BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Applications Submitted by Weyerhaeuser NR for 21 Property Line Adjustments in the Primary Forest (PF-80) Zone	)))	FINAL ORDER NO. 53-2015

WHEREAS, the applicant and property owner Weyerhaeuser NR submitted applications for 21 property line adjustments (PLA 15-33 through PLA 15-53), which planning staff deemed complete on June 9, 2015; and

WHEREAS, the subject properties, which are identified on pages 2 and 3 of the Staff Report, which is attached as Attachment B, are located west of St. Helens, Oregon, near Robinette Road and Smith Road, in the PF-80 Zone (Primary Forest - 80 Acres); and

WHEREAS, in accordance with Columbia County Zoning Ordinance (CCZO) Section 1601, the applications were initially processed administratively. Property owners within 750 feet were notified and given an opportunity to comment or request a hearing; and

WHEREAS, the applications were referred to the Planning Commission for a hearing following written request from Ann Mathers on June 17, 2015; and

WHEREAS, the Planning Commission held a hearing on the 21 applications on August 17, 2015, and voted to deny the applications; and

WHEREAS, on August 20, 2015, the applicant timely appealed the decision to the Board of County Commissioners, and a hearing was scheduled for October 7, 2015; and

WHEREAS, notice of the Board's hearing was mailed to those entitled on September 17, 2015, and a Staff Report recommending denial of the application was made available on September 30, 2015; and

WHEREAS, on October 7, 2015, the Board held a public hearing and received evidence into the record. The Board closed the hearing but left the record open for seven days for additional written evidence and testimony and seven days for rebuttal evidence and testimony. A list of testimony and evidence in the record is attached as Attachment A.
The Board then continued its deliberations to October 28, 2015; and

WHEREAS, at its regularly scheduled meeting on October 28, 2015, the Board admitted timely submitted written evidence and testimony in to the record, which is identified in Attachment A. The Board then deliberated on the applications and denied the applications by a vote of two to one.

NOW, THEREFORE, based on the evidence submitted and received into the record on this matter, the Board of County Commissioners makes the following findings:

1. The Board finds that these 21 property line adjustment applications, which the applicant has applied for concurrently for the clear purpose of creating a residential subdivision in the Primary Forest Zone, cannot be approved as property line adjustments. Rather, these applications, which have been submitted together and the Board is considering together, will result in a subdivision and must therefore be reviewed as a subdivision.

   The applicant argues that these applications are merely property line adjustments and are only subject to Columbia County Zoning Ordinance (CCZO) Sections 212 and 512. The Board disagrees. Approval of the applications would authorize a large-scale reconfiguration of 22 properties on hundreds of acres of Primary Forest land and result in a residential subdivision of 26 lots with an average lot size of 6.8 acres. A reconfiguration on a massive scale such as this is essentially a replat and is thus subject to Section 207 of the Columbia County Subdivision and Partitioning Ordinance (CCSPO).

   CCSPO § 207.A provides as follows:

   > "Except as provided in Section B, below, a change in a plat of an approved or recorded subdivision or partition shall be reviewed by the Commission or Planning Department under the same procedures, rules and regulations applicable for review and approval of a new subdivision or partition, if: (1) such change affects any street layout, or an area reserved thereon for public use or reserved as a natural area; or (2) such change affects any plat legally in effect prior to the adoption of any regulations controlling subdivisions or partitions."

   Under CCSPO § 207.B(2), Section 207.A does not apply to property line adjustments where no new lots or parcels are created, provided that:

   "a. Any adjusted property line that is not eliminated by the Property Line Adjustment remains common to the same lots or parcels before and after the Property Line Adjustment; and

   b. The proposed Property Line Adjustment will not result in any of the following:

      1) An increase or transfer of development density within the plat;

      2) An increase to utility service requirements;

      3) A reduction in reserved natural areas;

4) A reduction in areas reserved for public use;

5) A change in street layout; or

6) An alteration of the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district."

As an initial matter, the Board recognizes that because the subject properties are neither in an approved subdivision or partition, the applicability of CCSPO § 207 may be called into question. However, when the County's code provision is interpreted in context, it is clear that CCSPO § 207 is intended to apply to property line adjustments that will alter the existing development pattern and create significant impacts to the surrounding area.

For instance, CCSPO § 207 is triggered when property line adjustments increase or transfer density, increase utility service requirements, or change street layout. By reconfiguring and clustering 22 properties, these property line adjustment applications move entire properties so that they will qualify for forest template dwellings. They will increase in density because many of those properties in their current location do not qualify for a dwelling. The proposed property line adjustments will also necessitate the creation of a private road in order to provide access to 22 forest template dwellings. Finally, the addition of 22 dwellings in a forest zone – most of which would be prohibited without the proposed property line adjustments – will require additional water, power and other utilities. These services must be reviewed and coordinated before the properties are reconfigured. The property line adjustment process alone does not provide for such review and coordination. But clearly, Section 207 anticipates that when property line adjustments exceed a certain threshold in terms of impacts, a greater review is required. That is the case here. When interpreted in context, the Board finds that Section 207 is intended to apply to the property line adjustment applications here because the applications will result in a transfer and increase in density, require additional utilities, and change street layout.

2. The Board adopts the findings and conclusions in the Staff Report to the extent that those findings are consistent with the findings herein and the Board's decision. The Staff Report is attached hereto as Attachment B and incorporated herein by this reference.

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3. The Board adopts the recitals, above, as additional findings in support of its decision.

NOW, THEREFORE, based on the evidence in the record and the findings and conclusions herein, the Board of County Commissioners hereby **DENIES** the property line adjustment applications PLA 15-33 through PLA 15-53.

Dated this 4th day of November, 2015.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

Approved as to form

By: _____
Office of County Counsel

By: _____
Henry Heimuller, Chair

By: _____
Anthony Hyde, Commissioner

By: _____
Earl Fisher, Commissioner

ATTACHMENT A

List of Items in the Record

#	Date	Description
1	10/20/15	Final rebuttal from Kimberly O'Dea
2	10/15/15	Board Communication from Todd Dugdale
3	10/13/15	Letter from Don Wallace with attachments
4	10/12/15	Letter from Paulette Lichatowich
5	10/10/15	Letter from Paul Nys
6	10/7/15	Written testimony from Jeannette V. Barker, Thomas Barker, Tracey Barker with attachment
7	10/6/15	Letter from Kimberly O'Dea
8	10/5/15	Letter from Ann Mathers
9	9/30/15	Board Communication and Staff Report
10	9/17/15	Notice of Public Hearing and Affidavits of Mailing and Publication
11	8/27/15	Notice of Appeal by Weyerhaeuser
12	8/20/15	Planning Commission Final Order and Certificate of Mailing
13	8/17/15	Letter from Kimberly J.R. O'Dea, attorney for Weyerhaeuser
14	8/17/15	Written testimony from Jeanne Becker
15	8/17/15	Written testimony from John and Denise Jones
16	8/17/15	Written testimony from David and Carol Senter
17	8/17/15	Written testimony from Rob Mathers
18	8/17/15	Written testimony from Ann Mathers
19	8/17/15	Petition to Planning Commission (signed July 4, 2015)
20	8/17/15	Written testimony from Jeanne Becker, Laura Anderson, Percy Smith, Ann Mathers, and other
21	8/17/15	Email from Katherine Daniels, DLCD
22	8/17/15	Letter from Kim O'Dea, Attorney for Weyerhaeuser
23	8/13/15	Letter from Duwayne Anderson

24	8/7/15	Email from Don VandeBergh, ODFW
25	8/3/15	Email from Katherine Daniels, DLCD
26	7/28/15	Email evidencing publication of notice
27	7/22/15	Letter from David Hill, Public Works Director
28	7/14/15	Notice of hearing and certificate of mailing
29	6/29/15	Written comments from McNulty Water PUD
30	6/22/15	Email from Bao and Weiqun Zhu
31	6/17/15	Referral to Planning Commission from Ann Mathers
32	6/16/15	Written comments from County Sanitarian
33	6/15/15	Email from Don McGilva
34	6/15/15	Letter from Keith Forsythe and email from his attorney, Agnes Petersen
35	6/15/15	Written comments from Watermaster
36	6/15/15	Written comments from Soil and Water Conservation District
37	6/11/15	Deemed complete letter and certificate of mailing
38	4/6/15	Applications for PLA 15-33 through 15-53

COLUMBIA COUNTY BOARD OF COMMISSIONERS

STAFF REPORT

September 30, 2015

Multiple Property Line Adjustments - PF- 80 Zone

HEARING DATE: October 7, 2015

FILE NUMBERS: PLA 15-33 through PLA 15-53 - Twenty-one (21) Property Line Adjustments

APPLICANT/ OWNER: Weyerhaeuser NR, Tim Scherer
P.O. Box 9777-CH 2C26
Federal Way, WA 987063-9777

LOCATION: West of St. Helens, off Robinette Road, south of Smith Road: Moving individual properties located in Sections 29, 30, 31, and 32 of T5N1W into the N1/2 of the SE Quarter of Section 31.

REQUEST: To allow the property lines of 22 separate properties to be reconfigured in the Primary Forest (PF-80) Zone.

TAX MAP NOS.: 5131-000-00401, 200; 5130-000-02900; 5129-000-00400, 500, 600, 200, 300, 700; 5132-000-500, 600, 900, 800

ZONING: Primary Forest (PF-80)

APPLICATION COMPLETE: June 9, 2015 **150 DAY DEADLINE:** November 6, 2015

APPLICABLE NOTICE & REVIEW CRITERIA:

SUMMARY/BACKGROUND:

The applicant and property owner, Weyerhaeuser NR, has submitted applications to reconfigure the property lines of 21 separate properties recognized as legal lots of record. The applicant's proposal generally seeks to reduce the size of the properties, clustering said properties near, but not abutting, Robinette Road while increasing the size of two properties. Properties reduced in size by this application range from approximately two to seven acres, and properties increased in size are approximately 64.8 and 439.6 acres. The average lot size for the first 23 reconfigured properties is 6.8 acres. The proposed property line adjustments are as follows:

Table 1

PLA	Tax Map #	Reduced/Enlarged From	Reduced/Enlarged To
PLA 15-33	5131-000-00401	26.4	4.71
	5131-000-01200	39.6	61.3
PLA 15-34	5131-000-01200	61.3	5.51
	5131-000-00200 (Portion)	59.7	115.6
PLA 15-35	5131-000-00200 (Portion)	35.8	10.02
	5131-000-00200 (Portion)	115.6	141.4
PLA 15-36	5130-000-002900	20.0	5.94
	5131-000-00200 (Portion)	141.4	155.4
PLA 15-37	5130-000-03400	10.0	5.94
	5131-000-00200 (Portion)	155.4	159.4
PLA 15-38	5131-000-03300	40.4	5.99
	5131-000-00200 (Portion)	159.4	193.8
PLA 15-39	5129-000-00600 (Portion)	39.0	5.0
	5131-000-00200 (Portion)	193.8	227.9
PLA 15-40	5129-000-00700 (Portion)	29.5	5.01
	5131-000-00200 (Portion)	227.9	252.4
PLA 15-41	5129-000-00700 (Portion)	52.3	6.35
	5131-000-00200 (Portion)	252.4	289.4
PLA 15-42	5132-000-00500	47.1	6.40
	5131-000-00200 (Portion)	289.4	339.1
PLA 15-43	5129-00-00900/5132-00-00600	31.9	6.56
	5131-000-00200 (Portion)	339.1	364.4

PLA 15-44	5129-00-00800/5132-00-00800 (Portion)	23.6	5.60
	5131-00-00200 (Portion)	364.4	382.4
PLA 15-45	5132-000-00800 (Portion)	5.6	3.8
	5131-000-00200 (Portion)	382.4	384.2
PLA 15-46	5129-000-00700 (Portion)	2.18	19.7
	5131-000-00200 (Portion)	384.2	401.8
PLA 15-47	5129-000-00700 (Portion)	16.9	4.23
	5131-000-00200 (Portion)	401.8	415.8
PLA 15-48	5131-000-00200 (Portion)	415.8	414.1
	5129-000-00500 (Portion)	5.0	5.78
PLA 15-49	5130-000-00300 (Portion)	9.9	7.08
	5131-000-00200 (Portion)	414.1	416.9
PLA 15-50	5129-000-00400 (Portion)	38.9	9.34
	5131-000-00200 (Portion)	416.9	446.4
PLA 15-51	5130-000-00200 (Portion)	19.8	6.51
	5131-000-00200 (Portion)	446.4	459.7
PLA 15-52	5129-000-00400 (Portion)	39.6	4.90
	5131-000-00200 (Portion)	459.7	494.4
PLA 15-53	5131-000-00200 (Portion)	494.4	439.6
	5130-000-00100	10.0	64.8

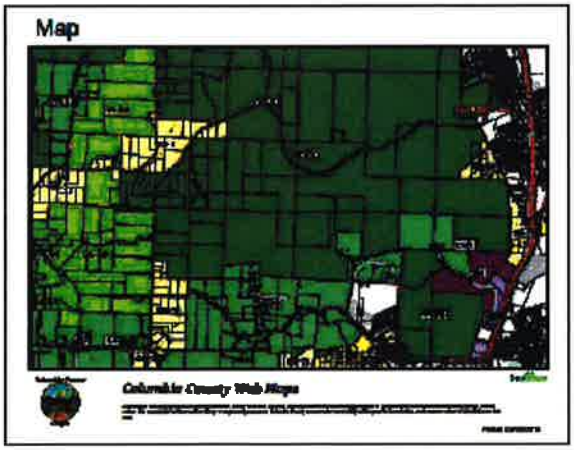
All properties being reconfigured have been determined by Columbia County to be legal lots-of-record. Lots-of-record are properties created before January 10, 1975 that were either (1) created by a legal plat (i.e., subdivision) or (2) conveyed separately from all other property by deed for the purpose of the buyer's enjoyment and development. Columbia County adopted its first Partitioning Ordinance by adding partitions to the existing Subdivision Ordinance on January 10, 1975 which requires all divisions of land to be approved by Columbia County through application for a subdivision or partition. The creation of these older parcels, prior to January 1975, were accomplished by a previous owner conveying the legally described unit of land, through deed or other instrument, to another owner. These conveyances were recorded in the County clerks office and still remain as valid legal lots of record. ORS 92.017 states that "a lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law." Weyerhaeuser submitted applications to Columbia County for lot of record determinations on a number of properties in advance of these property line adjustment applications. The number of lots-of-record associated with each tax map # included in the proposed PLAs are identified in Table 2. Detailed information about each determination can be found in corresponding lot-of-record staff reports available from the Land Development Services Department upon request.

Table 2

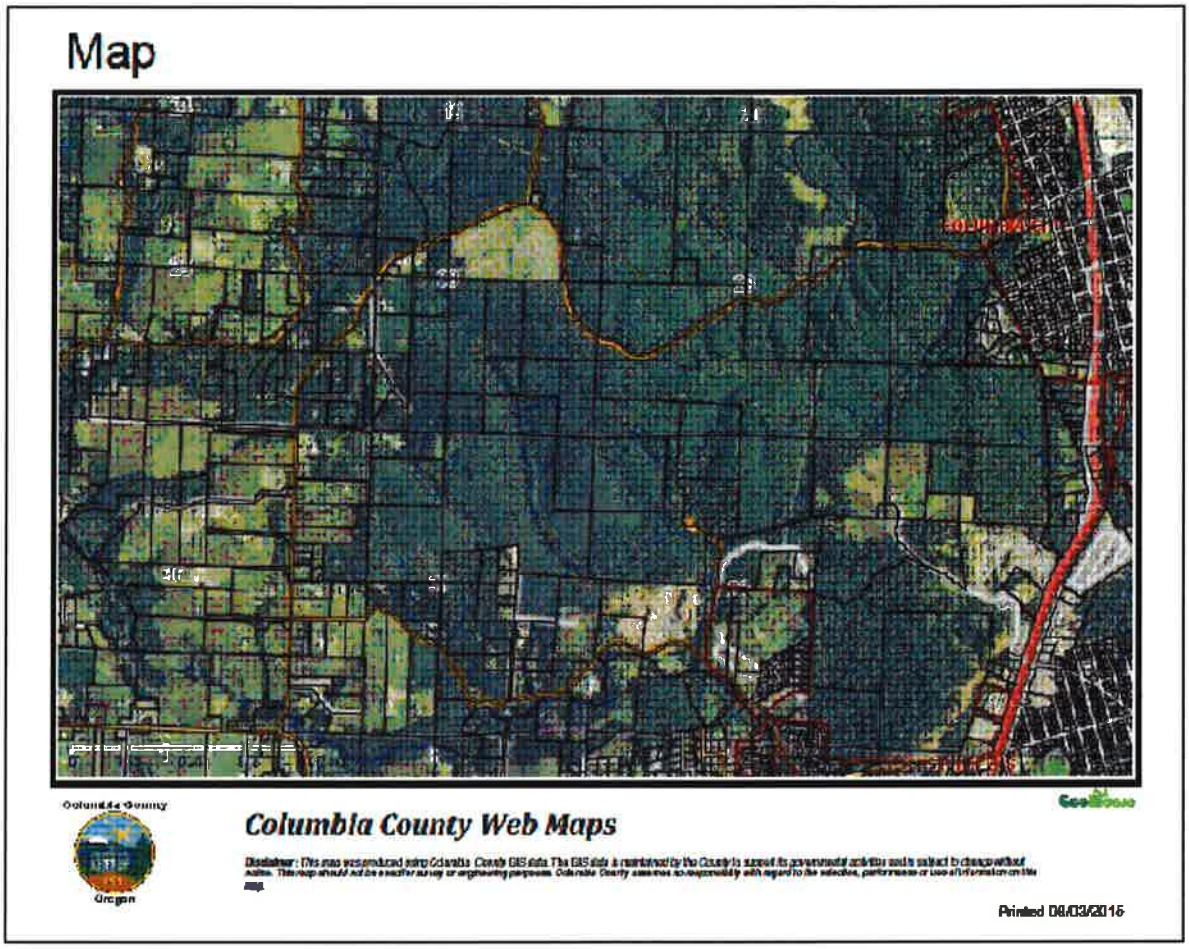
LRD	Tax Map #	# of legal lots of record
LRD 13-06	5131-000-00401	1
LRD 13-07	5131-000-00200	3
LRD 13-08	5131-000-00200	0
LRD 13-12	5130-000-02900	1
LRD 14-02	5129-000-00400	2
LRD 14-03	5129-000-00500	1
LRD 14-04	5129-000-00600	2
LRD 14-06	5129-000-00200	1
LRD 14-07	5129-000-00300	1
LRD 14-08	5130-000-03300	1
LRD 14-09	5130-000-03400	2
LRD 14-10	5132-000-00500	1
LRD 14-11	5132-000-00600/5129-000-00900	1
LRD 14-13	5132-000-00800	3
LRD 14-22, 23, 24	5129-000-00700	3

The proposed property line adjustments were processed in accordance with Section 1601 (Staff Approval) of the Columbia County Zoning Ordinance which requires notice to neighboring property owners for comments related to the pending decisions. Property owners within 750 feet of the subject properties were notified of the request on June 11, 2015 and given 10 calendar days in which to submit comments to the Planning Department or to request a public hearing on the matter before the Planning Commission. On June 17, 2015, a letter was received from a notified party and an Appeal/Referral to the Planning Commission was filed.

Zoning Map - PF-80



Aerial Photograph - PF-80



According to FEMA Flood Insurance Rate Map (FIRM) No. 41009C0340 D, no portions of the properties are subject to flood hazards. The St. Helens-Columbia City CPAC Beak Map indicates the properties are within a Peripheral Big Game Habitat Area but does not have any threatened or endangered plant or animal species. The sites do not contain any steams or wetlands per the National Wetland Inventory of St. Helens, Oregon.
The subject properties are surrounded by other PF-80 zoned properties on all sides, as shown in Zoning map above. Electrical utility and communication lines are already along Robinette Road and can be extended to the sites via an already constructed private roadway, and emergency services are provided by the Columbia River Fire and Rescue and the Columbia County Sheriff.

REVIEW CRITERIA & FINDINGS:

COLUMBIA COUNTY ZONING ORDINANCE:

Section 200 GENERAL PROVISIONS

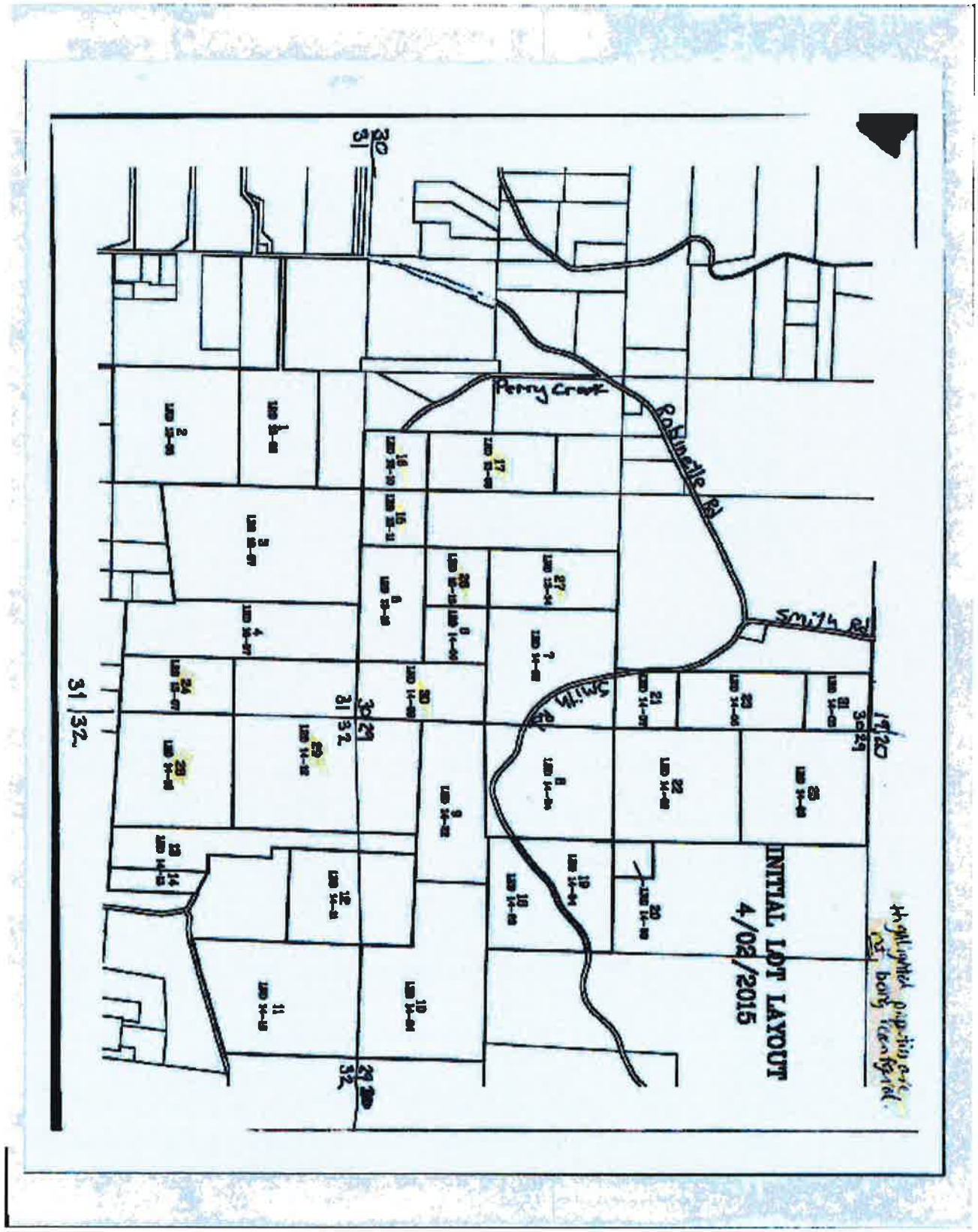
212 Property Line Adjustment: Property lines may be adjusted between legal lots or parcels provided that no lot or parcel conforming to the minimum lot or parcel size requirement of the district is reduced below that minimum lot or parcel size, and any lot or parcel changed by the property line adjustment shall satisfy or not decrease compliance with the minimum width, depth, frontage, yard, and setback requirements of the district.

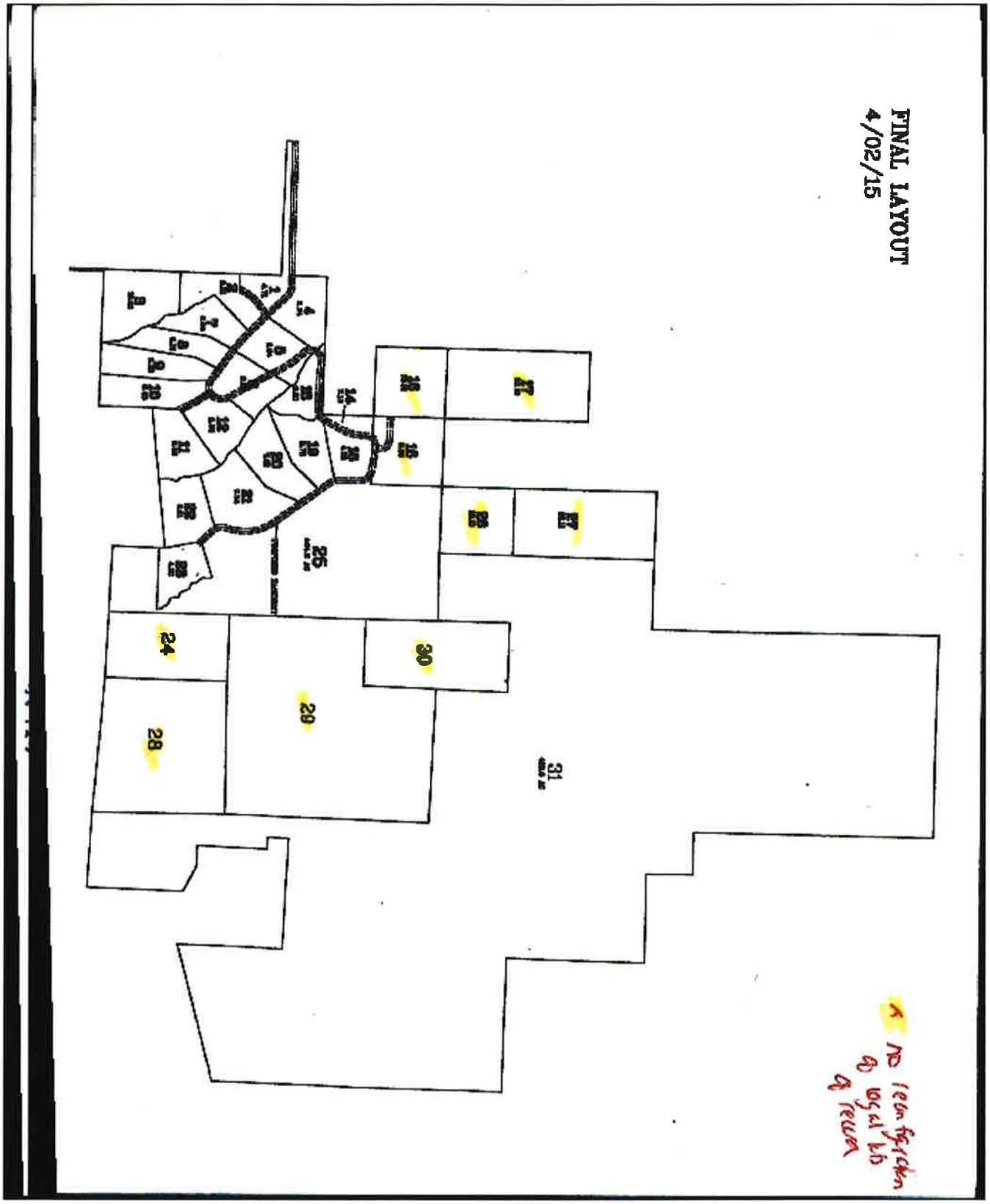
.1 Lot Line Adjustments may be allowed between undersized lots, or between an undersized lot and a complying lot, in any district provided that the resulting lots satisfy the minimum width, depth, frontage, and yard requirements of the district, and setbacks to existing structures are not reduced by the lot line adjustment below the minimum setback requirements.

Finding 1: The subject properties are located in the PF-80 Zone. The PF-80 Zone has a minimum lot size requirement of 80 acres. As shown in Table 1, no lots conforming to the 80-acre minimum will be reduced below the 80-acre minimum as part of this request. PLAs 15-33 and 15-34 move the property lines of undersized lots. PLA 15-34, however, increases a 59.7 acre lot to 115.6 acres, effectively bringing the lot into conformance with the lot size requirements of the district. The 115.6 acre property continues to increase in size in the remaining proposed property line adjustments. Columbia County Zoning Ordinance (CCZO) Section 212.1 specifically allows lot line adjustments between undersized lots and undersized lots and complying lots provided that the resulting lots satisfy the minimum width, depth, frontage, and yard requirements of the district. The applicant proposes the reconfiguration of legal undersized properties into generally smaller properties with the exception of two properties that will increase in size (5130-000-00100 and a portion of 5131-000-00200).

In accordance with CCZO Section 509.1, all properties in the PF-80 Zone must have a minimum lot width and depth of at least 100'. Preliminary maps of the proposed property line adjustments demonstrate that this standard is being met on all of the reconfigured parcels. As currently configured, four properties have road access and frontage on Smith Road. The remaining lots either have frontage on and access to a private road constructed by Weyerhaeuser or are landlocked. Although all lots must have access to a roadway (private or public) to be developed, public road frontage requirements do not apply to property line adjustments. In most cases the subject properties did not have road frontage prior to their reconfiguration and many may not have frontage after relocation.

Finally, although all properties discussed herein are vacant at this time, it is necessary to consider the yard setback requirements of the Zone for any future development. Property sizes and configurations should at a minimum account for the 50' building setback standard of the PF-80 Zone (CCZO Section 509.6.a). Fire siting standards, specifically setbacks for Primary (30') and Secondary (100') fuel-free fire breaks, as outlined in CCZO Section 510.2 and 510.3 should also be considered to ensure that lot sizes and configurations can accommodate the siting of single-family residences (if approved through the Rural Development Forest Permit process). Setbacks for new structures will be reviewed by Planning Staff at which time the applicant or alternative property owners submit applications for Rural Forest Dwelling Permits for the siting of a residences. Residential development in the forest resource zone is reviewed administratively. Staff finds that this criterion, including yard setback requirements of the district, is met subject to conditions.


INITIAL LOT LAYOUT
4/02/2015
Perry Creek
Robinette Rd
Smith St
30
31
31
32
29
20



Continuing with the Columbia County Zoning Ordinance:

Section 500 PRIMARY FOREST - 80

512 Property Line Adjustments. All property line adjustments require review and approval by the Planning Director subject to compliance with the following criteria:

.1 Adjustments may be made between one parcel larger than the minimum lot size and one parcel smaller than the minimum lot size as long as the exchange results in the same number of parcels larger than the minimum lot size;

Finding 2: The applicant is proposing property line adjustments for 21 individual properties. As discussed in Finding 1, PLA 15-34 increased the size of one of the lots located within tax map # 5131-000-00200 from 59.7 acres to 115.6 acres in size. All PLAs proposed, following PLA 15-34, increase the size of the 115 acre property. The 20 other properties are smaller than the 80-acre minimum required by the PF-80 Zone. If the proposed PLAs are approved, 21 properties will remain less than 80 acres in size and one will increase in size to more than the 80-acre minimum (439.6 acres). Staff finds that the criterion is met.

.2 The lot boundaries resulting from the adjustment will maintain compliance with building setbacks including primary and secondary firebreaks, access standards and environmental health regulations;

Finding 3: Properties included as part of these property line adjustments are all undeveloped at this time. Any new development will be subject to the development standards of the PF-80 Zone. Future development of the properties must comply with requirements related to setbacks, fire siting standards, access and environmental regulations. Residential development is not permitted outright in the PF-80 Zone. Therefore, any residential development proposed for these properties shall be subject to an administrative review process for Rural Development Forest Permits. Staff finds that the criterion is met subject to conditions.

.3 The adjustment will create no additional parcel(s);

Finding 4: No new parcels will be created as part of these property line adjustments. This application seeks solely to rearrange the lines of existing legal lots-of-record. Staff finds that the criterion is met.

.4 Parcels greater than 10 acres do not require a survey; and

Finding 5: Although properties greater than 10 acres in size do not require a full property boundary survey with monuments, all new lines must be surveyed. Legal descriptions must be provided for each unit of land being reconfigured. Staff finds that the criterion is met subject to conditions.

.5 Property line adjustments in the PF-80 zone may not be used to:

A. Decrease the size of the lot or parcel that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or

B. Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard.

Finding 6: All properties included as part of these property line adjustment applications are vacant without land use approvals for the construction of dwellings. As such, CCZO Section 512.5 (A) and (B) are not applicable to this review. Staff finds that the criterion does not apply.

Continuing with the Columbia County Zoning Ordinance:

Section 1190 BIG GAME HABITAT OVERLAY BGR

[Amended by Ordinance 2003-06, eff. 7/30/03].

1191 Purpose: To protect sensitive habitat areas for the Columbian white-tailed deer and other Big Game by limiting uses and development activities that conflict with maintenance of the areas. This section shall apply to all areas identified in the Comprehensive Plan as a major and peripheral big game range or Columbian white-tailed deer range, as shown on the 1995 Beak Consultant's map, entitled "Wild Game Habitat" in the Comprehensive Plan in Appendix Part XVI, Article VIII(A). *[Amended by Ordinance 2003-06, eff. 7/30/03].*

1192 Permitted Uses: All uses permitted in the underlying zone either outright or conditionally shall be permitted in the Big Game Range Overlay provided that such use or development is consistent with the maintenance of Big Game and Columbian White-tailed Deer Habitat identified in the Comprehensive Plan. *[Amended by Ordinance 2003-06, eff. 7/30/03].*

1193 Development Siting Standards: *[Amended by Ordinance 2003-06, eff. 7/30/03].*

All new residential development and uses located in Major and Peripheral Big Game or Columbian White-tailed Deer Habitat shall be subject to following siting standards:

A. Dwellings and structures shall be located as near each other and existing developed areas as possible considering topography, water features, required setbacks, and firebreaks.

B. Dwellings and structures shall be located to avoid habitat conflicts and utilize least valuable habitat areas.

C. Road development shall be minimized to that which is necessary to support the proposed use and the applicant shall utilize existing roads as much as possible.

D. The owner/occupant of the resource parcel shall assume responsibility for protection from damage by wildlife.

E. Riparian and Wetland areas shall be protected in accordance with Sections 1170 and 1180.

1194. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) of all proposed uses or development activities which require a permit and are located in Major or Peripheral Big Game Habitat. The County will consider the comments and recommendations of ODFW, if any, before making a decision concerning the requested use or activity. *[Added by Ordinance 2003-06, eff. 7/30/03].*

Finding 7: The Columbia County Comprehensive Plan identifies the subject properties as being within a Peripheral

Big Game range. Oregon Department of Fish and Wildlife (ODFW) was notified of these proposed property line adjustments and ODFW sent comments, received by LDS on August 7, 2015. Staff finds that the proposed 21 property line adjustments are a change of use of the subject properties and these applications are subject to Big Game Habitat Overlay criteria. These parcels are being reduced in sizes and congregated in an area where dwelling approval is allowable. A private road for individual property access has been developed. The intent of the applicant is to market and sell these 21 parcels as rural homesites, "Hideaway Hills."

Deer and elk are seen frequently in this forested area, which in a larger perspective, encompasses a big game movement corridor from the higher elevations in the west - to the Columbia River drop-off on the east. This forested game habitat includes the entire ridge top from St. Helens to Deer Island, with only McBride Creek ravine and Smith Road crossing it. This greater undeveloped area contains miles of game habitat and migration corridors. ODFW recommends the County to consider the resource value of wildlife when reviewing this proposal to establish homesite lots. If dwellings are to be permitted, ODFW recommends compensatory mitigation for loss of function and values to wildlife habitat, consistent with the ODFW Fish and Wildlife Habitat Mitigation Policy (OAR 625-415-0000 to 0025). Accordingly, staff recommends that the applicant submit plans for mitigation habitat improvements, on and off site, to compensate for the commutative big game habitat loss, prior to any PLA being finalized. In a letter dated August 14, 2015, the Department of Land Conservation and Development comments that the current zoning 80 acre minimum parcel size is a State imposed requirement to limit development for the protection of big game habitat. The proposed series of PLAs would remove the protection of the current 80-acre minimum parcel size and open potential for development on the newly configured tract. In doing so, the large parcel size (80 acres) would be compromised, as well as the protection of wildlife habitat. In its present form, the application is not consistent with the Big Game Habitat Overlay.

Continuing with the Columbia County Zoning Ordinance:

Section 1600 ADMINISTRATION:

All applications submitted under the procedures outlined in this ordinance are subject to the appropriate procedures outlined in this ordinance.

1601 Staff Approval: As provided elsewhere in this ordinance, the Director or his designate may approve requested actions which are in conformance with the provisions of this ordinance. Farm and forest management plans, minor variances, expansions or changes of non-conforming uses, temporary permits for the establishment of a temporary residence, care of a relative, or emergency shelter may be approved by the Director using the following procedures.

.1 The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. This application will be reviewed for completeness and the applicant will be informed if the application is incomplete.

.2 The Director will mail a notice of the proposed action to all adjacent property owners within 250 feet of the subject property and to the members of the CPAC for the specific area. These people who have been notified by mail will have 10 calendar days in which to either submit their comments and objections to the proposed action or request a public hearing on the matter before the Planning Commission or Hearings Officer.

.3 If no public hearing has been requested, the Director will review the application and all submitted comments and objections to the proposal. Based upon the review of the facts in the case and in this ordinance, the Director may approve, deny, or refer the

application to the Planning Commission. The Director shall inform the applicant and any affected party who responded as to the nature of his decision. This notice shall be in writing and shall contain findings of fact which support the Director's decision.

.4 The Director may attach reasonable conditions to the approval of any application under these provisions.

Finding 8: The applicant submitted applications PLA 15-33 - 15-53 on April 6, 2015. The applications were deemed complete by the Land Development Services Planning Manager on June 9, 2015. On June 11, 2015, property owners within 750 feet of subject properties, the St. Helens Citizen Planning Advisory Committee (CPAC), and other affected agencies were notified of the request. Those notified of the proposed property line adjustments had 10 days to submit comments to the Planning Department or to request a public hearing on the matter before the Planning Commission. On June 17th, a letter was received from a notified party and an Appeal/Referral to the Planning Commission was filed. The applications were scheduled to be heard at a public hearing by the Planning Commission at their August 17th meeting. A letter was submitted to the Planning Department as part of the referral request to the Planning Commission signed by five property owners (Jeanne Becker, Laura Anderson, Perry Smith, Ann Mathers, and the 5th signature is illegible) in the area. This letter is part of the record of this proceeding and reviewed under the **Comments** of this report.

Continuing with the Columbia County Zoning Ordinance:

1603 Quasijudicial Public Hearings: As provided elsewhere in this ordinance, the Hearings Officer, Planning Commission, or Board of Commissioners may approve certain actions which are in conformance with the provisions of this ordinance. Zone Changes, Conditional Use Permits, Major Variances, and Temporary Use Permits shall be reviewed by the appropriate body and may be approved using the following procedures:

.1 The applicant shall submit an application and any necessary supplemental information as required by this ordinance to the Planning Department. The application shall be reviewed for completeness and the applicant notified in writing of any deficiencies. The application shall be deemed complete upon receipt of all pertinent information. If an application for a permit or zone change is incomplete, the Planning Department shall notify the applicant of exactly what information is missing within 5 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of this section under receipt of the Planning Department of the missing information.

.2 Once an application is deemed complete, it shall be scheduled for the earliest possible hearing before the Planning Commission or Hearings Officer. The Director will publish a notice of the request in a paper of general circulation not less than 10 calendar days prior to the scheduled public hearing. Notices will also be mailed to adjacent individual property owners in accordance with ORS 197.763.

[Note: ORS 197.763 requires 20 days notice (or 10 days before the first hearing if there will be 2 or more hearings), and that notice provided to property owners within 100' (inside UGBs), 250' (outside UGBs), and 500' (in farm or forest zones).]

.3 At the public hearing, the staff, applicant, and interested parties may present information to the criteria and standards pertinent to the proposal, giving reasons why the application should or should not be approved, or what modifications are necessary for approval.

.4 Approval of any action by the Planning Commission at the public hearing shall be by procedure outlined in Ordinance 91-2.

Finding 9: As discussed in the background and in Finding 7 of this report, the proposed property line adjustments were submitted to the Land Development Services Planning Department on April 6, 2015 for administrative review. The applications were deemed complete by the Planning Manager on June 9, 2015, and on June 11, 2015, notice was mailed to surrounding property owners within 750' of the subject properties, to the St. Helens Citizen Planning Advisory Committee (CPAC) and to affected agencies. On June 17, 2015 a neighboring property owner requested that the review of the PLA applications be referred to a public hearing by the Planning Commission. The Planning Commission meeting scheduled for August 17, 2015 was established. Notice of the scheduled hearing was published in *The Chronicle* on August 5, 2015 and the *South County Spotlight* on August 7, 2015. The Planning Commission decision was appealed to the Board of Commissioners by the applicant. The Board set a hearing date of October 7, 2015. Notice of the scheduled hearing was sent to all parties on September 17, 2015 and published in the Chronicle on September 23, 2015.

Planning staff, the applicant, and interested parties will have an opportunity to present information to the criteria and standards pertinent to the proposed property line adjustments, giving reasons why the applications should or should not be approved, and/or what modifications are necessary for approval at the public hearing on October 7, 2015. The Board of Commissioners may approve the applications, approve with conditions, or deny the applications. Staff finds that the criterion is met.

Continuing with the Columbia County Zoning Ordinance:

1608 Contents of Notice: Notice of a quasijudicial hearing shall contain the following information:

.1 The date, time, and place of the hearing;

.2 A description of the subject property, reasonably calculated to give notice as to the actual location, including but not limited to the tax account number assigned to the lot or parcel by the Columbia County Tax Assessor;

.3 Nature of the proposed action;

.4 Interested parties may appear and be heard;

.5 Hearing to be held according to the procedures established in the Zoning Ordinance.

Finding 10: The above information was included in the mailed and published notices. Notices were mailed to affected agencies initially on June 11, 2015 and again on July 14, 2015 and were published in the local news media on August 5, 2015 and August 7, 2015 for the Planning Commission hearing. The above information was included in the Notices sent on September 17, 2015 for the Board hearing and published in the September 23, 2015 issue of the Chronicle. Staff finds that the criterion is met.

Continuing with the Columbia County Zoning Ordinance:

1609 Notice of Review by the Director: The submittal of an application which may be approved by the Director requires that notice of the review of such an application be given to affected persons. This means that notice of the review will be mailed to all property owners within 250 feet of the subject property and the the Citizen Planning Advisory Committee for the area. These notices

shall contain:

.1 A description of the subject property, reasonably calculated to give notice as to its actual location, including but not limited to metes and bounds descriptions for the tax map designations of the County Assessor;

.2 The nature of the proposed action;

.3 Interested parties have 10 calendar days in which to respond in writing or in person with any comment regarding the proposed action;

.4 Interested parties have 10 calendar days to request in writing a public hearing before the Planning Commission or the Hearings Officer;

.5 If no request for a public hearing has been received, the Director may approve the proposed action and the applicant shall be issued a permit upon meeting any conditions attached to this approval.

Finding 11: As described in Findings 8 and 9, surrounding property owners within 750' of the subject properties , the St. Helens CPAC, and affected agencies were sent notice of the proposed property line adjustments on June 11, 2015. A request for a public hearing was submitted on June 17, 2015. The proposed property line adjustment applications were reviewed by the Planning Commission at a public hearing on August 17,2015. An appeal to the Board of Commissioners is scheduled for October 7, 2015. Staff finds that the criterion is met.

Continuing with Applicable Standards

Columbia County Road Standards

IV. Private Roads

Private roads may serve up to six lots upon approval by the Land Development Services office of the county, may be located within an Urban Growth Boundary upon concurrence with the city, and must access directly to a public road. Private roads shall comply with Fire Department Fire Apparatus Access Road standards and the following:

5) The County may require that the private road being created for a partition or other development be dedicated for the public road and utility purposes and improved to the applicable standards, if it is determined by the Public Works Director or the Columbia County Land Development Services Department that the access and transportation needs of the public would be better served by such a change.

The determination made by the County will include the following:

a.) Proximity of other roads being used for the same purpose;
b.) Topography of the parcel and contiguous parcels;
c.) Potential development and potential buildout densities as determined by the existing zoning;
d.) Safety factors such as visibility, frequency or road access points.

8) The County shall require that a maintenance agreement be recorded in the office of the County Clerk of Columbia County with the map or plat creating the private road, and the agreement shall include the

following terms:

a.) That the agreement for maintenance shall be enforceable by a majority of homeowners served by the road.
b.) That the owners of land served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula that is contained in the maintenance agreement.
c.) Amendments shall be allowed by written and recorded agreement and consent of 75% of property owners adjacent to the road.

9) The County shall require that an easement over the private road for access, including the right of maintenance, be conveyed to the properties served by the road.

Finding 12: Weyerhaeuser has constructed a new, private road to serve the lots once reconfigured through the proposed property line adjustments. As defined in Section IV of the County Road Standards, a private road is a road that serves up to six lots or parcels, is located on private property, and is dedicated by easement(s) to the subject properties. It is maintained with private funds and a maintenance agreement is required. Private roads can serve more than six pre-existing lots or parcels, but may not serve newly created lots if already serving six properties. As no new parcels are being created through these applications for property line adjustments, the Public Works Director, administrator of the Columbia County Road Department, has interpreted the Road Standards to allow the use of a private road to serve these newly reconfigured parcels. The Public Works Director has stated, however, that the private road shall be constructed to public road standards. His comments are as follows: "This private road will exceed the maximum Average Daily Trip travel of 100 trips per day for a private road (the expected potential daily trips for the proposed development will be in the neighborhood of 200) and therefore the road construction will be required to meet public road construction standards, and the easement width must be 50 feet..." The Land Development Services Department (LDS) has not determined that it is in the public interest for the access to this development be a "pubic road". The most likely users of the road will be only the residences it serves. Future use of the subject road will not likely be extended for other, more intensely developed uses, because it leads into the hundreds of acres of commercial timber lands. Prior to the reconfigured property lines to be recorded, the applicant must submit documentation to Land Development Services Planning Division demonstrating that the private road has been constructed to public road standards and that the newly reconfigured lot has legal access to said roadway. In accordance with Part 8 of Section IV of the Columbia County Road Standards, a maintenance agreement shall be recorded in the office of the County Clerk of Columbia County with the map or plat creating the private road. The agreement shall include items a - c of Part 8 as identified above. Staff finds that the criterion is met subject to conditions.

Continuing with Applicable Criteria

Oregon Revised Statutes (ORS) Chapter 92 - Subdivisions & Partitions

92.010 Definitions for ORS 92.010 to 92.192.

(3)(a) "Lawfully established unit of land" means:

(A) A lot or parcel created pursuant to ORS 92.010 to 92.192; or
(B) Another unit of land created:

(I) In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations; or

(ii) By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations.

Finding 13: All properties proposed for reconfiguration through the submitted property line adjustment applications were determined to be lawfully established units of land in accordance with ORS 92.010 (3)(a)(B)(ii). Land Development Services Planning staff reviewed the deeds of the subject properties and concluded that they were created lawfully by deed or land sales contract prior to the County's adoption of the Partitioning Ordinance in 1975. As discussed in the Background section of this report, lot-of-record staff reports may be reviewed at the Land Development Services Department and obtained through a Public records request. Staff finds that because the subject properties are legal lots of record, that property lines may be moved if approved through the property line adjustment application process.

(11) "Property line" means the division line between two units of land.

(12)"Property line adjustment" means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

Finding 14: The proposed Property Line Adjustments (PLAs) aim to reconfigure property lines between abutting properties. No new lots or parcels are being created. Findings 2 and 3 address these State provisions through Columbia County's local Zoning Ordinance. The proposed PLAs meet the definition of property line adjustments. Staff finds that the criterion is met.

Continuing with Oregon Revised Statutes:

92.192 Property line adjustment; zoning ordinances; lot or parcel size. (1) Except as provided in this section, a unit of land that is reduced in size by a property line adjustment approved by a city or county must comply with applicable zoning ordinances after the adjustment.

(2) Subject to subsection (3) of this section, for properties located entirely outside the corporate limits of a city, a county may approve a property line adjustment in which:

(a) One or both of the abutting properties are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or

(b) Both abutting properties are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.

(3) On land zoned for exclusive farm use, forest use or mixed farm and forest use, a property line adjustment under subsection (2) of this section may not be used to:

(a) Decrease the size of a lot or parcel that, before the relocation or elimination of the common property line, is smaller than the minimum lot or parcel size for the applicable zone and contains an existing dwelling or is approved for the construction of a dwelling, if the abutting vacant tract would be increased to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling;

(b) Decrease the size of a lot or parcel that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than the minimum lot or parcel size, if the abutting vacant tract would be increased

to a size as large as or larger than the minimum tract size required to qualify the vacant tract for a dwelling; or

(c) Allow an area of land used to qualify a tract for a dwelling based on an acreage standard to be used to qualify another tract for a dwelling if the land use approval would be based on an acreage standard. [2008 c.12 §2]

Finding 15: Columbia County's Zoning Ordinance complies with the requirements of Oregon Revised Statute 92.192 related to property line adjustments. Findings 1 - 5 of this Staff Report address ORS 92.192(1), (2), and (3) through standards set forth in the local Zoning Ordinance. Staff finds that the criterion is met subject to conditions.

Continuing with Oregon Revised Statutes:

197.763 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

(2)(a) Notice of the hearings governed by this section shall be provided to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located:

(A) Within 100 feet of the property which is the subject of the notice where the subject property is wholly or in part within an urban growth boundary;

(B) Within 250 feet of the property which is the subject of the notice where the subject property is outside an urban growth boundary and not within a farm or forest zone; or

© Within 500 feet of the property which is the subject of the notice where the subject property is within a farm or forest zone.

(b) Notice shall also be provided to any neighborhood or community organization recognized by the governing body and whose boundaries include the site.

© At the discretion of the applicant, the local government also shall provide notice to the Department of Land Conservation and Development.

(3) The notice provided by the jurisdiction shall:

(a) Explain the nature of the application and the proposed use or uses which could be authorized;

(b) List the applicable criteria from the ordinance and the plan that apply to the application at issue;

© Set forth the street address or other easily understood geographical reference to the subject property;

(d) State the date, time and location of the hearing;

(e) State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

(f) Be mailed at least:

(A) Twenty days before the evidentiary hearing; or

(B) If two or more evidentiary hearings are allowed, 10 days before the first evidentiary hearing;

(g) Include the name of a local government representative to contact and the telephone number where additional information may be obtained;

(h) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;

(I) State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and

(j) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

Finding 16: As discussed in the background and in Finding 8 of this report, the proposed property line adjustments were submitted to the Land Development Services Planning Department on April 6, 2015 for administrative review. The applications were deemed complete by the Planning Manager on June 9, 2015, and on June 11, 2015, notice was mailed to surrounding property owners within 750' of the subject properties, to the St. Helens Citizen Planning Advisory Committee (CPAC) and to affected agencies. On June 17, 2015 a neighboring property owner requested that the review of the PLA applications be referred to a public hearing by the Planning Commission. The applicant was notified of the referral on July 9, 2015 and on July 9, 2015 surrounding property owners, the St. Helens CPAC, the Department of Land Conservation and Development and affected agencies were sent notification of the Planning Commission meeting scheduled for August 17, 2015. Notice of the scheduled Planning Commission hearing was published in *The Chronicle* and *The South County Spotlight* on August 5, 2015 and August 7, 2015, respectfully. An appeal hearing has been scheduled by the Board of Commissioners for October 7, 2015. Notice of the scheduled Board of Commissioners hearing was sent to affected parties on September 17, 2015 and published in the Chronicle on September 23, 2015.

Mailed and posted notices contained all information required by ORS 197.763. Staff finds that the criterion is met.

Continuing with Oregon Administrative Rule (OAR)

OAR 660-011-0065 Water Service to Rural Lands

Water Service to Rural Lands

(1) As used in this rule, unless the context requires otherwise:

(a) "Establishment" means the creation of a new water system and all associated physical components, including systems provided by public or private entities;

(b) "Extension of a water system" means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing water system in order to provide service to a use that was

not served by the system on the applicable date of this rule, regardless of whether the use is inside the service boundaries of the public or private service provider.

© "Water system" shall have the same meaning as provided in Goal 11, and includes all pipe, conduit, pipeline, mains, or other physical components of such a system.

(2) Consistent with Goal 11, local land use regulations applicable to lands that are outside urban growth boundaries and unincorporated community boundaries shall not:

(a) Allow an increase in a base density in a residential zone due to the availability of service from a water system;

(b) Allow a higher density for residential development served by a water system than would be authorized without such service; or

© Allow an increase in the allowable density of residential development due to the presence, establishment, or extension of a water system.

(3) Applicable provisions of this rule, rather than conflicting provisions of local acknowledged zoning ordinances, shall immediately apply to local land use decisions filed subsequent to the effective date of this rule.

[ED. NOTE: The goal referenced in this rule is available from the agency.]

Stat. Auth.: ORS 183 & ORS 197
Stats. Implemented: ORS 197.712
Hist.: LCDD 4-1998, f. & cert. ef. 7-28-98

Finding 17: Per paragraph (3), the above Rule applies directly to any county land use decision made including this application, despite any conflicting or non-existing provisions of the Columbia County Zoning Ordinance. In the county, community water systems are located in areas that are "built and committed" with higher residential densities, mainly rural residential areas. The subject 21 property line adjustment applications are located on PF-80 forest designated lands, adjacent to the McNulty PUD Water service area. Weyerhaeuser NR plans on selling the proposed 23 properties for residential development. It is Staff's contention that such a development would necessitate the extension or creation of a water system.

The proposed 23 lots immediately served by the private road would encompass 156 acres; this density is one dwelling per 6.8 acres. The probability of drilling 23 producing water wells, one for each dwelling, without inner-interference or draw-down of a senior water right is very remote. One well per 6 acres, all within this little "Hideaway Hills" area, is not good thinking and most likely the underground aquifers are not sufficient for the demand, or the wells will tap into reserves for other water users. The proposed development would need to be setting on top of a small underground river. If this many producing water wells in this small area is viable for servicing the development, the applicant has not shown or proven through scientific study that the possibility even exists.

The existing residential density is zero (0); there are no dwellings in the proposed Weyerhaeuser owned development area. The proposal would increase that density to one dwelling per 6.8 acres. Unless the applicant can prove otherwise, Staff concludes that an extension of a water system would be necessary and would allow an increase of residential

density. The application does not meet this criterion.

Continuing with the County Comprehensive Plan

Part IV Pubic Facilities & Services

PUBLIC FACILITIES AND : GOALS AND POLICIES

GOAL:

To plan and develop a timely, orderly, and efficient arrangement of public as a framework for urban and rural development.

POLICIES: It shall be County policy to:

1. Require that adequate types and levels of public facilities and be provided in advance of or concurrent with development.

2. Require that the level of facilities and provided be appropriate for, but limited to, the needs and requirements of the area(s) to be served. The types and level of public facilities allowed within Rural Residential, Rural Center, Existing Commercial, and Rural Industrial areas are:

   A. Public or community water systems.

   B. Public or community sewage systems.

   C. Collector and/or arterial street systems.

   D. Fire protection by a rural fire protection district, or an equivalent level of service.

   Development of public or community water and sewer facilities is not appropriate within forestry or agricultural areas unless needed to alleviate a demonstrated health hazard, and where such facilities are the minimum level to accomplish the task. Urban levels of streets and fire protection are also inappropriate within forestry and agricultural resource areas.

Finding 18: The applicant has been somewhat evasive when asked about the provision of water for the proposed "Hideaway Hills" 26 lot residential development. The response has been that "we are working with McNulty Water PUD to extend a water line for the project; or, if that fails, each lot owner could drill their own well." As stated above, it is the County policy to require the applicant the responsibility to provide the development with adequate water in advance or concurrent with development. Postponement (to the actual building permit phase) of how the provision of water is to be provided is not good planning and may be devastating to a potential buyer wishing build his dream home.

The County policy for the types and levels of public facilities, including water, sewer, streets and fire protection have been organized and planned to coincide with zoning districts boundaries and allowable minimum lot sizes. This mechanism for guiding development has worked well, is required by the State and is generally acceptable by most people in the county. The above policy clearly states that it is inappropriate to extend public water service into the forestry areas. The subject application is in the Primary Forest PF-80 zone.

The term "inappropriate" was purposely used in this context because there might be instances where the extension of a water system into a forest zone would be appropriate. The policy names one of those situations would be to alleviate a demonstrated health hazard. The applicant has not demonstrated nor even suggested there is a health hazard on the subject properties. Another possibility to prove it appropriate to extend a water system into our protected forest zones might be that there is a demonstrated need to further forest production or further any other prescribed land use goal. Maybe that this location is based on a particular resource that is only available at this location and not readily available at any other location within the existing service area of the water district. Or, the proposed use or activity has special features or qualities that necessitate its location on this subject site.

Unless the applicant can demonstrate why it is necessary to extend and expand McNulty Water PUD into the subject property, the application does not meet this policy of the Comprehensive Plan.

COMMENTS:

Letter accompanying the Referral -Appeal
The letter dated June 17, 2015 from Ann Mathers, Laura Anderson, Perry Smith, Jeanne Becker and a fifth illegible states the following:

> "As residents of Columbia County, direct neighbors of Township 5N Range 1W, and therefore first impacted, we oppose the re-zoning of the Weyerhaeuser PF-80 property in order to divide and sell it as a housing development. Our opposition is based on the environmental and financial impact this development would have not just on us, but St. Helens and Columbia County. To reconfigure this property in order to sell "view" lots, would destroy what is effectively a very large timber "sponge," which feeds and maintains the aquifer on which McNulty Water and thousands of their customers depend. No individual or corporation should be given license to endanger it or damage its intricate structure by uncontrolled drilling or permitting the non-renewed destruction of the cover which permits it to recharge. The elimination of this fragile, but efficient, system would also increase flood danger and erosion damage to those living and working downstream, especially in the warmer, wetter winters which have been scientifically predicted. Milton Creek, which is already at its limit at times during the winter could be become an uncontrollable threat to businesses like the Ace Hardware store, precariously situated for high water, as well as many homes and other businesses located along the creek. Weyerhaeuser would carry no liability for these devastating results.
>
> A further negative consideration of this housing development is the lack of infrastructure, specifically Robinette Road. This narrow road is already heavily used, and the road improvements needed to accommodate and maintain the additional traffic that this development would entail would once again, be borne by the tax payers of Columbia County.
>
> Weyerhaeuser is in effect requesting a subsidy from the taxpayer to offset the negative and lasting impacts which this reconfiguration would cause us, the residents, neighbors, and tax payers of Columbia County. To avoid such complicated and expensive solutions to unnecessary problems is simple at this stage, by denying reconfiguration. Although they are not the only concerns of this proposal, the strong environmental and valid infrastructure concerns are enough to abort the consideration of reconfiguration, and we urge the committee to do so."

Additional comments from neighboring property owners are as follows:

Don McGilvra - "So is it safe to assume that there will be 25 to 30 new septic systems. 25 to 30 new wells for water

which may compromise my personal and neighboring properties' water rights. And 25 to 30 new homes dumping contaminated water into the creek that runs through the my property. Did anybody think about the spotted owls, barred owls, bears, deer, cougar, elk, and other various wildlife that lives in this area. This is vital habitat for the wildlife that is surrounded by encroaching townships. I would also like to see an immediate cease and desist. Also, the following three questions: How can we keep allowing all this development to go on in the greater St. Helens area without expanding schools or other infrastructure? When is the public meeting going to be held? Isn't there 40 acre minimum to be a buildable lot of record?"

Keith Forsythe - "This confirms the phone call of my lawyer, Agnes Marie Petersen, today in which she pointed out to you that there is an operating rock pit very close to the proposed lots being sought and that each and every lot fall within the requirements of a signed waiver of remonstrance for the rock extraction activities of the rock operation." We ask that this letter be made part of the record and that this letter be made part of any record of any other development plans regarding these properties.

No other neighboring property owner comments opposing the applications were received.

Agency Comments received

St. Helens CPAC: No Comment

McNulty Water PUD: No Objection (See attached letter from PUD Attorney Will Stewart) which states, in part: McNulty PUD is in general support of this application. The subject properties are adjacent to McNulty PUD's current service territory. McNulty PUD and Weyerhaeuser have discussed provision of water service to the subject properties, and are in negotiations to execute an "agreement". McNulty PUD presently has an Aquifer Storage and Recovery permit on property just east of Robinette Road. They intend to protect future water provision to the community, and hopefully the agreement will facilitate the protection of McNulty's groundwater rights and preclude possible hydraulic interference in the future.

Columbia River PUD: No Comment

Soil and Water Conservation District: No Objection

Lower Columbia Watershed Council: No Comment

Columbia River Fire and Rescue: No Comment

Oregon Department of Fish and Wildlife: Letter with attachment dated August 7, 2015: ODFW is concerned about the increase in density within the tax lot base area as a result of the proposed series of property line adjustments. Even with the implementation of development siting standards when a future dwelling is permitted, ODFW is concerned that the adjustment of 21 lots impact may be too large of impact to ensure that wildlife values are maintained. ODFW recommends compensatory mitigation consistent with ODFW Fish and Wildlife Habitat Mitigation Policy (OAR 624-415-0000 to 0025). This Policy rates wildlife habitat into nine (9) categories for implementation of restoration measures, from irreplaceable habitat to essential, important habitat and finally low potential to become important or essential habitat.

Oregon State Forestry: No Comment

Oregon DLCD: E-mail letter dated August 3, 2015 (attached) from Katherine Daniels states in part: It appears that

Section 207 of the Subdivision and Partitioning Ordinance may be applicable. The subject parcels of the PLAs were recorded; and, any proposed change of that recording would be subject to current requirements applicable to new partitions and subdivisions. There are exceptions for property line adjustment except where "an increase or transfer of development density" among other factors. The proposed series of property line adjustments would significantly increase and transfer development density within the plat. Other points are made in the letter.

E-mail 2nd letter - DLCD letter received at the County late Friday August 14, 2015 stating that a LUBA case, Warf v, Coos County 43 Or LUBA 460 (2003) applied to the subject application PLA 15-33 through PLA 15-53. DLCD concluded that if the applicant wanted to proceed by way of serial property line adjustments they must seek separate approvals for each needed property line adjustment and implement each step before proceeding to seek approval for additional property line adjustment that may be needed to achieve their desired goal... The letter also addresses Big Game Habitat - that the Comprehensive Plan relies on 80 acre minimum lot creation size, not just siting criteria for the requirement to protect Big Game.

County Sanitarian: No Objection; No site evaluations have been performed. Once final property configurations are determined, site evaluations will be required to be approved prior to any building permit process.

County Surveyor: No Comment

County Watermaster: No Objection, private wells and their use for irrigation of less than one-half acre are exempt from permit.

County Roadmaster: No Objection (See Letter dated July 22, 2015 and email dated July 27, 2015) Letter states in part: This proposed private road will exceed the maximum Average Daily Trip travel of 100 trips per day for a private road (the expected potential daily trips will be in the neighborhood of 200), and therefore the road construction will be required to meet public road construction standards, and the easement width must be 50 feet. More points are made in the letter.

No other comments have been received from government agencies or nearby property owners as of the date of this staff report (September 30, 2015).

Based on comments received from other affected agencies, Staff will address several of the stated concerns:

Water and Natural Resources - Comments from the Oregon Water Resources Department identify uses of groundwater that are exempt from permitting. Exempt uses include household wells and stock watering, non-commercial irrigation of not more than one-half acre in area, single or group domestic purposes for no more than 15,000 gallons per day, single industrial or commercial purposes not exceeding 5,000 gallons per day, and down-hole heat exchange uses. Commercial irrigation is not exempt from permitting. Based on this information, the watermaster had no objection to the applications as submitted. Additionally, Jeffrey Pierceall with the Oregon Water Resources Department, in a conversation with Planning Staff on July 27, 2015, did not indicate a significant historic ground water concern for the aquifer(s) in this area. Pierceall did state, however, that without a survey of all existing well locations and depths in the area, exact information is not available on the geologic and hydrologic conditions of the aquifer(s).

In meetings with the McNulty Water PUD, the PUD expressed concerns related to the impacts of new domestic wells on the water level and quality of their storage reservoir. As stated in their letter from William Stewart, the PUD has a Aquifer Storage and Recovery permit from the state, to inject and withdraw water into and out of an underground storage vault/aquifer. The Storage Reservoir is locate just across Robinette Road from the proposed subject property. To avoid

draw down and contamination of the reservoir, the McNulty PUD is working with Weyerhaeuser to come to a mutual agreement for water service in the area. In the letter, dated June 19, 2015, from William Stewart (for the PUD) to the Planning Department states: McNulty PUD is in general support of this application. The subject properties are adjacent to McNulty PUD's current water service territory. If these properties later undergo development, the properties would benefit from provision of water from McNulty PUD and McNulty would benefit through increasing its service base. McNulty PUD and Weyerhaeuser have discussed provision of water service to the subject properties, and are in negotiations to execute a related agreement. McNulty PUD presently has an Aquifer Storage and Recovery permit to protect future water provision to the community, and is hopeful that an agreement between McNulty and Weyerhaeuser will facilitate protection of McNulty's groundwater rights and preclude hydraulic interference in the future..."

The property line adjustments do not allow for the creation of new/additional units of land. The PLAs will, however, significantly increase the potential density and number of dwelling units in the immediate area. As presently configured, most of the subject parcels to be reconfigured would not qualify for a dwelling. By moving these parcels to an area where they would pass the "template test", they become approvable for development. Staff cannot make a determination of water impacts to the aquifer(s) from the proposed geographic redistribution of the lots without an intensive survey of the geologic and hydrologic conditions of the area. Columbia County would not require a permit for drilling of a new well on any of these proposed reconfigured properties, nor does the State Water Resources Division for household uses. If a single family dwelling is proposed on the reconfigured properties, the County will only require that the landowner submit proof of access to an adequate potable water supply prior to issuing a building permit. Each dwelling needs water. It has not been determined at this point whether the applicant will provide McNulty Water from the community water source or each individual owner will need to drill a private well. The Board of Commissioners has the authority to attach reasonable conditions to the approval of these property line adjustments.

Finally, the Soil and Water Conservation District had no objection to the applications as submitted. If the proposed properties are developed in the future, all development regulations of the Columbia County Zoning Ordinance related to big game habitat, endangered and/or protected species, flood zones, waterbodies, wetlands, and riparian corridors will be reviewed in relation to proposed development. Residential development, for example, is not permitted outright. All residential development in the PF-80 Zone is subject to administrative review where the above issues are reviewed for compliance.

Concerns Raised by Notified Landowners

In response to Keith Forsythe /Agnes Petersen's comments, if the proposed PLAs are approved and residential development is permitted through the administrative review process and the proposed dwelling is within the area of influence of a gravel mining operation, then the applicant-homeowners will be required to sign and record a waiver of remonstrance certifying that the owner will not remonstrate against or begin legal action to cause or persuade the owner or operator to curtail or modify legal mining activities. The Hankey Road Mining Pit has been determined by Columbia County as a Significant Mineral Resource and is protected as a Goal 5 significant gravel resource.

Infrastructure, Roads - As discussed in Finding 1, all properties (if the property line adjustments are approved) will have access to a private road constructed to public road standards, as a proposed condition. This roadway will connect directly to Robinette Road. Robinette Road is a public roadway with a 40 foot right-of-way. The Public Works Director has no objection to the proposed property line adjustments and does not recommend a traffic impact analysis for the PLAs as proposed. According to the Public Works Director, Dave Hill, traffic impact analyses look at capacities of intersections and roadways. Comments from Hill indicate that Robinette and Pittsburg Roads are not at or near capacity. Traffic Impact Analyses are typically only required if a development is anticipated to generate more than 600 vehicle trips per day (generally associated with a 63 unit subdivision). Hill also indicates that the sight distance at both intersections is good. At the Pittsburg & Robinette Road intersection the vertical curvature at Pittsburg Road makes it appear that the sight distance is poor, but that one can see oncoming traffic from a very adequate distance. Finally, passenger vehicles (residential development) have very little impact on the condition of a roadway. See the attached

Letter from the Road Department dated July 22, 2015. Impacts to roads, schools, and parks from future development (if approved) will be minimized through the collection of systems development charges charged to the landowner at the time of building permit issuance.

DISCUSSION, CONCLUSION AND RECOMMENDATION:

1) The Planning Commission decision was based on erroneous information. The Department of Land Conservation and Development (DLCD) submitted comments on August 14, 2015, the Friday before Monday night Planning Commission meeting; and, Staff did not have a chance to adequately review the DLCD recommendation prior to presenting to the Commission. DLCD recommended that a LUBA case Warf v. Coos County 43 Or LUBA 460 (2003) was applicable to the subject application. The Warf decision stated that for serial property line adjustment cases the applicant must seek separate approvals for each property line adjustment (PLA) before moving on to the next PLA. The Warf case was followed by the Legislature amending the ORS 92.010(11) by allowing more than one property line from the definition. Subsequently another LUBA case Kipfer v. Jackson County overturned the Warf case.

2) There is no concurrence on the affect of drilling individual water wells to serve the uses of the proposed property line adjustment properties. The applicant has not demonstrated that adequate ground water exists in the immediate area to serve the subsequent residential development. Also, a geologic and hydraulic study needs completed to determine if an area of influence can be determined surrounding the new McNulty Underground Water Storage facility and whether any new water wells at the proposed new adjusted parcel sites will negatively influence this storage facility. If an agreement is reached between McNulty PUD and Weyerhaeuser then a resolution may be possible, with conditions imposed by this application.

3) County policy discourages the extension of community water systems into forestry or agricultural areas. The language in Policy 2 of Part XIV Public Facilities in the Comprehensive Plan states that it is not appropriate to develop community water facilities in the Forest zone unless to alleviate a demonstrated health hazard. No health hazard has been shown, nor has any other reason been given to justify an extension of a community water system into the protected forest area.

4) The cumulative affect of 21 property line adjustments for the sale of 26 new residential parcels of this proposal has not been mitigated on its effect on Big Game Habitat. The Oregon Department of Fish and Wildlife (ODFW) and DLCD states that the individual siting criteria in the Zoning Ordinance is insufficient to assure minimization of impacts to wildlife habitat. Mitigation measures must be explored and approved by ODFW.

In conclusion, a short history of property line adjustments in Oregon. The property line adjustment were created by the legislature in the early 1990s to move an established property line if the two owners agreed to move the line, usually because of an encroachment of a building. Over the years the use of property line adjustments have emerged into what is before the Board today, creating a 26 lot residential community in the undeveloped forest zone. It is truly not the intent of the State Planning Rules and the County's 80 acre minimum lot size to allow a 26 lot residential community averaging just 6 acres each. State Statute, Administrative Rules and local zoning ordinances have not yet promulgated sufficient rules to address this kind of development. Staff has addressed the rules related to the expansion of public facilities and the protection of resources and habitat in leu of adopted rules specific to property line adjustments.

Based on the above Staff Report, findings and conclusions, the Planning Department recommends Denial of the 21 property line adjustments PLA 15-33 through PLA 15-53 unless the applicant can adequately address the above discussion points.

If the Board of Commissioners receives additional evidence at the hearing and a resolution of the above stated concerns is discernable; and, the Board determines that all of the criteria pertaining to these particular property line adjustments are met; and these twenty-one Property Line Adjustment applications are **approved** – – Staff recommends the following Conditions of Approval:

Possible Conditions

1. Each of these individual property line adjustments shall be recorded separately with the County Clerk and County Surveyor in the order and sequence depicted in each of these chronological Property Line Adjustment Applications.

2. To complete each Property Line Adjustment process, the land described in the legal description must be conveyed individually. A Deed that conveys the transferred land must be recorded with the Columbia County Clerk's Office and the surveyed property line adjustment must be recorded with the County Surveyor in compliance with state statute. For each of these property line adjustments to be finalized by Land Development Services (LDS), the Clerks recording number and the County Surveyors recording number for each individual property line adjustment must be provided to LDS on the Property Line Adjustment form.

3. No new lots or parcels shall be created by these Property Line Adjustments. Approval of this Property Line Adjustment(s) does not indicate or imply that any future development of the affected properties can be accomplished consistent with the applicable regulations of the County and other agencies.

4. Any future development on the reconfigured properties must maintain compliance with zoning setbacks, fire siting standards, access standards and environmental health regulations.

5. The reconfigured properties shall all maintain at a minimum the average lot width and average lot depth of 100 feet.

6. A survey map shall be prepared for each Property Line Adjustment showing the boundaries and size of each reconfigured property; but, those properties greater than 10 acres need not be monumented.

7. Prior to recording conveyance deeds for a newly configured parcel, the applicant shall submit documentation demonstrating the access road has been constructed to Public Road Standards and the subject property has access to it.

8. A Maintenance Agreement for the access road shall be recorded in the Clerks office for each newly configured parcel and shall contain at a minimum the requirements of Columbia County Road Standards, Part IV(B).

9. The private road serving the newly configured parcels shall be named in accordance with Columbia County Rural Addressing Ordinance prior to a third dwelling using the road applies for a building permit.

10. The applicant shall coordinate with the Oregon Department of Fish and Wildlife (ODFW) to assure alternatives have been investigated, or the entire range of PLAs has been mitigated for any loss of function and values to wildlife habitat in accordance with OAR 625-415-0000 to 0025. Proof or copies of this coordination shall be submitted to the County LDS, and the Planning Director will review any substantive agreements that shall become conditions of the development project.

11. If extension of McNulty Water PUD is not realized and private wells are used to serve the newly reconfigured parcels, the applicant shall conduct and provide an assessment of the hydogeology and groundwater quality for the subject property area and provide an analysis of said wells' impact on the PUD's underground storage facility prior to finalizing any property line adjustment. The survey must conclude there is sufficient un-prioritized ground water to serve the development.

Attachments

Applications (abbreviated)
Maps
- Initial Lot Layout
- Final Lot Layout
- Aerial Photo Area Map
- Vicinity Map
- Comments Received