

COLUMBIA COUNTY PLANNING COMMISSION
STAFF REPORT
 August 7, 2015
Multiple Property Line Adjustments - PF- 80 Zone

HEARING DATE: August 17, 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: Approximately two miles west of Columbia City and between two and three miles north and northeast of the City of St. Helens, south of Smith Road and east of Robinette Road in Township 5N, Range 1W, Sections 29, 30, 31, and 32.

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 REVIEW CRITERIA:

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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 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

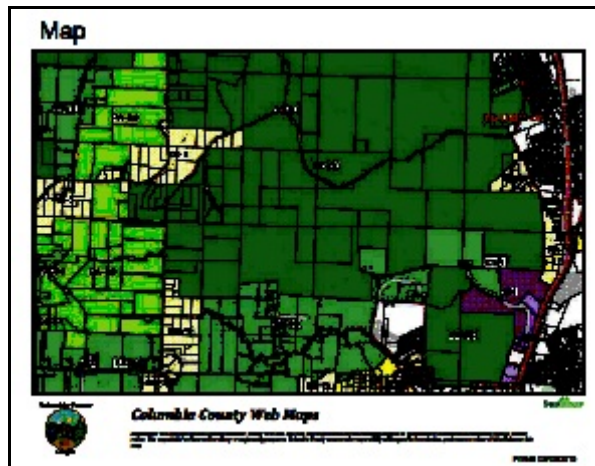
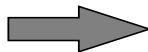
All properties being reconfigured have been determined by Columbia County to be legal lots-of-record. Lots-of-record are properties created before January 10, 1975 that were either (1) created by a legal plat (i.e., subdivision) or (2) conveyed separately from all other property by deed for the purpose 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 the 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 this application. 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

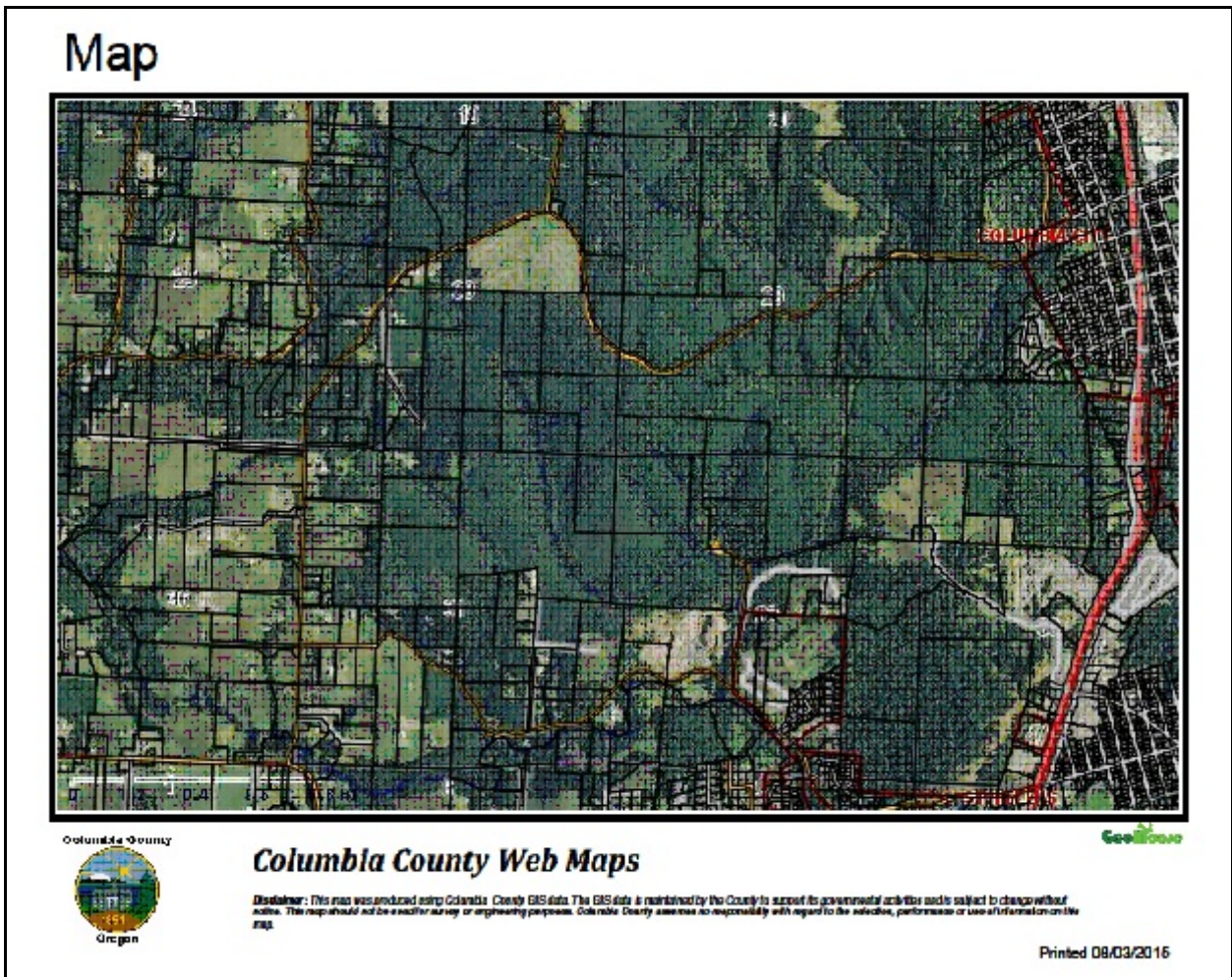
LRD	Tax Map #	# of legal lots of record
LRD 13 06	5131 000 00401	1
LRD 13 07	5131 000 00200	3
LRD 13 08	5131 000 00200	0
LRD 13 12	5130 000 02900	1
LRD 14 02	5129 000 00400	2
LRD 14 03	5129 000 00500	1
LRD 14 04	5129 000 00600	2
LRD 14 06	5129 000 00200	1
LRD 14 07	5129 000 00300	1
LRD 14 08	5130 000 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.

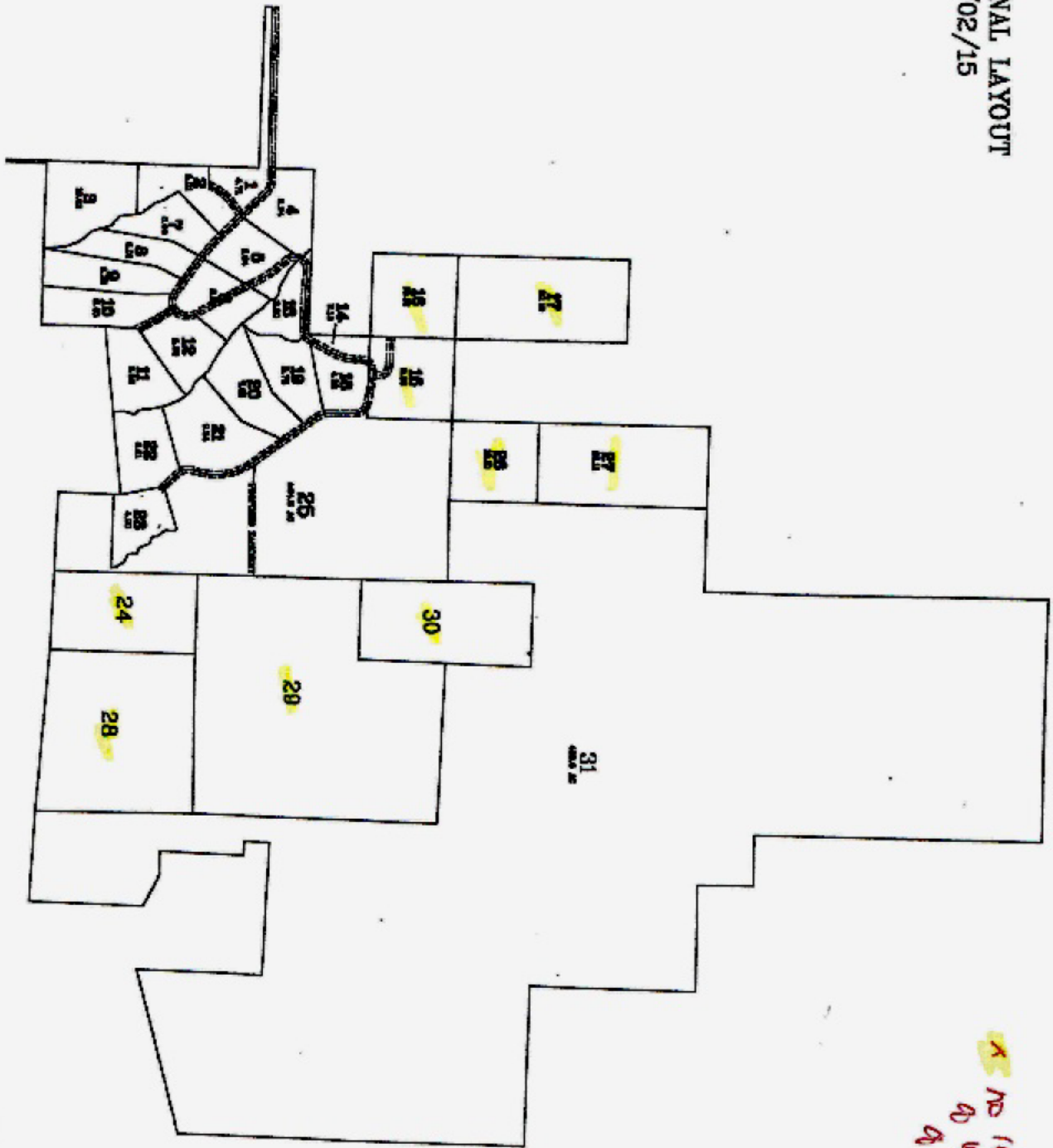
- .1 Lot Line Adjustments may be allowed between undersized lots, or between an undersized lot and a complying lot, in any district provided that the resulting lots satisfy the minimum width, depth, frontage, and yard requirements of the district, and setbacks to existing structures are not reduced by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

Finally, although all properties discussed herein are vacant at this time, it is necessary to consider the 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 Development Forest Permits for the siting of a residences. Residential development in the forest resource zone is reviewed administratively. Staff finds that the criterion is met subject to conditions.

FINAL LAYOUT
4/02/15



*no rezoning
of legal lots
of record*

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 road for individual 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 game movement corridor from the higher elevations in the west to the Columbia River 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). This criterion is satisfied with conditions.

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 applicant was notified of the referral on July 9, 2015 and on July 9, 2015 surrounding property owners, the St. Helens CPAC, and affected agencies were sent notification of the Planning Commission meeting scheduled for August 17, 2015. Notice of the scheduled hearing was published in *The Chronicle* on August 5, 2015 and the *South County Spotlight* on August 7, 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 August 17th. The Planning Commission 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, as discussed in Finding 8 previously. 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 will be reviewed by the Planning Commission at a public hearing on August 17, 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 the existing 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 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...” 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;

(l) 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 hearing was published in *The Chronicle* and *The South County Spotlight* on August 5, 2015 and August 7, 2015, respectfully.

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

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 propose series of property line adjustments would significantly increase and transfer development density within the plat. Other points are made in the letter.

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 (August 7, 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. 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. If development is proposed on the subject properties, prior to building permit issuance, the County Planning Department will only require that the landowner submit proof of access to an adequate potable water supply. The Planning Commission 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 with notice to neighboring property owners.

In response to Keith Forsythe /Agnes Petersen's comments, if 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. Mining and processing of subsurface resources is defined in ORS Chapter 520, and is not permitted outright in farm or forest zones. 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 - 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, stating that 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.

CONCLUSION AND RECOMMENDATION:

Based on the Findings and Facts contained in this Staff Report, **Staff can not recommend approval or denial** for the proposed twenty-one Property Line Adjustments applications; there are too many issues related to the proposed development that has not been adequately addressed at this time. Note the following issues:

Note: that no provisions of the Columbia County Subdivision and Partitioning Ordinance (SPO) are reviewed as applicable criteria in this Staff Report. In the State DLCDC letter, dated August 3, 2015, it states that it appears that the proposed series of property line adjustments is subject to the Columbia County SPO. Section 207 of the SPO requires that changes in recorded partitions are subject to the current requirements applicable to any new partition. DLCDC’s point (well made) is that a property line adjustment is not “excepted” if it results in “an increase or transfer of development density in the plat.” Staff’s initial response to the DLCDC letter was that the parcels, subject to the property line adjustment, were not created by plat, but instead by deed instruments. However, we are not sure of our position, and this issue needs further legal research to determine if the Subdivision and Partitioning Ordinance is applicable to these applications.

Note: that no provision of State Administrative Rule OAR 660-014-0040 Establishment of New Urban Development on Undeveloped Rural Lands is reviewed as applicable criteria in the Staff Report. The reason why staff did not include it: DLCDC’s position is that OAR Division 4 and Division 14 regarding urban land densities do not apply to resource land (PF-80). DLCDC states that the rule was specifically created for “exception lands” (i.e. rural residential) not for resource lands (PF-80). This means that an Exception (Division 4) to Goal 14 Urbanization is required for Rural Residential RR-5 zoned lands for allowing developments of less than a minimum lot size of 10 acres; but, an Exception is not required to allow developments of less than 10 acres in lands zoned for large lot resource Primary Forest PF-80 lands. This does not make sense given the hierarchy of protection rules applied to various zones in land use planning. Staff assumes this as an oversight by the State Land Use Planning Program; they did not think the Rule was needed in the resource lands because of the 80 acre minimum lot size. The implication of this interpretation is that it creates a huge hole in state law for protecting our forest lands from urban lot size developments. Staff believes this issue needs further investigation. It may be possible for the County to interpret its own comprehensive plan policies outside of the context of state goal interpretations.

Note: that there is no concurrence on the affect of drilling individual water wells to serve the uses of the proposed property line adjustment properties. 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.

Possible Conditions

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

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.

Attachments

Applications (abbreviated)

Maps

Initial Lot Layout

Final Lot Layout

Aerial Photo Area Map

Vicinity Map

Comments Received