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BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY, OREGON

Returned at Counter

IN THE MATTER OF AMENDING
 THE LAND DEVELOPMENT)
 CODE TEXT AMENDING THE)
 LANGUAGE OF ARTICLE 45.5:)
 PROPERTY LINE ADJUSTMENT)
 AND CREATING ARTICLE 45.7)
 SINGLE PARCEL UNIFICATION)
 PLAT .

ORDINANCE 45.102

WHEREAS, the Klamath County Board of Commissioners has the authority and desires to amend the Land Development Code text; and

WHEREAS, the Klamath County Planning Department provided written notice of the public hearing as required in Klamath County Land Development Code Article 31; and

WHEREAS, a public hearing was held on July 25, 2023, and public testimony was considered before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS the Klamath County Planning Commission forwarded a recommendation of approval; and

WHEREAS, based on testimony entered and in consideration of the whole record, the Klamath County Board of Commissioners voted unanimously to approve the request in File No. CLUP 2-23.

WHEREAS, there is a need to transition from the current procedure of Lot Vacation to the new procedures set in Article 45.7 Single Parcel Unification Plat (Exhibit B), therefore this ordinance will go into effect on November 1, 2023.

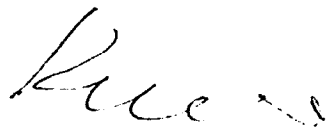
NOW, THEREFORE, the Klamath County Board of Commissioners ordains that the amendments to the adopted Klamath County Land Development Code text, attached as Exhibit "A," and Exhibit "B" and incorporated herein by reference are hereby adopted effective November 1, 2023.

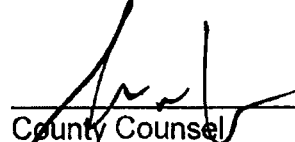
DATED this 15 day of August, 2023.

FOR THE BOARD OF COMMISSIONERS


Chair


Commissioner


Commissioner


County Counsel
Approved as to form

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21-days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal (LUBA by phone 1-503-373-1265 or by mail at 550 Capitol Street NE, Suite 235, Salem Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.

EXHIBIT A

ARTICLE 45.5 PROPERTY LINE ADJUSTMENT

45.510 – PURPOSE

The purpose of this article is to standardize property line adjustment procedures and ensure that the requirements of this code are met. "Property line" means the division line between two units of land. "Property line adjustment" means a relocation of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

~~A property line shall be a division line between two abutting properties, which are in separate ownership.~~

45.520 – REVIEW PROCEDURE

A property line adjustment shall be processed according to a Type I administrative review procedure.

45.530 – REVIEW CRITERIA

A property line adjustment may only be approved if it meets all applicable standards and review criteria.

- A. No property line adjustment will be approved unless both contiguous parcels are lawfully created and have legal access;
- B. A property line adjustment shall not result in the creation of a new parcel;
- C. The parcels resulting from the property line adjustment conform to zoning regulation in terms of size, shape and setback requirements;
- D. Adjustments to nonconforming lots or parcels shall not result in greater nonconformity or render substantially conformed lots or parcel more nonconforming. A reduction in the size of a nonconforming lot or parcel may be approved if it contributes substantially to bringing an adjacent nonconforming parcel closer into conformance;
- E. The property line adjustment will not interfere with any public or private easement; and
- F. The Property Line Adjustment is not part of a series of Property Line Adjustments reconfiguring lots within subdivision. ~~A proposed property line adjustment of lots or~~

~~parcels shall only be a minor change in the existing common boundary. Proposed property line adjustments, which have the net result of physically relocating a lot or parcel to a new location, or the elimination of a lot or parcel, shall be reviewed as a land partition.~~

- G. Land zoned Exclusive Farm Use, Forestry or Forest Range a property line adjustment may reconfigure a parcel to be large enough to qualify for a dwelling if the other parcel of land contains a dwelling and will become smaller than the minimum parcel size for the zone.

45.540 – PROCESSING

- A. Initiation – An application for a property line adjustment shall be initiated by the owners, or agent of the owners, of the subject properties. An agent's application shall be authorized in writing by the owners.
- B. Filing Fee – An application for a property line adjustment shall be accompanied by a filing fee set by the Board of County Commissioners to defray cost incidental to the review process.
- C. Two copies of the site plan conforming to Section 41.060 and showing the proposed property line relocation and the resulting lot or parcel sizes.

45.550 – FINALIZING THE PROPERTY LINE ADJUSTMENT

Applicants are required to do the following within two (2) years of approval of the property line adjustment or the approval is null and void:

- A. File with the County Surveyor a map of survey of the adjusted line prepared in accordance with ORS 209.250 ~~if either or both parcels affected are 10 acres or less; or and~~
- B. Provide the following for Planning Department review and approval:
- A legal description of the adjustment area(s) being conveyed or received.
 - Draft deeds of each of the properties as adjusted.
- C. Record the following deeds with the County Clerk and provide copies to the Planning Department:
- A deed transferring the adjustment area from one property owner to the other.
 - A new deed for each property which describes it as adjusted.
- D. In the case of consolidating 2 properties there will be just one deed needed.

ARTICLE 45.7 SINGLE PARCEL UNIFICATION REPLAT

45.710 – PURPOSE

The act of unifying lots or parcels in a recorded subdivision or partition plat to have one resultant parcel within the unification replat area.

The unification of all or a portion of a recorded subdivision or partition plat shall not act to vacate any recorded covenants or restrictions.

45.720 - REVIEW PROCEDURE

A unification replat shall be processed according to a Type I administrative review procedure.

45.730 - REVIEW CRITERIA

A unification replat may only be approved if it meets the requirements of ORS 92.185 and ORS 92.190(1) and all applicable standards and review criteria.

- A. No unification replat will be approved unless all parcels or lots were created by a single subdivision or partition plat;
- B. A unification replat shall not result in the creation of a new parcel;
- C. The unification replat will act to vacate the platted lots or parcels and public easements within the replat area with conditions as stated in ORS 92.185.

45.740 – PROCESSING

Applications for a unification replat shall be processed as follows:

- D. Initiation – An application for a unification replat shall be initiated by the owners, or agent of the owners, of the subject properties. An agent's application shall be authorized in writing by the owner.
- E. Filing - An application for a unification replat shall be filed on forms provided by the Planning Department and shall set forth in detail all necessary information. If the development does not have direct permitted access for the intended use to an established public right-of-way, the applicant shall provide documentation

demonstrating proof of legal access. The documentation must be complete, legible, presented in a graphic form and orderly manner, and include source documents such as deeds or grants of easements. Neither a preliminary title report nor a title policy shall be considered proof of legal access.

- F. Filing Fees – An application for a unification replat shall be accompanied by fees set by the Board of County Commissioners to defray cost incidental to the review process.
- G. Incomplete Applications - Applications which are found to be incomplete or inaccurate by the Planning Director or his/her designee shall be returned to the applicant within 5 days of submittal along with a statement of specific deficiencies to be corrected. The applicant shall have 30 days from the postmark date of the notice in which to submit an amended application. If the applicant fails to complete or correct the application within the time provided, the application shall be deemed complete and transmitted to the appropriate review body with a recommendation for denial.

45.750 - TENTATIVE UNIFICATION REPLAT REQUIREMENTS

- A. Partition number assigned by the Planning Department.
- B. One copy, 11 inches by 17 inches, and an electronic copy (PDF) of the recorded subdivision plat or land partition identifying the unification replat area.
- C. Identify existing and proposed utilities and easements within the unification replat area.
- D. Identify any special districts (e.g. road district, fire district, etc.) for the unification replat area.

45.760 - TENTATIVE UNIFICATION REPLAT PLAN REVIEW

- A. Referral of the Tentative Unification Replat for Comment - No later than 15 days prior to the scheduled review date, the Planning Director shall furnish 1 copy of the tentative unification replat plan and supplemental materials to parties interested in or potentially affected by the proposed unification replat for their review and comment.
- B. Review - The appropriate review body shall review the tentative unification replat plan and all supplemental materials required by this code, and render a decision pursuant to procedures of Chapter 20.
- C. Conditions - The review body may grant approval of the tentative unification replat plan subject to such reasonable conditions based on findings of fact that it deems necessary to ensure compliance with state statutes, the Klamath County Comprehensive Plan, and Land Development Code.

45.770 - TIME EXTENSION

Prior to the expiration date of approval of the tentative unification replat plan, an applicant may apply for a time extension.

- A. Requests for time extension shall be filed on forms provided by the Planning Department, and accompanied by the established fee.
- B. Review of requests for time extension shall be reviewed according to the Planning Director Review Procedure.
- C. Review Criteria - In order to approve a request for time extension, the Planning Director must find that:
 - 1. The facts upon which the approval of the tentative unification replat plan was based have not changed to an extent sufficient to warrant re-submittal of the tentative unification replat plan;
 - 2. No other development approvals would be adversely affected by the time extension; and
 - 3. The applicant is unable to file the final unification replat due to circumstances beyond his or her control.
- D. A maximum of 3 time extensions may be granted following the date of approval of the tentative unification replat plan. The cumulative length of time extensions shall not exceed 3 years.
- E. If a request for time extension is denied and the time period for recording the final plat expires, a new unification replat application must be filed.

45.780 - FINAL UNIFICATION REPLAT REQUIREMENTS

- A. Submission of Final Unification Replat - An applicant for a unification replat shall cause a final plat to be prepared and recorded with the County Clerk within 1 year of the final decision on the tentative unification replat plan. The applicant shall submit a final plat and all supplementary materials to the Planning Director not less than 30 days prior to the deadline, and shall secure all necessary approvals and signatures within 30 days of submitting the final plat to the County. The final plat shall conform to the approved tentative unification replat plan, Klamath County Comprehensive Plan and applicable Klamath County Land Development Code and state statutes.
- B. Original Drawing - The original drawing of a unification replat shall be made in archive quality black ink on minimum 4 mil mylar, 18 inches by 24 inches in size. No part of the plat shall come nearer than one inch from the edge of the sheet. The plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the surveyor's certificate and signature, and all other information shall be

as required by the County Surveyor. The original drawing shall be recorded in the County Clerk's office.

B. Copy - One exact archival quality copy of the original plat on minimum 4 mil mylar, 18 inches by 24 inches in size shall be submitted to the County Surveyor along with the original plat.

C. Information Shown on the Final Plat

1. The partition number;
2. The name of the person for whom the unification replat was made;
3. Signature Blocks for the following:
 - a. Planning Director;
 - b. County Surveyor;
 - c. County Clerk;
 - d. Tax Collector;
 - e. A signed, notarized declaration and surveyor's certificate that meets the requirements of Oregon Revised Statutes Chapter 92.
4. All applicable requirements of ORS Chapter 92 and ORS Chapter 209; and
5. Street names adjacent to the unification replat.
6. Geometry on the final unification replat shall match that shown on the underlying plat.

D. Supplemental Information to be filed with the Final Plat

1. A status of record title report, preliminary title report, or partition guarantee issued by a title company in the name of the owner of the land and prepared within 30 days prior to receipt by the County Surveyor of the final plat showing all parties having any record title interest in the premises and what interest they have.

45.790 - FINAL UNIFICATION REPLAT REVIEW

A. Approval of the County Planning Director - The Planning Director shall thoroughly review the final plat and supplementary information upon its submission within the required time frame. The final plat shall be signed by the Planning Director if it is in conformance with the tentative unification replat plan and the requirements of this code.

- B. Approval of the County Surveyor - The County Surveyor shall thoroughly review the final plat and supplementary information to determine that the plat complies with this code and all applicable state statutes. The final plat shall be signed by the County Surveyor if it is correct and in full conformance with this code and applicable state statutes.
- D. Approval of Tax Collector - No final plat shall be recorded unless all ad valorem taxes, including additional taxes, interest and penalties imposed on land disqualified for any special assessment and all special assessments, fees, or other charges required by law to be placed upon the tax roll have been paid which have become a lien upon the land or which will become a lien during the tax year. The County Tax Collector shall determine if these taxes have been paid, and if taxes have been paid, shall sign the final plat.
- E. Filing of Final Plat - After obtaining all required approvals and signatures, the applicant shall record the plat with the County Clerk and file an exact copy with the County Surveyor. The exact copy shall be made in conformance with Section 45.100 and applicable state statutes.
- F. Expiration - Approval of the final plat shall be null and void if the plat is not recorded within 1 year of the final decision of the tentative unification replat plan unless a time extension has been granted.