAL OF A DECISION BY THE PLANNING DIRECTOR** form is submitted to and received by the Coos County Planning Department.

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.

Processed by:  Date: September 5, 2019
Crystal Orr, Planning Specialist

Authorized by:  Date: September 5, 2019
Jill Rolfe, Planning Director

EXHIBITS

- Exhibit A: Conditions of Approval
- Exhibit B: Vicinity Map
- Exhibit C: Discrete Parcel Map

The Exhibits below are mailed to the Applicant only. Copies are available upon request or at the following website: <http://www.co.coos.or.us/Departments/Planning/PlanningDepartment-Applications2019.aspx> or by visiting the Planning Department at 225 N. Baxter, Coquille OR 97423. If you have any questions please contact staff at (541) 396-7770.

- Exhibit D: PLA Before & After Maps
- Exhibit E: D-19-003/PLA-19-007/ PLA-19-010 Staff Report
- Exhibit F: Deeds

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.

1. All applicable mapping and filing requirements shall be complied with as listed below. If a map is required it shall be submitted to the Surveyor's office with the deeds. The deeds shall not be filed and that map has the appropriate signatures. Copies of all recorded deeds shall be submitted as the final step in the process.
2. The four (4) lawfully created units of land located within tax lot 300 must be deeded out prior to the property line adjustment deed being recorded.
3. Both Property Line Adjustments must be recorded separately.

Mapping and Filing Requirements

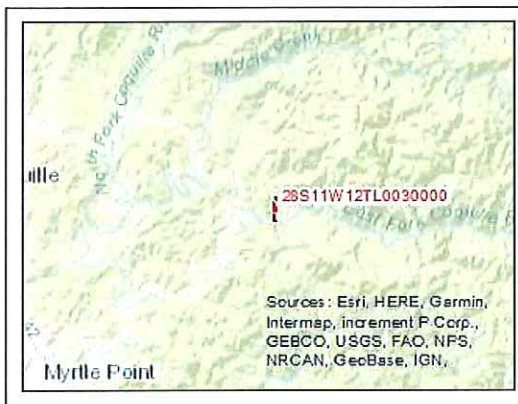
1. Map and Monuments Required:
 - a. For any resulting lot or parcel ten acres or less, a survey map that complies with ORS 209.250 shall be prepared;
 - b. The survey map shall show all structures within ten (10) feet of the adjusted line;
 - c. The survey shall establish monuments to mark the adjusted line.
2. Approval and Filing Requirements:
 - a. Upon determination that the requirements of this section have been met, the Director shall advise the applicant in writing that the line adjustment is tentatively approved;
 - b. Within one year from the date of tentative approval, the applicant shall prepare and submit to the Director any map required by Section 6.2.800(4) and Section 6.2.800(5) if a survey is required. If no map is required, the applicant shall submit proof that the requirements of the tentative approval have been met. The Director shall indicate final approval by endorsement upon the map, if any, or if no map is required the Director shall advise the applicant in writing that final approval has been granted;
 - c. Once endorsed by the Director, the map shall then be submitted to the County Surveyor. When the map is filed, the County Surveyor shall indicate the filing information on the map;
 - d. A line adjustment shall be effective when the map is filed by the County Surveyor and an instrument (e.g. deed or covenant) is recorded with the County Clerk. If no map is required, then the line adjustment shall be effective when final approval is granted by the Director and an instrument is recorded with the County Clerk;
 - e. If a survey is required, the Deed shall be recorded and the Survey Map shall be filed simultaneously. The survey map, with the signature of the Coos County Planning Director shall be submitted to the County Surveyor along with the required filing fee. The survey map will be given a filing number which will be added to the Property Line Adjustment deed. The deed will then be recorded whereupon the recording number for said deed will be added to the face of the survey map. Said map will then be filed with the County Surveyor, completing the process.
 - f. The property line adjustment deed must be submitted on the exact format found in § 6.3.175.f.

**EXHIBIT "B"
VICINITY MAP**



COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423
Physical Address: 225 N. Adams, Coquille Oregon
Phone: (541) 396-7770
Fax: (541) 396-1022/TDD (800) 735-2900



File: PLA-19-007/D-19-003

Applicant/ Owner: Murray Clarno/
Steel Creek-Laird Ranch & Tree Farm LLC

Date: August 14, 2019

Location: Township 28S Range 11W
Section 12 TL 300

Proposal: Property Line Adjustment & Lawfully Created Parcel Determination

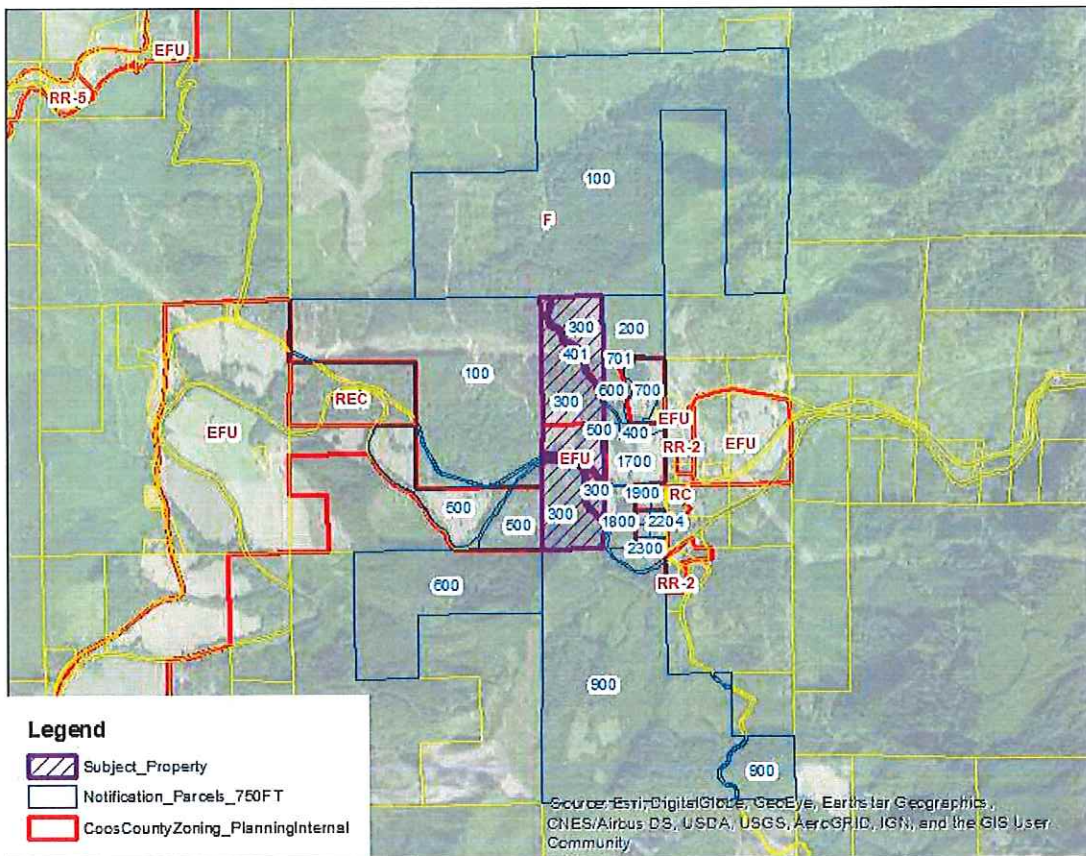
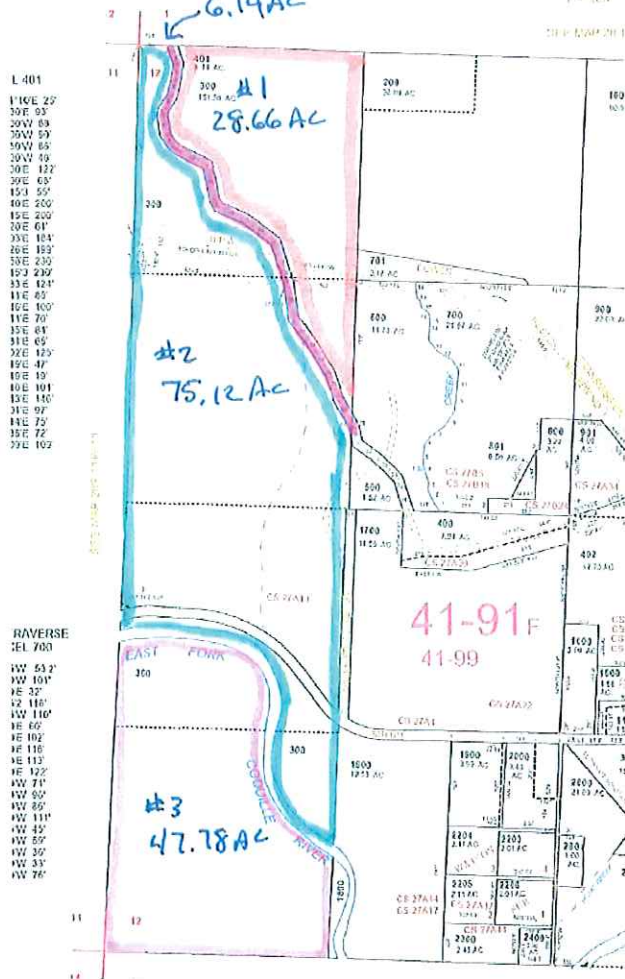


EXHIBIT "C" Discrete Parcel Map

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 12 T28S
COOS CO. OR

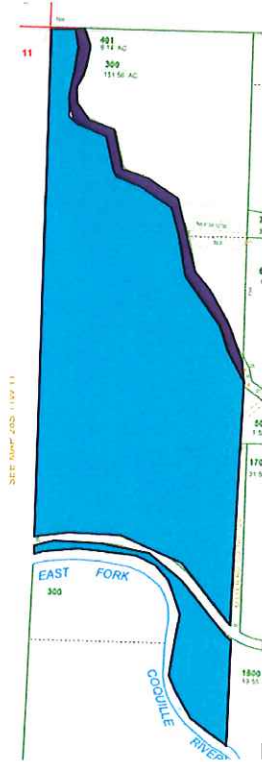


- L 401
1'10E 25'
50'V 03'
20'V 09'
20'V 59'
50'V 05'
20'V 59'
20E 122'
20E 03'
15'3 55'
10E 200'
15E 200'
20E 01'
33E 103'
20E 103'
33E 230'
15'3 230'
33E 424'
11E 03'
10E 100'
11E 70'
35E 04'
31E 05'
22E 125'
19E 47'
10E 43'
10E 104'
13E 140'
31E 07'
11E 25'
15E 72'
23E 102'

- RAVERSE
SEL 700
1'W 53.2'
1'W 104'
1'E 37'
1'2 110'
1'W 110'
1'E 65'
1'E 102'
1'E 110'
1'E 113'
1'E 102'
1'W 71'
1'W 50'
1'W 50'
1'W 111'
1'W 45'
1'W 50'
1'W 50'
1'W 33'
1'W 76'

EXHIBIT "D"
PLA Before & After Maps PLA-19-007

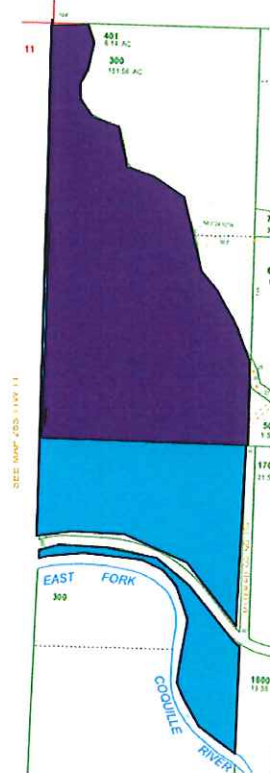
Before:



Purple: Parcel 4 in Discrete Parcel Map

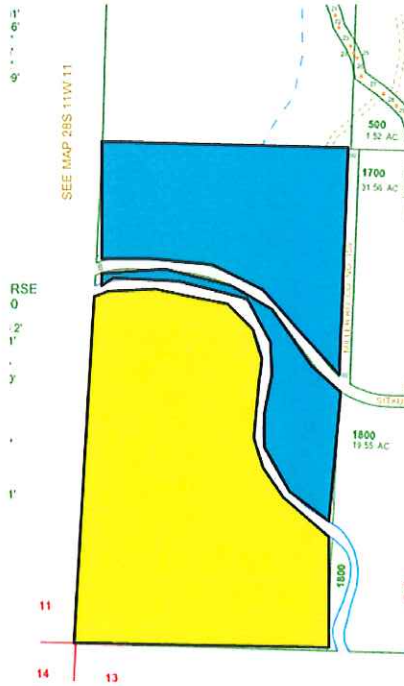
Blue: Parcel 2 in discrete Parcel Map

After:



PLA Before & After Maps PLA-19-010

Before:



Blue: remainder of Parcel 2 in Discrete Parcel Map
Yellow: Parcel 3 in Discrete Parcel Map

After:

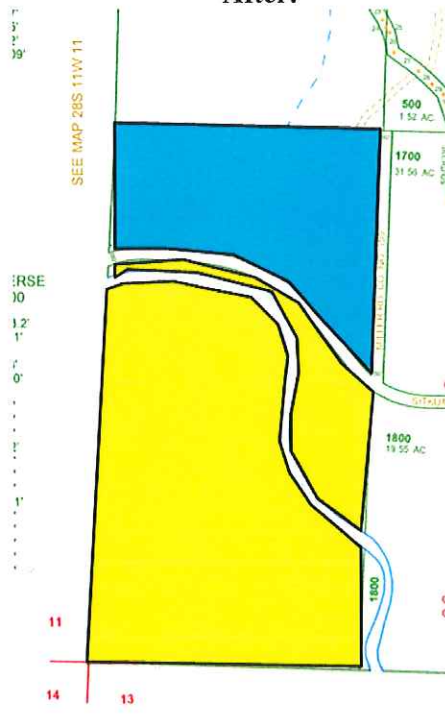


EXHIBIT "E"

STAFF REPORT

File Number D-19-003/ PLA-19-007

Applicants Murray Clarno

Account Numbers 820500, 820203
Map Numbers 28S111200-00300, 28S111200-00401

Property Owners STEEL CREEK-LAIRD RANCH & TREE FARM, LLC
6830 STARBOARD LN
GIG HARBOR, WA 98335-5104

Situs Addresses 14991 SITKUM LN MYRTLE POINT, OR 97458

Acreages 151.56 Acres, 6.14 Acres

Zonings EXCLUSIVE FARM USE (EFU)
FOREST (F)

Special Considerations ARCHAEOLOGICAL SITES (ARC)
FLOODPLAIN (FP)
FOREST MIXED USE (MU)

Reviewing Staff: Crystal Orr, Planning Specialist
Date of Report: September 5, 2019

I. PROPOSAL

The proposal is a request for Planning Director Approval of a Lawfully Created Parcel Determination and two (2) Property Line Adjustments.

III. PROPERTY DESCRIPTION

LOCATION: The subject properties are located northeast of the City of Myrtle Point off of Sitkum Lane.

These properties are lawfully created pursuant to CCZLDO 6.1.125.1a.e as they were created by deeds when there was no applicable planning, zoning or subdivision or partition ordinances or regulations that regulated the creation of units of land.

IV. APPLICABLE CRITERIA & FINDINGS OF FACT

LAWFULLY CREATED:

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 intervening 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.
2. Creation of parcel previously approved but not acted upon (92.178).
- a. The governing body of a county may approve an application requesting formation of one parcel if the county issued a land use decision approving the parcel prior to January 1, 1994, and:
 - b. A plat implementing the previous land use decision was not recorded; or
 - c. A condition of approval of the previously approved land use decision requiring consolidation of adjacent lots or parcels was not satisfied by a previous owner of the land.
 - d. An application under this section is not subject to ORS 215.780.
 - e. Approval of an application under this section does not affect the legal status of land that is not the subject of the application.

SECTION 6.1.150 APPLICATIONS ESTABLISHING LAWFULLY CREATED LOTS OR PARCELS:

An application to establish a lawfully created unit of land shall be submitted in the case of Section 6.1.125.1.d, e and f and Section 6.1.125.2. This is an administrative land use decision.

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

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

Finding: Tax lot 300 was described on the current deed of record as one lawfully created unit of land. Therefore, pursuant to Section 6.1.150 an application is required to prove there is more than one lawfully created unit of land within the tax lot as required by Section 6.1.125. Tax lot 401 is also described as one lawfully created unit of land.

The property contains four (4) lawfully created units of land. Tax lot 401 (discrete parcel 4 on map) was created by a deed in the Coos County Records (deed document Book 201 Page 99). Discrete parcel 4 creates an intervening ownership between parcels 1 and 2, which makes them lawfully discrete. Parcel 3 is lawfully discrete pursuant to Section 6.1.125.1.f by a state owned navigable river.

The map identifying the parcels can be found in Exhibit C. The deeds can be found in Exhibit F.

• **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.*
 - e. *A notice of application and decision will be provided to any and all lien holders of record for the property that will be affected by the proposed adjustment. Applicants should consult with any and all such lien holders prior to submittal of an application.*

FINDING: This application is found to be complete and contain all documents required by this section. The purpose of the property line adjustment is for estate purposes. There is not a lien holder for either property Therefore, these criteria have been addressed.

1. *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: The minimum size within the Exclusive Farm Use (EFU) and Forest (F) zone is 80 acres. All of the parcels are legal non conforming units of land. After the adjustment all of the parcels will remain legal non conforming. Therefore, this request complies with the criteria under this section.

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

FINDING: No encroachment of existing structures will be created by adjusting the property boundary line. Therefore, this criterion has been met. Any future structures will be required to comply with the setback requirements in the applicable zoning district.

3. *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: None of the parcels will be less than an acre after the adjustment. Therefore, this condition does not apply.

4. *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: The purpose of this adjustment is not to qualify for a dwelling. Therefore, this criterion does not apply.

5. *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 zoning districts will not change. Therefore, this criterion has been met.

- **SECTION 6.3.150 EASEMENTS AND ACCESS:**

A line adjustment shall have no affect 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 affect on existing easements. Therefore, this criterion has been met.

VI. DECISION:

The proposed Property Line Adjustment meets the requirements of the Coos County Zoning and Land Development Ordinance, with conditions as listed above. 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.

CONCLUSION

From this abundance of data on the navigable use of the Coos and Coquille Rivers, what portions of the beds of the main streams and their tributaries may be claimed by the State?

On the basis of vessel navigation, neither branch of the Coos River supported vessel navigation above the head of tide at Allegany and the State Fish Hatchery, except for a limited use of the South Coos between River Miles 12.5 and 14.5 by small recreational boats. On the Coquille River, steamboats and gasoline launches carrying freight, mail and passengers ascended to River Mile 14.3 on the North Fork, Dora at River Mile 13.5 on the East Fork and to Broadbent at River Mile 10 on the South Fork during the first two decades of this century. The sections of the river which have been opened to vessel navigation, primarily by recreational craft, have been extended by the Port of Coquille River acting under its legislative mandate to River Mile 21.5 on the North Fork, River Mile 4 on the Middle Fork, McKinley at River Mile 8.5 of Middle Creek, and Rowland Prairie or River Mile 24 on the South Fork. Drift boaters use the North Fork below Laverne Falls (RM 31.3), the Middle Fork below Bridge (RM 8), and the South Fork below Powers (RM 30) to the present time.

These reaches were exceeded on some forks of the Coquille by log drives undertaken with regularly recurring natural streamflow during winter months. This went as high as River Mile 42 on the North Fork. Splash dams were early used on that fork to spread logs downstream in advance of the winter freshets to minimize the risk of jams in the river. Navigability of the North Fork to River Mile 42 was recognized in 55 OR 372.

Logs came down Middle Creek from as high as River Mile 13 for two decades. Successful driving of the Middle Fork with natural flows occurred from River Mile 13 in Enchanted Prairie. This fork's tributaries, Big Creek and Myrtle Creek, were driven by unaided streamflow from River Miles 4 and 9 respectively. On the South Fork log driving was undertaken for several years by different logging operators from Rural at River Mile 30. Bear Creek was also driven with ordinary flow by several operators from at least the mouth of Bill Creek (River Mile 3).

The exercise of jurisdiction by the Public Service and Public Utilities Commission has further extended the claim of the State to River Mile 24.8 of the Middle Fork of the Coquille.

These navigable lengths on the Coquille may be compared to the meandered lengths on three of the forks: River Mile 22 on the North Fork, River Mile 7 on the East Fork, and River Mile 30.5 on the South Fork.¹⁷⁸

On the Coos and Millicoma Rivers the main claim to the beds of these streams is on the basis of log drives and the exercise of jurisdiction by the Public Service and Public Utilities Commission. On the East Fork of the Millicoma the head of log driving with unaided streamflow was River Mile 14.6, the tributaries apparently being driven only with the aid of splash dams. This claim to the East Fork was strengthened by the grant of a booming franchise to the Millicoma Boom Company up to River Mile 11.5.

On the West Fork of the Millicoma the highest point at which driving occurred with unaided streamflow would seem to be River Mile 13. Reaches of the river above this point required splash dams in order to transport sawlogs. No booming franchise was issued for this stream.

The South Coos was driven from River Mile 15.5 with unaided streamflow. These drives had the obstacle of the fish hatchery racks to clear at River Mile 12. Although the court granted a franchise on this river on the basis of navigability for all of the river above tidehead except any portion east of Range 9 West of the Willamette Meridian, this was evidently done as a wartime emergency measure, and subsequent driving depended on massive riverbed improvement and the regular use of splash dam assistance.

SUMMARY

<u>Waterway</u>	<u>Boat Miles</u>	<u>Log Drive Miles</u>	<u>Town Near Head</u>
Coos River	All		Coos River
South Fork Coos	0-12	0-15.5	6.5 mi. above Bellwood
Millicoma	All		Allegany
East Fork Millicoma		0-14.6	Above Matson Creek
West Fork Millicoma		0-13	13 RM. above Allegany
Coquille River	All		Myrtle Point
South Fork Coquille	0-24	0-25.3	2 mi. below Powers
Middle Fork Coquille	0-8	0-13	5 mi. above Bridge
Big Creek		0-4	Near Bridge
Myrtle Creek		0-9	Near Bancroft
East Fork Coquille	0-13.5	0-13.5	Dora
North Fork Coquille	0-21.8	0-42	11 mi. above Laverne Falls
Middle Creek	0-7.9	0-13	McKinley
Bear Creek		0-3	Near Bandon