



1510 - B Third Street
Tillamook, Oregon 97141
www.tillamook.or.us

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1 (800) 488-8280

Land of Cheese, Trees and Ocean Breeze

**PARTITION REQUEST #851-23-000107-PLNG:
HATHAWAY, BILLUPS & JONES CONSULTING**

*NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:
ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE,
IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER*

July 20, 2023

Dear Property Owner:

This is to confirm that the Tillamook County Department of Community Development **APPROVED WITH CONDITIONS** the above-cited partition request on July 20, 2023. A copy of the application, along with a map of the request area and the applicable criteria for review are available for inspection on the Tillamook County Department of Community Development website: www.co.tillamook.or.us and is also available for inspection at the Department of Community Development office located at 1510-B Third Street, Tillamook, Oregon 97141.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. Forms and fees must be filed in the office of this Department before **4:00pm on August 1, 2023**. This decision will become final on August 1, 2023 at 4:00pm unless an appeal is filed in accordance with Tillamook County Land Use Ordinance Article X.

Request: A partition request to create two (2) parcels.

Location: The subject property is accessed via Highway 101 S., a state highway, and designated as Tax Lot 2600 of Section 6 in Township 3 South, Range 09 West of the Willamette Meridian, Tillamook County Oregon.

Zone: Small Farm and Woodlot 20 Acre (SFW-20) Zone

Applicant: Terry Jones Consulting, 1175 Highway 101 S., Tillamook, OR. 97141

Property Owner: Beth Billups and Cindy Hathaway, P.O. Box 601 and P.O. Box 604, Tillamook, OR. 97141

CONDITIONS OF APPROVAL:

Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant shall obtain all Federal, State, and Local permits, as applicable.
2. The applicant shall comply with all requirements of the Tillamook County Surveyor's Office.
3. The applicant shall include a note on the Final Plat referencing no further residential development or land division permitted in the open space.
4. The applicant shall record the Final Plat within two (2) years from the approval date of the Preliminary Plat or apply for an extension of time from this Department prior to expiration of Preliminary Plat approval.
5. The applicant shall record the Final Plat within (90) days from the date of final signature of the partition plat.
6. Future changes of use or new access from Highway 101 South, a state highway, will require review and written approval from the Oregon Department of Transportation (ODOT) prior to development.
7. Future development is subject to setbacks and standards required by TCLUO Sections 3.006: Small Farm Woodlot 20 Acre (SFW-20) Zone, Forest (F) Zone and 4.130: Development Requirements for Geologic Hazard Areas.

Sincerely,
Tillamook County Department of Community Development



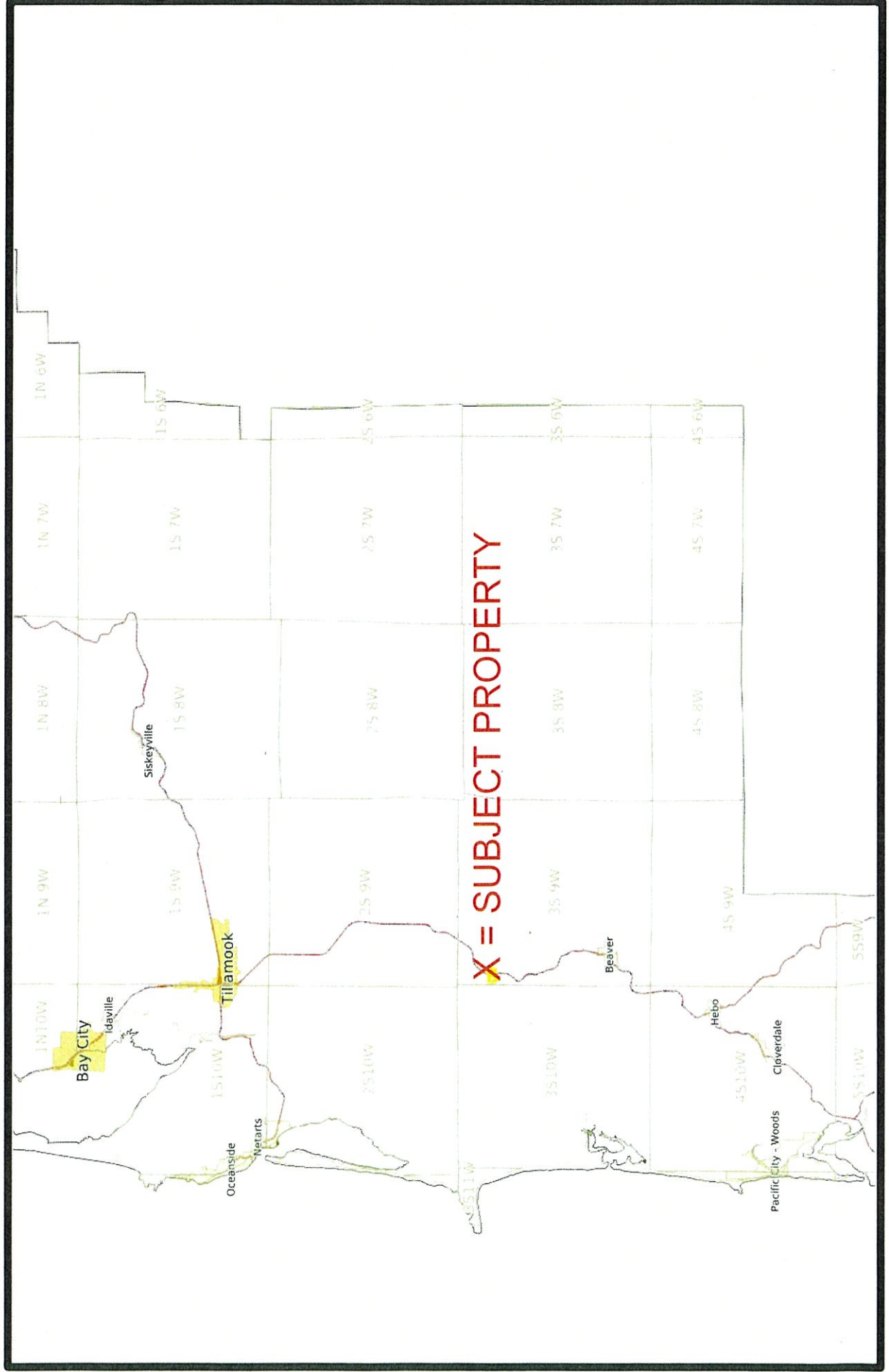
Angela Rimoldi, Planning Technician



Sarah Absher, CFM, Director

Enc.: Vicinity, Assessor's and Zoning maps

Map



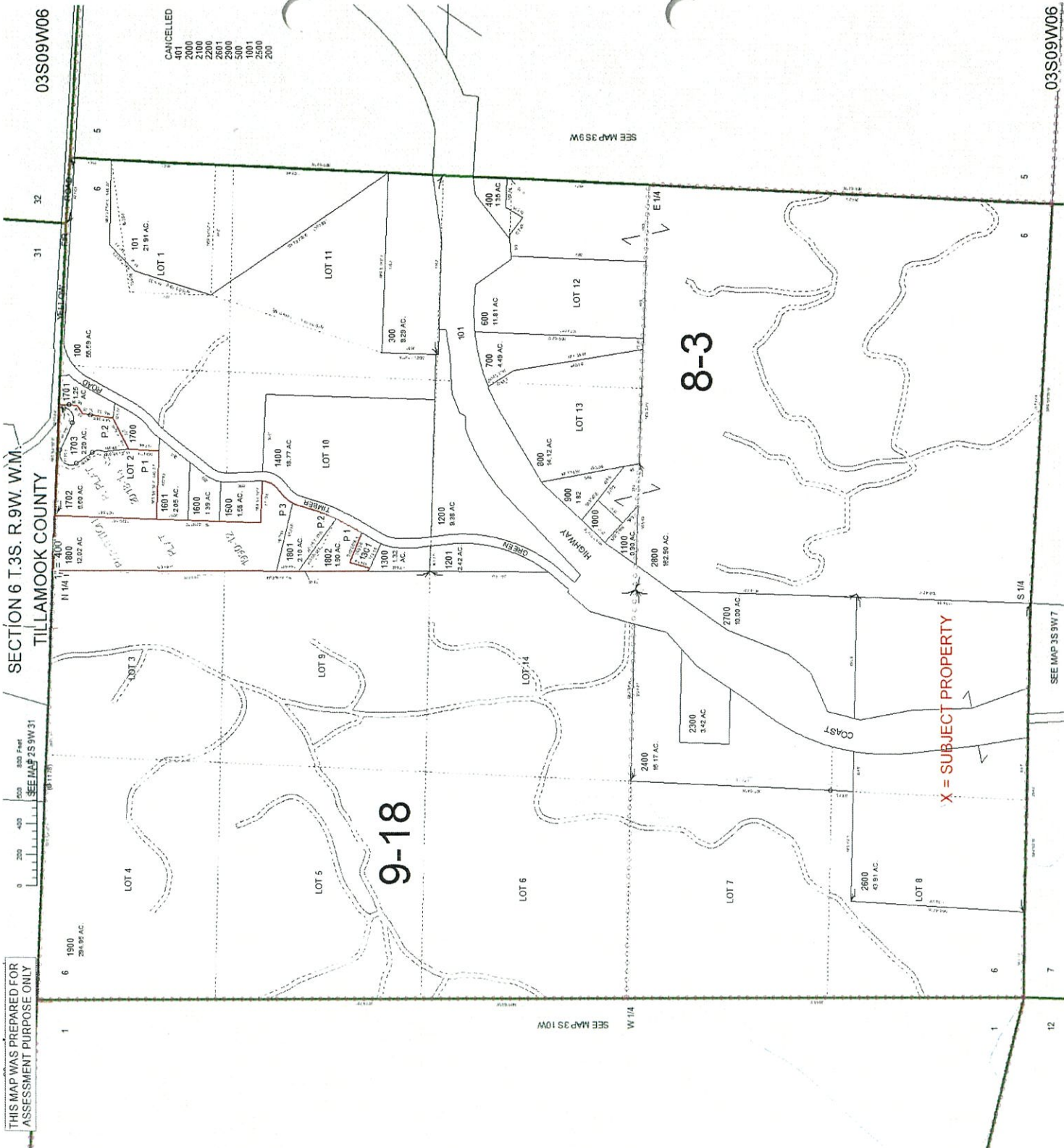
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SEE MAP 3S 3W 31

SECTION 6 T.3S. R.9W. W.M.
TILLAMOOK COUNTY

03S09W06

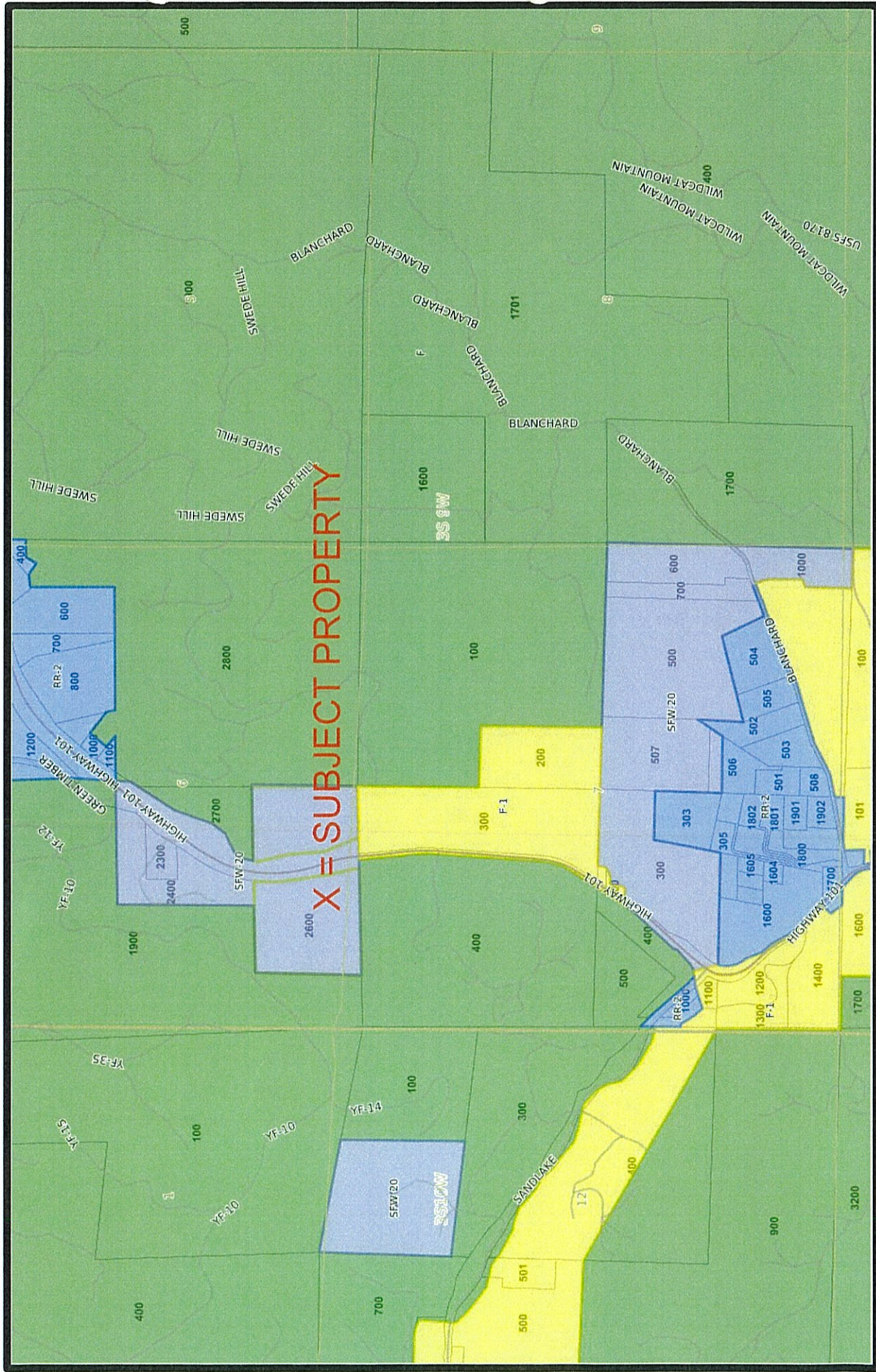
CANCELLED
LOT
2000
2100
2200
2601
2900
500
1000
2000
200



03S09W06
Revised 07/15/21, WS

SEE MAP 3S 3W 7

Map





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**PARTITION REQUEST #851-23-000107-PLNG:
HATHAWAY, BILLUPS & JONES CONSULTING
ADMINISTRATIVE DECISION & STAFF REPORT**

Decision: Approved with Conditions
Decision Date: July 20, 2023
Report Prepared By: Angela Rimoldi, Planning Technician

I. GENERAL INFORMATION:

- Request:** A partition request to create two (2) parcels.
- Location:** The subject property is accessed via Highway 101 S., a state highway, and designated as Tax Lot 2600 of Section 6 in Township 3 South, Range 09 West of the Willamette Meridian, Tillamook County Oregon.
- Zone:** Small Farm and Woodlot 20 Acre (SFW-20) Zone
- Applicant:** Terry Jones Consulting, 1175 Highway 101 S., Tillamook, OR. 97141
- Property Owner:** Beth Billups and Cindy Hathaway, P.O. Box 601 and P.O. Box 604, Tillamook, OR. 97141

Description of Site and Vicinity: The subject property is accessed via Highway 101 S., a state highway, rectangle in shape, approximately 43+ acres in size, improved with two manufactured dwellings and associated accessory structures and is vegetated with grasses, shrubs, and trees (Exhibit A). The topography of the subject property varies; however, is generally flat with some sloped area (Exhibit A). The subject property is surrounded by Forest (F) Zone to the north, southeast and west, with some Small Farm and Woodlot (SFW-20) Zone to the north, and Farm (F-1) Zone to the south (Exhibit A).

The subject property contains some mapped wetlands or natural features as indicated on the NWI map and is located within Zone A, a Special Flood Hazard Area, and Zone X an Area of Minimal Flood Hazard as depicted on FEMA Flood Insurance Rate Map FIRM 41057C0730F (Exhibit A).

The subject property is located within an area of Geologic Hazard (Exhibit A). A Condition of Approval has been made to require relevant standards of TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas be adhered to at the time of development.

II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The request is governed through the following Sections of the Tillamook County Land Use Ordinance (TCLUO). The suitability of the proposed use, in light of these criteria, is discussed in Section III of this report:

- A. Land Division Ordinance Section 070: Preliminary Plat Approval Criteria
- B. TCLUO Section 3.006: Small Farm and Woodlot 20 Acre (SFW-20) Zone associated with TCLUO Section 3.004: Forest (F) Zone
- C. TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas

III. ANALYSIS:

Notice of the request was mailed to property owners within 750 feet of the subject property and other agencies on June 9, 2023. Two (2) comments were received from the Oregon Department of Transportation (ODOT) in the matter of access location(s) and topographical barriers (Exhibit C).

A. Land Division Ordinance Section 070: Preliminary Plat Approval Criteria

(1) Approval Criteria. The Approval Authority (Director for partitions and Planning Commission for subdivisions) may approve, approve with conditions or deny a preliminary plat. The Approval Authority decision shall be based on findings of compliance with all of the following approval criteria:

- (a) The land division application shall conform to the requirements of this ordinance;*
- (b) All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of the Land Use Ordinance – Article 3 Zone Regulations and the standards in Section 150 of this ordinance;*

Findings: The preliminary Partition Plat proposes the creation of two (2) parcels (Exhibit B). The applicability of the SFW-20 zone is addressed below. Plat and submitted supplemental information confirm the criteria above are met.

- (c) Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to the standards in Sections 150 and 160 of this ordinance;*
- (d) The proposed plat name is not already recorded for another subdivision, does not bear a name similar to or pronounced the same as the name of any other subdivision within the County, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name;*
- (e) The proposed streets, utilities, and surface water drainage facilities conform to Tillamook County's adopted master plans and applicable engineering standards and, within Unincorporated Community Boundaries, allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;*
- (f) All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;*
- (g) Provisions for access to and maintenance of off-right-of-way drainage, if any;*

Findings: Access to the subject property from Highway 101 S., a state highway, will be maintained as the access for each proposed parcel (Exhibit B). A Condition of Approval has been outlined below in Section V for the Oregon Department of Transportation (ODOT) for future development and/or improvements to be cleared and approved by ODOT.

Land Division Ordinance Section 150 outlines development standards for partitions. Standards within this section either do not apply, evidence submitted by the Applicant confirms the standards are met or that the standards can be met through compliance with the Conditions of Approval.

Staff concludes the above standards and the standards in Sections 150 and 160 of the Land Division Ordinance have been met or can be met through the Conditions of Approval.

- (h) Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and*
- (i) Evidence that improvements or conditions required by the road authority, Tillamook County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met, including but not limited to:*
 - (i) Water Department/Utility District Letter which states that the partition or subdivision is either entirely excluded from the district or is included within the district for purposes of receiving services and subjecting the partition or subdivision to the fees and other charges of the district.*
 - (ii) Subsurface sewage permit(s) or site evaluation approval(s) from the appropriate agency.*

Findings: The subject property is served by a spring and on-site wastewater system for each proposed parcel. A water availability letter from the Oregon Water Resources Department is included in the Applicant's submittal (Exhibit B).

The subject property is also served by the Tillamook Fire District, Tillamook County Sheriff's Office, and the Oregon Department of Transportation (ODOT). Given the location of the property, and the availability of public services existing in the area staff conclude these criteria have been met or can be met through compliance with the Conditions of Approval.

B. TCLUO Section 3.006: Small Farm and Woodlot 20 Acre (SFW-20) Zone

(5) Land Divisions

New land divisions shall conform to either the standards contained in Article 3.002- Farm Zone (F-1), or the standards of Article 3.004 – Forest Zone (F), based on the predominant use of the tract on January 1, 1993.

Section 3.004: Forest Zone (F)

(12) Land Division

- (a) The minimum parcel size for a new forest parcel is 80 (eighty) acres.**
- (b) New land divisions less than the parcel size in Subsection (a) may be approved for any of the following circumstances:**

.....

- (4) To allow a division of a lot or parcel zoned for forest use if:**
 - a. At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;**
 - b. Each dwelling complies with the criteria for a replacement dwelling;**
 - c. Except for one parcel, each parcel created under this paragraph is between two and five acres in size;**
 - d. At least one dwelling is located on each parcel created under this paragraph;****and**

e. The landowner of a parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the parcel has been recorded with the county clerk of the county in which the parcel is located. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the county planning director of the county in which the parcel is located indicating that the comprehensive plan or land use regulations applicable to the parcel have been changed so that the parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

Findings: The applicant has provided a preliminary plat confirming the two (2) parcels created by the proposed partition meet the minimum requirements to allow a division as outlined above (Exhibit B). The subject property is improved with 2 manufactured dwellings and accessory structures: both dwellings lawfully existed prior to November 4, 1993, and the proposed partition places one of the existing dwellings and associated accessory structures onto each proposed parcel (Exhibit B). Additionally, proposed parcel 1 is to be sized at approximately 4+ acres and proposed parcel 2 is to be sized at approximately 39+ acres maintaining the size standard for parcel creation outlined above (Exhibit B). Staff will require as a Condition of Approval that future development adheres to standards as described in the SFW-20 and Forest (F) zone as applicable.

C. TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas

(1) The following are GEOLOGIC HAZARD AREAS to which the standards of this Section apply:

.....

(b) Inactive landslides, landslide topography and mass movement topography identified in DOGMI bulletins 74 and 79 where slopes are greater than 19 percent;

.....

(3) A GEOLOGIC HAZARD report is required prior to approval of planned developments, coast resorts,

subdivisions and partitions governed by the Land Division Ordinance, building permits, mobile home permits, sand mining, occurring in areas identified in (1) with the following exception:

(a) For building or mobile home or manufactured home permits in areas identified in (1)

(b), reports are needed for lots 20,000 square feet or larger only where the proposed structure is to be situated on slopes greater than 29 percent or if (1) (f) applies.

Findings: Future development of the subject property will be subject to development standards of the TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas. A Condition of Approval has been outlined below in Section V.

IV. DECISION: APPROVED WITH CONDITIONS

Staff concludes, based on the findings of fact and other relevant information in the record, that the applicant has satisfied or is able to satisfy the applicable ordinance requirements through the Conditions of Approval, and therefore, approves the request subject to the provisions in Section V below.

By accepting this approval, the applicants/property owners agree to indemnify, defend, save and hold harmless Tillamook County, and its officers, agents, and employees from any claim, suit, action or activity undertaken under this approval, including construction under a Building Permit approved subject to this approval. The applicants/property owners shall obtain all of the necessary local, state, and federal permits and comply with all applicable regulations for the proposed building site.

This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. Forms and fees must be filed in the office of this Department before **4:00 PM on August 1, 2023**.

V. CONDITIONS OF APPROVAL:

Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant shall obtain all Federal, State, and Local permits, as applicable.
2. The applicant shall comply with all requirements of the Tillamook County Surveyor's Office.
3. The applicant shall include a note on the Final Plat referencing no further residential development or land division permitted in the open space.
4. The applicant shall record the Final Plat within two (2) years from the approval date of the Preliminary Plat or apply for an extension of time from this Department prior to expiration of Preliminary Plat approval.
5. The applicant shall record the Final Plat within (90) days from the date of final signature of the partition plat.
6. Future changes of use or new access from Highway 101 South, a state highway, will require review and written approval from the Oregon Department of Transportation (ODOT) prior to development.
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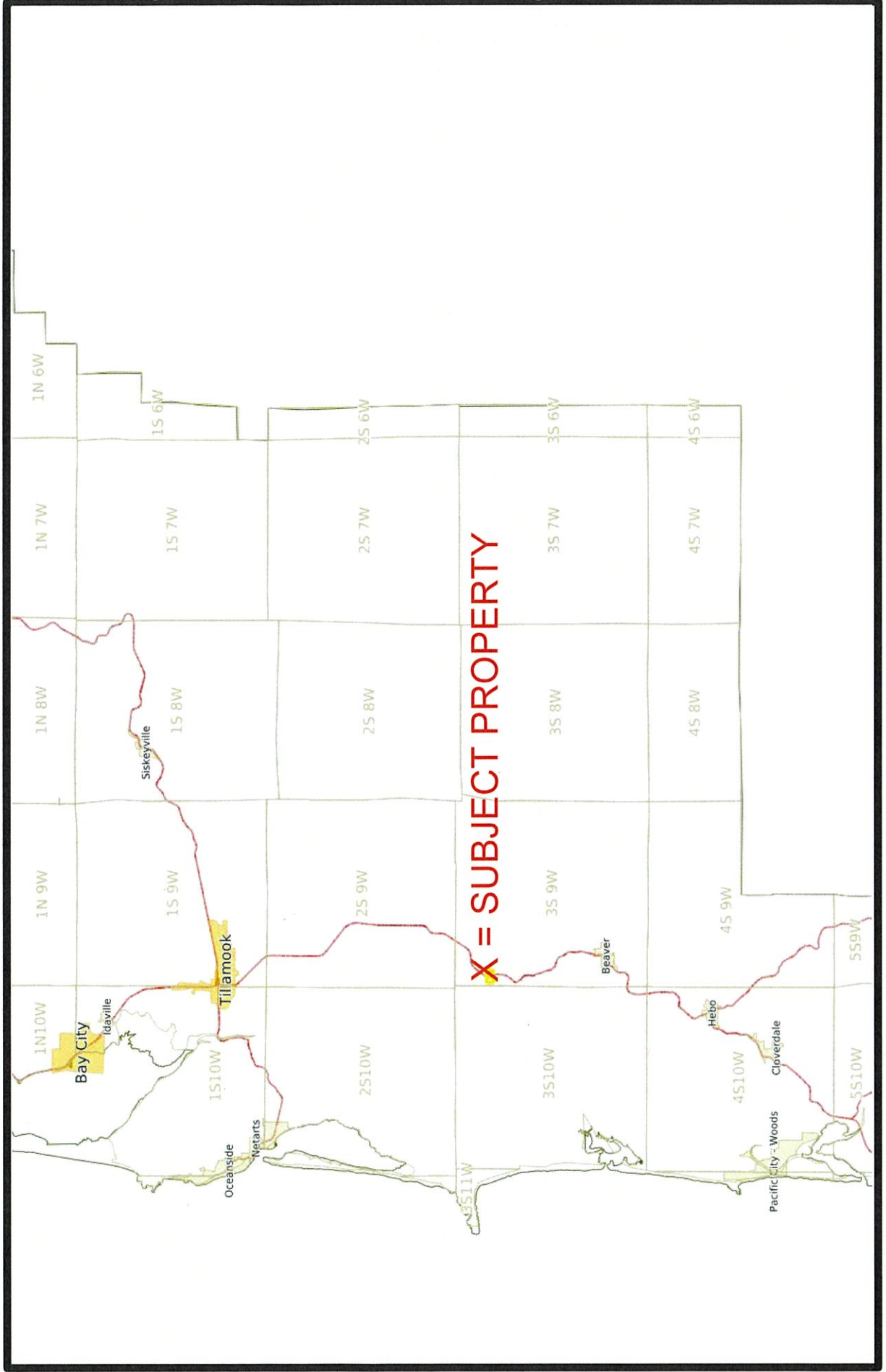
VI. EXHIBITS:

All Exhibits referenced herein are, by this reference, made a part hereof:

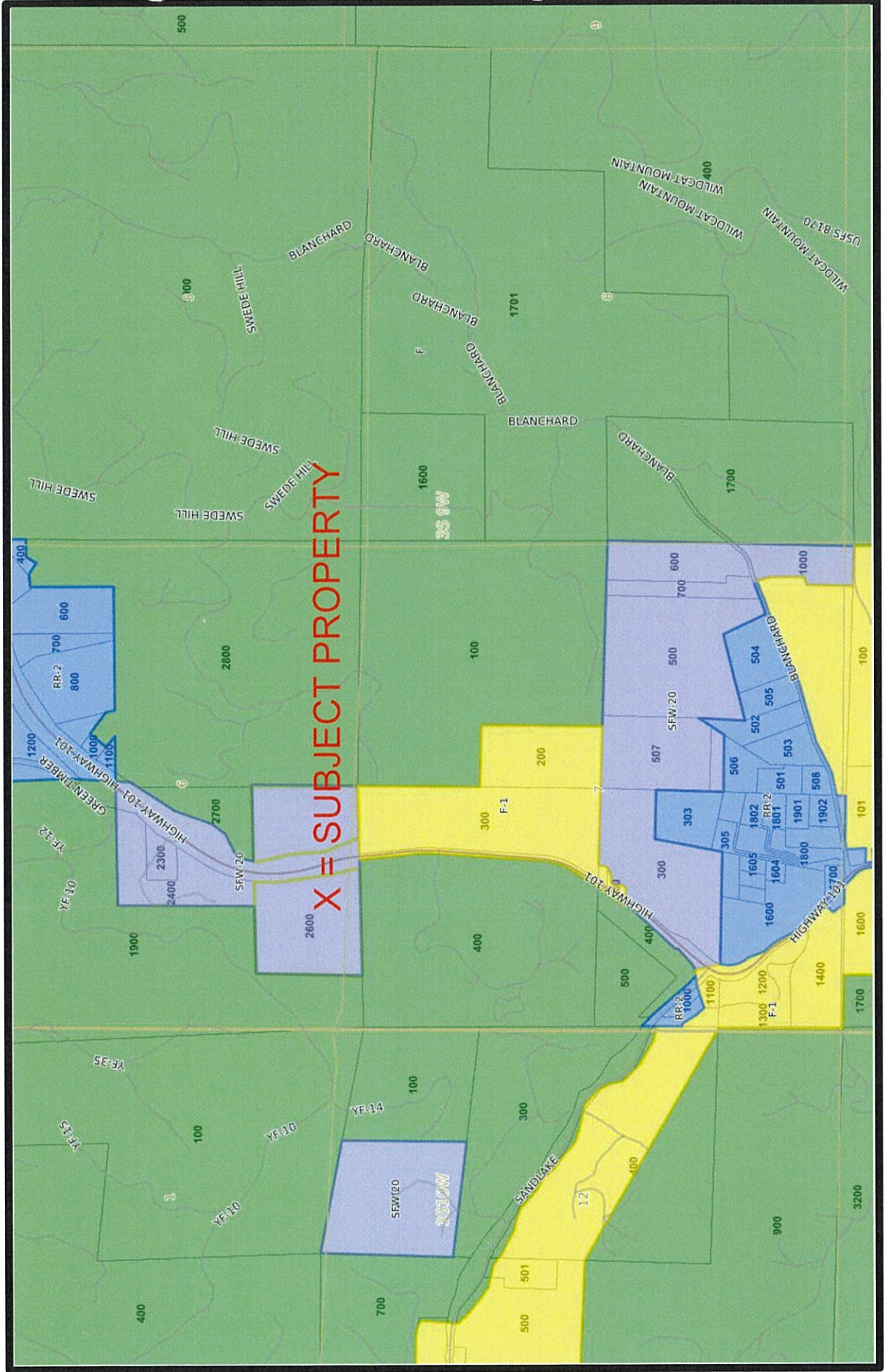
- A. Applicable maps
- B. Applicant's submittal
- C. Agency comment

EXHIBIT A

Map



Map

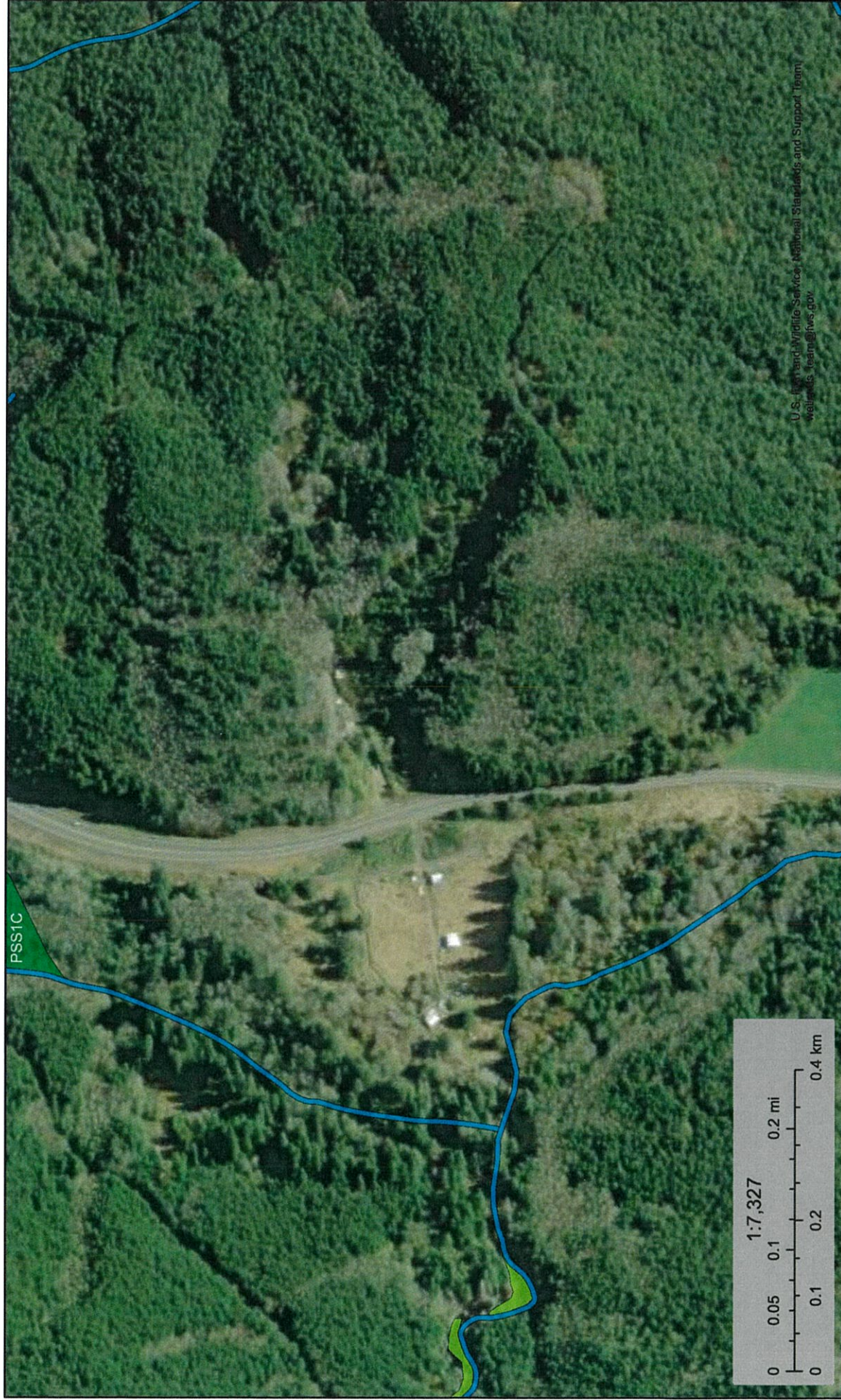




U.S. Fish and Wildlife Service

National Wetlands Inventory

PARTITION #851-23-000107-PLNG



July 17, 2023

Wetlands

-  Estuarine and Marine Deepwater
-  Estuarine and Marine Wetland
-  Freshwater Emergent Wetland
-  Freshwater Forested/Shrub Wetland
-  Freshwater Pond
-  Lake
-  Other
-  Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Flood Hazard Layer FIRMette

123°50'37"W 45°20'4"N



Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

- Without Base Flood Elevation (BFE)
Zone A, V, A99
- With BFE or Depth
Zone AE, AO, AH, VE, AP
- Regulatory Floodway

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile. *Zone X*
- Future Conditions 1% Annual Chance Flood Hazard *Zone X*
- Area with Reduced Flood Risk due to Levee. See Notes. *Zone X*
- Area with Flood Risk due to Levee *Zone D*

OTHER AREAS OF FLOOD HAZARD

- NO SCREEN
- Area of Minimal Flood Hazard *Zone X*
- Effective LOMRs
- Area of Undetermined Flood Hazard *Zone*
- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

OTHER AREAS

GENERAL STRUCTURES

- 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
- 17.5 Coastal Transect
- 8 Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

OTHER FEATURES

- Digital Data Available
- No Digital Data Available
- Unmapped

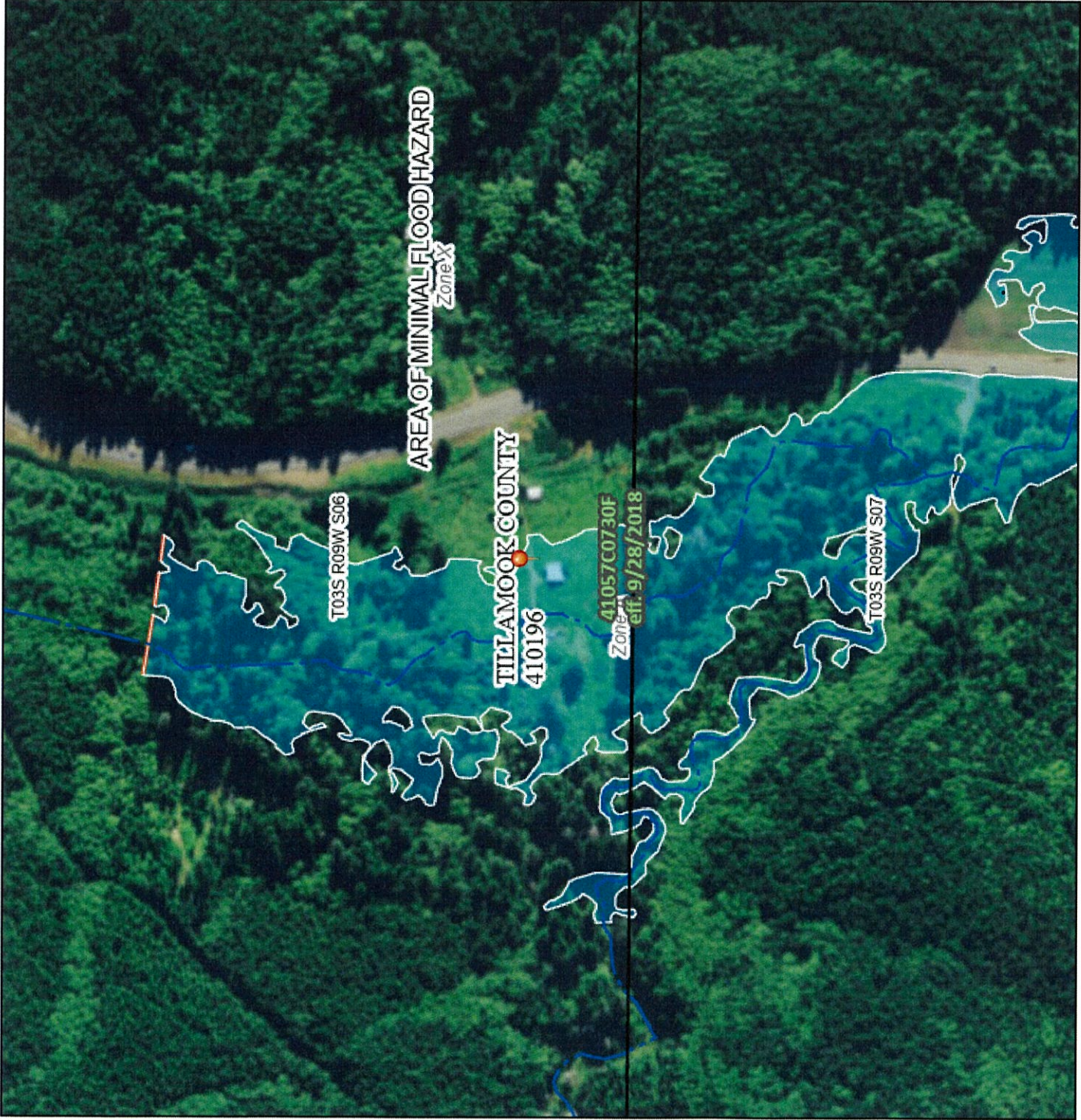
MAP PANELS

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 7/17/2023 at 7:15 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



123°50'W 45°19'39"N

1:6,000

Feet



PARTITION #851-23-000107-PLNG



July 17, 2023

- Active Faults
- Expected Earthquake Shaking
 - Violent
 - Very Strong
 - Strong
- Landslide Hazard
 - Moderate
 - Light
 - Low - Landsliding Unlikely
 - Moderate - Landsliding Possible
- High - Landsliding Likely

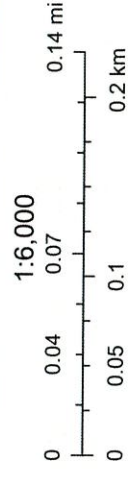


EXHIBIT B



LAND DIVISION APPLICATION

OFFICE USE ONLY	
Date Stamp	RECEIVED APR 11 2023 BY: <u>Cowte</u>
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by: <u>MJ</u>	
Receipt #:	
Fees:	
Permit No: 851- <u>23-000107</u> -PLNG	

prop. owner

Applicant (Check Box if Same as Property Owner) 503-812-7352
 Name: BETH BILLUPS Phone: 503.812.7351
 Address: PO BOX ~~601~~ 601
 City: TILLAMOOK State: OR Zip: 97141
 Email: bbillups55@gmail.com
tbillups2702@gmail.com

Property Owner
 Name: CINDY HATHAWAY Phone: 503.812.5901
 Address: PO Box 604
 City: TILLAMOOK State: OR Zip: 97141
 Email: clehathaway@gmail.com

Location: * Terry Jones
 Site Address: 16915 (16910) HWY 101 SOUTH
 Map Number: 35 9 6 2600
Township Range Section Tax Lot(s)

Land Division Type: Partition (Two or Three Lots, Type II) Subdivision (Four or More Lots, Type III)
 Preliminary Plat (Pages 1-2) Final Plat (Page 3)

PRELIMINARY PLAT (LDO 060(1)(B))

- For subdivisions, the proposed name.
- Date, north arrow, scale of drawing.
- Location of the development sufficient to development sufficient to define its location, boundaries, and a legal description of the site.

- Existing streets with names, right-of-way, pavement widths, access points.
- Width, location and purpose of existing easements
- The location and present use of all structures, and indication of any that will remain after platting.
- Location and identity of all utilities on and abutting the site. If water mains and sewers are not on site, show distance to the nearest one and how they will be brought to standards
- Location of all existing subsurface sewerage systems, including drainfields and associated easements

General Information

- Parcel zoning and overlays
- Title Block
- Clear identification of the drawing as "Preliminary Plat" and date of preparation
- Name and addresses of owner(s), developer, and engineer or surveyor

Existing Conditions

- Ground elevations shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor
- The location and elevation of the closest benchmark(s) within or adjacent to the site
- Natural features such as drainage ways, rock outcroppings, aquifer recharge areas, wetlands, marshes, beaches, dunes and tide flats
- For any plat that is 5 acres or larger, the Base Flood Elevation, per FEMA Flood Insurance Rate Maps

- Fifteen (15) legible "to scale" hard copies
- One digital copy

Other information:

- FINAL PLAT (LDO 090(1))
- Date, scale, north arrow, legend, highways, and railroads contiguous to the plat perimeter
- Description of the plat perimeter
- The names and signatures of all interest holders in the land being platted, and the surveyor
- Monuments of existing surveys identified, related to the plat by distances and bearings, and referenced to a document of record
- Exact location and width of all streets, pedestrian ways, easements, and any other rights-of-way
- Easements shall be denoted by fine dotted lines, and clearly identified as to their purpose
- Provisions for access to and maintenance of off-right-of-way drainage
- Block and lot boundary lines, their bearings and lengths
- Block numbers
- Lot numbers
- The area, to the nearest hundredth of an acre, of each lot which is larger than one acre
- Identification of land parcels to be dedicated for any purpose, public or private, so as to be distinguishable from lots intended for sale

Certificates:

- Title interest & consent Water
- Dedication for public use Public Works
- Engineering/Survey

Additional Information:

Authorization

This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. Within two (2) years of final review and approval, all final plats for land divisions shall be filed and recorded with the County Clerk, except as required otherwise for the filing of a plat to lawfully establish an unlawfully created unit of land. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

Cindy Hathaway

Property Owner (Required)

4-11-2023

Date

Elizabeth W. Billups

Applicant Signature

4-11-2023

Date

PARTITION PLAT 2021 -

BASIS OF BEARINGS

THE BASIS OF BEARINGS IS NORTH AS DETERMINED BY G.P.S. OBSERVATIONS USING THE OREGON COAST ZONE COORDINATE SYSTEM. THIS GIVES A BEARING OF N 1° 24' 22" E BETWEEN MONUMENTS NUMBERED 185 AND 191.

THIS IS A ROTATION OF 0° 48' 24" CLOCKWISE FROM MAP B-729.

NARRATIVE

THIS IS A REPENDENT SURVEY OF THE EVENS TRACT AS DESCRIBED IN INSTRUMENT NUMBER 2010-7134. THE PURPOSE OF THIS SURVEY IS TO PARTITION THE SUBJECT TRACT INTO TWO PARCELS, PARCEL 1 BEING UN-SURVEYED.

MONUMENTS NUMBERED 13, 101, 185, 191 AND 192 WERE HELD. THE NORTHEAST CORNER WAS CALCULATED BY HOLDING RECORD DISTANCE FROM THE SOUTH 1/4 CORNER.

THE WEST LINE OF HIGHWAY 101 WAS CALCULATED AT RECORD BEARINGS AND DISTANCE FROM MONUMENT NUMBER 187, FROM MAP F-20-05, WITH THE BEARINGS ROTATED 2° 22' 02" COUNTERCLOCKWISE TO MATCH MY BASIS OF BEARINGS.

MONUMENT NOTES

- 13 FOUND CS BRASS CAP IN CONCRETE STAMPED "1/4 56 57 BS 287 1974" WITH HAT SECTION SOUTH 15'; FROM WHICH 16" (12" HELMLOCK WITH HEALED FACE BEARS INSIDE 47.37' AND 20" (17" HELMLOCK WITH HEALED FACE BEARS (N87W 53.3'), HELD. SEE MAP B-3894.
- 101 FOUND CS BRASS CAP IN CONCRETE STAMPED "C 1/4 56 RESET 1994 1974", HELD. SEE REMINISCE CARD 499.
- 185 FOUND C2 BRASS CAP STAMPED "PROP COR 3" ON 3/4" IRON PIPE, HELD. SEE MAP B-729.
- 191 FOUND C2 BRASS CAP STAMPED "PROP COR 2" ON 3/4" IRON PIPE, HELD. SEE MAP B-729.
- 192 FOUND C2 BRASS CAP STAMPED "PROP COR 1" ON 3/4" IRON PIPE, HELD. SEE MAP B-729.

LEGEND

○ INDICATES SET 5/8" x 40" REBAR WITH YELLOW PLASTIC CAP STAMPED "TERRY JONES LS 2507"

● INDICATES FOUND MONUMENT AS NOTED HEREON, HELD. SEE MAP B-729

● INDICATES FOUND 5/8" BAR, HELD. SEE MAP F-20-05

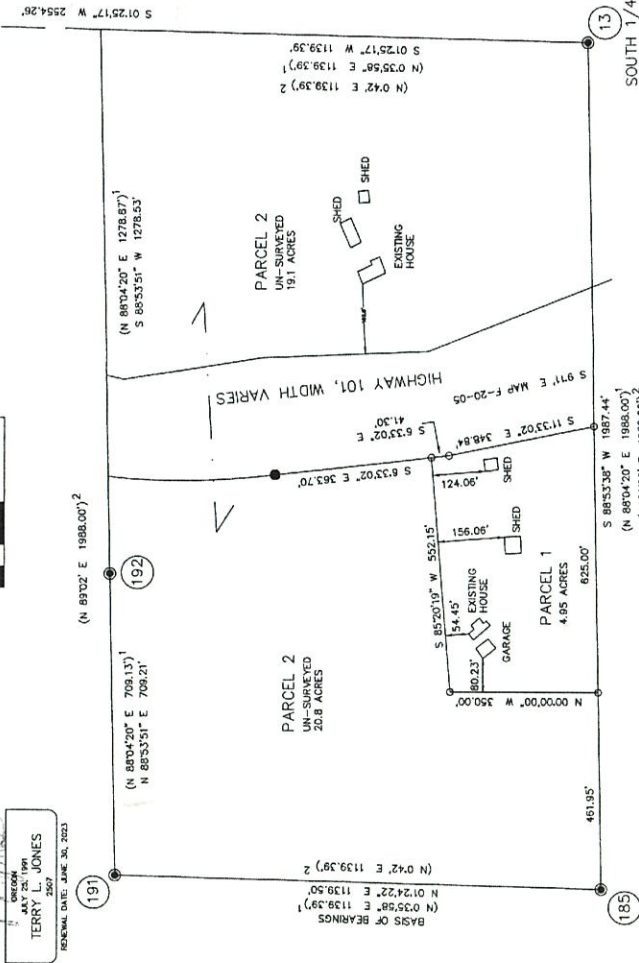
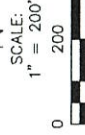
○ 1 INDICATES RECORD DATA FROM MAP B-729

○ 2 INDICATES RECORD DATA FROM DEED INSTRUMENT 2010-7134

(THE ABOVE INFORMATION IS RECORD FROM "OREGON COORDINATE REFERENCE SYSTEM" MAP NUMBER 2-26-2017, APPENDIX A, PAGE A-82, SEE 0007 RECORDS)

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
JULY 25, 1991
TERRY L. JONES
RENEWAL DATE: JUNE 30, 2023



APPROVALS

APPROVED SEPTEMBER 14, 2021 AS PARTITION PLAT 851-21-114 PLUG

TILLAMOOK COUNTY DEPT. OF COMMUNITY DEVELOPMENT
DATE _____
NOTE: THE ABOVE SIGNATURE DEFS NOT WARRANT THAT BEYER OR A SITE EVALUATION APPROVAL IS OR WILL BE AVAILABLE TO PARCEL 1.

APPROVED THIS _____ DAY OF _____, 2022.

TILLAMOOK COUNTY SURVEYOR _____

TAKES HAVE BEEN PAID IN FULL TO JUNE 30, 2022.

TILLAMOOK COUNTY TAX COLLECTOR _____ DATE _____

STATE OF OREGON >>>

COUNTY OF TILLAMOOK >>>

I HEREBY CERTIFY THAT THIS PARTITION PLAT WAS RECEIVED FOR RECORD ON THE _____ DAY OF _____, 2022 AT _____ O'CLOCK, AND RECORDED AS PARTITION PLAT NO. _____ IN PLAT CABINET B-_____, TILLAMOOK COUNTY PLAT RECORDS.

AS INSTRUMENT NO. _____

BY: TASSI O'NEILL, COUNTY CLERK

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT CHARLES JOSEPH EVENS, ELIZABETH DARLENE BELLIPS, CYNTHIA LEE HATHAWAY, THERESA JANE WATERS AND JULIA BINGENHEIMER ARE THE OWNERS OF THE LAND REPRESENTED ON THE ANNEKED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, AND HAVE CAUSED THE SAME TO BE PARTITIONED AND SURVEYED INTO TWO PARCELS, AS SHOWN ON THE ANNEKED MAP.

CHARLES JOSEPH EVENS _____ ELIZABETH DARLENE BELLIPS _____

CYNTHIA LEE HATHAWAY _____ THERESA JANE WATERS _____

JULIA BINGENHEIMER _____

ACKNOWLEDGMENT

STATE OF OREGON >>>

COUNTY OF TILLAMOOK >>>

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON _____, 2022.

BY CHARLES JOSEPH EVENS, ELIZABETH DARLENE BELLIPS, CYNTHIA LEE HATHAWAY, THERESA JANE WATERS AND JULIA BINGENHEIMER.

SON _____ PRINT _____

MY COMMISSION EXPIRES: _____ DAY OF _____, 20____.

SURVEYOR'S CERTIFICATE

I, TERRY L. JONES, CERTIFY THAT:

I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS PARCEL 1 (PARCEL 2 BEING UN-SURVEYED), THE LAND REPRESENTED ON THE ANNEKED MAP AND MORE PARTICULARLY DESCRIBED IN THE ACCOMPANYING SURVEYOR'S CERTIFICATE, AND HAVE CAUSED THE SAME TO BE PARTITIONED AND SURVEYED INTO TWO PARCELS, AS SHOWN ON THE ANNEKED MAP. THE CORNER BEING THE INITIAL POINT, THENCE N17°24'22" E 1139.39' TO BRASS CAP STAMPED "PROP COR 2" THENCE N85°53'51" W 1278.53' TO THE SOUTH LINE OF SECTION 6, S88°53'35" W 1087.44' TO THE INITIAL POINT, S125°17' W 1139.39' TO THE SOUTH 1/4 OF SECTION 6, THENCE ALONG THE SOUTH LINE OF SECTION 6, S88°53'35" W 1087.44' TO THE INITIAL POINT.

PAR/BLLIPS.DWG
STM-GRITMIBKRWL.CRS

PARTITION PLAT FOR:		EVENS ESTATE EVENS, BILLIPS, HATHAWAY, WATERS & BINGENHEIMER	
DATE		MAY 23, 2023	
TOPCON ES-103		FC-5000	
EQUIPMENT		HIFER V	
DRAWN		T.L.J.	
CHECKED		T.L.J.	
JOB NO.		T.L.J.	
SW 1/4 OF SECTION 6, T3S, R0W			
TILLAMOOK COUNTY, OREGON			



Tillamook County GIS



Created: Tue Jul 06 2021-16:16:8
Active Layers:ags, County_Boundary, Fed_state_highways, citylimit, community_polygon, TaxlotOwner, Township_Range_Section, Road_Centerline
Extent:-13786092.469793_5673445.8178922,-13784163.629157,5674383.3658172



Land of Cheese, Trees and Ocean Breeze

VERIFICATION OF WATER SOURCE WITHIN TILLAMOOK COUNTY

TO: TILLAMOOK COUNTY DCD, 1510-B THIRD ST, TILLAMOOK, OR 97141
RE: WATER SOURCE REVIEW

This letter is valid for one (1) year from the date of issue.

The water source identified below can be used under Oregon Water Law to supply the following lot(s) within Tillamook County:

Township: 3S Range: 9 West Section: 6 Tax Lot(s): 2600
Situs address (if known): 16910 HWY 101 S & 16915 HWY 101 S, TILLAMOOK OR 97141
According to records, the legal owner is/are: EVENS, BILLUPS, WATTERS & HATHAWAY
503 812 7352
Contact telephone number: _____

Water Source: UNAMED CREEK-A TRIBUTARY OF TIGER CREEK

Comments: .05 CUBIC FOOT PER SECOND; PERMIT NO. 8917, Cert 8047 *Spring water right for 1 home on each 2 tax lots*

Building permit applicants who will be using a private water source will be required to have District Watermaster verify proof of a legal water source and sign below. An order adopted by the Tillamook County Board of Commissioners on September 1, 2009 states that a fee of \$75 shall be collected when a private water source verification is required. This fee is collected by Community Development.

Landowners are responsible for maintaining water sources, waterline easements, water rights, and wells. The information provided in this form does not guarantee that a water source will be available forever. Due to climatic conditions water sources can decline and wells can go dry. The information provided by the District 1 Watermaster is the result of a search of OWRD records and field inspections. Although a property may have water rights of record, if the water right has undergone five successive years of non-use it may be subject to cancellation under ORS 540.610. The official water right of record is kept in Salem at OWRD.

Building permit applicants who will be connecting to a local water district will be required to have the water district provider verify proof of service from the water district.

Nikki Hendricks
Nikki Hendricks

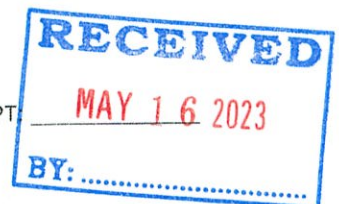
Issue Date: 5-10-2023

Oregon Water resources Department (OWRD)
District 1 Watermaster
4000 Blimp Blvd Ste 400, Tillamook, OR 97141
Phone: (503) 815-1967 Email: Nikki.M.Hendricks@water.oregon.gov

Revised 2/22/2023

*****FOR OFFICE USE ONLY*****

DATE: _____ RECEIVED BY: _____ FEE PAID: \$ _____ RECEIPT



STATE OF OREGON
COUNTY OF WILLAMOOK

CERTIFICATE OF WATER RIGHT

This is to Certify, That ALLEN PAGE 7/7/41

of Willamook, Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of a tributary of TIGAR Creek, Unnamed Creek, for the purpose of Domestic

under Permit No. 88117 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from February 10, 1929;

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.05 cubic foot per second;

The point of diversion is located in the S1/4SW1/4 of Section 6, Township 35 S, Range 5W, W. M. The use hereunder for irrigation shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eighth of one cubic foot per second per acre, or its equivalent in case of rotation.

A description of the lands irrigated under the right hereby confirmed, and to which such right is appurtenant (if for irrigation or any other purpose), is as follows: S1/4SW1/4, Section 6, Township 35 South, Range 5 West of the Willamette Meridian in Willamook County, Oregon.

The right to the use of the water for any purpose is restricted to the lands or place of use herein described.

After the expiration of fifty years from the date of this certificate or on the expiration of any federal power license issued in connection with this right, and after not less than two years notice in writing to the holder hereof, the State of Oregon, or any municipality thereof, shall have the right to take over the dams, plants and other structures and all appurtenances thereto which have been constructed for the purpose of devoting to beneficial use the water rights specified hereto, upon condition that before taking possession the State or municipality shall pay not to exceed the fair value of the property so taken, plus such reasonable damages, if any, to valuable, serviceable and severable property of the holder of this certificate, not taken over, as may be caused by the severance therefrom of the property taken in accordance with the provisions of section 5723, Oregon Laws.

WITNESS the signature of the State Engineer,
affixed this 10th day
of JULY, 1929
Alfred Lupton
State Engineer.

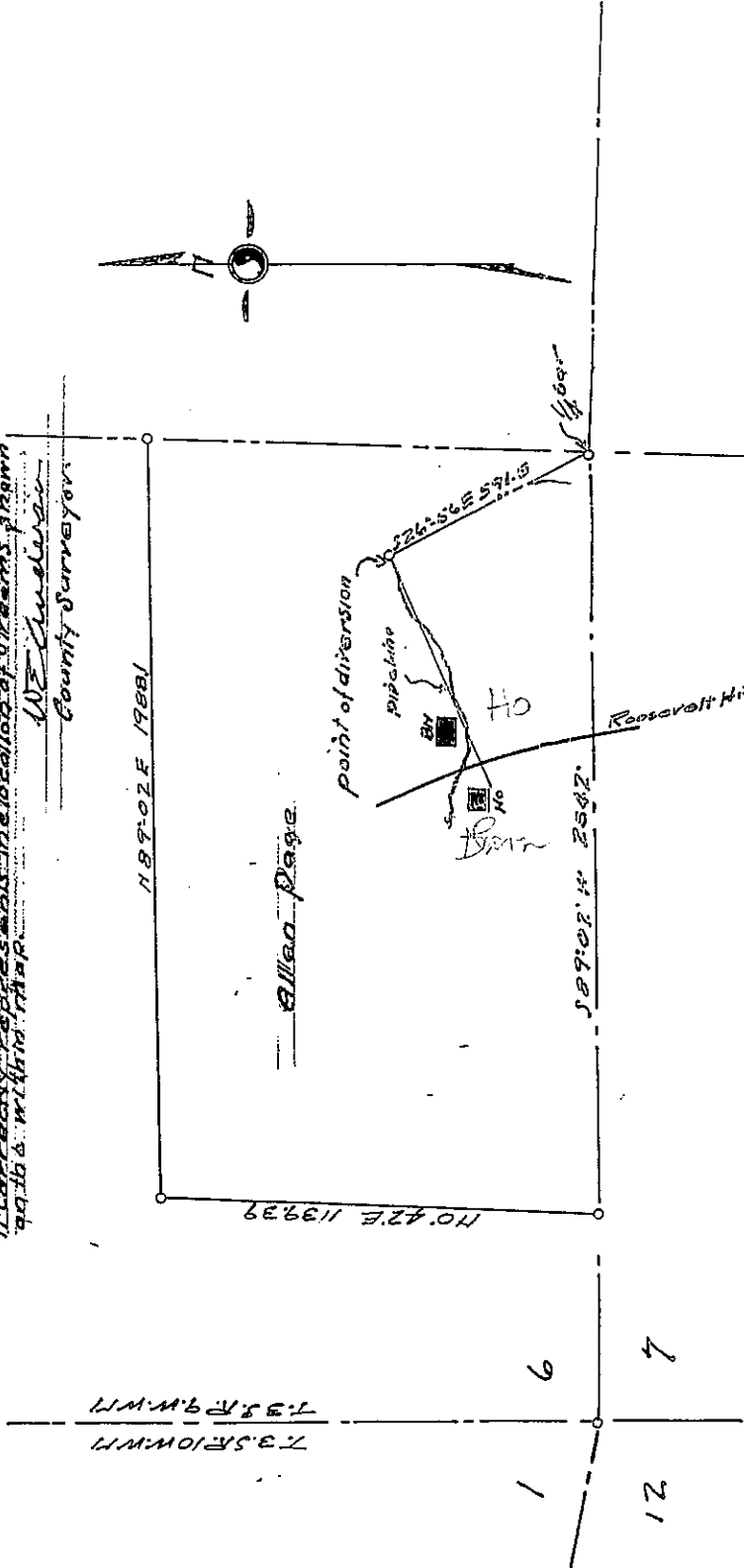
12567

SURVEYOR'S CERTIFICATE

I, W. E. Anderson of Tillamook, Ore. do hereby certify that this map was made from notes taken during the actual survey made by me Feb. 5, 1929, and that I have accepted the location of the same, signs and monuments within map.

W. E. Anderson
County Surveyor

73.5 F10 W 11
73.5 F 9 W 11



ALLEN PAGE WATERRIGHT

LOCATED IN
JULY 6, 1873, BY J. W. R. W. W. W. W. W.
Tillamook County, Ore.
Scale 1" = 500' 1929

Application No. 12567
Permit No. 6617

12
6
7

Per calculations Online.

Water Rights - Domestic -

0.05 cubic foot per second

= 22,440 gallons (U.S.) per minute

= 1,346 gallons (U.S.) per hour

= 32,316 gallons (U.S.) per day

= 11,803,110 gallons (U.S.) per year

= CU' per second x 448.83 to convert
to gallons per minute

Spoke w/ WATERMASTER

(Date: _____)

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
 2 FOR THE COUNTY OF TILLAMOOK

3 CYNTHIA LEE HATHAWAY, and
 4 ELIZABETH DARLENE BILLUPS,
 individuals

5 Plaintiffs,

6 v.

7 CHARLES JOSEPH EVENS, Individual

8 Defendant

9 and

10 THERESA JANE WATTERS,

11 Interested party.

Case No. 22CV04954

GENERAL JUDGMENT

MONEY AWARD

12 THIS MATTER comes before the court for trial on January 31st, February 1st, and 2nd
 13 2023, Judge Mari Garric Trevino presiding. Plaintiffs are represented by Katie Ireland (OSB
 14 063031) and Respondent is unrepresented by counsel. A judgment finding Theresa Janes
 15 Watters, an interested party, in default was entered August 4, 2022. Based upon the
 16 testimony and exhibits presented, and the records and files herein, and the Court being fully
 17 advised herein, the Court makes the following:

18 **FINDINGS OF FACT**

- 19
- 20 1. The subject real property (herein "Property"), is located at 16910 and 16915
 21 Highway 101 S Tillamook, Oregon. The Legal description is attached as exhibit 1.
 22 16910 is referenced as the "West Side" and 16915 is referenced as "East Side".
- 23 2. On March 3, 2023, the Court issued its findings and conclusions in the opinion of
 24 decision attached hereto as Exhibit 2 and incorporated herein by this reference.

25 ///

1 **NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

2 **Waste, Forfeiture and Eviction // Injury to Inheritance // Right to Possess Land**

- 3
- 4 1. Plaintiff's claims for Forfeiture and Eviction, Injury to Inheritance and Right to
- 5 Possess Land are Granted.
- 6
- 7 2. Defendant's life estate is terminated.
- 8
- 9 3. Ms. Ashley Flukinger is appointed as the "Controller" of The Property. Ashley
- 10 Flukinger shall have full authority to manage the Property, to include partitioning the
- 11 property, clean up and sale of the property, as well as any other related legal issues
- 12 relating to the Property.
- 13
- 14 4. Ashley Flukinger is appointed as attorney in fact for the purpose of selling the
- 15 Property. Ashley Flukinger is explicitly granted the power to execute on behalf of all
- 16 owners of the Property any contracts or deeds in relation to the sale of the property.
- 17
- 18 5. Ashley Flukinger shall receive reasonable hourly compensation for her services as
- 19 Controller. If Ashley Flukinger lists the property and sells the Property as a licensed
- 20 real estate broker, then Ashley Flukinger shall receive a reasonable commission (no
- 21 more than 6%) from the sale. Ashley Flukinger shall keep detailed records of all work
- 22 completed as Controller and shall provide the Parties with a detailed list of all charges
- 23 on a monthly basis.
- 24
- 25 6. Defendant shall remove all of his personal property on the East Side of the property
- 26 no later than April 2, 2023, which is 30 days from the date of Judge Trevino's written
- opinion.
7. Defendant shall vacate the West Side of the real property and remove all of his
- personal property no later than June 1, 2023, which is 90 days from the date of the
- Judge Trevino's written opinion.

///

- 1 8. Any personal property left by Defendant after the expiration of the above timelines,
2 shall be considered “abandoned” and can be disposed of at Ashley Flukinger’s
3 discretion.
4
5 9. If Defendant fails to vacate the real property as specified herein, Ashley Flukinger
6 shall have the right to apply for a writ of assistance directing the Sheriff of Tillamook
7 County, Oregon to remove Defendant from the property, forcibly if necessary.

8 **Division of Sale Proceeds:**

- 9 10. At the time of sale, the proceeds of sale, after payment of any realtor’s fees and costs
10 of sale, shall be paid to Ashley Flukinger to make payment as follows:
11 a. First payment to Ashley Flukinger’s for her fees and costs incurred that are
12 NOT related to the cleanup, or removal of the Defendant from the Property.
13 b. Thereafter, each party shall be entitled to one-fourth of the remaining
14 proceeds of sale.
15 c. From Defendant’s share of the proceeds, Defendant shall reimburse the other
16 owners the following:
17 i. Any outstanding Property Taxes that are owed through June 1, 2023.
18 ii. All costs of cleanup of The Property (which have not been paid from
19 Defendant’s portion of the Swede Hill Partnership Funds referenced
20 below.)
21 iii. All of Ashley Flukinger’s fees/expenses/costs that are related to the
22 cleanup of the property and/or removing Defendant from the Property.
23 iv. Payment of the Money Award to Plaintiff’s.
24 v. Any funds remaining shall be dispersed to Defendant.
25
26 11. Once the real property is sold, the Controller shall distribute funds as described in this
section and shall provide to the parties a complete accounting of all funds received
and all debts paid, including the date funds were received or paid.

1 12. **Continuing Jurisdiction:** This court shall retain jurisdiction for the purpose of
2 resolving any disputes or issues that may arise regarding the listing and sale of the
3 real property, as well as ultimate distribution of sale proceeds.

4 **TIMBER TRESPASS – ORS 105.810**

5 13. Plaintiff's claim of Timber Trespass is granted. Defendant is ordered to pay Plaintiffs
6 \$8,954.00.

7 14. Plaintiff may submit an attorney fee petition for fees related to the Timber Trespass
8 Claim pursuant to ORCP 68.

9 **DECLARATORY JUDGMENT – Swede Hill Partnership Funds**

10 15. Plaintiffs are instructed to release Defendant's portion of the timber proceeds to
11 Ashley Flukinger. Defendant shall be solely responsible for the Severance Tax as well
12 as the replacement dwelling permit.

13 16. These funds are to be used by Ashley Flukinger, at her complete discretion, to clean
14 up and manage The Property.

15 **DEFENDANTS CLAIMS**

16 17. Defendants claims of Partnership Claim, ORS 67, Common Law Conversion, Unjust
17 Enrichment, Fraud, Injury to Inheritance are dismissed with prejudice.

18 **SUMMARY OF MONEY AWARD:**

19
20 Judgment Creditor: Cindy Hathaway
PO BOX 604
21 Tillamook, OR 97141

22 Beth Billups
23 PO BOX 601
Tillamook, OR 97141

24 Judgment Creditor's Attorney: Katie Ireland
25 PO Box 273
26 Banks, OR 97106

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Judgment Debtor: Charles Joseph Evens
16910 Highway 101 S
Tillamook OR, 97141
SSN: UNKNOWN
DOB: 05/05/1953
ORDL: 1607213

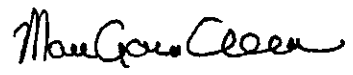
Judgment Debtor's Attorney: Unrepresented.

Amount \$8,954.00

Prejudgment Interest: None

Post Judgment Interest: Interest will accrue at 9% on the unpaid balance until paid.

4/6/2023 8:27:54 AM



Circuit Court Judge Mari Garric Trevino

Prepared and submitted by: /s/ Katie Ireland
Katheryn Ireland, OSB# 063031
Attorneys for Plaintiff's

CERTIFICATE OF READINESS

I certify that this proposed order or judgment is ready for judicial signature because pursuant to UTCR 5100:

Each party affected by this order or judgment has stipulated to or approved its terms, as shown by each party's signature on the proposed document being submitted.

Each party affected by this order or judgment has approved the order or judgment, as shown by written confirmation of approval sent to me.

I have served a copy of this order or judgment on all parties entitled to service and:

No objection has been served on me.

I received objections that I could not resolve with the party despite reasonable efforts to do so. I have filed with the Court a copy of the objections I received and indicated which objections remain unresolved.

After conferring about the objection(s), the objecting party agreed to independently file any remaining objection.

The relief sought is against a party who has been found in default.

An order of default is being requested with this proposed judgment.

Service is not required pursuant to subsection (l)(c) of UTCR 5.100, or by statute, rule, or otherwise.

The requirements of subsection (1) do not apply to: (A) a proposed order/judgment presented in open court with the parties present, (B) a proposed order/judgment for which service is not required, (C) a proposed order/judgment subject to UTCR 10.090, (D) uncontested probate and protecting proceedings, and (E) matter certified to the court under ORS 416.422, 416.430, 416.435 and 416.448

/s/ Katie Ireland
Katheryn Ireland, OSB 063031
Robert Ireland, OSB 004512
Ireland and Ireland PC
Of attorneys for Plaintiffs

Dated: April 5, 2023
PO Box 273
Banks, Oregon 97106
P: 503-324-1500
F: 503-324-0720
Katie@IrelandPC.com

1
2
3 **CERTIFICATE OF SERVICE**

4 I hereby certify that I served a copy of this document on the following:

5 Charles Joseph Evens
6 16910 Highway 101 S
7 Tillamook OR, 97141
8 doryman58@outlook.com

9 Ashley Flukinger
10 810 Avenue G
11 Seaside, OR 97138
12 ashley@flukingerlaw.com

13 by **US mail and email** to the party at the address set forth above on the date set forth below.

14 DATED April 5, 2023

/s/ Katie Ireland
Katheryn Ireland, OSB# 063031
Of Attorneys for Plaintiff

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EXHIBIT 1

Beginning at the quarter section corner on the South line of Section 6 in Township 3 South of Range 9 West of the Willamette Meridian and running thence South 89° 02' West 1,988 feet; thence North 0° 42' West 1,139.39 feet; thence North 89° 02' East 1,988 feet to the quarter section line running North and South through said Section 6; thence South 0° 42' East along said quarter section line, 1,139.39 feet to the point of beginning. EXCEPT that portion in U.S. Highway 101.

SUBJECT TO (1) Rights of the public in and to that portion of said premises lying in streets, roads and highways, and (2) Power and Line Easement, of Mountain States Power Company, dated April 21, 1926, recorded June 8, 1926 in Book 54 at page 599, Deed Records, said grant having made by Allan Page and Nellie Page.



Mari Garric Trevino
Circuit Judge

Jonathan R. Hill
Circuit Judge

**CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF TILLAMOOK**

Tillamook County Courthouse
201 Laurel Avenue
Tillamook, OR 97141
Trial Court Administrator (503) 842-2596
Facsimile (503) 842-2597

March 3, 2023

Katheryn D. Ireland
Ireland & Ireland, PC
9003 NW Hwy 47
PO Box 273
Banks, OR 97106

Charles J. Evens
16910 Hwy 101 S
Tillamook, OR 97141

Re: *Cynthia Lee Hathaway, Elizabeth Darlene Billups v. Charles Joseph Evens*
Case #22CV04954

This case came before the Court for trial on January 31, February 1 and 2, 2023. The Court has considered the evidence presented and the legal arguments made at the hearing. The Complaint in this case alleges four claims as follows - Waste, Forfeiture and Eviction pursuant to ORS 105.805, Injury to Inheritance pursuant to ORS 105.825, Possession of Land pursuant to ORS 105.005 and Timber Trespass pursuant to ORS 105.810. On their first claim, Plaintiffs pray for economic damages not to exceed \$150,000.00 to be trebled pursuant to ORS 105.108, that the Defendant be enjoined from damaging the property further, for an order forfeiting the Defendant's life estate, that he be ordered to vacate the property within 60 days of the judgment, that Plaintiffs be given exclusive authority to sell the property and divide the net proceeds after subtracting the cost to clean up and repair the damages caused by the Defendant. On their second claim, Plaintiffs pray for economic damages not to exceed \$150,000.00. On their third claim, Plaintiffs pray for economic damages not to exceed \$100,000.00 and ask for an injunction against Defendant from taking any action which prevents Plaintiffs' access and enjoyment of the property not subject to Defendant's life estate. On their fourth claim, Plaintiffs pray for economic damages not to exceed \$10,000.00, trebled pursuant to ORS 105.810, prevailing party attorney fees pursuant to ORS 108.810 and an order enjoining the Defendant from removal and/or injury to timber on the property without authorization from all property owners.

Defendant's Answer denies these claims, asserts affirmative defenses and raises the following counterclaims – Partnership Claim, ORS 67 (Oregon Revised Partnership Act), Common Law Conversion, Unjust Enrichment, Fraud, Injury to Inheritance and Declaratory Judgment. The Defendant's prayer asks to dismiss the complaint and enter judgment in favor of Defendant, for any legal or equitable relief the Court deems just and proper, recovery of costs and disbursements and attorney fees pursuant to

Verified Correct Copy of Original 3/3/2023



ORS 20.105. The Court finds that the Defendant failed to present sufficient evidence on his first five counterclaims and will summarily deny them. The Court will make declaratory rulings as requested on some of the issues between the parties surrounding the partnership funds. The Court will first make findings of fact and then address each claim in turn.

General Findings of Fact

The property at issue in this case is a family farm of approximately 43 acres that the parties grew up on together and contains two parcels divided by Highway 101 in Tillamook County, Oregon. This property was purchased in 1956. The larger parcel with the original home and an address of 16915 Highway 101 S is on the east side and the smaller parcel which is subject to the Defendant's life estate and an address of 16910 Highway 101 S is on the west side of Highway 101. The entire property is a single tax lot and is subject to a Certificate of Water Rights that was admitted as Plaintiffs' Exhibit 5. At some point in the late 1980s with his father's permission, the Defendant began living on the west side of the highway in a manufactured home that he moved onto the land. A yard and garden were developed around this home site. In November 2004, the parties' father, Richard Benjamin Evens established a Revocable Living Trust which was admitted as Plaintiffs' Exhibits 2 and 3. He also wrote a will in 2008, the first codicil of which was admitted as Plaintiffs' Exhibit 1. The trust and will granted the land to his children as joint tenants with right of survivorship. Plaintiff Hathaway testified that their father wanted the property to be a "bolt hole" if any family member needed somewhere to live and that over the years many different family members have lived on the property. One of the daughters later passed away and one was disinherited, leaving the parties to this litigation and one sister who was defaulted and is not participating. In Article VIII, Section 1.0 of the Revocable Living Trust, the Defendant was given a life estate for "the house in which he currently resides, plus the surrounding area around the residence that is associated with that residence." There was initially a dispute about which portion of the property the life estate applied to, but this was resolved by an agreement that the life estate was for the parcel on the west side of the highway. The terms of the life estate are outlined in Section 2.1 as follows:

"Terms of the life estate. The deed described in Subsection 1.0 above for Joseph's life estate shall provide the following: (i) that the life tenant have no power to sell all or any portion of the property subject to the life estate unless all of the remainderman concur to such sale in writing; (ii) that the life tenant shall timely pay all taxes, liens or assessments levied against the property; (iii) that the life tenant shall be responsible for keeping and maintaining the residence and other improvements located on the life tenant's parcel in at least the same condition that it was in when I died, at the life tenant's sole cost; (iv) that the life tenant may improve the property, but only at the life tenant's sole cost; (v) that the life tenant shall repair, at the life tenant's sole cost, any damage to the property that occurs during the life tenant's tenancy for any reason except natural aging or wear and tear; (vi) that any repairs to the roof or structure of any of the improvements that are the result of natural aging or wear and tear shall be the responsibility of the remainderman at their sole cost; (vii) that the life estate shall cease at the death of the life tenant..."

Per the terms of the Trust, this property division was memorialized in a Bargain and Sale deed admitted as Plaintiffs' Exhibit 4. Mr. Evens, father, passed away on August 27, 2009. The condition of the property on both sides of the highway is a contested issue of fact with the Plaintiffs asserting that the property was in much better condition than the Defendant. To aid the Court, Plaintiffs admitted a series of overhead Google photos of the property from 2005 through 2021. These photos were admitted as Plaintiffs' Exhibits 7-14 and clearly show that the "clutter" of trash and debris and bushes such as blackberries outside the residence and outbuildings, especially around Defendant's life estate portion, gradually increasing. Plaintiffs also admitted a series of photos of the residence from around the time their father passed away as Plaintiffs' Exhibits 15 and 16. The photos show an older manufactured home in

good shape and a well-kept yard with flower beds and a mowed outer lawn area. Defendant disputes that these pictures accurately reflect the condition of the property but presented no photographic or third-party evidence in support of this assertion. Devin Evens, Plaintiff Billups' son, who had grown up on the property, testified that the property was not a mess when his grandfather lived there. He stated that the house looked "lived in," but that his grandfather worked hard to keep it looking good. He stated that there was no garbage strewn around and that his grandfather's building supplies and tools were kept inside the sheds/shops on the property.

The first few years after their father's death were uneventful and Plaintiff Billups and her sister Julie went up to the house to air it out and work on the gardens. In 2012, Plaintiff Billups had a confrontation with Defendant Evens while she was on a ladder picking blackberries. She testified that he came up to her and began shaking the ladder and told her she was not allowed to be there. When she insisted that she could, he told her he could make her disappear by burying her under a windfall where no one could find or even smell her. She testified that she was very frightened by this incident and never went to the residence again on her own. Defendant Evens agreed that he shook the ladder, but said he was joking around and that although maybe his "tone" was scary or unwelcoming he did not make any threats. In approximately 2013, Defendant confronted Plaintiff Hathaway on the property and told her that she was not allowed on the property unless she gave him advance notice and that she could not bring anyone else onto the property without his permission. The Defendant told the Plaintiffs that he was in a "special and unique" position as co-trustee to control what happens on the property. Plaintiff Hathaway testified that she did not feel safe going onto the property after this point without a man accompanying her. At trial, the Defendant testified that he "sometimes" feels that because he pays the taxes on the property, he is entitled to make the decisions about the property and that it is his responsibility to deal with access to the property. At trial it was apparent that although the siblings are now estranged, that the relationship between Plaintiff Hathaway and the Defendant is extremely hostile.

At some point, the Defendant stopped living in the manufactured home because the roof leaked and he moved into an old motor home that he parked next door. He testified that he used the bathroom and laundry room and used the rest for storage. In 2021, the manufactured home on the west side of the property caught fire and burned. The cause of the fire was an unattended pan of resin the Defendant left heating on the stove. The Tillamook Fire Department had difficulty putting out the fire due to the bad shape the road leading down to the home was in. The fire department report was admitted as Plaintiffs' Exhibit 39.

At the time of their father's death, both residences obtained their water from a spring on the east side of the property that fed into a concrete reservoir with a roof over the top. This reservoir was cleaned annually and provided sufficient water for both residences and their gardens except during the late summer months. Maintenance of the water supply also involved occasional work on the shale face above the spring. At the time of trial, the reservoir had become unusable. The roof was falling in and the reservoir has become filled with silt that had hardened. At some point, the Defendant decided to bypass the reservoir and connect his own water supply directly to the pipe feeding into the spring. This eliminated the water supply to the residence on the east side of the property. The Defendant also removed the pump which operated at the spring, relying instead on gravity flow water. At trial, the Defendant gave conflicting testimony on this point, at one point stating that he took the pump to his side of the highway and at another point saying that thieves must have taken it. The Plaintiffs testified that the Defendant told them he had removed the pump. The Defendant also stated that the reservoir became unusable due to alluvial buildup in the creek. Recent photographs of the reservoir and the re-routing of the water pipes were admitted as Plaintiffs' Exhibit 19. An estimate of the cost to repair the reservoir and restore water to the manufactured home in the amount of \$9,539.95 was generated by Tony Billups and is admitted as Plaintiffs' Exhibit 30.

When the property began to deteriorate, Plaintiff Billups testified that she asked the Defendant if they could install a gate and a fence to protect the property on the east side from further damage. She said that he responded that she was "stupider than she looked." This testimony is consistent with that of her husband Tony Billups who stated that when asked, the Defendant objected to the gate even if they paid for its installation. The Defendant told them that people would pull it down or simply drive around it. The Defendant testified that he agreed that a gate was a good idea and never opposed it, but no one followed up with him on this issue. At trial, he blamed the Plaintiffs for the deterioration of the east side of the property based upon their failure to place a gate on it after he agreed it was appropriate. His solution was piles of rocks blocking the driveway.

By 2017 when Plaintiff Hathaway wished to move into the residence, the original manufactured home on the east side of the property had been essentially destroyed. In approximately 2014, the Defendant called Tillamook PUD and had the power turned off to the property. The reason he gave for this decision at trial was that it was too expensive to pay. The Defendant did not inform his siblings of this decision or ask any of his siblings to help pay the bill, which they stated they were willing to do. The Defendant also rerouted the water away from the manufactured house on the east side of the highway. He testified that this was because one of the pipes burst under the house. The Defendant also asked a person from the Tillamook County Tax Department to come to the property to verify that the manufactured home on the east side of the property was uninhabitable in order to get the property taxes lowered. The Defendant removed the fireplace from the residence allowing rain to enter the home through the chimney. The front door was completely removed and the windows left open. The parties' sister Melissa's belongings which had been packed and stored neatly in a shed on the west side of the property were taken to the east side and strewn around inside and outside the residence. The electrical wires inside the residence had small sections clipped out of them, leaving long sections of wires behind. Photographs of large lengths of wire lying on the ground on the east side of the property were admitted as Plaintiffs' Exhibit 20. All of the appliances disappeared, the propane tank went missing and the fixtures in the new bathroom were smashed and made inoperable. Pictures of the home in this time frame were admitted as Plaintiffs' Exhibit 17. In 2017 after finding the property in very poor shape, Plaintiff Hathaway asked the Defendant to clean up his side of the property and quit putting garbage and debris on the east side. She sent him two letters with this demand which were admitted as Plaintiffs' Exhibits 25 and 26. The Defendant received these letters and took no action. He also received a demand letter from counsel for the Plaintiffs in 2021 prior to the initiation of this litigation, which he also ignored. This letter was admitted as Plaintiffs' Exhibit 27.

In October 2020, Plaintiff Billups' son Devin Evens decided to try and clean up the property. He had spent a number of years living there with his grandfather as a child. He took a 5th wheel trailer up to the east side of the property so he could stay there on weekends while he was working on the house. He had arranged for a few friends to assist him with the clean-up. To reach the property, Mr. Evens had to move a dilapidated truck that the Defendant had placed blocking the driveway. The Defendant was extremely unhappy with this plan. He confronted Mr. Evens about his plans and called the fire department regarding the brush burning. Plaintiff Billups testified that the Defendant called her and told her that she did not want to go the property or he would bury her or better yet bury her son. Defendant began firing guns on his property. After a few weeks, Mr. Evens arrived to find his RV seriously damaged and towed down to the side of the highway and a large pile of rocks blocking the driveway. At this point, Mr. Evens, thoroughly intimidated, abandoned his plan to fix up the east side of the property. Tony Billups testified that when Devin Evens was trying to fix up the east side of the property, the Defendant called and said he did not want him on the property and that the property no longer had a residence because it had been "taken off the books".

In 2021, in an attempt to resolve the conflict between the parties, the Plaintiffs proposed that the property be partitioned with the Defendant keeping the west side either as his life estate or with the option

of purchasing it from the other siblings and with the east side being sold. Tony Billups organized this option because the other siblings were scared of the Defendant. The Defendant agreed to this proposal and signed the partition application after logging was completed. Considerable funds were expended to survey the property as part of this process. Tony Billups testified that the Defendant did not raise the issue of water sufficiency but did state that he hoped the partition would not raise his property taxes. The Defendant testified that he raised both issues and that he thought the application was some type of proposal and not an actual application. A week or so prior to the approval deadline, the Defendant submitted a letter to the planning department saying that the project had been misrepresented to him and withdrew his permission. A copy of this letter with the comment that his signature was obtained "under false pretenses/incomplete information" was admitted as Plaintiffs' Exhibit 29.

In 2021, the parties agreed to log the east side of the property and Tony Billups was designated as the person to contract with the logging company. The property had been logged previously in 2013 with the Defendant in charge of the details and bank account proceeds, which resulted in Plaintiff Hathaway not being paid for her share of the proceeds. See Plaintiffs' Exhibit 40. A week or so prior to the time the logging was set to commence, the Defendant cut down two large cedar trees within the area to be logged and milled the lumber. He did not share the proceeds from this timber with the other siblings. At some point, he also felled some alder trees across the driveway on the east side and cut up a hemlock tree for firewood. At trial, Tony Billups testified that the value of the cedar trees was \$8,954.00, for the hemlock \$771.12 and alder \$573.56. See Plaintiffs' Exhibit 38. The Defendant testified that the methodology used by Mr. Billups was flawed because it did not take into account the quality of the wood or the width of the tree above the stump level. However, the Defendant failed to give his own valuation or methodology on how to appropriately value this timber. The Defendant testified that he felt entitled to the cedar trees and it was within his rights to log them and keep the proceeds. He said the alder trees were of very little value and the hemlock tree was blown down. Photos of the stumps and milled lumber were admitted as Plaintiffs' Exhibit 21. In November 2021, the logging was completed. During the logging, the water line to the Defendant's side of the property was damaged. Tony Billups agreed to fix the line at no cost to the Defendant which eventually occurred, although the two disagreed as to the proper way to fix it. The road was also damaged by the heavy equipment used by the logging company. The logging company was willing to fix the road, however it was once again blocked by a pile of large boulders placed by the Defendant. See Plaintiffs' Exhibit 22.

The logging proceeds were placed into a bank account by Mr. Billups. The total income generated was \$140,653.42. \$10,000 was disbursed to all parties in November 2021. An additional payout of \$20,000.00 was made to all siblings except the Defendant in March of 2022. The balance of the Defendant's portion was not disbursed and remains in the account pending a decision by the Court. Plaintiffs ask the Court to deduct from the Defendant's portion the severance tax totaling \$3,892.45. The reasoning for this request is that this tax is the balance of the deferred property taxes which were the Defendant's responsibility to pay under the terms of the trust. Plaintiffs also ask the Court to require him to pay the surveyor fee totaling \$2,925.00 because he agreed to the partition and later changed his mind. Also assigned to the Defendant's side of the ledger is the cost to repair the water pipe damaged in the logging of \$340.89 and the cost of the permit to maintain the home site on the west side of the property that was paid by Plaintiff Hathaway of \$205.00. Plaintiffs propose that the forest harvest tax of \$2,438.00 and other miscellaneous expenses be equally divided between the four siblings. An accounting of the logging proceeds was admitted as Plaintiffs' Exhibit 33.

At trial, the Defendant agreed that there was quite a bit of debris and trash buildup on the west side of the property and that he made a "big mess." He testified that many of the items strewn about are not garbage, but things that he needs to sort out. The Defendant denied doing any damage to the east side of the property and claimed that all of the damage was done by homeless people and metal thieves. He initially denied dumping any trash on the east side of the property until he was confronted with pictures of

trash and debris that was clearly his on the east side and he then changed his testimony. Photos of the garbage strewn on the east side of the property was admitted as Plaintiffs' Exhibit 23. Despite paying all of the taxes from 2010 through 2021 without issue, the Defendant testified that he believes that he is only responsible for paying for taxes on the life estate portion of the property and that he asked the siblings for help in 2021. Printouts of the most recent taxes due were admitted as Plaintiffs' Exhibit 28. A historical printout of taxes paid was admitted as Plaintiffs' Exhibit 24 and shows taxes of approximately \$160.00 a year in 2010 and 2011 and approximately \$500.00 annually in the years thereafter. Defendant testified that he has maintained the west side of the property by maintaining a drainage ditch. Recent pictures of the life estate portion of the property were admitted as Plaintiffs' Exhibits 18 and 24. The Defendant testified that he had no motive to destroy the residence on the east side of the property.

The Defendant testified that as a result of his prior roofing career, he had a unique ability and was an expert in cleaning up messes. He initially testified that he could restore the property to the condition it was in when his father passed away in three days with two other guys for about \$5,000.00. He later testified that when he said that he was only referring to a small portion of the property and the complete cleanup would take 12 days. He testified that he was willing to clean up the property but was waiting for the proceeds from the logging operation. He admitted that he did not use any portion of the initial \$10,000.00 for this purpose.

At trial, the Court heard the testimony of Robert Lovett who works for a clean-up company called Pickle's Transport. He testified that full-time clean-up of the property would take four to six months and cost approximately \$70,000.00, not including labor. A copy of the Pickle's Transport estimate was admitted as Plaintiffs' Exhibit 31. Tony Billups, who is a general contractor, also submitted a bid to clean up both sides of the property in the amount of \$63,000.00 which was admitted as Plaintiffs' Exhibit 37. He thought he and some other workers could clean the property up in about seven weeks.

Expert testimony was provided at trial on the issue of property valuation by Jason Averill, a local realtor. His Comparable Market Analysis was admitted as Plaintiffs' Exhibit 32. Mr. Averill went to the property and described it in bad shape with lots of garbage and debris and that the two manufactured homes were not livable and were now "tear downs". He testified that the property itself was desirable, but that it was not very saleable unless it was cleaned up. Mr. Averill valued the entire property "as is" at approximately \$220,000.00. He stated that if it was cleaned up and partitioned into two taxes lots each with a home site, they would be worth approximately \$150,000.00 each. He further stated that if the property was divided into two tax lots each with a livable home like in 2009, they would be worth approximately \$275,000.00 each. Mr. Averill stated that his uncle is in the clean-up business and operates the local dump and that he thought it would cost at least \$15,000.00 to \$20,000.00 to clean up each property with dump fees.

Contested Issues of Material Fact

In order to resolve the claims between the parties, the Court is required to make a credibility determination between the Plaintiffs and the Defendant on a number of important questions including the following: the condition of the property when the parties' father passed away, whether the Defendant acted with hostility towards the Plaintiffs when they or family members attempted to use the property on the east side of the highway, whether the accumulation of debris and rubbish on the east side of the property was caused by the Defendant, whether the Defendant caused the damage and destruction to the residence on the east side of the highway and whether the damage to the water supply on the east side of the property occurred through the Defendants' actions or inactions. This determination is based in part on the Court's observation of the parties' demeanor and manner of testifying observed at trial.

The first contested material issue is the condition of the property when Mr. Evens, the parties' father, passed away. The Court finds the position of Plaintiffs to be more credible on this point based upon the supporting photographic evidence they presented.

The second contested issue is whether the Defendant acted with hostility and aggression towards the Plaintiffs when they attempted to exercise their right to use the east side of the property. The Court finds that he did, relying not only Plaintiffs and their witnesses' testimony, but the Defendant's own actions such as blocking the roadway on a number of occasions and damaging and towing Devin Evens RV off of the property. More significantly, the Defendant admitted on the witness stand that he believed that because he was paying the property taxes, he had the right to control the property and his siblings' use of the property. This position was simply wrong, because the Defendant only had that right on the life estate portion of the property.

The third contested issue is whether the accumulation of debris and rubbish on the east side of the property was caused primarily by the Defendant. The Court finds that it was, based upon the fact that many of the items visible on the property were admittedly his and the reversal in his testimony when confronted with these items during cross-examination.

The fourth contested issue is whether the Defendant caused the damage to the residence on the east side of the property or whether it was done by homeless people and/or metal thieves. Unfortunately, homelessness is a major issue in Tillamook County and unattended properties can be stripped by metal thieves. However, the photographic evidence showing that only small portions of the wire inside the home were removed and large bundles of wire lying on the ground is inconsistent with the metal thief theory. In addition, it is not credible that homeless people could or would strip the home of major items such as the propane tank, all appliances and the fireplace without the Defendant noticing such occurrences. Homeless people would not take Melissa's belongings from a shed on the Defendant's side of the highway and then spread them out and leave them inside the home on the east side of the road. Plaintiffs' position that the Defendant committed these acts is also consistent with the Defendant's admitted decision to cut off power and water to the residence and have the county inspect it to declare it unfit for occupancy in order to reduce the property taxes he was paying. The Court resolves this question in favor of Plaintiffs and finds that the Defendant is responsible for the bulk of the damage to the residence on the east side of the highway. As to the "why" or motive for these actions, there are a number of obvious reasons including the desire to pay less taxes which was clearly a thorn of contention for the Defendant, and/or a need to prevent Plaintiffs, in particular Plaintiff Hathaway, from using or living on property he considered his to control.

The final contested issue is whether the Defendant is responsible for the damage to the water supply on the east side of the highway. The Court finds that he is, based upon the following. This water source and reservoir supplied the family home for over fifty years as long as routine annual maintenance was performed as well as occasional work on the shale face. The Defendant did not perform this annual maintenance and the reservoir filled with silt and became unusable. The structure over the reservoir was allowed to fall down. The Defendant disconnected the water lines from the residence and took the water pump. This is consistent with his other actions regarding the home on the east side of the property.

FIRST CLAIM FOR RELIEF WASTE, FORFEITURE AND EVICTION

The statute covering waste is *ORS 105.805*. It provides as follows:

"If a guardian, conservator or tenant in severalty, or in common, for life or for years of real property commits waste thereon, any person injured thereby may maintain an action at law for damages against the guardian, conservator or tenant. In the action there may be judgment for treble damages, forfeiture of the estate of the party committing or permitting the waste and eviction from the property. Forfeiture and eviction shall only be given in favor of the person entitled to a reversion against the tenant in possession, when the injury to the estate in reversion is determined in the action to be equal to the value of the tenant's estate or unexpired term, or when the waste was committed with malice."

Waste occurs when the person in possession of land, by act or omission, causes the property's value to decrease as the result of abuse or destruction, thereby causing injury to the property and the holders of the legal interests in it. *Whistler v. Hyder*, 129 Or.App. 344, 879 P.2d 214, rev. den. 320 Or. 453, 887 P.2d 792 (1994). Generally speaking, depreciation and obsolescence must be born by the remainderman. The amount of recovery is the difference between the value of the property in its present condition and what it would have been worth had life tenant maintained and repaired premises as any prudent person would have done under similar circumstances. *In re Stout's Estate*, 151 Or. 411, 50 P.2d 768 (1935). As cited by Plaintiffs in their memorandum, in the case of *Vollertsen v. Lamb*, 302 Or. 499, 732 P.2d 486 (1987), the Supreme Court of Oregon cited the definition of "waste" found in *Blackstone* as "a spoil or destruction in houses, gardens, trees, or other corporeal hereditaments, to the disherison of him that hath the remainder or reversion"

The term "malice" was described clearly in the early case of *Gee v. Culver*, 13 Or. 598, 11 P.302 (1885). The Oregon Supreme Court held that "malice" is not necessarily revenge or any other base and malignant passion but can be found if an action is done willfully and purposely, while knowing that it be wrong and unlawful. It includes every unlawful and unjustifiable motive.

1. Did the Defendant commit waste against the property?

The Court concludes that he did. The Defendant admitted that he allowed substantial debris and garbage to accumulate on the life estate portion of the property over a period of years and did not clean it up when asked by the Plaintiffs. The fact that he stated at trial that he wanted to use the timber money to clean it up does not explain why he allowed it to accumulate in the first place or why he could not clear away the giant areas of blackberry bushes overgrowing the property or maintain the driveways. The Defendant admitted that the manufactured home on the life estate portion of the property was destroyed through his actions and he did not replace it with a comparable home as required by the deed. In addition, the Court has concluded that he placed considerable debris and garbage on the east side of the property and deliberating ransacked and essentially destroyed the manufactured home on the east side of the property. These actions clearly constitute "waste" as defined in *ORS 105.805*.

2. Was the waste substantial and committed intentionally and with malice?

The Court concludes that the waste was substantial as noted in the previous paragraph. The Court also concludes that it was committed intentionally and with malice as defined above. All of the actions described above were done intentionally and purposefully and the Defendant was fully aware of his obligations as a holder of a life estate. When explicitly told he was violating his life tenancy, he did nothing except allow the debris/garbage to continue to accumulate. The Court finds that the accumulation of garbage and debris on both sides of the highway was not done through ill will, but rather because the Defendant was comfortable living in this manner and did not want to have anyone, especially his siblings, dictate his lifestyle. The Court finds that the Defendant's actions in destroying the residence on the east

side of the highway were done with ill will towards his siblings and a desire to completely exclude them from the property.

3. What are Plaintiffs' economic damages?

Under the terms of the trust, it was not the Defendant's obligation to solely maintain the east side of the property, only his life estate portion. This was the Plaintiffs' position at trial, although it may not have been their position historically. However, the Defendant's aggressive actions prevented Plaintiffs from fulfilling their desire to maintain and use that property as allowed under the terms of the trust. The Defendant also placed trash and debris on the property, repeatedly blocked the driveway and deliberately made the home so uninhabitable that it is now a "tear down". According to the testimony of Mr. Averill, if the property had been maintained in the condition it was when Mr. Evens passed away and been partitioned into two lots as the parties attempted to do in 2021, it would be worth approximately \$550,000.00. The property "as is" is worth approximately \$220,000.00, a difference of \$330,000.00. If the property is fixed up and sold, each Plaintiff's economic damages are one-quarter of the difference between the price the property could sell for (which is approximately \$300,000.00 after clean-up and partition) and \$550,000.00 or \$62,500.00.

4. Should the damages be trebled pursuant to ORS 105.108?

This request is confusing to the Court because there is no such statute. ORS 105.805 does allow treble damages. The Court does not find them to be appropriate in this case for reasons further outlined below.

5. What is the appropriate consequence for these actions?

The cost to clean up the properties is substantial and will cost more than \$50,000.00, which was the ballpark figure given by Mr. Averill and the lowest estimate. Even if the Court ordered the balance of Defendant's timber money returned to him, he does not have sufficient funds to clean the property. The Court does not find his extremely inconsistent and vague testimony about the cost of cleaning the property to be credible, especially in light of the other estimates. Given his actions in this case so far, the Court also does not believe that the Defendant would follow through and clean the property within a reasonable time frame. The other problem with this scenario is that even assuming the property is cleaned up, partitioned and sold for the value given by Mr. Averill, the Defendant's one-quarter share would be \$75,000.00 at most (\$300,000 divided by 4). That still leaves a difference in value between the property with two usable homes and the cleaned up and partitioned property with no usable homes of \$250,000.00 (\$550,000 minus \$300,000) or \$62,500.00 per Plaintiff. Unfortunately, there is simply no scenario that allows the property to be cleaned up and sold and allow Plaintiffs to recoup their economic damages that is consistent with the Defendant remaining on the property as a life tenant.

The Court will therefore order that the Defendant's life estate be terminated and that he be evicted from the property. He has 90 days from the date of this letter opinion to remove himself and any belongings he wishes to keep from the west side of the property. He has 30 days from the date of this letter opinion to remove any of his property from the east side of the property.

Ashley Flukinger, Attorney at Law, located in Seaside Oregon is appointed as the controller to manage the partition, clean up and sale of the property, as well as any related legal issues. She is a neutral third party and experienced in real estate issues. Her reasonable fees are to be paid off the top after the costs of sale. All work surrounding the clean-up of the property and ensuring that the Defendant timely vacates the property shall be deducted from the Defendant's share of the proceeds from the sale of the property. All other fees are to be deducted equally between the four siblings. Ms. Flukinger is given the following instructions by the court.

- Immediately proceed with the stayed partition of the property into two tax lots. File a new partition if necessary.
- Take any actions necessary with Tillamook County to confirm that a home site is still available on both sides of the property.
- Arrange for clean up on the east side of the property after the thirty-day period has expired for the Defendant to remove any personal items from the property.
- Arrange for clean up on the west side of the property after the ninety-day period has expired for the Defendant to remove any personal items from the property and vacate possession.
- Take any legal actions necessary if Defendant fails to timely move from the property.
- Hire persons or companies to complete the work outlined above.
- Sell the property herself as a licensed real estate broker or hire a realtor experienced with land in Tillamook County, whichever is more cost-effective.

SECOND CLAIM FOR RELIEF ACTION FOR INJURY TO INHERITANCE

The statute covering injury to inheritance is *ORS 105.825*. It provides as follows:

“A person seised of an estate in remainder or reversion may maintain a civil action for any injury to the inheritance, notwithstanding the presence of an intervening estate for life or years.”

1. Did the Defendant’s actions cause injury to Plaintiffs’ inheritance?

Yes, it did, as noted above. Instead of inheriting a piece of land with two habitable homes, the property presently has no homes and will cost a considerable amount of money to clean in order to be saleable.

2. What are Plaintiffs’ economic damages?

See the economic damages analysis noted above. Double recovery is not appropriate.

THIRD CLAIM FOR RELIEF ACTION FOR RIGHT TO POSSESS LAND

The statute governing an action for right to possess land is *ORS 105.005*. It provides as follows:

(1) Any person who has a legal estate in real property and a present right to the possession of the property, may recover possession of the property, with damages for withholding possession, by an action at law. The action shall be commenced against the person in the actual possession of the property at the time, or if the property is not in the actual possession of anyone, then against the person acting as the owner of the property.

(2) In an action brought under subsection (1) of this section or in a separate action for damages only, a person who, throughout the vesting period, used or occupied land of another with the honest and objectively reasonable belief that the person was the actual legal owner of the land shall not be liable for:

- (a) Double or treble damages under ORS 105.810 (1) to (3) or 105.815; or
- (b) The value of the use or occupation of the land by the person throughout the vesting period.

1. **Do Plaintiffs have a present right to possession of the property that is not subject to the Defendant's life estate?**

Yes, they do, the trust and deed are clear.

2. **Have Defendant's actions withheld possession from Plaintiffs?**

Yes, they have, as noted above.

3. **Has Plaintiffs' use, occupancy and enjoyment of their land been denied by Defendant's actions withholding possession?**

Yes. If not for Defendant's actions, Plaintiff Hathaway could have lived on the property instead of renting and Plaintiff Billups could have parked her RV there during the winter.

4. **What are Plaintiffs' economic damages?**

See the economic damages analysis noted above. Double recovery is not appropriate.

5. **What type of injunctive relief, if any, is appropriate?**

There is no need for injunctive relief in light of the Court's ruling on the first claim for relief.

FOURTH CLAIM FOR RELIEF ACTION FOR TIMBER TRESPASS

The statute governing an action for timber trespass is *ORS 105.810*. It provides as follows:

(1) Except as provided in *ORS 477.089* and *477.092* and subsections (4) to (7) of this section, whenever any person, without lawful authority, willfully injures or severs from the land of another any produce thereof or cuts down, girdles or otherwise injures or carries off any tree, timber or shrub on the land of another person, or of the state, county, United States or any public corporation, or on the street or highway in front of any person's house, or in any village, town or city lot, or cultivated grounds, or on the common or public grounds of any village, town or city, or on the street or highway in front thereof, in an action by such person, village, town, city, the United States, state, county, or public corporation, against the person committing such trespasses if judgment is given for the plaintiff, it shall be given for treble the amount of damages claimed, or assessed for the trespass. In any such action, upon plaintiff's proof of ownership of the premises and the commission by the defendant of any of the acts mentioned in this section, it is prima facie evidence that the acts were committed by the defendant willfully, intentionally and without plaintiff's consent.

(2) A court may, in its discretion, award to a prevailing party under subsection (1) of this section reimbursement of reasonable costs of litigation including but not limited to investigation costs and attorney fees.

(3) A court may, in its discretion, award to a prevailing plaintiff under subsection (1) of this section reasonable costs of reforestation activities related to the injury sustained by the plaintiff.

1. Has the Defendant removed trees from the property without authorization?

Yes, as to the two cedar trees. The cedar trees were the most valuable lumber on the property and the Defendant cut and took them without reimbursing his siblings prior to the logging operation. As life tenant, he had no right to this valuable timber which was not even located on the life estate portion of the property. The Court finds the evidence insufficient as to the alder tree and hemlock trees. The cutting and use of those trees, especially if already dead, would be reasonable by the life tenant.

2. What are Plaintiffs' economic damages?

Plaintiffs argue that the value of these trees is \$8,954.00 per Mr. Billups calculation methodology. At trial, the Defendant disagreed, but presented no valuation method or specific valuation of this lumber. The Court will therefore accept Plaintiffs' value and set economic damages at \$8,954.00.

3. Should the damages be trebled pursuant to ORS 105.810?

Given that only two trees were cut, the Court finds that treble damages are not appropriate.

4. Are Plaintiffs entitled to a prevailing party fee pursuant to ORS 108.810?

Yes, the Court finds that the deliberate actions of Defendant merit this fee

5. What type of injunctive relief, if any, is appropriate?

There is no need for injunctive relief in light of the Court's ruling on the first claim for relief.

**SIXTH COUNTERCLAIM
DECLARATORY JUDGMENT**

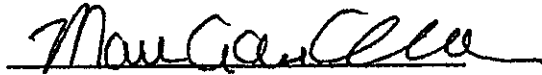
As requested by Defendant, the Court makes the following declarations regarding the rights, status, and legal relations of the parties which it finds to be just and proper under the circumstances presented in this case.

The Court makes the following order in relation to the funds held in the Swede Hill partnership account. The line items to be billed solely to the Defendant shall include the following:

- | | |
|---|------------|
| - Permit to replace home on west side of the property | \$ 205.00 |
| - Timber severance tax (deferred property taxes) | \$3,892.45 |

All other expenses are to be shared equally, including the survey costs which will be used in the upcoming partition and the costs to repair the water line. The Defendant's share of the funds are to be paid to the Controller to help fix up the property. Plaintiffs are directed to equally disburse the remaining funds to Terry, Beth, and Cindy.

Ms. Ireland, as counsel for Plaintiffs, is asked to prepare a General Judgment and money award in conformance with this letter opinion. She may also submit an ORCP 68 statement for attorney fees regarding the Timber Trespass portion of the case only.



Mari Garric Trevino

Cc: Ashley Flukinger, Attorney at Law



I hereby certify that the within instrument was received for record and recorded in the County of Tillamook, State of Oregon.
Tassi O'Neill, Tillamook County Clerk

After recording return to and until requested otherwise send all tax statements to:

Richard B. Evens, Trustee
16915 Highway 101 S
Tillamook, OR 97141

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That Richard B. Evens, hereinafter called Grantor, for the consideration hereinafter state, does hereby remise, release and quitclaim unto Richard B. Evens, Trustee of the Revocable Living Trust of Richard Benjamin Evens hereinafter called Grantee, and unto Grantee's successors and assigns; all of the Grantor's right, title and interest in that certain real property, if any, with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in the County of Tillamook, State of Oregon, described as follows, to-wit:

Beginning at the quarter section corner on the South line of Section 6 in Township 3 South of Range 9 West of the Willamette Meridian and running thence South 89° 02' West 1,988 feet; thence North 0° 42' West 1,139.39 feet; thence North 89° 02' East 1,988 feet to the quarter section line running North and South through said Section 6; thence South 0° 42' East along said quarter section line, 1,139.39 feet to the point of beginning. EXCEPT that portion in U.S. Highway 101.

SUBJECT TO (1) Rights of the public in and to that portion of said premises lying in streets, roads and highways, and (2) Power and Line Easement, of Mountain States Power Company, dated April 21, 1926, recorded June 8, 1926 in Book 54 at page 599, Deed Records, said grant having made by Allan Page and Nellie Page.

To Have and to Hold the same unto Grantee and Grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ -0-.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses and to determine any limits on lawsuits against farming or forest practices as defined in ORS 30.930.

In Witness Whereof, the Grantor has executed this instrument this 3rd day of Nov., 2004.

Richard B. Evens
Richard B. Evens

STATE OF OREGON)
)ss.
County of Tillamook)

This instrument was acknowledged before me on November 3, 2004, by RICHARD B. EVENS.



Stacey Bentley
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9/23/08

After recording return to:
Albright & Kittell, P.C.
P.O. Box 939
Tillamook, OR 97141

Until a change is requested
all tax statements shall be sent
to the following address:

Charles Joseph Evens
16910 Hwy 101 S.
Tillamook, OR 97141

Tillamook County, Oregon ~~2010-006646~~
11/12/2010 02:50:37 PM

Tillamook County, Oregon 2010-007134
11/24/2010 11:15:42 AM

DEED-RDBS
\$45.00 \$11.00 \$16.00 \$10.00 - Total = \$82.00



I hereby certify that the within
instrument was received for record and
recorded in the County of Tillamook,
State of Oregon.

Tassi O'Neil, Tillamook County Clerk



Re-Record to correct scrivener's errors.
BARGAIN AND SALE DEED

KNOW ALL MEN BY THESE PRESENTS, That we, Charles Joseph Evens and Scott Watters, as Co-Trustees of the Restated Revocable Living Trust of Richard Benjamin Evens dated April 3, 2008, as amended by the First Amendment to the Restated Revocable Living Trust of Richard Benjamin Evens, dated July 23, 2009 (the Trust), hereinafter called Grantor, for the consideration hereinafter stated, do hereby grant, bargain, sell and convey unto Julia * ~~Helen Evens~~, Theresa Jane Watters, Charles Joseph Evens, Elizabeth Darlene Billups and Cynthia Lee Hathaway, as joint tenants with the right of survivorship and not as tenants in common, hereinafter called Grantees, in all of that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Tillamook, State of Oregon, described below.

*Bingenheimer

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$0.00; the transfer is a distribution from a revocable living trust.

The property of this Bargain and Sale Deed is described as follows, to wit:

Beginning at the quarter section corner on the South line of Section 6 in Township 3 South of Range 9 West of the Willamette Meridian and running thence South 89° 02' West 1,988 feet; thence North 0° 42' West 1,139.39 feet; thence North 89° 02' East 1,988 feet to the quarter section line running North and South through said Section 6; thence South 0° 42' East along said quarter section line, 1,139.39 feet to the point of beginning. EXCEPT that portion in U.S. Highway 101.

SUBJECT TO (1) Rights of the public in and to that portion of said premises lying in streets, roads and highways, and (2) Power and Line Easement, of Mountain States Power Company, dated April 21, 1926, recorded June 8, 1926 in Book 54 at page 599, Deed Records, said grant having made by Allan Page and Nellie Page.

AND SUBJECT TO all of the following:

1.0 Joe's Life Estate. Charles Joseph Evens shall have a life estate over that portion of the property lying ~~East~~ ^{West} of Highway 101, as well as all improvements located thereon, with the life estate subject to the following terms and conditions:

1.1 Terms of the life estate. (i) that the life tenant have no power to sell all or any portion of the property subject to the life estate unless all of the remaindermen concur to such sale in writing; (ii) that the life tenant shall timely pay all taxes, liens or assessments levied against the property; (iii) that the life tenant shall be responsible for keeping and maintaining the residence and other improvements located on the life tenant's parcel in at least the same condition that it was on August 27, 2009, which was the date of Richard Benjamin Evens' death, at the life tenant's sole cost; (iv) that the life tenant may improve the property, but only at the life tenant's sole cost; (v) that the life tenant shall repair, at the life tenant's sole cost, any damage to the property that occurs during the life tenant's tenancy for any reason except natural aging or wear and tear; (vi) that any repairs to the roof or structure of any of the improvements that are the result of natural aging or wear and tear shall be the responsibility of the remaindermen, at their sole cost; (vii) that the life estate shall cease at the death of the life tenant. If the life tenant does not reside on the property, he can rent it to others and retain the rental income generated thereby.

2.0 The Second Life Estate. Upon the death of Charles Joseph Evens, Scott Watters (so long as he is married to Theresa Watters or, if she is deceased, so long as he was married to Theresa as of her demise) shall in writing notify each of Richard Evens' children who are then living (except Melissa) that there is a vacancy in the life estate and that, if a particular child (except Melissa) wants to occupy the life estate that was vacated under the same terms and conditions as are provided in Section 1.0 above (except as is provided in the next sentence), they must so notify Scott in writing within 30 days of the date that Scott's letter was mailed to them at their last address known to Scott. Should this second life estate life tenant no longer use the property as the life tenant's principal property, it shall terminate, the provision that it only terminates at death being unique to Joseph only).

2.1 If only one. If only one of Richard Evens' children then-living (except Melissa) notifies Scott in writing of their desire to occupy the life estate as provided above, then that shall occur.

2.2 If two. If two of Richard Evens' children then-living (except Melissa) notify Scott in writing of their desire to occupy the life estate as provided above, then Scott shall flip a coin, with the eldest of those two children calling "heads" or "tails," and with the winner being authorized to occupy the life estate as provided above.

2.3 If three or more. If three or more of Richard Evens' children then-living (except Melissa) notify Scott in writing of their desire to occupy the life estate as described above, Scott shall conduct a coin flip by having each child flip a coin until such time as one child has either a "head" or a "tail" and all of the rest of the children have the opposite, in which case the one child is eliminated. When two children are left, the matter shall be resolved as is provided in Section 2.2 above.

2.4 Alternate Conductor. Should Scott be unwilling or unable to conduct the above-described selection process for the second life estate, then

the person to conduct it (herein, including Scott, referred to as the Conductor) shall be determined by a majority vote of the living children of Richard Benjamin Evens (except Melissa). Should a majority vote not be attained, the court shall select the Conductor.

2.5 Compensation. For his work as provided herein, the Conductor shall be entitled to reasonable compensation for such services. Reasonable compensation shall be determined by reference to the fee schedule used by US Bank in Tillamook County, Oregon for Trustee services.

3.0 Sale of the Property. After the second life estate (or, should the attempt at achieving the second life estate prove to be unfruitful), the above-referenced Conductor shall sell the property for such price and for such terms as he shall solely determine, with the proceeds therefrom to be distributed to Richard Benjamin Evens' children who are then living at the time of the sale (except Melissa). For his work as provided herein, the Conductor shall be entitled to reasonable compensation for such services. Reasonable compensation shall be determined by reference to the fee schedule used by US Bank in Tillamook County, Oregon for Trustee services.

4.0 Access and Utility Easement. The life tenant, whether under Sections 1.0 or 2.0 above, shall have a general, non-exclusive easement over, under, through and on any and all areas on the property East of Highway 101 for utilities, including but not limited to, the maintenance, upkeep, use and upgrading of water, sewer, electricity and any other utilities for the benefit of the life estate, as well as access to the same for the purposes herein stated, as well as access to the life estate.

5.0 Background Documentation. As further background to Sections 2.0 and 3.0 above, attached hereto are both Exhibit A, containing Article I, Section 3.0 At the end of the life estate, of the First Amendment to the Restated Revocable Living Trust of Richard Benjamin Evens, dated July 23, 2009, and Exhibit B, containing Article XI, Section C Successor Trustees, of the Revocable Living Trust of Richard Benjamin Evens, Restated April 3, 2008.

Before signing or accepting this instrument, the person transferring fee title should inquire about the person's rights, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and sections 5 to 11, Chapter 424, Oregon Laws 2007, and Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009. This instrument does not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify that the unit of land being transferred is a lawfully establishment lot or parcel, as defined in ORS 92.010 or 215.010, to verify the approved uses of the lot or parcel, to determine any limits on lawsuits against farming or forest practices as defined in ORS 30.930 and to inquire about the rights of neighboring property owners, if any, under ORS 195.300, 195.301 and 195.305 to 195.336 and Sections 5 to 11, Chapter 424, Oregon Laws 2007, and Sections 2 to 9 and 17, Chapter 855, Oregon Laws 2009.

In Witness Whereof, the Grantor has executed this instrument this 12 day of November 2010.

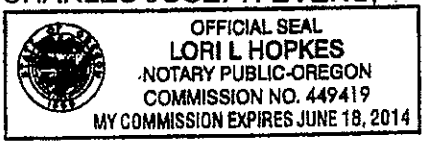
Restated Revocable Living Trust of
Richard Benjamin Evens

By: Charles Joseph Evens
Charles Joseph Evens, Co-Trustee

By: Scott Watters
Scott Watters, Co-Trustee

STATE OF OREGON)
)ss.
County of Tillamook)

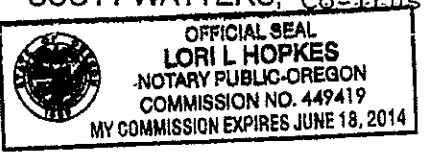
Signed and sworn to before me on this 12 day of November, 2010 by
CHARLES JOSEPH EVENS, Co-Trustee of the Restated Revocable Living Trust of
Richard Benjamin Evens.



Lori L Hopkes
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6/18/14

STATE OF OREGON)
)ss.
County of Tillamook)

Signed and sworn to before me on this 12 day of November, 2010 by
SCOTT WATTERS, Co-Trustee of the Restated Revocable Living Trust of
Richard Benjamin Evens.



Lori L Hopkes
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6/18/14

at their sole cost; (vii) that the life estate shall cease at the death of the life tenant. If the life tenant does not reside on the property, he can rent it to others and retain the rental income generated thereby.

3.0 At the end of the life estate.

3.1 Notification. At the end of Joe's life estate, my Trustee herein named (even though the trust has been terminated) or, if the Trustee is unwilling or unable to serve, then my Successor Trustee (even though the Trust has been terminated), shall in writing notify each of my children who are then living (except Melissa) that there is a vacancy in the life estate and that, if a particular child (except Melissa) wants to occupy the life estate that was vacated under the same terms and conditions as are described in Section 2.0 above, they must so notify my Trustee in writing within 30 days of the date that my Trustee's letter was mailed to them at their last address known to the Trustee. This life estate shall be subject to the provision that, should the life tenant no longer use the property as the life tenant's principal property, it shall terminate the provision that it only terminates at death being unique to Joseph only.

3.11 If only one. If only one of my children then living (except Melissa) notifies my Trustee in writing of their desire to occupy the life estate under Section 2.0 above, then that shall occur.

3.12 If two. If two of my children then living (except

Melissa) notify my Trustee in writing of their desire to occupy the life estate under Section 2.0 above, then my Trustee shall flip a coin, with the eldest child calling "heads" or "tails," and with the winner being authorized to occupy the life estate under Section 2.0 above.

3.13 If three or more. If three or more of my children then living (except Melissa) notify my Trustee in writing of their desire to occupy the life estate as described above, my Trustee shall conduct a coin flip by having each child flip a coin until such time as one child has either a "head" or a "tail" and all of the rest of the children have the opposite, in which case the one child is eliminated. When two children are left, the matter shall be resolved as is provided in Section 3.12 above.

3.2 At the end of the life estate. Once the life estate is over, my Trustee shall sell the property for such price and for such terms, including time payments, as my Trustee shall solely determine, with the proceeds therefrom to be distributed to my children who are living at the time of the sale (except Melissa).

3.3 Trustee Compensation. My Trustee, for his or her work described in this Section 3.0, shall be paid reasonable compensation for their service, the same being defined as what US Bank would charge for this service, were they the one conducting the administration of this matter, and

with all of the Trustee's expenses, including for attorneys, accountants, surveyors and other professionals or services or work, and including all out-of-pocket expenses, to be fully paid out of the proceeds of the sale, the cost of the same being a lien against the property until it is sold.

4.0 Special Distributions.

- (a) To Joe. I instruct that any and all of my machinery, chains saws, tools, hunting equipment, fishing equipment and souvenirs, including by swords, be distributed to my son Joe, to be his absolutely and forever. Should he not survive me, the same shall be distributed as is provided in Subsection (b) below.
- (b) Tangible personal property. All of my tangible personal property not described in Subsection (a) above shall be distributed as my children who are then living (except Melissa) shall unanimously agree in writing. Should they fail to agree, the same shall be sold for such price and upon such terms as my Trustee shall solely determine, with the proceeds distributed equally among my children who are then living (except Melissa) when the same is sold.

5.0 Residue. Any and all other property of the Trust shall be sold for such price and for such terms, including time payments, as shall be solely determined by my Trustee, with the proceeds therefrom to be distributed in equal share, share and share alike, among my children living at the time of my demise (except Melissa).

ARTICLE IX

TERMINATION OF TRUST

After all of the distributions described in the above Articles have been made, the trust shall terminate.

ARTICLE X

INCAPACITY

A person shall be deemed to be incapacitated if (i) such person has been duly adjudged an incapacitated person, a disabled person, an insane person or an incompetent person by any court of competent jurisdiction and a legal guardian for such person has been appointed; or (ii) a person's ability to receive and evaluate information effectively or to communicate decisions, or both, is impaired to such an extent that the person lacks the capacity to manage such person's financial resources, as determined by certification of one licensed physician; or (iii) such person is someone who cannot take any needed actions due to involuntary detention or disappearance, as determined by the affidavit of at least two people with knowledge regarding the same. A fiduciary hereunder shall have no liability to anyone for acting in good faith upon any such certification or affidavit.

ARTICLE XI

TRUSTEE PROVISIONS

A. Trustee. Trustee for this Trust shall be Richard Benjamin Evens, and he shall serve until he resigns, becomes incapacitated, or until his death. Trustee shall also mean any Successor Trustee who succeeds to the position of Trustee as herein provided.

B. Resignation of Trustee. A Trustee may resign at any time by giving written notice to the Successor Trustee, or if there is no successor, to the beneficiaries.

C. Successor Trustees. Upon the death, resignation, or incapacity of the Trustee, the Trustee shall be succeeded as Trustee of the trust estate by the Successor Trustee. My son, Charles Joseph Evens and my son-in-law Scott Watters, should he survive me being married to my daughter Theresa, and for as long as he stays married to my daughter Theresa, and if he was married to Theresa as of Theresa's demise, shall jointly hold the position of Successor Trustee. Should Charles Joseph Evens and Scott Watters be serving together as Trustee, the

concurrence of both shall be required on any decision or action, but they may delegate any or all of their powers hereunder to the other. Should one of them predecease the other, the other shall serve as Trustee. Should Scott Watters cease to be married to Theresa, then Charles Joseph Evens shall solely serve as Trustee. Should both of them predecease the end of the need for a Trustee, the majority vote of my children who are then surviving shall determine who will be Trustee.

D. Responsibility of Successor Trustee. A Successor Trustee, once the Successor Trustee becomes Trustee, shall have the same rights, titles, powers, duties, discretions, and immunities and otherwise be in the same position as the Trustee hereunder.

E. Compensation for Trustee. My Trustee and each Successor Trustee (should a Successor Trustee serve as Trustee) shall be entitled to reasonable compensation for services rendered as Trustee. Reasonable compensation shall be determined by reference to the fee schedule used by US Bank in Tillamook County.

ARTICLE XII

TRUSTEE'S DUTIES AND POWERS

All of the Trustee's rights, powers and duties are exercisable in a fiduciary capacity only. The Trustee shall have all of the rights, powers and duties created by Oregon law (as it now exists or is hereafter amended), as well as the following rights, powers and duties:

A. To collect, buy, hold, retain, sell or otherwise manage Trust assets received from any source.

B. To continue, initiate or participate in the operation of any business or other enterprise, and to effect incorporation, dissolution, or other change in the form of the organization of the business or enterprise.

C. To acquire an undivided interest in a Trust asset in which the Trustee, in any individual capacity, holds an undivided interest.

D. To invest and reinvest Trust assets in accordance with the provisions of the Trust or as provided by law, including investment in preferred or common stocks, bonds, real or personal property, or mutual funds (even though such action may cause duplication in management fees, prevent diversification, or equate to a delegation of Trustee's responsibilities).

TILLAMOOK COUNTY PLANNING COMMISSION

LOCATION AND PLACEMENT APPLICATION

MOBILE HOMES *** RECREATION VEHICLES

Room 7, Court House, Tillamook, Oregon 97141 Phone 842-6202

Receipt No. 3442

Zone A-1

This permit becomes void if mobile home/recreation vehicle is not placed on property within six (6) months from date of approval.

Permit No. 137

Permit Fee 10⁰⁰

1. Name of Mobile/Rec. Veh. owner Richard Evens
Mailing address 1855 Bishop Ave W
City and State Tillamook Oregon Phone No. 842-7357

2. Location or address of property where Mobile or Rec. Veh. is to be placed.
Number and Street _____ Between _____ and _____
Lot # _____ Block _____ Addition _____
Tax Lot 2600 Twp 3 R S9 W.M. Sec. 6 Code 8-3 Lot Size 4800
Recorded Property Owner Richard B Evens
Address 1855 Bishop Ave W Tillamook ORE
Contract Property Owner AS ABOVE
Address _____

3. Size of Mobile/Rec. Veh. 12x60
Year 1966
Make Vandy
License No. 89080
X110019
4. Driveway Permit Existing
5. Source of Water Supply Spring (Existing)
6. Sewage Disposal Method Septic Tank
Permit Number (Septic Tank) 509 Other Side
#462 11/173

7. LOT PROVIDES:
8. A plot plan must be drawn on the attached sheet and accompany this application.

Area of Lot	<u>14+ Acres</u>	200'
Front Yard	<u>5 acres</u>	200'
Side Yard L.	<u>2 acres</u>	100'
Side Yard R.	<u>3 acres</u>	400'
Rear Yard	<u>4 acres</u>	200'+

I agree to obtain the proper driveway permit from the Tillamook County Roadmaster or Oregon State Highway Commission District Engineer, (item #4), to locate a mobile home or recreational vehicle and accessory structures according to proper setback regulations (item #7) and display decal.

APPLICANT X Richard B. Evens DATE 1-21-75

County Planning & Zoning Office
By Steve J. Smith
Date 22 Jan 75

County Health Department
By Brent Pearson
Date 1/22/75

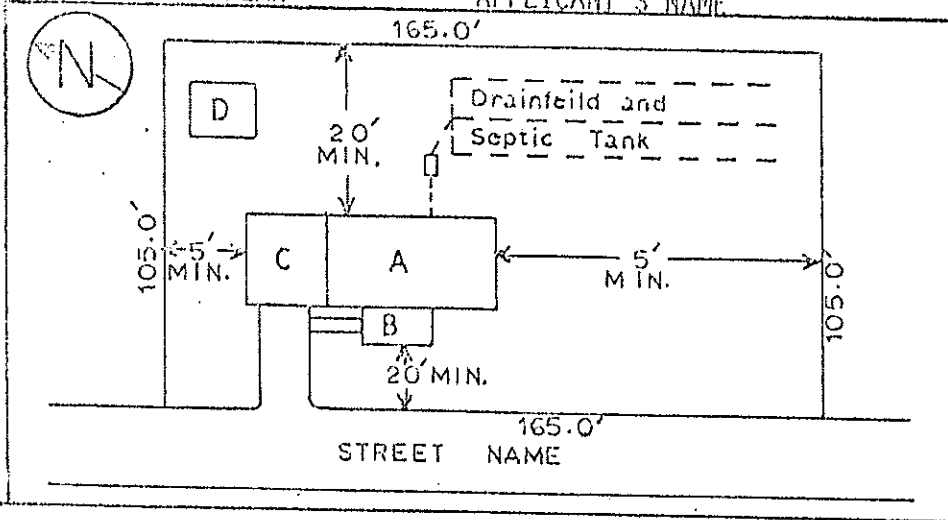
County Building Department
By Carl Street
Date 1-21-75

FOR OFFICE USE ONLY:
mobile citing

STAMP:
APPROVED
JAN 22 1975
TILLAMOOK COUNTY
PLANNING COMMISSION
1391

TYPICAL PLOT PLAN

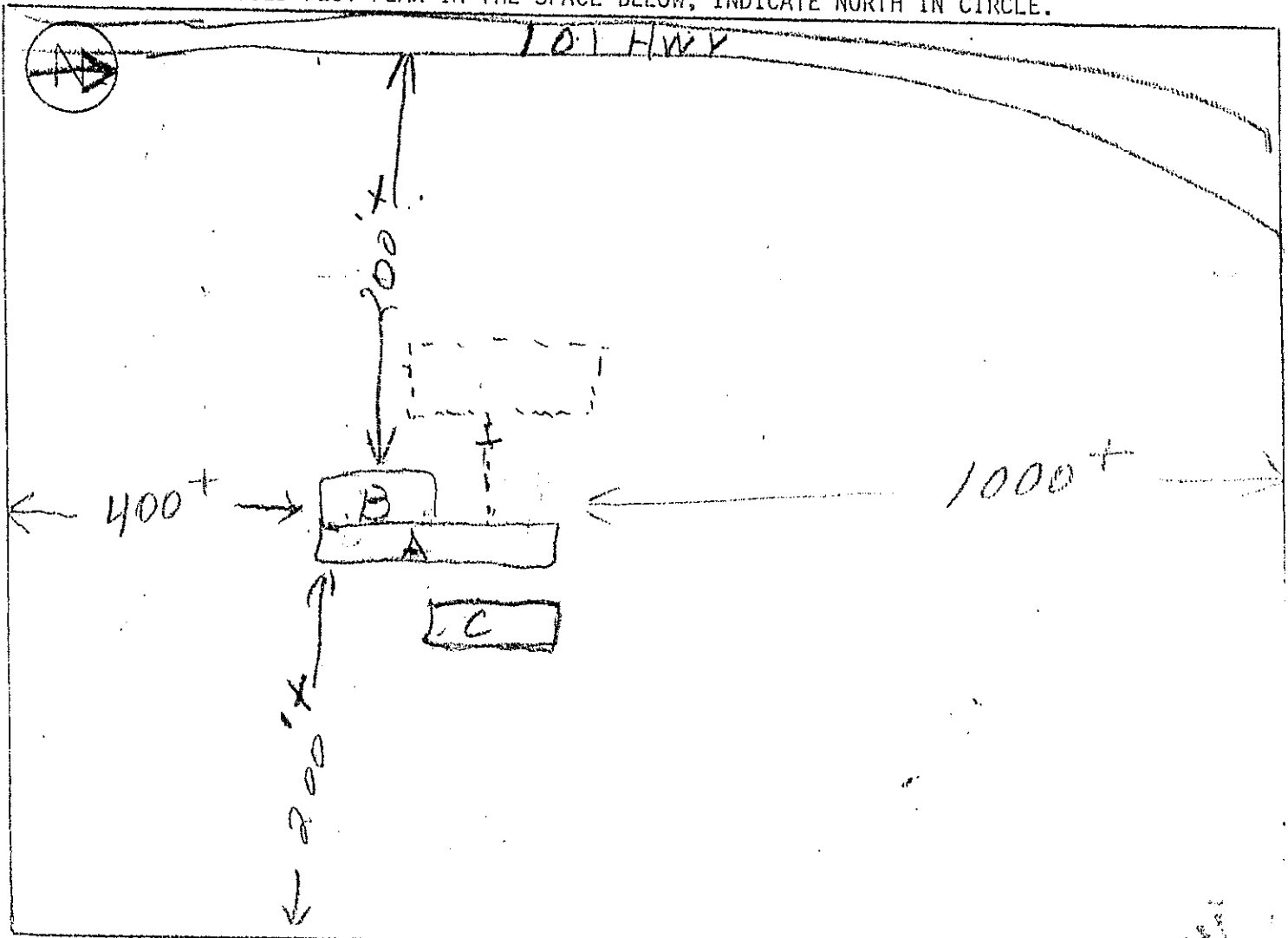
APPLICANT'S NAME



LOCATE THE FOLLOWING BELOW

- A. HOUSE OR TRAILER
- B. DECK & PATIO COVERING, IF ANY.
- C. GARAGE OR CARPORT, IF ANY.
- D. EXISTING OR ACCESSORY BUILDINGS, IF ANY.

SKETCH YOUR PROPOSED PLOT PLAN IN THE SPACE BELOW, INDICATE NORTH IN CIRCLE.



NOTES: USE REVERSE SIDE IF MORE SPACE NEEDED.

PERMIT

Completed

TILLAMOOK COUNTY HEALTH DEPARTMENT
Robert C. Todd, D.O., County Health Officer
Court House
Tillamook, Oregon 97141

Septic Tank 900 gal.
Disposal Field 510 Sq. ft.
Special _____

Permit No. 462
Application No. 462
Fee Paid 7.50

Richard Evens is hereby authorized to construct a
subsurface sewage disposal system at 16910 Highway 101 S., Tillamook

The sewage system constructed or altered under the authority of this permit
shall not be put in use until same has been inspected and/or approved by the
County Health Officer.

Disposal Field in 18-36" wide ditch
6" Gravel Below Tile
4" Gravel Parallel to Tile
2" Gravel Above Tile

Witness my hand and seal this 17 day of September 19 73

Date of Inspection 11-19-73

County Sanitarian JLS

TCHD-SAN 001(1972)

POST ON PREMISES

FINAL INSPECTION DATE _____

REMARKS: _____

INSTALLER Self

James L. ...

Marge —

16910 Hi/015

Richard Evans ~~and~~
is approved for Sewage disposal

Jim

TILLAMOOK COUNTY PLANNING COMMISSION

LOCATION AND PLACEMENT APPLICATION

MOBILE HOMES *** RECREATION VEHICLES

Room? , Court House, Tillamook, Oregon 97141 Phone 842-6202

Receipt No. 3442
 Zone A-1

This permit becomes void if mobile home/recreation vehicle is not placed on property within six (6) months from date of approval.

Permit No. 432
 Permit Fee 1000

1. Name of Mobile/Rec. Veh. owner Richard Evens
 Mailing address 1855 Bishop Ave W
 City and State Tillamook Oregon Phone No. 842-7355

2. Location or address of property where Mobile or Rec. Veh. is to be placed.
 Number and Street _____ Between _____ and _____
 Lot # _____ Block _____ Addition _____
 Tax Lot 2600 Twp 3 R S9 WWM: Sec. 6 Code 8-3 Lot Size 48 acres
 Recorded Property Owner Richard B Evens
 Address 1855 Bishop Ave W Tillamook ORE
 Contract Property Owner AS ABOVE
 Address _____

3. Size of Mobile/Rec. Veh. 12x60
 Year 1966
 Make Vandy
 License No. 89080
X110019

4. Driveway Permit Existing
 5. Source of Water Supply Spring (Existing)
 6. Sewage Disposal Method Septic Tank
 Permit Number (Septic Tank) see other side - Completed #462 11/1/73

7. LOT PROVIDES:
 8. A plot plan must be drawn on the attached sheet and accompany this application.

Area of Lot	<u>14+ Acres</u>	200'
Front Yard	<u>5 acres</u>	200'
Side Yard L.	<u>2 acres</u>	1000'
Side Yard R.	<u>3 acres</u>	400'
Rear Yard	<u>4 acres</u>	200'+

I agree to obtain the proper driveway permit from the Tillamook County Roadmaster or Oregon State Highway Commission District Engineer, (item #4), to locate a mobile home or recreational vehicle and accessory structures according to proper setback regulations (item #7) and display deal.

APPLICANT X Richard B. Evens DATE 1-21-75

County Planning & Zoning Office
 By Steve J. Wood
 Date 22 Jan 75

County Health Department
 By Brent Morrison
 Date 1/22/75

County Building Department
 By Carl Street
 Date 1-21-75

FOR OFFICE USE ONLY:
mobile citing

STAMP:
APPROVED
 JAN 22 1975

TILLAMOOK COUNTY
 PLANNING COMMISSION

DATE REGISTRATION No. OWNER

Receipt No. 3195
Zone. A-1
Fire Zone. 3
Class. _____
Type of Building _____

TILLAMOOK COUNTY BUILDING DEPARTMENT

Court House, Tillamook, Oregon 97141
Room 9 -:- Phone 842-6202

BUILDING PERMIT APPLICATION

ALTERATIONS, REPAIRS, ADDITIONS, Etc.

Blanks above this line not to be filled by applicant

Permit No. 3363
C. T. _____
Sec. 6 T. 35 R. 9
Construction Cost. 500.⁰⁰
Permit Fee. 5.⁰⁰ + 5.⁰⁰
Plan Check Fee. check

APPLICANT MUST FILL IN FROM HERE DOWN TO HEAVY LINE AT BOTTOM OF PAGE WITH INK OR INDELIBLE PENCIL

Application is hereby made to Alter
Repair
Move a structure according to description given below and plans and specifications (if furnished).
Wreck
Addition

Location—
Number and Street 101 SOUTH Between 10 MILES and _____

Tax Lot 2600 Section 6 Lot _____ Block _____ Addition _____

Dimensions — Size of Lot is 4.8 ACRES X Size of building is 14' x 62'

Construction — Wood Frame X Brick Ordinary _____ Mill _____ Semi-Fireproof _____ Fireproof Steel Frame _____ Fireproof Reinforced Concrete _____ (Put an X in space following kind of construction.)

Use — Structure affected by this work is used or occupied as ROOF OVER TRAILER No. of Stories _____

Cost — This work when completed will cost, including labor and materials:

Building \$ _____ Plumbing \$ _____ Wiring \$ _____ Total \$ 500.⁰⁰

Plans and specifications made by _____ accompany this application

Recorded Owner DICK EVANS Address 16910 HWY SOUTH Phone 842-7359
TILLAMOOK

Name of Builder OWNER Address _____ Phone _____

DESCRIPTION OF WORK

For all work not requiring plans, a complete description of all work to be done and size of all structural members, joists, girders, studs, etc., must be stated below in as few words as possible. Give sketch showing location on back.

Framing Lumber Grade

Construction _____ No. 1 _____
Standard _____ No. 2 _____
Utility _____ No. 3 _____

ROOF OVER TRAILER

LOT PROVIDES

Area of Lot	<u>4.8 ACRES</u>
Front Yard	<u>200'</u>
Side Yard L.	<u>400'</u>
Side Yard R.	<u>400'</u>
Rear Yard	<u>200'</u>

PERMIT WILL INCLUDE ONLY SUCH WORK AS ABOVE STATED

I hereby certify that the work to be done (does not) (does) involve or effect the supporting walls, piers, columns, beams, girders, or bearing partitions, and that no other work is to be done except as given in above description, the plans and specifications, and that all works is to conform to the Uniform Building Code as adopted by Tillamook County.

PERMIT GOOD FOR ONE YEAR

Applicant Richard B. Evans Date 1-21-75

County Planning & Zoning County <u>Steve J. Smith</u>	County Health Dept. Approved _____ Denied _____	Plans Checked by Plan Ex Approved _____ Denied _____	Fire Marshal	Permit Issued <u>[Signature]</u>
State _____	By _____	By _____	By _____	By _____
Date <u>21 Jan 75</u>	Date _____	Date _____	Date _____	Date <u>1-21-75</u>

Application Received: NOTICE: Application must be kept on premises until completion.

By NANCY LARSON Date 1-25-75

ALL CONSTRUCTION MUST CONFORM TO UNIFORM BUILDING CODE



Land of Cheese, Trees and Ocean Breeze

DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

201 Laurel Avenue
Tillamook, Oregon 97141

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1-(800) 488-8280

November 17, 1995

Ms. Melissa Shaw
P.O. Box 575
Garibaldi, OR 97118

Subject: Pre-Application Request for an Additional Dwelling and a New Parcel in the SFW-20 Zone on a Portion of Tax Lot 2600 of Section 6, T3S, R9W, W.M., Tillamook County, Oregon.

Dear Ms. Shaw:

My understanding of your request is that you want to permanently place a dwelling on the above described property, which currently has two dwellings in place. The dwelling on the west side of highway 101 was approved for your brother in 1991, and the dwelling on the east side is occupied by your parents. Your desire is to place a dwelling on the east side to be near your mother who is ill, and then to be able to pass the dwelling to your daughter in the future.

After review of applicable regulations, aerial photography, soil types, and the Tax Lot file, it appears that only a temporary Health Hardship dwelling can be allowed at this time. Approval of such dwellings require Conditional Use approval, renewal every two years as long as the hardship exists, and sharing of the septic system. The application fee is \$205, and processing requires approximately six weeks. These are not approved as permanent dwellings. The only process which may be available to place a permanent dwelling on the parcel is through the non-farm dwelling provisions. It is doubtful, however that these regulations apply to the parcel since the predominate use appears to be forest, or that the nonfarm criteria could be met. Further, the parcel is 45.9 acres in size and has two dwellings. Further partitions would not be consistent with this zoning.

If you wish to proceed with a Health Hardship dwelling, or if you have any questions, please don't hesitate to contact me.

Sincerely
TILLAMOOK COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

A handwritten signature in cursive script that reads "Chuck Beasley".

Chuck Beasley
Senior Planner

TILLAMOOK County Assessor's Summary Report
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2020

July 6, 2021 5:28:04 pm

Account #	350159	Tax Status	ASSESSABLE
Map #	3S09060002600S1	Acct Status	**CANCELLED**
Code - Tax #		Subtype	NORMAL
Legal Descr	See Record		
Mailing Name	EVENS, RICHARD B	Deed Reference #	See Record
Agent		Sales Date/Price	See Record
In Care Of	16915 HWY 101 S	Appraiser	UNKNOWN
Mailing Address	TILLAMOOK, OR 97141		
Prop Class	409	MA	SA
RMV Class	409	06	01
		NH	Unit
		022	3826-0

Situs Address(s)		Situs City			
Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
0803	Land	14,626		Land	0
	Impr.	6,550		Impr.	0
Code Area Total		21,176	0	0	0
Grand Total		21,176	0	0	0

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	Land Breakdown			Trended RMV
						TD%	LS	Size	
0803	0		<input checked="" type="checkbox"/>		Market	100	A	5.90	14,626
Grand Total								5.90	14,626

Code Area	ID#	Yr Built	Stat Class	Description	Improvement Breakdown			Trended RMV
					TD%	Total Sq. Ft.	Ex% MS Acct #	
0803	1	1900	401	401	100	0	6,550	
Grand Total							0	6,550

Code Area	Type	Exemptions/Special Assessments/Potential Liability				
0803		SPECIAL ASSESSMENT:				
	■ SOLID WASTE	Amount	12.00	Acres	0	Year 2020



TILLAMOOK COUNTY

OREGON

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Summary Report =
A snapshot of a tax account including name, mailing address, situs, values, and basic improvement information.

Ledger Report = All
name and subdivision changes including past sales information.

Tax Summary Report = Report of
current tax amounts and prior tax amounts. Click on this link to pay your taxes.

Names = A listing of
all names on a particular property/tax account and ownership percentage.

Documents/Images = A listing of all
available images and documents, including floorplans, improvement

Account # 2111915 **Tax Status** ASSESSABLE
Map # 3509060002600 **Account Status** ACTIVE
Code - Tax # 0800-408073 **Subtype** NORMAL
0803-211915

Owner EVENS, CHARLES JOSEPH &

Agent

Mailing Address 16910 HWY 101 S
TILLAMOOK, OR 97141

Reports

[Summary Report](#)

[Ledger Report](#)

[Tax Summary Report \(Click Here to Pay Online\)](#)

[Tax Statement](#)

[Names](#)

Images

[Documents/Images](#)

Improvements

Site	Bldg #	Stat Class	Code Area	Year Built	Eff Year Built	Description	Livable Size
3	925	0803	0803	1966	1966	Class 2 Addition to Manf Structure	0
4	354	0803	0803	1966	1966	HAY COVER	840
6	345	0803	0803	1966	1966	GENERAL PURPOSE BUILDING	576
8	345	0803	0803	1966	1966	GENERAL PURPOSE BUILDING	672

If you have tax questions, please call (503)842-3400 or if you need technical help please call the Webmaster, Jeff Underwood at (503) 842-3406 x3480.

Tillamook County



Land of Cheese, Trees and Ocean Breeze

DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

201 Laurel Avenue
Tillamook, Oregon 97141

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1-(800) 488-8280

November 17, 1995

Ms. Melissa Shaw
P.O. Box 575
Garibaldi, OR 97118

Subject: Pre-Application Request for an Additional Dwelling and a New Parcel in the SFW-20 Zone on a Portion of Tax Lot 2600 of Section 6, T3S, R9W, W.M., Tillamook County, Oregon.

Dear Ms. Shaw:

My understanding of your request is that you want to permanently place a dwelling on the above described property, which currently has two dwellings in place. The dwelling on the west side of highway 101 was approved for your brother in 1991, and the dwelling on the east side is occupied by your parents. Your desire is to place a dwelling on the east side to be near your mother who is ill, and then to be able to pass the dwelling to your daughter in the future.

After review of applicable regulations, aerial photography, soil types, and the Tax Lot file, it appears that only a temporary Health Hardship dwelling can be allowed at this time. Approval of such dwellings require Conditional Use approval, renewal every two years as long as the hardship exists, and sharing of the septic system. The application fee is \$205, and processing requires approximately six weeks. These are not approved as permanent dwellings. The only process which may be available to place a permanent dwelling on the parcel is through the non-farm dwelling provisions. It is doubtful, however that these regulations apply to the parcel since the predominate use appears to be forest, or that the nonfarm criteria could be met. Further, the parcel is 45.9 acres in size and has two dwellings. Further partitions would not be consistent with this zoning.

If you wish to proceed with a Health Hardship dwelling, or if you have any questions, please don't hesitate to contact me.

Sincerely
TILLAMOOK COUNTY DEPARTMENT OF COMMUNITY DEVELOPMENT

A handwritten signature in cursive script that reads "Chuck Beasley".

Chuck Beasley
Senior Planner

TILLAMOOK COUNTY CONSTRUCTION/PLACEMENT PERM. APPLICATION

for Building, Planning and Sanitation

APPLICANT

Application # 95-526

Legally Record Owner Richard Evans

Mailing Address 16915 Hwy 101-S Phone

City Tillamook OR State OR Zip Code 97141

CONTRACTOR/INSTALLER

Building Contractor Reg.No.

Sanitation Installer Reg.No.

Mobile Home Installer owner contracting bill Reg.No.

[] Mail permit to contractor/installer.

Contractors Address

APPROVED PERMIT

LOCATION INFORMATION

Area Pleasant Valley 16915 Hwy 101 S, at mi Post 76-101 Hwy

Township 35 Range 9 Section 6 Tax Lot 2600

Zone SAW-20 Lot Size X X X or Acres

PROPOSED USE

- / Single Family Dwelling
/ MD/RV Placement RC-Placement
/ Addition
/ Accessory Structure
/ Demolition/Move
/ Temporary MD/RV Placement
/ Replacement
/ Alteration
/ Public/Commercial/Industrial

WASTE DISPOSAL

- / Sewer District
/ Septic Tank/Drainfield
/ Construction Permit
/ Minor/Major Repair Permit

WATER SUPPLY

Private/Public/Creek/Spring/Well

MOBILE HOME/RECREATION VEHICLE

License Number

Shelvan Make 1985 Year

File No. RECEIVED

SETBACKS

- 400 + Front Yard
200 + Rear Yard
200 + Left Side
1000 + Right Side
100 + River/Estuary/Creek

JUL 24 1995

COMMUNITY

SIZE OF STRUCTURE

14x62 Dimensions
Height
Stories
1 # of dwelling Units
2 Bedrooms

ROAD ACCESS

- / State Highway
/ County Road/Public Way
/ Private Road

VALUATION (AS DETERMINED BY BUILDING OFFICIAL) Sec.304(b) \$

The sketch below is made solely for the purpose of assisting in locating said premises and the Company assumes no liability for variations, if any, in dimensions and location ascertained by actual survey.

TICOR TITLE INSURANCE

SEE MAP 35A

W 1/4

2400
16.00 Ac.

2300
2.44 Ac.

2700
12.00 Ac.

LOT 7

COAST

2600
45.90 Ac.

LOT 8

Moishomp

Draw Field

0° 05' 14" W
2568.3

N 89° 02' E

860.91

1414.77

1159.97
S 81° 22' E

6

548.12

S 79° 02' W
2572

S 1/4

12

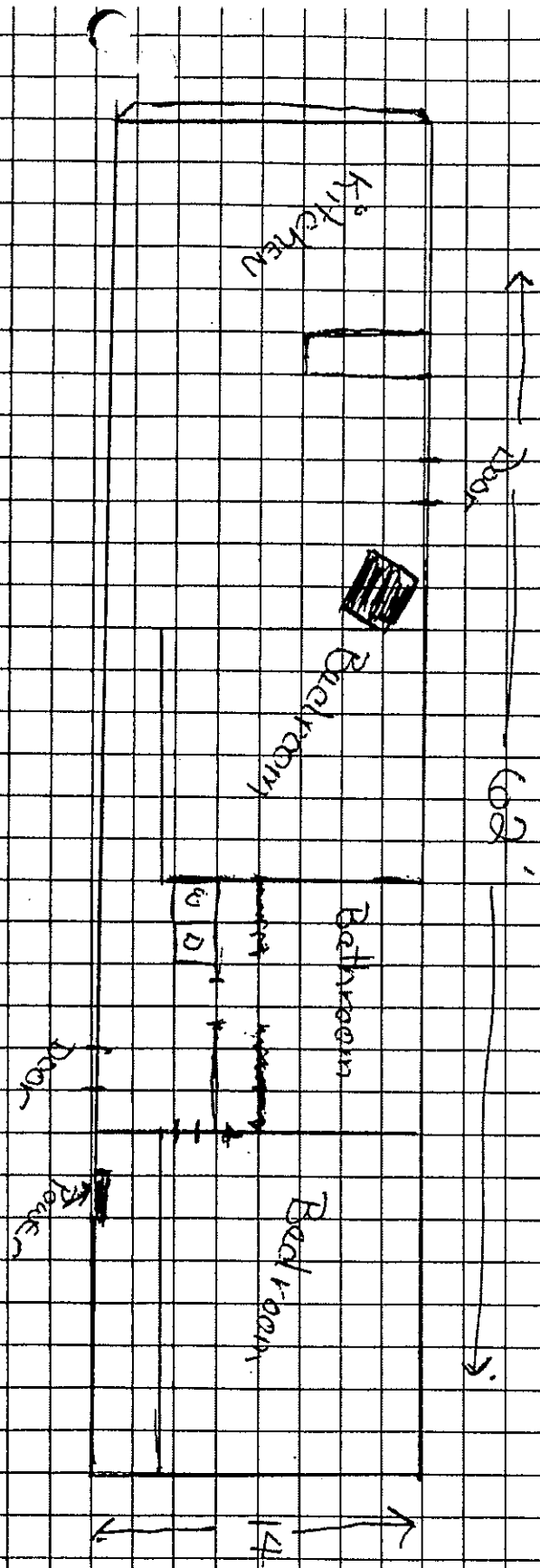
7

RECEIVED SEE MAP 3S 9 7

JUL 21 1995

COMMUNITY DEVELOPMENT





RECEIVED
 AUG 02 1995
 COMMUNITY

BUILDING PERMIT CHECKLIST	STATUS
PERMIT #	95-
ZONING	Rmit
TAX LOT NUMBER	2510-5BA-6201
LOT SIZE	150 x 100
ALLOWED USE	eright
SETBACKS	.
PARKING	
BUILDING HEIGHT	
PLOT PLAN COMPLETENESS	
APPLICATION COMPLETENESS	
SEWER/WATER LETTER	
MANUFACTURED DWELLING FLOOR PLAN	
HAZARD: FLOOD PLAIN YES\NO AND PANEL #	
GEOLOGIC HAZARD YES\NO	
BEACH AND DUNE HAZARD YES/NO	
NOTES:	

Beginning at Engineer's center line Station 408+45.56, station being 233.40 feet North and 145.44 feet East of the Northeast corner of the SW $\frac{1}{4}$ of Section 6, Township 3 South, Range 9 West, W.M.; thence South 40° 35' 30" West, 1051.51 feet; thence on a spiral curve left (the long chord of which bears South 34° 20' 50" West) 750 feet; thence on a 1145.92 foot radius curve left (the long chord of which bears South 15° 42' 15" West) 245.50 feet; thence on a spiral curve left (the long chord of which bears South 2° 56' 20" East) 750 feet; thence South 9° 11' East, 457.43 feet to Engineer's center line Station 441+00.

The widths in feet of the strip of land above referred to are as follows:

Station	to Station	Width on Easterly Side of Center Line	Width on Westerly Side of Center Line
426+47.07	428+92.57	100 in a straight line to 100	120
428+92.57	432+50	100 in a straight line to 150	120
432+50	436+42.57	150 in a straight line to 100	120 in a straight line to 150
436+42.57	441+00	100 taper to 180	150

EXCEPT therefrom that property described in that deed to the State of Oregon, by and through its State Highway Commission, recorded in Book 69, Page 183 of Tillamook County Record of Deeds.

Bearings are based upon the Oregon Co-ordinate System, North Zone.

The parcel of land to which this description applies contains 5.4 acres, more or less, outside of the existing right of way.

All rights of access of every nature to the right of way of said highway project; provided, however, that there shall be reserved for service of the remaining land the following:

A right of access to said highway project of a width of 35 feet on the Westerly side thereof opposite Highway Engineer's center line Station 432+30.

A right of access to said highway project of a width of 35 feet on the Westerly side thereof opposite Highway Engineer's center line Station 437+00.

A right of access to said highway project of a width of 35 feet on the Easterly side thereof opposite Highway Engineer's center line Station 437+00.

RECEIVED
JUL 2 1995
COMMUNITY

That the acquisition described in paragraph I hereof is encumbered by and plaintiff will take said acquisition subject to the interest of others then the within defendants of the following encumbrance:

TILLAMOOK COUNTY CONSTRUCTION/PLACEMENT PERMIT APPLICATION
for
Building, Planning and Sanitation

APPLICANT

Permit # 91-341

Legally Record Owner RICHARD EVANS

Mailing Address 16915 Hwy 101 S Phone 842-4077

City TILLAMOOK State OR Zip Code 97141

CONTRACTOR/INSTALLER

Building Contractor _____ Reg.No. _____

Sanitation Installer LEONHILF Reg.No. _____

Mobile Home Installer QUINSEL Reg.No. _____

[] Mail permit to contractor/installer

LOCATION INFORMATION 16910 Hwy 101 So.

Area ACROSS HWY FROM ABOVE ADDRESS

Township 35 Range 9 Section 6 TaxLot 2600

Zone SFW-20 LotSize X X X or 40+ AC Acres

PROPOSED USE

- / / Single Family Dwelling
- / Mobile Home/~~RV~~ Placement
- / / Addition _____
- / / Accessory Structure _____
- / / Demolition/Move
- / / Temporary MH/RV Placement
- / / Replacement _____
- / / Alteration _____
- / / Public/Commercial/Industrial

WASTE DISPOSAL

- / / Sewer District _____
- / / Septic Tank/Drainfield
- C.P. CAP FILL

WATER SUPPLY

Private/Public/Creek/Spring/Well

MOBILE HOME/RECREATION VEHICLE

X180856 License Number
1MPRL Make
1965 Year

VARIANCE/CONDITIONAL USE

File No. N/A

SETBACKS :

- 100'+ Front Yard
- 100'+ Rear Yard
- 100'+ Left Side
- 100'+ Right Side
- 100'+ River/Estuary/Creek

SIZE OF STRUCTURE

10'x60' Dimensions
- Height
- Stories
1 Units
2 Bedrooms

ROAD ACCESS

- / / State Highway
- / / County Road/Public Way #
- / / Private Road

CONSTRUCTION COST INCLUDING LABOR AND MATERIALS \$ -

TILLAMOOK County Assessor's Summary Report
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2020

July 6, 2021 5:27:44 pm

Account # 211915 Tax Status ASSESSABLE
 Map # 3S09060002600 Acct Status ACTIVE
 Code - Tax # 0803-211915 Subtype NORMAL

Legal Descr See Record

Mailing Name EVENS, CHARLES JOSEPH &
 Agent
 In Care Of WATTERS, THERESA &
 Mailing Address 16910 HWY 101 S
 TILLAMOOK, OR 97141

Deed Reference # 2019-819 = D₁C.
 Sales Date/Price 09-09-2018 / \$0
 Appraiser RANDY WILSON

Prop Class 669 MA SA NH Unit
 RMV Class 409 06 AC 602 20451-2

Situs Address(s)	Situs City
ID# 16915 HWY 101 S	COUNTY

Code Area	RMV	MAV	Value Summary AV	RMV Exception	CPR %
0803 Land	223,250			Land	0
0803 Impr.	7,150			Impr.	0
Code Area Total	230,400	48,870	30,155		0
Grand Total	230,400	48,870	30,155		0

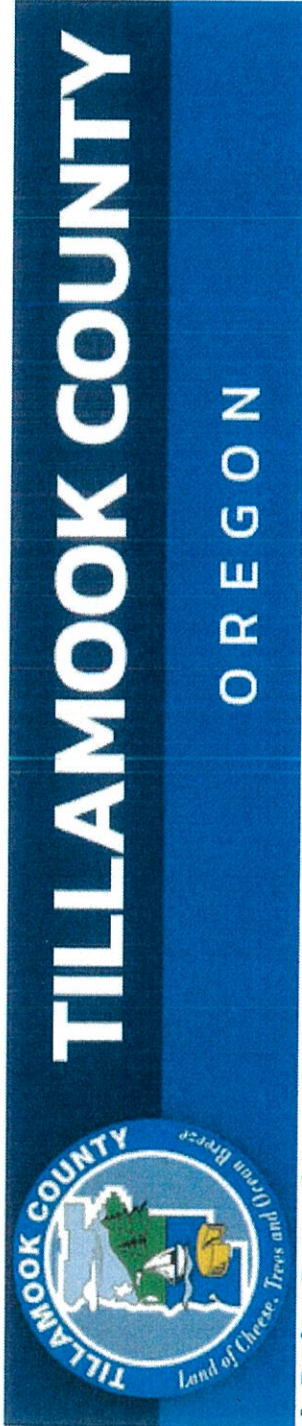
Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Trended RMV
0803	0	<input checked="" type="checkbox"/>		SFW20	Forest Site	112	A	5.00	SFR	23,940
0803					LANDSCAPE - FAIR	100				500
0803					SA OSD	100				12,500
0803	0	<input type="checkbox"/>		SFW20	STF-Designated Forest Land	112	A	38.91	FB	186,310
Grand Total										43.91
										223,250

Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV
0803	4	1966	354	HAY COVER	125	840		280
0803	6	1966	345	GENERAL PURPOSE BUILDING	125	576		910
0803	3	1966	925	Class 2 Addition to Manf Structure	125	0		2,830
0803	8	1966	345	GENERAL PURPOSE BUILDING	125	672		3,130
Grand Total								2,088
								7,150

Code Area	Type	Exemptions/Special Assessments/Potential Liability					
0803		SPECIAL ASSESSMENT:					
	■ SOLID WASTE	Amount	24.00	Acres	0	Year	2020
	NOTATION(S):						
	■ FOREST LAND - POTENTIAL ADDITIONAL TAX LIABILITY 321.362						
	■ S T F - POTENTIAL ADDITIONAL TAX LIABILITY 321.709 ADDED 2004						
0803		FIRE PATROL:					
	■ FIRE PATROL SURCHARGE	Amount	47.50			Year	2020
	■ FIRE PATROL NORTHWEST	Amount	41.68	Acres	40	Year	2020

MS Account(s): 0803-P-260194, P-396387

Comments: 10/08/10 - Reappraisal, updated inventory - tabled improvement, KL.
 12/22/16 - Land reappraisal; tabled values. Size change per GIS acreage calculations. EJ.
 4/2019 Request for review by owner/Structures are in need of maintenance and repair with depreciation reflective of their current status. RCW



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Account # 211915 **Tax Status** ASSESSABLE
Map # 3509060002600 **Account Status** ACTIVE
Code - Tax # 0800-408073 **Subtype** NORMAL
 0803-211915
Owner EVENS, CHARLES JOSEPH &
Agent
Mailing Address 16910 HWY 101 S
 TILLAMOOK, OR 97141

Reports
[Summary Report](#)
[Ledger Report](#)
[Tax Summary Report \(Click Here to Pay Online\)](#)
[Tax Statement](#)
Names

Images
[Documents/Images](#)

Help
Summary Report =
 A snapshot of a tax account including name, mailing address, situs, values, and basic improvement information.

Ledger Report = All
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 current tax amounts and prior tax amounts. Click on this link to pay your taxes.

Names = A listing of
 all names on a particular property/tax account and ownership percentage.

Documents/Images =
 A listing of all available images and documents, including floorplans, improvement

Site	Bldg #	Stat Class	Code Area	Year Built	Eff Year Built	Description	Livable Size
	3	925	0803	1966	1966	Class 2 Addition to Manf Structure	0
	4	354	0803	1966	1966	HAY COVER	840
	6	345	0803	1966	1966	GENERAL PURPOSE BUILDING	576
	8	345	0803	1966	1966	GENERAL PURPOSE BUILDING	672

If you have tax questions, please call (503)842-3400 or if you need technical help please call the Webmaster, Jeff Underwood at (503) 842-3406 x3480.

Date: May 8, 2023

RE: Incomplete application for a Partition Application #851-23-000107-PLNG

To Whom It May Concern:

As indicated in the attached correspondence, your application has been deemed to be **incomplete**.

Please acknowledge, in writing, your intent to provide the material required to complete the application, as identified in the attached correspondence.

Tillamook County Department of Community Development
Attn: Angela Rimoldi – Planning Technician
1510 B Third Street
Tillamook, OR 97141

If you indicate your intent to complete the application, you will have 180 days from the date the application was originally submitted (**April 11, 2023**) to submit the required material. If you fail to submit the material within 180 days, your application will be deemed void. The case file regarding the application will then be closed.

If you do not return this acknowledgment, by the above date, such action will be considered to be a refusal to complete the application under the meaning accorded in ORS 215.428. Your application will then be processed based upon the information you have previously submitted. Note that failure to submit sufficient evidence or material to demonstrate compliance with the applicable criteria is grounds for denial of the application.

ACKNOWLEDGMENT

- I intend to provide the additional material identified in the attached correspondence from the Department of Community Development.
- I refuse to provide the additional material identified in the attached correspondence from the Department of Community Development.

Cindy Hathaway
Signed and Acknowledged (Applicant)

May 15, 2023
Date

• TERRY JONES TO PROVIDE INFO NEEDED TO MEET THE STANDARD OF TCLDO SECTION 060
• NIKKI HENDRICKS, DISTRICT WATERMASTER (OWRD), PROVIDED VERIFICATION OF WATER SOURCE WITHIN TILLAMOOK COUNTY ON 5.11.2023; TO MEET CRITERION OF TCLDO SECTION 070

Date: May 8, 2023

RE: Incomplete application for a Partition Application #851-23-000107-PLNG

To Whom It May Concern:

As indicated in the attached correspondence, your application has been deemed to be incomplete.

Please acknowledge, in writing, your intent to provide the material required to complete the application, as identified in the attached correspondence.

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1510 B Third Street
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ACKNOWLEDGMENT

- I intend to provide the additional material identified in the attached correspondence from the Department of Community Development. *Map attached, water Verification Letter on the way*
- I refuse to provide the additional material identified in the attached correspondence from the Department of Community Development.

Henry J. Jones
Signed and Acknowledged (Applicant)

5-24-23
Date

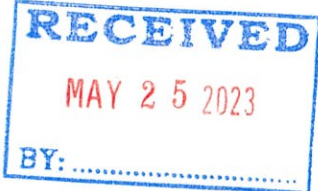


EXHIBIT C

Angela Rimoldi

From: BAUMGARTNER Douglas G <Douglas.G.BAUMGARTNER@odot.oregon.gov>
Sent: Monday, July 10, 2023 12:26 PM
To: Angela Rimoldi
Cc: Lynn Tone; NELSON Scott; EARL Robert; WILLIAMS Virginia L; KEARNS Richard A; VYMAZAL Zdenek G
Subject: EXTERNAL: RE: EXTERNAL: Partition Request 851-23-000107-PLNG: Hathaway, Billups & Jones Consulting

[**NOTICE:** This message originated outside of Tillamook County -- **DO NOT CLICK** on links or open **attachments** unless you are sure the content is safe.]

Good afternoon Angela,

Having a single access point on the west side of the highway for both of these properties would be ideal given intersection sight distance constraints to the south and the transition to highway passing lanes to the north, however, there are two rights (reservations) of access available on the west side of the highway for these properties and there may be environmental or topographical barriers that might hinder the ability for a single approach. As noted before due to the super elevation of the highway which increases to the north any new approach that would be proposed for the northern property would need to have engineered plans as we expect that significant work and fill would be required.

Have a good day and thank you for providing ODOT with the opportunity to reviews and comment on this partition.

Doug

Douglas Baumgartner, P.E.
Interim Region 2 Access Management Engineer
Oregon Department of Transportation
455 Airport Rd SE, Bldg. B | Salem, OR 97301
Cell: 503.798.5793

From: VYMAZAL Zdenek G <Zdenek.G.VYMAZAL@odot.oregon.gov>
Sent: Monday, July 10, 2023 11:56 AM
To: Angela Rimoldi <arimoldi@co.tillamook.or.us>
Cc: Lynn Tone <ltone@co.tillamook.or.us>; NELSON Scott <Scott.NELSON@odot.oregon.gov>; BAUMGARTNER Douglas G <Douglas.G.BAUMGARTNER@odot.oregon.gov>; EARL Robert <Robert.Earl@odot.oregon.gov>; WILLIAMS Virginia L <Virginia.L.WILLIAMS@odot.oregon.gov>; KEARNS Richard A <Richard.A.KEARNS@odot.oregon.gov>
Subject: RE: EXTERNAL: Partition Request 851-23-000107-PLNG: Hathaway, Billups & Jones Consulting

Hello Angela,
We do not have any additional questions or comments.
Thank you

*Zdenek "Z" Vymazal, PE, PLS
Development Review Coordinator (Area 1)
ODOT – Region 2*

Angela Rimoldi

From: Lynn Tone
Sent: Friday, June 23, 2023 11:55 AM
To: Angela Rimoldi
Subject: FW: EXTERNAL: Partition Request 851-23-000107-PLNG: Hathaway, Billups & Jones Consulting

From: VYMAZAL Zdenek G <Zdenek.G.VYMAZAL@odot.oregon.gov>
Sent: Friday, June 23, 2023 11:41 AM
To: Lynn Tone <ltone@co.tillamook.or.us>
Cc: NELSON Scott <Scott.NELSON@odot.oregon.gov>; BAUMGARTNER Douglas G <Douglas.G.BAUMGARTNER@odot.oregon.gov>; EARL Robert <Robert.Earl@odot.oregon.gov>; WILLIAMS Virginia L <Virginia.L.WILLIAMS@odot.oregon.gov>; KEARNS Richard A <Richard.A.KEARNS@odot.oregon.gov>
Subject: EXTERNAL: Partition Request 851-23-000107-PLNG: Hathaway, Billups & Jones Consulting

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Good morning Lynn,

We (ODOT) has researched the property and has found that there is a Access Control with 2 reservations recorded on west side of the Hwy(101), the site of proposed partition (MP76.01). One of the reservation is in location near of the existing driveway (Parcel 1) at the Eng. Station 437+00 Rt with 35 feet width at the throat of the approach. Second reservation is located on parcel 2 at Engineering station 432+30 (north of existing driveway; west side of Hwy.) with horizontal and vertical curvature and super elevation, also at the location where the passing lane ends (reduced from 2 lanes to single lane). There is a significant drop off from the shoulder of the highway down (very difficult to build a driveway, with a lot of fill). There are several culverts located within area which would influence location of future approach location as well.

There is insufficient sight distance, south of the existing driveway (55 posted speed). That sight distance could be improved with some brush clearing (may be a berm/embankment remove/grading).

Based of the findings and absence of Scott Nelson (vacation), who will be supporting recommendation for this partition request, ODOT is asking for up to 1 week (June 30) extension time for submitting comments.

Thank you

Zdenek "Z" Vymazal, PE, PLS
Development Review Coordinator (Area 1)
ODOT – Region 2
455 Airport Rd. SE, Bldg. B
Salem, OR 97301
(971)-345-1318 Cell/Office
zdenek.g.vymazal@odot.oregon.gov